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HOUSE OF REPRESENTATIVES—*Monday, September 26, 2005*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 26, 2005.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, of all the seasons of life and of all our days, be with the Members of Congress and all Americans today, especially those in most need of Your presence and care.

September clouds invite the surrender of summer. Enable us, O Lord, to see Your providence at work as leaves and seeds fall to the Earth. You prepare us for the darkening days and ask us to school ourselves in the work at hand. Empower us to let go of any anxious grasp of tenacity, so with open and generous hearts we may share a rich harvest with Rita and Katrina's children.

To You who color our mountains, calm our seas and lift up the sparrow, let there be honor and praise both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2528. An act making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2528) "An act making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes." requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mrs. HUTCHISON, Mr. BURNS, Mr. CRAIG, Mr. DEWINE, Mr. BROWNBACK, Mr. ALLARD, Mr. MCCONNELL, Mr. COCHRAN, Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Ms. LANDRIEU, Mr. BYRD, Mrs. MURRAY, and Mr. LEAHY, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2744. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2744) "An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENNETT, Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. CRAIG, Mr. BROWNBACK, Mr. STEVENS, Mr. KOHL, Mr. HARKIN, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed without amendments bills of the following titles in which the concurrence of the House is requested:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

S. 1758. An act to amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes.

S. 1764. An act to provide for the continued education of students affected by Hurricane Katrina.

RESIGNATION AS MEMBER AND APPOINTMENT OF MEMBER TO SELECT BIPARTISAN COMMITTEE TO INVESTIGATE THE PREPARATION FOR AND RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore laid before the House the following resignation as a member of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a member of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina.

This resignation is made necessary by the fact that most of the Select Committee's hearings will conflict with business of the Committee on the Judiciary, thus making it

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impossible for me to actively participate in the Select Committee's activities.

Thank you for your confidence in me.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER pro tempore. Pursuant to section 2(a) of House Resolution 437, 109th Congress, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina to fill an existing vacancy thereon:

Mr. MILLER, Florida

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1758. An act to amend the Indian Financing Act of 1974 to provide for sale and assignment of loans and underlying security, and for other purposes, to the Committee on Resources.

S. 1764. An act to provide for the continued education of students affected by Hurricane Katrina; to the Committee on Education and the Workforce; in addition to the Committee on Transportation and Infrastructure and the Committee on the Budget for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3761. Flexibility for Displaced Workers Act.

H.R. 3768. Hurricane Katrina Tax Relief Act of 2005.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 27, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4145. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lactic Acid, 2-Ethylhexyl Ester; Exemption from the Requirement of a Tolerance [OPP-2003-0230; FRL-7729-5] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4146. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — S-metolachlor; Pesticide Tolerance [OPP-2004-0326; FRL-7716-1] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4147. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Amicarbazone; Pesticide Tolerance [OPP-2005-0185; FRL-7736-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4148. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus Thuringiensis Cry34Ab1 and Cry35Ab1 Proteins and the Genetic Material Necessary for Their Production in Corn; Exemption from the Requirement of a Tolerance [OPP-2005-0211; FRL-7735-4] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4149. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Boscalid; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0259; FRL-7737-9] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4150. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Inert Ingredients; Revocation of 34 Pesticide Tolerance Exemptions for 31 Chemicals [OPP-2005-0069; FRL-7737-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4151. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Iprovalicarb; Pesticide Tolerance [OPP-2005-0074; FRL-7736-2] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4152. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lindane; Tolerance Actions [OPP-2004-0246; FRL-7734-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4153. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Reynoutria Sachalinensis Extract; Exemption from the Requirement of a Tolerance [OPP-2005-0221; FRL-7730-3] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4154. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by Reference [DC102-2050; FRL-7953-9] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4155. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Redesignation of Phoenix to Attainment for the Carbon Monoxide Standard [R09-OAR-2005-AZ-0003; FRL-7960-8] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4156. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment [R04-OAR-2005-TN-0007- 200527(a) FRL-7973-5] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4157. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planing Purposes; Kentucky; Redesignation of Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone [R04-OAR-2005-KY-0001-200521(a); FRL-7972-9] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4158. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Illinois; Lake Calumet PM-10 Redesignation and Maintenance Plan [R05-OAR-2005-IL-0003; FRL-7973-2] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4159. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Illinois; Lyons Township PM-10 Redesignation and Maintenance Plan [R05-OAR-2005-IL-0002; FRL-7972-7] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4160. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) [FRL-79791-8] (RIN: 2050-AE01) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4161. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units [OAR-2003-0119; FRL-7971-9] (RIN: 2060-AN31) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4162. A letter from the Architect of the Capitol, transmitting a copy of actions taken on the GAO's report, "Capitol Power Plant Utility Master Plan," pursuant to 31 U.S.C. 720; to the Committee on House Administration.

4163. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation for Marine Events; Patuxent River, Solomons, Maryland [CGD05-05-090] (RIN: 1625-AA08) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4164. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Susquehanna River, Port Deposit, MD [CGD05-05-091] (RIN: 1625-AA08) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4165. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Manasquan River, Manasquan Inlet and Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ, Change of Location [CGD05-05-073] (RIN: 1625-AA08) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4166. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA [CGD13-05-013] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4167. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Moving and Fixed Security Zone; Port of Fredericksted, Saint Croix, U.S. Virgin Islands [COTP SAN JUAN 05-002] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4168. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL [COTP Mobile-04-057] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4169. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL [COTP Mobile-05-007] (RIN: 1625-AA87) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4170. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30453; Amdt. No. 456] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4171. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Harmonization of Noise Certification Standards for Propeller-Driven Small Airplanes [Docket No.: FAA-2003-15279; Amendment No. 36-27] (RIN: 2120-AI25) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4172. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Robinson Helicopter Company Model R-22 Series Helicopters [Docket No. FAA-2005-22026; Directorate Identifier 2005-SW-05-AD; Amendment 39-14210; AD 2005-16-05] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4173. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (formerly Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) Model BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 Turbofan Engines [Docket No. FAA-2005-22070; Directorate Identifier 2005-NE-23-AD; Amendment 39-14218; AD 2005-16-12] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4174. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, 757-200CB, and 757-200PF Series Airplanes Equipped with Rolls Royce Model RB211 Engines [Docket No. FAA-2005-22054; Directorate Identifier 2005-NM-137-AD; Amendment 39-14216; AD 2005-04-14 R1] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4175. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747SP, and 747SR Series Airplanes; Equipped With Pratt & Whitney Model JT9D-3 and -7 Series Engines [Docket No. FAA-2005-20325; Directorate Identifier 2003-NM-129-AD; Amendment 39-14217; AD 2005-16-11] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4176. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes [Docket No. FAA-2005-22073; Directorate Identifier 2005-NM-140-AD; Amendment 39-14219; AD 2005-16-13] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4177. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model G-IV, GIV-X, GV, and GV-SP Series Airplanes [Docket No. FAA-2005-22074; Directorate Identifier 2005-NM-152-AD; Amendment 39-14220; AD 2005-16-14] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4178. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft, Ltd. Models PC-6, PC-6-H1, PC-6-H2, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, and PC-6/C1-H2 Airplanes [Docket No. FAA-2005-20515; Directorate Identifier 2005-CE-09-AD; Amendment 39-14221; AD 2005-17-01] (RIN: 2120-AA64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4179. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca S.A. Arrius 2F Turboshaft Engines [Docket No. FAA-2005-22039; Directorate Identifier 2005-NE-33-AD; Amendment 39-14238; AD 2005-17-17] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4180. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 &440) Airplanes [DOcket No. FAA-2005-22145; Directorate Identifier 2005-NM-148-AD; Amendment 39-14223; AD 2005-17-12] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4181. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A320-111 Airplanes and Model A320-200 Series Airplanes [Docket No. FAA-2005-22142; Directorate Identifier 2005-NM-153-AD; Amendment 39-14228; AD 2205-17-07] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4182. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747, 757, 767, and 777 Series Airplanes [Docket No. FAA-2004-19865; Directorate Identifier 2003-NM-242-AD; Amendment 39-14230; AD 2005-17-09] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4183. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB 2000 Airplanes [Docket No. FAA-2005-21341; Directorate Identifier 2003-NM-026-AD; Amendment 39-14231; AD 2005-17-10] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4184. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A321 Series Airplanes [Docket No. FAA-2005-21342; Directorate Identifier 2004-NM-15-AD; Amendment 39-14229; AD 2005-17-08] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4185. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80C2 and CF6-80E1 Turbofan Engines [Docket No. FAA-2004-19144; Directorate Identifier 2003-NE-18-AD; Amendment 39-14226; AD 2005-17-05] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4186. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Turbomeca Artouste III Series Turboshaft Engines [Docket No. FAA-2005-20849; Directorate Identifier 2005-NE-04-AD; Amendment 39-14227; AD 2005-17-06] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4187. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Cessna Aircraft Company Models 525, 525A, and 525B Airplanes [Docket No. FAA-2005-21109; Directorate Identifier 2005-CE-21-AD; Amendment 39-14232; AD 2005-17-11] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4188. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, and MD-10-30F Airplanes; and Model MD-11 and MD-11F Airplanes [Docket No. FAA-2005-20662; Directorate Identifier 2004-NM-191-AD; Amendment 39-14225; AD 2005-17-04] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4189. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777-200 and -300 Series Airplanes [Docket No. FAA-2005-20350; Directorate Identifier 2004-NM-202-AD; Amendment 39-14223; AD 2005-17-02] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4190. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2005-20353; Directorate Identifier 2004-NM-255-AD; Amendment 39-14224; AD 2005-17-03] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4191. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Tiger Aircraft LLC Models AA-5, AA-5A, AA-5B, and AG-5B Airplanes [Docket No. FAA-2005-20968; Directorate Identifier 94-CE-15-AD; Amendment 39-14222; AD 95-19-15 R1] (RIN: 2120-AA64) received Septmber 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4192. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3-60 Airplanes [Docket No. FAA-2005-22168; Directorate Identifier 2005-NM-146-AD; Amendment 39-14234; AD 2005-17-13] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4193. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Airplanes; Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model A300 C4-605R Variant F Airplanes (Collectively Called A300-600 Series Airplanes); and Model A310-200 and -300 Series Airplanes [Docket No. FAA-2005-20794; Directorate Identifier 2004-NM-172-AD; Amendment 39-14235; AD 2005-17-14] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4194. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330-200, A330-300, A340-200, and A340-300 Series Airplanes; and Model A340-541 and -642 Airplanes [Docket No. FAA-2005-22196; Directorate Identifier 2005-NM-170-AD; Amendment 39-14239; AD 2005-17-18] (RIN: 2120-AA64) received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BARTON of Texas:

H.R. 3893. A bill to expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Armed Services, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ALEXANDER (for himself, Mr. BAKER, Mr. MCCRERY, Mr. JEFFERSON, Mr. BOUSTANY, Mr. JINDAL, and Mr. MELANCON):

H.R. 3894. A bill to provide for waivers under certain housing assistance programs of the Department of Housing and Urban Development to assist victims of Hurricane Katrina in obtaining housing; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. ALEXANDER, Mr. BOUSTANY, and Mr. JINDAL):

H.R. 3895. A bill to amend title V of the Housing Act of 1949 to provide rural housing assistance to families affected by Hurricane Katrina; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. ALEXANDER, Mr. BOUSTANY, and Mr. JINDAL):

H.R. 3896. A bill to temporarily suspend, for communities affected by Hurricane Katrina, certain requirements under the community development block grant program; to the Committee on Financial Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 521: Ms. FOXX.

H.R. 923: Ms. FOXX and Mr. WEXLER.

H.R. 1526: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2533: Mr. DAVIS of Tennessee, Mr. FORTENBERRY, Mr. JACKSON of Illinois, and Mr. GILLMOR.

H.R. 2822: Mr. SODREL.

H.R. 3074: Mr. GINGREY.

H.R. 3076: Mr. MILLER of Florida and Ms. GINNY BROWN-WAITE of Florida.

H.R. 3323: Mr. UDALL of New Mexico, Mr. FORTUÑO, and Mr. ANDREWS.

H.R. 3334: Mr. WALSH, Mr. BERRY, Ms. BERKLEY, Ms. HARMAN, Mr. PALLONE, Mr. RANGEL, Mr. LIPINSKI, Mr. COSTELLO, Mr. GUTIERREZ, Mr. SCHIFF, Mr. SCOTT of Georgia, Mr. DICKS, Ms. LINDA T. SÁNCHEZ of California, Mr. HIGGINS, Ms. WASSERMAN SCHULTZ, Mr. CARDIN, Mr. FATTAH, and Mr. ETHERIDGE.

H.R. 3639: Mr. COSTELLO, Mr. KIRK, Mr. GRIJALVA, and Mr. ROTHMAN.

H.R. 3704: Mr. TANCREDO, Mr. GARY G. MILLER of California, and Mr. DAVIS of Kentucky.

H.R. 3737: Mr. SCHWARZ of Michigan.

H.R. 3748: Mrs. DAVIS of California, Mr. LANTOS, Mr. FILNER, Mr. CONYERS, Mr. BACA, and Mr. PAYNE.

H.R. 3762: Ms. DELAURO, Ms. SCHWARTZ of Pennsylvania, Ms. BERKLEY, Mr. EVANS, Mr. OWENS, Mr. GRIJALVA, Mr. SPRATT, Mr. OBEY, Mr. FITZPATRICK of Pennsylvania, and Mr. GEORGE MILLER of California.

H.R. 3855: Mr. HERGER.

H. Con. Res. 69: Mr. SIMPSON.

H. Con. Res. 173: Mr. RANGEL and Mr. GORDON.

H. Con. Res. 209: Mr. DAVIS of Tennessee, Mr. VAN HOLLEN, Mr. BERMAN, Ms. HERSETH, Mr. SNYDER, Mrs. CHRISTENSEN, Mr. KUHL of New York, Mrs. DRAKE, and Mr. MCGOVERN.

H. Con. Res. 248: Mr. LINCOLN DIAZ-BALART of Florida, Mrs. JONES of Ohio, Mr. REYES, Mr. KENNEDY of Minnesota, Mr. DREIER, Mr. FERGUSON, Mr. MOORE of Kansas, Mr. CASE, Mr. BROWN of Ohio, Mr. MARKEY, Mr. SESSIONS, Mr. ENGEL, Mr. ETHERIDGE, Mr. MEEHAN, Mr. CANNON, Mr. DINGELL, Mr. CLYBURN, Mr. FRANK of Massachusetts, Mr. KING of New York, Mr. BACA, and Mr. BROWN of South Carolina.

H. Res. 325: Mrs. DRAKE.

H. Res. 413: Mr. SOUDER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3824

OFFERED BY: MR. POMBO

AMENDMENT NO. 1: Strike all after enacting clause and insert the following new text:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Threatened and Endangered Species Recovery Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Secretarial guidelines; State comments.
Sec. 9. Recovery plans and land acquisitions.
Sec. 10. Cooperation with States and Indian tribes.
Sec. 11. Interagency cooperation and consultation.

Sec. 12. Exceptions to prohibitions.
Sec. 13. Private property conservation.
Sec. 14. Public accessibility and accountability.
Sec. 15. Annual cost analyses.
Sec. 16. Reimbursement for depredation of livestock by reintroduced species.
Sec. 17. Authorization of appropriations.
Sec. 18. Miscellaneous technical corrections.
Sec. 19. Clerical amendment to table of contents.
Sec. 20. Certain actions deemed in compliance.

SEC. 2. AMENDMENT REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

"(2)(A) The term 'best available scientific data' means scientific data, regardless of source, that are available to the Secretary at the time of a decision or action for which such data are required by this Act and that the Secretary determines are the most accurate, reliable, and relevant for use in that decision or action.

"(B) Not later than one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall issue regulations that establish criteria that must be met to determine which data constitute the best available scientific data for purposes of subparagraph (A).

"(C) If the Secretary determines that data for a decision or action do not comply with the criteria established by the regulations issued under subparagraph (B), do not comply with guidance issued under section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary, do not consist of any empirical data, or are found in sources that have not been subject to peer review in a generally acceptable manner—

"(i) the Secretary shall undertake the necessary measures to assure compliance with such criteria or guidance; and

"(ii) the Secretary may—

"(I) secure such empirical data;

"(II) seek appropriate peer review; and

"(III) reconsider the decision or action based on any supplemental or different data provided or any peer review conducted pursuant to this subparagraph.".

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

"(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.".

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

"(12) The term 'jeopardize the continued existence' means, with respect to an agency action (as that term is defined in section 7(a)(2)), that the action reasonably would be expected to significantly impede, directly or indirectly, the conservation in the long-term of the species in the wild.".

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking "section 3(13)" and inserting "section 3(14)".

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

"DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

"SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

"(A) The present or threatened destruction, modification, or curtailment of its habitat or range by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

"(B) Overutilization for commercial, recreational, scientific, or educational purposes.

"(C) Disease or predation.

"(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

"(E) Other natural or manmade factors affecting its continued existence.

"(2) The Secretary shall use the authority provided by paragraph (1) to determine any distinct population of any species of vertebrate fish or wildlife to be an endangered species or a threatened species only sparingly.".

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking "best scientific and commercial data available to him" and inserting "best available scientific data"; and

(2) by inserting "Federal agency, any" after "being made by any".

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

"(2)(A) The Secretary shall—

"(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

"(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should—

"(I) be removed from such list;

"(II) be changed in status from an endangered species to a threatened species; or

"(III) be changed in status from a threatened species to an endangered species.

"(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).".

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 3 (16 U.S.C. 1532), as amended by section 3 of this Act, is further amended by striking paragraph (6) and by redesignating paragraphs (7) through (22) in order as paragraphs (6) through (21).

(2) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (2) of this subsection, by striking subparagraph (D).

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (2) of this subsection, by striking "determination, designation, or revision referred to in subsection (a)(1) or (3)" and inserting "determination referred to in subsection (a)(1)".

(5) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (2) of this subsection, by striking "; and if such regulation" and all that follows through the end of the sentence and inserting a period.

(6) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting "and" after "if any"; and

(ii) by striking ", and specify any" and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking ", designations,".

(7) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking "section 4(b)(7)" and inserting "section 4(b)(6)".

(8) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking "section 4(b)(3)(B)(iii)" each place it appears and inserting "section 4(b)(2)(B)(iii)".

(9) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking "or result in the destruction or adverse modification of any habitat of such species" and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking "or result" and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking "or its critical habitat".

(10) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking "that—" and all that follows through "(i) solely" and inserting "that solely"; and

(B) by striking "; and" and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(2) of this Act, by adding at the end of subparagraph (A) the following: "The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.".

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking ", and" and inserting a semicolon;

(ii) in clause (ii) by striking "to the State agency in" and inserting "to the Governor of, and the State agency in,";

(iii) in clause (ii) by striking "such agency" and inserting "such Governor or agency";

(iv) in clause (ii) by inserting "and" after the semicolon at the end; and

(v) by adding at the end the following:

"(iii) maintain, and shall make available, a complete record of all information concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information."; and

(B) by adding at the end the following:

"(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

"(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.".

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

"(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

"(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

"(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.";

(B) in subparagraph (B)(i) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)";

(C) in subparagraph (B)(ii) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)"; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting "with respect to a determination of a species to be an endangered species or a threatened species" after "any regulation"; and

(B) in subparagraph (B), by striking "the State agency in" and inserting "the Governor of, and State agency in,".

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

"(3) Each determination under paragraph (2)(B) shall consider one of the following:

"(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

"(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) and (B) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

"(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

"(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).".

SEC. 8. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking "AGENCY" and inserting "SECRETARIAL";

(B) in the matter preceding paragraph (1), by striking "the purposes of this section are achieved" and inserting "this section is implemented";

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking "and" after the semicolon at the end, and by inserting after paragraph (3) the following:

"(4) the criteria for determining best available scientific data pursuant to section 3(2); and"; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking "subsection (f) of this section" and inserting "section 5";

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting "COMMENTS.—" before the first sentence;

(B) by striking "a State agency" the first place it appears and inserting "a Governor, State agency, county (or equivalent jurisdiction), or unit of local government";

(C) by striking "a State agency" the second place it appears and inserting "a Governor, State agency, county (or equivalent jurisdiction), or unit of local government";

(D) by striking "the State agency" and inserting "the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively"; and

(E) by striking "agency's".

SEC. 9. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking "subsection (a) of this section" and inserting "subsection (k)"; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

"RECOVERY PLANS AND LAND ACQUISITION

"SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

"(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

"(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 2 years after the date the species is listed under section 4(c).

"(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

"(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

"(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a tentative schedule for such development or revision.

"(B) A species is described in this subparagraph if—

"(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

"(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

"(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and tentative schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

"(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

"(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

"(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

"(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

"(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including such intermediate measures as are warranted to effect progress toward achievement of the criteria.

"(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

"(iv) An identification of those specific areas that are of special value to the conservation of the species.

"(B) Those members of any recovery team appointed pursuant to subsection (d) with relevant scientific expertise, or the Secretary if no recovery team is appointed, shall, based solely on the best available scientific data, establish the objective, measurable criteria required under subparagraph (A)(i).

"(C)(i) If the recovery team, or the Secretary if no recovery team is appointed, determines in the recovery plan that insufficient best available scientific data exist to determine criteria or measures under subparagraph (A) that could achieve a determination to remove the species from the lists published under section 4(c), the recovery plan shall contain interim criteria and measures that are likely to improve the status of the species.

"(ii) If a recovery plan does not contain the criteria and measures provided for by clause (i) of subparagraph (A), the recovery team for the plan, or by the Secretary if no recovery team is appointed, shall review the plan at intervals of no greater than 5 years and determine if the plan can be revised to contain the criteria and measures required under subparagraph (A).

"(iii) If the recovery team or the Secretary, respectively, determines under clause (ii) that a recovery plan can be revised to add the criteria and measures provided for under subparagraph (A), the recovery team or the Secretary, as applicable, shall revise the recovery plan to add such criteria and measures within 2 years after the date of the determination.

"(D) In specifying measures in a recovery plan under subparagraph (A), a recovery team or the Secretary, as applicable, shall—

"(i) whenever possible include alternative measures; and

"(ii) in developing such alternative measures, the Secretary shall seek to identify, among such alternative measures of comparable expected efficacy, the alternative measures that are least costly.

"(E) Estimates of time and costs pursuant to subparagraph (A)(iii), and identification of the least costly alternatives pursuant to subparagraph (D)(ii), are not required to be based on the best available scientific data.

"(2) Any area that, immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005, is designated as critical habitat of an endangered species or threatened species shall be treated as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(3).

"(d) Recovery Teams.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams for development of recovery plans under this section.

"(2) Such regulations shall—

"(A) establish criteria and the process for selecting the members of recovery teams, and the process for preparing recovery plans, that ensure that each team—

"(i) is of a size and composition to enable timely completion of the recovery plan; and

"(ii) includes sufficient representation from constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan;

"(B) include provisions regarding operating procedures of and recordkeeping by recovery teams;

"(C) ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraphs (1)(A)(iii) and (1)(D) of subsection (c) are economically rigorous; and

"(D) provide guidelines for circumstances in which the Secretary may determine that appointment of a recovery team is not necessary or advisable to develop a recovery plan for a specific species, including procedures to solicit public comment on any such determination.

"(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

"(e) Reports to Congress.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

"(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

"(A) an assessment of any significant change in the well-being of each such species, including—

"(i) changes in population, range, or threats; and

"(ii) the basis for that assessment; and

"(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

"(f) Public Notice and Comment.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

"(g) State Comment.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency.

"(h) Consultation to Ensure Consistency With Development Plan.—(1) The Secretary shall, prior to final approval of a new or revised recovery plan, consult with any pertinent State, Indian tribe, or regional or local land use agency or its designee.

"(2) For purposes of this Act, the term 'Indian tribe' means—

"(A) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

"(B) with respect to Alaska, the Metlakatla Indian Community.

"(i) Use of Plans.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(2)(A)(i) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

"(ii) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

"(iii) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

"(B) Nothing in a recovery plan shall be construed to establish regulatory requirements.

"(j) Monitoring.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

"(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.".

(b) Recovery Plans for Species Occupying More Than One State.—Section 6 (16 U.S.C. 1535) is amended by adding at the end the following:

"(j) Recovery Plans for Species Occupying More Than One State.—Any recovery plan under section 5 for an endangered species or a threatened species that occupies more than one State shall identify criteria and actions pursuant to subsection (c)(1) of section 5 for each State that are necessary so that the State may pursue a determination that the portion of the species found in that State may be removed from lists published under section 4(c).".

(c) Threatened and Endangered Species Incentives Program.—

(1) Agreements authorized.—Section 5 (16 U.S.C. 1534) is further amended by adding at the end the following:

"(m) Threatened and Endangered Species Incentives Program.—(1) The Secretary may enter into species recovery agreements pursuant to paragraph (2) and species conservation contract agreements pursuant to paragraph (3) with persons, other than agencies or departments of the Federal Government or State governments, under which the Secretary is obligated, subject to the availability of appropriations, to make annual payments or provide other compensation to the persons to implement the agreements.

"(2)(A) The Secretary and persons who own or control the use of private land may enter into species recovery agreements with a term of not less than 5 years that meet the criteria set forth in subparagraph (B) and are in accordance with the priority established in subparagraph (C).

"(B) A species recovery agreement entered into under this paragraph by the Secretary with a person—

"(i) shall require that the person shall carry out, on the land owned or controlled by the person, activities that—

"(I) protect and restore habitat for covered species that are species determined to be endangered species or threatened species pursuant to section 4(a)(1);

"(II) contribute to the conservation of one or more covered species; and

"(III) specify and implement a management plan for the covered species;

"(ii) shall specify such a management plan that includes—

"(I) identification of the covered species;

"(II) a description of the land to which the agreement applies; and

"(III) a description of, and a schedule to carry out, the activities under clause (i);

"(iii) shall provide sufficient documentation to establish ownership or control by the person of the land to which the agreement applies;

"(iv) shall include the amounts of the annual payments or other compensation to be provided by the Secretary to the person under the agreement, and the terms under which such payments or compensation shall be provided; and “(v) shall include—

“(I) the duties of the person;

“(II) the duties of the Secretary;

“(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated; and

“(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given.

“(C) In entering into species recovery agreements under this paragraph, the Secretary shall accord priority to agreements that apply to any areas that are identified in recovery plans pursuant to subsection (c)(1)(A)(iv).

“(3)(A) The Secretary and persons who own private land may enter into species conservation contract agreements with terms of 30 years, 20 years, or 10 years that meet the criteria set forth in subparagraph (B) and standards set forth in subparagraph (D) and are in accordance with the priorities established in subparagraph (C).

“(B) A species conservation contract agreement entered into under this paragraph by the Secretary with a person—

“(i) shall provide that the person shall, on the land owned by the person—

“(I) carry out conservation practices to meet one or more of the goals set forth in clauses (i) through (iii) of subparagraph (C) for one or more covered species, that are species that are determined to be endangered species or threatened species pursuant to section 4(a)(1), species determined to be candidate species pursuant to section 4(b)(3)(B)(iii), or species subject to comparable designations under State law; and

“(II) specify and implement a management plan for the covered species;

“(ii) shall specify such a management plan that includes—

“(I) identification of the covered species;

“(II) a description in detail of the conservation practices for the covered species that the person shall undertake;

“(III) a description of the land to which the agreement applies; and

“(IV) a schedule of approximate deadlines, whether one-time or periodic, for undertaking the conservation practices described pursuant to subclause (II);

“(V) a description of existing or future economic activities on the land to which the agreement applies that are compatible with the conservation practices described pursuant to subclause (II) and generally with conservation of the covered species;

“(iii) shall specify the term of the agreement; and

“(iv) shall include—

“(I) the duties of the person;

“(II) the duties of the Secretary;

“(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated;

“(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given; and

“(V) terms and conditions for early termination of the agreement by the person before the management plan is fully implemented or termination of the agreement by the Secretary in the case of a violation by the person that is not remedied under subclause (IV), including any requirement for the person to refund all or part of any payments received under subparagraph (E) and any interest thereon.

“(C) The Secretary shall establish priorities for the selection of species conservation contract agreements, or groups of such agreements for adjacent or proximate lands, to be entered into under this paragraph that address the following factors:

“(i) The potential of the land to which the agreement or agreements apply to contribute significantly to the conservation of an endangered species or threatened species or a species with a comparable designation under State law.

“(ii) The potential of such land to contribute significantly to the improvement of the status of a candidate species or a species with a comparable designation under State law.

“(iii) The amount of acreage of such land.

“(iv) The number of covered species in the agreement or agreements.

“(v) The degree of urgency for the covered species to implement the conservation practices in the management plan or plans under the agreement or agreements.

“(vi) Land in close proximity to military test and training ranges, installations, and associated airspace that is affected by a covered species.

“(D) The Secretary shall enter into a species conservation contract agreement submitted by a person, if the Secretary finds that the person owns such land or has sufficient control over the use of such land to ensure implementation of the management plan under the agreement.

“(E)(i) Upon entering into a species conservation contract agreement with the Secretary pursuant to this paragraph, a person shall receive the financial assistance provided for in this subparagraph.

“(ii) If the person is implementing fully the agreement, the person shall receive from the Secretary—

“(I) in the case of a 30-year agreement, an annual contract payment in an amount equal to 100 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement;

“(II) in the case of a 20-year agreement, an annual contract payment in an amount equal to 80 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement; and

“(III) in the case of a 10-year agreement, an annual contract payment in an amount equal to 60 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement.

“(iii)(I) If the person receiving contract payments pursuant to clause (ii) receives any other State or Federal funds to defray the cost of any conservation practice, the cost of such practice shall not be eligible for such contract payments.

“(II) Contributions of agencies or organizations to any conservation practice other than the funds described in subclause (I) shall not be considered as costs of the person for purposes of the contract payments pursuant to clause (iii).

“(4)(A) Upon request of a person seeking to enter into an agreement pursuant to this subsection, the Secretary may provide to such person technical assistance in the preparation, and management training for the implementation, of the management plan for the agreement.

“(B) Any State agency, local government, nonprofit organization or federally recognized Indian tribe may provide assistance to a person in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species for purposes of the preparation or review and approval of management plans for species conservation contract agreements under paragraph (3)(D)(iii).

“(5) Upon any conveyance or other transfer of interest in land that is subject to an agreement under this subsection—

“(A) the agreement shall terminate if the agreement does not continue in effect under subparagraph (B);

“(B) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by no later than 30 days after the date of the conveyance or other transfer and the person is determined by the Secretary to qualify to enter into an agreement under this subsection; or

“(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this subsection.

“(6) An agreement under this subsection may be renewed with the mutual consent of the Secretary and the person who entered into the agreement or to whom the agreement has been transferred under paragraph (5).

“(7) The Secretary shall make annual payments under this subsection as soon as possible after December 31 of each calendar year.

“(8) An agreement under this subsection that applies to an endangered species or threatened species shall, for the purpose of section 10(a)(4), be deemed to be a permit to enhance the propagation or survival of such species under section 10(a)(1), and a person in full compliance with the agreement shall be afforded the protection of section 10(a)(4).

“(9) The Secretary, or any other Federal official, may not require a person to enter into an agreement under this subsection as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this Act.”.

(2) Subsection (e)(2) of section 7 (16 U.S.C. 1536) (as redesignated by section 11(d)(2) of this Act) is amended by inserting “or in an agreement under section 5(m)” after “section”.

(d) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking “section 4(g)” and inserting “section 5(j)”.

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking “section 4(f)” and inserting “section 5”; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking “section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))” and inserting “section 5 of the Endangered Species Act of 1973”.

SEC. 10. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

“(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section

4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section 4(a)(1) in that State. Upon completion of consultation on the agreement pursuant to subsection (e)(2), any incidental take statement issued on the agreement shall apply to any such species, and to the State and any landowners enrolled in any program under the agreement, without further consultation (except any additional consultation pursuant to subsection (e)(2)) if the species is subsequently determined to be an endangered species or a threatened species and the agreement remains an adequate and active program for the conservation of endangered species and threatened species.

"(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

"(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

"(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

"(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

"(B) For the purposes of this paragraph, the term 'Indian tribe' means—

"(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

"(ii) with respect to Alaska, the Metlakatla Indian Community.";

(2) in subsection (d)(1)—

(A) by striking "pursuant to subsection (c) of this section";

(B) by striking "or to assist" and all that follows through "section 5(j)" and inserting "pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)"; and

(C) in subparagraph (F), by striking "monitoring the status of candidate species" and inserting "developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)"; and

(3) in subsection (e)—

(A) by inserting "(1)" before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking "at no greater than annual intervals" and inserting "every 3 years"; and

(C) by adding at the end the following:

"(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions only before—

"(A) the Secretary enters into the agreement; and

"(B) the Secretary approves any renewal of, or amendment to, the agreement that—

"(i) addresses species that are determined to be endangered species or threatened species, are not addressed in the agreement, and may be affected by the agreement; or

"(ii) new information about any species addressed in the agreement that the Secretary determines—

"(I) constitutes the best available scientific data; and

"(II) indicates that the agreement may have adverse effects on the species that had not been considered previously when the agreement was entered into or during any revision thereof or amendment thereto.

"(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

"(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

"(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

"(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.".

SEC. 11. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking "endangered species" and all that follows through the end of the sentence and inserting "species determined to be endangered species and threatened species under section 4.";

(2) in paragraph (2)—

(A) in the first sentence by striking "action" the first place it appears and all that follows through "is not" and inserting "agency action authorized, funded, or carried out by such agency is not";

(B) in the first sentence by striking ", unless" and all that follows through the end of the sentence and inserting a period;

(C) in the second sentence, by striking "best scientific and commercial data available" and inserting "best available scientific data"; and

(D) by inserting "(A)" before the first sentence, and by adding at the end the following:

"(B) The Secretary may identify specific agency actions or categories of agency actions that may be determined to meet the standards of this paragraph by alternative procedures to the procedures set forth in this subsection and subsections (b) through (d), except that subsections (b)(4) and (e) may apply only to an action that the Secretary finds, or concurs, does meet such standards, and the Secretary shall suggest, or concur in any suggested, reasonable and prudent alternatives described in subsection (b)(3) for any action determined not to meet such standards. Any such agency action or category of agency actions shall be identified, and any such alternative procedures shall be established, by regulation promulgated prior or subsequent to the date of the enactment of this Act.";

(3) in paragraph (4)—

(A) by striking "listed under section 4" and inserting "an endangered species or a threatened species"; and

(B) by inserting ", under section 4" after "such species"; and

(4) by adding at the end the following:

"(5) Any Federal agency or the Secretary, in conducting any analysis pursuant to paragraph (2), shall consider only the effects of any agency action that are distinct from a baseline of all effects upon the relevant species that have occurred or are occurring prior to the action.".

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting "permit or license" before "applicant";

(2) in paragraph (2) by inserting "permit or license" before "applicant";

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking "Promptly after" and inserting "Before";

(ii) by inserting "permit or license" before "applicant"; and

(iii) by inserting "proposed" before "written statement"; and

(B) by striking all after the first sentence and inserting the following: "The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting "(A)" after "(4)";

(C) by striking "the Secretary shall provide" and all that follows through "with a written statement that—" and inserting the following: "the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

"(B) A statement described in this subparagraph—"; and

(5) by adding at the end the following:

"(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be roughly proportional to the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

"(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

"(i) must be capable of successful implementation; and "(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.".

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) by striking "(1)";

(2) by striking paragraph (2);

(3) in the first sentence, by striking "which is listed" and all that follows through the end of the sentence and inserting "that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action."; and

(4) in the second sentence, by striking "best scientific and commercial data available" and inserting "best available scientific data".

(d) ELIMINATION OF ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsections (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n);

(2) by redesignating subsections (o) and (p) as subsections (e) and (f), respectively;

(3) in subsection (e), as redesignated by paragraph (2) of this subsection—

(A) in the heading, by striking "EXEMPTION AS PROVIDING"; and

(B) by striking "such section" and all that follows through "(2)" and inserting "such section,"; and

(4) in subsection (f), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking "is authorized" and all that follows through "of this section" and inserting "may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action."; and

(B) by striking the second sentence.

SEC. 12. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

"(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

"(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

"(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and";

(2) in subparagraph (B) by striking "and" after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

"(v) the term of the permit is reasonable, taking into consideration—

"(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

"(II) the extent to which the plan will enhance the conservation of covered species;

"(III) the adequacy of information underlying the plan;

"(IV) the length of time necessary to implement and achieve the benefits of the plan; and

"(V) the scope of the plan's adaptive management strategy; and"; and

(3) by striking subparagraph (C) and inserting the following:

"(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be roughly proportional to the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i). This paragraph shall not be construed to limit the authority of the Secretary to require greater than acre-for-acre mitigation where necessary to address the extent of such impacts. In any case in which various terms and conditions are available, the terms and conditions shall be capable of successful implementation and shall be consistent with the objective of the applicant to the greatest extent possible.

"(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

"(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

"(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

"(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

"(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

"(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

"(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

"(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

"(ii) the Secretary provides 60 days notice of revocation to the permittee; and

"(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.".

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking "thirty" each place it appears and inserting "45".

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking "For purposes" and all that follows through the end of the paragraph and inserting the following: "For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.";

(2) in paragraph (2)(B), by striking "information" and inserting "scientific data"; and

(3) in paragraph (2)(C)(i), by striking "listed" and inserting "determined to be an endangered species or a threatened species".

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

"(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination that a proposed use of the owner's property that is lawful under State and local law will comply with section 9(a), by submitting a written description of the proposed action to the Secretary by certified mail.

"(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

"(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

"(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

"(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

"(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

"(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will comply with section 9(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

"(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

"(6) If the Secretary fails to provide a written determination before the expiration of the period under paragraph (5)(A) (or any extension thereof under paragraph (5)(B)), the Secretary is deemed to have determined that the proposed use complies with section 9(a).

"(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.

"(8) Any use or action taken by the property owner in reasonable reliance on a written determination of compliance under paragraph (5) or on the application of paragraph (6) shall not be treated as a violation of section 9(a).

"(9) Any determination of compliance under this subsection shall remain effective—

"(A) in the case of a written determination provided under paragraph (5)(A), for the 10-year period beginning on the date the written determination is provided; or

"(B) in the case of a determination that under paragraph (6) the Secretary is deemed to have made, the 5-year period beginning on the first date the Secretary is deemed to have made the determination.

"(10) The Secretary may withdraw a determination of compliance under this section only if the Secretary determines that, because of unforeseen changed circumstances, the continuation of the use to which the determination applies would preclude conservation measures essential to the survival of any endangered species or threatened species. Such a withdrawal shall take effect 10 days after the date the Secretary provides notice of the withdrawal to the requester.

"(11) The Secretary may extend the period that applies under paragraph (5) by up to 180 days if seasonal considerations make a determination impossible within the period that would otherwise apply.".

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

"(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if such exemption is necessary for national security.".

(f) DISASTER DECLARATION AND PROTECTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

"(m) DISASTER DECLARATION AND PROTECTION.—(1) The President may suspend the application of any provision of this Act in any area for which a major disaster is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) The Secretary shall, within one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, promulgate regulations regarding application of this Act in the event of an emergency (including circumstances other than a major disaster referred to in paragraph (1)) involving a threat to human health or safety or to property, including regulations—

"(A) determining what constitutes an emergency for purposes of this paragraph; and

"(B) to address immediate threats through expedited consideration under or waiver of any provision of this Act.".

SEC. 13. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

"PRIVATE PROPERTY CONSERVATION

"SEC. 13. (a) IN GENERAL.—The Secretary may provide conservation grants (in this section referred to as 'grants') to promote the voluntary conservation of endangered species and threatened species by owners of private property and shall provide financial conservation aid (in this section referred to as 'aid') to alleviate the burden of conservation measures imposed upon private property owners by this Act. The Secretary may provide technical assistance when requested to enhance the conservation effects of grants or aid.

"(b) AWARDING OF GRANTS AND AID.—Grants to promote conservation of endangered species and threatened species on private property—

"(1) may not be used to fund litigation, general education, general outreach, lobbying, or solicitation;

"(2) may not be used to acquire leases or easements of more than 50 years duration or fee title to private property;

"(3) must be designed to directly contribute to the conservation of an endangered species or threatened species by increasing the species' numbers or distribution; and

"(4) must be supported by any private property owners on whose property any grant funded activities are carried out.

"(c) PRIORITY.—Priority shall be accorded among grant requests in the following order:

"(1) Grants that promote conservation of endangered species or threatened species on private property while making economically beneficial and productive use of the private property on which the conservation activities are conducted.

"(2) Grants that develop, promote, or use techniques to increase the distribution or population of an endangered species or threatened species on private property.

"(3) Other grants that promote voluntary conservation of endangered species or threatened species on private property.

"(d) ELIGIBILITY FOR AID.—(1) The Secretary shall award aid to private property owners who—

"(A) received a written determination under section 10(k) finding that the proposed use of private property would not comply with section 9(a); or

"(B) receive notice under section 10(k)(10) that a written determination has been withdrawn.

"(2) Aid shall be in an amount no less than the fair market value of the use that was proposed by the property owner if—

"(A) the owner has foregone the proposed use;

"(B) the owner has requested financial aid—

"(i) within 180 days of the Secretary's issuance of a written determination that the proposed use would not comply with section 9(a); or

"(ii) within 180 days after the property owner is notified of a withdrawal under section 10(k)(10); and

"(C) the foregone use would be lawful under State and local law and the property owner has demonstrated that the property owner has the means to undertake the proposed use.

"(e) DISTRIBUTION OF GRANTS AND AID.—(1) The Secretary shall pay eligible aid—

"(A) within 180 days after receipt of a request for aid unless there are unresolved questions regarding the documentation of the foregone proposed use or unresolved questions regarding the fair market value; or

"(B) at the resolution of any questions concerning the documentation of the foregone use established under subsection (f) or the fair market value established under subsection (g).

"(2) All grants provided under this section shall be paid on the last day of the fiscal year. Aid shall be paid based on the date of the initial request.

"(f) DOCUMENTATION OF THE FOREGONE USE.—Within 30 days of the request for aid, the Secretary shall enter into negotiations with the property owner regarding the documentation of the foregone proposed use through such mechanisms such as contract terms, lease terms, deed restrictions, easement terms, or transfer of title. If the Secretary and the property owner are unable to reach an agreement, then, within 60 days of the request for aid, the Secretary shall determine how the property owner's foregone use shall be documented with the least impact on the ownership interests of the property owner necessary to document the foregone use.

"(g) FAIR MARKET VALUE.—For purposes of this section, the fair market value of the foregone use of the affected portion of the private property, including business losses, is what a willing buyer would pay to a willing seller in an open market. Fair market value shall take into account the likelihood that the foregone use would be approved under State and local law. The fair market value shall be determined within 180 days of the documentation of the foregone use. The fair market value shall be determined jointly by 2 licensed independent appraisers, one selected by the Secretary and one selected by the property owner. If the 2 appraisers fail to agree on fair market value, the Secretary and the property owner shall jointly select a third licensed appraiser whose appraisal within an additional 90 days shall be binding on the Secretary and the private property owner. Within one year after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall promulgate regulations regarding selection of the jointly selected appraisers under this subsection.

"(h) LIMITATION ON AID AVAILABILITY.—Any person receiving aid under this section may not receive additional aid under this section for the same foregone use of the same property and for the same period of time.

"(i) ANNUAL REPORTING.—The Secretary shall by January 15 of each year provide a report of all aid and grants awarded under this section to the Committee on Resources of the House of Representatives and the Environment and Public Works Committee of the Senate and make such report electronically available to the general public on the website required under section 14.".

SEC. 14. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

"PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

"SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

"(1) each list published under section 4(c)(1);

"(2) all final and proposed regulations and determinations under section 4;

"(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

"(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

"(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

"(6) data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.".

SEC. 15. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

"ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

"SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

"(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

"(1) expenditures of Federal funds on a species-by-species basis, and expenditures of Federal funds that are not attributable to a specific species;

"(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

"(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

"(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

"(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

"(2) attest to the accuracy of such data.".

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

"(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).".

SEC. 16. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

"REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

"SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

"(b) ELIGIBILITY FOR AND AMOUNT.—Eligibility for, and the amount of, reimbursement under this section shall not be conditioned on the presentation of the body of any animal for which reimbursement is sought.

"(c) LIMITATION ON REQUIREMENT TO PRESENT BODY.—The Secretary may not require the owner of livestock to present the body of individual livestock as a condition of payment of reimbursement under this section.

"(d) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

"(e) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.".

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

"(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

"(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

"(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.".

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking "section 15" and inserting "section 18".

SEC. 18. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking "any endangered species or threatened species listed" and inserting "any species determined to be an endangered species or a threatened species"; and

(2) in subsection (b) in paragraph (1), by striking "endangered species and threatened species listed" and inserting "species determined to be endangered species and threatened species".

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking "of the Interior (hereinafter in this section referred to as the 'Secretary')";

(2) in subsection (d), by striking "Merchant Marine and Fisheries" and inserting "Resources"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking "of the Interior (hereinafter in this subsection referred to as the 'Secretary')"; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking "of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act" and inserting ", with respect to any species of fish or wildlife determined to be an endangered species under section 4";

(B) in paragraph (1)(G), by striking "threatened species of fish or wildlife listed pursuant to section 4 of this Act" and inserting "species of fish or wildlife determined to be a threatened species under section 4";

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking "of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act" and inserting ", with respect to any species of plants determined to be an endangered species under section 4"; and

(D) in paragraph (2)(E), by striking "listed pursuant to section 4 of this Act" and inserting "determined to be a threatened species under section 4";

(2) in subsection (b)—

(A) by striking "(1)" before "SPECIES" and inserting "(1)" before the first sentence;

(B) in paragraph (1), in the first sentence, by striking "adding such" and all that follows through ": *Provided*, That" and inserting "determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if"; and

(C) in paragraph (1), in the second sentence, by striking "adding such" and all that follows through "this Act" and inserting "determining such fish or wildlife species to be an endangered species or a threatened species under section 4";

(3) in subsection (c)(2)(A), by striking "an endangered species listed" and inserting "a species determined to be an endangered species";

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: "(i) are not determined to be endangered species or threatened species under section 4, and";

(5) in subsection (e), by striking clause (1) and inserting the following: "(1) are not determined to be endangered species or threatened species under section 4, and"; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: "(A) are not determined to be endangered species or threatened species under section 4, and"; and

(B) by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking "an endangered species" and all that follows through "section 4 of this Act" and inserting "an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4";

(B) by striking "section 9(a) of this Act" and inserting "section 9(a)"; and

(C) by striking "fish or wildlife listed by the Secretary as endangered" and inserting "fish or wildlife determined to be an endangered species or threatened species by the Secretary"; and

(2) in paragraph (2)—

(A) by inserting "or a threatened species" after "endangered species" each place it appears; and

(B) in subparagraph (B), by striking "listed species" and inserting "endangered species or threatened species".

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting "or threatened species" after "endangered species"; and

(2) by striking "of this Act".

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after "(f)" the following: "PRE-ACT PARTS AND SCRIMSHAW.—"; and

(2) in paragraph (2), by striking "of this Act" each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after "(g)" the following: "BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—".

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking "endangered species or threatened species listed" and inserting "species determined to be an endangered species or a threatened species".

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking "Such persons" and inserting "Such a person".

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) "SECRETARY" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the Secretary":

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) "PRESIDENT" FOR "HE".—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking "he" and inserting "the President".

(3) "SECRETARY OF THE INTERIOR" FOR "HE".—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by strikfng "he" and inserting "the Secretary of the Interior".

(4) "PERSON" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the person":

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) "DEFENDANT" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the defendant".

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO "HIM".—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking "him or the Secretary of Commerce" each place it appears and inserting "the Secretary".

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking "him" and inserting "the Secretary".

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking "him" and inserting "the Secretary".

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking "him" and inserting "the Secretary".

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking "him" and inserting "the Secretary".

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking "him" each place it appears and inserting "such person".

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking "him" and inserting "the Secretary".

(7) REFERENCES TO "HIMSELF OR HERSELF".—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking "himself or herself" each place it appears and inserting "the defendant".

(8) REFERENCES TO "HIS".—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking "his" and inserting "the".

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking "his" and inserting "the Secretary's"; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking "his periodic review" and inserting "periodic review by the Secretary".

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking "his" and inserting "the applicant's".

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking "his" and inserting "the Secretary's".

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking "his" each place it appears and inserting "such person's".

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking "his" and inserting "the Secretary's".

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking "his" and inserting "the".

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking "his" and inserting "the Secretary's";

(ii) in subsections (a)(3) and (b)(3) by striking "his or her" each place it appears and inserting "the defendant's";

(iii) in subsection (d) by striking "his" and inserting "the officer's or employee's";

(iv) in subsection (e)(3) in the second sentence by striking "his" and inserting "the person's"; and

(v) in subsection (g)(1) by striking "his" and inserting "the person's".

SEC. 19. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

"Sec. 5. Recovery plans and land acquisition."

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

"Sec. 13. Private property conservation.
"Sec. 14. Public accessibility and accountability.
"Sec. 15. Marine Mammal Protection Act of 1972.
"Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.
"Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
"Sec. 18. Authorization of appropriations.".

SEC. 20. CERTAIN ACTIONS DEEMED IN COMPLIANCE.

(a) ACTIONS DEEMED IN COMPLIANCE.—During the period beginning on the date of the enactment of this Act and ending on the date described in subsection (b), any action that is taken by a Federal agency, State agency, or other person and that complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is deemed to comply with sections 7(a)(2) and 9(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B)) (as amended by this Act) and regulations issued under section 4(d) of such Act (16 U.S.C. 1533(d)).

(b) TERMINATION DATE.—The date referred to in subsection (a) is the earlier of—

(1) the date that is 5 years after the date of the enactment of this Act; and

(2) the date of the completion of any procedure required under subpart D of part 402 of title 50, Code of Federal Regulations, with respect to the action referred to in subsection (a).

(c) LIMITATION ON APPLICATION.—This section shall not affect any procedure pursuant to part 402 of title 50, Code of Federal Regulations, that is required by any court order issued before the date of the enactment of this Act.

SENATE—*Monday, September 26, 2005*

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, ruler of all nature, as Hurricane Rita's flood waters recede, we pause to thank You for Your goodness and mercy. We praise You for lighter-than-expected damage, for spared lives, and for generous hearts.

We thank You for the evidence of national and international unselfishness the forces of nature have shown us and for the opportunity to grow in grace by helping others.

Bless our lawmakers today as they continue their task of building a better nation and world. Guide them with Your providence and make them examples of civility and integrity. Give them the wisdom to listen to the whisper of conscience and to choose the harder right.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we formally begin the consideration of John Roberts to be Chief Justice of the United States. In a moment, we will proceed to executive session to begin the debate on that nomination. In order to facilitate the debate on the Roberts nomination, we have set aside controlled time so that Members can better plan when they will be speaking to the body. I know many Members will want to come to the floor to speak on this important nomination. However, I hope Senators do not feel compelled to make lengthy statements. We will stay each night this week if the Senators desire to speak, but I would like to reach an agreement as to when that final vote will occur so that Members can plan accordingly. I will be discussing a time certain for that vote with the Democratic leader as we go forward with the debate.

Last week, I announced that we would have a vote today beginning approximately 5:30. Shortly, we expect to have that vote locked in by unanimous consent. We have about 24 nominations that are pending on the Executive Calendar. We will likely set one of those pending nominations for a vote. As always, we will alert Members when that vote is set.

Also, this week we need to address the continuing resolution as we end the fiscal year. We will continue working on the appropriations process following the vote on the Roberts nomination.

The appropriations bill for the Defense Department will be reported this week, and we expect to quickly turn to that bill.

Having said that, I look forward to a good debate and good discussion on John Roberts, followed by the vote on his confirmation.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR. TO BE CHIEF JUSTICE OF THE UNITED STATES

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider Executive Calendar No. 317, which the clerk will report.

The legislative clerk read the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

Mr. FRIST. Mr. President, 19 years ago today, on September 26, 1986, William Rehnquist took the oath of office as the 16th Chief Justice of the United States.

Today, nearly two decades later, the Senate is faced with a unique opportunity to provide advice and consent on the nomination of John Roberts as our Nation's 17th Chief Justice.

As we debate Judge Roberts' nomination over the next few days, I ask that we think about the task the American people have entrusted to us.

Over the next few days, they will be watching and waiting. They will be scoring us on how well we perform our duty.

They will be looking to see if we proceed in an honorable and dignified manner—to see if we work together in a bipartisan way—and to see if we put principle above partisan politics.

The qualifications they expect us to look at for a Supreme Court Justice are unambiguous. They expect an individual who is qualified, an individual who will faithfully interpret the Constitution, an individual who will check politics and personal views at the door of the Court, an individual who will approach every case with a fair and open mind.

As Senators, our duties are clear. The question now becomes, and the question each of us must answer is, Is John Roberts fit to serve as Chief Justice of the United States? Does he possess each of the qualities that the American people expect and qualities that our highest Court deserves?

In answering these questions, I recommend that we take a hard look at what we have learned about John Roberts over these last several weeks.

From his resume, we know he graduated at the top of his class from both Harvard College and Harvard Law School. At Harvard, he was editor of one of the most well-respected law journals in America.

He has argued 39 cases before the Supreme Court, and he has earned bipartisan respect as one of the finest appellate advocates in the Nation.

He served two Presidents in prominent positions. The American Bar Association gave John Roberts the highest rating possible—"well-qualified"—on three occasions.

We know he has earned respect from both sides of the political divide.

During the committee hearing 2 weeks ago, my distinguished Democratic colleague, Senator BIDEN, said Judge Roberts was "one of the best witnesses to come before [the] committee" in his 30-some years.

Senator FEINSTEIN complimented Judge Roberts for getting through the hearing "in a remarkable way."

Senator SCHUMER called him "one of the best litigators in America" and praised his "amazing knowledge of the law."

Senator SCHUMER went on to say that Judge Roberts "may very well possess the most powerful intellect of any person to come before the Senate for this position."

I agree with all of my colleagues' observations. John Roberts' record speaks for itself. And I believe that in the committee testimony he has earnestly and effectively shown America the face of John Roberts.

We know he understands the importance of judicial restraint and judicial

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

independence. We know Judge Roberts appreciates that the role of a judge is to interpret the law and not to legislate from the bench. He understands that a judge is a humble servant of the law but never above the law.

In the words that captured his core philosophy, and captured the minds of Americans, Judge Roberts said:

> [J]udges are servants of the law, not the other way around. Judges are like umpires. Umpires don't make the rules; they apply them. . . .

And we know that Judge Roberts will not allow his personal political views to interfere with his judicial decisions.

In the hearings, he stressed that he has no political agenda but, rather, a commitment to "confront every case with an open mind," "to fully and fairly analyze the legal arguments that are presented," and to "decide every case based on the record, according to the rule of law, without fear or favor, to the best of [his] ability."

John Roberts has been open and forthcoming in the committee hearings. He has answered questions thoroughly, without compromising the independence to which he is entitled. He has provided this body with more than ample information to evaluate his merit.

In total, Senators have had access to over 100,000 pages of documents from his service in the Federal Government. And Judge Roberts endured almost 20 hours of committee testimony, including over 700 questions.

We have learned a lot about Judge John Roberts in the course of the last few weeks. And in one's personal interactions with John Roberts, we have all learned a little more. I know I have.

Getting to know John Roberts, I will say that truly he has a brilliant legal mind. He is "the brightest of the bright."

Above all, as his record reflects on the D.C. Circuit, John Roberts embodies the word that should be synonymous with every judge. He is fair. He is thoughtful. He is capable. He is hard working. He is driven. And John Roberts is a man of integrity. He is honest. He is devoted to his family.

These are qualities we want in the men and women who serve our Nation on the High Court. They are the qualities that will move America forward. John Roberts has proven beyond a shadow of a doubt that he has the qualification and the temperament, the knowledge and the understanding to serve as America's next Chief Justice. And in the eyes of my colleagues on both sides of the aisle, I sense that agreement.

As we move to this final stage of advice and consent, I urge my colleagues to continue to work toward that deadline of October 3 so that John Roberts can be on the bench when the Supreme Court begins its new term, and the Court can then be at full strength.

I look forward to a thoughtful and respectful debate on John Roberts' nomination, and then a fair up-or-down vote on confirmation later this week.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, many times we dwell on the negative, and that is unfortunate.

The debate that will take place this week speaks well of the process to this point.

I just saw Senator LEAHY walk through the Chamber. The other Member I wanted to mention briefly is Senator SPECTER, who is here in the Chamber.

The Judiciary Committee has acted in an exemplary fashion this past couple of months, with all the preliminaries that go into selecting a Supreme Court Justice—the first time we have had a new Supreme Court Justice in 11 years.

Senator SPECTER and Senator LEAHY are to be commended for the good work they have done.

Three weeks ago, I called Senator SPECTER and told him I thought he was moving on very well, and I complimented him on the good job he was doing in moving this forward.

There are strong feelings on each side. There are people voting no and people voting yes, but it has all been very respectful.

The heavy lifting of this nomination took place within the committee when 18 members of that committee spent a tremendous amount of time reading reports, and then, of course, in recent days asking questions that they had worked on for days and days before asking the questions.

So I want the record to be spread here with the fact that this shows how a legislative body should work. It doesn't mean everyone has to agree on the outcome. It just means you have to work in a respectful way to get to that outcome. We will have an outcome this week.

I say through the Chair to my distinguished friend, the Republican leader, from all I have been able to determine on our side, we would be certainly able to vote sometime in the morning on Thursday, if that would be appropriate. We might be pushing the envelope a little bit to try to finish on Wednesday. But I think we could finish with ease on Thursday with the schedule that people have.

I say that to my friend. Again, I say to Senator SPECTER—him being present, and Senator LEAHY not being present but saying the same to him—it really makes me feel good to know that our committee system works as it should, and it certainly did in this instance.

SENATE PRIORITIES

Mr. President, in the days and weeks since Katrina, there is no doubt that the American people have done their part to help.

I watched an interview over the weekend with a representative of the Red Cross who said they would soon be at $1 billion in money having come to the Red Cross from people of good will in the United States.

I think the American people have done their part to help, but I think—and I say this with some hesitation but certainly with as much affirmation as I can—the Republican-controlled Congress has not done its share. It has been a month. We have seen Hurricane Katrina come and go. We have seen Hurricane Rita come and go. And here we are, having done next to nothing to get victims the urgent relief they need.

Instead of letting the Senate address Katrina disaster relief in a comprehensive way, Republicans have spent the last 4 weeks debating the Commerce-State-Justice appropriations bill and the agriculture appropriations bill. These are important pieces of legislation but not nearly as important as the disaster relief measures that would give these people help immediately. These appropriations bills do little to help the victims. They do not offer us the opportunity to do more.

These bills, when they come to the floor, are in a parliamentary fashion where they cannot be amended except in very strict ways. People who want to offer amendments dealing with Katrina have to use some political gyrations to be able to get a vote, and that is a two-thirds number they have to come up with to have it passed, which is very difficult to do. So I would hope we could get to some of these bills quickly.

I have said this before, and I do not want to sound like a broken record, but yesterday we lost three more troops in Iraq. I got a call late last night from Colonel Herbert, who is with the Nevada National Guard, a person who has devoted his life to the military. He said: Senator, I lost two of my men yesterday in a helicopter that went down in Afghanistan. He felt very bad. One of the pilots and one of the crew chiefs, both from Nevada, were killed.

This morning I was at Bethesda Naval Medical Center. As I walked in, there was a man in a wheelchair, missing both legs, and obviously he had had some trauma to his head. The naval officer who was with me indicated he was one who had been in the hospital, then left, and now is back. But yet in the Senate we have not done a bill to take care of these people.

In spite of the fact we have almost 2,000 Americans who have been killed in Iraq—we are spending upwards of $2.5 billion a week in Iraq—and that we are causing the ranks of the veterans to increase dramatically, we do not have a bill to take care of them. We have a bill, but we are not allowed to bring it to the floor. The Defense authorization bill, which sets up the funding and the other matters to take care of the active personnel who wear the uniform of the United States, plus our Guard and Reserve, plus the many obligations we as a nation have to our veterans—we are not debating that bill to do that. We spent a couple days on it.

These bills average about 2 weeks before we finish them. We are not going to that bill because the Republican-controlled Senate will not let us. We are going to do something that is unusual. We just heard from the distinguished majority leader that after we finish the Roberts nomination, we are going to bypass the Defense authorization bill and go to the Defense appropriations bill which we have not authorized.

What we normally do is we authorize within certain limits and then we bring the appropriations bills to the floor of the Senate and appropriate moneys for what we have authorized. We have not authorized anything, but we are going to appropriate, anyway.

There are lots of amendments pending. My staff and Senator LEVIN's staff worked with counterparts on the Republican side Friday to say: We will get rid of all our amendments. We will have 10 or 12 amendments. That is all we want. We would have one that would relate to the gulf, to Katrina, and the other 10 or 11 would be related to the Defense authorization bill. There is still no approval on that.

So those people who care about what is going on in Iraq—and that is most everyone—and those who care about what is going on in Afghanistan—and that is most everyone—should understand the bill we are not going to take up gives our troops and veterans the assistance they need.

Senator WARNER and Senator LEVIN, who are the chairman and ranking member of that committee, have provided in the bill before the Senate $21 billion in new spending for the military, $50 billion extra for covering operations in Iraq, and a 3.1-percent pay raise and other benefits to people in the United States military, which we are not going to be able to debate or vote on. We are not going to be able to amend the bill. That is too bad. It is really too bad. I think it shows a lack of respect for the people in the military, as indicated by my trip to Bethesda today.

In addition to that, we made little progress on S. 1637, the Katrina Emergency Relief Act of 2005. This is a bill that we Democrats submitted. It is a relief plan to give health care, housing, education, and financial relief to those people who need it. It was introduced the week after the hurricane. We still have not been able to get an agreement from the majority—Senate Republicans—as to how to proceed on this bill. None of the items have made it here to the desk, but yet we hear people complaining that Katrina is going to cost too much money and they want to start making cuts in Government programs. I am happy to take a look at that. But the first place we should look is at the budget here in the Senate. In the Senate, we authorize and appropriate, we pass a budget, and then we execute that with something called reconciliation. The budget we are working on is immoral. And those are not my words; those are words that were written by the leaders—not some offshoot groups—the leaders, the chief executives of the major Protestant religions in the United States—Lutherans, Methodists, Episcopalians, and others. I read into the RECORD the night we had that measure on the floor a letter from them saying: The budget is immoral. Don't vote for it. It passed with a party-line vote. The Republicans passed this, what they referred to as an immoral document. Let's not execute that. These church leaders were visionary. They knew then it was immoral. Today it is even worse.

What are we being asked to do with the reconciliation? We are being asked to give $70 billion in added tax cuts to the rich—$70 billion. We are being asked to cut $10 billion from Medicaid. Medicaid, a medical program that goes to the poorest of the poor, we are being asked to cut $10 billion from that. That is in this budget we are being asked to execute. We are being asked to cut student loans, to cut food stamps. If we want a big offset, get rid of the $70 billion tax cut now.

Times have changed. Our priorities must change with them. America can do better. We can start doing better today with bipartisan health care relief for survivors of Katrina. We have all heard about how the State governments of Louisiana, Mississippi, and even Alabama are struggling to provide health care. But many States in the region and elsewhere that have accepted thousands of Katrina evacuees are facing a similar problem. There are 60,000 evacuees in Arkansas.

We know no matter how hard these States try, they lack the resources to do what is needed, and many survivors will be left behind—and have been left behind. Only the Federal Government has the resources to address the evacuees' health care and other needs.

Fortunately, Senator GRASSLEY, the chairman of the Finance Committee, and the ranking member, MAX BAUCUS, set aside partisan differences and recognized this fact, that help is needed—and needed now—and they have come together and crafted a compromise to ensure that Katrina's victims will be covered under Medicaid, wherever they are, with full Federal funding.

This package does not provide coverage regardless of income, as my bill would have, but it is a good compromise. Senators GRASSLEY and BAUCUS are to be commended. It will provide relief to many who need it. We need to pass this bill. We need to get the House to agree with this bipartisan approach so we can get the bill to the President's desk as soon as possible. We need to do this now. Proceeding with business as usual, while the administration relies on bureaucratic waivers on a State-by-State basis, will not, and has not, gotten the job done.

The White House approach will not provide care, for example, to a 55-year-old grandmother or father who has found a job but still needs health care. It will not ensure uniform coverage from State to State. It will not expedite the process for victims and States who have already waited too long. It will not ease the financial burden that destination States are being asked to shoulder, such as Arkansas. And it will not provide relief to the States hit by Hurricane Katrina. In fact, it may make their situations even worse.

The Finance Committee bill enjoys bipartisan support in the Senate, and support from our Governors, State Medicaid directors, and numerous patient and provider groups.

There is no reason to wait any longer. We were ready to clear the bill Thursday. It was cleared on our side. It was all ready to go. Not on that side. We said: Let's wait a couple hours. No. We couldn't do it on Thursday. "Let's come in Friday to do it." "No, we can't do it on Friday." "Let's do it on Monday." "Can't do it on Monday"—although we are going to ask sometime today unanimous consent that we take this bill up and pass it. Our side has and will agree. I would hope we can do that. It is so important. States are being hurt. They cannot bear the burden of the disaster that befell us.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the time from 1:30 p.m. to 2:30 p.m. will be under the control of the majority leader or his designee.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this afternoon, the Senate begins the debate on the confirmation of Judge John G. Roberts, Jr., to be Chief Justice of the United States. It is not an overstatement to note this is a historic debate. At the age of 50, Judge Roberts, if confirmed, has the potential to serve as Chief Justice until the year 2040 or beyond.

Today, Justice John Paul Stevens, at the age of 85, continues to serve. If you project Judge Roberts ahead 35 years, it would be to the year 2040. Obviously, by that time it will be a very different world. There will be very different issues which will confront the Court with the advances in technology, with the advances in brain scanning, key questions as to how far the privilege against self-incrimination goes to scan someone's brain. Will it be like a blood test and fingerprints or will it be viewed as invasive and a violation of a right to privacy? Those are the kinds of issues which Judge Roberts will confront if confirmed as Chief Justice.

He also has the potential to project a new image on the Supreme Court. That Court has been buffeted by a whole series of 5-to-4 decisions. Candidly, some of them are inexplicable, where you have, this year, the Supreme Court of the United States saying that Texas could display the Ten Commandments outdoors, but Kentucky could not display the Ten Commandments indoors. There are some minor differences, but it is hard to understand how the Ten Commandments can be shown in Texas but not in Kentucky by a 5-to-4 vote.

Under the very important legislation of the Americans With Disabilities Act, the Supreme Court had two 5-to-4 decisions 3 years apart. One, in a case captioned Garrett v. University of Alabama, in 2001, the Supreme Court declared the title unconstitutional which dealt with discrimination against the disabled in employment.

Three years later, in Tennessee v. Lane, the Supreme Court upheld the constitutionality of another title of the Americans with Disabilities Act which dealt with access to public accommodations. We have seen a proliferation of opinions with multiple concurrences, making them very hard to understand. Earlier this year, the Judiciary Committee took up the issue of what was happening in Guantanamo, and a study was undertaken on three opinions handed down by the Supreme Court in June of last year. On one case, they couldn't get a majority, a plurality of four, so there was no holding. In the other two cases, there were concurrences and dissents. You have a pattern which exists where Justice A will write a concurring opinion, joined by Justice B, and Justice B will write a separate concurring opinion, joined by Justice A and Justice C.

This is an issue which was considered during the course of Judge Roberts' hearings. It is one where a new judge, a new Chief Justice at the age of 50, will have an opportunity to make some very systemic changes in the way the Court functions. When Judge Roberts was questioned about his ability to handle this matter—first during the informal meeting in my office and later in the hearings—he said he thought he could handle it because, in his many appearances before the Supreme Court, some 39 in number, it was a dialog among equals. I was impressed by his concept of a dialog among equals, that he considered himself as a lawyer arguing before the Court to be dealing with equals. I have had occasion three times to appear before the Supreme Court, and it didn't seem to me like a dialog among equals. But when you have been there 39 times and you know the Justices as well as he does—and the word is that the Justices very much applaud his nomination to be Chief Justice—he has the potential almost from a running start to bring a new day and a new era to the Supreme Court. That is a very attractive feature about his projection as Chief Justice.

We know the famous historical story about Earl Warren's becoming Chief Justice in 1953. The Court was then faced with Brown v. Board of Education, the desegregation case. There were many disputes in the Court at that time. They had to carry the case over. Chief Justice Warren was able to get a unanimous Court, which was important, so that contentious issue was one where nine Justices agreed and came down with an opinion which was obviously difficult to implement but had a great deal more stature because of its unanimity. So here is an extra bonus for the Court, an extra bonus for America, if confirmed as Chief Justice: the potential that Judge Roberts has to promote a new day and a new era for the Court administratively.

On his qualifications, Judge Roberts was rated "well qualified" by the American Bar Association. It is understandable, since he was a summa cum laude graduate of Harvard College, magna cum laude graduate of Harvard Law School; had a very distinguished career as assistant to Attorney General William French Smith, after serving as a clerk to a distinguished Second Circuit judge, Henry Friendly; then served as clerk to then Associate Justice William Rehnquist; then, following his work with Attorney General William French Smith, became associate White House counsel; practiced with the prestigious law firm of Hogan & Hartson—Hogan & Hartson was prestigious before Judge Roberts got there but a lot more so after he was there and, frankly, after he left—then his status as a premier appellate lawyer; then the Supreme Court with some 39 cases.

It was my view that Judge Roberts has a broad, expansive understanding of the application of the Constitution. He said:

> They

—referring to the Framers—

> were crafting a document that they intended to apply in a meaningful way down through the ages.

While he would not quite accept my characterization of agreement with Justice John Marshall Harlan on the document being a living thing, he did say that the core principles of liberty and due process had broad meaning as applied to evolving societal conditions. He is not an originalist. He is not looking to original intent. But he sees the Constitution for the ages and adaptable to evolving societal conditions.

On the issue of how many questions he answered before the Judiciary Committee, I believe he answered more than most but, candidly, did not answer as many questions as I would like to have had him answer. I will detail that in the course of this brief presentation.

I have observed, in the 10 Supreme Court nominations where I have had the privilege to participate on the Judiciary Committee, that nominees answer about as many questions as they believe they have to in order to be confirmed. But it has become an evolving process. A view of some of the history of Supreme Court nominations is relevant to see what has happened, what is in the course of happening, and what the next nominee may face.

The Senate Judiciary Committee has conducted hearings on nominees only since 1916—that is, for the Supreme Court—with the nomination of Louis Brandeis by President Woodrow Wilson. Justice Brandeis did not appear. The first time a nominee appeared before the committee was in 1925. The nominee was Harlan Fiske Stone. An issue had arisen as to whether there was a political motivation in the controversial investigation into the conduct of Judge Burton Wheeler. Justice Stone asked to appear to respond to the allegations. He did so, and he was confirmed.

In 1939, President Roosevelt nominated Felix Frankfurter, who initially refused to appear personally, but after being attacked for his foreign birth, his religious beliefs, and his associations, Frankfurter decided to appear. He read from a prepared statement, refused to discuss his personal views on issues before the Supreme Court. His hearing lasted only an hour and a half in duration and did not set a precedent for future nominees.

In 1949, Sherman Minton, who had been a U.S. Senator, became the only Supreme Court nominee to refuse to testify before the Judiciary Committee. Minton wrote to the committee:

> I feel the personal participation by the nominee in the committee proceedings related to his nomination presents a serious question of propriety, particularly when I might be required to express my views on highly controversial and litigious issues affecting the Court.

Notwithstanding Minton's refusal, the committee conducted its hearing in Minton's absence and confirmed him. It wasn't until 1955, with the nomination of Justice John Marshall Harlan, that nominees have appeared regularly before the Judiciary Committee. Only since 1981, following my own election in 1980, have the hearings taken on a little different approach as to what the nominees will answer. Justice O'Connor declined to answer many questions. The next nomination hearing was that for Chief Justice Rehnquist, who was a sitting Associate Justice. Initially Justice Rehnquist declined to appear, then was advised that if he wanted to be confirmed, he would have to appear. It was a contentious hearing. As the record shows, Chief Justice Rehnquist was confirmed by a vote of 65 to 33. He did answer a great many questions, although he did not answer a great many questions.

I asked him a bedrock question as to whether Congress had the authority to take away the jurisdiction of the Supreme Court of the United States on the first amendment. He declined to answer. Overnight a Senate staffer brought me an article which had been written by a young Arizona lawyer in 1958 by the name of William H. Rehnquist which appeared in the Harvard Law Record. The young Arizona lawyer, William H. Rehnquist, was very tough on the Senate Judiciary Committee for the way it conducted its hearings for Charles Whittaker. Charles Whittaker was from Kansas City. There are two Kansas Cities—one in Kansas and one in Missouri. Justice Whittaker lived in one and practiced law in the other. A big to-do was made about the fact that it would be an honor to two States if he was confirmed, where he worked and where he lived.

This young lawyer from Arizona, Bill Rehnquist, didn't think that amounted to a whole lot. He chastised the Senate Judiciary Committee for not asking about due process and other constitutional issues. So in the face of his declination to answer my questions on taking jurisdiction away from the Supreme Court on the first amendment, I asked him if he was that William H. Rehnquist from Arizona. He said, yes, that was true, he was.

I said: Did you write this article?

He said: Yes, I did. Then he added quickly: And I was wrong.

So that didn't end the issue because having the authority of this young lawyer from Arizona, pretty good reasoning, I pursued the questions. Finally, he answered the question on could the Congress take away the jurisdiction of the Court on the first amendment. He said, no, the Congress could not do that.

So naturally I then asked about the fourth amendment, search and seizure. Could the Congress take away the jurisdiction from the Supreme Court on search and seizure. He declined to answer that. I went to amendment five on privilege against self-incrimination. Again he declined. And then six, on right to counsel, and seven, and eight on cruel and unusual punishment. Then I asked him a follow-up question: Why would he answer on the first amendment but not on any of the others? As you may suspect, he refused to answer that question as well.

It was my judgment that Chief Justice Rehnquist passed muster. It was a battle. And then Justice Scalia came before the Senate following Chief Justice Rehnquist. Justice Scalia would not answer any questions. As I have said—and really too apocryphal—Justice Scalia wouldn't even give his serial number. He would only give his name and rank. Prisoners of war are compelled to answer questions, but only three—name, rank, and serial number. But as I have said, and I have said this to Justice Scalia in interpersonal banter, he wouldn't even give us his serial number. But it was perhaps an exhausted Senate following the confirmation of Chief Justice Rehnquist or perhaps it was Justice Scalia's superb academic and professional record, he would not even answer the question as to whether he would uphold Marbury v. Madison, a decision of the Supreme Court of the United States in 1803 where the Court undertook the authority to interpret the Constitution and to interpret the law and to be the final arbiter of the Constitution.

Then in 1987 the Judiciary Committee considered the nomination of Judge Bork from the District of Columbia Court of Appeals. Judge Bork had very extensive writings in law reviews and books, many speeches, had a very extensive paper trail, a controversial paper trail. Judge Bork had written that absent original intent there was no judicial legitimacy, and absent judicial legitimacy, there could not be judicial review. Understandably, the committee had many questions for Judge Bork, and in that context Judge Bork felt compelled to answer the questions.

In the interim between Justice Scalia and Judge Bork, Senator DeConcini and I—Senator DeConcini being another member of the Judiciary Committee—had prepared a resolution to be submitted to the Judiciary Committee which would delineate an appropriate line of questions for nominees in trying to set some standards and trying to set some parameters as to what we felt, what questions were appropriate and what questions had to be answered to warrant confirmation. After the proceedings as to Judge Bork, we felt it unnecessary to move ahead with that kind of a resolution.

The nomination of Justice Kennedy followed, and Justice Souter and the other Justices, Justice Thomas, who answered a great many questions, and then the nomination of Justice Ginsburg and the nomination of Justice Breyer. These nomination proceedings found the nominees answering some, not answering others, but essentially following the rule that they answered about as many questions as they felt they had to.

Judge Roberts answered more questions than most. He answered the question about the right of privacy in a very positive manner in response to questions which I asked, which Senator KOHL asked, and which others answered. He said there was a right of privacy. He said the decision of the Supreme Court of the United States in Griswold v. Connecticut was a correct decision and he extended the contraception issue beyond marriage to those who were single, saying that right of privacy existed, and upheld the propriety of the decision of the Supreme Court in the Eisenstadt case. Other nominees had refused to answer such questions.

I felt that Judge Roberts did not answer some questions which I thought should have been answered. For example, I asked him about the appropriate standard for testing constitutionality under the commerce clause. We found in United States v. Lopez in 1995 that the Supreme Court of the United States had cut back on congressional authority of the Congress which had been in existence for almost 60 years. Then in the case of the United States v. Morrison, the Court struck down portions of legislation designed to protect women against violence. They did so on the stated principle that they disagreed with the congressional "method of reasoning." When I heard about that rationale, it seemed to me to be inappropriate. What was the Court's method of reasoning which was superior to the congressional method of reasoning? I find the matter of unique historical importance that the columns of the Senate are lined up exactly evenly with the columns of the Supreme Court.

Interestingly, in an early draft of the Constitution, the Senate was given the authority to appoint Supreme Court Justices. I have seen or visualized, conceptualized a certain parody with those columns lined up exactly the same. When I read the opinion of the Supreme Court 5 to 4 in the United States v. Morrison, striking down portions of the legislation to protect women against violence, I wondered what was there in the Supreme Court which led them to a method of reasoning superior to a congressional method of reasoning? What happens when you move across the short space of green between the Supreme Court columns and the Senate's columns?

As the dissent pointed out, the opinion of the Court must have presumed some unique form of judicial competency. If you have a unique form of "judicial competency," you must have a form of congressional incompetency which is hardly fitting in an analysis of cases and facts and a determination of constitutionality with the separation of powers between the Congress and the Court.

In the case of United States v. Morrison, the factual record exists "showing reports on gender bias from the task force in 21 states and 8 separate reports" issued by Congress in its committees over a long course of time. The dissent detailed all of the evidentiary basis and then concluded "there was a mountain of evidence."

When I wrote to Justice Roberts by letter dated August 8 and August 23, I had alerted him to this case and this question. At this point, I ask unanimous consent the full text of those letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITEE ON THE JUDICIARY,
Washington, DC, August 8, 2005.
Hon. JOHN G. ROBERTS, Jr.
E. Barrett Prettyman Courthouse,
Washington, DC.

DEAR JUDGE ROBERTS: I write to give you advance notice of some of the issues I will be asking at your confirmation hearing. In addition to identifying topics, I think it is helpful to outline the background for the questions to save time at the hearing.

In addition to the commentaries of scholars and others about the Supreme Court's judicial activism and the Court's usurping Congressional authority, members of Congress are irate about the Court's denigrating and, really, disrespectful statements about Congress' competence. In U.S. v. Morrison, the Court rejects Congressional findings because of "our method of reasoning". As the dissent notes, the Court's judgment is "dependent upon a uniquely judicial competence" which implicitly criticizes a lesser quality of Congressional competence.

In Morrison, the Court invalidated, by a 5-4 vote, legislation on gender-motivated crimes of violence involving three Virginia Polytechnical Institute football players who were accused of raping a fellow student.

Chief Justice Rehnquist's opinion, interpreting the Commerce Clause, held Congress cannot regulate "non-economic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce." The Court acknowledged the "contrast with the lack of Congressional findings that we faced in Lopez" and the Act was "supported by numerous findings regarding the serious impact of gender-motivated violence on victims and their families."

Writing for four dissenters, Justice Souter referred to "the mountain of data assembled by Congress here showing the effects of violence against women on interstate commerce." Citing longstanding precedents, the dissent said:

"The business of the courts is to review the Congressional assessment not for soundness but simply for the rationality of concluding that a jurisdictional basis exists in fact."

Noting the obvious advantage Congress has in its fact-finding procedures contrasted with the Court's limitations, the Souter dissent said:

"The fact of such a substantial effect is not an issue for the courts in the first instance . . . but for the Congress where institutional capacity for gathering evidence and taking testimony far exceeds ours."

The Souter dissent further specified:

"The record includes reports on gender bias from task forces in 21 states and we have the benefit of specific factual finding in eight separate reports issued by Congress and its committees over the long course leading to its enactment."

From the New Deal Court in 1937 to the abrupt reversals in Lopez and Morrison, Congressional authority under the Commerce clause had gone unchallenged based on Justice Harlan's rationale in the 1968 case Maryland v. Wirtz:

"But where we find the legislators . . . have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end."

In the face of decades of precedents and a "mountain of data," Chief Justice Rehnquist rejected Congress' findings because of our "method of reasoning."

To this Senator, who has labored through 25 years of intense legislative hearings and fact-finding plus prior public service and experience in the real world, my immediate reaction is to wonder how the Court can possibly assert its superiority in its "method of reasoning" over the reasoning of the Congress.

The Souter dissent attacks the majority's "'method of reasoning'" dictum questioning the Court's judgment is "dependent upon a uniquely judicial competence." The dissent then points out:

". . . these formalistic contrived confines of commerce power in large measure provoked the judicial crisis of 1937" so that "one might reasonably have doubted that Members of this Court would ever again toy with a return to the days before NLRB v. Jones & Laughlin Steel Corporation which brought the earlier and nearly disastrous experiment to an end."

The Souter dissent further notes the categorical formalism ". . . is useful in serving a conception of Federalism." A reinvigoration of Federalism is, of course, the hallmark agenda of the judicial activism of the Rehnquist Court.

Even with the Souter dissent referencing the crisis of 1937, I do not suggest any move as radical as President Roosevelt's attempt to pack the Court. I do see a great deal of popular and Congressional dissatisfaction with the judicial activism; and, at a minimum, the Senate's determination to confirm new justices who will respect Congress' constitutional role.

My questions are:

(1) Is there any real justification for the Court's denigrating Congress' "method of reasoning" in our constitutional structure of separation of power where the elected Congress has the authority to decide public policy on issues such as gender-based violence effecting interstate commerce?

(2) Is there any possible basis for the Court's characterization of "uniquely judicial competence" implicitly criticizing a lesser quality of Congressional competence?

(3) Do you agree with Justice Harlan's jurisprudence concerning legislation on the "rational basis" test as embraced by the dissent contrasted with the majority opinion?

(4) What is your thinking on the jurisprudence of U.S. v. Lopez and U.S. v. Morrison which overturned almost 60 years of Congress' power under the Commerce Clause?

Sincerely,

Arlen Specter.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 23, 2005.
Hon. JOHN G. ROBERTS, Jr.
U.S. Department of Justice,
Washington, DC.

DEAR JUDGE ROBERTS: Supplementing my letter on the Commerce Clause, this letter deals with Supreme Court decisions on the Americans with Disabilities Act (ADA) which I intend to ask you about at your confirmation hearing.

Like my first letter on the Commerce Clause, I am concerned about the Supreme Court's judicial activism which has usurped Congressional authority by creating, as Justice Scalia's dissent in *Tennessee v. Lane* states, a "flabby test" which is an "invitation to judicial arbitrariness by policy driven decision-making". The "ill-advised" result, as the Scalia dissent further notes, is for the Court to set itself up as "taskmaster" to determine that Congress has done its "homework" which demonstrates lack of respect for a co-equal branch of government.

Except for the swing vote of Justice O'Connor and the dramatic image of a paraplegic crawling up the steps to a courtroom, it is hard to discern a significant legal difference between *Alabama v. Garrett*, decided in 2001 involving ADA Title I discrimination in Employment, and *Tennessee v. Lane*, decided in 2004 involving ADA Title II discrimination in pubic accommodations.

In *Lane*, a 5-4 decision, with Justice O'Connor in the majority, the Court upheld the constitutionality of the Act in mandating access by a paraplegic who had to crawl up the steps to a second floor courtroom to answer criminal charges. In *Garrett*, a 5–4 majority, with Justice O'Connor in the majority, the Court declared the Act unconstitutional in seeking to hold the state liable for employment discrimination.

These decisions pose two major problems: (1) A lack of stability or predictability in the law because the two cases, decided three years apart, are virtually indistinguishable; and (2) The Court's judicial activism in functioning as a super-legislature.

Dissenting in *Lane*, Chief Justice Rehnquist complained that the majority referenced the same Congressional task force's "unexamined, anecdotal" evidence that the Court had already rejected in *Garrett*. Contrary to that assertion, the records in the two cases, which appear to be similar, seem to contain overwhelming evidence to support the Congressional findings.

Title II of ADA involved in *Lane* was supported by 13 Congressional hearings and a special task force that had gathered evidence from every state in the Union. Similarly, Title I of ADA involved in *Garrett* was based on task force field hearings in every state attended by more than 30,000 people including thousands who had experienced discrimination with roughly 300 examples of discrimination by state governments.

Notwithstanding those findings, the *Garrett* Court concluded:

"The legislative record of the ADA, however, simply fails to show that Congress did in fact identify a pattern of irrational state discrimination in employment against the disabled."

Writing for four justices, Justice Breyer's dissent found ample evidence to support the legislation noting:

"Unlike courts, Congress can readily gather facts from across the Nation, assess the magnitude of a problem and more easily find an appropriate remedy."

The dissent makes three more related points:

(1) "Moreover, unlike judges, Members of Congress are elected."

(2) ". . . The Courts do not 'sit as a super-legislature to judge the wisdom or desirability of legislative policy determinations'" and

(3) "To apply a rule designed to restrict Courts as if it restricted Congress' legislative power is to stand the underlying principle—a principle of judicial restraint—on its head."

In imposing liability on the states in *Lane*, the Supreme Court justifies abrogating the states' Eleventh Amendment immunity by enforcing fundamental rights under the Fourteenth Amendment. To do that, under the Court's reasoning, there must be "a congruence and proportionality" between the injury and the remedy imposed. That leaves the Court substantial latitude, as a matter of interpretation, to declare acts of Congress unconstitutional notwithstanding the enormous evidentiary support for Congress' public policy determinations.

Justice Scalia's dissent in *Lane* attacked the "congruence and proportionality standard" calling it a "flabby test" and an "invitation to judicial arbitrariness and policy driven decision making." The dissent added:

"Worse still, it casts this Court in the role of Congress' taskmaster. Under it, the courts (and ultimately this Court) must regularly check Congress' homework to make sure that it has identified sufficient constitutional violations to make its remedy constitutional and proportional. As a general matter, we are ill advised to adopt or adhere to constitutional roles that bring us into conflict with a coequal branch of Government."

Justice Scalia then carved out a new rationale for disagreeing with the ADA's remedy, unmentioned when he joined the majority three years earlier in *Garrett*, that the Fourteenth Amendment applies only to state racial discrimination and "do not apply to this field of social policy far removed from the principal object of the Civil War amendments."

My questions are:

(1) Aren't the "congruence and proportionality standard" and Chief Justice Rehnquist's "method of reasoning" dictum in *Morrison* examples of manufactured rationales used by the Supreme Court to exercise the role of super legislature and make public policy decisions which is the core Congressional role under the Constitution?

(2) Without invoking the "flabby test" and engaging in an "invitation to judicial arbitrariness by policy driven decision making" embodied in the "congruence and proportionality standard," wouldn't a preferable test of constitutionality be the standard applied by Justice Harlan to the Commerce clause in *Maryland v. Wirtz*, and again invoked in *Gonzales v. Raisch*:

"But where we find the legislators . . . have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end"?

(3) Isn't there a lack of respect for Congress demonstrated by the Supreme Court as Justice Scalia points out that it is "ill advised" for the Court to set itself up as "taskmaster" to determine that Congress has done its "homework" and to strike down Acts of Congress as Chief Justice Rehnquist did in Morrison by impugning our "method of reasoning"?

(4) Using the maxim that "hard cases make bad laws", should there be any place in the judicial decision-making process to make allowances for the unique and sympathetic factual situation in *Lane* where a paraplegic had to crawl up the courthouse steps?

Sincerely,

ARLEN SPECTER.

P.S. Following the release of my prior letter on the Commerce Clause, there were misrepresentations that my questions asked how you would have decided specific prior cases. That is not true. The questions were carefully crafted to elicit your thinking on your jurisprudence and judicial philosophy as opposed to how you would have decided specific cases.

Mr. SPECTER. At this juncture, it might be appropriate to note that Republicans have the floor until 2:30, and if one of my colleagues is to come over, I may speak a more abbreviated period of time, we will have time for another speaker to take the floor before Senator LEAHY is recognized under the unanimous consent request at 2:30.

I asked Judge Roberts the questions which I had set forth in the letter that I referred to, What is an appropriate jurisprudential standard on the commerce clause? Is it the one which has been followed for so many years, which is a substantial basis for the congressional decision, or is it some "method of reasoning" which is impossible to understand even in the context of a record from a task force in 21 States and 8 separate reports to the Congress?

Judge Roberts declined to answer the question. I pressed him and finally said we would have to agree to disagree. But it seems to me when you have a question about philosophy, about judicial approach, about what is the proper standard to apply on constitutionality of a congressional exercise of authority under the commerce clause, that is the kind of question which should be answered, not sufficient to vote "no," but candidly the beginning of being a little bit tempting.

Then I asked him about the jurisprudence of the Supreme Court in the two cases I have already referred to under the Americans With Disabilities Act.

In Garrett v. Alabama, in the year 2001, the Supreme Court struck down a title of the Americans With Disabilities Act which dealt with discrimination in employment involving Ms. Barrett, who had breast cancer. And then, 3 years later with an identical record—the records are the same in all titles of the Americans With Disabilities Act—you had a striking case of a paraplegic, a case called Tennessee v. Lane, where the parapalegic had to crawl up the steps to a courtroom. The issue there was whether there was discrimination under the Americans With Disabilities Act on access. The Supreme Court of the United States, in a 5-to-4 decision, said that was constitutional.

It is inexplicable how, given two titles of the Americans With Disabilities Act with identical records, the Court could find one to be constitutional and the other to be unconstitutional. I asked Judge Roberts about that. Again, he declined to answer.

The Supreme Court in both Garrett and Lane adopted a brand new standard for testing constitutionality of congressional action under section V of the 14th amendment as contrasted with the right of the States for immunity from suit under the 11th amendment.

The Supreme Court of the United States picked up a doctrine which they had adopted in a case called City of Boerne v. Flores. In 1997, when the Supreme Court overturned the Religious Freedom Restoration Act of 1993, legislation which had been very carefully considered by the Congress of the United States, the Supreme Court said that act was unconstitutional because it did not satisfy a test of congruence and proportionality. When I read that standard, I wondered what it meant. Congruence and proportionality. Where did the Court get this standard? They plucked it right out of thin air. There was no basis for this kind of a standard.

Justice Scalia, in dissenting in the Lane case, said it was a "flabby test" which was put into effect in order to allow the Supreme Court to engage in policymaking decisions, in effect, judicial legislation.

The dissenting opinion by Justice Scalia in the Lane case took the Court to task for an "ill-advised opinion" where they acted as the taskmaster of the Congress to see that the Congress was doing its homework. Like the Supreme Court decision in Morrison attacking our method of reasoning, it seemed to me the Court had gone much too far in challenging the competency of the Congress in striking down congressional authority.

Again, I ask Judge Roberts, what about this test of congruence and proportionality? Does it have any basis in the law? Is there any rationality in what the Court did in these two cases under the Americans with Disabilities Act? Again, he declined to answer.

After talking to a number of my colleagues, the Senate Judiciary Committee will give very serious consideration to legislation which would give the Congress standing to defend the constitutionality of the statutes which it enacts. Standing is a very delicate subject and there are a great many cased where people seek to go to court to enforce the Endangered Species Act or to enforce a variety of laws. Congress has the authority to grant standing.

It seems to me that it might be a good occasion for Congress to exercise this authority to grant standing to Congress. Why should we rely upon the litigants to defend the constitutionality of these enactments which we pass very carefully and very laboriously, as we did the Religious Freedom Restoration Act of 1993 or the Americans with Disabilities Act? That is a move which might have material implications on reasserting the balance of power and the separation of power between Congress and the Court.

If we have standing, we can have our own counsel, we can proceed to brief the cases, we can proceed to have someone argue it on our behalf. We may be able to stop the flood of actions by the Supreme Court which have reversed acts of Congress, the actions by an activist Court engaged in judicial legislation and doing it under the guise of illusory standards such as congruence and proportionality, standards plucked out of thin air. They disagree with our method of reasoning when there is no basis for asserting superiority of reasoning by the Supreme Court over the Congress.

When we talk about this judicial activism, we are talking about a form of activity which is abhorred by both the right and the left on the political spectrum. My distinguished colleague, Senator HATCH, who preceded me as chairman of the Judiciary Committee, and I have discussed the decision of the Supreme Court in striking down the Religious Freedom Restoration Act of 1993, and it is one which candidly defies logic. But the Court decided to undertake that restriction of congressional authority, and it did so in that case.

The issue of how many questions a nominee must answer will be before the Senate again on the next nomination to replace retiring Justice Sandra Day O'Connor. The refusal of nominees to answer questions where the case is likely to come before the Court is, in my opinion, well-founded.

Judge Roberts answered more questions than many. Justice Scalia, for example, as I said, would not even comment on Marbury v. Madison. Judge Roberts did not answer questions where, in his judgment, the case was likely to come before the Supreme Court. If the case is to come before the Supreme Court, as a matter of judicial independence, the nominee ought not to answer that question.

I said in advance of the hearings, and I said during the hearings, that any Senator had a right to ask any question which he or she chose, including how a case would be decided, and that the nominee had the right to answer or decline to answer as the nominee chose, and that it was my view that if a question did involve a question on a case likely to come before the Court, the nominee was within his rights to decline to answer.

The public does not understand the issue of judicial independence and the ramifications of answering a question on a case likely to come before the Court. The public in the opinion polls wanted to know what Judge Roberts thought about a woman's right to choose. The public wanted to know whether he would uphold Roe v. Wade or overrule Roe v. Wade.

It seems to me this is a classic case of the irresistible force meeting the immovable object. The immovable object is judicial independence—not to make a commitment in advance on a case likely to come before the Court—and the sort of irresistible object is the public interest in knowing.

During the course of the hearings on Judge Roberts, Senator after Senator was moving right into the area of wanting to know how Judge Roberts would decide a case. I pressed Judge Roberts on the issue of stare decisis and on the value he would place on precedent, on Planned Parenthood v. Casey, on some 38 cases where the Supreme Court of the United States had an opportunity to overrule Roe and declined to do so. I asked him about a doctrine which had been articulated in some quarters about Casey being a superprecedent and took a step on coining a new concept called the super-duper precedent. It has not landed too well, but sometimes these new ideas take a while to gestate.

I believe the next nominee is going to face very close questioning. It is my thought, already expressed by a number of Senators—and Senators on both the right and the left—that Senators want to know more about the thinking of the new nominee than Judge Roberts was willing to give.

Judge Roberts was able to run between the raindrops in a hurricane because of his unique talent; his record was so extraordinary that he was able to fend off many questions. A number of Senators have stated a reason for a "no" vote is Judge Roberts' refusal to answer questions and their lack of sufficient knowledge as to where he stands.

It is a virtual certainty—in fact, you can strike "virtual"—it is a certainty that the next nominee will have these questions and many more. Some would say that Judge Roberts would be replacing Chief Justice Rehnquist, so that when you have somebody perhaps on the same ideological line, although that is by no means certain from Judge Roberts' answers, the fact is you just do not know how Judge Roberts is going to rule on Roe v. Wade or other controversial issues. Again, I repeat, that is, in my opinion, as it should be as a matter of judicial independence. If there is any rule as to what happens, it is a rule of surprise as to what nominees do.

There is no doubt that the hearings in the Judiciary Committee have become more contentious because of concern about the highly controversial issues, and it is more than the issue of choice in Roe v. Wade, it is the issue of congressional authority versus the action of the Supreme Court in declaring laws unconstitutional. It is in the issue of religious freedom as embodied in the Religious Restoration Act where there is concern from both the right and from the left.

It was this kind of angst, this kind of unease which led me to the suggestion that the President defer a replacement for Justice O'Connor until the end of the June term, at a point where we would know a great deal more about Judge Roberts. But in the context where there are uncertainties as to two votes, it compounds the angst and anxiety as to what may occur.

I called Justice O'Connor, as I said in the meeting involving the President, Senator FRIST, Senator REID, Senator LEAHY, the Vice President, Chief of Staff Andy Card, and myself. I said I called Justice O'Connor and asked her if she would be willing to stay on—obviously quite a sacrifice—and she said she would if she was asked. But that is the President's call, and the President has indicated he is going to proceed in a timely manner where the expectation is the nomination will be made, my estimate would be, shortly if not immediately after a decision is made by the Senate on the Roberts nomination.

It is going to be a contentious hearing. The contentious quality was bubbling just below the surface during the hearing of Judge Roberts. There are a number of factors already stated, already articulated which would pose even more of a contentious issue.

I ask unanimous consent, although I don't know if I need to, to introduce a bill at this point, and it is right in line with the issues involved in the Roberts nomination. That is legislation that will call for televising the Supreme Court of the United States.

The PRESIDING OFFICER. Without objection, it is in order to introduce this measure. It will be received and appropriately referred.

Mr. SPECTER. I thank the Chair.

The nomination of Judge Roberts to be Chief Justice has created a great deal of interest, and I think the televised hearings have captured the imagination of the American people. I have long believed that the Court ought to be televised. There is a certain reluctance of the Court for television as a change in practice and as a change in procedure, but there is much to recommend it.

Televising the House of Representatives and the Senate has produced a great deal more public understanding on the important activities we undertake here and what we do.

The Supreme Court of the United States in 1980, in a case captioned Richmond Newspapers v. Virginia, set the rationale for televising the Court when the Supreme Court itself said:

> Instead of acquiring information about trials firsthand observation or by word of mouth from those who attend, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as a service for the public. Media presence—

The intended subject here—

> contributes to the understanding of the rule of law and the comprehension of the function of the entire criminal justice system.

That would be true for the entire justice system.

The Congress has the established authority to set the date when the Supreme Court starts its session. We have legislated that it should be the first Monday in October. We have the authority to establish the number of Justices—nine. We all recall the famous court-packing effort by President Roosevelt in about 1937. We could increase the number as we would choose. The Congress has the authority to establish a quorum, which is set at six for the Court to function. The Congress has the authority to establish a timetable for the disposition of habeas corpus cases, capital punishment. We establish the timetable for the Federal courts under the Speedy Trial Act. Of course, the final arbiter in all of these cases is the Supreme Court of the United States.

So if the Supreme Court should decide that legislation enacted by Congress to call for being televised was violative of the Constitution, they would have the final word. But in the context where the Supreme Court decides the cutting edge questions of our day—the question of choice, the question of the right to die, the question of the Ten Commandments, the question of establishment of religion, the question of the free exercise clause, the question of the death penalty, the question of exonerating the innocent—it is very much in the public interest, in my view, to have the Supreme Court televised.

We all know the momentous decision of the Supreme Court in Bush v. Gore. On that occasion, when I walked across the green to attend the argument, the square block was overloaded with television trucks because of the enormous interest, but the television cameras could not go inside. At that time, Senator BIDEN and I wrote to the Chief Justice and asked that the Court be open for television. We received a letter of declination. As I recollect, the Court did have a transcript which was released right after the oral argument concluded.

I believe proceedings of the Court could be televised with due regard to the security and safety of the members of the Court. Under the proposed legislation, the Court would have the authority in a particular case to stop the television if it felt it necessary.

In conclusion, as we approach the confirmation of Judge Roberts to be Chief Justice, I urge my colleagues to take a close look at his record. The conventional wisdom is that the nomination is assured at this point. I believe that is true. Nevertheless, I think there is value in rolling up the score. We frequently cite the vote of 98 to 0 for Scalia; only three votes against Justice Ginsburg; 52 to 48 for Justice Thomas. I believe a strong vote for Judge Roberts would give him added stature. It is pretty hard to add stature to the Chief Justice of the U.S. Supreme Court, but I believe it would add a modicum of stature.

As the President ponders the nominee to replace Justice Sandra Day O'Connor, it is my hope that there will be balance maintained on the Court. With the uncertainties of the vote of Judge Roberts, the uncertainties of the vote of a new nominee, and the prospects of retirements in the immediate future, the composition of the Court could change, and the rule of law is structured on stability. The rule of law is structured on expectations being fulfilled, and reliance, and it is enhanced by not having sharp turns.

The nomination of Judge Roberts to replace Chief Justice Rehnquist may work out to be a substitution of people with about the same judicial approach. Although it is far from certain exactly how Judge Roberts will rule, there is no doubt that Justice O'Connor was a swing vote, tipping the scale. I believe that is a factor to be considered.

While I would like to see more women, a Hispanic, and more African Americans on the Court, I urge the President to name the very best person he can find. We could use a Brandeis or a Holmes on the Supreme Court. I am not saying we do not have one now, but if we do, we could use more.

President Bush disarmed his critics by nominating Judge Roberts with his extraordinary record, and I urge the President to nominate the very best person he can, regardless of gender, ethnicity, or any other factor.

I draw the attention of my colleagues to the full text of my remarks of Monday, September 19, 2005.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the leadership of Senator SPECTER in this confirmation process. We stayed on track and on time better than at any time I can remember. We had a lot of people with a lot of strong views and ideas they wanted to express and they were given plenty of time to do that. We had 30-minute rounds of questioning and then 20-minute rounds. Some got more who asked for it. Judge Roberts was appropriately forthcoming under certain circumstances and appropriately failing to be drawn into discussions of cases that may come before him.

I think things went well. A lot of people doubted whether we would be in position to have a vote this week, but the Senator from Pennsylvania was tireless. He stayed as long as it took. He listened to all of it, chaired the hearings, and kept us going straight, and made sure on occasion the witness had a chance to answer. Sometimes he was given more questions and interruptions than he was given a chance to answer. The Senator did a great job and I want to thank him for that.

I also join the Senator in saying that one never knows what a judge will be confronted with 10, 12, 15, 20 years from now. We might as well get the best person we can get who can deal with those questions that are unanticipated now and who can construct a philosophy of the judiciary that will be healthy and faithful to the Constitution, to the people who have ratified that Constitution, who have elected the representatives, to be respectful of all of that, and who understands the proper role of a judge.

I think Judge Roberts meets every one of those qualities. I think he is an extraordinary individual. Everyone who has been watching the hearings has been very impressed. I think he represents the American ideal of what a judge should be. The President deserves great credit for nominating the best.

I asked Professor Fried of Harvard, who is a former Solicitor General of the United States and had himself argued cases before the Supreme Court—he is now at Harvard teaching philosophy of law—how would he rank Judge Roberts as an advocate before the Supreme Court, and he said the best, as so have certain legal magazines that rate the best lawyers in the country.

I think the people like him. I think his idea that judges should show modesty and be faithful to the Constitution, his expression that the greatest threat to the Court could be judicial activism, where the people feel the judges are not faithful to the Constitution and are imposing their political views on the people that are not required by the Constitution, that this is a threat to the rule of law because at some point in the future the Court may have to call on the American people to do things they do not want to do, they may not be popular, to be faithful to the Constitution. To erode and give away that good respect the American people have for the courts and the law would be a mistake.

I want to express how strongly I feel that our nominee is an extraordinary individual. I saw on C–SPAN today John Roberts' former coach and teacher, and he said he was the finest student we had in our school and the finest student the school has ever produced. He did not hesitate to say that. He coached him in wrestling. He played football. He was top academically in the class and cared about those kinds of things. He worked hard and he was honest. He said, I remember when he came up at graduation and they gave the award for the finest student in English, it was John G. Roberts; they gave the one for French, and it was John Roberts; in Latin, it was John Roberts; mathematics, it was John Roberts. He said nobody, none of the students, had the slightest doubt that he deserved those honors and he earned them, because of both his work and his intelligence.

John Roberts went to Harvard to do his undergraduate degree, finished Harvard in 3 years, not 4, and was magna cum laude on his graduation from Harvard in 3 years. Then he went to law school at Harvard, likewise did exceedingly well, and was selected for Law Review, which is a great honor for a student in law school to be selected for the Law Review. I suppose some of us might grumble, but most people would probably admit that the Harvard Law Review is the finest, most prestigious

Law Review in the country. His fellow members of the Law Review elected him to be managing editor of the Law Review, which again is an affirmation of their respect for him and his abilities.

After law school, he clerked for Judge Friendly, one of the great circuit judges in America. This is the court of appeals that is just below the Supreme Court. I note that outstanding law graduates apply for these courts of appeal clerkships. There are not that many of them. They are very coveted and only the best students are selected.

Judge Friendly, one of the great circuit judges in the last 50 years in the United States, would have been very competitive. Many students would have liked to have clerked for him. He chose John Roberts.

After that, I am sure Judge Friendly recommended him—or however it occurred, he was recommended to Chief Justice Rehnquist. I believe Justice Rehnquist was not chief at that time but a justice on the Supreme Court. He clerked for the Supreme Court, the very Court on which he will now sit. Trust me, it is an honor for a lawyer to be chosen to clerk for the U.S. Supreme Court, because they want the very best young lawyers who can help them decide the most complex cases. So I think that is something we should remember.

Then he is in private practice. He goes to the Department of Justice. He is called over as part of Fred Fielding's efforts to bring the brightest to the White House. He found him and snatched him away to the White House. He was White House counsel under President Reagan, helped President Reagan carry out his agenda, an agenda that 48 States affirmed when he was reelected by one of the largest votes in history.

Some have tried to say, oh, he worked in the Reagan White House. He was conservative and out of the mainstream. President Reagan carried 48 States. He was not out of the mainstream. We have some leftists in this country who are out of the mainstream, but I do not think because he worked in the Reagan White House anybody could suggest he is not a mainstream lawyer.

He later becomes principal Deputy Solicitor General in the Department of Justice. The Solicitor General represents the United States of America before the Supreme Court. That is the job many lawyers call the greatest lawyer job in the world, to be able to represent the United States of America before the Supreme Court. That is a great honor. He was the principal deputy. He argued cases there and in private practice. He has argued a total of 39 cases before the Supreme Court. I am sure there is no lawyer in America his age who has argued 39 cases before the Supreme Court. We have maybe a few lawyers in the Senate. I know JON KYL has argued two cases before the Supreme Court. I doubt there are any of us who have; maybe others who have done it. It will not be me. But 39 means he is a professional practitioner before the Supreme Court, a student of the Supreme Court, so good that when anyone else is preparing to make an argument for the Court, they want to have a moot court practice before John Roberts because he knows how the Court thinks, what the issues are, how the cases are handled.

I asked him to explain what a Chief Justice on the Court does and how the Supreme Court works. He explained in great detail about how cases are tried in the trial courts, the U.S. district courts, how every word is written down. They have juries. They have lawyers who argue the case before the juries. The judge makes rulings on the law and the evidence. After the case is over, a transcript is prepared. If someone wishes to appeal, they do so, and they point out what in that record is in error and argue that the case should be reversed or some other remedy. They go first to the court of appeals, such as where Judge Friendly served. We have 11 circuit courts of appeal and the DC Circuit in the United States. They review the record. The lawyers argue why this transcript proved a judge committed error or error occurred. They argue why the case should be affirmed or not affirmed. They submit briefs on that, citing the record and the detailed facts, and why they believe their views should be affirmed. It goes up that way. They have oral arguments. Then the court of appeals judges meet, discuss it, and they render a written opinion. Then if someone is not happy with that, they can appeal to the U.S. Supreme Court.

All of this is already prepared before it gets to the judge. They have oral arguments, and then they have briefs. Then friends of the court submit briefs and everybody can submit briefs.

The PRESIDING OFFICER. The time reserved for the majority has expired.

Mr. SESSIONS. Madam President, I ask to have 1 minute to wrap up.

Mr. LEAHY. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. They meet with their fellow judges, they read the law and the transcripts, and they make a decision after all of that.

I asked him, isn't that why, Judge Roberts, you ought not to blithely, here in this Senate committee room, start expressing opinions on cases when they have not had all the study in advance to clarify the issues?

He answered that yes.

Madam President, I see the distinguished ranking member of our committee, Senator LEAHY. I will note he has worked hard to make sure that every opportunity has been presented on his side. He had every question answered. He got extra time for people who wanted extra time. But after hearing it all, I think he made the right decision in his choice to vote for Judge Roberts. He was an effective advocate for his views of his members and at the same time I think he made an independent decision that I respect. I enjoyed working with him and I think we did a pretty good job with these hearings—although my daughter told me not long ago, she said: Daddy, it was pretty clear who the brightest bulb in that room was, and it was not the Senators.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 2:30 until 3:30 p.m. will be under the control of the Democratic leader or his designee.

The Senator from Vermont.

Mr. LEAHY. Madam President, we are beginning our debate today on the Roberts nomination. We know the vote will not come today, but I urge Members for him and against him to come and speak. I say that because there are very few decisions we face here in the Senate that are as consequential or as enduring as the one we face today. Few in our Nation's history have served as Chief Justice of the United States. It is a unique and significant position. Once one assumes it, he or she holds it for life. To put that in perspective, we have had 43 Presidents. We have only had 16 Chief Justices of the United States.

I explained last week why I was supporting John Roberts's nomination to be Chief Justice. It was neither an easy decision nor was it a hurried decision. But it was a decision that my conscience led me toward.

I thank Senators REID, KENNEDY, KERRY, BINGAMAN, BOXER, PRYOR, OBAMA, NELSON of Nebraska, and others for their thoughtful remarks these past few days. I commend to the Senate each of the statements on both sides made in the Judiciary Committee meeting on Thursday.

I must say, as the Democratic leader of that committee, I believe the Democratic Senators distinguished themselves by the thoughtful manner in which they proceeded. The hearing record upon which the Senate can draw in making this decision is as full as it is largely through their diligence. Now each Senator has to carefully weigh this question and decide it for himself or herself.

Regardless of how Senators decide to vote on this nomination, the Democratic members of the Judiciary Committee can all be proud that we have done our job, we have fulfilled our constitutional responsibility to fully, fairly, and openly review this nomination on its merits. For that I thank them all.

I note that it is true that Democratic Senators are not all voting in lockstep.

Each Senator individually gave this nomination serious consideration. They each honored their constitutional duty and their obligation to the American people in reviewing this nomination.

Democratic Senators kept open minds throughout this process, unlike some partisan cheerleaders who rallied to endorse the White House decision long before the first day of hearings opened. I urged my colleagues on this side of the aisle to wait until we had the hearings before they made a decision either for or against the nominee. I thought that was the most responsible thing for any Senator to do.

I have served in the Senate for more than 30 years, much of that time on the Judiciary Committee. This is the 11th Supreme Court Justice nomination on which I cast my vote. I am one vote out of 100, but I recognize that those 100 of us privileged to serve in the Senate are entrusted with protecting the rights of 280 million of our fellow citizens. Just think for a moment, the Chief Justice is there to protect the rights of all 280 million Americans. Only 101 Americans can have a say in who is going to be Chief Justice: The President, of course, with the nomination, and then the 100 Members of the U.S. Senate who have to stand in the shoes of 280 million Americans.

There is no entitlement to confirmation for lifetime appointments on any court or any nomination by any President, Democratic or Republican. Americans deserve a Supreme Court that acts in its finest tradition as a source of justice. The Supreme Court must be an institution where the Bill of Rights and human dignity are honored, preserved, and protected.

As I considered this nomination, I reflected on the hearings and my meetings with Judge Roberts. While I believe Judge Roberts should and could have been more forthcoming, I was encouraged by some of his answers to my questions both at the hearings and during our nearly 3 hours of face-to-face meetings.

I took Judge Roberts at his word when he gave the committee assurances that he would respect congressional authority. His steadfast reliance on the Supreme Court's recent Raich decision as significant precedent, contravening further implications from Lopez and Morrison, was intended to reassure us that he would not join in what has been a continuing assault on congressional authority. I heard him and I rely on him to be true to the impression he created. To do otherwise would greatly undermine Congress's ability to serve the interest of Americans, to protect the environment, to ensure equal justice, and to provide health care and other basic resources that are so vitally important to some of our neediest citizens. I think he knows that now.

I was also struck by Judge Roberts's admiration for Justice Robert Jackson and for Justice Jackson's protection of fundamental rights, including the right of unpopular speech under the first amendment. We all know we don't have to fight to protect popular speech. It protects itself. We have to fight to protect unpopular speech under the first amendment. Justice Jackson's protection of unpopular speech, and his willingness to serve as a check on Presidential authority, are among the finest actions by any Justice in our history.

I expect Judge Roberts to act in the tradition of Justice Jackson and serve as an independent check on the President. When he joins the Supreme Court, he can no longer simply defer to Presidential authority. We know we are in a period in which the executive has had a complicit—and I believe compliant—Republican Congress that has not served as an effective check or balance. Without the Court to fulfill its own constitutional role as check and balance, excess will continue; the balance will be further tilted.

Justice Roberts said he went to law school because of his love of the law and the rule of law. I was struck by that comment. I was struck by it because it was the same thing that motivated me when I entered Georgetown Law School here in this city. The purpose of the law is to serve justice. A Justice on our highest Court needs to know in his core, in his entire being, that the words engraved in the Vermont marble on the Supreme Court building are not just "Under Law" but "Equal Justice Under Law," and that under our great national charter it is not just the rule of law that a Justice must serve but the cause of justice. The rule is there so we can serve the cause of justice.

As Chief Justice, John Roberts will be responsible for the way in which the judicial branch administers justice for all Americans. I was encouraged that he said he would provide a fifth vote in staying an execution when four other Justices voted to review a capital case. Effective judicial review is all the more important in an era in which so many innocent citizens have been sent to death row.

I respect those who come to different conclusions about this nomination. Actually, when I listened to those who came to different conclusions, I readily acknowledge the unknowable at this moment. Perhaps they are right and I am wrong. Only time will tell. But in my judgment, in my experience, especially in my conscience, I find it better to vote "yes" than "no." My Vermont roots, which are deep and cherished in my family, have always told me to go with my conscience and that is what I have done in this decision.

Judge Roberts is a man of integrity. For me, a vote to confirm requires faith that the words he spoke to us had meaning. I take him at his word that he does not have an ideological agenda and that he will be his own man as Chief Justice. I take him at his word that he will steer the Court to serve as an appropriate check of potential abuses of Presidential power. I hope and trust he will.

This nomination process we complete this week provides some important lessons for the President as he renews his efforts to select a successor to Justice O'Connor. Last week Chairman SPECTER—I might add, parenthetically, a chairman who ran a superb hearing in the best tradition of the Senate, making sure that both Republicans and Democrats were heard and that questions were asked—and I, along with the Republican and Democratic leaders of the Senate, met with President Bush. I urged him to follow through with meaningful consultation this time, to share with us his intentions, and to seek our advice before he chooses; to use both parts of the advice and consent clause of the Constitution.

I remain concerned by the administration's lack of cooperation with the Senate on Judge Roberts's nomination. We did start off well with some early efforts at consultation. I praised the President for that. But then those early efforts didn't result in meaningful discussions.

The President's naming of Judge Roberts, first to replace Justice O'Connor and then swapping that for the vacancy left by Justice Rehnquist, came as a surprise both to Republicans and Democrats, not as a result of meaningful consultation. I believe there could and should have been consultation with the Senate on the nomination of someone to serve as the 17th Chief Justice of the United States, and I am sorry there was not. Many other Senators, including many Republican Senators, have offered similar advice.

Chairman SPECTER has appropriately counseled that the next nominee should be someone who promotes stability on the Court, much like Justice O'Connor. Senator GRAHAM urged the President to listen to Democrats and what we have to say as he considers his next nominee. What we are saying could easily be summed up by quoting the President's campaign promise. We are asking him, in this case especially, to be a uniter, not a divider, for the sake of the country—not for the sake of the 100 Senators but for the sake of the country.

I thought the White House did not help the Roberts nomination by withholding information that has traditionally been shared with the Senate. The Administration treated Senators' requests for information with very little respect for the constitutional role the Senate is expected to fulfill in this process. Actually, the Administration stonewalled entirely the very narrowly tailored request for a very small number of important work papers from

John Roberts's time as the principal political deputy to Kenneth Starr at the Solicitor General's Office. This decision did not help the nominee. I suspect he could very easily have answered questions about those papers. But the choice was taken out of his hands, and the choice was made at the White House.

That should not be allowed to establish a new standard because it would override the precedent from Chief Justice Rehnquist's hearings and others. Previous Presidents have had the appropriate respect for the constitutional process and worked with the Senate to provide such materials.

I urge the Administration to go back to precedent, to work with us and cooperate on future nominations.

Finally, some Republican Senators did not help the confirmation process by urging the nominee not to provide fuller answers during the course of the hearings.

I say that because, again, I remind all Senators, it would be the same thing whether it was a Democratic President who made nominations. No matter who makes the nomination, Democratic President or Republican President, we are the only 100 people in this country out of 280 million Americans who get to vote on the nomination and we should not start off by asking a nominee or telling the nominee not to answer any questions.

I can't imagine too many of our constituents would like that. I know thousands of questions were mailed in by Americans from all over who would have liked to ask questions, and they could not be asked.

These hearings which we hold in the Senate are the best and only opportunity for the American people to hear from the nominee on important issues that affect all of us. The hearings we hold are the best and only opportunity to hear directly from the nominee about his or her judicial philosophy.

The President asked for a dignified process and an up-or-down vote. That is what we accomplished in the Judiciary Committee. With the Senate vote this week, we will complete our action and grant the Senate's consent. The hearings were dignified and they were fair. Chairman SPECTER has every reason to be proud of what the committee accomplished under his leadership.

And I must say, I was personally very humbled by what the Democratic leader, Senator REID, said about the senior Senator from Vermont this afternoon on the Senate floor. I appreciate hearing that from my dear friend, Senator REID.

With the benefit of lessons learned from this nomination, the President is facing a new opportunity to unite this country around a nominee to succeed Justice O'Connor.

I hope the President and those around him are listening this afternoon.

Now more than ever—with Americans fighting and dying in Iraq every day, with hundreds of thousands of our fellow Americans being displaced by disasters here at home—now more than ever is the time to unite rather than divide this Nation. The Supreme Court belongs to each and every American, not to any political party or any faction. For our country's sake, for the sake of all Americans, no matter what their politics might be, I urge the President to make a choice that unites us and doesn't divide us.

I will have more to say as the week goes on.

I see the distinguished Senator from Maryland in the Chamber. I yield to her such time as she may need.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, very much.

Madam President, I rise today to address one of the most significant and far-reaching decisions a Senator makes—the vote on the confirmation of a Supreme Court Justice.

This vote will have an immense impact on current and future generations, because we are voting on a person who will lead the Court for the next 20 years.

I compliment Chairman SPECTER and Ranking Member LEAHY for the way the whole process within the Senate was conducted.

I think we owe to the President, as well as to the nominee, a dignified process that focuses on intellectual rigor, substantive discussion, and plain good manners. I believe overall that process was indeed dignified and open.

This vote is crucial. A Senator is only called upon to make two decisions in our career that are either irrevocable or irretrievable. One is the decision to go to war. Once we vote to go to war, to put our troops in harm's way, we cannot say a day later, Oops, we changed our minds or, 6 months later, cut off the money. Once they go, they go, and we have to stick with them.

The other is the confirmation of members of the Supreme Court. Those are lifetime appointments, and they can only be removed for an impeachable offense, to be tried here in the Senate.

So this decision is among the top two that we are called upon to make.

We make budget decisions, and we can change it later. We make a legislative decision—most of our legislation is for 3 years' authorization we can always change it. But not this decision.

The people of Maryland have entrusted me with the right to make this decision, and I take it seriously. I really pondered this and what I thought about this nomination. Two of my main questions were: No. 1, what will it mean for the fundamental constitutional liberties that has meant so much to so many? And two, what will a Chief Justice Roberts mean to our future?

After a thorough and careful review of his record and his testimony, I must state now that I will oppose the confirmation of Judge Roberts to be the Chief Justice.

I do so because I have too many doubts about the direction a Roberts Court will take us—persistent, nagging doubts about his positions on nondiscrimination, and the right of privacy in personal decisions, and in public policy.

On nondiscrimination, I just couldn't get to what his views were. Is it thorough? Is it broad? Is it narrow? On the issue of privacy, his views sounded eerily like those of Clarence Thomas's that were given to reassure us, only to find that they are not what we heard.

On the issue of discrimination, I am looking at very specific issues such as the Voting Rights Act, Americans with Disability Act, title IX, which has meant so much to combat gender discrimination in education.

And, of course, on the right of privacy. What will this mean for personal decisions related to a woman's reproductive choice, or public policy in terms of where we are going to safeguard our records and safeguard ourselves.

When I decided how I would vote on the nominee, I looked at three threshold criteria: One, is the nominee competent? Second, is the nominee a man of integrity?

I believe every Senator knows, having both met Judge Roberts and from also reviewing his background, he is competent. He is endorsed by the American Bar Association. I also truly believe he is a man of personal integrity.

But what about the nominee protecting core constitutional values and guarantees that are central to our system of government? I really do not know the answer to this question.

Based on his writings and his testimony, as I said, I am left with these persistent doubts about whether he will safeguard civil rights, the right to privacy, and equal protection under the law.

I have approached this nomination very seriously. I have approached it with an open mind and an open door.

I have personally met with Judge Roberts. I found him to be very intelligent, to be very affable. Although he is personally appealing, personal demeanor is not synonymous with personal philosophy. Personal demeanor is not synonymous with judicial philosophy. It is not his demeanor that we are voting on. We are voting on what will his judicial philosophy mean to the Court, and particularly with his being its Chief Justice.

When I looked at the hearings, they occurred as I was moving my Commerce-State-Justice bill. I put in a couple of shifts, which I know the Presiding Officer does as well—one shift being here in the Senate with my colleague, Senator SHELBY, getting an appropriations bill through, and then I would go home and do a second shift and watch the Roberts hearings on C-SPAN so that I could hear his words personally about those answers.

Then, after listening to the hearings, I reviewed the testimony. I reviewed his writings and I also reviewed the testimony of others.

I was disappointed that we didn't have access to documents from 16 cases that he prepared while he worked for Solicitor General's office in the previous Bush administration, which would have given us insight, even though similar documents were given when Justice Rehnquist was nominated.

I tried to get insight into his legal reasoning and judicial philosophy.

Is he smart? Yes. Is he experienced? Yes. As a young man, was he flip and a bit cheeky? The answer is yes. But put me in that column, too. I understand that. We all mature. But as we mature, we sometimes distance ourselves from those remarks. Yet Judge Roberts did not distance himself from those remarks.

I was puzzled by it. I did not quite understand it. I read and pursued it further.

In the hearings, he had the opportunity to let us know whether he would ensure personal rights, but he didn't clear up the uncertainty. He didn't back away from his record and his writings. He wouldn't tell us if he shared the views of his clients. Again, he left too many doubts about whether he will safeguard the rights that Marylanders and all Americans rely on each day.

He did say that he would follow the rule of law. I believe that. But you know, coming to a decision in the Supreme Court, unlike the lower court, is not necessarily only following the law. It is not a mechanical decision. It is not like punching in a legal question, you go to the 15 precedents and out comes the printout. This is interpretation of the law at the highest level. And the Supreme Court has the authority to create precedent, not only follow precedent.

So I couldn't get to where Judge Roberts was going. Take an example such as civil rights. One of the most important civil rights is the right to vote—cherished, fought for both through social movements and our wars. Yet Judge Roberts left me with serious doubts.

One of the most compelling testimonies during the hearing was that of Congressman John Lewis. He was a hero of the civil rights movement. He marched side by side and hands on with Dr. Martin Luther King Jr. When John Lewis speaks, we listen. He raised questions about whether Judge Roberts would support the basic guarantee of the Voting Rights Act, the law that ensures every citizen may vote and that there should be no barriers, no publicly sanctioned barriers to participation in the voting process. Yet as a young lawyer in the Reagan administration, Roberts held a very restrictive view.

John Lewis spoke about section 2 of the Voting Rights Act, which is an important section because it seeks to remedy not only intentional discrimination and barriers to participation but also the effects of discrimination on under represented groups.

Judge Roberts held a very restrictive view, as I said. He argued that only intentional discrimination violated the law.

If that argument prevailed, it would have made it impossible to change discriminatory voting practices that stood in the way of African Americans voting and holding elective office.

Let us take the poll tax, for example, a repugnant and despicable practice that has now been outlawed. The poll tax was a barrier that prevented African Americans from voting. But what could we do? Look at one person at a time? No. Section 2 bars it, because it was a discriminatory practice that affected a whole group of people.

During the hearings, Judge Roberts could have clarified or changed his views.

Yet he said nothing to distance himself from that very narrow legalistic viewpoint that would have maintained barriers to participation, and we have no idea what principles he might apply to a case that would come before the Court like, for example, on the so-called voter verified paper trail. We do not know today where he stands on such important voting rights issues.

Now to disability rights. He left doubts about whether he would provide disabled Americans with guarantees under the law for equal opportunity, particularly to education. Again, going back to being that lawyer in the Reagan administration, he wrote a memo attacking a Federal court decision that would have provided a deaf child with learning tools. He thought this was too burdensome on the local school system, local government and, therefore, the State. He believed that States should not be required to provide these same equal opportunities to handicapped children and that the burden it placed on the states had to be evaluated. He called the lower court's decision an activist one.

What would this mean for disabled children? What would this mean for his interpretation of the Americans with Disabilities Act? This raises doubts for me as to if he would apply a cost-benefit analysis to other areas of discrimination. Certainly when we look at disability and the equal opportunity or an opportunity for education, we have to look at the benefit, not at the cost.

And now title IX. That has changed the face of American scholarships and of American sports. Title IX, for those who might not be familiar with it, prevents gender discrimination in education. It says that schools that receive Federal funds can't treat men and women differently. That means there has to be parity—not sameness but parity—in the number of sports programs, access to classes, and opportunities for scholarships. That meant there had to be girl's soccer teams at college just like there were boy's football teams; that there had to be girl's lacrosse just like there was boy's lacrosse.

Let's take a look at what that has meant. It was phenomenal. All of a sudden, girls were getting scholarships for basketball, for playing lacrosse, and for playing soccer. Aren't we proud of what we have done? We can only look at the Olympics and see our so-called "all star" basketball team lost to Puerto Rico, but our girl's team brought home the gold. People such as soccer player Mia Hamm passed the torch to the next generation, which will go on and win the gold and give us such honor. That is what title IX meant. It meant if you wanted to go to school and sports was your thing, you would not be restricted because you were a girl.

In his writings, Judge Roberts argued that the only part of the school receiving direct Federal aid but not the whole school would not have abided by title IX protection. That would have meant schools could discriminate in their athletics or scholarships even when another part of the school got federal funds. In his testimony, he did nothing to back away from this view.

What would the Roberts Court mean to millions of girls who now have access to scholarships? What would this mean to thousands of girls who right now this afternoon are heading for practice in middle school, working at it in high school, and ready to go? In my own home State, we are known for producing Olympic gymnastics stars, primarily out of Montgomery County, stars such as Dominique Dawes. Right now at that gym in Montgomery County are young girls working to either be able to go on to the Olympics, or if they do not make the Olympic team, on to make the college team. We should never close the door to that kind of heart and soul and hard work because of gender. Where would the Roberts Court be on that? Would he close that door? I am not so sure. That is why I come back to these nagging doubts.

Finally, in the area of the constitutional, protected right to privacy, I appreciate Judge Roberts speaking on the right to privacy. He certainly said more on it than some other nominees have. Yet what he said does not tell us what he thinks about how far the right of privacy extends. He said he supported Griswold. Griswold upheld the right of married couples to buy contraception. Connecticut banned the sale of contraception to married couples. So under the right of privacy, the Supreme Court said that if you are married, you have the freedom to buy family-planning mechanisms.

In many of his answers, he sounded as if he was assuring members that the right of privacy is settled law, stating that "I believe in precedent," et cetera. But many of these answers sounded like Clarence Thomas, eerily like Clarence Thomas. Thomas said there is a constitutional right to privacy. He did not say how he would apply it to the most personal choices or what it would mean to public policy. Since Clarence Thomas has gone to the Supreme Court, we know he does not quite follow what we thought he was assuring us he would. In fact, I don't know if Judge Thomas really supports the right of privacy in the Constitution.

Roberts followed the same script. He refused to clarify his previous dismissal of Roe v. Wade, nor would he elaborate on what the right to privacy includes. What would that mean to the future of reproductive rights? What would that mean to privacy rights in general?

This is important because I am voting not only about today. I am voting about tomorrow. If Mr. ROBERTS is confirmed at age 50, he will be on the Court for the next 20 or more years. And we wish him good health. But just think how profoundly society has changed with the internet and information technology. Where we were 20 years ago. Where was the Internet 20 years ago? We did not have laptops; laptops were big boxes. What about 30 years ago? What was the computer? They were big machines in big warehouses.

Twenty years ago, we would not have thought about privacy rights in this context. But now, because of the Internet and computerization, we think about all the issues related to our right of privacy. Think how they can plunge in with your financial records, your medical records, the so-called datamining where they know everything about you and find out all your moves. Who do you want to have access to that? Who do you want to protect your basic rights?

What will technology mean 20 years from now? What will that technology mean in terms of right of privacy? How do we need to protect our privacy?

Today have a national debate on privacy, the right for security of our country versus our own personal privacy. The right of search. The right, literally, of intrusion in our records. The PATRIOT Act would give us some sets of rules; the ACLU would frown on others. It is likely many of these decisions will go to the Supreme Court. Where will those decisions be made? They have to be made to serve the national interest but also to serve the principles of the Constitution. I am not dictating what the decision should be, but I can dictate who I want on the Supreme Court to listen to that delicate balance between preserving the security needs of our country with one's ability to be left alone from the intrusions of government.

How would Judge Roberts apply the right of privacy in a world where all our most personal health and financial records can be easily stored and shared?

So here we are now at this decision point. As I have looked at this, I have too many doubts about what Judge Roberts will mean for the Supreme Court—caused by what he said and what he didn't say. I believe the American people were entitled to know what he thinks. The American people are entitled to know if judge Roberts will be a protector of their most basic and fundamental rights. I would have been more comfortable if in any way he would have said how he was different from that young, cheeky lawyer trying to write up attention-getting briefs. Something that would have moved him to say: Oh, that was my client, not me. I never wanted him to say how he would rule on cases in the future or any pending before the Court. But I would have liked to have known who is this man for whom I am voting. What he believes is what he is and it will shape the Supreme Court for the next 20 years.

Several times, I came right up to the threshold. As I said, there are many magnetic aspects about the Roberts nomination, but at the end of the day and after careful review, I have too many doubts about his commitment to nondiscrimination, the right of privacy, and equal protection under the law. So when my name is called for this nomination, I will vote no.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for a few minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. DORGAN are printed in today's RECORD under "Morning Business.")

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the time from 3:30 to 4:30 will be under the control of the majority.

The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I rise today to speak to the nomination of Judge John G. Roberts, Jr. to be the next Chief Justice of the United States of America. After a careful and considered review of his testimony before the Senate Judiciary Committee, his overall record, and a personal meeting with Judge Roberts in July, I have concluded that Judge John Roberts should be confirmed as the 17th Chief Justice of the United States.

I first want to express my deepest gratitude to my good friend and colleague, Senator SPECTER, who—as Chair of the Senate Judiciary Committee—was extraordinary in leading the nomination process to fill the first Supreme Court vacancy in 11 years, the longest such interval since the administration of President James Monroe 181 years ago. Together with Ranking Member LEAHY, Senator SPECTER ensured a thorough, rigorous, and civil examination of the individual who now comes before the full Senate for a confirmation vote.

I have not arrived at my decision lightly. It has been said that, of all the entities in government, the Supreme Court is the most closely identified with the Constitution and that no other branch or agency has as great an opportunity to speak directly to the rational and moral side of American character, to bring the power and moral authority of government to bear directly upon the citizenry.

The Supreme Court passes final, legal judgment on many of the most profound social issues of our time. The Court is uniquely designed to accept only those cases that present a substantial and compelling question of Federal law, cases for which the Court's ultimate resolution will not be applied merely to a single, isolated dispute but, rather, will guide legislatures, executives, and all other courts in their broader development and interpretation of law and policy.

In the end, ours is a government of both liberty and order, State and Federal authority, and checks and balances. The remarkable challenge of calibrating these fundamental balance points is entrusted, ultimately, to the nine justices of the Supreme Court of the United States.

To help meet the extraordinary challenges of this role, any nominee for the Court must have a powerful intellect, a principled understanding of the Court's role, and a sound commitment to judicial method.

Moreover, the nominee for Chief Justice must also, among other leadership skills, engender collegiality and respect among all of the justices in order to facilitate the consensus of majority, command the respect of lower Federal courts, and faster cooperation with the States' highest courts. And the nominee must have a keen understanding of, and a disciplined respect for, the great and tremendous body of law that precedes them to warrant our consent.

These are the threshold qualifications against which a person chosen by the President of the United States to serve as just the 17th Chief Justice of the United States must be measured. And all the more so when our Nation would undoubtedly bear the mark of the nominee for decades to come.

Indeed, given the age of this particular nominee, it is not unreasonable to conclude that John Roberts may indeed serve longer than Chief Justice Marshall, who—with his 34 year tenure—still stands as our longest serving Chief Justice. If confirmed, Judge Roberts could well directly impact the Nation for a half century and for decades beyond. He would conceivably be entrusted with the "care of the constitution" for the next 40 years.

It is against the backdrop of this reality that we also evaluate the record of Judge Roberts. And from a professional standpoint, it is clear that Judge John Roberts is one of the most highly-qualified individuals ever to be nominated for the Supreme Court, given his experience clerking for both the Second Circuit Court of Appeals and the Supreme Court, and serving as counsel to a President, Attorney General and Solicitor General and given he is one of the most respected lawyers in the Nation who has argued 39 cases before the Supreme Court and currently serves on the second highest court in the land with unanimous consent of this Chamber just a few years ago. So I applaud the President for selecting an individual who indisputably possesses the professional credentials to serve as Chief Justice.

Concurrently, however, I believe there are four additional threshold qualifications that are critical to assess and evaluate the nominee. They are judicial temperament, integrity, methodology, and philosophy, and by their nature, are more challenging to measure. That is why I have arrived at my conclusions based on a thorough analysis of the complete and accumulated record accompanying Judge Roberts's nomination.

With regard to the matter of judicial temperament, the members of the Judiciary Committee rightly and vigorously questioned the nominee on the tone and content of memoranda he authored as counsel to the Reagan administration in the 1980s.

Because these memos presented opinions on such critical issues as civil rights, the right to privacy, and gender equity—including a 1984 memorandum regarding a letter I initiated as a member of the U.S. House of Representatives requesting the Administration not to intervene in a Federal court decision on the matter of women receiving lower pay because they often work in different jobs than men—I would have welcomed a more direct and forceful refutation of these documents.

At the same time, Judge Roberts did testify that, "Of course gender discrimination is a serious problem. It's a particular concern of mine . . . and always has been. I grew up with three sisters, all of whom work outside the home. I married a lawyer who works outside the home. I have a young daughter who I hope will have all of the opportunities available to her without regard to any gender discrimination . . ."

Further, when probed about memoranda on vital civil rights issues, Judge Roberts's stated to the committee that he believes Congress has the power to guarantee civil rights for all Americans.

As an example, when he was asked, "Do you believe that the Court had the power to address segregation of public schools on the basis of the Equal Protection Clause of the Constitution?", Roberts responded, "yes". And when questioned by Senator KENNEDY, John Roberts agreed with the approach taken by Justice O'Connor in upholding an affirmative action program within a university's admissions policy.

With regard to the right to privacy, in responding to concerns that he characterized this fundamental right as a "so-called right to privacy" in one Reagan administration memorandum, Judge Roberts testified that he does believe the Constitution guarantees such a right, that he was representing the administration's views in his memorandum, and he elaborated that this right emanates from at least five different sources—the first, third, fourth, fifth, and fourteenth amendments—with the due process clause of the 5th and 14th amendments applying substantively as well as procedurally with respect to the right to privacy.

To quote Judge Roberts: "There's a right to privacy to be found in the liberty clause of the 14th Amendment. I think there is a right to privacy protected as part of the liberty guarantee in the due process clause. It's protected substantively." And specifically, he testified that he "agree[d] with the Griswold Court's conclusion that marital privacy extends to contraception" and agreed with the later Eisenstadt decision that confirmed this right for unmarried couples as well.

And finally in regard to the qualification embodied by judicial temperament, Judge Roberts offered the committee that some of the memoranda in question owed their content to a more youthful discretion some 25 years ago and that others merely reflected the views of his clients.

In the end, whatever one takes from the universe of exchanges before the committee, I have concluded that the combination of this testimony with the judge's current reputation among lawyers and peers for discretion, modesty, and humility is the more accurate and contemporaneous measure of the man whose name stands before us today.

And that conclusion is buttressed by an examination of another of the threshold qualifications—judicial methodology—which directly reflects a judge's commitment to the essential tenets of fairness and judicial integrity.

In making this assessment, it is most instructive to consider the emphasis Judge Roberts has placed on judicial process in adjudicating cases. Rather than a "top down" approach wherein a decision is made and then the opinion is written to support that position, Judge Roberts has espoused a "bottom up" approach to decision-making—meaning that he will work through the specific facts and law of each case, and then arrive at a conclusion based on that analysis.

As regards judicial integrity, I believe we can all agree it is absolutely essential that a judge be fair and open minded. Our citizens simply must have confidence that a judge who hears their legal claims does not do so with a closed mind.

A judge must be truly committed to providing a full and fair day in court, and to arriving at decisions based on the facts and applicable law, not on any personal agenda or ulterior motive. For it is when the latter occurs that the public justifiably loses faith in the independence and fairness of our courts.

I conclude that no such faith should be lost here with Judge Roberts. He is, by all accounts, a man of sound character whose integrity is widely respected by Democratic and Republican lawyers alike.

To illustrate the essence of his judicial integrity, I recall during the course of our meeting in July that he indicated it was not uncommon for him to author an entire legal opinion before reaching the conclusion that the reasoning was wrong leading him to a different decision.

He also spoke at length about his year as a law clerk to the late Judge Henry Friendly of the Second Circuit, one of the most respected legal minds of our time, and a mentor and legal role model for Judge Roberts.

He recounted how Judge Friendly was assigned the duty of writing an opinion for the three judge panel that heard a certain case. But once Judge Friendly began trying to write what was supposed to be the majority opinion, he realized that the reasoning behind the ruling simply was not sound.

So after a number of failed attempts, Judge Friendly finally circulated a folder to each of this colleagues containing two opinions, with this note attached.—"The first opinion fulfills my obligation for writing the majority opinion. The second is my dissent in the case." Judge Friendly's "dissent" was so persuasive that it ultimately became the majority opinion.

Again, this is reflected in Judge Robert's approach that is demonstrated in his methodical writings and decisions.

While serving on the DC Circuit Court of Appeals between 2003 and 2005, John Roberts wrote opinions in 49 of 169 cases. And his final rulings in those 49 cases bear the very balance of his analysis. For example, he has ruled both for and against the government, both for and against corporations, and both for and against labor unions.

Moreover, he has shown a capacity for consensus, writing separately in only 7 of the 169 cases before the Circuit Court. This record of collegiality would bode well for the current Supreme Court which can benefit from more consensus opinions.

And of the 49 opinions Judge Roberts authored, only seven were appealed to the Supreme Court and all seven were denied. Again, all of these facts stand in testament to the meticulous methodology and the "bottom up" approach followed by Judge John Roberts.

I recognize that some believe that the fourth and final threshold qualification I referenced—the matter of judicial philosophy—should be a factor for Presidents, but it should not be one the Senate considers in its confirmation process. I respectfully disagree.

In my view, the Senate must also consider the nominee's sense of the limits and horizons of the great promises of our Constitution, and of the nominee's specific view of the proper role of the Supreme Court in deciding whether to take such cases and, if so, the method used to rule upon them.

The inquiry into Judge Roberts' judicial philosophy assumed particular significance for all of us who value the Court's landmark rulings. Decisions protecting the rights of privacy, of civil rights, and of women seeking equal protection in the workplace—just to name a few—comprise an important and settled body of the Court's case law.

Entire generations of Americans have come to live their lives in reliance upon the Court's rulings in these key areas, and overruling these precedents would simply roll back decades of societal advancement and impose substantial disruption and harm.

Therefore, central to the question of a nominee's judicial philosophy is his views on one of the cornerstones of jurisprudence, and that is, judicial precedent. Because it was once said—by a Professor Walter Murphy—the Court is bound by the "wisdom of the past, not the free choice of the present."

On this vital matter, John Roberts has firmly stated to me his belief that precedent plays a crucial role in the judicial process, and the fact, a precedent has been directly challenged and upheld deserves respect from the Court.

In the course of our July meeting, John Roberts expressed to me that judges must keep in mind that they are not the first ones to address most legal issues that arise, and that stability in the law is key to maintaining the legitimacy of the courts. When I solicited his thoughts with respect to, Chief Justice Rehnquist's decision in the Dickerson case to uphold the Miranda decision even as the Chief Justice Rehnquist opposed Miranda itself. John Roberts concurred with the Chief Justice's principled deference to the doctrine of precedent.

As Judge Roberts later indicated to the judiciary committee:

> I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness . . . It is not enough that you may think the prior decision was wrongly decided.

Furthermore, Judge Roberts is on record stating that nothing in his personal beliefs, including his religion, would prevent him from faithfully applying the laws of our land. As well, he indicated that nothing in his personal views would prevent him from applying Supreme Court precedent as governed by the doctrine of stare decisis.

Thus, he acknowledged the crucial interest by the doctrine of stare decisis to promote stability and predictability, and therefore respect for the law. This commitment to stare decisis takes on, of course, a special significance for this issue of privacy that I and so many Americans accept and embrace as a basic and established right. So, essentially, with regard to a landmark case such as Roe v. Wade, Judge Roberts has outlined the process he would apply in reviewing such a challenge.

Specifically, Judge Roberts explained, that, in essence, Roe is buffered by the Casey decision, which affirmed the essential holding of Roe and therefore serves as the more immediate precedent of the Court.

And he responded to Senator SPECTER that Roe is "settled as a precedent of the court, entitled to respect under principles of stare decisis. And those principles, applied in the Casey case, explain when cases should be revisited and when they should not. And it is settled as a precedent of the court, yes."

Mr. President, given the totality of the record before us, I have concluded from his testimony regarding both his judicial methodology and his judicial philosophy that Judge Roberts is not predisposed to overturning the settled precedent represented by Roe. Obviously, none of us can know with certainty how Judge Roberts would vote on any particular case. But we can assess his methodology and analysis in approaching cases, based on his responses to questions posed by the committee throughout this confirmation process.

Finally, in meeting with Judge Roberts, I also expressed my view that Justice Sandra Day O'Connor's approach on the Court epitomizes a critical nexus between the decisions of the United States Supreme Court and the "real world" impact of those decisions on the lives of the American people. As Justice Frankfurter once wrote, the most fundamental questions that arise from the Constitution are decided "not from reading the Constitution but from reading life."

That sense of perspective will be critical in fulfilling the enormous responsibility Judge Roberts will have serving as Chief Justice. And Judge Roberts has indicated in compelling terms that his approach is to stand back and consider the larger implications of any future ruling and I would encourage him to continue with that model on the Court.

It is not an exaggeration to suggest that Judge John Roberts has the potential to become one of the preeminent Chief Justices in modern times.

Of course, no Member of this body can forecast with 100 percent accuracy the shape of the Supreme Court under John Roberts. Nonetheless, in evaluating the universe of the threshold qualifications I have outlined, the entirety of the legal and judicial record regarding Judge Roberts points to a fair minded judge with deep respect for the rule of law, the independence of the courts, and the judicial method . . . a judge committed to stability in the law, and to the established judicial principles for reviewing and upholding precedent.

There is little doubt that Judge John Roberts will have the opportunity to author a legacy for America that will reverberate for the ages. After intensive examination, it is my conclusion that the totality of the record before us, has earned him the privilege of writing that legacy as the next Chief Justice of the United States. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, the Constitution gives us a solemn duty when it comes to the confirmation of an individual to sit on the U.S. Supreme Court. While the President is to nominate that individual, it is our duty in the Senate to decide whether to provide our consent.

When it comes to whether Judge John Roberts should be the 17th Chief

Justice of the United States, I have little trouble providing mine. Judge Roberts is one of the most accomplished legal minds of his generation. He has argued 39 separate cases before the U.S. Supreme Court, and he served with great distinction for 2 years on the Court of Appeals for the District of Columbia. He is certainly an eloquent spokesman for the rule of law, and he has received a "unanimously well qualified" rating from the American Bar Association, a rating that specifically addresses his openmindedness and freedom from bias and commitment to equal justice under the law.

I will vote to confirm Judge Roberts. I encourage my colleagues to do the same.

I think it might be helpful for us to consider this afternoon what we have learned about Judge Roberts over the past several months.

First, we have learned something about his judicial philosophy. Judges should not make policy. They don't pass laws or implement regulations. Instead, in the words of Justice Byron White, judges simply decide cases, nothing more. Judge Roberts embodies this philosophy.

During our hearing in the Judiciary Committee, he told us:

> The role of the judge is limited. A judge is to decide the cases before them. They are not to legislate. They are not to execute the laws.

Time and again he repeated his belief that judges should play a limited and modest role. During the confirmation hearings, he said this to Senator HATCH, Senator GRASSLEY, Senator GRAHAM, Senator CORNYN, and Senator KOHL. He told Senator KYL:

> Judges and Justices do not have a side in these disputes. Rather, they need to be on the side of the Constitution.

Judge Roberts explained his philosophy clearly and, yes, in plain English without using fancy words or resorting to long dissertations. By the end of last week, there was little doubt where Judge Roberts stood.

He believes that judges play a limited and modest role and, to use his own words, "judges and Justices are servants of the law, not the other way around."

Second, over the past several months, we have learned that the American people share our view that Judge Roberts will be fair, openminded, and modest as Chief Justice. We need to look no further than the editorial pages of America's papers to know that Judge Roberts has broad support.

The Los Angeles Times put it bluntly:

> It will be a damning indictment of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts, Jr., to be the next Chief Justice of the United States. As last week's confirmation hearings made clear, Roberts is an exceptionally well-qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists.

The Washington Post has offered a similar sentiment:

> John G. Roberts, Jr., should be confirmed as Chief Justice of the United States. He is overwhelmingly well qualified, possesses an unusually keen legal mind and practices collegiality of the type an effective Chief Justice must have. He shows every sign of commitment to restraint and impartiality. Nominees of comparable quality have, after rigorous hearings, been confirmed nearly unanimously. We hope Judge Roberts will similarly be approved by a large bipartisan vote.

Papers from my home State of Ohio have also given Judge Roberts their approval. The Akron Beacon Journal, a paper that endorsed Al Gore in 2000, and then John Kerry in 2004, called Roberts "supremely qualified." They went on to write:

> Judge Roberts is eminently qualified. He has a sharp mind, a sound temperament, and a keen understanding of the collegiality required to run an effective Supreme Court.

According to the Cleveland Plain Dealer:

> In selecting a leader for the U.S. courts, intellect and probity are far more important than predictable political philosophy. In the instance of John Roberts, it is difficult to find, even among his most committed opponents, anyone who will deny his intellectual superiority. His ethics are unimpeached. He is, by all measures, a fair mind. There is no reason to doubt that he will make an outstanding Chief Justice.

The Dayton Daily News described Judge Roberts in straightforward terms:

> Ya gotta like the guy. Judge John Roberts' 3-day appearance before the Senate was impressive. Facing a Judiciary Committee full of people who obviously consider themselves expert on constitutional issues, he displayed mastery. He was familiar with just about any case the Senators could name. He discussed not only their main thrusts, but their nuances. His decency was as unmistakable as his brilliance and diligence. He bears no ill will toward any group that Democrats in the Senate are concerned about—minorities, women, working people, handicapped people, the poor.

These sentiments in these papers are certainly echoed by many of my constituents. For instance, Eric Brandt from Pataskala, OH, wrote in strong support of Judge Roberts:

> The citizens of this State and country deserve a fairminded jurist who does not use the power of the bench to usurp the elected voice of the people.

Robert Hensley from College Corner, OH, made a similar point:

> I believe it is imperative we have judges who rule according to our Constitution and not their own beliefs and ideas. I believe John Roberts is such a man.

And Al Law from Perrysburg, OH, had this to say:

> We need prudent jurists who understand the proper role of the court, and [Judge Roberts] is such a man.

Clearly, these citizens saw what we saw during the hearings last week. Judge John Roberts is a modest, decent, and fair man who actually fully understands the limited role that judges should play in our constitutional system of government.

Finally, over the past few months, we have heard from those individuals who really know John Roberts the best. His colleagues in the bar, Democrats and Republicans alike, have overwhelmingly supported Judge Roberts' elevation to the Supreme Court.

As I mentioned earlier, the American Bar Association has given Judge Roberts a rating of "unanimously well qualified," its highest possible rating. As Steve Tober, the chairman of the ABA Standing Committee on the Federal Judiciary, explained, Judge Roberts has "the admiration and respect of his colleagues on and off the bench. And, he is, as we have found, the very definition of collegial."

We have also heard from Judge Roberts' friends and coworkers and learned that they respect and admire him. Maureen Mahoney, former Deputy Solicitor General of the United States, said Judge Roberts "is probably the finest lawyer of his generation." She described the assistance he provided her in her own career, and testified from her personal experience that he had an enduring commitment to providing equal opportunity to women in the workplace.

Another example, Professor Kathryn Webb, a lifelong Democrat who said that she does not support President Bush, nonetheless said that Judge Roberts has her "full and enthusiastic support."

Bruce Botelho, the mayor of Juneau, AK, a self-proclaimed liberal Democrat, offered his full support. The mayor worked closely with Judge Roberts on several cases and described him as "the most remarkable and inspiring lawyer I have ever met."

Finally, Catherine Stetson, a partner at Hogan & Hartson and a longtime colleague of Judge Roberts, offered her praise as well. She told us how Judge Roberts helped her transition back into the workplace after the birth of her first child. According to Stetson, Judge Roberts supported her in both of her roles as lawyer and as mother, "and he did it quietly and without fanfare." She explained how Judge Roberts was instrumental in helping her become a partner at Hogan & Hartson, despite the unfounded concerns of others that her obligations as a new mother might interfere somehow with her ability to do the job.

All of these individuals have something in common. What they have in common is they know Judge Roberts personally. They have seen him handle cases. They have seen him deal with clients. They know him as an individual. They know him as a human being. They have worked with him. Each one of them supports his nomination to be the next Chief Justice of the U.S. Supreme Court.

It is true that we have heard comments and some testimony from well-intended individuals who oppose Judge Roberts, but I must say these individuals do not know Judge Roberts the way Maureen Mahoney does, they did not work with him the way Mayor Botelho has, and they have not dealt with Judge Roberts on a day-to-day basis the way Catherine Stetson has.

To be sure, over the past several months we have learned a great deal about who John Roberts is. We know about his extraordinary professional accomplishments. We have seen the overwhelming bipartisan support that he has earned from his colleagues in the legal profession. We have heard from John Roberts himself in a very eloquent defense of the rule of law. For all of these reasons, I will vote to confirm Judge John Roberts as the 17th Chief Justice of the U.S. Supreme Court, and I certainly urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Utah.

Mr. HATCH. Mr. President, last week the Judiciary Committee gave its solid, bipartisan recommendation that the Senate confirm John G. Roberts, Jr., to be Chief Justice of the U.S. Supreme Court. The Senate should follow that recommendation with a substantial bipartisan vote supporting this exceptional nominee. As the Los Angeles Times put it when endorsing Judge Roberts, anything short of an overwhelming vote would be an indictment of petty partisanship.

I think Judge Roberts is the most analyzed and evaluated Supreme Court nominee in history. The American Bar Association, whose rating my Democratic colleagues once hailed as the gold standard for evaluating judicial nominees, completed two exhaustive reviews. Each time the ABA unanimously gave Judge Roberts its highest well-qualified rating.

The ABA, by the way, includes in its criterion of judicial temperament such important qualities as compassion, openmindedness, freedom from bias, and commitment to equal justice under law.

Judge Roberts spent almost 20 hours before the Judiciary Committee while Senators asked him 673 questions. Senators then asked him 243 more questions in writing. Judge Roberts provided nearly 3,000 pages to the Judiciary Committee, including his published articles, congressional testimony, transcripts from interviews, speeches, and panel discussions and material related to the dozens of cases that he argued before the U.S. Supreme Court.

The Judiciary Committee obtained more than 14,000 pages of material in the public domain, including the opinions Judge Roberts authored and joined while on the U.S. Court of Appeals and legal briefs from his years at the law firm of Hogan & Hartson and as Deputy Solicitor General in the first Bush administration.

As if all of that were not enough, the Judiciary Committee obtained a staggering 82,943 pages of additional material from the National Archives and both the Reagan and Bush Libraries regarding Judge Roberts' service in those administrations. Total that up, and we have more than 100,000 pages of material on a 50-year-old nominee. That amounts to about 2,000 pages for every year of his life.

By orders of magnitude, this is more information than any Senators have had about any previous Supreme Court nominee.

The real debate over this nomination is about the standard we should apply to this mountain of information. The standard a Senator applies reflects a particular job description, what a Senator believes judges should do in our system of government. For some Senators, it is a political job description. They see judges as playing a political role, delivering results favoring certain political interests, setting or changing policy, creating new rights, defending social progress, and blazing a trail toward justice and equality.

Not surprisingly, Senators who believe in this kind of political job description ask political questions and apply political standards during the hiring process.

During the hearing, for example, the distinguished assistant minority leader, a member of the Judiciary Committee, told Judge Roberts he needed to know the nominee's personal values. Personal values are a condition for judicial service only if judges make their decisions based on their personal values. This is a political standard.

The Senator from Massachusetts, Mr. KENNEDY, a former Judiciary Committee chairman, has repeatedly said that the central question is, in his words, Whose side will Judge Roberts be on when different kinds of cases come before him?

Demanding that judges take sides before cases even begin is, again, a political standard.

Last week on the Senate floor, the Senator from Massachusetts, Mr. KERRY, said he could not support Judge Roberts because, as he put it:

> I can't say with confidence that I know on a sufficient number of critical constitutional issues how he would rule.

Basing support for a judicial nominee on a checklist of results, without regard for the facts or the law in each case, is a political standard.

The Senator from California, Mrs. BOXER, last week announced her opposition to Judge Roberts and described her standard by asking: Who will be the winners if we confirm Judge Roberts?

This question, of course, completely contradicts the age-old teaching of parents in California, my home State of Utah, and everywhere else that it does not matter if one wins or loses but how they play the game.

Focusing on the political correctness of a judge's results rather than the judicial correctness of his reasoning is a political standard.

Other Senators, and I place myself squarely in this camp, use a judicial standard. We see judges as playing a judicial rather than a political role.

During his hearing, Judge Roberts properly compared judges to umpires who apply rules they did not make and cannot change to a contest before them.

Can anyone imagine conditioning an umpire's employment on knowing before he officiates his first game which teams on the roster will win or lose?

Similarly, judges must not take sides before a case begins.

Senators who believe in a judicial job description ask judicial questions and apply judicial standards during the hiring process, and during the hearing process as well, I might add.

I want to know, for example, whether Judge Roberts believes he can make law at all, not the particular law he would make. I want to know whether parties will win before him because the law favors their side, not because he does.

Like America's Founders, I believe it makes all the difference for our liberty whether judges occupy a judicial or a political role in our system of government.

In the Federalist No. 78, Alexander Hamilton wrote, quoting the political philosopher, Montesquieu, that there is no liberty at all if judicial power is not separated from legislative and executive power.

The separation of powers is literally the lynchpin of liberty. That principle had a 200-year-old pedigree when America's Founders listed, as a reason for seeking independence that King George had made judges dependent upon his political will.

We must insist on appointing judges who meet a judicial rather than a political standard.

I will list some of the evidence that Judge Roberts meets this judicial standard.

Judge Roberts told the Judiciary Committee that a judge is obligated to respect precedent, and he described in some detail the principles guiding how judges utilize those prior decisions.

If my friends on the other side oppose this nomination, do they believe that judges should not respect precedent? Do they reject the traditional principles of stare decisis that Judge Roberts outlined? If so, my friends should try to make that case to the American people. If not, if they agree with Judge Roberts that judges should respect precedent, then they should vote to confirm this nomination.

Judge Roberts repeatedly insisted that judges must be impartial. Here is how he put it:

> I think people on both sides need to know that if they go to the Supreme Court that they're going to be on a level playing field, the judge is going to interpret the law, that the judge is going to apply the Constitution and not take sides in their dispute.

That was said by Judge John G. Roberts, Jr., on September 13, 2005.

If my friends on the other side oppose this nomination, are they saying that judges should instead be partial, that judges should actually take sides, that people coming before the Court do not deserve the confidence that judges will be fair? If that is what they believe, I invite them to try to make that case to the American people. If not, if they agree with Judge Roberts that judges should be impartial, then they should confirm his nomination.

Judge Roberts said that judges must be open to the views of their judicial colleagues. This is a mark of modesty and humility he consistently said should characterize judges. If my friends on the other side of this nomination oppose this nomination, are they arguing that judges should not consider anyone else's views but narrowly insist that they are always right? If so, then once again they should make their case to the American people. If not, if they agree with Judge Roberts that modest judges remain open to consider what others have to say, then they should vote for his nomination.

Judge Roberts told us that judges are not politicians. If my friends on the other side oppose this nomination, do they really believe that judges, and not elected legislators, should make the law and determine public policy? Do my friends really believe that there is no difference between what the Justices do across the street in the Supreme Court and what we do in this Chamber? If so, I wish them luck trying to make that case to the American people. If not, if they agree with America's Founders and with Judge Roberts that judges are not politicians, they should vote to confirm this nomination.

Judge Roberts says judges are the servants of the law. If my friends on the other side oppose this nomination, do they believe judges are instead the masters of the law? Do they believe the Constitution is whatever the Supreme Court says it is? If so, then I invite them to make that case to the American people. If not, if they agree with America's Founders that the Constitution governs the judicial as well as the legislative branch, if they agree with Judge Roberts that judges are as subject to the rule of law as the parties before them, then my friends should vote to confirm this nomination.

Judge Roberts pledged that, as he has done on the appeals court bench, he will approach every case with an open mind and consider each case on its own merits.

If my friends on the other side oppose this nomination, do they believe instead judges should have a closed mind on issues that come before them, that judges should prejudge issues in cases even before they know the facts?

If so, then I urge my friends to try and convince the American people.

If not, if they agree with Judge Roberts that judges should safeguard their impartiality and keep an open mind, then they should vote to confirm this nomination.

Judge Roberts said:

> The role of the judge is limited, that judges are to decide the cases before them, they're not to legislate.

If my friends on the other side oppose this nomination, do they believe instead judges have an unlimited role, that judges should decide cases not properly before them, and that judges should do the legislating?

If so, I urge them to try to make that case before the American people.

If not, if they share Judge Roberts' view about the proper limited judicial role, then they should vote to confirm this nomination.

Judge Roberts said judges must decide cases—and I am quoting him again—judges must decide cases:

> according to the rule of law, not their own social preferences, not their policy views, not their personal preferences, but according to the rule of law.

Again, that was on September 13, 2005.

If my friends on the other side oppose this nomination, do they believe judges should decide cases based on their personal preferences or policy views rather than the rule of law?

If so, again, they should make this case to the American people.

If not, if they agree with Judge Roberts that the rule of law trumps a judge's personal views, then they should vote to confirm this nomination.

Judge Roberts said when Congress enacts a statute, we do not expect judges to substitute their judgment for ours but to implement our view of what we are accomplishing. If my friends on the other side oppose this nomination, are they instead saying judges should substitute their judgment for ours?

If so, again, they should make that case to the American people.

If not, if they agree with Judge Roberts that Congress's intent should prevail regarding Congress's own statutes, then they should vote to confirm this nomination.

Judge Roberts said:

> I don't think the Court should be the task master of Congress. I think the Constitution is the Court's task master and it's Congress' task master as well.

That was said on September 14 of this year.

If my friends on the other side oppose this nomination, do they mean the Supreme Court should in fact be the taskmaster of Congress, and even of the Constitution itself?

If so, then I wish them well, trying to convince the American people by making that case to the American people.

If not, if they agree with Judge Roberts that the Constitution is the taskmaster of both Congress and the Supreme Court, then they should vote to confirm this nomination.

Judge Roberts told us the Bill of Rights does not change during times of war or crisis. If my friends on the other side oppose this nomination, are they arguing for setting aside the Bill of Rights in times of war or crisis?

If so, then they should make their case to the American people.

If not, if they agree with Judge Roberts that neither the Bill of Rights nor a judge's obligation to uphold the rule of law is suspended in a time of war or crisis, then they should vote to uphold this nomination.

I want to quote Judge Roberts again because his particular words are very important. He said:

> If the Constitution says that the little guy should win, the little guy is going to win in court before me. But if the Constitution says that the big guy should win, well, then, the big guy is going to win, because my obligation is to the Constitution.

He said that on September 15 of this year.

If my friends on the other side oppose this nomination, are they arguing that whoever the little guy might be must win, regardless of what the facts and regardless of what the law requires? Are they saying judges should disregard their oaths to do justice without respect to persons?

If so, I will be watching with great expectation as they try to make that case to the American people.

If not, if they agree with Judge Roberts that the law, not the judge, determines who wins, if they agree with Judge Roberts that the judge's obligation is to the Constitution and not to a particular side, then they should confirm this nomination.

These examples show the type of judge John Roberts is on the appeals court, the kind of Justice John Roberts will be on the Supreme Court. Judge Roberts knows the difference between politics and law. He knows as a judge he must settle legal disputes by interpreting and applying law and leave the politics to the politicians.

We have all the information we need about this exceptional nominee. If we apply a judicial rather than a political standard, the Senate will confirm him as the Nation's 17th Justice overwhelmingly and without delay.

Judge Roberts is one of the finest nominees ever to come before the Congress of the United States, and in particular the Senate confirming body. Not only was he an excellent student, graduating from Harvard in only 3 years as an undergraduate, but he became the top graduate in law school and the editor in chief of the Harvard Law Review, a position everybody in this Chamber has to respect and admire.

He also served as a clerk for Judge Friendly, one of the greatest circuit court judges this country has ever seen. He served as a clerk for Chief Justice Rehnquist.

I was impressed at the Rehnquist funeral to see some 95 former clerks paying respect to their Justice Rehnquist, some of whom were my fellow Utahns.

He then worked in the White House counsel's office as a young man and served with distinction there. He then went on to become Deputy Solicitor General of the United States and did a terrific job while there. He rose to become one of the top partners in one of the top law firms in this country and argued 39 cases before the U.S. Supreme Court. Hardly anybody can make that claim today.

I have asked various Justices on the Supreme Court who they consider to be the best appellate lawyer to appear before them, and invariably the name John Roberts comes up from the Justices themselves.

I was intrigued that Justice Stevens is overjoyed that John Roberts is going to join them on the Court because he has such respect for John Roberts.

I have to say in 20 hours of testimony, how could anybody vote against him? I have to say also it concerns me that there will be some who will. I suggest if they would vote against Judge Roberts for the Supreme Court, then I doubt sincerely there is any nominee this President could put forth they would vote for, and that is a sorry case and I think a sad indictment.

I urge everybody in this body to vote for this outstanding nominee for Chief Justice of the United States. In doing so, I don't think anybody who does is going to be sorry afterward. Yes, I believe him to be conservative. Yes, I believe he is not going to be an activist on the bench. Yes, I believe he will honor and sustain the law—and I know one thing: he is going to approach the law as intelligently as any person who has ever been nominated to the Supreme Court. I think people who watched those hearings have to come to the same conclusion. If they do, then I hope our colleagues who have announced they are going to vote against him will change their mind, do what is right, and vote for him.

Remember, when now Justices Ginsburg and Breyer came before this body, I was the leader on the Judiciary Committee. I have to say, we Republicans all knew both of those now Justices were social liberals, that they disagreed with many of the things we believed and we disagreed with many of the things they believed. But they were both qualified and they were put forth by the then President of the United States, President William Jefferson Clinton. And Presidents deserve respect on these nominations.

Justice Ginsburg was confirmed on a vote of 96 to 3, and I believe Justice Breyer was confirmed on a vote of 87 to 9, which means virtually every Republican voted for both of them. We did not take the political way. I have to say I don't think others should take it here in this case with this person who everybody acknowledges is exceptionally well qualified, including the American Bar Association.

I recommend everybody vote for Judge Roberts, and in the end you are going to be able to go to sleep at night knowing you did the right thing.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSON. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I come to the Chamber today to discuss the nomination of Judge John G. Roberts to be Chief Justice of the United States.

Last week, the Senate Judiciary Committee approved the nomination of Judge Roberts to be the next Chief Justice of the United States by a 13-to-5 margin. This came after weeks of exhaustive research by the Judiciary Committee and a thorough set of hearings.

While I wish the White House would have been more cooperative during the process by releasing a more comprehensive set of documents relating to Judge Roberts' work in the executive branch, I do believe the committee hearings were conducted in a fair and dignified manner, and I do have some understanding of where Judge Roberts' judicial views fall within the political spectrum.

After careful review of Judge Roberts' testimony and the information prepared by the Judiciary Committee, I have come to the conclusion that Judge Roberts should be confirmed by the Senate to be Chief Justice of the U.S. Supreme Court. It is my intention to vote in favor of his confirmation when his nomination comes for a full vote before the Senate later this week.

There are few decisions of greater consequence that I will ever be asked to make than whether to approve an individual for a lifetime appointment as Chief Justice of our Nation's highest Court. While there is no absolute certainty how Judge Roberts will conduct himself as Chief Justice when he is confirmed, it is my belief that he appears to be a thoughtful and respected jurist who possesses integrity and great legal skills. I see no reason to believe that the nominee is an ideologue or otherwise outside the broad mainstream of contemporary conservative legal thinking. In addition, it is important to note that with the confirmation of Judge Roberts to replace Chief Justice Rehnquist, the balance of the Court will be maintained.

It is the prerogative of the President to nominate whomever he sees fit to lifetime appointments to the Federal judiciary, so it should come as no surprise that President Bush has nominated a conservative jurist such as Judge Roberts for the Supreme Court. While I have voted against President Bush's nominees to the lower Federal courts on a modest number of instances, I have voted roughly 200 times to confirm judicial nominees who I believed were conservative Republicans of great legal skill and who deserved bipartisan respect. With the nomination of Judge Roberts, I am once again prepared to support a qualified, conservative judicial nominee. However, with this vote I also send a message to President Bush that I hope his nominee to fill the vacancy of retiring Associate Justice Sandra Day O'Connor will as well be a person of great legal skill and who has the ability to garner strong bipartisan support.

In my home State of South Dakota, we have seen difficult and polarizing political battles over the past few years. I believe South Dakotans as well as all Americans desire a bipartisan centrist approach to government. Our Nation is governed best when it is governed from the broad bipartisan mainstream but not by the extremes of the political far left or far right. I encourage President Bush to nominate someone for Justice O'Connor's seat who will further unite the citizens of our great Nation rather than drive a political wedge between them. The proper legal foundation for America is found in the broad mainstream of contemporary jurisprudence. It is my hope that Judge Roberts will unite Americans and serve the Supreme Court in a fair and prudent and centrist manner.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 1

Mr. BENNETT. Mr. President, on behalf of the leader, I ask unanimous consent that at 5:30 today the Senate proceed to executive session to consider the following treaty on today's Executive Calendar: No. 1. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, that any committee conditions, declarations, or reservations be agreed to as applicable, that any statements be printed in the RECORD, and that at 5:30 today the Senate vote on the resolution of ratification; further that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, and the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOL OF AMENDMENT TO THE INTERNATIONAL CONVENTION ON SIMPLIFICATION AND HARMONIZATION OF CUSTOMS PROCEDURES—TREATY DOCUMENT 108-6

The PRESIDING OFFICER. Under the previous order, the clerk will report the treaty.

The legislative clerk read as follows:

Resolution of advice and consent to ratification to accompany Treaty Document 108-6, Protocol of Amendment to the International Convention on Simplification and Harmonization of Customs Procedures.

Mr. BURNS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the ratification of the treaty?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Louisiana (Mr. VITTER), the Senator from Florida (Mr. MARTINEZ), the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), the Senator from Nebraska (Mr. HAGEL), and the Senator from Texas (Mrs. HUTCHISON).

Further, if present and voting, the Senator from Louisiana (Mr. VITTER), the Senator from Florida (Mr. MARTINEZ), and the Senator from Texas (Mr. CORNYN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Florida (Mr. NELSON), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 87, nays 0, as follows:

[Rollcall Vote No. 244 Ex.]

YEAS—87

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hatch
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Voinovich
Warner
Wyden

NOT VOTING—13

Biden
Brownback
Burr
Cornyn
Corzine
Hagel
Harkin
Hutchison
Landrieu
Martinez
Nelson (FL)
Stabenow
Vitter

The PRESIDING OFFICER (Mr. THUNE). On this vote, the yeas are 87, the nays are 0. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The Resolution of Advice and Consent to Accession is as follows:

Resolved (two-thirds of the Senators present concurring therein), The Senate advises and consents to the accession to the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (the "Protocol") done at Brussels on June 26, 1999 (Treaty Doc. 108-6), including Specific Annexes A, B, C, D, E, and G; Chapters 1, 2 and 3 of Specific Annex F; and Chapters 3, 4 and 5 of Specific Annex J; subject to the reservations to certain Recommended Practices (as set forth in the enclosure to the report of the Secretary of State in Treaty Doc. 108-6) in Specific Annex A, Chapters 1 and 2; Specific Annex B, Chapters 2 and 3; Specific Annex D, Chapters 1 and 2; Specific Annex E, Chapters 1 and 2; Specific Annex B, Chapters 2 and 3; Specific Annex D, Chapters 1 and 2; Specific Annex E, Chapters 1 and 2; Specific Annex F, Chapters 1, 2 and 3; Specific Annex G, Chapter 1; and Specific Annex J, Chapter 4.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid on the table, and the President will be notified of the Senate's action.

The majority leader.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

EMERGENCY HEALTH CARE RELIEF ACT

Mr. BAUCUS. Mr. President, I would like to speak a few moments about the need for health care assistance to Katrina-related victims. When I finish, I am then going to join with Senator GRASSLEY, the chairman of the Finance Committee, in a unanimous consent request, and that is bring up and pass the bill.

Tina Eagerton fled Louisiana for Clearwater, FL, to escape Hurricane Katrina. As Tampa Bay's 10 News reported, Tina is 7 months pregnant. She has a high-risk pregnancy. Plainly she needs a doctor's care, but Tina could not find a Florida doctor who would accept her Louisiana Medicaid card. She said, "I've called some doctors, [but they say] 'We don't know what to do.' I guess nobody has gotten the memo."

Congress needs to get the memo. We need to pass S. 1716, the Emergency Health Care Relief Act, and we need to do it today.

The last 4 weeks, we have seen terrible destruction, destruction that Katrina wrought as well as Rita has wrought; more than 1,000 people are dead, a million people displaced, hundreds of billions of dollars of damage. I went down there to the gulf to see it myself, and I must say it is worse than the pictures.

Katrina has exposed deep problems that plague American society: chronic poverty, stark inequality, strained race relations. We could not solve all of these problems today, but some are so pervasive, so severe, that a single bill cannot remedy them. It requires a sustained national debate and reexamination of what we as a nation hold dear.

We cannot fix everything today, but we can fix some things today. One thing we can fix is a lack of health coverage for tens of thousands of Katrina survivors. We can and must pass the Emergency Health Care Relief Act today.

This broadly supported legislation would provide victims of Hurricane Katrina with the health care services they urgently need. As we so often do, Chairman GRASSLEY and I worked together on this bill. We worked together on the Katrina tax package which the President signed Friday and which is even now putting cash in the hands of Katrina victims.

And we worked together on this health bill as well. We spent a lot of time together—our staffers—consulting with Senators, especially with Senators in related States.

Our health bill would provide temporary Medicaid coverage for Katrina survivors, available through a streamlined application. It is that simple. These benefits would be available right away. Those eligible would get coverage for up to 5 months, with a possible extension of 5 months.

Pregnant women such as Tina Eagerton, as well as children, would be eligible for health care at higher income levels.

To support those who lost their jobs and income, our bill allows those individuals to keep their current coverage with assistance from the Federal Government. And our bill would set up a fund to help health care providers deal with their tremendous uncompensated care losses—health care, hospitals, specialists. These funds would go to providers who experienced a surge in patient load from the evacuation of Katrina victims. These funds would go to those facilities that no longer have the patient base to make ends meet.

But this is not just health care providers who are incurring uncompensated care expenses. States are as well. Texas has taken in 200,000 Katrina evacuees. Katrina is adding $30 million a month in costs to the Texas Medicaid Program.

Our legislation provides Texas—and other States caring for Katrina evacuees—with the full Federal Medicaid funding for those evacuees.

The bill would also cover all the costs of Louisiana's and Mississippi's Medicaid and child health programs for 2006, with the same treatment being provided to a number of particularly ravaged counties in Alabama.

This legislation would give solid help to those who receive TANF and unemployment insurance.

In short, our bill does a great deal to help Katrina victims in commonsense ways.

As a result, our bill has broad support from consumer, health care, and business groups. Here is what some of the groups have to say about our bill.

The American Red Cross says:

> As our nation faces the challenging task of ensuring that the victims of Hurricane Katrina receive the care, compassion, and support needed to reconstruct their lives, legislation such as yours helps to ensure their health care needs will be met.

The American Hospital Association says of our bill:

> [It] is an important first step toward getting assistance to the thousands of people who have been affected by the storm, as well as those who are providing their care.

The National Governors Association says:

> The Nation's Governors are very supportive of your relief package. [The] additional investments in Medicaid and TANF that your relief package provide will be critical to help these individuals put their lives back together and regain some sense of stability.

Congress has taken some steps to respond to the Katrina disaster. We have passed more than $60 billion in funding for FEMA. We have passed Katrina-targeted tax relief. These bills are helping us in what may be the biggest relief operation for a natural disaster in American history.

But we also must do more to help the victims of this natural—and national—disaster. We must provide Katrina victims with access to health care—not done in part of the legislation—and we must do it now.

Americans have responded generously. Americans have given of their time, through the efforts of tens of thousands of volunteers.

Americans have opened their homes. Web sites report offers for shelter totaling nearly 270,000 beds. And Americans have opened their wallets in an unprecedented fashion. In the 3 weeks following the hurricane, Americans contributed more than $1.2 billion to help victims.

But individual citizens can do only so much. At some point Congress needs to help. We need to help people such as Rosalind Breaux. Of Rosalind Breaux, the Chicago Tribune reported:

> Diagnosed with colon cancer on May 1, Ms. Breaux was scheduled for her third round of Chemotherapy on August 31, a day after flooding began to wreck New Orleans and Charity Hospital where she had been receiving care. Breaux and her family ended up settling temporarily in Baton Rouge. Nauseated with constant fatigue, profound weakness and frequent pain. Breaux has been trying to survive the stress of her situation as best she could. Meanwhile, her husband, a policeman at Charity Hospital, has lost his job and there are questions about whether his insurance will pay for her care. "It's been so frustrating not knowing what's going to happen," she said. "I just pray I can make it through this."

We need to help. Congress needs to ensure that people such as Rosalind Breaux and Tina Eagerton have health care. That is the least we can do.

Let us rise to the level of caring and sympathy of the American people who have given so much to the victims of this disaster. Let us take action to meet the needs of those whom Katrina has displaced and disadvantaged, and let us do our part to help this region and its people get back on their feet.

We can do this today—this evening, now—by passing the Emergency Health Care Relief Act, legislation which the chairman of the committee, Senator GRASSLEY, and I have worked on so vigorously, so assiduously and comprehensively. Talking to Senators, talking to groups, we have worked on this, and it is a balanced bill, a needed bill. Time is of the essence.

I urge the Senate to act tonight.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague, Senator BAUCUS, ranking Democrat of the committee that has jurisdiction over this issue of Medicaid, to urge passage of the Emergency Health Care Relief Act of 2005. He explained very well how we have worked out in a bipartisan way the contents of this legislation, not only between Senator BAUCUS and me but by involving the staff of everybody on the committee, as well as consulting, particularly, the Senators from Arkansas, Texas, Louisiana, Mississippi, and Alabama.

We are all very deeply moved by the pictures and by the stories of those from the States who have been hurt by Katrina—and now, of course, Rita—their homes, their jobs and, worst of all, their loved ones who have given up everything. My heart, of course, goes out, as well, to the others who have suffered as much as a result of this terrible disaster.

I think the need to act is very obvious. About 250,000 people have been evacuated as a result of this disaster.

According to a survey by the Washington Post, fully half of the evacuees have no health insurance. Four in ten of the evacuees are physically disabled or have chronic illness. According to a survey done by the same paper, 6 in 10 evacuees have incomes of less than $20,000.

It is a function of our Government and our responsibility as legislators to provide assistance to these vulnerable families.

I would like to briefly outline this legislation. The Katrina health care relief package is very targeted and, most importantly, temporary. It is both a targeted and temporary benefit for the neediest individuals and families.

It provides assistance with private health insurance premiums for people in businesses affected by hurricanes so they won't lose their coverage; an uncompensated care funding pool to cover evacuation costs and emergency health care costs related to the hurricane; most importantly, temporary Medicaid coverage limited to 5 months, unless the President would extend it for another 5 months, limited to only those residents and evacuees from the hardest hit counties of the State; and 100 percent Federal funding for the disaster-related Medicaid costs until December 31, 2006.

The compromise package bill limits Medicaid to those most in need: To those below the poverty level; pregnant women and children below 200 percent of poverty, which is current law in Texas already, as one example; and those eligible under the host State's Medicaid coverage under existing law.

It is very limited. The bottom line is that this is a responsible compromise. It is time limited. It is targeted only to those who have the most need.

The legislation includes a simplified enrollment procedure. One important part of our bill that I want to highlight would help those with private insurance pay premiums on their policy. Many of the folks affected by Katrina have private health insurance which they would like to keep.

Many of the evacuees also have chronic conditions. For these folks, losing health insurance can mean the loss of important provider relationships. This legislation will help these folks avoid that situation.

The legislation also offers help to certain employers who, prior to Katrina, offered their employees health insurance.

We all know that many businesses face a difficult time in maintaining coverage. Now these businesses will be able to get back up and contribute to a revitalization of the economy in that area.

Our bill would also waive the Medicaid Part B late enrollment penalty for those who miss the initial enrollment period. We don't want people to have opportunities to get into Part B enrollment only to have to pay a penalty when they wouldn't otherwise do that if we had not had the hurricane.

I am pleased that Senator BAUCUS and I have been able to take action on behalf of those whose lives have been disrupted by the hurricane.

As Senator BAUCUS said, the bill is supported by the Governors Association, the American Medical Association, the American Hospital Association, the Health Care Leadership Council, the American Red Cross, the March of Dimes, and many others.

I hope my colleagues will support this legislation, and I urge swift Senate consideration of S. 1716.

I would also like to point out some things more procedural than just the contents of the bill. As a reminder to all of my friends on this side of the aisle, the Wednesday after Labor Day we had a news conference assuring the people of this country—that news conference involved leadership, as well as those who are chairmen of the committee—promising appropriate as well as immediate relief for the States that are hurt. That hurting is extended beyond the States that were hit by the hurricane to States that have taken evacuees.

I also point out that it is quite obvious from television the hurt that people have. Also, we tried to pretty much do a total paralleling of what we did for New York City after 9/11. Along that line, I remind my colleagues of something that President Bush said as he was speaking in a news conference about the hurricane not discriminating. We were not going to discriminate.

It seems to me that doing for the people in this area hurt by this Katrina catastrophe ought to be done in the same way that we did to help people who were hurt by the New York City 9/11 catastrophe.

Then, as a practical matter—and I don't say this just because Senator LINCOLN is in the Chamber—I use her as an example of a lot of people who are trying to accomplish the goals that Senator BAUCUS and I want to accomplish, as she did on an appropriations bill by offering an amendment.

That amendment went much further than what we do in this legislation. She withdrew that amendment. But I think there are people who are going to want to push those issues if we don't move in this comprehensive, bipartisan way that Senator BAUCUS and I have done. I remind colleagues that we might end up actually adopting a proposal much more expensive than S. 1716, if Senator LINCOLN offers her amendment, than we do through this approach that we are taking here in the case of Senator BAUCUS and my working out this bipartisan agreement.

I urge that we move forward with this legislation for the reasons that I have given, as well as the substance being a responsible approach.

I would like to ask, if I could, unanimous consent that we move forward with this legislation. Then, if somebody wants to speak afterwards, speak afterwards on the subject.

Mr. President, I ask unanimous consent that we move immediately to the consideration of S. 1716.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I appreciate the efforts that the chairman of the Finance Committee and the ranking member have made on this legislation. They are working hard to help out the people who have been affected by Hurricane Katrina on the gulf coast. All of our hearts go out to the people in the gulf region. The devastation that region has experienced simply cannot be put into words. The issue we are considering tonight is not what kind of assistance should be provided to evacuees but how that assistance should be provided and whether this should be done by unanimous consent.

The administration has taken administrative steps to provide necessary medical care to evacuees. They have provided Medicaid waivers to certain states. Secretary Leavitt has pledged additional waivers to states that request one if the request is reasonable. For its part, Congress has already approved $62 billion for the recovery of victims and their care. I am concerned that this bill involves new spending rather than reprogramming a part of the $62 billion Congress has already appropriated. This bill would add an additional $8.9 billion in spending on top of the money FEMA has already been given.

We should make some changes to this bill. I have serious concerns about four provisions included in this bill. First, this bill provides for temporary expansion of Medicaid. Second, it requires that the federal government provide 100% FMAP for Louisiana, Mississippi and affected counties in Alabama. This is a dangerous precedent and removes any incentive for these states to keep Medicaid costs down. Third, it holds 29 states harmless from a scheduled FMAP reduction in 2006. This means the federal government continues to pay more of the costs, even in states with few or no Hurricane Katrina evacuees. My final concern is that this bill also increases spending by $8.9 billion and probably unnecessarily so given the steps that Congress and the Administration have already taken.

Any legislative proposal should be well thought out and fiscally responsible. If these services can be provided administratively, which HHS says they can, we should allow HHS to do so. Congress does not, and should not, alter the Medicaid formula as this bill seeks to.

We, as a Congress, need to get a better handle on the money being spent. We have an obligation to those affected by the hurricane as well as to those Americans we are asking to help pay the costs of relief. We must ensure this money is spent wisely.

I object to the unanimous consent.

The PRESIDING OFFICER. The objection is heard.

Mr. BAUCUS. I am astounded by the statement made by the Senator who just spoke. This has nothing to do with the $62 billion, nothing whatever. If there are contract problems with FEMA dollars, we will discuss those and deal with them when this Senate deals with additional appropriations requests related to Katrina. This has nothing whatever to do with that. Those are FEMA dollars, contracts to repair roads and bridges.

Mr. ENSIGN. Will the Senator yield?

Mr. BAUCUS. Not at this moment, no.

It has nothing to do with FEMA. We will deal with legitimate points that the Senator from Nevada raised at another time and context when we deal with additional appropriations for FEMA. This has nothing to do with that.

We are talking about people. FEMA was projects, contracts. This is people. This is people's health care. This is Medicaid, that pays for people's health care. This is an emergency. It is people's health care—for people. That is what this is.

It has nothing to do with FEMA, nothing whatever.

I hope the Senators understand that. I hope the country understands and realizes that. I am astounded at the objection I just heard because it has nothing to do with the objection at hand.

Mrs. LINCOLN. Will the Senator yield?

Mr. BAUCUS. I yield to the Senator from Arkansas.

Mrs. LINCOLN. If the Senator from Nevada is worried about the dollars FEMA received, why did no one object to that? Why did no one object to the $60 billion being sent to FEMA, which has been so inefficient in the wake of this disaster?

Now we are going to ask, as the chairman of the Committee on Finance points out, the disproportionately low-income, disproportionately disabled individuals to pay for this?

I am here today to speak in support of the Emergency Care Relief Act of 2005 and to compliment the chairman of the Committee on Finance and the ranking member, Senator BAUCUS, for making this important issue a priority, for working hard and bringing people together to recognize it is not only a natural disaster but a national disaster. We as Americans have to come together to help our neighbors.

I find it odd that here we are talking about $8 billion, $7.5 billion, $8 billion compared to the $60 billion no-bid contracts. Maybe my colleagues who want to object to this are willing to jump in and help provide the bipartisan-nonpartisan commission we need to review the response to the natural disasters that happened on the gulf coast. Maybe they want to join in saying we need somebody who can review what is going on—not just what happened then but what continues to happen in FEMA.

Our Nation's health care providers and States have been there at a time when vulnerable Americans needed them the most. The moment Hurricane Katrina hit the gulf coast, they jumped into action without being asked. No one asked them to get in their cars and drive to the gulf coast to provide medical care, to get in their helicopters and go rescue those people off those rooftops. States all across the country opened their doors to welcome Katrina survivors. Hospitals sent helicopters to the gulf coast to evacuate those who needed immediate attention. Doctors, nurses, and other health care providers have come together to provide much needed health care to thousands of Katrina survivors. And they did it all with no questions asked. They exemplify what it means to be a good neighbor and what it means to be a part of this American family.

Our own Arkansas Children's Hospital is one of the many hospitals around the country that immediately jumped into action to provide health care for Katrina survivors. Even before the worst of the storm hit, they were evacuating young patients to safety. One patient, in particular, was a 9-year old boy. Let me tell you, that hits home with me; I have twin boys who are 9 years old. This young man had a severe heart condition that required a complicated heart pump to be flown in from Germany. Arkansas Children's Hospital evacuated this child from Louisiana, and he received the necessary pump, saving this 9-year-old boy's life. Does that mean anything to anybody in this body? It meant something to his parents. And for once, we as a Senate should stand up and take notice.

Arkansas Children's Hospital did. And they have already provided $1.7 million in uncompensated care to Katrina survivors.

There are health care providers all around the country doing similarly inspiring work. In Arkansas, our pharmacists have been filling prescriptions as fast as they can, paying special attention to those who have chronic conditions or were in the middle of their cancer treatment. Senator BAUCUS mentioned one of those cancer patients.

Hospitals have deployed medical teams to approximately 60 camps and shelters around our great State to address the medical needs of these evacuees. I have always been proud of the people of Arkansas. I have always recognized them as our greatest asset. And I am enormously proud of the countless providers and volunteers in Arkansas and all around this great country who have given their time to make sure that the health care needs of Katrina survivors are met.

By passing the Emergency Health Care Relief Act, we in this Senate have the same opportunity to give Katrina survivors, health care providers and States, the relief they so desperately need.

We are not talking about walking away and closing the doors. We are talking about a temporary relief for people who jumped in there and provided care, without being asked, without being mandated, but because that is what human beings do when other human beings need that kind of care.

Medicaid is our Nation's health care safety net. That is what we are talking about, a safety net for some of the most vulnerable of Americans who have been hit by an unbelievable natural disaster. This crisis has shown just how important this safety net is to our Nation. We need to make sure it does not unravel in the face of this national emergency.

Our home State of Arkansas, per capita, has taken in unbelievably disproportionate numbers of evacuees—not because we had to, but we believe that is what it means to be a part of the American family.

This place is paralyzed because too few are willing to recognize how important it is to not only reach out to our neighbors but to also follow up and back up those who have been there in these emergencies, to provide the health care needed.

I said earlier that it hit home for me. While I was on vacation this summer, one of my 9-year-old sons did get sick. I was in a strange State, in a strange town, never been there before. I found a clinic, and I went. I was so grateful. I felt so blessed to have Federal employee health insurance, to be able to access health care for my child while on vacation. Think about the mothers, the fathers, the families, the elderly who find themselves in a strange place—in a church, a makeshift camp out of a church or maybe in a church basement or maybe in some evacuated housing that has been made a makeshift place for the evacuees to stay. What happens to them when they go to get health care? What happens to that provider who has to look them in the eye and say, I don't know where you are going to get health care. That is not what we are about in this country.

We talked about billions of dollars we have directed to FEMA. We have talked about tax cuts we provided to low-income people who may or may not even know if they can access those tax cuts. But here we are talking about the elemental part of being a good neighbor, a fellow human being, looking to make sure the essentials of providing health care to our brothers and sisters in this country, and we are going to sit here and twiddle our thumbs over redtape? We are going to talk about the possibility of waivers that would cause us to have to petition the devastated States to pay back or to look at these waivers that do not have the funding so we give them a false sense of security so they can provide these services and then find they do not get reimbursed after all?

What is our Federal Government for if it is not to provide a safety net at a time such as this, to give peace of mind to the hard-working men and women who provide health care day in and day out? I have been to these evacuee camps. I have watched the redtape. I have watched the Red Cross volunteers argue with the volunteering physicians and health care providers on whether they can even give a tetanus shot to somebody who had to swim out of New Orleans.

We have an opportunity to stand up and be counted, to provide temporary peace of mind to the medical providers who are reaching out to provide the much needed services to the disproportionately low-income, disproportionately disadvantaged and handicapped.

I offered an amendment almost 3 weeks ago. As the chairman mentioned, it probably did go a little bit further than what is being talked about here. I am not ashamed of that. But I didn't give away the barn. It was still temporary just to make sure that these evacuees, these fellow Americans, could get the services they need at the most vulnerable time of their lives. I was asked in good faith to withdraw my amendment because nobody wanted to vote against it. Withdraw your amendment and we will work out a good bipartisan deal. Chairman GRASSLEY and Senator BAUCUS did just that.

I say to my colleagues who want to object to what we are trying to do, if you have a better answer or you want to say of that $60 billion that every one of us voted for to go to FEMA, maybe you are willing to look to FEMA and make sure that happens. $8 billion out of $60 billion is a small piece of the overall pie.

I withdrew that amendment in good faith. I hope my colleagues will recognize that we are talking about the American spirit that I hope we produce in the Senate.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, what is the regular order?

The PRESIDING OFFICER. We are in morning business with 10-minute grants.

Mr. SUNUNU. Mr. President, I will respond in part in supporting my colleagues who objected. We do not object in any way to providing assistance where it is needed. We have already done so, passing $62 billion in new spending, $9 billion in tax relief. That is a very great core relief effort that is providing assistance to those very much in need in the Gulf Coast States and around the country.

The question and the point we object to is whether we consider this bill tonight by unanimous consent, an additional $9 billion in spending, several new programs, some of which do not really have anything to do directly with providing emergency assistance for health care or any other services to those people who need it in the Gulf States. That is the question, whether it is imperative we consider this bill now or whether we can move forward in a more deliberative fashion, and whether some of the elements in this bill can be improved.

As I said, we provided $62 billion in appropriations, $9 billion in tax relief. So at the very beginning of this discussion we have to ask, with over $40 billion still unexpended and uncommitted, why can't we use a portion of that to cover some of these important needs, some of the health care needs the Senator from Arkansas just described? I think that is one basic reason why I and others object to moving forward tonight on this bill. We ought to be able to find a way to utilize some of the $62 billion we have already passed through the House and the Senate.

Second, as I indicated, there is a provision in this legislation that changes reimbursement rates for Medicaid for 29 States, regardless of whether and how many displaced people from the gulf are currently housed in that State, currently seeking services in that State, currently looking for health care or employment in that State. For 29 States whose reimbursement rate was going to change in 2006, we wave the wand and say: No change to reimbursement rates regardless of how you might have been impacted by Hurricane Katrina or Hurricane Rita. That has nothing to do directly with providing the assistance, the compassion, the care, the health care the previous speakers were describing.

I question whether this is an appropriate vehicle to include such a provision. There is $1.5 billion for disaster relief in Medicaid—well intended, well directed. But currently CMS, the regulator of Medicaid, is allowing States to apply for waivers to deliver the very kinds of benefits contemplated in that $1.5 billion program. In fact, Texas and Mississippi and Florida and Alabama have already applied for and have received waivers to do those very things contemplated in the legislation, which begs the question, is this necessary? And if it is necessary in some shape or form, do we need to commit $1.5 billion, or can we wait and at least better understand how the waiver process is proceeding, which has been approved already in those four States? And I hope other States that might apply will get a similar fast response.

There is also $800 million in this legislation to provide assistance, financial support to individuals who are covered by private insurance, though indirectly that will provide payment to private insurance companies whose participants were affected by the hurricanes. I would want, first, to answer the question: What are those private insurers doing for the employees they had covered? Are they walking away from those employees and those businesses because they were affected by this tremendous natural catastrophe? I hope that is not the case. I do not know that is the case. But we ought to understand what obligations, what commitments these private insurers are meeting before we commit an additional $800 million that might allow them to walk away from some of their economic or moral obligations for those they have covered in the past.

So $1.5 billion in a disaster relief program that is already being addressed through the waiver process, $800 million in support for those covered by private insurance, and changes to reimbursement rates for 29 States, regardless of how they were or might have been impacted by these hurricanes—I think all of those items call into question both the structure and the timing of this legislation. I think we can do better.

I think there are a lot of questions as to how the $62 billion that has already been committed is being spent. Other Members have raised the question of working harder to find offsets so any additional spending will have a minimum impact on the deficit and the national debt, which is a challenge and a crisis we are all going to be faced with today and in future generations as well. We do not want to create a future economic catastrophe in our heartfelt efforts to deal with this natural disaster today.

There is no question that we need to provide assistance, that we should provide assistance, and that the House and Senate will continue to provide assistance, in all likelihood, in addition to the $62 billion we have already committed and the $9 billion in tax relief that has been added to that. But we need to work very hard to make sure we know how that money is being utilized. I think we should do everything in our power to allow some of those funds to be used for these critical health care costs. And we need to do much more to try to find ways to cover this additional spending so we do not increase the deficit and leave an unfortunate financial legacy for future generations.

I think my colleague's objection was warranted. I do not think being more deliberative in addressing this legislation and reviewing this legislation will hurt its efficacy and effectiveness in the long run. But I do think it will serve the public and the country much better in the long run to be as fiscally responsible as we possibly can in addressing these critical needs in the Gulf States.

I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OIL PRICES

Mr. DORGAN. Mr. President, I introduced a piece of legislation a few weeks ago with my colleagues, Senator DODD and Senator BOXER, dealing with the issue of a windfall profits tax on the major integrated oil companies in this country. The proceeds of this profits tax would be used to give rebates back to consumers who are now paying extraordinary prices to fill up the tank of their car and will be paying extraordinary prices this winter for things such as natural gas and home heating fuel.

Well, this proposal for a windfall profits tax in order to capture some of that windfall or excess profits and move it back to consumers has drawn a fair amount of criticism from, of course, one of the largest and wealthiest industries in our country. I expect that and understand that.

An op-ed piece this past weekend by James Glassman is typical of that. James Glassman is a fellow at the American Enterprise Institute, and he wrote an article that said:

Look, the free market is working. The markets are working, he says. He is very critical, of course, of the legislation I have introduced. "The markets are working."

Well, I decided I would bring this over. This is the James Glassman, by the way, who wrote the book in year 2000, "Dow 36000." He was predicting the Dow Jones Industrial Average was going to go to 36,000. It did not quite work so well. But among the pundits here in Washington, DC, there is no such thing as trying to track back to find out who is right or wrong, you just keep writing. The Dow at 36,000? Yeah?

The oil markets are working? Sure they are.

Let me show you what is happening with these markets.

First, this was in the Washington Post yesterday. It shows there is a 46-percent increase in the price of a gallon of gasoline for the crude oil producer since last September.

That is for the producers. It shows a 255-percent increase for refiners over the past year. Incidentally, in most cases these are the same companies. Because of the behemoth mergers of the 1990s, giant oil companies were formed. Many of these are integrated companies that do everything from pulling oil from the ground to putting it in the car.

What has happened? Well, let me give you some statistics.

The 10 largest oil companies earned revenues last year of over $1 trillion and had net profits of over $100 billion. These are last year's numbers. Exxon Mobil, the world's largest publicly traded oil company, earned more than $25 billion last year and spent $9.9 billion of it to buy back its stock. In addition, it has kept $18.5 billion in cash. Profits for the largest 10 oil companies jumped more than 30 percent last year over the year before.

Now, there is an exception to this, because these profits are going to look minuscule as compared to the profits they are getting this year. The price of oil has gone up another $30 a barrel. It is $30 a barrel above the record profits the major oil companies had last year.

So while people drive to the gas pump and pay through the nose, this notion of "fill 'er up" no longer just pertains to the gas tank on the car, it pertains to the treasuries of the major oil companies. And are they being filled up.

Now, what is happening with all of that money? Well, let me read a BusinessWeek article that says: "Why Isn't Big Oil Drilling More?" Interesting. One would expect, as Mr. Glassman argues: Gosh, if the oil companies can just get rich, they'll look for more oil. Everybody wins. Right?

BusinessWeek: "Why Isn't Big Oil Drilling More?"

Well, the answer in the article was:

> . . . by cutting the number of rivals, mergers have made it easier for them to get away with that reluctance to spend.
>
> Far from raising money to pursue opportunities, oil companies are paying down debt, buying back shares, and hoarding cash.
>
> Rather than developing new fields, oil giants have preferred to buy rivals—"drilling for oil on Wall Street," as they call it.

So you have a massive amount of money that is going to the treasuries of the big oil companies. And they are "drilling for oil on Wall Street."

Well, I have news for them. There ain't no oil on Wall Street. The megamergers of the 1990s, the creation of these behemoth organizations now have us in a situation where they are getting extraordinarily wealthy with, in my judgment, windfall or excess profits.

The American consumer is paying through the nose, and these companies are profiting beyond that which we have ever seen in corporate America.

Now, the Federal Trade Commission head says she doubts new laws dealing with profiteering would be effective. It is not surprising to me. The Federal Trade Commission, as a result of a provision I put in the new energy bill that was signed by the President, is required by law to investigate the pricing of oil and gas. But do any of us think this tiger without teeth called the Federal Trade Commission is very interested in doing that? No.

And if you wonder, take a look at the writer's article of 22 September 2005. Before they have even taken a hard look at all these things, the chairman of the Federal Trade Commission is taking the typical probusiness line.

Let me say this: The proposal we have offered for a windfall or excess profits tax, and using it to provide a rebate to consumers, is one that makes a lot of sense. This is not the old windfall profits tax of a couple decades ago.

This says: If the excess profits that integrated oil companies are getting for selling a barrel of oil above $40 are being invested back into the ground to develop the nation's energy supply or invested to build refineries, then they will not bear the burden of this recapture. Our proposal is simple: There will be no recapture and no tax if this windfall profit is being used to explore for more oil or to increase refinery capacity.

But I read to you the BusinessWeek article describing what they are doing. What are they doing? They are using this extra money to buy back their shares of stock, to pay down their debt, to hoard cash—in Exxon's case, in excess of $15 billion. Of course, that is a ready reserve with which to take a look at new companies to buy. That is the reference to "drilling for oil on Wall Street."

Well, I suppose there are many in this Congress, perhaps in this Senate, who share Mr. Glassman's views. After all, he comes from the American Enterprise Institute. They hand out a lot of paper and kill a lot of trees to dispense information here in the Senate about the market system. But there is no free market in oil. What you have with respect to oil are a few OPEC countries in the Middle East whose ministers sit around a big table and talk about production and price.

In addition to that, you now have behemoth oil companies that have the capability to exercise much more impact on market prices and supply. In addition to that, you have futures markets which are supposed to provide liquidity but which now are playgrounds for speculators. You have speculators. You have bigger oil companies. You have the OPEC countries. And we have free marketers talking about a free market? What are they smoking? There is no free market here.

What is happening is the American consumer is being taken advantage of. They are paying extraordinarily high prices for gasoline. While people go to the gas pump and put 15 gallons of gas in their tank, and pay $50 for it, and people this winter will have a 70-percent increase in natural gas prices for heating their home, we have some of the largest corporations in this country profiting in an unusual, unwarranted way.

I say simply this: If these oil companies are using those profits to find more oil, that is one thing. If they are not—and they are not; to wit, the article from BusinessWeek—then, in my judgment, some of that excess or windfall profit ought to be recaptured and sent back to consumers.

Let me say, my State produces oil. So I have some people in my State who are a little cranky about what I proposed. I do not aim to hurt the oil industry. If, in fact, there was a free market I would not be here. But it is also true that consumers in my State are bearing the pain.

Let me describe my consumers in North Dakota. We drive exactly twice as much per person as New Yorkers do. We use twice as much gasoline per person than the average New Yorker. Why is that the case? Well, in New York, if they are going to see an aunt or an uncle in New Jersey, it is a big trip. You pack an emergency kit. You go get your car serviced. You talk about it for several months and then drive 40 miles to see the relatives. That is a big deal out East.

Not in the Midwest, not in the northern Great Plains. Forty miles is nothing. People drive 200 miles one way for a meeting, and then drive 200 miles back in the same day. That is why in our part of the country, in a State such as North Dakota that is 10 times the size of the State of Massachusetts in land mass with 640,000 people spread out over that land mass—we drive twice as much as New Yorkers.

What does that mean? Well, when the price of gasoline doubles, it hurts us twice as much as it does those in States where they do not use gasoline as much as we do.

So I recognize the oil industry would like to keep all this going: $3, $3.50 a gallon. By the way, this all started before there was any hurricane. I saw on the news last night a sophisticated news report about all this, and it was linking the price of oil to the hurricanes. The fact is, the price of oil was up over $30 a barrel above last year's price—at which point you had record profits in the industry—long before Hurricane Katrina. So this is not about hurricanes.

The question is, will Congress care? Will Congress do something about it? We spend a lot of time on things that do not have much of an impact on the American people. I wonder if for a moment we can spend some time on something that does. There is a tendency around here to treat serious things way too lightly, and then to treat light things way too seriously. This is a serious issue. A whole lot of folks cannot afford to pay this. They cannot pay the cost of $3-a-gallon gasoline or have a 70-percent increase in natural gas prices or have a 40-percent increase in the price of home heating fuel to keep warm in the winter.

The question is, does Congress care? Does the Senate care? We will have people come here in blue suits saying: This is a free market. This is not a free market. Again, if this were a free market, I would not be on the floor talking about it. This is a market with clogged arteries, clogged in a manner that is horribly unfair to the average American, and clogged in a way that provides handsome profits, unparalleled profits, to the oil industry.

But let me say, once again, lest others misrepresent what we are proposing, if that industry is using these profits to find oil in the ground, or above ground on refineries to process oil, they would not be affected by a windfall profits tax. But if they are not—and they are not, in most cases—then they would bear the burden of a recapture of a portion of these windfall or excess profits, and they would be sent back to the consumers in this country, as a matter of basic fairness.

Mr. President, I yield the floor.

HONORING OUR ARMED FORCES

PRIVATE STAFF SERGEANT TRICIA LYNN JAMESON

Mr. NELSON of Nebraska. Madam President, I rise today to honor SSG Tricia Lynn Jameson of Omaha, NE.

SSG Tricia Lynn Jameson was a dedicated soldier serving in the National Guard for over 11 years. Originally born in Aurora, NE, she and her family moved to Omaha where Jameson became a 1989 graduate of Millard South High School. Jameson began her military career on July 11, 1994, joining the Army National Guard as a medic.

Staff Sergeant Jameson was the epitome of a selfless individual, always giving a hand to others. During a mission to the Treybul border crossing on the Iraqi-Jordan border on July 14, 2005, an improvised explosive device off the side of the road struck the M997 ambulance that she commanded. Staff Sergeant Jameson bravely lost her life in this attack, but she died as she lived, helping others no matter the risk to herself, as she was on her way to assist injured marines who had been wounded by an earlier device. Wanting to make a difference, Staff Sergeant Jameson was a volunteer in the 313th Medical Company, GA, in support of Operation Iraqi Freedom. She was promoted to sergeant first class posthumously.

Giving her life to save others and to the cause of freedom, Staff Sergeant Jameson was the finest example of courage. She is survived by her mother, Patricia, and brother, Robert, among many other friends, family, and fellow soldiers. I offer my heartfelt prayers and thoughts to Staff Sergeant Jameson's family. She made the ultimate and most courageous sacrifice to spread freedom and hope and to defend liberty. She was a person of incredible altruism, and both Americans and Nebraskans alike will not forget what she gave to our great Nation.

SERGEANT JASON T. PALMERTON

Mr. President, I rise today to honor SGT Jason T. Palmerton of Auburn, NE.

Sergeant Jason Palmerton had a desire to selflessly give his all to his country. Born in Hamburg, IA, but growing up in Auburn, NE, he graduated from Auburn High School in 1998. After several years doing mechanical maintenance in Lincoln, Palmerton decided to enlist in July of 2002, requesting to be in the most rigorously trained Special Forces Group. Six weeks ago, after nearly 3 years of training, Sergeant Palmerton became a Green Beret and was deployed to Afghanistan with his 12-man team.

At the age of 25, Sergeant Palmerton died on July 23, 2005, after sustaining bullet wounds on dismounted patrol during his service in Operation Enduring Freedom in Qal'eh-Yegaz, Afghanistan. He was a member of the 1st Battalion, 3rd Special Forces Group based out of Fort Bragg, NC. All Americans should honor Sergeant Palmerton's courage and patriotism as he aimed to become a highly trained Green Beret from his first days in boot camp, knowing both the difficulty and risk associated with the achievement. For the past 6 weeks, he continued to serve bravely in the unstable and dangerous environment of southern Afghanistan.

Sergeant Palmerton left behind his fiancée, Shelley Austin, parents, and numerous other friends, family, and fellow soldiers. I offer my sincere condolences and prayers to Sergeant Palmerton's family. He gave his life to save and honor the liberties of America, and his passion to achieve this end will long be remembered.

SGT Jason Palmerton's sacrifice is the essence of the American freedom and he fought to save that freedom for all Nebraskans and Americans alike.

THE PROMOTION OF MARINE CORPS GENERAL PETE PACE

Mr. LEAHY. Mr. President, General Peter Pace will soon become the next Chairman of the Joint Chiefs of Staff. There is no person more deserving of this honor and more ready to take on this awesome responsibility than General Pace, who has served the country with great distinction in the Marine Corps for almost four decades. I know the entire Senate joins me in congratulating him and in extending all best wishes as he assumes his new post as the primary military adviser to the Secretary of Defense and the President of the United States.

General Pace assumes the position at a difficult and a delicate time in our Nation's security situation. We are trying to bring political stability to Iraq, carrying out an intense counterinsurgency in a country rife with sectarian tensions and outright violence. The war in Iraq and ongoing operations in Afghanistan are placing enormous stress on our military's equipment, long-range planning, and, most importantly, its people. Our defense forces are also heavily engaged in the relief effort in the aftermath of Hurricanes Katrina and Rita. Active-Duty military personnel from each service are working closely with the National Guard to help Louisiana, Mississippi, and Texas to recover from these catastrophes.

Yet if there is any military officer who will help the Nation's leaders understand the possibilities and limitations of military power in this ever-shifting international landscape, and mobilize our capabilities to best effect, it is General Peter Pace. General Pace has an extraordinary background forged through his strength of character, sharpness of intellect, and generosity of heart. General Pace is also a straight-talker, always speaking clearly and thoughtfully. He is a consummate professional who will also serve as a true leader, adviser, and spokesperson for the Department of Defense.

The depth and strength of General Pace's qualities and capabilities also come from his real-world experiences. Born in Brooklyn and raised in Teaneck, NJ, General Pace was commissioned in 1967. Soon after his graduation from the U.S. Naval Academy, he embarked on his stellar career and service in the Marine Corps. He served heroically in Vietnam, where he earned a Bronze Star in the line of fire.

As he rose through the ranks, General Pace has commanded recruiting stations and infantry battalions. At each posting he has brought a strong sense of purpose, strength, and insight. He has also served as an executive officer and chief of staff to high level officers before becoming one himself. In the early 1990s, he was deputy commander of our Marines in Somalia. In every one of his postings, higher ranking officials have wisely recognized his talents and skills and sought to put them to use.

General Pace will become the first marine to serve as the Chairman of the Joint Chiefs of Staff, just as he was the first marine to become the Vice Chairman. As Vice Chairman, he served the President, Secretary of Defense Rumsfeld, and Chairman Richard Myers superbly, overseeing the often complicated military requirements process and ensuring that the enormous staff of the Joint Chiefs runs smoothly. As a member of the Joint Chiefs, he contributed his wide-ranging insights and knowledge, as this important group tackled crises like the attacks of September 11 and the war in Iraq.

General Pace is devoted to his family—his wife Lynne and two children, Peter and Tiffany Marie and my wife Marcelle and I have enjoyed the time we have spent with them. We know that part of the dignity and strength that the general will bring to this new position comes from that incredible and invaluable family support.

I know that the entire Senate is proud of General Pete Pace and the Senate, like me, will want to wish him warm congratulations, deep appreciation and all best wishes in his new position.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On June 1, 2004, a man was stabbed by three men outside his home in Seattle, WA. The apparent motivation for the attack was the man's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

BUDGET COMMITTEE SCORING OF H.R. 2528

Mr. GREGG. Mr. President, the pending military quality of life and Department of Veterans Affairs appropriations bill for fiscal year 2006, H.R. 2528, as reported by the Senate Committee on Appropriations provides $80.580 billion in budget authority and $78.070 billion in outlays in fiscal year 2006 for the Military Construction and the Department of Veterans Affairs programs. Of these totals, $36.198 billion in budget authority and $36.108 billion outlays are for mandatory programs in fiscal year 2006.

The bill provides total discretionary budget authority in fiscal year 2006 of $44.382 billion. This amount is $797 million above the President's request, at the 302(b) allocations adopted by the Senate, $40.8 billion below the House-passed bill, and $3.6 billion above fiscal year 2005 enacted levels.

I commend the distinguished chairman of the Appropriations Committee for bringing this legislation before the Senate, and I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2528, 2006 MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS

[Spending comparisons—Senate-reported bill (fiscal year 2006, $ millions)]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	44,382	36,198	80,580
Outlays	41,962	36,108	78,070
Senate 302(b) allocation:			
Budget authority	44,382	36,198	80,580
Outlays	41,962	36,108	78,070
2005 Enacted:			
Budget authority	40,772	36,995	77,767
Outlays	40,655	36,923	77,578
President's request:			
Budget authority	43,585	35,640	79,225
Outlays	41,370	35,570	76,940
House-passed bill:[1]			
Budget authority	85,158	35,640	120,798
Outlays	81,634	35,570	117,204
SENATE-REPORTED BILL COMPARED TO			
Senate 302(b) allocation:			
Budget authority	0	0	0
Outlays	0	0	0
2005 Enacted:			
Budget authority	3,610	-797	2,813
Outlays	1,307	-815	492
President's request:			
Budget authority	797	558	1,355
Outlays	592	538	1,130

[1] House and Senate bills having different jurisdictions.

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2006 budget through September 21, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the attached report excludes these amounts.

The estimates show that current level spending is under the budget resolution by $795.5 billion in budget authority and by $494.6 billion in outlays in 2006. Current level for revenues is $17.3 billion above the budget resolution in 2006.

This is my first report for fiscal year 2006.

I ask unanimous consent to have printed in the RECORD the attached letter and accompanying documentation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2006 budget and are current through September 21, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2006 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 of the report).

This is my first report for fiscal year 2006.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF SEPTEMBER 21, 2005

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over-under (−) resolution
On-Budget:			
Budget Authority	2,094.4	1,298.9	−795.5
Outlay	2,099.0	1,604.4	−494.6
Revenues	1,589.9	1,607.2	17.3
Off-Budget:			
Social Security Outlays	416.0	416.0	0
Social Security Revenues	604.8	604.8	0

Source: Congressional Budget Office.

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of $50 billion in budget authority and approximately $62.4 billion in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13, P.L. 109–61, P.L. 106–62, H.R. 3672, and H.R. 3768 (see footnote 1 on Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2006, AS OF SEPTEMBER 21, 2005

[In millions of dollars]

	Budget Authority	Outlays	Revenues
Enacted in Previous Sessions:			
Revenues	n.a.	n.a.	1,607,650
Permanents and other spending legislation	1,297,743	1,254,376	n.a.
Appropriation legislation	0	382,272	n.a.
Offsetting receipts	−479,872	−479,872	n.a.
Total, enacted in previous sessions:	817,871	1,156,776	1,607,650
Enacted This Session:			
Authorizing Legislation:			
TANF Extension Act of 2005 (P.L. 109–19)	148	165	0
An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of2005 (P.L. 109–39)	0	0	−1
Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (P.L. 109–53).	27	27	−3
Energy Policy Act of 2005 (P.L. 109–58)	141	231	−588
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109–59)	3,444	36	9
National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (P.L. 109–65).	2,000	2,000	0
Pell Grant Hurricane and Disaster Relief Act (P.L. 109–66)	2	2	0
TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68)	−4,965	105	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13) [2]	−39	−36	11
Interior Appropriations Act, 2006 (P.L. 109–54)	26,211	17,301	122
Legislative Branch Appropriations Act, 2006 (P.L. 109–55)	3,804	3,185	0
Total, enacted this session:	30,773	23,016	−450
Entitlements and mandatories:			
Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	450,207	424,587	n.a.
Total Current Level [1, 2]	1,298,851	1,604,379	1,607,200
Total Budget Resolution	2,144,384	2,161,420	1,589,892
Adjustment to budget resolution for emergency requirements [3]	−50,000	−62,424	n.a.
Adjusted Budget Resolution	2,094,384	2,098,996	n.a.
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	17,308
Current Level Under Adjusted Budget Resolution	795,533	494,617	n.a.

SOURCE: Congressional Budget Office.

NOTES: n.a. = not applicable, P.L. = Public Law.

[1] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement ofthe budget resolution. As a result, the current level excludes: $30,757 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13); $7,750 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–61); $21,841 million in outlays from the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–62); $200 million in budget authority and $245 million in outlays from the TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68); and −$3,191 million in revenues and $128 million in budget authority and outlays from the Katrina Emergency Tax Relief Act of 2005 (H.R. 3768).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[3] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2006, in the amount of $50,000 million in budget authority and $62,424 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13, P.L. 109–61 and P.L. 106–62 (see footnote 1 above), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

COMMEMORATING THE 250TH BIRTHDAY OF JOHN MARSHALL

Mr. ALLEN. Mr. President, I am pleased today to honor the birth of one of Virginia's and America's true citizen soldiers, statesmen, and most importantly jurists, the former Chief Justice of the United States, John Marshall.

The 250th commemoration of his birth over the weekend takes on special significance this week as the Senate prepares to confirm John Roberts as the 17th Chief Justice of the United States. He will replace Chief Justice William Rehnquist, whose decent, dedicated and principled leadership will be difficult to replace. I am confident that Judge Roberts will follow in the tradition of honorable service that was so evident in the work of former Chief Justices Rehnquist and Marshall.

John Marshall's legacy as a Federalist is truly remarkable, but what many people fail to address is his true love for a young America and the desire to see our country succeed and persevere for generations to come.

A native Virginian, from Germantown, he grew up with his parents Thomas and Mary Randolph Keith. His devotion to our Nation was ever present when the Revolutionary War began with the firing of the historic shots at Lexington and Concord. Like so many of his great countrymen, Marshall did not waver in spirit or succumb to fear; Marshall picked up arms against the tyrannical oppressive British Crown and defended the freedom and liberty that he envisioned for Virginians and other colonies.

At the young age of 20, Marshall joined the Culpeper Minute Men. He was chosen a lieutenant. Marshall proceeded to nobly fight in the battle of Great Bridge. In fact, while enduring the cold winter at Valley Forge, Marshall was General George Washington's chief legal officer and by the end of his military service, John Marshall was a brigadier general for the Second Brigade in the Virginia Militia.

After his valiant war service, Marshall returned to Virginia to study law under George Wythe at the College of William and Mary. He was admitted to Phi Beta Kappa and the Virginia Bar. Marshall's desire to practice in the courts and the court of appeals led him to the great capital city of Richmond. It is in Richmond where Marshall's political and judicial life began to flourish.

John Marshall became one of the leading attorneys defending Virginians in the United States District Court of Virginia, and as a consequence, he was selected to be the lead counsel in arguing the landmark case, Ware v. Hylton, in the 1796 term of the United States Supreme Court. This would be the only case that John Marshall would argue before the Nation's highest court and, ironically, he lost.

Like his legal career, Marshall saw success in politics. He held legislative office as a member of the Virginia House of Delegates, a member of the Governor's Council of State, and finally as a member of the United States House of Representatives. But one of his most important, yet often overlooked roles is his election to the Virginia convention that ratified the Federal Constitution. Marshall rose and delivered a very poignant speech on the role of the judiciary. This speech dispelled many of the fears of a Federal court system and truly defined his views on the proper function of government.

Nonetheless, John Marshall was not a boisterous individual. He refused many attempts by President Adams to appoint him to Federal office. But he accepted and served as a diplomatic envoy to France for President Adams as well as Adams' Secretary of State. It was his dedicated service as Secretary of State that led President Adams to appoint Marshall to the United States Supreme Court, where his legacy would endure.

We all know the landmark cases that John Marshall decided. From McCulloch v. Maryland to Gibbons v. Ogden. Marshall's contribution to the American judiciary system is ever present. But the case that truly enshrines his legacy is his ruling in Marbury v. Madison. In truth, what made this even more impressive was that Marbury was the very first case that the Supreme Court heard under the leadership of Chief Justice Marshall.

The Marshall Court's ruling in Marbury v. Madison has defined the role of the Supreme Court and its pivotal place in our system of checks and balances. Although the decision limited the power of the Supreme Court, it also served to establish the Court's authority to review the constitutionality of acts of Congress. The doctrine of judicial review became a fundamental principle of Constitutional law.

While I am a Jeffersonian who wishes to limit the reach and meddling of the Federal Government into the rights and prerogatives of the people and the States, I do believe these foundational Constitutional questions, debates, and decisions are noteworthy for the education of our present leaders and students. By commemorating historical figures such as John Marshall, we will help our young people better understand American history and what it means to be a citizen of the United States. One thing is certain: John Marshall deserves a prominent place in this Nation's history for his life of service and the impact he made on America even after death. It was, after all, Chief Justice Marshall's funeral that caused the famous crack in the Liberty Bell when it tolled for his procession in 1835. Indeed, John's Marshall's indelible mark in American lore came in many forms.

And so it is with great honor that I celebrate the birthday of one of our great citizen soldiers, statesmen, and Chief Justices. We should celebrate John Marshall's contribution to our country. His steadfast commitment to federalism helped define the role of the courts and may have ultimately preserved the delicate equilibrium of our Government. But what trumped his loyalty to the federalist way of life, was his love for his Nation and his desire to see America flourish into the great country that it is today.

I would like to take this opportunity to wish a happy birthday to Chief Justice John Marshall, who was born 250 years ago in the great Commonwealth of Virginia. May Virginia and America continue to be blessed with men and women of his unflinching character and spirit.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1761. A bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3978. A communication from the Coordinator, Forms Committee, Federal Election Commission, transmitting, pursuant to law, the report of revisions to FEC Form 5, FEC Form 6, and FEC Form 10; to the Committee on Rules and Administration.

EC–3979. A communication from the Employee Benefits Program Manager, Personal and Family Readiness Division, United States Marine Corps, transmitting, pursuant to law, the 2005 annual report for the Retirement Plan for Civilian Employees of the United States Marine Corps Personal and Family Readiness Division and Miscellaneous Nonappropriated Fund Instrumentalities; to the Committee on Homeland Security and Governmental Affairs.

EC–3980. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Revised Medical Criteria for Evaluating Impairments That Affect Multiple Body Systems" received on September 18, 2005; to the Committee on Finance.

EC–3981. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency and related measures blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 of March 6, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–3982. A communication from the Under Secretary, Emergency Preparedness and Response, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Texas as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–3983. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Mixed-Finance Development for Supportive Housing for the Elderly or Persons With Disabilities and Other Changes to 24 CFR Part 891" ((RIN2502–AH83)(FR–4725–F–02)) received on September 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3984. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, the report of a draft bill entitled "To

Rename Dayton Aviation Heritage National Historical Park in the State of Ohio as 'Wright Brothers-Dunbar National Historical Park'"; to the Committee on Energy and Natural Resources.

EC-3985. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, the Administration's International Energy Outlook 2005 (IEO2005); to the Committee on Energy and Natural Resources.

EC-3986. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's Year 2005 Inventory of Commercial Activities; to the Committee on Energy and Natural Resources.

EC-3987. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Fiscal Year 2005 Annual Report on Commercial Activities; to the Committee on Energy and Natural Resources.

EC-3988. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the general social, political, and economic conditions in the Republic of the Marshall Islands and the Federated States of Micronesia; to the Committee on Energy and Natural Resources.

EC-3989. A communication from the Chief Human Capital Officer, Office of Environmental Management, Department of Energy, transmitting, pursuant to law, the report of a confirmation in the position of Assistant Secretary for Environmental Management, received on September 21, 2005; to the Committee on Energy and Natural Resources.

EC-3990. A communication from the Chief Human Capital Officer Office of Congressional and Intergovernmental Affairs, Department of Energy, transmitting, pursuant to law, the report of a confirmation in the position of Assistant Secretary, Congressional and Intergovernmental Affairs, received on September 21, 2005; to the Committee on Energy and Natural Resources.

EC-3991. A communication from the Chairman, National Labor Relations Board, transmitting, pursuant to law, the Board's inventory of inherently governmental and commercial activities; to the Committee on Health, Education, Labor, and Pensions.

EC-3992. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Immunology and Microbiology Devices; Classification of Ribonucleic Acid Preanalytical Systems" (Docket No. 2005N-0263) received on August 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-3993. A communication from Acting Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Updating OSHA Standards Based on National Consensus Standards" (RIN1218-AC08) received on September 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 37. A bill to extend the special postage stamp for breast cancer research for 2 years (Rept. No. 109-140).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 1767. A bill to require the Federal Communications Commission to reevaluate the band plans for the upper 700 megaHertz band and the un-auctioned portions of the lower 700 megaHertz band and reconfigure them to include spectrum to be licensed for small geographic areas; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. ALLEN, Mr. GRASSLEY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 1768. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON):

S. 1769. A bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA (for himself, Mrs. MURRAY, Mr. CORZINE, Mr. KERRY, and Mr. LEVIN):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes; read the first time.

By Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND):

S. 1772. A bill to streamline the refinery permitting process and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1773. A bill to resolve certain Native American claims in New Mexico, and for other purposes; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. LEVIN):

S. Res. 251. A resolution expressing the sense of the Senate that the President should ensure that Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care; considered and agreed to.

ADDITIONAL COSPONSORS

S. 191

At the request of Mr. SMITH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 484

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 555

At the request of Mr. DEWINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 555, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 635

At the request of Mr. SANTORUM, the names of the Senator from Montana (Mr. BURNS), the Senator from Minnesota (Mr. DAYTON), the Senator from Arkansas (Mr. PRYOR) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 889

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 889, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 1081

At the request of Mr. KYL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1197

At the request of Mr. BIDEN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1269

At the request of Mr. INHOFE, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1269, a bill to amend the Federal Water Pollution Control Act to clarify certain activities the conduct of which does not require a permit.

S. 1272

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1319

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1319, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1360

At the request of Mr. SMITH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1403

At the request of Mr. WYDEN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1403, a bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under medicare.

S. 1418

At the request of Mr. ENZI, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1418, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1424

At the request of Mr. ENSIGN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1424, a bill to remove the restrictions on commercial air service at Love Field, Texas.

S. 1462

At the request of Mr. CORZINE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. 1523

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1523, a bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses.

S. 1700

At the request of Mr. COBURN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1716

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

S. 1735

At the request of Ms. CANTWELL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1750

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1750, a bill to provide for the issuance of certificates to Social Security beneficiaries who are born before 1950 guaranteeing their right to receive Social Security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment.

S. RES. 155

At the request of Mr. BROWNBACK, his name was added as a cosponsor of S. Res. 155, a resolution designating the week of November 6 through November 12, 2005, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 236

At the request of Mr. COLEMAN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

S. RES. 237

At the request of Mr. VOINOVICH, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Kansas (Mr. BROWNBACK), the Senator from California (Mrs. FEINSTEIN), the Senator from Virginia (Mr. ALLEN) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. Res. 237, a resolution expressing the sense of the Senate on reaching an agreement on the future status of Kosovo.

S. RES. 245

At the request of Mr. SCHUMER, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Res. 245, a resolution recognizing the life and accomplishments of Simon Wiesenthal.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 1767. A bill to require the Federal Communications Commission to reevaluate the band plans for the upper 700 megaHertz band and the un-auctioned portions of the lower 700 megaHertz band and reconfigure them to include spectrum to be licensed for small geographic areas; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today with the support of many of my colleagues on the Committee on Commerce, Science and Transportation to introduce legislation to encourage the deployment of next generation wireless services in rural areas. Cell phones have become a vital part of so many lives. Today, there are over 194 million wireless subscribers in the United States—a subscribership that continues to grow. I want to be sure we foster an environment where this technology and future wireless technologies can flourish.

Along with mobility, convenience and safety, cell phones today also have benefits of information access and entertainment. While wireless phones have been rapidly adopted by the general public, wireless service is far from being without flaws. I myself become frustrated while home in Maine when I cannot get cell phone and blackberry service. Something must be done in order to improve the wireless services that so many people rely on.

Wireless services, such as cell phones, wireless handheld devices and some Internet services utilize frequencies on the radio spectrum to transfer voice and data from one user to another. It is the job of the service provider to turn these airwaves into the valuable services that consumers demand. The quality of service in a given place depends on how much investment the service provider has put into infrastructure. More urban locations tend to have better service because the return on investment is much higher due to the concentration of customers. This does not mean that rural areas are left without service. Viable business models exist that can sustain service in these more remote locations. Oftentimes smaller, local wireless companies can serve these areas better than nationwide service providers.

One of the greatest barriers to entry in the wireless industry is acquiring a spectrum license in which a service can be operated. Companies bid up to billions of dollars for rights to one of Nation's most important resources. The digital television transition will soon release new spectrum into the marketplace. Currently, the Federal Communications Commission is slated to auction off the spectrum in licenses that cover large geographic areas. While this may be the preferred size for national wireless carriers, smaller companies will be unable to compete in the bidding process.

The bill I introduce today aims to address this problem by directing the Federal Communications Commission to reevaluate its current bandplan for the 700 MHz spectrum that will be auctioned as a result of the digital television transition. In this reevaluation, the FCC must divide some of the frequency allocations into smaller area licenses so that local and regional wireless companies can have an opportunity to compete in the bidding process. The proper balance of large and small licenses will encourage the deployment of advanced services throughout all parts of the United States.

This bill is not meant to circumvent the expertise of the Federal Communications Commission. It merely directs the FCC to use its expertise to develop a plan that will benefit the entire nation. Rural America deserves the same benefits of wireless technologies that are available in urban areas. This Act gives those best able to serve remote areas the tools needed to deploy services.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. ALLEN, Mr. GRASSLEY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 1768. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to introduce legislation that will give the public greater access to our Supreme Court. This bill requires the high Court to permit television coverage of its open sessions unless it decides by a vote of the majority of Justices that allowing such coverage in a particular case would violate the due process rights of one or more of the parties involved in the matter.

The purpose of this legislation is to open the Supreme Court doors so that more Americans can see the process by which the Court reaches critical decisions of law that affect this country and everyday Americans. Because the Supreme Court of the United States holds power to decide cutting-edge questions on public policy, thereby effectively becoming a virtual "super legislature," the public has a right to know what the Supreme Court is doing. And that right would be substantially enhanced by televising the oral arguments of the Court so that the public can see and hear the issues presented to the Court. With this information, the public would have insight into key issues and be better equipped to understand the impact of the Court's decisions.

In a very fundamental sense, televising the Supreme Court has been implicitly recognized—perhaps even sanctioned—in a 1980 decision by the Supreme Court of the United States entitled Richmond Newspapers v. Virginia. In this case, the Supreme Court noted that a public trial belongs not only to the accused, but to the public and the press as well; and that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, appears to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. I should note that the Court could, on its own motion, televise its proceedings but has chosen not to do so, which presents, in my view, the necessity for legislating on this subject.

When I argued the case of the Navy Yard, Dalton v. Specter, back in 1994, the Court proceedings were illustrated by an artist's drawings. Now, however, the public gets a substantial portion, if not most, of its information from television and the internet. While many court proceedings are broadcast routinely on television, the public has little access to the most important and highest court in this country. The public must either rely on the print media, or stand in long lines outside the Supreme Court in Washington DC in order to get a brief glimpse of the open session from the public gallery.

Justice Felix Frankfurter perhaps anticipated the day when Supreme Court arguments would be televised when he said that he longed for a day when: The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system.

When I spoke in favor of this legislation in September of 2000, I said, "I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process." Today, I believe the time has come and that this legislation is crucial to the public's awareness of Supreme Court proceedings and their impact on the daily lives of all Americans.

I pause to note that it was not until 1955 that the Supreme Court, under the leadership of Chief Justice Warren, first began permitting audio recordings of oral arguments. Between 1955 and 1993, there were apparently over 5,000 recorded arguments before the Supreme Court. That roughly translates to an average of about one hundred thirty two (132) arguments annually. But audio recordings are simply ill suited to capture the nuance of oral arguments and the sustained attention of the American citizenry. Nor is it any response that people who wish to see open sessions of the Supreme Court should come to the Capital and attend oral arguments. For, according to one source: Several million people each year visit Washington, D.C., and many thousands tour the White House and the Capital. But few have the chance to sit in the Supreme Court chamber and witness an entire oral argument. Most tourists are given just three minutes before they are shuttled out and a new group shuttled in. In cases that attract headlines, seats for the public are scarce and waiting lines are long. And the Court sits in open session less than two hundred hours each year. Television cameras and radio microphones are still banned from the chamber, and only a few hundred people at most can actually witness oral arguments. Protected by a marble wall from public access, the Supreme Court has long been the least understood of the three branches of our federal government.

In light of the increasing public desire for information, it seems untenable to continue excluding cameras from the courtroom of the Nation's highest court. As one legal commentator observes: An effective and legitimate way to satisfy America's curiosity about the Supreme Court's holdings, Justices, and modus operandi is to permit broadcast coverage of oral arguments and decision announcements from the courtroom itself.

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there is, in the views of many, simply a difference of opinion to what is preferable public policy, but the Court determines novel issues such as whether AIDS is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. The current Court, like its predecessors, hands down decisions which vitally affect the lives of all Americans. Since the Court's historic 1803 decision, Marbury v. Madison, the Supreme Court has the final authority on issues of enormous importance from birth to death. In Roe v. Wade (1973), the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment. In the case of Washington v. Glucksberg (1997), the court refused to create a similar right to assisted suicide. Here the Court held that the Due Process Clause does not recognize a liberty interest that includes a right to commit suicide with another's assistance.

In the seventies, the Court first struck down then upheld state statutes imposing the death penalty for certain crimes. In Furman v. Georgia (1972), the Court struck down Georgia's death penalty statute under the cruel and unusual punishment clause of the Eighth Amendment and stated that no death penalty law could pass constitutional muster unless it took aggravating and mitigating circumstances into account. This decision led Georgia and many states to amend their death penalty statutes and, four years later, in Gregg v. Georgia (1976), the Supreme Court upheld Georgia's amended death penalty statute.

Over the years, the Court has also played a major role in issues of war and peace. In its opinion in Scott v. Sanford (1857)—better known as the Dredd Scott decision—the Supreme Court held that Dredd Scott, a slave who had been taken into "free" territory by his owner, was nevertheless still a slave. The Court further held that Congress lacked the power to abolish slavery in certain territories, thereby invalidating the careful balance that had been worked out between the North and the South on the issue. Historians have noted that this opinion fanned the flames that led to the Civil War.

The Supreme Court has also ensured adherence to the Constitution during more recent conflicts. Prominent opponents of the Vietnam War repeatedly petitioned the Court to declare the Presidential action unconstitutional on the grounds that Congress had never given the President a declaration of war. The Court decided to leave this conflict in the political arena and repeatedly refused to grant writs of certiorari to hear these cases. This prompted Justice Douglas, sometimes accompanied by Justices Stewart and Harlan, to take the unusual step of writing lengthy dissents to the denials of cert.

In New York Times Co. v. United States (1971)—the so called "Pentagon Papers" case—the Court refused to grant the government prior restraint to prevent the New York Times from publishing leaked Defense Department documents which revealed damaging information about the Johnson Administration and the war effort. The publication of these documents by the New York Times is believed to have helped move public opinion against the war.

In its landmark civil rights opinions, the Supreme Court took the lead in effecting needed social change, helping us to address fundamental questions about our society in the courts rather than in the streets. In Brown v. Board of Education, the Court struck down the principle of "separate but equal" education for blacks and whites and integrated public education in this country. This case was then followed by a series of civil rights cases which enforced the concept of integration and full equality for all citizens of this country, including Garner v. Louisiana, 1961, Burton v. Wilmington Parking Authority, 1961, and Peterson v. City of Greenville, 1963.

In recent years Marbury, Dred Scott, Furman, New York Times, and Roe, familiar names in the lexicon of lawyerly discussions concerning watershed Supreme Court precedents, have been joined with similarly important cases like Hamdi, Rasul and Roper all cases that affect fundamental individual rights. In Hamdi v. Rumsfeld, 2004, the Court concluded that although Congress authorized the detention of combatants, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker. The Court reaffirmed the nation's commitment to constitutional principles even during times of war and uncertainty. Similarly, in Rasul v. Bush, 2004, the Court held that the federal habeas statute gave district courts jurisdiction to hear challenges of aliens held at Guantanamo Bay, Cuba in the U.S. War on Terrorism. Earlier this year in Roper v. Simmons, 2005, the Court held that executions of individuals who were under 18 years of age at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments.

In June of this year, the Supreme Court issued Kelo v. City of New London, 2005, a highly controversial opinion in which a majority of the justices held that a city's exercise of eminent domain power in furtherance of an economic development plan satisfied the Constitution's Fifth Amendment "public use" requirement despite the absence of any blight. Moreover, on June 27, 2005, the High Court issued two rulings regarding the public display of the Ten Commandments. Each opinion was backed by a different coalition of four, with Justice Breyer as the swing vote. The only discernible rule seems to be that the Ten Commandments may be displayed outside a public courthouse, Van Orden v. Perry, but not inside (McCreary County v. American Civil Liberties Union) and may be displayed with other documents, but not alone. In Van Orden v. Perry, the Supreme Court permitted a display of the Ten Commandments to remain on the grounds outside the Texas State Capitol. However, in McCreary County v. ACLU, a bare majority of Supreme Court Justices ruled that two Kentucky counties violated the Establishment Clause by erecting displays of the Ten Commandments indoors for the purpose of advancing religion. While the multiple concurring and dissenting opinions in these cases serve to explain some of the confounding differences in outcomes, it would have been extraordinarily fruitful for the American public to watch the Justices as they grappled with these issues during oral arguments that, presumably, reveal much more of their deliberative processes than mere text.

Irrespective of ones view concerning the merits of these decisions, it is clear beyond cavil that they have a profound effect on the interplay between the government, on the one hand, and the individual on the other. So, it is with these watershed decisions in mind that I introduce legislation designed to make the Supreme Court less esoteric and more accessible to common men and women who are so clearly affected by its decisions.

When deciding issues of such great national import, the Supreme Court is rarely unanimous. In fact, a large number of seminal Supreme Court decisions have been reached through a vote of 5-4. Such a close margin reveals that these decisions are far from foregone conclusions distilled from the meaning of the Constitution and legal precedents. On the contrary, these major Supreme Court opinions embody critical decisions reached on the basis of the preferences and views of each individual justice. In a case that is decided by a vote of 5-4, an individual justice has the power by his or her vote to change the law of the land.

Some would argue that the Court has even played a significant role in deciding political contests as well. Who can forget the Court's dramatic decision in Bush v. Gore that enabled the country to move on from a bitterly fought presidential race. That decision, with its enormous repercussions for the Nation, cried out for greater public scrutiny of the process by which the Justices heard arguments and all but decided the fate of the 2000 presidential race.

Given the enormous significance of each vote cast by each Justice on the Supreme Court, televising the proceedings of the Supreme Court will allow sunlight to shine brightly on these proceedings and ensure greater public awareness and scrutiny.

In a democracy, the workings of the government at all levels should be open to public view. With respect to oral arguments, the more openness and the more real the opportunity for public observation the greater the understanding and trust. As the Supreme Court observed in the 1986 case of Press-Enterprise Co. v. Superior Court, "People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing."

It was in this spirit that the House of Representatives opened its deliberations to meaningful public observation by allowing C-SPAN to begin televising debates in the House chamber in 1979. The Senate followed the House's lead in 1986 by voting to allow television coverage of the Senate floor.

Beyond this general policy preference for openness, however, there is a strong argument that the Constitution requires that television cameras be permitted in the Supreme Court.

It is well established that the Constitution guarantees access to judicial proceedings to the press and the public. In 1980, the Supreme Court relied on this tradition when it held in Richmond Newspapers v. Virginia that the right of a public trial belongs not just to the accused, but to the public and the press as well. The Court noted that such openness has "long been recognized as an indisputable attribute of an Anglo-American trial."

Recognizing that in modern society most people cannot physically attend trials, the Court specifically addressed the need for access by members of the media: Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as surrogates for the public. [Media presence] contributes to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system.

To be sure, a strong argument can be made that forbidding television cameras in the court, while permitting access to print and other media, constitutes an impermissible discrimination against one type of media over another. In recent years, the Supreme Court and lower courts have repeatedly held that differential treatment of different media is impermissible under the First Amendment absent an overriding governmental interest. For example, in 1983 the Court invalidated discriminatory tax schemes imposed only upon certain types of media in Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue. In the 1977 case of ABC v. Cuomo, the Second Circuit rejected the contention by the two candidates for mayor of New York that they could exclude some members of the media from their campaign headquarters by providing access through invitation only. The Court wrote that: Once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable.

In the 1965 case of Estes v. Texas, the Supreme Court rejected the argument that the denial of television coverage of trials violates the equal protection clause. In the same opinion, the Court held that the presence of television cameras in the Court had violated a Texas defendant's right to due process. Subsequent opinions have cast serious doubt upon the continuing relevance of both prongs of the Estes opinion.

In its 1981 opinion in Chandler v. Florida, the court recognized that Estes must be read narrowly in light of the state of television technology at that time. The television coverage of Estes' 1962 trial required cumbersome equipment, numerous additional microphones, yards of new cables, distracting lighting, and numerous technicians present in the courtroom. In contrast, the court noted, television coverage in 1980 can be achieved through the presence of one or two discreetly placed cameras without making any perceptible change in the atmosphere of the courtroom. Accordingly, the Court held that, despite Estes, the presence of television cameras in a Florida trial was not a violation of the rights of the defendants in that case. By the same logic, the holding in Estes that exclusion of television cameras from the courts did not violate the equal protection clause must be revisited in light of the dramatically different nature of television coverage today.

Given the strength of these arguments, it is not surprising that over the last two decades there has been a rapidly growing acceptance of cameras in American courtrooms which has reached almost every court except for the Supreme Court itself. Ironically, it was the Chandler decision which helped spur the spread of television cameras in the courts. Shortly after Chandler, the American Bar Association revised its canons to permit judges to authorize televising civil and criminal proceedings in their courts.

Following the green lights provided by the Supreme Court and the ABA, nearly all the States have decided to permit electronic coverage of at least some portion of their judicial proceedings. In 1990, the Federal Judicial Conference authorized a three-year pilot program allowing television coverage of civil proceedings in six federal district courts and two federal circuit courts. The program began in July, 1991, and ran through December 31, 1994. The Federal Judicial Center monitored the program and issued a positive final evaluation. In particular, the Judicial Center concluded that: Overall, attitudes of judges toward electronic media coverage of civil proceedings were initially neutral and became more favorable after experience under the pilot program.

The Judicial Center also concluded that: Judges and attorneys who had experience with electronic media coverage under the program generally reported observing small or no effects of camera presence on participants in the proceedings, courtroom decorum, or the administration of justice.

Despite this positive evaluation, the Judicial Conference voted in September 1994, to end the experiment and not to extend the camera coverage to all courts. This decision was made in the aftermath of the initial burst of television coverage of O.J. Simpson's pretrial hearing. Some have argued that the decision was unduly influenced by this outside event. In March 1996, the Judicial Conference revisited the issue of television cameras in the federal courts and voted to permit each Federal court of appeals to "decide for itself whether to permit the taking of photographs and radio and television coverage of appellate arguments." Since that time, two circuit courts have enacted rules permitting television coverage of their arguments. It is significant to note that these two circuits were the two circuits which participated in the federal experiment with television cameras a few years earlier. It seems that once judges have an experience with cameras in their courtroom, they no longer oppose the idea.

On September 6, 2000, the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts held a hearing titled "Allowing Cameras and Electronic Media in the Courtroom." The primary focus of the hearing was Senate bill S. 721, legislation introduced by Senators GRASSLEY and SCHUMER that would give Federal judges the discretion to allow television coverage of court proceedings. One of the witnesses at the hearing, Judge Edward Becker, Chief Judge U.S. Court of Appeals for the Third Circuit, spoke in opposition to the legislation and the presence of television cameras in the courtroom. The remaining five witnesses, however, including a Federal judge, a State judge, a law professor and other legal experts, all testified in favor of the legislation. They argued that cameras in the courts would not disrupt proceedings but would provide the kind of accountability and access that is fundamental to our system of government.

In my judgment, Congress, with the concurrence of the President, or overriding his veto, has the authority to require the Supreme Court to televise its proceedings. Such a conclusion is not free from doubt and is highly likely to be tested with the Supreme Court, as usual, having the final word. As I see it, there is clearly no constitutional prohibition against such legislation.

Article 3 of the Constitution states that the judicial power of the United States shall be vested "in one Supreme Court and such inferior Courts as the Congress may from time to time ordain and establish." While the Constitution specifically creates the Supreme Court, it left it to Congress to determine how the Court would operate. For example, it was Congress that fixed the number of justices on the Supreme Court at nine. Likewise, it was Congress that decided that any six of these justices are sufficient to constitute a quorum of the Court. It was Congress that decided that the term of the Court shall commence on the first Monday in October of each year, and it was Congress that determined the procedures to be followed whenever the Chief Justice is unable to perform the duties of his office.

Beyond such basic structural and operational matters, Congress also controls more substantive aspects of the Supreme Court. Most importantly, it is Congress that in effect determines the appellate jurisdiction of the Supreme Court. Although the Constitution itself sets out the appellate jurisdiction of the Court, it provides that such jurisdiction exist "with such exceptions and under such regulations as the Congress shall make." In the early days of the Supreme Court, Chief Justice Marshall, writing for the Court in Durousseau v. United States, recognized that the power to make exceptions to the Court's jurisdiction is the equivalent of the power to grant jurisdiction, since exceptions can be "implied from the intent manifested by the affirmative description [of jurisdiction]."

The Supreme Court recognized the power of Congress to control its appellate jurisdiction in a dramatic way in the famous 1868 case of Ex Parte McCardle. In this case, McCardle, a newspaper editor, was being held in custody by the military for trial on charges stemming from the publication of articles alleged to be libelous and incendiary. McCardle petitioned the Supreme Court for a writ of habeas corpus. The Court heard his case but, before it rendered its opinion, Congress repealed the statute that gave the Supreme Court jurisdiction to hear the habeas appeal. In light of this Congressional action, the Supreme Court felt compelled to dismiss the case for lack of jurisdiction.

Some objections have been raised to televised proceedings of the Supreme Court on the ground that it would subject justices to undue security risks. My own view is such concerns are vastly overstated. Well-known members of Congress, walk on a regular basis in public view in the Capitol complex. Other very well-known personalities, presidents, vice presidents, cabinet officers, all are on public view with even incumbent presidents exposed to risks as they mingle with the public. Such risks are minimal in my view given the relatively minor exposure that Supreme Court justices would undertake through television appearances.

As I explained earlier, the Supreme Court could, of course, permit television through its own rule but has decided not to do so. Congress should be circumspect and even hesitant to impose a rule mandating the televising of Supreme Court proceedings and should do so only in the face of compelling public policy reasons. The Supreme Court has such a dominant role in key decision-making functions that their proceedings ought to be better known to the public; and, in the absence of Court rule, public policy would be best served by enactment of legislation requiring the televising of Supreme Court proceedings.

This legislation embodies sound policy and will prove valuable to the public. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objective, the bill was ordered to be printed in the RECORD, as follows:

S. 1768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

"§ 678. Televising Supreme Court proceedings

"The Supreme Court shall permit television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

"678. Televising Supreme Court proceedings.".

Mr. LEAHY. I am pleased to join Senator SPECTER as a cosponsor of this bill that would require the televising of Supreme Court proceedings.

In the Senate Judiciary Committee, we recently conducted open hearings on the nomination of John G. Roberts to be Chief Justice of the United States. We raised this matter with Judge Roberts. I have long believed in sunshine in government. Our democracy works best when our citizens have access to their government. I have supported efforts to make all three branches of our Federal Government more accessible. Except for rare closed sessions, the proceedings Congress and its committees are open to the public and carried live on cable television and radio. In addition, Members and committees are using the Internet and Web sites to make their work available to their constituencies and the general public.

The work of executive branch agencies is subject to public scrutiny through the Freedom of Information Act, among other mechanisms. Despite the current administration's dramatic shift toward excessive secrecy, the Freedom of Information Act remains a cornerstone of democracy. It establishes the right of Americans to know what their government is doing—or not doing. As President Johnson said in 1966, when he signed the Freedom of Information Act into law:

> This legislation springs from one of our most essential principles: A democracy works best when the people have all the information the security of the Nation permits.

Although most judicial proceedings are open to those who can travel to the courthouse and wait in line, emerging technology allows the opportunity to invite the rest of the country into the courtroom. All 50 States have allowed some form of audio or video coverage of court proceedings, but Federal courts lag behind. Previously, I have cosponsored several bills with Senator GRASSLEY to address this, including the Sunshine in the Courtroom Act of 2005.

The legislation I am cosponsoring today extends the tradition of openness to the Nation's highest Court and can help Americans be better informed about the important decisions that are made there and how they are made. This bill requires the Supreme Court to permit television coverage of all open sessions of the Court. At the same time, it protects the parties from violation of their due process rights by permitting a majority of the Justices to suspend this coverage for a particular session if due process requires.

In 1994, the Judicial Conference concluded that the time was not ripe to permit cameras in the Federal courts, and rejected a recommendation of the Court Administration and Case Management Committee to authorize the photographing, recording, and broadcasting of civil proceedings in Federal trial and appellate courts.

The Supreme Court is often the final arbiter of constitutional questions and represents the ultimate protection of individual rights and liberties. Allowing the public greater access to its public proceedings will allow Americans to evaluate for themselves the quality of justice in this country, and deepen their understanding of the work that goes on in the Court.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON):

S. 1769. A bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce a bill to provide solutions to the health care challenges wrought by Hurricane Katrina. As chairman of the Committee on Health, Education, Labor, and Pensions, I am proud to be joined by my friend Senator KENNEDY, the ranking minority member of the committee, in introducing this legislation. I am also honored that several fellow committee members are sponsoring this bill as well, including Senators ALEXANDER, DODD, BURR, MIKULSKI, DEWINE, and CLINTON. This bill is truly committee product in the best sense of the term.

We are introducing this legislation in response to the information that has been shared with us from a variety of sources. Some of the provisions of this bill were added as a result of the testimony that we received during a roundtable discussion before the Committee on Health, Education, Labor and Pensions. Others spring from the suggestions that were forwarded to us or were posted on our committee's Web site. Others came from our discussions with local, State and Federal officials who shared their firsthand knowledge and experience with us. Still others were added as a result of our visit to the area. This legislation will not accomplish everything that must be done, but it will provide another valuable step in the effort to provide a comprehensive package to address the needs of those whose lives were forever changed by the wrath of Hurricane Katrina.

Just a few days ago, several of my colleagues and I traveled to the New Orleans area to see the damage that was done by the storm for ourselves. I don't think any of us were fully prepared for what we saw. As startling as the images were that we had seen in the paper and on television, they didn't fully portray what had happened and the reality that confronted us on the ground. The devastation that the storm had brought to the lives of those who lived there was readily apparent. It was a tragedy that was even worse than any of us had thought was possible. It will not be easy to use the limited resources we have at our disposal to meet the almost unlimited need, but we are all determined to try.

Nationwide, there are people from the gulf coast region spread throughout the country who have had to rely on the kindness and goodwill of people they have never met before. Wyoming and so many other States have welcomed these people with open arms and open hearts. Seeing so many Americans, from all walks of life, respond as they have and reach out to other Americans in need, gives me a clearer picture than I have ever seen before of what is right with America. It is a scene that gives me confidence that we will be able to rebuild what was lost and breathe new life into the communities that were devastated by the storm.

Now, here in Congress, we will continue to do our part, and one of the most important things we can do is to assure mothers and fathers all over the country that the health care needs of their family will be met, that they will not have to go without or navigate through a complex bureaucracy to get the care they need, and that their Federal Government has the necessary authority to respond to this crisis.

The Public Health and Health Insurance Emergency Response Act of 2005 will strengthen and improve America's ability to address the ongoing public health and mental health needs faced by the hundreds of thousands of people displaced by Hurricane Katrina. It will also help those evacuees and their employers continue to afford their health insurance premiums as they put their lives and their businesses back together.

As we know, the public health emergency created by Hurricane Katrina will take months to resolve. That means we need to cut whatever Federal redtape might stand in the way of a long-term public health recovery effort.

In this legislation, therefore, we strengthen the authority of the Secretary of Health and Human Services to waive laws that hinder the fullest possible response to a major disaster like Hurricane Katrina. These laws include vaccination eligibility laws and requirements related to State and local matching funds, as well laws that limit the Secretary's flexibility in designating health professional shortage areas.

To ensure a comprehensive public health response in the months ahead, this · critical legislation facilitates long-term Federal-State cooperation and coordination in a public health emergency, and assists with expanding and strengthening the health care safety net by increasing access to and resources for sites at which people displaced by Hurricane Katrina can receive primary and preventive care. It ensures immediate availability of mental health funding in the event of major disasters by directing special emergency mental health funding to affected areas, and directs additional outreach and assistance to individuals with disabilities, including funds to States during an emergency to ensure that individuals with disabilities have access to advocacy and support services.

Additionally, the bill we are introducing today clarifies appropriate protocols for emergency response by requiring additional data collection and analysis for use in this and future responses to major disasters.

Finally, my committee has also worked diligently to create a solution to another crisis created by Hurricane Katrina. This devastating natural disaster has changed lives and disrupted businesses all across the gulf coast of Louisiana, Mississippi, and Alabama. Families and employers are going to need our help getting the basic necessities of food, water, shelter, and clothing while they decide how to move forward and rebuild their lives and livelihoods.

Hundreds of thousands of the gulf coast evacuees have health insurance that they purchased on their own or that their employer provided and funded. Many of these people are now without a job, and many of these businesses are hanging on as they clean up and wait for their customers to return to the region. Some people have lost almost everything they owned, and now they are in danger of losing their health insurance if they can't pay their premiums.

Congress can and will help them. The bill we are introducing will provide short-term premium relief to people displaced by Hurricane Katrina so they can keep their private health insurance.

Under this bill, the Department of Health and Human Services, in consultation with State insurance commissioners, will administer a program to provide 3 months of health insurance premium relief to individuals who have purchased their own policies, and to small businesses and their employees. Such individuals and businesses will be eligible if, as of the date of the hurricane, they held health insurance in counties federally designated major disaster areas and their ability to pay premiums has been severely disrupted. Enrollment in the program will occur automatically upon either nonpayment of premiums or if communication to an insurer or policyholder indicates distress.

To facilitate swift enrollment, there is no prospective application process. However, the program does provide for a retrospective randomized audit process, whereby HHS may retroactively seek collection of premium assistance if such assistance was made in error.

To complete this short-term protection for those individuals and businesses affected by Hurricane Katrina, the bill will prohibit insurers from canceling policies or raising rates during the 3-month emergency period.

The Public Health and Health Insurance Emergency Response Act of 2005 will provide immediate health insurance premium relief for individuals and businesses affected by Hurricane Katrina, and provide the Federal Government the authority it needs to respond effectively to the public health needs of people displaced by this terrible disaster.

After we pass this bill, our work in response to Hurricane Katrina is not over. This is our emergency response. In the upcoming months, working with Senator Burr, the chairman of our Subcommittee on Bioterrorism and Public Health Preparedness, and my other committee colleagues. I want to examine fully our preparedness and response capabilities as they relate to public health, mental health, and health care. I also want to focus on how best to rebuild the critical health care and public health infrastructure that was destroyed as a result of Hurricane Katrina.

These are some of the long-term challenges we must tackle. But in the short term, we must address the immediate needs and emergent challenges imposed by Hurricane Katrina. I urge my colleagues to join me as sponsors of the Public Health and Health Insurance Emergency Response Act of 2005, and I look forward to seeing the Senate pass this bill in the very near future.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Health and Health Insurance Emergency Response Act of 2005".

TITLE I—CLARIFICATION OF A PUBLIC HEALTH EMERGENCY

SEC. 101. MODIFICATION TO THE DEFINITION OF PUBLIC HEALTH EMERGENCY.

Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended—

(1) in subsection (a), by inserting before the last sentence, the following: "Any determination under this section shall specify the geographic area with respect to which such determination applies."; and

(2) by striking subsection (d) and inserting the following:

"(d) Statutory Waiver.—

"(1) In general.—Notwithstanding any other provision of this Act, if the Secretary declares a public health emergency pursuant to subsection (a), the Secretary may waive the following statutory requirements:

"(A) Reporting or administrative requirements.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data, reports, or other materials, or for the completion of other administrative tasks required under any law administered by the Secretary, the Secretary may grant such extensions of such deadlines as the circumstances may reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply.

"(B) Vaccinations.—With respect to section 317 of this Act and section 1928 of the Social Security Act, the Secretary may waive requirements related to the eligibility of adults and children for participation in the program for those in an area with respect to which the Secretary has declared a public health emergency during the period of such declaration.

"(C) Extension of availability of funds.—If, as a result of a public health emergency declared pursuant to subsection (a), the Secretary determines that the Secretary is unable to obligate funds for a particular fiscal year, such funds shall remain available for an additional 180 days.

"(D) Matching requirements.—In any case in which the Secretary determines that an entity in an area with respect to which the Secretary has declared a public health emergency pursuant to subsection (a) is unable to provide funds required as a condition of Federal matching under any provision of the Public Health Service Act, the Secretary may grant a waiver of such funding requirement for the fiscal years covered by such emergency declaration. To the extent that additional amounts have been appropriated for programs that have received a waiver under this subparagraph as a result of Hurricane Katrina, the Secretary may make such additional amounts available to entities on a pro rata basis.

"(E) Mobilizing resources to provide access.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may deem such area as a health professional shortage area (as defined under section 332(a)), a medically underserved population (as defined under section 330(b)(3)), or a medically underserved area or community during the period of such declaration.

"(e) Licensing and Liability Provisions.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may waive the application of licensing requirements applicable to physicians and other health care professionals who are volunteering to provide medical services (within their scope of practice) within such area as part of a coordinated emergency response if such physicians or health care professionals have equivalent licensing in good standing in another State and are not affirmatively excluded from practice in that State or in any State a part of which is included in the designated public health emergency area. A physician or other health care professional described in section 2811(d)(1) shall be covered by the provisions of section 2811(d)(2), including with respect to liability.

"(f) FDA Waiver Authority.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may—

"(1) waive the requirements in the second sentence of section 304(h)(1)(B) of the Federal Food, Drug, and Cosmetic Act;

"(2) waive the requirement of section 304(h)(2) of such Act that limits the administrative detention of foods to not more than 30 days; and

"(3) waive the requirement of section 304(h)(4)(A) of such Act relating to the timing of an opportunity for an informal hearing upon the appeal of a detention order.

Under paragraph (1), the Secretary may not waive the requirements of sections 1.392 or 1.393 of title 21, Code of Federal Regulations, or any successor regulations thereto.

"(g) Report.—Not later than 2 days after granting any waiver under subsection (d), (e), or (f), the Secretary shall notify the appropriate committees of Congress of such action. The Secretary shall publish in the Federal Register a notice of such waiver in a timely manner. Such notification shall include, if applicable—

"(1) the specific provisions of law to be waived or modified;

"(2) the rationale for such waiver or modification;

"(3) the geographic area in which the waiver or modification will apply; and

"(4) the period of time, not to exceed the period of the emergency, for which the waiver or modification will be in effect.

"(h) Authority for Retroactive Application.—A waiver or modification described in subsections (d), (e), and (f), at the discretion of the Secretary, may be made retroactive to the beginning of the emergency period or any subsequent date in such period as specified by the Secretary.".

SEC. 102. SENSE OF CONGRESS CONCERNING THE HURRICANE KATRINA-RELATED PUBLIC HEALTH EMERGENCY.

It is the sense of Congress that—

(1) with respect to the public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d) resulting from Hurricane Katrina, the Secretary of Health and Human Services, in coordination with other Federal entities (including the Federal Emergency Management Association, the Department of Defense, the Department of Veterans' Affairs, Environmental Protection Agency, and the National Disaster Medical System), State and local governments, and public and private sector entities, where appropriate, should ensure the following:

(A) grants and funding should be provided to address ongoing emergency responses and recovery;

(B) the provision of health services including medical specialty services, health-related social services including protection and advocacy services, other appropriate human services, and appropriate auxiliary services to respond to the needs of the survivors of the public health emergency;

(C) clinicians deployed as part of the emergency response efforts who are licensed and certified within their respective State and in good standing within their State should be afforded appropriate liability protections;

(D) clinicians deployed as part of the emergency response who are licensed or otherwise certified in their respective State and in good standing within their State should not need to fulfill additional licensure or certification requirements in areas declared to be part of a public health emergency;

(E) individuals within the public health emergency areas should be able to access quality mental health and substance abuse services including services to reduce and identify individuals at risk of suicide and post-traumatic stress disorder and provide appropriate interventions;

(F) environmental teams should be deployed to provide assessments and environmental controls for areas within the public health emergency;

(G) social services, including protection and advocacy services and access to domestic violence shelters, should be extended to those within the public health emergency areas;

(H) communication resources should be available to those displaced by the hurricane including access to 2-1-1 call centers;

(I) support services including supports, equipment, supplies, medications, and other types of assistance (such as those provided through the Developmental Disabilities Assistance and Bill of Rights Act of 2000) should be available to vulnerable populations including the elderly and individuals with disabilities;

(J) real time electronic surveillance, diagnosis, and treatment of epidemic, re-emerging, and emerging diseases, including a functioning diagnostic laboratory, should be provided for those dislocated as a result of Hurricane Katrina and first-responders;

(K) funding should be provided to help healthcare facilities, medical research facilities, community health centers, and other essential public health and health care infrastructure components to assist them in the ongoing response efforts, to clean up their facilities, or to rebuild;

(L) coordination and minimizing the duplication of Federal, State, and local response and recovery efforts;

(M) funding should be provided to ensure that the Strategic National Stockpile is able to provide and appropriately deploy the necessary drugs, vaccines, and other biological products, medical devices, and other supplies needed to address acute exacerbations of chronic illness as well as acute injuries and illness resulting from Hurricane Katrina;

(N) funding should be provided to the Centers for Disease Control and Prevention and the National Institutes of Health to pay for needed communications, including public service announcements on radio and television, to provide for additional personnel, and to provide needed health and safety training and resources to affected workers and employers;

(O) none of the funds provided by the Secretary of Health and Human Services in response to Hurricane Katrina should made available to entities that have been indicted for abandoning patients during the disaster period; and

(P) the Department of Health and Human Services should conduct an effective ongoing program to monitor the health of survivors of Hurricane Katrina and of workers and volunteers involved in rescue, response, and rebuilding efforts due to Hurricane Katrina, and that such a program should include screening for health conditions (including mental health conditions) and appropriate referrals; and

(2) the current public health emergency declared by Secretary Leavitt relating to Hurricane Katrina under such section 319 should be extended beyond 90 days.

TITLE II—HEALTHCARE RESPONSE

SEC. 201. ASSISTANCE TO STATES IN A PUBLIC HEALTH EMERGENCY.

Section 311(c)(2) of the Public Health Service Act (42 U.S.C. 243(c)(2)) is amended—

(1) by striking "(2) The" and inserting the following:

"(2)(A) Except as provided in subparagraph (B), the"; and

(2) by adding at the end the following:

"(B) If the Secretary declares a public health emergency under section 319, the 6 month period described in the first sentence of subparagraph (A) may be extended for a period of not to exceed 18 months with respect to assistance to geographic areas that are the subject of such declaration.".

SEC. 202. STRENGTHENING THE HEALTHCARE SAFETY NET.

Notwithstanding any other provision of law, the Secretary of Health and Human Services may temporarily provide (for the period for which a determination of public health emergency is in effect under section 319 of the Public Health Service Act (42 U.S.C. 247d)) with respect to Hurricane Katrina that any health center or facility providing primary and preventive care that—

(1) is located in an area to which such determination applies, and

(2) treats individuals displaced by Hurricane Katrina;

shall receive reimbursement for such treatment from Federal health programs at the same rate at which a Federally qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1596d(l)(2)(B))) would receive such reimbursement and shall be eligible to receive funds under section 330 of the Public Health Service Act (42 U.S.C. 245b) with respect to services furnished to individuals displaced by Hurricane Katrina if additional funds are made available under such section for Hurricane Katrina response efforts.

SEC. 203. MENTAL HEALTH NEEDS.

(a) ENSURING FUNDING FOR MENTAL HEALTH IN TIMES OF NATIONAL CRISIS.—Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)) is amended by adding at the end the following:

"(4) EXISTING FUNDING.—For purposes of carrying out this subsection, amounts appropriated under this title for emergency response, as provided for in this section, for fiscal years 2005 and 2006 shall remain available until expended or until a public health emergency as declared by the Secretary no longer exists.".

(b) STRENGTHENING ACCESS TO MENTAL HEALTH SERVICES IN AN EMERGENCY.—Section 520F of the Public Health Service Act (42 U.S.C. 290bb-37) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) HEALTH CENTER.—In this section, the term 'health center' has the meaning given such term in section 330, and includes community health centers and community mental health centers.";

(2) in subsection (c), by adding at the end the following: "With respect to a declaration of a public health emergency under section 319, the Secretary shall, in awarding such grants, ensure that priority is given to States and localities that are most affected by such emergency.";

(3) in subsection (e)(2)—

(A) in clause (i), by striking "individuals" and all that follows through the semicolon and inserting "individuals, including children, who may be in need of emergency mental health services, including individuals at risk of developing a mental illness, including Post Traumatic Stress Disorder;"; and

(B) in clause (iii), by inserting "or at risk of developing" after "individual with"; and

(4) in subsection (g), by striking "2003" and inserting "2006".

SEC. 204. ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.

(a) ASSESSMENT AND RESPONSE.—

(1) DEFINITIONS.—

(A) EMERGENCY SHELTER.—The term "emergency shelter" means an emergency shelter for persons described in subparagraph (C)(ii).

(B) INDIVIDUAL WITH A DISABILITY.—The term "individual with a disability" has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(C) INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—The term "individual with a disability affected by Hurricane Katrina" means a person who is—

(i) an individual with a disability, or a family member of an individual with a disability; and

(ii) a person who resided on August 22, 2005, in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(2) ASSISTANCE.—An entity that receives financial assistance under title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) may use a portion of such financial assistance to—

(A) determine the location and status of individuals affected by Hurricane Katrina, who are transferred from emergency shelters to long-term care facilities (including nursing homes and group homes), intermediate care facilities for individuals with mental retardation, hospitals, correctional institutions, and other similar locations; and

(B) assess and respond to the needs of individuals affected by Hurricane Katrina to ensure that the individuals receive necessary services, supports, and other types of assistance.

(b) OVERSIGHT AND DISASTER ASSISTANCE.—Subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.) is amended by inserting after section 144 the following:

"SEC. 144A. OVERSIGHT AND DISASTER ASSISTANCE.

"(a) DEFINITIONS.—In this section:

"(1) EMERGENCY SHELTER.—The term 'emergency shelter' means an emergency shelter for persons described in paragraph (3)(B).

"(2) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

"(3) INDIVIDUAL AFFECTED BY A MAJOR DISASTER.—The term 'individual affected by a major disaster' means a person who is—

"(A) an individual with a disability; and

"(B) a person who resided in an area in which the Secretary has declared a public health emergency under section 319 of the Public Health Service Act, 7 days before the declaration.

"(4) PUBLIC HEALTH EMERGENCY.—The term 'public health emergency' means a public health emergency as designated under section 319 of the Public Health Service Act.

"(b) OVERSIGHT.—

"(1) GRANTS.—

"(A) IN GENERAL.—In a case in which the Secretary of Health and Human Services has declared that a public health emergency exists for a geographic area, and as a result individuals affected by a major disaster are placed in an emergency shelter in a State, the Secretary may make a grant to the system for that State.

"(B) USE OF FUNDS.—A system that receives a grant under subparagraph (A) shall use the funds made available through the grant to—

"(i) establish a registry to identify and maintain information about such individuals who are in such emergency shelter;

"(ii) track the transfers of such individuals from such emergency shelter to community and non-community settings; and

"(iii) provide oversight at such emergency shelter to assure that such individuals are receiving necessary services, supports, and other types of assistance.

"(2) COORDINATION.—In carrying out activities under paragraph (1), the system shall coordinate the activities with the Under Secretary for Emergency Preparedness and Response in the Department of Homeland Security, and with any nonprofit agency (such as the American Red Cross) providing assistance through an emergency shelter described in paragraph (1).

"(c) ACCESS.—As soon as practicable after the Secretary of Health and Human Services has declared a public health emergency for an area, and as a result individuals affected by the emergency are placed in an emergency shelter in a State, the Commissioner of the Administration on Developmental Disabilities shall notify each emergency shelter in the State receiving such individuals that staff of the system for the State shall have authority to enter the shelter, and shall have access to the individuals affected by the emergency residing in that shelter, to provide information related to services, supports, and other types of assistance for, and to protect the human, service, and legal rights of, individuals affected by the emergency residing in that shelter.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (b) $2,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal year 2007.".

SEC. 205. LIABILITY AND LICENSURE AWARENESS PROMOTION FOR HEALTH VOLUNTEERS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall utilize the Internet and other appropriate means to disseminate to the public information on health professional liability coverage and licensure requirements for intermittent disaster response personnel (as described in section 2811(d)(1) of the Public Health Service Act (42 U.S.C. 300hh-11(d)(1))) in areas in which a public health emergency have been declared under section 319 of such Act (42 U.S.C. 247d).

(b) TYPE OF INFORMATION.—The information to be provided under subsection (a) shall, in the case of a State where health professional licensure requirements have been waived, include—

(1) whether and how intermittent disaster response personnel may be able to receive certain liability protections as described in section 2811(d)(2) of the Public Health Service Act (42 U.S.C. 300hh-(d)(2)), or under applicable provisions of State law;

(2) the possible limitations of such coverage and protections; and

(3) other information needed to enable health professionals to make an informed decision about providing volunteer health services.

TITLE III—RESEARCH AND REPORTS

SEC. 301. MONITORING THE HEALTHCARE, MENTAL HEALTH, AND PUBLIC HEALTH RESPONSE.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through a public service non-profit research and analysis firm, shall provide for an immediate and independent review (through the immediate collection of data and conduct of analyses) of the lessons learned from the Federal, State and local public health, mental health, and medical care planning, preparedness, and response to Hurricane Katrina.

(b) PURPOSE.—The purpose of the study under subsection (a) is to collect available relevant data, through site visits, reviews of medical and epidemiological records, interviews with individuals residing in an area in which a public health emergency has been declared under section 319 of the Public Health Service Act as a result of Hurricane Katrina, and interviews with Federal, State, and local public health, mental health services, and medical officials. Such interviews shall be conducted in a manner that, to the extent practicable, does not interfere with the delivery of patient care and services.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Emergency and Commerce of the House of Representatives, a report concerning the lessons learned (as described in subsection (a)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out this section.

SEC. 302. REPORT ON REGULATORY REQUIREMENTS AND FUNDING FORMULAS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the specific regulatory requirements and funding formulas under the Public Health Service Act (42 U.S.C. 201 et seq.) that would assist the Secretary in responding to a public health emergency (as declared under section 319 of such Act (42 U.S.C. 247d)).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 303. DEPARTMENT OF HEALTH AND HUMAN SERVICES INSPECTOR GENERAL AUDIT AND REPORT.

(a) IN GENERAL.—The Inspector General of the Department of Health and Human Services (referred to in this section as the "Inspector General") shall conduct an audit and investigation of each program carried out by the Department of Health and Human Services that includes response and recovery activities related to Hurricane Katrina.

(b) WEEKLY REPORT.—Not less frequently than once a week, the Inspector General shall provide a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives listing the audits and investigations initiated pursuant to subsection (a).

(c) STATUS REPORT.—Not later than 6 months after the date of enactment of this section, and biannually thereafter until the audits and investigations described in subsection (a) are complete, the Inspector General shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the full status of the activities of the Inspector General under this section.

(d) COOPERATIVE VENTURES.—In carrying out this section, the Inspector General is encouraged to enter into cooperative ventures with Inspectors General of other Federal agencies.

TITLE IV—HEALTH INSURANCE COVERAGE

SEC. 401. TEMPORARY EMERGENCY HEALTH COVERAGE ASSISTANCE FOR BUSINESS AND INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), in consultation with the insurance commissioners of those States contained in whole or in part in the Hurricane Katrina disaster area, shall establish a program to provide emergency health coverage continuation relief through the provision of direct payments of health insurance premiums or continuation assistance on behalf of eligible businesses and their employees and purchasers of individual health insurance coverage.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INDIVIDUALS.—The term "eligible individual" means an individual (and the family dependents of such individual as may be covered under the health insurance coverage in which such individual is enrolled)—

(A) who is a citizen, national, or qualified alien as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b));

(B) whose permanent residence as of August 29, 2005 was located in a Hurricane Katrina disaster area;

(C) who was covered under individual (nongroup) health insurance coverage, including a policy operated pursuant to a qualified high risk pool (as defined in section 2744 of the Public Health Service Act (42 U.S.C. 300gg-44)), on August 29, 2005; and

(D) whose ability to continue such coverage was severely impaired as a result of hurricane-related disruption in a Hurricane Katrina disaster area.

(2) ELIGIBLE BUSINESSES.—The term "eligible business" means a corporation, sole proprietorship, or partnership that employs not more than 50 employees and that—

(A) operated as of August 29, 2005 in a Hurricane Katrina disaster area;

(B) offered coverage under a group health plan (as defined in section 733(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a)(1))) on August 29, 2005 to employees in a Hurricane Katrina disaster area; and

(C) had its ability to continue coverage under such plan severely impaired as a result of disruption of the sponsor's business activity in the Hurricane Katrina disaster area.

(3) CONTINUATION ASSISTANCE.—The term "continuation assistance" means, in the case of an eligible business that offers health insurance coverage under a self-insured arrangement, assistance in paying administrative services fees, claims costs, stop-loss premiums, and any amounts required to be paid by employees to participate in the arrangement.

(4) HURRICANE KATRINA DISASTER AREA.—The term "Hurricane Katrina disaster area" means a parish in the State of Louisiana, a county in the State of Mississippi, or a county in the State of Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 11, 2005, warrants both individual and public assistance from the Federal Government under such Act.

(c) HEALTH COVERAGE CONTINUATION RELIEF.—

(1) IN GENERAL.—The Secretary shall design and implement the program under subsection (a) in a manner that enables eligible

individuals and eligible businesses to be eligible for direct premium reimbursement or continuation assistance to be paid by the Secretary on behalf of such individual or business directly to the health insurance issuer or administrative services provider involved. In the case of an eligible business, premium reimbursement shall include the premium shares of both the employer and employees, as applicable.

(2) LIMITATION.—Subject to paragraph (3), in no case shall the value of the assistance provided under the program under this section, with respect to an individual or business, exceed 100 percent of the applicable premium for coverage or continuation assistance for the period of coverage involved, including, with respect to employer coverage, the employer and employees' share of premiums, if applicable.

(3) ENROLLMENT.—

(A) IN GENERAL.—The Secretary shall establish an expedited process for the enrollment of eligible individuals and eligible businesses in the program under this section.

(B) DUTY OF SECRETARY UPON RECEIPT OF NOTICE.—The Secretary, upon receipt of a notice under subsection (f)(2), shall enroll the eligible individual or eligible business involved in the program under this section.

(C) DUTY OF ISSUER.—A group health plan, or health insurance insurer with respect to such a plan, shall make a reasonable effort to notify an eligible individual or eligible business—

(i) of the automatic enrollment of such individual or business in the program under subparagraph (B);

(ii) that, if it is later determined that the means of support of such individual, or the ability of such business to continue health insurance coverage, was not severely disrupted (as determined subject to a randomized retrospective audit process), such individual or business may be required at a later date to repay the program for the amount of premiums or continuation assistance paid on its behalf; and

(iii) that such individual or business may elect to decline enrollment, or cancel enrollment, in the program by notifying the health insurance issuer or administrative service provider involved.

(d) RETROSPECTIVE AUDIT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall provide for the application of a randomized retrospective auditing process to the program under this section by a date that is not earlier than November 1, 2005.

(2) REPAYMENT OF FUNDS.—If the Secretary determines, pursuant to the audit process under paragraph (1), that an individual or business that was enrolled in the program under this section did not meet the disruption or other eligibility requirements provided for in paragraph (1) or (2) of subsection (b), the Secretary shall seek the repayment of funds paid on behalf of such individual or business. Such repayments shall be made with no interest or late penalty to accrue prior to the commencement of a repayment period which shall begin not earlier than the date that is 3 months after the date on which a determination and notice of non-eligibility is provided.

(3) NO DOUBLE PAYMENTS.—The Secretary shall take appropriate actions to ensure that health insurance issuers do not retain double payments in instances where businesses or individuals pay premiums for any period for which payments have already been made under the program under this section.

(e) EMERGENCY PERIOD.—Payments under the program under this section shall be made only for premiums due during the period beginning on August 29, 2005 and expiring 3 months after such date. Prior to the expiration of such period, the Secretary may make recommendations to Çongress regarding any reasonably determined need to extend such emergency period.

(f) NON-CANCELLATION OF HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—During the 3-month emergency period described in subsection (e), health insurance issuers that accept payments under the program under this section shall be prohibited from canceling or terminating health insurance coverage or, in the case of administrative services providers, refusing to process claims under a self-insured arrangement. Such health insurance issuers and administrative service providers shall be prohibited durjng such period from increasing any amounts due pursuant to such coverage or arrangements that were not previously scheduled pursuant to a contract prior to August 29, 2005.

(2) NOTIFICATION.—To be eligible to receive payments under ths program under this section, a health insurance issuer or administrative services provider shall notify the Secretary—

(A) not earlier than 31 days following the nonpayment of a scheduled premium payment from an individual or business policyholder in a Hurricane Katrina disaster area, of the fact of such nonpayment (or nonreimbursement of claims under a self-insured arrangement); or

(B) following a communication to the health insurance insurer or administrative service provider by an individual or business reasonably indicating eligibility for assistance under such program, of the fact of such communication.

(g) EXPEDITED RULEMAKING.—The Secretary shall utilize expedited rulemaking procedures to carry out this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000,000 for fiscal year 2006.

SEC. 402. AUTHORITY TO POSTPONE CERTAIN DEADLINES RELATED TO INDIVIDUAL HEALTH COVERAGE BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTION.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following:

"SEC. 2793. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTION.

"In the case of a plan offered through the individual market, or any health insurance issuer, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as a result of disregarding any period by reason of the preceding sentence.".

(b) APPLICATION OF AMENDMENT.—The Secretary of Health and Human Services shall implement the amendment made by subsection (a) in the same manner in which the Secretary of Labor implements section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) with respect to group health plans.

TITLE V—EMERGENCY DESIGNATION

SEC. 501. EMERGENCY DESIGNATION.

Any amount provided under this Act is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Mr. KENNEDY. Mr. President, today, I join Senator ENZI in introducing a relief bill that will bring aid to hundreds of thousands of people affected by Hurricane Katrina. I commend Chairman ENZI and our colleagues on the Committee for moving so quickly to meet the many urgent health needs of the victims.

We have all seen the images of despair of those who felt so abandoned by their government in their time of need. We have also seen hope reborn in the faces of families reunited after surviving this massive catastrophe. We have seen great heroism too, not only in the spectacular images of rescues by helicopter, but in the quiet courage of neighbors helping neighbors survive the heavy winds and rising waters.

It's been three weeks since Hurricane Katrina brought havoc to the Gulf Coast. Every day, we have a clearer picture of physical destruction of beloved American communities, and a deeper understanding of what our fellow citizens have lost. Survivors have begun the slow and difficult process of rebuilding their lives. Most have , only the clothing they wore as they tried to cope with the hurricane.

Another picture is also emerging—a report card filled with failing grades for government at every level in the preparations and response for such an emergency. The natural disaster was compounded many fold by the inadequate response, despite the bravery and sacrifice of relief workers, rescue personnel, and the hurricane survivors themselves.

With new destruction in Texas and Louisiana from Hurricane Rita, we had little time to learn from these past lessons. Already, we responded sooner by insisting on the evacuation of people in flood-prone areas and shipping food and supplies quickly into the hard hit areas. Unfortunately, this means that many Hurricane Katrina evacuees had to relocate again. They halted their individual rebuilding processes, and once again, now find themselves in unfamiliar surroundings dealing with anguish, fear, loss, and uncertainty.

The recent evacuations reveal additional lessons to be learned. Massive gridlock on evacuation routes, gasoline shortages, and overwhelmed airports are just the beginning of many challenges that lie ahead. We need to learn faster and learn better, so that we can prepare more effectively before disasters happen, react more effectively as they take place, and respond more effectively in the aftermath.

I commend Chairman ENZI for convening two roundtable discussions that provided impressive expertise about what can be done immediately to protect the health of those affected by the hurricane and help them begin to rebuild their lives.

Our committee listened carefully and prepared a relief package to address the immediate health needs of the survivors for the next 90 days. We have a long road ahead of us, but this bill is an important start. As the aftermath of Hurricanes Katrina and Rita continues to unfold, we will learn of additional needs, and be reminded again and again that we have much more to do to improve the nation's ability to respond to disasters, whether manmade or natural.

In this legislation, we are focusing on what we can do to immediately remove the perennial red tape and make sure that each and every survivor has access to good health care. For those with health insurance, the bill provides temporary assistance on premiums, so that individuals and small businesses affected by the hurricanes maintain their existing coverage. I'm hopeful we can work together to extend similar help to persons in larger firms who need temporary assistance.

We also authorize the Secretary of Health and Human Services to extend insurance deadlines, so that hurricane survivors have time to make important decisions about their coverage.

In preventing disease outbreaks and epidemics, time is of the essence. The bill removes barriers to existing public health programs, such as by allowing the Vaccines for Children Program to contribute to the vaccination campaign already under way, in order to prevent outbreaks of disease in responders and in persons relying on the same shelter.

It is especially urgent to monitor the survivors and responders, in order to identify both the short-term and the long-term risks they face. I will continue to work with my colleagues to authorize the Secretary of Health and Human Services to work closely with other agencies, including the Environmental Protection Agency, to begin monitoring health outcomes and exposure to environmental toxins, and to develop a registry of people screened, so that we can identify long-term consequences.

As we focus on preventing and treating physical illness, we must not ignore the emotional challenges ahead for both survivors and responders. Thousands are facing the silent battle of coping with bereavement and catastrophe. All are at risk for post-traumatic stress disorder. Today, we are reauthorizing the emergency mental health services program of the Substance Abuse and Mental Health Services Administration's and giving priority to awarding its grants to states and areas most affected by the hurricanes.

This measure is only the beginning. It ends restrictions on existing Federal programs, so that we can help immediately with the relief efforts and expand access to health care for the survivors.

I'm encouraged by how well our colleagues have worked together to rapidly develop this relief package, and I urge the Majority Leader and the full Senate to make passing this legislation a priority and bring help to the thousands affected by the hurricane.

I'm also optimistic that our bipartisan cooperation here will lead to further relief measures that fully address the longer term health needs of the victims, and prevent the kind of mistakes that happened in connection with Katrina and Rita from happening again.

Congress has a major responsibility to help the survivors of this tragic ordeal rebuild their communities and their lives. Today, we make a clear commitment to the survivors. Our promise to them should not simply be to turn back the clock a month or two—it should be to fulfill the true promise of the American Dream by committing ourselves to better health, better education and better job opportunities for survivors, and for all Americans as well.

By Mr. OBAMA (for himself, Mrs. MURRAY, Mr. CORZINE, Mr. KERRY, and Mr. LEVIN):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies; to the Committee on Finance.

Mr. OBAMA. Mr. President, I rise to speak in support of the "Hurricane Katrina Fast-Track Refunds for Working Families Act of 2005," a bill I am introducing with Senators MURRAY, CORZINE, KERRY, and LEVIN to accelerate the Earned Income Tax Credit and the Child Tax Credit for some of the neediest victims of Hurricane Katrina.

A few weeks ago, I visited some of the victims who had been evacuated to the Reliant Center in Houston. These families have nothing left. Imagine having nothing left. All their belongings have been destroyed or washed away and most of their jobs have simply vanished.

We have done a lot of good work here in the Senate so far to bring tax relief and emergency support to these families. And many of us are hard at work now developing strategies for the long-term rebuilding of the Gulf Coast in such a way that doesn't re-create the poverty and inequality of the past but instead builds a more hopeful region with greater opportunity for all of its residents.

But there is more we can do quickly to help affected families reestablish and resettle their lives and also to stimulate their local economies. In the past we have accelerated tax refunds with the goal of economic stimulus. In 2001, Congress directed the IRS to provide an "advance tax rebate" of 2001 taxes, and, in 2003, Congress accelerated the Child Credit. Now, with the dual goals of economic stimulus and support for needy Americans, we should do it again.

Fast-tracking refunds will put money into the hands of parents that they can use for food, clothing, housing, transportation, medical services—whatever they need. How they spend the money is up to them. But it's up to us to make sure they get it as soon as possible. It's up to us to make sure the necessary outreach, systems, and delivery mechanisms are in place.

And that's what this legislation does. It directs the Secretary of the Treasury to refund or credit eligible taxpayers from the affected region as rapidly as possible and to take the steps necessary to get the funds into the hands of eligible recipients. Companion legislation has been introduced by Reps. EMANUEL, MELANCON, TAYLOR, and LEWIS in the House of Representatives.

I urge my colleagues in the Senate to join me in supporting this bill now so we can quickly bring relief and support to those who have nothing left. The Earned Income Tax Credit and Child Tax Credit are designed to support working families with children. Let's fast track this support to help these families get back on their feet and help their communities rebuild themselves even stronger than before.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes; read the first time.

Mr. ENZI. Mr. President, I rise today to introduce The Katrina Worker Safety and Filing Flexibility Act of 2005.

In the wake of Hurricane Katrina we face a nearly unprecedented recovery and reconstruction process along our Gulf Coast. This is a challenge that we will meet. We are a people that always act with strength and purposefulness when circumstances such as this demand.

While we undertake this massive effort, we must bear in mind the safety of the men and women who will be on the front lines of recovery and reconstruction. These individuals will face numerous and uncommon worksite hazards; and ones with which they will have little training and experience.

To address this situation, the Occupational Safety and Health Administration has deployed its safety and health professionals to the affected areas to provide necessary technical assistance. Their efforts in this regard are being guided by the Worker Health and Safety Annex contained in the National Response Plan as adopted by the Department of Homeland Security.

I am pleased today to be introducing this legislation with my distinguished colleague and ranking member of the Committee, Senator KENNEDY. He and I share a commitment to protecting the health and safety of all workers, including those engaged in the hurricane recovery effort.

The legislation we are introducing today not only encourages the implementation of all aspects of the Worker Safety Annex, it encourages OSHA to play a central role in communicating the nature of these unique worksite hazards, and in cooperating with State, local and tribal governments, as well as other Federal agencies to enhance the safety of recovery and reconstruction personnel. In addition, the legislation grants the Secretary of Labor authority to extend the deadline for filing certain forms with the Department until March of 2006 in light of the difficulties in meeting any earlier deadlines as a result of the hurricane.

We believe the bill is an important step in providing the necessary protection to recovery and reconstruction workers; and providing the necessary degree of flexibility with regard to required Federal filings.

Mr. KENNEDY. Mr. President, today Senator ENZI and I are introducing legislation to protect the workers who are laboring to clean up the Gulf Coast after its recent disasters.

The heroism of America's workers in the wake of Hurricane Katrina is unparalleled. As they did in response to our national disaster on September 11, thousands of men and women have been working around the clock to find and rescue families, to provide them with food and shelter, and to evacuate them from the area. In the coming days thousands more will be on the ground reestablishing communications, cleaning up debris, restoring services, and rebuilding infrastructure. They are now facing additional challenges because of the new damage and flooding from Hurricane Rita, but they continue to make progress in cleaning and rebuilding New Orleans and the entire disaster area.

This work is critical, but it is also dangerous. Many of these tasks pose significant safety and health threats: conditions in New Orleans are of particular concern, where the widespread flooding has led to widespread biological and chemical contamination. We learn more each day about the oil spills, the Superfund sites, and exposure to E. coli that these workers are facing. It is imperative that workers and volunteers be protected from these serious hazards.

That is why our legislation includes language to protect the health and safety of workers. It urges OSHA and other health and safety agencies to follow the Worker Health and Safety Annex protections of our National Response Plan. This includes keeping track of workers who are being exposed, coordinating health and safety training for workers and volunteers, and monitoring the hazards that workers and volunteers are facing. It also authorizes funds to be spent for additional personnel, enforcement of health and safety standards, critical safety information for workers and employers, and safety and health training. I hope that as Congress continues to allocate money for disaster relief that we also provide money to protect our workers and volunteers.

We need to track how our efforts are working, and so we have provided for Congressional oversight. OSHA will be required to brief the HELP Committee in six months, and provide a written report within nine months, so we can see what progress has been made and what still needs to be done. We have also mandated oversight by the Executive Branch. The Inspector General of the Department of Labor will audit and investigate the Department's efforts to implement the protections established in this bill, and will report back to both Houses of Congress on the success of these response and recovery efforts.

Finally, the bill also provides temporary relief to many companies, unions and individuals who are required to meet financial and other reporting obligations during the next few months, but cannot satisfy these obligations due to record destruction and other problems associated with Katrina.

By Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND):

S. 1772. A bill to streamline the refinery permitting process, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, by design, politicians are largely a reactive bunch—our constituents voted us in to our offices to represent their interests, and when they are unhappy we too are unhappy. One issue that certainly makes all constituents unhappy or even angry is high fuel prices. Therefore, policymakers at all levels of government have been struggling with ways to address high prices—some have advocated for repealing fuel taxes, the Administration reacted in many critically important and helpful ways such as releasing oil from the Strategic Petroleum Reserve. After Hurricane Katrina disabled a large portion of our refining capacity and Rita threatened an additional 27.5 percent, several members have talked about the need to build new refineries.

In May 2004—Before the hurricanes, and before EPACT 2005 (The Energy Policy Act of 2005), the Environment & Public Works Committee, which I chair, considered the challenges facing the refining industry. At that hearing, we learned how the industry has been struggling to balance the public's increasing demand for cheap transportation fuels while also meeting legal and regulatory requirements to produce cleaner fuels.

Federal Reserve Chairman Alan Greenspan stated in a May 2005 speech that, "the status of world refining capacity has become worrisome. Of special concern is the need to add adequate coking and desulphurization capacity to convert the average gravity and sulphur content of much of the world's crude oil to the lighter and sweeter needs of product markets, which are increasingly dominated by transportation fuels that must meet ever-more stringent environmental requirements."

Make no mistake, significant investments have been made to achieving environmental objectives—however, investments into increasing capacity have been inadequate to meet demand, and no new domestic refinery has been built since 1976.

A critical hurdle to constructing anything these days, especially refineries, is overcoming the "Not-In-My-Backyard" or NIMBY interests. The President recognized the need to build new refineries while overcoming local opposition when he recommended that policymakers consider constructing on BRAC sites.

Building upon what we learned in our hearing while balancing potential local opposition to refineries and answering the President and the public's call, I rise today to introduce the Gas Petroleum Refiner Improvement and Community Empowerment Act or Gas PRICE Act. This Gas PRICE Act seeks to address fuels challenges in the short, mid and long-term range in several key ways.

First, the bill encourages communities who are about to lose jobs as a result of BRAC to consider building refineries on those properties. The legislation directs the Economic Development Administration to provide additional resources to communities considering new refineries on those sites. Refineries are not just a good source of high paying jobs, but they are an area of national interest so those communities acting in that interest should be benefited.

Second, States have a significant if not dominant role in permitting existing or new refineries. Yet, States face particular technical and financial constraints when faced with these extremely complex facilities. Therefore, the Gas PRICE Act establishes a Governor opt-in program that requires the Administrator to coordinate and concurrently review all permits with the relevant State agencies to permit refineries. This program does not waive or modify any environmental law, but seeks to assist States and consumers by providing greater certainty in the permitting process.

Third, the Gas PRICE Act answers the call for increasing efficiency. Today's recent reports show that natural gas prices this winter are projected to increase 75 percent. This bill requires the EPA's Natural Gas Star Program to provide grants to identify and use methane emission reduction technologies.

Further, it requires the Administrator to conduct a series of methane emission reduction workshops with the Interstate Oil and Gas Compact Commission to officials in the oil and gas producing states.

Fourth, the supply disruptions caused by hurricane Katrina required EPA to issue fuel waivers to allow the use of conventional fuel in special or boutique fuel areas. The bill provides that States acting pursuant to an emergency will be held harmless under the law. Additionally, some members have called for the reduction of the total number of fuels used to increase the overall fungibility. In principle, I agree with my colleagues, however the special or boutique fuel blends address environmental and health needs of each region. Therefore, I have proposed a more cautious approach that will allow for the reduction of fuel blends pursuant to the environmental and consumer preferences in each State.

Fifth, policymakers, businesses, and the public have struggled to balance increased demand for transportation fuels against preferences for ever more stringent environmental quality all while preserving low prices at the pump. Most "solutions" have focused on technologies that may not be realized for decades or other measures that would hurt U.S. manufacturers.

Fischer-Tropsche fuels are the likely answer. F–T fuels use petroleum coke, a waste product from the refining process, or domestic coal to produce ultraclean, virtually sulfur free diesel or jet fuel, and are price competitive at $38/barrel of oil.

The Gas PRICE Act requires EPA to establish a demonstration project to use Fischer-Tropsche, diesel and jet, as an emission control strategy; and authorizes EPA to issue up to two loan guarantees to demonstrate commercial scale F–T fuels production facilities using domestic petroleum coke or coal.

Of course, Congress should have taken many actions in anticipation of the current refining capacity crunch over last several years. Yet, as I indicated earlier, elected officials in large measure react to the will of their constituents. The good news is that we are not too late to make sure that the economy-wide stifling high prices are only temporary.

The Gas PRICE Act that we are introducing today can go a long way in addressing the nation's short, mid, and long-term fuels challenges. Furthermore, it does so by empowering local communities and States, establishing greater regulatory certainty without changing any environmental law, improving efficiency, and establishing a future for the use of ultra clean transportation fuels derived from abundant domestic resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1773. A bill to resolve certain Native American claims in New Mexico, and for other purposes; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator BINGAMAN, to introduce a historic piece of legislation. I call this bill historic because its purpose is to implement the final settlement to be entered into under the Indian Claims Commission Act of 1946. I understand that passage of this legislation will complete the final chapter in the history of that act.

The Indian Claims Commission Act of 1946 was enacted to allow the Indian Claims Commission to hear certain tribal claims filed between 1946 and 1951. Nationally, the act has involved more than 600 claims by tribes. With the passage of this legislation, we will complete the process begun in almost sixty years ago.

The specific claim being resolved by the Pueblo de San Ildefonso Claims Settlement Act of 2005 involves the San Ildefonso Pueblo's 7,700-acre ancestral land claim against the Federal Government. This bill marks the successful culmination of a long-awaited settlement agreement between the San Ildefonso Pueblo and the United States and involved much hard work by all of the parties involved. The introduction of this legislation marks an important day for the San Ildefonso Pueblo and others in my home state of New Mexico. This is a necessary bill, and I hope that my colleagues will act quickly to resolve the final claim filed under the Indian Claims Commission Act of 1946.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pueblo de San Ildefonso Claims Settlement Act of 2005".

SEC. 2. DEFINITIONS AND PURPOSES.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATIVE ACCESS.—The term "administrative access" means the unrestricted use of land and interests in land for ingress and egress by an agency of the United States (including a permittee, contractor, agent, or assignee of the United States) in order to carry out an activity authorized by law or regulation, or otherwise in furtherance of the management of Federally-owned land and resources.

(2) COUNTY.—The term "County" means the incorporated county of Los Alamos, New Mexico.

(3) LOS ALAMOS AGREEMENT.—The term "Los Alamos Agreement" means the agreement among the County, the Pueblo, the Department of Agriculture Forest Service, and the Bureau of Indian Affairs dated January, 22, 2004.

(4) LOS ALAMOS TOWNSITE LAND.—"Los Alamos Townsite Land" means the land identified as Attachment B (dated December 12, 2003) to the Los Alamos Agreement.

(5) NORTHERN TIER LAND.—"Northern Tier Land" means the land comprising approximately 739.71 acres and identified as "Northern Tier Lands" in Appendix B (dated August 3, 2004) to the Settlement Agreement.

(6) PENDING LITIGATION.—The term "Pending Litigation" means the case styled Pueblo of San Ildefonso v. United States, Docket Number 354, originally filed with the Indian Claims Commission and pending in the United States Court of Federal Claims on the date of enactment of this Act.

(7) PUEBLO.—The term "Pueblo" means the Pueblo de San Ildefonso, a Federally recognized Indian tribe (also known as the "Pueblo of San Ildefonso").

(8) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement entitled "Settlement Agreement between the United States and the Pueblo de San Ildefonso to Resolve All of the Pueblo's Land Title and Trespass Claims" and dated June 7, 2005.

(9) SETTLEMENT AREA LAND.—The term "Settlement Area Land" means the National Forest System land located within the Santa Fe National Forest, as described in Appendix B to the Settlement Agreement, that is available for purchase by the Pueblo under section 9(a) of the Settlement Agreement.

(10) SETTLEMENT FUND.—The term "Settlement Fund" means the Pueblo de San Ildefonso Land Claims Settlement Fund established by section 6.

(11) SISK ACT.—The term "Sisk Act" means Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(12) WATER SYSTEM LAND.—The term "Water System Land" means the Federally-owned land located within the Santa Fe National Forest to be conveyed to the County under the Los Alamos Agreement.

(b) PURPOSES.—The purposes of this Act are—

(1) to finally dispose, as set forth in sections 4 and 5, of all rights, claims, or demands that the Pueblo has asserted or could have asserted against the United States with respect to any and all claims in the Pending Litigation;

(2) to extinguish claims based on aboriginal title, Indian title, or recognized title, or any other title claims under section 5;

(3) to authorize the Pueblo to acquire the Settlement Area Land, and to authorize the Secretary of Agriculture to convey the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land for market value consideration, and for such consideration to be paid to the Secretary of Agriculture for the acquisition of replacement

National Forest land elsewhere in New Mexico;

(4) to provide that the Settlement Area Land acquired by the Pueblo shall be held by the Secretary of the Interior in trust for the benefit of the Pueblo;

(5) to facilitate government-to-government relations between the United States and the Pueblo regarding cooperation in the management of certain land administered by the National Park Service and the Bureau of Land Management as described in sections 7 and 8 of the Settlement Agreement;

(6) to ratify the Settlement Agreement; and.

(7) to ratify the Los Alamos Agreement.

SEC. 3. RATIFICATION OF AGREEMENTS.

(a) RATIFICATION.—The Settlement Agreement and Los Alamos Agreement are ratified under Federal law, and the parties to those agreements are authorized to carry out the provisions of the agreements.

(b) CORRECTIONS AND MODIFICATIONS.—The respective parties to the Settlement Agreement and the Los Alamos Agreement are authorized, by mutual agreement, to correct errors in any legal description or maps, and to make minor modifications to those agreements.

SEC. 4. JUDGMENT AND DISMISSAL OF LITIGATION.

(a) DISMISSAL.—Not later than 90 days after the date of enactment of this Act, the United States and the Pueblo shall execute and file with the United States Court of Federal Claims in the Pending Litigation a motion for entry of final judgment in accordance with section 5 of the Settlement Agreement.

(b) COMPENSATION.—Upon entry of the final judgment under subsection (a), $6,900,000 shall be paid into the Settlement Fund as compensation to the Pueblo in accordance with section 1304 of title 31, United States Code.

SEC. 5. RESOLUTION OF CLAIMS.

(a) EXTINGUISHMENTS.—Except as provided in subsection (b), in consideration of the benefits of the Settlement Agreement, and in recognition of the agreement of the Pueblo to the Settlement Agreement, all claims of the Pueblo against the United States (including any claim against an agency, officer, or instrumentality of the United States) are relinquished and extinguished, including—

(1) any claim to land based on aboriginal title, Indian title, or recognized title;

(2) any claim for damages or other judicial relief or for administrative remedies that were brought, or that were knowable and could have been brought, on or before the date of the Settlement Agreement;

(3) any claim relating to—

(A) any federally-administered land, including National Park System land, National Forest System land, Public land administered by the Bureau of Land Management, the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land; and

(B) any land owned by, or held for the benefit of, any Indian tribe other than the Pueblo; and

(4) any claim that was, or that could have been, asserted in the Pending Litigation.

(b) EXCEPTIONS.—Nothing in this Act or the Settlement Agreement shall in any way extinguish or otherwise impair—

(1) the title of record of the Pueblo to land held by or for the benefit of the Pueblo, as identified in Appendix D to the Settlement Agreement, on or before the date of enactment of this Act; and,

(2) the title of the Pueblo to the Pueblo de San Ildefonso Grant, including, as identified in Appendix D to the Settlement Agreement—

(A) the title found by the United States District Court for the District of New Mexico in the case styled United States v. Apodoca (Number 2031, equity: December 5, 1930) not to have been extinguished; and

(B) title to any land that has been reacquired by the Pueblo pursuant to the Act entitled "An Act to quiet the title to lands within Pueblo Indian land grants, and for other purposes", approved June 7, 1924 (43 Stat. 636, chapter 331);

(3) the water rights of the Pueblo appurtenant to the land described in paragraphs (1) and (2); and

(4) any rights of the Pueblo or a member of the Pueblo under Federal law relating to religious or cultural access to, and use of, Federal land,

(c) PREVIOUS EXTINGUISHMENTS UNIMPAIRED.—Nothing in this Act affects any prior extinguishments of rights or claims of the Pueblo which may have occurred by operation of law.

(d) BOUNDARIES AND TITLE UNAFFECTED.—

(1) BOUNDARIES.—Nothing in this Act affects the location of the boundaries of the Pueblo de San Ildefonso Grant.

(2) RIGHTS, TITLE, AND INTEREST.—Nothing in this Act affects, ratifies, or confirms the right, title, or interest of the Pueblo in the land held by, or for the benefit of, the Pueblo, including the land described in Appendix D of the Settlement Agreement.

SEC. 6. SETTLEMENT FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the "Pueblo de San Ildefonso Land Claims Settlement Fund".

(b) CONDITIONS.—Monies deposited in the Settlement Fund shall be subject to the following conditions:

(1) MAINTENANCE AND INVESTMENT.—The Settlement Fund shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(2) USE OF FUNDS.—Subject to paragraph (3), monies deposited into the Settlement Fund shall be expended by the Pueblo—

(A) to acquire the Federally administered Settlement Area Land;

(B) to pay for the acquisition of the Water System Land, as provided in the Los Alamos Agreement; and

(C) at the option of the Pueblo, to acquire other land.

(3) EFFECT OF WITHDRAWAL.—If the Pueblo withdraws monies from the Settlement Fund, neither the Secretary of the Interior nor the Secretary of the Treasury shall retain any oversight over, or liability for, the accounting, disbursement, or investment of the withdrawn funds.

(4) PER CAPITA DISTRIBUTION.—No portion of the funds in the Settlement Fund may be paid to Pueblo members on a per capita basis.

(5) ACQUISITION OF LAND.—The acquisition of land with funds from the Settlement Fund shall be on a willing-seller, willing-buyer basis, and no eminent domain authority may be exercised for purposes of acquiring land for the benefit of the Pueblo under this Act.

(6) EFFECT OF OTHER LAWS.—The Act of October 19, 1973 (Public Law 93-134; 87 Stat. 466) and section 203 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4023) shall not apply to the Settlement Fund.

SEC. 7. LAND OWNERSHIP ADJUSTMENTS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Agriculture may sell the Settlement Area Land, Water System Land, and Los Alamos Townsite Land, on such terms and conditions as are agreed upon and described in the Settlement Agreement and the Los Alamos Agreement, including reservations for administrative access and other access as shown on Appendix B of the Settlement Agreement.

(2) EFFECT OF CLAIMS AND CAUSE OF ACTION.—Consideration for any land authorized for sale by the Secretary of Agriculture shall not be offset or reduced by any claim or cause of action by any party to whom the land is conveyed.

(b) CONSIDERATION.—The consideration to be paid for the Federal land authorized for sale in subsection (a) shall be—

(1) for the Settlement Area Land and Water System Land, the consideration agreed upon in the Settlement Agreement; and

(2) for the Los Alamos Townsite Land, the current market value based on an appraisal approved by the Forest Service as being in conformity with the latest edition of the Uniform Appraisal Standards for Federal Land Acquisitions.

(c) DISPOSITION OF RECEIPTS.—

(1) IN GENERAL.—All monies received by the Secretary of Agriculture from the sale of National Forest System land as authorized by this Act, including receipts from the Northern Tier Land, shall be deposited into the fund established in the Treasury of the United States pursuant to the Sisk Act and shall be available, without further appropriation, authorization, or administrative apportionment for the purchase of land by the Secretary of Agriculture for National Forest System purposes in the State of New Mexico.

(2) USE OF FUNDS.—Funds deposited in a Sisk Act fund pursuant to this Act shall not be subject to transfer or reprogramming for wildlands fire management or any other emergency purposes, or used to reimburse any other account.

(3) ACQUISITIONS OF LAND.—In expending funds to exercise its rights under the Settlement Agreement and the Los Alamos Agreement with respect to the acquisition of the Settlement Area Land, the County's acquisitions of the Water System Land, and the Northern Tier Land (if the Pueblo exercises an option to purchase the Northern Tier Land as provided in section 12(b)(2)(A), the Pueblo shall use only funds in the Settlement Fund and shall not augment those funds from any other source.

(d) VALID EXISTING RIGHTS AND RESERVATIONS.—

(1) IN GENERAL.—The Settlement Area Land acquired by the Pueblo shall be subject to all valid existing rights on the date of enactment of this Act, including rights of administrative access.

(2) WATER RIGHTS.—No water rights shall be conveyed by the United States.

(3) SPECIAL USE AUTHORIZATION.—

(A) IN GENERAL.—Nothing in this Act shall affect the validity of any special use authorization issued by the Forest Service within the Settlement Area Land, except that such authorizations shall not be renewed upon expiration.

(B) REASONABLE ACCESS.—For access to valid occupancies within the Settlement Area Land, the Pueblo and the Secretary of the Interior shall afford rights of reasonable access commensurate with that provided by the Secretary of Agriculture on or before the date of enactment of this Act.

(4) WATER SYSTEM LAND AND LOS ALAMOS TOWNSITE LAND.—The Water System Land and Los Alamos Townsite Land acquired by the County shall be subject to—

(A) all valid existing rights; and

(B) the rights reserved by the United States under the Los Alamos Agreement.

(5) PRIVATE LANDOWNERS.—

(A) IN GENERAL.—Upon acquisition by the Pueblo of the Settlement Area Land, the Secretary of the Interior, acting on behalf of the Pueblo and the United States, shall execute easements in accordance with any right reserved by the United States for the benefit of private landowners owning property that requires the use of Forest Development Road 416 (as in existence on the date of enactment of this Act) and other roads that may be necessary to provide legal access into the property of the landowners, as the property is used on the date of this Act.

(B) MAINTENANCE OF ROADS.—Neither the Pueblo nor the United States shall be required to maintain roads for the benefit of private landowners.

(C) EASEMENTS.—Easements shall be granted, without consideration, to private landowners only upon application of such landowners to the Secretary.

(e) FOREST DEVELOPMENT ROADS.—

(1) UNITED STATES RIGHT TO USE.—Subject to any right-of-way to use, cross, and recross a road, the United States shall reserve and have free and unrestricted rights to use, operate, maintain, and reconstruct (at the same level of development, as in existence on the date of the Settlement Agreement), those sections of Forest Development Roads 57, 442, 416, 416v, 445 and 445ca referenced in Appendix B of the Settlement Agreement for any and all public and administrative access and other Federal governmental purposes, including access by Federal employees, their agents, contractors, and assigns (including those holding Forest Service permits).

(2) CERTAIN ROADS.—Notwithstanding paragraph (1), the United States—

(A) may improve Forest Development Road 416v beyond the existing condition of that road to a high clearance standard road (level 2); and

(B) shall have unrestricted administrative access and non-motorized public trail access to the portion of Forest Development Road 442 depicted in Appendix B to the Settlement Agreement.

(f) PRIVATE MINING OPERATIONS.—

(1) COPAR PUMICE MINE.—The United States and the Pueblo shall allow the COPAR Pumice Mine to continue to operate as provided in the Contract For The Sale Of Mineral Materials dated May 4, 1994, and for COPAR to use portions of Forest Development Roads 57, 442, 416, and other designated roads within the area described in the contract, for the period of the contract and thereafter for a period necessary to reclaim the site.

(2) CONTINUING JURISDICTION.—

(A) ADMINISTRATION.—Continuing jurisdiction of the United States over the contract for the sale of mineral materials shall be administered by the Secretary of the Interior.

(B) EXPIRATION OF CONTRACT.—Upon expiration of the contract described in subparagraph (A), jurisdiction over reclamation shall be assumed by the Secretary of the Interior.

(3) EFFECT ON EXISTING RIGHTS.—Nothing in this Act limits or enhances the rights of COPAR under the Contract For The Sale Of Mineral Materials dated May 4, 1994.

SEC. 8. CONVEYANCES.

(a) AUTHORIZATION.—

(1) CONSIDERATION FROM PUEBLO.—Upon receipt of the consideration from the Pueblo for the Settlement Area Land and the Water System Land, the Secretary of Agriculture shall execute and deliver—

(A) to the Pueblo, a quitclaim deed to the Settlement Area Land; and

(B) to the County, a quitclaim deed to the Water System Land, reserving—

(i) a contingent remainder in the United States in trust for the benefit of the Pueblo in accordance with the Los Alamos Agreement; and

(ii) a right of access for the United States for the Pueblo for ceremonial and other cultural purposes.

(2) CONSIDERATION FROM COUNTY.—Upon receipt of the consideration from the County for all or a portion of the Los Alamos Townsite Land, the Secretary of Agriculture shall execute and deliver to the County a quitclaim deed to all or portions of such land, as appropriate.

(3) EXECUTION.—An easement or deed of conveyance by the Secretary of Agriculture under this Act shall be executed by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(b) AUTHORIZATION FOR PUEBLO TO CONVEY IN TRUST.—Upon receipt by the Pueblo of the quitclaim deed to the Settlement Land under subsection (a)(1), the Pueblo may quitclaim the Settlement Land to the United States, in trust for the Pueblo.

(c) ADEQUACY OF CONVEYANCE INSTRUMENTS.—Notwithstanding the status of the Federal land as public domain or acquired land, no instrument of conveyance other than a quitclaim deed shall be required to convey the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land under this Act.

(d) SURVEYS.—The Secretary of Agriculture is authorized to perform and approve any required cadastral survey.

(e) CONTRIBUTIONS.—Notwithstanding section 3302 of title 31, United States Code, or any other provision of law, the Secretary of Agriculture may accept and use contributions of cash or services from the Pueblo, other governmental entities, or other persons—

(1) to perform and complete required cadastral surveys for the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land, as described in the Settlement Agreement or the Los Alamos Agreement; and

(2) to carry out any other project or activity under—

(A) this Act;

(B) the Settlement Agreement; or

(C) the Los Alamos Agreement.

SEC. 9. TRUST STATUS AND NATIONAL FOREST BOUNDARIES.

(a) OPERATION OF LAW.—Without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior—

(1) on recording the quitclaim deed or deeds from the Pueblo to the United States in trust for the Pueblo under section 8(b) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs—

(A) the Settlement Area Land shall be held in trust by the United States for the benefit of the Pueblo; and

(B) the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Settlement Area Land; and

(2) on recording the quitclaim deed or deeds from the Secretary of Agriculture to the County of the Water System Land in the county land records, the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Water System Land.

(b) FUTURE INTERESTS.—If fee title to the Water System Land vests in the Pueblo by conveyance or operation of law, the Water System Land shall be deemed to be held in trust by the United States for the benefit of the Pueblo, without further administrative procedures or environmental or other analyses.

(c) NONINTERCOURSE ACT.—Any land conveyed to the Secretary of the Interior in trust for the Pueblo or any other tribe in accordance with this Act shall be—

(1) subject to the Act of June 30, 1834 (25 U.S.C. 177); and

(2) treated as reservation land.

SEC. 10. INTERIM MANAGEMENT.

Subject to valid existing rights, prior to the conveyance under section 9, the Secretary of Agriculture, with respect to the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land—

(1) shall not encumber or dispose of the land by sale, exchange, or special use authorization, in such a manner as to substantially reduce the market value of the land;

(2) shall take any action that the Secretary determines to be necessary or desirable—

(A) to protect the land from fire, disease, or insect infestation; or

(B) to protect lives or property; and

(3) may, in consultation with the Pueblo or the County, as appropriate, authorize a special use of the Settlement Area Land, not to exceed 1 year in duration.

SEC. 11. WITHDRAWAL.

Subject to valid existing rights, the land referenced in the notices of withdrawal of land in New Mexico (67 Fed. Reg. 7193; 68 Fed. Reg. 75628) is withdrawn from all location, entry, and patent under the public land laws and mining and mineral leasing laws of the United States, including geothermal leasing laws.

SEC. 12. CONVEYANCE OF THE NORTHERN TIER LAND.

(a) CONVEYANCE AUTHORIZATION.—

(1) IN GENERAL.—Subject to valid existing rights, including reservations in the United States and any right under this section, the Secretary of Agriculture shall sell the Northern Tier Land on such terms and conditions as the Secretary may prescribe as being in the public interest and in accordance with this section.

(2) EFFECT OF PARAGRAPH.—The authorization under paragraph (1) is solely for the purpose of consolidating Federal and non-Federal land to increase management efficiency and is not in settlement or compromise of any claim of title by any Pueblo, Indian tribe, or other entity.

(b) RIGHTS OF REFUSAL.—

(1) PUEBLO OF SANTA CLARA.—

(A) IN GENERAL.—In consideration for an easement under subsection (e)(2), the Pueblo of Santa Clara shall have an exclusive option to purchase the Northern Tier Land for the period beginning on the date of enactment of this Act and ending 90 days thereafter.

(B) RESOLUTION.—Within the period prescribed in subparagraph (A), the Pueblo of Santa Clara may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture, a resolution of the Santa Clara Tribal Council expressing the unqualified intent of the Pueblo of Santa Clara to purchase the land at the offered price.

(C) FAILURE TO ACT.—If the Pueblo of Santa Clara does not exercise its option to purchase the Northern Tier Land within the 90-

day period under subparagraph (A), or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised, the Secretary of Agriculture shall offer the Northern Tier Land for sale to the Pueblo.

(2) OFFER TO PUEBLO.—

(A) IN GENERAL.—Not later than 90 days after receiving a written offer from the Secretary of Agriculture under paragraph (1)(C), the Pueblo may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, a resolution of the Pueblo Tribal Council expressing the unqualified intent of the Pueblo to purchase the land at the offered price.

(B) FAILURE OF PUEBLO TO ACT.—If the Pueblo fails to exercise its option to purchase the Northern Tier Land within 90 days after receiving an offer from the Secretary of Agriculture, or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised under subparagraph (A), the Secretary of Agriculture may sell or exchange the land to any third party in such manner and on such terms and conditions as the Secretary determines to be in the public interest, including by a competitive process.

(3) EXTENSION OF TIME PERIOD.—The Secretary of Agriculture may extend the time period for closing beyond the 1 year prescribed in subsection (b), if the Secretary determines that additional time is required to meet the administrative processing requirements of the Federal Government, or for other reasons beyond the control of either party.

(c) TERMS AND CONDITIONS OF SALE.—

(1) PURCHASE PRICE.—Subject to valid existing rights and reservations, the purchase price for the Northern Tier Land sold to the Pueblo of Santa Clara or the Pueblo under subsection (b) shall be the consideration agreed to by the Pueblo of Santa Clara pursuant to that certain Pueblo of Santa Clara Tribal Council Resolution No. 05–01 "Approving Proposed San Ildefonso Claims Settlement Act of 2005, and Terms for Purchase of Northern Tier Lands" that was signed by Governor J. Bruce Tafoya in January 2005.

(2) RESERVED RIGHTS.—On the Northern Tier Land, the United States shall reserve the right to operate, maintain, reconstruct (at standards in existence on the date of the Settlement Agreement), replace, and use the stream gauge, and to have unrestricted administrative access over the associated roads to the gauge (as depicted in Appendix B of the Settlement Agreement).

(3) CONVEYANCE BY QUITCLAIM DEED.—The conveyance of the Northern Tier Land shall be by quitclaim deed executed on behalf of the United States by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(d) TRUST STATUS AND FOREST BOUNDARIES.—

(1) ACQUISITION OF LAND BY INDIAN TRIBE.—If the Northern Tier Land is acquired by an Indian tribe (including a Pueblo tribe), the land may be reconveyed by quitclaim deed or deeds back to the United States to be held in trust by the Secretary of the Interior for the benefit of the tribe, and the Secretary of the Interior shall accept the conveyance without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior.

(2) LAND HELD IN TRUST.—On recording a quitclaim deed described in paragraph (1) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs, the Northern Tier Land shall be deemed to be held in trust by the United States for the benefit of the Indian tribe.

(3) BOUNDARIES OF SANTA FE NATIONAL FOREST.—Effective on the date of a deed described in paragraph (1), the boundaries of the Santa Fe National Forest shall be deemed modified to exclude from the National Forest System the land conveyed by the deed.

(e) INHOLDER AND ADMINISTRATIVE ACCESS.—

(1) FAILURE OF PUEBLO OF SANTA CLARA TO ACT.—

(A) IN GENERAL.—If the Pueblo of Santa Clara does not exercise its option to acquire the Northern Tier Land, the Secretary of Agriculture or the Secretary of the Interior, as appropriate, shall by deed reservations or grants on land under their respective jurisdiction provide for inholder and public access across the Northern Tier Land in order to provide reasonable ingress and egress to private and Federal land as shown in Appendix B of the Settlement Agreement.

(B) ADMINISTRATION OF RESERVATIONS.—The Secretary of the Interior shall administer any such reservations on land acquired by any Indian tribe.

(2) EFFECT OF ACCEPTANCE.—If the Pueblo of Santa Clara exercises its option to acquire all of the Northern Tier Land, the following shall apply:

(A) EASEMENTS TO UNITED STATES.—

(i) DEFINITION OF ADMINISTRATIVE ACCESS.—In this subparagraph, the term "administrative access" means access to Federal land by Federal employees acting in the course of their official capacities in carrying out activities on Federal land authorized by law or regulation, and by agents and contractors of Federal agencies who have been engaged to perform services necessary or desirable for fire management and the health of forest resources, including the cutting and removal of vegetation, and for the health and safety of persons on the Federal land.

(ii) EASEMENTS.—

(I) IN GENERAL.—The Pueblo of Santa Clara shall grant and convey at closing perpetual easements over the existing roads to the United States that are acceptable to the Secretary of Agriculture for administrative access over the Santa Clara Reservation Highway 601 (the Puye Road), from its intersection with New Mexico State Highway 30, westerly to its intersection with the Sawyer Canyon Road (also known as Forest Development Road 445), thence southwesterly on the Sawyer Canyon Road to the point at which it exits the Santa Clara Reservation.

(II) MAINTENANCE OF ROADWAY.—An easement under this subparagraph shall provide that the United States shall be obligated to contribute to maintenance of the roadway commensurate with actual use.

(B) EASEMENTS TO PRIVATE LANDOWNERS.—Not later than 180 days after the date of enactment of this Act, the Pueblo of Santa Clara, in consultation with private landowners, shall grant and convey a perpetual easement to the private owners of land within the Northern Tier Land for private access over Santa Clara Reservation Highway 601 (Puye Road) across the Santa Clara Indian Reservation from its intersection with New Mexico State Highway 30, or other designated public road, on Forest Development Roads 416, 445 and other roads that may be necessary to provide access to each individually owned private tract.

(3) APPROVAL.—The Secretary of the Interior shall approve the conveyance of an easement under paragraph (2) upon receipt of written approval of the terms of the easement by the Secretary of Agriculture.

(4) ADEQUATE ACCESS PROVIDED BY PUEBLO OF SANTA CLARA.—If adequate administrative and inholder access is provided over the Santa Clara Indian Reservation under paragraph (2), the Secretary of the Interior—

(A) shall vacate the inholder access over that portion of Forest Development Road 416 referenced in section 7(e)(5); but

(B) shall not vacate the reservations over the Northern Tier Land for administrative access under subsection (c)(2).

SEC. 13. INTER-PUEBLO COOPERATION.

(a) DEMARCATION OF BOUNDARY.—The Pueblo of Santa Clara and the Pueblo may, by agreement, demarcate a boundary between their respective tribal land within Township 20 North, Range 7 East, in Rio Arriba County, New Mexico, and may exchange or otherwise convey land between them in that township.

(b) ACTION BY SECRETARY OF THE INTERIOR.—In accordance with any agreement under subsection (a), the Secretary of the Interior shall, without further administrative procedures or environmental or other analyses—

(1) recognize a boundary between the Pueblo of Santa Clara and the Pueblo;

(2) provide for a boundary survey;

(3) approve land exchanges and conveyances as agreed upon by the Pueblo of Santa Clara and the Pueblo; and

(4) accept conveyances of exchanged lands into trust for the benefit of the grantee tribe.

SEC. 14. DISTRIBUTION OF FUNDS PLAN.

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall act in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) with respect to the award entered in the compromise and settlement of claims under the case styled Pueblo of San Ildefonso v. United States, No. 660–87L, United States Court of Federal Claims.

SEC. 15. RULE OF CONSTRUCTION AND JUDICIAL REVIEW.

Notwithstanding any provision of State law, the Settlement Agreement and the Los Alamos Agreement (including any real property conveyance under the agreements) shall be interpreted and implemented as matters of Federal law.

SEC. 16. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

SEC. 17. TIMING OF ACTIONS.

It is the intent of Congress that the land conveyances and adjustments contemplated in this Act shall be completed not later than 180 days after the date of enactment of this Act.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as are necessary to carry out this Act.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator DOMENICI in introducing the Pueblo de San Ildefonso Claims Settlement Act. This claim, the last one pending before the Indian Claims Commission, has gone unresolved for over 50 years and it is certainly long past time to bring an end to this dispute. I'd particularly like to commend the Pueblo de San Ildefonso for their diligent work on this settlement. It is testament to the Pueblo's fortitude and open-minded approach to this issue that they have been able find consensus with the many parties to this settlement and produce this compromise legislation.

As with any settlement of a lawsuit, it's unlikely that everyone will be completely happy with the terms of the deal but I am pleased to note that all of the local governments, tribal and municipal, have expressed their support. I hope that the introduction of this bill begins a productive process in the Indian Affairs Committee and, once the final product is signed into law, with the public that will definitively settle the issues of land ownership in this area and allow all of the local communities to move forward cooperatively.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 251—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD ENSURE THAT FEDERAL RESPONSE AND RECOVERY EFFORTS FOR HURRICANE KATRINA INCLUDE CONSIDERATION FOR ANIMAL RESCUE AND CARE

Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 251

Resolved, That it is the sense of the Senate that, in order to efficiently coordinate and respond to the growing crisis represented by the large number of animals left behind in the Gulf Coast region, the President should ensure that the Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs has postponed the oversight hearing scheduled for Wednesday, September 28, 2005, at 2:30 p.m. in Room 485 of the Russell Senate Office Building. Those wishing additional information may contact the Indian Affairs Committee.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Sam Schneider, Joshu Harris, Jennie Pasquarella, and Matt Oresman, all law clerks in my office, be granted the privilege of the floor during the Senate's debate and vote on the nomination of John G. Roberts, Jr., to be Chief Justice of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

On Thursday, September 22, 2005, the Senate passed H.R. 2744, as amended, as follows:

H.R. 2744

Resolved, That the bill from the House of Representatives (H.R. 2744) entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $5,127,000: Provided, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $10,539,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $14,524,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $8,298,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, $1,166,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $16,726,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service, and Rural Development mission areas for information technology, systems, and services, $118,072,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: Provided, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, $5,874,000: Provided, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center: Provided further, That no funds made available by this appropriation may be obligated for FAIR Act or Circular A–76 activities until the Secretary has submitted to the Committees on Appropriations of both Houses of Congress and the Committee on Government Reform of the House of Representatives a report on the Department's contracting out policies, including agency budgets for contracting out.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, $821,000..

OFFICE OF CIVIL RIGHTS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Civil Rights, $20,109,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, $676,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, $187,734,000, to remain available until expended, as follows: for payments to the General Services Administration and the Department of Homeland Security for building security, $147,734,000, and for buildings operations and maintenance, $40,000,000: Provided, That amounts which are made available for space rental and related costs for the Department of Agriculture in this Act may be transferred between such appropriations to cover the costs of additional, new, or replacement space 15 days after notice thereof is transmitted to the Appropriations Committees of both Houses of Congress.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), $12,000,000, to remain available until expended: Provided, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $23,103,000, to provide for necessary expenses for management support services to offices of the Department and for general administration, security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: Provided, That this appropriation shall be reimbursed from applicable *appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.*

Office of the Assistant Secretary for Congressional Relations

(including transfers of funds)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,846,000: Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: Provided further, That no funds made available by this appropriation may be obligated after 30 days from the date of enactment of this Act, unless the Secretary has notified the Committees on Appropriations of both Houses of Congress on the allocation of these funds by USDA agency: Provided further, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

Office of Communications

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $9,509,000: Provided, That not to exceed $2,000,000 may be used for farmers' bulletins.

Office of the Inspector General

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, $81,045,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

Office of the General Counsel

For necessary expenses of the Office of the General Counsel, $40,263,000.

Office of the Under Secretary for Research, Education and Economics

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $598,000.

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $78,549,000.

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627 and 2204g, and other laws, $145,159,000, of which up to $29,115,000 shall be available until expended for the Census of Agriculture.

Agricultural Research Service

salaries and expenses

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,109,981,000: Provided, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: Provided further, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: Provided further, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: Provided further, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: Provided further, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): Provided further, That the foregoing limitations shall not apply to the purchase of land at Florence, South Carolina: Provided further, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: Provided further, That the Secretary, through the Agricultural Research Service, or successor, may lease approximately 40 acres of land at the Central Plains Experiment Station, Nunn, Colorado, to the Board of Governors of the Colorado State University System, for its Shortgrass Steppe Biological Field Station, on such terms and conditions as the Secretary deems in the public interest: Provided further, That the Secretary understands that it is the intent of the University to construct research and educational buildings on the subject acreage and to conduct agricultural research and educational activities in these buildings: Provided further, That as consideration for a lease, the Secretary may accept the benefits of mutual cooperative research to be conducted by the Colorado State University and the Government at the Shortgrass Steppe Biological Field Station: Provided further, That the term of any lease shall be for no more than 20 years, but a lease may be renewed at the option of the Secretary on such terms and conditions as the Secretary deems in the public interest: Provided further, That the Agricultural Research Service may convey all rights and title of the United States, to a parcel of land comprising 19 acres, more or less, located in Section 2, Township 18 North, Range 14 East in Oktibbeha County, Mississippi, originally conveyed by the Board of Trustees of the Institution of Higher Learning of the State of Mississippi, and described in instruments recorded in Deed Book 306 at pages 553–554, Deed Book 319 at page 219, and Deed Book 33 at page 115, of the public land records of Oktibbeha County, Mississippi, including facilities, and fixed equipment, to the Mississippi State University, Starkville, Mississippi, in their "as is" condition, when vacated by the Agricultural Research Service.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products.

buildings and facilities

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $160,645,000, to remain available until expended.

Cooperative State Research, Education, and Extension Service

research and education activities

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $652,231,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), $178,707,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), $22,205,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State University (7 U.S.C. 3222), $37,477,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), $110,281,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $15,158,000; for competitive research grants (7 U.S.C. 450i(b)), $190,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,057,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $833,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), $1,102,000, to remain available until expended; for the 1994 research grants program for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), $1,078,000, to remain available until expended; for rangeland research grants (7 U.S.C. 3333), $992,000; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $2,976,000, to remain available until expended (7 U.S.C. 2209b); for a higher education agrosecurity education program (7 U.S.C. 3351), $750,000, to remain available until expended; for higher education challenge grants (7 U.S.C. 3152(b)(1)), $5,456,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $990,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $5,600,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106–78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,472,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), $992,000; for aquaculture grants (7 U.S.C. 3322), $3,968,000; for sustainable agriculture research and education (7 U.S.C. 5811), $12,400,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University and West Virginia State University, $12,312,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $2,232,000; and for necessary expenses of Research and Education Activities, $38,193,000, of which $2,424,000 for the Research, Education, and Economics Information System *and $1,928,000 for the Electronic Grants Information System, are to remain available until expended.*

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products: Provided, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $12,000,000, to remain available until expended.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $453,438,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents, $275,520,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,247,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $62,909,000; payments for the pest management program under section 3(d) of the Act, $9,920,000; payments for the farm safety program under section 3(d) of the Act, $4,563,000; payments for New Technologies for Ag Extension under Section 3(d) of the Act, $2,000,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State University, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $16,777,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, $7,478,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $440,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), $4,060,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, $1,760,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,067,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), $1,965,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University and West Virginia State University, $33,643,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, $2,646,000; and for necessary expenses of Extension Activities, $22,443,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension grants programs, including necessary administrative expenses, $55,784,000, as follows: for competitive grants programs authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $45,784,000, including $12,867,000 for the water quality program, $14,847,000 for the food safety program, $4,167,000 for the regional pest management centers program, $4,464,000 for the Food Quality Protection Act risk mitigation program for major food crop systems, $1,389,000 for the crops affected by Food Quality Protection Act implementation, $3,106,000 for the methyl bromide transition program, and $1,874,000 for the organic transition program; for a competitive international science and education grants program authorized under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b), to remain available until expended, $992,000; for grants programs authorized under section 2(c)(1)(B) of Public Law 89–106, as amended, $744,000, to remain available until September 30, 2007 for the critical issues program, and $1,334,000 for the regional rural development centers program; and $10,000,000 for the Food and Agriculture Defense Initiative authorized under section 1484 of the National Agricultural Research, Extension, and Teaching Act of 1977, to remain available until September 30, 2007.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $5,888,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $724,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $807,768,000, of which $4,140,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which $39,900,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones; of which $32,932,000 shall be available for a National Animal Identification program: Provided, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: Provided further, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: Provided further, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: Provided further, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building: Provided further, That none of the funds may be used to demolish or dismantle the Hawaii Fruit Fly Production Facility in Waimanalo, Hawaii.

In fiscal year 2006, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,996,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, $76,643,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $65,667,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: Provided, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $16,055,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $3,847,000, of which not less than $2,500,000 shall be used to make a grant under this heading.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, *for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, $38,443,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.*

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: Provided, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $602,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $836,818,000, of which no less than $751,457,000 shall be available for Federal food safety inspection; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): Provided, That no fewer than 63 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2006 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: Provided further, That of the amount available under this heading, notwithstanding section 704 of this Act $5,000,000, available until September 30, 2007, shall be obligated to include the Humane Animal Tracking System as part of the Field Automation and Information Management System following notification to the Committees on Appropriations, which shall include a detailed explanation of the components of such system: Provided further, That of the total amount made available under this heading, no less than $20,653,000 shall be obligated for regulatory and scientific training: Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $635,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $1,043,555,000: Provided, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: Provided further, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $4,250,000.

GRASSROOTS SOURCE WATER PROTECTION PROGRAM

For necessary expenses to carry out wellhead or groundwater protection activities under section 1240O of the Food Security Act of 1985 (16 U.S.C. 3839bb–2),$4,250,000, to remain available until expended.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: Provided, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387, 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,608,000,000, of which $1,400,000,000 shall be for guaranteed loans and $208,000,000 shall be for direct loans; operating loans, $2,033,000,000, of which $1,100,000,000 shall be for unsubsidized guaranteed loans, $283,000,000 shall be for subsidized guaranteed loans and $650,000,000 shall be for direct loans; Indian tribe land acquisition loans, $2,000,000; and for boll weevil eradication program loans, $100,000,000: Provided, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $17,370,000, of which $6,720,000 shall be for guaranteed loans, and $10,650,000 shall be for direct loans; operating loans, $133,380,000, of which $33,330,000 shall be for unsubsidized guaranteed loans, $35,375,000 shall be for subsidized guaranteed loans, and $64,675,000 shall be for direct loans; and Indian tribe land acquisition loans, $80,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $317,137,000, of which $309,137,000 shall be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: Provided, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), $73,448,000: Provided, That not to exceed $1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11): Provided, That of the funds available to the Commodity Credit Corporation under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C 714i) for the conduct of its business with the Foreign Agricultural Service, up to $5,000,000 may be transferred to and used by the Foreign Agricultural Service for information resource management activities of the Foreign Agricultural Service that are not related to Commodity Credit Corporation business.

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $744,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses to carry out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at *a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $819,561,000, to remain available until expended, of which not less than $11,000,000 is for snow survey and water forecasting, and not less than $11,847,000 is for operation and establishment of the plant materials centers, and of which not less than $28,156,000 shall be for the grazing lands conservation initiative:* Provided, *That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000:* Provided further, *That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a:* Provided further, *That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)):* Provided further, *That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.*

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), $5,141,000.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $60,000,000, to remain available until expended; of which up to $10,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a): Provided, *That not to exceed $27,199,000 of this appropriation shall be available for technical assistance:* Provided further, *That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.*

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, $27,313,000, to remain available until expended.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $51,228,000, to remain available until expended.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $635,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and Rural Development Act, $705,106,000, to remain available until expended, of which $86,770,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $528,115,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act, of which not to exceed $496,000 shall be available for the rural utilities program described in section 306(a)(2)(B) of such Act, and of which not to exceed $992,000 shall be available for the rural utilities program described in section 306E of such Act; and of which $90,221,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: Provided, *That of the total amount appropriated in this account, $26,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,464,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development:* Provided further, *That of the amount appropriated for rural community programs, $6,500,000 shall be available for a Rural Community Development Initiative:* Provided further, *That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas:* Provided further, *That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance:* Provided further, *That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided:* Provided further, *That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; $140,000 shall be made available to conduct a feasibility study; $3,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.) for any purpose under this heading:* Provided further, *That of the amount appropriated for rural utilities programs, not to exceed $25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; $26,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to 2 percent available to administer the program and/or improve interagency coordination may be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses", of which $100,000 shall be provided to develop a regional system for centralized billing, operation, and management of rural water and sewer utilities through regional cooperatives, of which 25 percent shall be provided for water and sewer projects in regional hubs, and the State of Alaska shall provide a 25 percent cost share, and grantees may use up to 5 percent of grant funds, not to exceed $35,000 per community, for the completion of comprehensive community safe water plans; not to exceed $18,250,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, of which $5,600,000 shall be for Rural Community Assistance Programs and not less than $850,000 shall be for a qualified national Native American organization to provide technical assistance for rural water systems for tribal communities; and not to exceed $13,500,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems:* Provided further, *That of the total amount appropriated, not to exceed $21,367,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,067,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $12,000,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $8,300,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act:* Provided further, *That of the amount appropriated for rural community programs, $20,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with 5 percent for administration and capacity building in the State rural development offices:* Provided further, *That of the amount appropriated, $28,000,000 shall be transferred to and merged with the "Rural Utilities Service, High Energy Cost Grants Account" to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a):* Provided further, *That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the "Rural Utilities Service, High Energy Costs Grants Account".*

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $164,773,000: Provided, *That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional activities that support the Rural Development mission area:* Provided further, *That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees:* Provided further, *That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.*

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,927,581,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,000,000,000 shall be for direct loans, and of which $3,681,033,000 shall be for unsubsidized guaranteed loans; $35,000,000 for section 504 housing repair loans; $90,000,000 for section 515 rental housing; $100,000,000 for section 538 guaranteed multi-family housing loans; $5,000,000 for section 524 site loans; $11,500,000 for credit sales of acquired property, of which up to $1,500,000 may be for multi-family credit sales; and $5,048,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $154,800,000, of which $113,900,000 shall be for direct loans, and of which $40,900,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $10,238,000; repair, rehabilitation, and new construction of section 515 rental housing, $41,292,000; section 538 multi-family housing guaranteed loans, $5,420,000; multi-family credit sales of acquired property, $681,000; section 523 self-help housing and development loans, $52,000: Provided, That of the total amount appropriated in this paragraph, $2,500,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: Provided further, That any funds under this paragraph initially allocated by the Secretary for housing projects in the State of Alaska that are not obligated by September 30, 2006, shall be carried over until September 30, 2007, and made available for such housing projects only in the State of Alaska.

For additional costs to conduct a demonstration program for the preservation and revitalization of the section 515 multi-family rental housing properties, $16,500,000, to remain available until expended: Provided, That funding made available under this heading shall be used to restructure existing section 515 loans, as the Secretary deems appropriate, expressly for the purposes of ensuring the project has sufficient resources to preserve the project for the purpose of providing safe and affordable housing for low-income residents including reducing or eliminating interest; deferring loan payments, subordinating, reducing or reamortizing loan debt; and other financial assistance including advances and incentives required by the Secretary.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $465,886,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $653,102,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: Provided, That of this amount, no less than $8,976,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $50,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: Provided further, That agreements entered into or renewed during the current fiscal year shall be funded for a four-year period: Provided further, That any unexpended balances remaining at the end of such four-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act: Provided further, That rental assistance that is recovered from projects that are subject to prepayment shall be deobligated and reallocated for vouchers and debt forgiveness or payments consistent with the requirements of this Act for purposes authorized under section 542 and section 502(c)(5)(D) of the Housing Act of 1949, as amended.

RURAL HOUSING VOUCHER PROGRAM

For the rural housing voucher program as authorized under section 542 of the Housing Act of 1949, (without regard to section 542(b)), $16,000,000, to remain available until expended: Provided, That such vouchers shall be available to any low-income household (including those not receiving rental assistance) residing in a property financed with a section 515 loan which has been prepaid after September 30, 2005: Provided further, That the amount of the voucher shall be the difference between comparable market rent for the section 515 unit and the tenant paid rent for such unit: Provided further, That funds made available for such vouchers, shall be subject to the availability of annual appropriations: Provided further, That the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable for section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development (including the ability to pay administrative costs related to delivery of the voucher funds).

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $34,000,000, to remain available until expended: Provided, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2005, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, $43,976,000, to remain available until expended: Provided, That $2,976,000 shall be made available for loans to private non-profit organizations, or such non-profit organizations' affiliate loan funds and State and local housing finance agencies, to carry out a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects: Provided further, That loans under such demonstration program shall have an interest rate.of not more than 1 percent direct loan to the recipient: Provided further, That the Secretary may defer the interest and principal payment to the Rural Housing Service for up to 3 years and the term of such loans shall not exceed 30 years: Provided further, That of the total amount appropriated, $1,200,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $29,607,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $34,212,000.

For the cost of direct loans, $14,718,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be available through June 30, 2006, for Federally Recognized Native American Tribes and of which $3,449,000 shall be available through June 30, 2006, for Mississippi Delta Region counties (as determined in accordance with Public Law 100–460): Provided, That of such amount made available, the Secretary may provide up to $1,500,000 for the Delta Regional Authority (7 U.S.C. 1921 et seq.): Provided further, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That of the total amount appropriated, $887,000 shall be available through June 30, 2006, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $6,656,000 shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $25,003,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $4,993,000, to remain available until expended.

Of the funds derived from interest on the cushion of credit payments in the current fiscal year, as authorized by section 313 of the Rural Electrification Act of 1936, $4,993,000 shall not be obligated and $4,993,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $24,988,000, of which $500,000 shall be for a cooperative research agreement with a qualified academic institution to conduct research on the national economic impact of all types of cooperatives; and of which $2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: Provided, That not to exceed $1,488,000 shall be for cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority; and of which $15,500,000, to remain available until expended, shall be for value-added agricultural product market development grants, as authorized by section 6401 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note).

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITY GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, $12,400,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277): Provided, That of the funds appropriated, $1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106–554).

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans, loan guarantees, and grants, under the same terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), $23,000,000 for direct and guaranteed renewable energy loans and grants: Provided, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, $100,000,000; municipal rate rural electric loans, $100,000,000; loans made pursuant to section 306 of that Act, rural electric, $2,700,000,000; Treasury rate direct electric loans, $1,000,000,000; guaranteed underwriting loans pursuant to section 313A, $1,500,000,000; 5 percent rural telecommunications loans, $145,000,000; cost of money rural telecommunications loans, $425,000,000; and for loans made pursuant to section 306 of that Act, rural telecommunications loans, $125,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $6,160,000, and the cost of telecommunications loans, $212,000: Provided, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $39,933,000 which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs.

For administrative expenses, including audits, necessary to continue to service existing loans, $2,500,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of broadband telecommunication loans, $550,000,000.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., $35,000,000, to remain available until expended: Provided, That $10,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators and repeaters, regardless of the location of their main transmitter, studio-to-transmitter links, and equipment to allow local control over digital content and programming through the use of high-definition broadcast, multi-casting and datacasting technologies.

For the cost of broadband loans, as authorized by 7 U.S.C. 901 et seq., $11,825,000, to remain available until September 30, 2007: Provided, That the interest rate for such loans shall be the cost of borrowing to the Department of the Treasury for obligations of comparable maturity: Provided further, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, $10,000,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $599,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $12,422,027,000, to remain available through September 30, 2007, of which $7,234,406,000 is hereby appropriated and $5,187,621,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That up to $5,235,000 shall be available for independent verification of school food service claims: Provided further, That not less than $20,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $5,257,000,000, to remain available through September 30, 2007, of which such sums as are necessary to restore the contingency reserve to $125,000,000 shall be placed in reserve, to remain available until expended, to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates: Provided, That of the total amount available, the Secretary shall obligate not less than $15,000,000 for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A): Provided further, That only the provisions of section 17(h)(10)(B)(i) and section 17(h)(10)(B)(ii) shall be effective in 2006; including $14,000,000 for the purposes specified in section 17(h)(10)(B)(i) and $20,000,000 for the purposes specified in section 17(h)(10)(B)(ii): Provided further, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: Provided further, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: Provided further, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $40,711,395,000, of which $3,000,000,000 to remain available through September 30, 2007, shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed $4,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers as well as from producer-owned cooperatives of bison ranchers: Provided further, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: Provided further, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: Provided further, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: Provided further, That notwithstanding section 5(d) of the Food Stamp Act of 1977, any additional payment received under chapter 5 of title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the Commodity Supplemental Food Program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); The Emergency Food Assistance Act of 1983; special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(f)(2) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188); and the Farmers' Market Nutrition Program, as authorized by section 17(m) of the Child Nutrition Act of 1966, $179,935,000, to remain available through September 30, 2007: Provided, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: Provided further, That notwithstanding any other provision of law, effective with funds made available in fiscal year 2006 to support the Senior Farmers' Market Nutrition Program, as authorized by section 4402 of Public Law 107–171, such funds shall remain available through September 30, 2007: Provided further, That of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to $10,000,000 for costs associated with the distribution of commodities.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, $140,761,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $147,868,000: Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I DIRECT CREDIT AND FOOD FOR PROGRESS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $65,040,000, to remain available until expended: Provided, That the Secretary of Agriculture may implement a commodity monetization program under existing provisions of the Food for Progress Act of 1985 to provide no less than $5,000,000 in local-currency funding support for rural electrification development overseas.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $3,385,000, of which $168,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $3,217,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, $11,940,000, to remain available until expended: Provided,. That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $1,150,000,000, to remain available until expended.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $5,279,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,440,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $1,839,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $100,000,000, to remain available until expended: Provided, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; and notwithstanding section 521 of Public Law 107–188; $1,841,959,000: Provided, That of the amount provided under this heading, $305,332,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h, shall be credited to this account and remain available until expended, and shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2007 but collected in fiscal year 2006; $40,300,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; and $11,318,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended: Provided further, That fees derived from prescription drug, medical device, and animal drug assessments received during fiscal year 2006, including any such fees assessed prior to the current fiscal year but credited during the current year, shall be subject to the fiscal year 2006 limitation: Provided further, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: Provided further, That of the total amount appropriated: (1) $450,179,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $515,430,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $178,714,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $99,787,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $245,770,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $41,152,000 shall be for the National Center for Toxicological Research; (7) $58,515,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration for rent; (8) $134,853,000 shall be for payments to the General Services Administration for rent; and (9) $117,559,000 shall be for other activities, including the Office of the Commissioner; the Office of Management; the Office of External Relations; the Office of Policy and Planning; and central services for these offices: Provided further, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $7,000,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, $98,386,000, including not to exceed $3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $44,250,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: Provided, That this limitation shall not apply to expenses associated with receiverships: Provided further, That up to an additional 5 percent of the amount of this limitation may be expended for expenses associated with unforeseen termination applications, upon a finding of extraordinary circumstances by the Federal Credit Administration Board.

TITLE VII

GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 320 passenger motor vehicles, of which 320 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Hereafter, funds appropriated by this or any other Act to the Department of Agriculture (excluding the Forest Service) shall be *available for uniforms or allowances as authorized by law (5 U.S.C. 5901–5902).*

SEC. 703. Hereafter, funds appropriated by this or any other Act to the Department of Agriculture (excluding the Forest Service) shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109.

SEC. 704. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, low pathogen avian influenza program, up to $32,932,000 in animal health monitoring and surveillance for the animal identification system, up to $2,993,000 in the emergency management systems program for the vaccine bank, up to $1,000,000 for wildlife services methods development, up to $1,000,000 of the wildlife services operations program for aviation safety, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education, and Economics Information System, and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program, and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 705. Hereafter, the Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this or any other Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: Provided, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: Provided further, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Hereafter, not to exceed $50,000 of the funds appropriated by this or any other Act to the Department of Agriculture (excluding the Forest Service) shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 20 percent of total Federal funds provided under each award: Provided, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 710. Hereafter, loan levels provided in this or any other Act to the Department of Agriculture shall be considered estimates, not limitations.

SEC. 711. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Telephone Bank program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

SEC. 712. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 713. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 714. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 715. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 716. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress: Provided further, That none of the funds available to the Department of Agriculture for information technology shall be obligated for projects over $25,000 prior to receipt of written approval by the Chief Information Officer.

SEC. 717. (a) Hereafter, none of the funds appropriated by this or any other Act to the agencies funded by this Act, or provided from accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) Hereafter, none of the funds appropriated by this or any other Act to the agencies funded by this Act, or provided from accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) Hereafter, the Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 718. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 719. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2006 appropriations Act.

SEC. 720. None of the funds made available by this or any other Act may be used to close or relocate a State Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 721. In addition to amounts otherwise appropriated or made available by this Act, $2,500,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger

Fellowships, through the Congressional Hunger Center.

SEC. 722. Hereafter, notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 723. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking "$27,998,000" and inserting "$29,998,000".

SEC. 724. Notwithstanding any other provision of law, and until receipt of the decennial Census in the year 2010, the Secretary of Agriculture shall consider the City of Butte/Silverbow, Montana, Cleburne County, Arkansas, and the designated Census track areas for the Upper Kanawha Valley Enterprise Community, rural areas for purposes of eligibility for rural development programs.

SEC. 725. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide financial and technical assistance through the Watershed and Flood Prevention Operations program for the Matanuska River erosion control project in Alaska, Little Otter Creek project in Missouri, the Manoa Watershed project in Hawaii, the West Tarkio project in Iowa, the Steeple Run and West Branch DuPage River Watershed projects in DuPage County, Illinois, and the Coal Creek project in Utah.

SEC. 726. Hereafter, none of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriation Act.

SEC. 727. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 20 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 728. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 729. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 730. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd–7).

SEC. 731. Hereafter, agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies and offices in the resolution of complaints by employees or applicants for employment, and in cases and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 732. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6405 of Public Law 107–171 (7 U.S.C. 2655).

SEC. 733. Hereafter, the Agricultural Marketing Service and the Grain Inspection, Packers and Stockyards Administration, that have statutory authority to purchase interest bearing investments outside of the Treasury, are not required to establish obligations and outlays for those investments, provided those investments are insured by the Federal Deposit Insurance Corporation or are collateralized at the Federal Reserve with securities approved by the Federal Reserve, operating under the guidelines of the United States Department of the Treasury.

SEC. 734. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 150,000 acres in the calendar year 2006 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 735. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel who carry out an environmental quality incentives program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in excess of $1,017,000,000.

SEC. 736. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $23,000,000 made available by section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)).

SEC. 737. With the exception of funds provided in fiscal year 2003, none of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $50,000,000 made available by section 601(j)(1)(A) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)(A)).

SEC. 738. None of the funds made available in fiscal year 2006 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): Provided, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 739. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $120,000,000 made available by section 6401(a) of Public Law 107–171.

SEC. 740. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 741. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2502 of Public Law 107–171 in excess of $47,000,000.

SEC. 742. Of the unobligated balances available in the Special Supplemental Nutrition Program for Women, Infants, and Children reserve account, $32,000,000 is hereby rescinded.

SEC. 743. Not more than $10,000,000 for fiscal year 2006 of the funds appropriated or otherwise made available by this or any other Act shall be used to carry out section 6029 of Public Law 107–171.

SEC. 744. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a ground and surface water conservation program authorized by section 2301 of Public Law 107–171 in excess of $51,000,000.

SEC. 745. None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

SEC. 746. None of the funds made available in this Act may be used to study, complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs or for reimbursement of administrative costs under section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) to a State agency for which more than 10 percent of the costs (other than costs for issuance of benefits or nutrition education) are obtained under contract.

SEC. 747. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 426–426c of title 7, United States Code, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal and Plant Health Inspection Service, Wildlife Services; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

SEC. 748. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9010 of Public Law 107–171 in excess of $60,000,000.

SEC. 749. Hereafter, agencies and offices of the Department of Agriculture may utilize any available discretionary funds to cover the costs of preparing, or contracting for the preparation of, final agency decisions regarding complaints of discrimination in employment or program activities arising within such agencies and offices.

SEC. 750. Funds made available under section 12401 and section 1241(a) of the Food Security Act of 1985 in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year, and are not available for new obligations.

SEC. 751. There is hereby appropriated $1,500,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 752. Notwithstanding any other provision of law—

(1)(A) the Alaska Department of Community and Economic Development shall be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is equal to not more than 75 percent of the total cost of providing water and

sewer service to the proposed hospital in the Matanuska-Susitna Borough, Alaska; and

(B) the Alaska Department of Community and Economic Development shall be allowed to pass the grant funds through to the local government entity that will provide water and sewer service to the hospital;

(2) or any percentage of cost limitation in current law or regulations, the construction projects known as the Tri-Valley Community Center addition in Healy, Alaska; the Cold Climate Housing Research Center in Fairbanks, Alaska; and the University of Alaska-Fairbanks Allied Health Learning Center skill labs/classrooms shall be eligible to receive Community Facilities grants in amounts that are equal to not more than 75 percent of the total facility costs: Provided, That for the purposes of this paragraph, the Cold Climate Housing Research Center is designated an "essential community facility" for rural Alaska;

(3) for any fiscal year and hereafter, in the case of a high cost isolated rural area in Alaska that is not connected to a road system, the maximum level for the single family housing assistance shall be 150 percent of the median household income level in the nonmetropolitan areas of the State and 115 percent of all other eligible areas of the State;

(4)(A) the Natural Resources Conservation Service shall provide financial and technical assistance through the Watershed and Flood Prevention Operations program to carry out the East Locust Creek Watershed Plan Revision in Missouri; and

(B) the Natural Resources Conservation Service is authorized to provide 100 percent of the engineering assistance and 75 percent cost share for construction cost of the project; and

(5) any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under Section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.

SEC. 753. Hereafter, notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary may allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: Provided, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.

SEC. 754. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture is authorized to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and shall waive cost sharing requirements for the funding and assistance.

SEC. 755. None of the funds provided in this Act may be used for salaries and expenses to carry out any regulation or rule insofar as it would make ineligible for enrollment in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) land that is planted to hardwood trees as of the date of enactment of this Act and was enrolled in the conservation reserve program under a contract that expired prior to calendar year 2002.

SEC. 756. None of the funds made available under this Act shall be available to pay the administrative expenses of a State agency that, after the date of enactment of this Act, authorizes any new for-profit vendor(s) to transact food instruments under the Special Supplemental Nutrition Program for Women, Infants, and Children if it is expected that more than 50 percent of the annual revenue of the vendor from the sale of food items will be derived from the sale of supplemental foods that are obtained with WIC food instruments, except that the Secretary may approve the authorization of such a vendor if the approval is necessary to assure participant access to program benefits.

SEC. 757. The Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading "Rural Community Advancement Program" in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

SEC. 758. There is hereby appropriated $1,000,000, to remain available until expended, to carry out provisions of section 751 of division A of Public Law 108-7.

SEC. 759. There is hereby appropriated $500,000 for a grant to Alaska Village Initiatives for the purpose of administering a private lands wildlife management program in Alaska.

SEC. 760. There is hereby appropriated $2,250,000, to remain available until expended, for a grant to the Wisconsin Federation of Cooperatives for pilot Wisconsin-Minnesota health care cooperative purchasing alliances.

SEC. 761. Hereafter, notwithstanding any other provision of law, effective with funds made available in fiscal year 2004 to States administering the Child and Adult Care Food Program, for the purpose of conducting audits of participating institutions, funds identified by the Secretary as having been unused during the initial fiscal year of availability may be recovered and reallocated by the Secretary: Provided, That States may use the reallocated funds until expended for the purpose of conducting audits of participating institutions.

SEC. 762. The Secretary of Agriculture is authorized and directed to quitclaim to the City of Elkhart, Kansas, all rights, title and interests of the United States in that tract of land comprising 151.7 acres, more or less, located in Morton County, Kansas, and more specifically described in a deed dated March 11, 1958, from the United States of America to the City of Elkhart, State of Kansas, and filed of record April 4, 1958 at Book 34 at Page 520 in the office of the Register of Deeds of Morton County, Kansas.

SEC. 763. There is hereby appropriated $5,000,000 to carry out the Healthy Forests Reserve Program authorized under Title V of Public Law 108-148 (16 U.S.C. 6571-6578).

SEC. 764. None of the funds provided in this Act may be used for salaries and expenses to draft or implement any regulation or rule insofar as it would require recertification of rural status for each electric and telecommunications borrower for the Rural Electrification and Telecommunication Loans program.

SEC. 765. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Biomass Research and Development Program in excess of $12,000,000, as authorized by Public Law 106–224 (7 U.S.C. 7624 note).

SEC. 766. The Rural Electrification Act of 1936 is amended by inserting after section 315 (7 U.S.C. 940e) the following:

"SEC. 316. EXTENSION OF PERIOD OF EXISTING GUARANTEE.

"(a) IN GENERAL.—Subject to the limitations in this section and the provisions of the Federal Credit Reform Act of 1990, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under this Act may request an extension of the final maturity of the outstanding principal balance of such loan or any loan advance thereunder. If the Secretary and the Federal Financing Bank approve such an extension, then the period of the existing guarantee shall also be considered extended.

"(b) LIMITATIONS.—

"(1) FEASIBILITY AND SECURITY.—Extensions under this section shall not be made unless the Secretary first finds and certifies that, after giving effect to the extension, in his judgment the security for all loans to the borrower made or guaranteed under this Act is reasonably adequate and that all such loans will be repaid within the time agreed.

"(2) EXTENSION OF USEFUL LIFE OR COLLATERAL.—Extensions under this section shall not be granted unless the borrower first submits with its request either—

"(A) evidence satisfactory to the Secretary that a Federal or State agency with jurisdiction and expertise has made an official determination, such as through a licensing proceeding, extending the useful life of a generating plant or transmission line pledged as collateral to or beyond the new final maturity date being requested by the borrower, or

"(B) a certificate from an independent licensed engineer concluding, on the basis of a thorough engineering analysis satisfactory to the Secretary, that the useful life of the generating plant or transmission line pledged as collateral extends to or beyond the new final maturity date being requested by the borrower.

"(3) AMOUNT ELIGIBLE FOR EXTENSION.—Extensions under this section shall not be granted if the principal balance extended exceeds the appraised value of the generating plant or transmission line referred to in subsection paragraph (2).

"(4) PERIOD OF EXTENSION.—Extensions under this section shall in no case result in a final maturity greater than 55 years from the time of original disbursement and shall in no case result in a final maturity greater than the useful life of the plant.

"(5) NUMBER OF EXTENSIONS.—Extensions under this section shall not be granted more than once per loan advance.

"(c) FEES.—

"(1) IN GENERAL.—A borrower that receives an extension under this section shall pay a fee to the Secretary which shall be credited to the Rural Electrification and Telecommunications Loans Program account. Such fees shall remain available without fiscal year limitation to pay the modification costs for extensions.

"(2) AMOUNT.—The amount of the fee paid shall be equal to the modification cost, calculated in accordance with section 502 of the Federal Credit Reform Act of 1990, as amended, of such extension.

"(3) PAYMENT.—The borrower shall pay the fee required under this section at the time the existing guarantee is extended by making a payment in the amount of the required fee.".

SEC. 767. Notwithstanding any other provision of law, none of the funds provided for in this or any other Act may be used in this and each fiscal year hereafter for the review, clearance, or approval for sale in the United States of any contact lens unless the manufacturer certifies that it makes any contact lens it produces, markets, distributes, or sells available in a commercially reasonable and non-discriminatory manner directly to and generally within all alternative channels of distribution: Provided, That for the purposes of this section, the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns, and 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber: Provided further, That nothing in this section shall be interpreted as waiving any obligation of a seller under 15 U.S.C. 7603: Provided further, That to facilitate compliance with this section, 15 U.S.C. 7605 is amended by inserting after the period: "A manufacturer shall make any contact lens it produces, markets, distributes or sells available in a commercially reasonable and nondiscriminatory manner directly to and generally within all alternative channels of distribution; provided that, for the purposes of this section, the term 'alternative channels of distribution' means any mail order company, Internet retailer, pharmacy, buying club, department store, mass merchandise outlet or other appropriate distribution alternative without regard to whether it is associated with a prescriber; the term 'manufacturer' includes the manufacturer and its parents, subsidiaries, affiliates, successors and assigns; and any rule prescribed under this section shall take effect not later than 60 days after the date of enactment."

SEC. 768. (a) IN GENERAL.—Hereafter, the Secretary of Health and Human Services, on behalf of the United States may, whenever the Secretary deems desirable, relinquish to the State of Arkansas all or part of the jurisdiction of the United States over the lands and properties encompassing the Jefferson Labs campus in the State of Arkansas that are under the supervision or control of the Secretary.

(b) TERMS.—Relinquishment of jurisdiction under this section may be accomplished, under terms and conditions that the Secretary deems advisable,

(1) by filing with the Governor of the State of Arkansas a notice of relinquishment to take effect upon acceptance thereof; or

(2) as the laws of such State may otherwise provide.

(c) DEFINITION.—In this section, the term "Jefferson Labs campus" means the lands and properties of the National Center for Toxicological Research and the Arkansas Regional Laboratory.

SEC. 769. Section 204(b)(3)(A) of the Child Nutrition and WIC Reauthorization Act of 2004 (118 Stat. 781; 42 U.S.C. 1751 note) is amended by striking "July 1, 2006" and inserting "October 1, 2005".

SEC. 770. (a) Section 18(f)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(1)(B)) is amended—

(1) by striking "April 2004" and inserting "June 2005"; and

(2) in clause (ii), by striking "66.67" and inserting "75".

(b) The amendments made by subsection (a) take effect on January 1, 2006.

SEC. 771. There is hereby appropriated $1,250,000 to the National Agricultural Imagery Program to acquire one meter natural color digital ortho-imagery of the entire state of Utah.

SEC. 772. Notwithstanding any other provision of law, for eligibility to participate in the Environmental Quality Incentives Program (EQIP), a producer is deemed to have an interest in a farming or ranching operation whether the source of income for that operation is derived from crops or livestock owned by that producer, or owned by another and raised by that producer.

SEC. 773. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank, except in the event of liquidation or dissolution of the telephone bank during fiscal year 2006, pursuant to section 411 of the Rural Electrification Act of 1936, as amended, or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 774. There is hereby appropriated $2,000,000 to carry out Section 120 of Public Law 108–265 in Utah and Wisconsin.

SEC. 775. There is hereby appropriated $700,000 to provide administrative support for a world food hunger organization: Provided, That none of the funds may be used for a monetary award to an individual.

SEC. 776. Notwithstanding any other provision of law, the Secretary of Agriculture may consider the Municipality of Carolina, Puerto Rico, as meeting the eligibility requirements for loans and grants programs in the Rural Development mission area.

SEC. 777. It is the sense of the Senate that the United States Government should not permit the importation into the United States of beef from Japan until the Government of Japan takes appropriate actions to permit the importation into Japan of beef from the United States.

SEC. 778. None of the funds made available under this Act shall be used by the Secretary of Agriculture for the purpose of developing a final rule relating to the proposed rule entitled "Importation of Whole Cuts of Boneless Beef from Japan", dated August 18, 2005 (70 Fed. Reg. 48494), to allow the importation of beef from Japan, unless the President certifies to Congress that Japan has granted open access to Japanese markets for beef and beef products produced in the United States.

SEC. 779. (a) Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(M) MINIMUM MILK PRICES FOR HANDLERS.—

"(i) APPLICATION OF MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this section, a milk handler described in clause (ii) shall be subject to all of the minimum and uniform price requirements of a Federal milk marketing order issued pursuant to this section applicable to the county in which the plant of the handler is located, at Federal order class prices, if the handler has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases.

"(ii) COVERED MILK HANDLERS.—Except as provided in clause (iv), clause (i) applies to a handler of Class I milk products (including a producer-handler or producer operating as a handler) that—

"(I) operates a plant that is located within the boundaries of a Federal order milk marketing area (as those boundaries are in effect on the date of enactment of this subparagraph);

"(II) has packaged fluid milk product route dispositions, or sales of packaged fluid milk products to other plants, in a milk marketing area located in a State that requires handlers to pay minimum prices for raw milk purchases; and

"(III) is not otherwise obligated by a Federal milk marketing order, or a regulated milk pricing plan operated by a State, to pay minimum class prices for the raw milk that is used for the milk dispositions or sales.

"(iii) OBLIGATION TO PAY MINIMUM CLASS PRICES.—For the purpose of clause (ii)(III), the Secretary may not consider a handler of Class I milk products to be obligated by a Federal milk marketing order to pay minimum class prices for raw milk unless the handler operates the plant as a fully regulated fluid milk distributing plant under a Federal milk marketing order.

"(iv) CERTAIN HANDLERS EXEMPTED.—Clause (i) does not apply to—

"(I) a handler (otherwise described in clause (ii)) that operates a nonpool plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph));

"(II) a producer-handler (otherwise described in clause (ii)) for any month during which the producer-handler has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 3,000,000 pounds of milk; or

"(III) a handler (otherwise described in clause (ii)) for any month during which—

"(aa) less than 25 percent of the total quantity of fluid milk products physically received at the plant of the handler (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition or is transferred in the form of packaged fluid milk products to other plants; or

"(bb) less than 25 percent in aggregate of the route disposition or transfers are in a marketing area or areas located in 1 or more States that require handlers to pay minimum prices for raw milk purchases.

"(N) EXEMPTION FOR CERTAIN MILK HANDLERS.—Notwithstanding any other provision of this section, no handler with distribution of Class I milk products in the Arizona-Las Vegas marketing area (Order No. 131) shall be exempt during any month from any minimum milk price requirement established by the Secretary under this subsection if the total distribution of Class I products during the preceding month of any such handler's own farm production that exceeds 3,000,000 pounds.".

(b) Section 8c(11) of the Agricultural Adjustment Act (7 U.S.C. 608c(11)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subparagraph (C), by striking the last sentence; and

(2) by adding at the end the following:

"(D) EXCLUSION OF NEVADA FROM FEDERAL MILK MARKETING ORDERS.—In the case of milk and its products, no county or other political subdivision located in the State of Nevada shall be within a marketing area covered by any order issued under this section.".

(c) Notwithstanding any other provision of this section or the amendments made by this section, a milk handler (including a producer-handler or producer operating as a handler) that is subject to regulation under this section or an amendment made by this section shall comply with any requirement under section 1000.27 of title 7, Code of Federal Regulations (or a successor regulation) relating to responsibility of handlers for records or facilities.

(d)(1) This section and the amendments made by this section take effect on the first day of the first month beginning more than 15 days after the date of enactment of this Act.

(2) To accomplish the expedited implementation schedule for the amendment made by subsection (a), effective on the date of enactment of this Act, the Secretary of Agriculture shall ensure that the pool distributing plant provisions of each Federal milk marketing order issued under section 8c(5)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(B)), reenacted with amendments by the Agricultural Marketing Agreement of 1937, provides that a handler described in section 8c(5)(M) of the Agricultural Adjustment Act, reenacted with amendments by

the Agricultural Marketing Agreement of 1937 (as added by subsection (a))), will be fully regulated by the order in which the distributing plant of the handler is located.

(3) Implementation of this section and the amendments made by this section shall not be subject to a referendum under section 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(19)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

SEC. 780. (a) Subject to subsection (b), none of the funds made available in this Act may be used to—

(1) grant a waiver of a financial conflict of interest requirement pursuant to section 505(n)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)(4)) for any voting member of an advisory committee or panel of the Food and Drug Administration; or

(2) make a certification under section 208(b)(3) of title 18, United States Code, for any such voting member.

(b) Subsection (a) shall not apply to a waiver or certification if—

(1) not later than 15 days prior to a meeting of an advisory committee or panel to which such waiver or certification applies, the Secretary of Health and Human Services discloses on the Internet website of the Food and Drug Administration—

(A) the nature of the conflict of interest at issue; and

(B) the nature and basis of such waiver or certification (other than information exempted from disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act)); or

(2) in the case of a conflict of interest that becomes known to the Secretary less than 15 days prior to a meeting to which such waiver or certification applies, the Secretary shall make such public disclosure as soon as possible thereafter, but in no event later than the date of such meeting.

(c) None of the funds made available in this Act may be used to make a new appointment to an advisory committee or panel of the Food and Drug Administration unless the Commissioner of Food and Drugs submits a confidential report to the Inspector General of the Department of Health and Human Services of the efforts made to identify qualified persons for such appointment with minimal or no potential conflicts of interest.

SEC. 781. (a) Hereafter, none of the funds made available by this Act or any other Act may be used to publish, disseminate, or distribute Agriculture Information Bulletin Number 787.

(b) Of the funds provided to the Economic Research Service, the Secretary of Agriculture shall enter into an agreement with the National Academy of Sciences to conduct a comprehensive report on the economic development and current status of the sheep industry in the United States.

SEC. 782. The Secretary of Agriculture may establish a demonstration intermediate relending program for the construction and rehabilitation of housing for the Mississippi Band of Choctaw Indians: Provided, That the interest rate for direct loans shall be 1 percent: Provided further, That no later than one year after the establishment of this program the Secretary shall provide the Committees on Appropriations with a report providing information on the program structure, management, and general demographic information on the loan recipients.

SEC. 783. None of the funds made available by this Act may be used to provide funding to a research facility that purchases animals from a dealer that holds a Class B license under the Animal Welfare Act (7 U.S.C. 2131 et seq.).

SEC. 784. None of the funds made available by this Act may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, or goats, or horses, mules, or other equines that are unable to stand or walk unassisted at a slaughtering, packing, meat-canning, rendering, or similar establishment subject to inspection at the point of examination and inspection under section 3(a) of that Act (21 U.S.C. 603(a)).

SEC. 785. None of the funds made available by this or any other Act may be used to close or relocate a county or local Farm Service Agency office unless or until the Secretary of Agriculture has determined the cost effectiveness and enhancement of program delivery of the closure or relocation, and report to the House and Senate Committees on Agriculture and Appropriations.

SEC. 786. None of the funds made available in this Act may be used to pay the salaries or expenses of personnel to inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) or under the guidelines issued under section 903 the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104–127).

SEC. 787. Section 508(a)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(4)(B)) is amended by inserting "or similar commodities" after "the commodity".

SEC. 788. 90 days before initiating any structural change in a mission area of the Department, the Secretary of Agriculture shall provide notice of the change to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 789. (a) Notwithstanding subtitles B and C of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.), during fiscal year 2006, the National Dairy Promotion and Research Board may obligate and expend funds for any activity to improve the environment and public health.

(b) The Secretary of Agriculture shall review the impact of any expenditures under subsection (a) and include the review in the 2007 report of the Secretary to Congress on the dairy promotion program established under subtitle B of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).

SEC. 790. Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following: "(C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year."

SEC. 791. The Federal facility located at the South Mississippi Branch Experiment Station in Poplarville, Mississippi, and known as the "Southern Horticultural Laboratory", shall be known and designated as the "Thad Cochran Southern Horticultural Laboratory": Provided, That any reference in law, map, regulation, document, paper, or other record of the United States to such Federal facility shall be deemed to be a reference to the "Thad Cochran Southern Horticultural Laboratory".

SEC. 792. As soon as practicable after the Agricultural Research Service operations at the Western Cotton Research Laboratory located at 4135 East Broadway Road in Phoenix, Arizona, have ceased, the Secretary of Agriculture may convey, without consideration, to the Arizona Cotton Growers Association and Supima all right, title, and interest of the United States in and to the real property at that location, including improvements.

SEC. 793. The Secretary of Agriculture shall—

(1) as soon as practicable after the date of enactment of this Act, conduct an evaluation of any impacts of the court decision in Harvey v. Veneman, 396 F.3d 28 (1st Cir. Me. 2005); and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report that—

(A) describes the results of the evaluation conducted under paragraph (1);

(B) includes a determination by the Secretary on whether restoring the National Organic Program, as in effect on the day before the date of the court decision described in paragraph (1), would adversely affect organic farmers, organic food processors, and consumers;

(C) analyzes issues regarding the use of synthetic ingredients in processing and handling;

(D) analyzes the utility of expedited petitions for commercially unavailable agricultural commodities and products; and

(E) considers the use of crops and forage from land included in the organic system plan of dairy farms that are in the third year of organic management.

SEC. 794. (a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Animal and Plant Health Inspection Service (referred to in this section as the "Administrator") shall publish in the Federal Register uniform methods and rules for addressing chronic wasting disease.

(b) If the Administrator does not publish the uniform methods and rules by the deadline specified in subsection (a), not later than 30 days after the deadline and every 30 days thereafter until the uniform methods and rules are published in accordance with that subsection, the Administrator shall submit to Congress a report that—

(1) describes the status of the uniform methods and rules; and

(2) provides an estimated completion date for the uniform methods and rules.

SEC. 795. (a) In carrying out a livestock assistance, compensation, or feed program, the Secretary of Agriculture shall include horses within the definition of "livestock" covered by the program.

(b)(1) Section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) is amended—

(A) by inserting "horses", after "bison"; and

(B) by striking "equine animals used for food or in the production of food,".

(2) Section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51) is amended by inserting "(including losses to elk, reindeer, bison, and horses)" after "livestock losses".

(3) Section 10104(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1472(a)) is amended by striking "and bison" and inserting "bison, and horses".

(4) Section 203(d)(2) of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 541) is amended by striking "and bison" and inserting "bison, and horses".

(c)(1) This section and the amendments made by this section apply to losses resulting from a disaster that occurs on or after July 28, 2005.

(2) This section and the amendments made by this section do not apply to losses resulting from a disaster that occurred before July 28, 2005.

SEC. 796. With respect to the sale of the Thermo Pressed Laminates building in Klamath Falls, Oregon, the Secretary of Agriculture may *allow the Klamath County Economic Development Corporation to establish a revolving economic development loan fund with the funds that otherwise would be required to be repaid to the Secretary in accordance with the rural business enterprise grant under section 310B(c)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)).*

SEC. 797. SENSE OF THE SENATE.—(a) FINDINGS.—The Senate finds the following:

(1) In a time of national catastrophe, it is the responsibility of Congress and the Executive Branch to take quick and decisive action to help those in need.

(2) The size, scope, and complexity of Hurricane Katrina are unprecedented, and the emergency response and long-term recovery efforts will be extensive and require significant resources.

(3) It is the responsibility of Congress and the Executive Branch to ensure the financial stability of the nation by being good stewards of Americans' hard-earned tax dollars.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any funding directive contained in this Act, or its accompanying report, that is not specifically authorized in any Federal law as of the date of enactment of this section, or Act or resolution passed by the Senate during the 1st Session of the 109th Congress prior to such date, or proposed in pursuance to an estimate submitted in accordance with law, that is for the benefit of an identifiable program, project, activity, entity, or jurisdiction and is not directly related to the impact of Hurricane Katrina, may be redirected to recovery efforts if the appropriate head of an agency or department determines, after consultation with appropriate Congressional Committees, that the funding directive is not of national significance or is not in the public interest.

SEC. 798. (a) The Senate finds the following:

(1) Research and development have been critical components of the prosperity of the United States.

(2) The United States is entering an increasingly competitive world in the 21st century.

(3) The National Academy of Sciences has found that public agricultural research and development expenditures in the United States were the lowest of any developed country in the world.

(4) The Nation needs to ensure that public spending for agricultural research is commensurate with the importance of agriculture to the long-term economic health of the Nation.

(5) Research and development is critical to ensuring that American agriculture remains strong and vital in the coming decades.

(b) It is the sense of the Senate that, in order for the United States to remain competitive, the President and the Department of Agriculture should increase public sector funding of agricultural research and development.

SEC. 799. It is the sense of the Senate that—

(1) the Senate—

(A) encourages expanded efforts to alleviate hunger throughout developing countries; and

(B) pledges to continue to support international hunger relief efforts;

(2) the United States Government should use financial and diplomatic resources to work with other donors to ensure that food aid programs receive all necessary funding and supplies; and

(3) food aid should be provided in conjunction with measures to alleviate hunger, malnutrition, and poverty.

SEC. 800. Amounts made available for the Plant Materials Center in Fallon, Nevada, under the heading "CONSERVATION OPERATIONS" under the heading "NATURAL RESOURCES CONSERVATION SERVICE" of title II of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2823) shall remain available until expended.

SEC. 801. Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in cooperation with the Secretary of Energy, shall provide to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that describes the impact of increased prices of gas, natural gas, and diesel on agricultural producers, ranchers, and rural communities.

SEC. 802. The Secretary of Agriculture (referred to in this section as the "Secretary") shall prepare a report for submission by the President to Congress, along with the fiscal year 2007 budget request under section 1105 of title 31, United States Code, that—

(1) identifies measures to address bark beetle infestation and the impacts of bark beetle infestation as the first priority for assistance under the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.);

(2) describes activities that will be conducted by the Secretary to address bark beetle infestations and the impacts of bark beetle infestations;

(3) describes the financial and technical resources that will be dedicated by the Secretary to measures to address bark beetle infestations and the impacts of the infestations; and

(4) describes the manner in which the Secretary will coordinate with the Secretary of the Interior and State and local governments in conducting the activities under paragraph (2).

SEC. 803. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2744 shall also be included in the conference report or joint statement accompanying H.R. 2744 in order to be considered as having been approved by both Houses of Congress.

SEC. 804. (a) Congress makes the following findings:

(1) Consumers need clear and consistent information about the risks associated with exposure to the sun, and the protection offered by over-the-counter sunscreen products.

(2) The Food and Drug Administration (referred to in this section as the "FDA") began developing a monograph for over-the-counter sunscreen products in 1978.

(3) In 2002, after 23 years, the FDA issued the final monograph for such sunscreen products.

(4) One of the most critical aspects of sunscreen is how to measure protection against UVA rays, which cause skin cancer.

(5) The final sunscreen monograph failed to address this critical aspect and, accordingly, the monograph was stayed shortly after being issued until issuance of a comprehensive monograph.

(6) Skin cancer rates continue to rise, especially in younger adults and women.

(7) Pursuant to section 751 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r), a Federal rule on sunscreen labeling would preempt any related State labeling requirements.

(8) The absence of a Federal rule could lead to a patchwork of State labeling requirements that would be confusing to consumers and unnecessarily burdensome to manufacturers.

(b) It is the sense of Congress that the FDA should, not later than one year after the date of enactment of this Act, issue a comprehensive final monograph for over-the-counter sunscreen products, including UVA and UVB labeling requirements, in order to provide consumers with all the necessary information regarding the dangers of skin cancer and the importance of wearing sunscreen.

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006".

MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

On Thursday, September 22, 2005, the Senate passed H.R. 2528, as amended as follows:

H.R. 2528

Resolved, That the bill from the House of Representatives (H.R. 2528) entitled "An Act making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.", do pass with the following amendments:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $1,640,641,000, to remain available until September 30, 2010: Provided, That of this amount, not to exceed $179,343,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the amount provided for Military Construction, Army, $8,900,000 shall be available for Phase 1a of a Permanent Party Barracks at Fort Leonard Wood, Missouri, and $3,150,000 shall be available for an Airfield Fire Station at Fort Sill, Oklahoma.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,045,882,000, to remain available until September 30, 2010: Provided, That of this amount, not to exceed $32,524,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the funds appropriated for "Military Construction, Navy" under Public Law 108–324, $92,354,000 are hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and *real property for the Air Force as currently authorized by law, $1,209,128,000, to remain available until September 30, 2010: Provided, That of this amount, not to exceed $83,626,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: Provided further, That of the amount provided for Military Construction, Air Force, $5,721,000 shall be available for a B–2 Conventional Munitions Storage Facility at Whiteman Air Force Base, Missouri, and $14,000,000 for Phase 1 of Force Protection Enhancement at Vance Air Force Base, Oklahoma.*

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $1,072,165,000, to remain available until September 30, 2010: Provided, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided further, That of the amount appropriated, not to exceed $133,120,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $467,146,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $279,156,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $136,077,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $46,676,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $89,260,000, to remain available until September 30, 2010.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $206,858,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $549,636,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $812,993,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $218,942,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $593,660,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $1,142,622,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $766,939,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $46,391,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. section 2687 note), $377,827,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. section 2687 note), $1,504,466,000, to remain available until expended: Provided, That these funds may not be obligated or expended until the Secretary of Defense submits to the congressional defense committees and receives approval of a report describing the specific programs, projects, and activities for which such funds are to be obligated.

GENERAL PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds made available in this title shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriations Acts.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds made available in this title may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: Provided, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: Provided further, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense shall inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. The Secretary of Defense shall provide the Committees on Appropriations of both Houses of Congress with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. section 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: Provided, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. None of the funds made available in this title may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(TRANSFER OF FUNDS)

SEC. 123. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. section 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 124. Notwithstanding this or any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: Provided, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: Provided further, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 125. None of the funds made available in this title may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act, or any other appropriations Act.

SEC. 126. None of the funds made available in this title under the heading "North Atlantic Treaty Organization Security Investment Program", and no funds appropriated for any fiscal year before fiscal year 2006 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

SEC. 127. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

SEC. 128. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. section 2687 note), unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project, and the Secretary of Defense may not transfer funds made available for such a military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 129. Unless stated otherwise, all reports and notifications required by this title shall be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

SEC. 130. Of the amount appropriated by this title under the heading "MILITARY CONSTRUCTION, AIR NATIONAL GUARD" and available for *planning and design, $1,440,000 shall be available for planning and design for a replacement C-130 maintenance hangar at Air National Guard New Castle County Airport, Delaware.*

SEC. 131. (a) Of the amount appropriated by this title under the heading "MILITARY CONSTRUCTION, ARMY", $4,550,000 shall be made available for the construction of a military police complex at Fort Gordon, Georgia.

(b) The amount appropriated by this title under the heading "MILITARY CONSTRUCTION, ARMY" and available for Fort Gillem, Georgia, is hereby decreased by $4,550,000.

SEC. 132. (a) The amount appropriated by this title under the heading "DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990" is hereby increased by $25,000,000.

(b) The amount appropriated by this title under the heading "DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005" is hereby decreased by $25,000,000.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 540 et seq.) and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $33,412,879,000, to remain available until expended: Provided, That not to exceed $23,491,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses" and "Medical administration" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical care collections fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $3,214,246,000, to remain available until expended: Provided, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under section 3104(a) of title 38, United States Code, other than under subsection (a)(1), (2), (5), and (11) of that section, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapter 19; 70 Stat. 887; 72 Stat. 487, $45,907,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by title 38, United States Code, chapter 37: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That during fiscal year 2006, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

For administrative expenses to carry out the direct and guaranteed loan programs, $153,575,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $53,000, as authorized by title 38, United States Code, chapter 31: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,242,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $305,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by title 38, United States Code, chapter 37, subchapter V, $580,000, which may be transferred to and merged with the appropriation for "General operating expenses": Provided, That no new loans in excess of $30,000,000 may be made in fiscal year 2006.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by title 38, United States Code, chapter 37, subchapter VI, not to exceed $750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical administration" may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in paragraphs (1) through (8) of section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs and including medical supplies and equipment and salaries and expenses of healthcare employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $23,308,011,000, plus reimbursements, of which $1,977,000,000 are designated as an emergency requirement pursuant to section 402 of House Concurrent Resolution 95 (109th Congress), the fiscal year 2006 budget resolution: Provided further, That of the emergency funds provided under this heading, the Department of Veterans Affairs shall submit for approval by the Committees on Appropriations of both Houses of Congress, a financial plan outlining how the emergency funds will be obligated: Provided further, That the Department of Veterans Affairs shall include these emergency funds in their base request for the fiscal year 2007 budget submission: Provided further, That of the funds made available under this heading, not to exceed $1,500,000,000 shall be available until September 30, 2007: Provided further, That notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for treatment for veterans who are service-connected disabled, lower income, or have special needs: Provided further, That notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: Provided further, That notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: Provided further, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: Provided further, That for the Department of Defense/Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 721 of Public Law 107–314, a minimum of $15,000,000, to remain available until expended, for any purpose authorized by title 38, United States Code, section 8111.

MEDICAL ADMINISTRATION

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; uniforms or allowances therefore, as authorized by sections 5901–5902 of title 5, United States Code; and administrative and legal expenses of the Department of Veterans Affairs for collecting and recovering amounts owed the department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $2,858,442,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2007.

INFORMATION TECHNOLOGY

For necessary expenses, $1,456,821,000 shall be available for the Department of Veterans Affairs Information Technology program: Provided, That within 90 days of enactment of this Act, the Secretary of Veterans Affairs shall establish an office for Information Technology (IT) with the authority and responsibility for all IT projects: Provided further, That this office shall report directly to the Deputy Secretary of Veterans Affairs: Provided further, That this new organizational structure shall be subject to approval of the Committees on Appropriations in both Houses of Congress: Provided further, That within this amount, no more than $100,000,000 from all sources shall be available for the HealtheVet project for fiscal year 2006: Provided further, That none of the funds made available for the HealtheVet project may be obligated until such time that the Department of Veterans Affairs creates a single position with the responsibility for and the authority to manage the entire project, including budgetary authority: Provided further, That none of the funds made available for the HealtheVet project may be obligated until the Committees on Appropriations in both Houses of Congress approve a financial expenditure plan for the entire project.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities for the Veterans Health Administration; for administrative expenses in support of planning, *design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; for oversight, engineering and architectural activities not charged to project costs; for repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry and food services, $3,297,669,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2007.*

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code to remain available until September 30, 2007, $412,000,000, plus reimbursements, of which, not less than $15,000,000 shall be used for Gulf War Illness research.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of department-wide capital planning, management and policy activities, uniforms or allowances therefore; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $1,418,827,000: Provided, The Veterans Affairs shall conduct an information campaign in States with an average annual disability compensation payment of less than $7,300 (according to the report issued by the Department of Veterans Affairs Office of Inspector General on May 19, 2005), to inform all veterans receiving disability compensation, by direct mail, of the history of below average disability compensation payments to veterans in such States, and to provide all veterans in each such State, through broadcast or print advertising, with the aforementioned historical information and instructions for submitting new claims and requesting review of past disability claims and ratings: Provided further, That expenses for services and assistance authorized under title 38, United States Code, sections 3104(a)(1), (2), (5), and (11) that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: Provided further, That the Veterans Benefits Administration shall be funded at not less than $1,093,937,500: Provided further, That of the funds made available under this heading, not to exceed $71,000,000 shall be available for obligation until September 30, 2007.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefore; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; and hire of passenger motor vehicles, $156,447,000: Provided, That of the funds made available under this heading, not to exceed $7,800,000 shall be available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $70,174,000, to remain available until September 30, 2007.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in title 38, United States Code, section 8104(a)(3)(A) or where funds for a project were made available in a previous major project appropriation, $607,100,000, to remain available until expended, of which $539,800,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities; and of which $2,500,000 shall be to make reimbursements as provided in title 41, United States Code, section 612 for claims paid for contract disputes: Provided, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, such as portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund and CARES funds, including needs assessments which may or may not lead to capital investments, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 2006, for each approved project (except those for CARES activities referenced above) shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2006; and (2) by the awarding of a construction contract by September 30, 2007: Provided further, That the Secretary of Veterans Affairs shall promptly report in writing to the Committees on Appropriations of both Houses of Congress any approved major construction project in which obligations are not incurred within the time limitations established above: Provided further, That none of the funds in this or any other Act may be used to modify or alter the mission, services or infrastructure of the 18 facilities on the Capital Asset Realignment for Enhanced Services (CARES) list requiring further study as specified by the Secretary of Veterans Affairs.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in title 38, United States Code, section 8104(a)(3)(A), $208,937,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations, of which $160,000,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities: Provided, That from amounts appropriated under this heading, additional amounts may be used for CARES activities upon notification of and approval by the Committees on Appropriations of both Houses of Congress: Provided further, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities; and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes; and for furnishing care to veterans as authorized by title 38, United States Code, sections 8131–8137, $104,322,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by title 38, United States Code, section 2408, $32,000,000, to remain available until expended.

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for the Veterans Benefits Administration for fiscal year 2006 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred as necessary to any other of the mentioned appropriations: Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. Amounts made available for the Veterans Health Administration for fiscal year 2006 under the "Medical services", "Medical administration", "Information technology", and "Medical facilities" accounts may be transferred between the mentioned accounts: Provided, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed: Provided further, That no transfer may be made out of the "Medical and Prosthetic Research" account.

SEC. 203. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations in both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration. This report shall contain, at a minimum, both planned and actual expenditure rates, unobligated balances, and any potential financial shortfalls.

SEC. 204. No project for which funds have been appropriated in the "Construction, major projects" account may be canceled or altered in scope by more than 10 percent in cost without submitting a request to the Committees on Appropriations of both Houses of Congress and an approval is issued, or absent a response, a period of 30 days has elapsed.

SEC. 205. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C., sections 7901–7904 or 42 U.S.C., sections 5141–5204), unless reimbursement of cost is made to the "Medical services" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 206. Appropriations available to the Department of Veterans Affairs for fiscal year 2006 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2005.

SEC. 207. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 2006 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 208. Notwithstanding any other provision of law, during fiscal year 2006, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" account for the cost of administration of the insurance programs financed through those accounts: Provided, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 2006 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: Provided further, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: Provided further, That the Secretary of Veterans Affairs shall determine the cost of administration for fiscal year 2006 which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 209. Notwithstanding any other provision of law and hereafter, the Department of Veterans Affairs shall continue the Franchise Fund established by title I of Public Law 104–204.

SEC. 210. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

SEC. 211. Funds available in any Department of Veterans Affairs appropriation for fiscal year 2006 or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication for all services provided at rates which will recover actual costs but not exceed $29,758,000 for the Office of Resolution Management and $3,059,000 for the Office of Employment and Discrimination Complaint Adjudication: Provided, That payments may be made in advance for services to be furnished based on estimated costs: Provided further, That amounts received shall be credited to "General operating expenses" for use by the office that provided the service.

SEC. 212. No appropriations in this Act for the Department of Veterans Affairs shall be available to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary of Veterans Affairs submits a report which the Committees on Appropriations in both Houses of Congress approve within 30 days following the date on which the report is received.

SEC. 213. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: Provided, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: Provided further, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

SEC. 214. Amounts made available under the "Medical services" account are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. Any appropriation for fiscal year 2006 for the Veterans Benefits Administration made available under the heading "General operating expenses" may be transferred to the "Veterans Housing Benefit Program Fund Program Account" for the purpose of providing funds for the nationwide property management contract if the administrative costs of such contract exceed $8,800,000 in the fiscal year.

SEC. 216. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall allow veterans eligible under existing Department of Veterans Affairs Medical Care requirements and who reside in Alaska to obtain medical care services from medical facilities supported by the Indian Health Services or tribal organizations. The Secretary shall: (1) limit the application of this provision to rural Alaskan veterans in areas where an existing Department of Veterans Affairs facility or Veterans Affairs-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with Capital Asset Realignment for Enhanced Services Activities; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to title 38, United States Code, section 8118 may be transferred to the "Construction, major projects" and "Construction, minor projects" accounts, to remain available until expended for the purposes of these accounts.

SEC. 218. Notwithstanding any other provision of law, at the discretion of the Secretary of Veterans Affairs, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the "Construction, major projects" and "Construction, minor projects" accounts and be used for construction (including site acquisition and disposition), alterations and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in "Construction, major projects" and "Construction, minor projects".

SEC. 219. None of the funds made available in this Act may be used to implement any policy prohibiting the Directors of the Veterans Integrated Service Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

(INCLUDING TRANSFER OF FUNDS)

SEC. 220. That such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to the "Medical services" account, to remain available until expended for the purposes of this account.

SEC. 221. Appropriations available to the Department of Veterans Affairs for fiscal year 2006 for salaries and expenses shall be available for services authorized by title 5, United States Code, section 3109; hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefor, as authorized by title 5, United States Code, sections 5901–5902.

SEC. 222. REPORT ON HOUSING ASSISTANCE TO LOW-INCOME VETERANS. (a) IN GENERAL.—The Comptroller General shall conduct a study on housing assistance to low-income veterans, including—

(1) an estimate of the number of low-income, very low-income, and extremely low-income veteran households;

(2) a description of the demographic and socioeconomic characteristics and health and disability status of such households;

(3) an estimate of the number of such households experiencing a high cost burden in, overcrowding in, or poor quality of housing, or experiencing homelessness;

(4) an assessment of such households, including their current barriers to safe, quality, and affordable housing and levels of homelessness among such households;

(5) the extent to which Federal housing assistance programs provide benefits, including supportive services, to all veteran households and in particular to low-income, very low-income, and extremely-low income veteran households;

(6) the number of units designated for or occupied by veterans and low-income, very low-income, and extremely low-income veterans in Federally subsidized or insured housing;

(7) a summary description of the manner in which veteran compensation, veteran dependency and indemnity compensation, and veteran pension are considered as income or adjusted income for purposes of determining—

(A) eligibility for Federal housing assistance programs; and

(B) the amount of rent paid by a veteran household for occupancy of a dwelling unit or housing assisted under Federal housing assistance programs;

(8) a summary description of the special considerations made for veterans under—

(A) public housing plans submitted under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c-1); and

(B) comprehensive housing affordability strategies submitted under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705);

(9) the extent to which public housing authorities have established preferences for veterans for public housing and housing choice vouchers;

(10) the number of homeless veterans provided assistance, cumulatively and currently, under the program of housing choice vouchers for homeless veterans under section 8(o)(19) of the United States Housing Act of 1937 (42. U.S.C. 1437f(o)(19)), and the current status of the program, including—

(A) the number of vouchers the Department of Housing and Urban Development currently allocates to the Department of Veterans Affairs;

(B) the monetary value of such vouchers; and

(C) the names and locations of VA medical centers receiving such vouchers; and

(11) a description of activities relating to veterans of the Department of Housing and Urban Development.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Housing and Urban Development.

(2) The Secretary of Veterans Affairs.

(3) Low-income, very low-income, and extremely low-income veterans.

(4) Representatives of State and local housing assistance agencies.

(5) Representatives of nonprofit low-income housing providers and homeless service providers, including homeless veteran service providers.

(6) National advocacy organizations concerned with veterans, homelessness, and low-income housing.

(c) TIMING OF REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under this section.

SEC. 223. (a) Not later than 60 days after the date of enactment of this Act, the Secretary of Veterans Affairs, after consultation with the National Association of County Veterans Service Officers, other veterans service organizations, and State departments of veterans affairs shall submit a report to the Committee on Appropriations of the Senate that describes a plan (including estimated costs) to provide an adequate supply of the 2006 edition of handbook entitled, Federal Benefits for Veterans and Dependents, and all subsequent editions, to all county veterans service officers in the United States.

SEC. 224. None of the funds made available in this Act or any other Act may be used—

(1) to revoke or reduce a veteran's disability compensation for post traumatic stress disorder based on a finding that the Department of Veterans Affairs failed to collect justifying documentation unless such failure was the direct result of fraud by the applicant; or

(2) for the implementation of Recommendation 3 of VA Inspector General Report No. 05–00765–137 or any related review and investigation of post traumatic stress disorder unemployability and 100 scheduler percent ratings cases, until the Department of Veterans' Affairs reports to the Committee on Appropriations on its plan for implementing this recommendation, and outlines the staffing and funding requirements.

SEC. 225. CLINICAL TRAINING AND PROTOCOLS. (a) FINDINGS.—Congress finds that—

(1) the Iraq War Clinician Guide has tremendous value; and

(2) the Secretary of Defense and the National Center on Post Traumatic Stress Disorder should continue to work together to ensure that the mental health care needs of servicemembers and veterans are met.

(b) COLLABORATION.—The National Center on Post Traumatic Stress Disorder shall collaborate with the Secretary of Defense—

(1) to enhance the clinical skills of military clinicians through training, treatment protocols, web-based interventions, and the development of evidence-based interventions; and

(2) to promote pre-deployment resilience and post-deployment readjustment among servicemembers serving in Operation Iraqi Freedom and Operation Enduring Freedom.

(c) TRAINING.—The National Center on Post Traumatic Stress Disorder shall work with the Secretary of Defense to ensure that clinicians in the Department of Defense are provided with the training and protocols developed pursuant to subsection (b)(1).

SEC. 226. (a) The Secretary of Veterans Affairs shall immediately submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a report on any Department of Veterans Affairs budget shortfall totaling 2 percent or more of the Department's total discretionary funding budget for a fiscal year.

(b) The Secretary of Veterans Affairs shall, not later than 180 days after the date of the enactment of this Act, submit to the Committees on Veterans' Affairs and Appropriations of the Senate and the House of Representatives a comprehensive plan to improve long-term budget planning and actuarial forecasting at the Department of Veterans Affairs.

SEC. 227. (a) In conducting advanced planning activities under this Act, the Secretary of Veterans Affairs shall reevaluate Veterans Health Administration Handbook 1006.1 and other guidance and procedures related to planning, activating, staffing, and maintaining community-based outpatient clinics.

(b) In conducting such planning, the Secretary shall—

(1) revise as appropriate existing policies to make them less disadvantageous to rural veterans; and

(2) reexamine criteria used in planning, activating, staffing, and maintaining such clinics, including geographic access, number of Priority 1–6 veterans, market penetration, cost effectiveness, and distance to parent facilities, to determine whether such criteria are weighted in a manner that negatively affects rural veterans.

TITLE III—RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $36,250,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, $15,250,000, to remain available until expended, for purposes authorized by title 36, United States Code, section 2109.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by title 38, United States Code, sections 7251–7298, $18,795,000, of which $1,260,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $28,550,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the lease of Department of Defense Real Property for Defense Agencies account.

ARMED FORCES RETIREMENT HOME

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $58,281,000, of which $1,248,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi.

GENERAL PROVISIONS

SEC. 301. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2528 shall also be included in the conference report or joint statement accompanying H.R. 2528 in order to be considered as having been approved by both Houses of Congress.

This Act may be cited as the "Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2006".

Amend the title so as to read: "An Act making appropriations for Military Construction and Veterans Affairs, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.".

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF JOHN ROBERTS

Mr. FRIST. Mr. President, I ask unanimous consent that on Thursday, the time from 10:30 a.m. to 11:30 a.m. be divided in the following manner: 10:30 a.m. to 10:45 a.m., Senator LEAHY; 10:45 a.m. to 11 a.m., Senator SPECTER; 11 a.m. to 11:15 a.m., the Democratic leader; and 11:15 a.m. to 11:30 a.m., the majority leader; provided further that at 11:30 a.m. on Thursday, the Senate proceed to a vote on the confirmation of the nomination of John Roberts to be Chief Justice of the United States, with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING BY 10 YEARS THE AUTHORITY OF THE SECRETARY OF COMMERCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 2385 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2385) to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2385) was read the third time and passed.

EXPRESSING THE SENSE OF THE SENATE REGARDING FEDERAL RESPONSE AND RECOVERY EFFORTS FOR HURRICANE KATRINA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 251, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 251) expressing the sense of the Senate that the President should ensure that Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 251) was agreed to, as follows:

S. RES. 251

Resolved, That it is the sense of the Senate that, in order to efficiently coordinate and respond to the growing crisis represented by the large number of animals left behind in the Gulf Coast region, the President should ensure that the Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

HIGHER EDUCATION EXTENSION ACT OF 2005

Mr. FRIST. I ask unanimous consent that the HELP Committee be discharged and the Senate proceed to the immediate consideration of H.R. 3784.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3784) to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3784) was read the third time and passed.

MEASURE READ THE FIRST TIME—S. 1771

Mr. FRIST. I understand there is a bill at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1771) to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

Mr. FRIST. I now ask for its second reading and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. The objection having been heard, the bill will receive its second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 1761

Mr. FRIST. I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 1761) to clarify the liability of Government contractors assisting in rescue, recovery, repair and reconstruction work in the Gulf Coast Region of the United States affected by Hurricane Katrina or other major disasters.

Mr. FRIST. In order to place the bill on the calendar under the provisions of rule XIV, I would object to further proceedings.

The PRESIDING OFFICER. Objection having been heard, the bill is placed on the calendar.

ORDERS FOR TUESDAY, SEPTEMBER 27, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, September 27. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to executive session to continue consideration of Calendar No. 317, John Roberts to be Chief Justice of the United States.

I further ask unanimous consent that the time from 10 to 11 be under the control of the majority leader or his designee; the time from 11 to 12 be under the control of the Democratic leader or his designee; the time from 12 to 12:30 under majority control; 2:15 to 2:45 under majority control; 2:45 to 3:45, Democratic control; 3:45 to 4:45 under majority control; 4:45 to 5:45 under Democratic control; 5:45 to 6:45 under majority control; 6:45 to 7:45 under Democratic control. I further ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 to accommodate the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow we will resume statements on the nomination of John Roberts, those statements having begun at about 1 o'clock today. Moments ago we locked in a time certain for the vote on the confirmation of the Roberts nomination, and that vote is now set for Thursday morning at 11:30 a.m. I do ask all Senators to be in the Chamber and seated at their desks on this historic day for this historic vote.

Tuesday, Wednesday, and Thursday morning will be devoted to continued statements on Judge Roberts. Now that the final vote is set, I encourage Members to come over early for their statements rather than waiting until Thursday morning.

In talking to the Democratic leader, in all likelihood, as we look to later this week, we will be voting on Friday. I make that statement recognizing that we are going to complete this Thursday morning, and we plan on going directly to the Department of Defense appropriations bill. Over the course of this session, we have not voted on a lot of Fridays, but now we are going to have to begin voting on Fridays. I wish to give people notification on both sides of the aisle given the fact that we have so much business going on and, in such a short period of time, so much to do. We will give Members as much advance notice as possible, but I do want to notify people that we will be voting on this Friday.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Tuesday, September 27, 2005, at 9:45 a.m.

EXTENSIONS OF REMARKS

A PROCLAMATION CONGRATULATING THE SOUTHEASTERN FFA FORESTRY CLASS FOR PLACING 4TH IN "THE BIG E"

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. NEY. Mr. Speaker:

Whereas, the Southeastern FFA Forestry Class demonstrated exemplary knowledge of the skills and competencies required for a career in forestry; and

Whereas, the Southeastern FFA Forestry Class has been determined and has endeavored for excellence in the furthering of their forestry education; and

Whereas, the Southeastern FFA Forestry Class members Scott Clary, Chase Carroll, Brian Brown, and Jacob Peecher have achieved individually in the career development event.

Therefore, I, on behalf of the people of Ohio's 18th Congressional District applaud your accomplishment. Your efforts have made us all proud.

RECOGNIZING BRIDGET CALL

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. RAHALL. Mr. Speaker, today I pay tribute to Bridget Call to congratulate her on being selected as West Virginia's teacher of the year for 2006.

Bridget Call, who was chosen from 50 excellent nominees statewide, sets high standards and strives to be a role model for her students. She has dedicated many years to educating and enlightening students at Matewan High School in Mingo County. In addition to her classroom responsibilities, she also serves as head of the Drama Department at Matewan High. In light of her background as a former actress and director with The Araconia Story Inc. summer productions, this additional role is well suited for her talents. As a result of her dedication, Ms. Call will receive an educational technology package from the Smarter Kids Foundation valued at $14,000.

It is with great pride that we recognize a woman who has inspired and motivated so many of our youth in West Virginia. Through her experimental, yet effective teaching style, Bridget Call has contributed greatly to the education of an entire generation of youth in southern West Virginia and I am certain she has been an inspiration to her colleagues as well. As I have said in the past, education is not a solitary endeavor or achievement, nor is it to increase an individual's fortunes, but rather it is to enrich the whole of the family.

America's 229-year-old history is rich with those who have made a difference through educating themselves. Rather using what they have learned to not only educate others but to raise our Nation to inspiring heights. Because of their achievements we continue to prosper from their education and willingness to share their knowledge. The people of West Virginia have always striven for excellence. West Virginians are continually working to better themselves and their communities through education. Ms. Call exemplifies the qualities that are displayed in all West Virginians. West Virginia and the educational system at large, is better for having Ms. Bridget Call.

CELEBRATING THE 90TH BIRTHDAY OF BERNARD ZISES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. ACKERMAN. Mr. Speaker, I rise today to celebrate the 90th birthday of Bernard Zises and to honor the contributions he has made both to his community and to the United States. Bernard turns 90 on October 23, 2005 and he will celebrate this momentous occasion surrounded by family and friends.

Bernard first made a name for himself in the early 1930's as a college basketball player in New York City. He was a standout during his four years as the highest scoring player in the entire New York City college system. His contributions off the court, however, have been far more impressive.

On March 30th, 2005, Bernard was honored as the "Gezunter of the Year" by the Gezunter Club at the Sid Jacobson Jewish Community Center in East Hills, New York. This prestigious honor was bestowed upon Bernard in recognition of his years of dedicated service to the Jewish community in New York and abroad. He has been a huge supporter of, among other charitable causes, the Sid Jacobson Jewish Community Center, the UJA-Federation of New York, Hadassah and the State of Israel.

While he has been honored for his acts of altruism and charity, Bernard is most proud of his wonderful family. His 66-year marriage to his wife, Ruth, his 3 children, 9 grandchildren and 4 great-grandchildren are all great sources of inspiration and happiness to him.

Mr. Speaker, I commend Bernard Zises for his years of dedicated commitment to our community, to the Jewish community, to the United States, to the State of Israel and those around him. Bernard's integrity, selflessness, and stature have certainly made an enormous impression on the great many lives he has touched. In recognition of a lifetime of generosity and altruism, I ask my colleagues in the House of Representatives to rise and join me in honoring Bernard Zises as he celebrates his 90th birthday.

TRIBUTE TO MATT GLASGOW

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to Matt Glasgow, who is set to retire from his position as a Public Affairs Specialist with the U.S. Forest Service on the Grand Mesa, Uncompahgre, and Gunnison National Forests in Colorado.

In addition to serving the public as member of the U.S. Forest Service, Matt spent 20 years in the U.S. Army, retiring as a Master Sergeant in 1981. During that time, Matt served in posts as far away as Europe, Asia, the Middle East, and Africa. Closer to home, he spent time in Washington serving at posts in the Pentagon, the White House, and the U.S. Capitol.

Matt was a recipient of numerous military awards, including the Legion of Merit, the Bronze Star, the Air Medal, the Joint Services Commendation Medal, and the Army Commendation Medal. He has also received several well deserved merit awards from the U.S. Forest Service.

Mr. Speaker, Matt has spent the last few decades serving America.

His dedication to public service, his expertise, his commitment, and his enthusiasm on the forest will all be missed.

A PROCLAMATION RECOGNIZING WILLIAM "BILL" BALSER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. NEY. Mr. Speaker:

Whereas William "Bill" Balser was elected to the high office of Department Commander of Ohio on Sunday, July 10, 2005; and

Whereas, William "Bill" Balser is a 30-year member of the American Legion Post 85, where he has held many offices including Post Commander and Finance Officer; and

Whereas, William "Bill" Balser has exemplified the meaning of successful civic duty through his unselfish role to serve the greater good of the Ohio Valley; and

Whereas, William "Bill" Balser recently celebrated his 50th wedding anniversary with his wife Trudy and is the loving father of 3 children and 2 grandchildren.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing William "Bill" Balser for his longtime

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

dedication to the residents and children of Ohio's 18th district.

EXPRESSING APPRECIATION TO SOUTH KOREA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mr. ENGEL. Mr. Speaker, fifty-five years ago, the United States came to the aid of South Korea, when it was invaded by Communist forces from across its northern border. This month, South Korea has come to the aid of the United States, when a natural disaster struck from across our southern coastline.

With its generous pledge of $30 million in cash, services, and in-kind contributions, South Korea joins a list of more than 90 countries that have offered some form of assistance to our efforts of relief and recovery in the aftermath of Hurricane Katrina.

What is noteworthy is that, among those nearly 100 countries, South Korea is providing the fourth-largest offer of assistance. According to a recent statement by the Korean Embassy, "Seoul's commitment of $30 million will comprise of $5 million from the government budget with the remainder to be raised through a collection of contributions by the Korean National Red Cross, the religious community and Korean corporations with U.S. subsidiaries." In fact, just last week in New York, the Federation of Korean Industries (FKI) pledged $10 million to be collected from Korean conglomerates directly to the Bush-Clinton Katrina Fund.

It is not mentioned often enough that South Korea is one of America's most important and trusted allies. In the global war on terror, there are more South Korean troops stationed in Iraq than any other nation besides the United States and the United Kingdom. They have assisted our efforts there from almost the moment the Saddam Hussein regime was toppled and have done so at great personal peril to the soldiers deployed and at considerable political risk to the government in Seoul.

As I had the opportunity to travel to North Korea at the beginning of the year along with several of my colleagues, including Rep. CURT WELDON, the status of the Six-Party Talks to resolve North Korea's nuclear issue has been of great concern to me. That is why I was pleased to know that earlier this week, after lengthy deliberation, a joint statement was agreed to by all the parties involved.

I commend the U.S. Envoy to the Six-Party Talks, my good friend Ambassador Christopher Hill, for his skillful diplomatic leadership in helping to achieve the accord. I also commend South Korea for remaining a key partner throughout the difficult negotiations. It is my hope that the joint statement will provide the impetus for a denuclearized Korean peninsula and I encourage the six nations to work together to make it a reality.

For these reasons, Mr. Speaker, I wish to express my personal appreciation to the government and people of South Korea for all they have done to continually support the United States, at home and abroad. I encourage my colleagues on both sides of the aisle to offer their own expressions of gratitude to the Korean people for their generosity, spirit of friendship and abiding commitment to an enduring alliance partnership with the United States.

HONORING GROVER BARNES

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Mrs. CAPPS. Mr. Speaker, today I rise to honor Grover Barnes on the occasion of his 98th birthday. Grover Barnes is the oldest living African American Man in Santa Barbara, and a most esteemed citizen of our fair city. He truly is a rare gem and a community treasure.

Grover Barnes, a Texas native, came to Santa Barbara over 62 years ago. In 1942 he was hired by the Miramar Hotel as a porter and one year later was the first African American promoted to Bell Captain where he served for thirty-five years. It has been said that Grover Barnes is an inimitable part of history of the city of Montecito. His level of service is remembered by generations of guests. He was known for his warm hospitality to the young and old, the rich and famous, and the not so rich and famous. In 2001, Grover Barnes was voted as a Local Hero of Santa Barbara and affectionately called "The Ambassador of Hospitality."

The generosity of spirit that marked Mr. Barnes' professional life is many times amplified in his lifelong dedication to his friends and family, to community service and to his church. It is his deep devotion to his community, his concern for those who have been left behind, his commitment to making sure the right thing is done for someone in need, that makes him a true community treasure. He has worked tirelessly to advance just causes and has always stayed focused on the right issues. To this day, Mr. Barnes contributes to our community life by writing letters to the Santa Barbara News Press editor which are thought provoking and historically significant.

Grover Barnes has received numerous honors for his greatest joy: a lifelong devotion to serving others and for making sure justice is done. He has been intensely involved in many community organizations including: the NAACP Santa Barbara Chapter, the Brotherhood of Santa Barbara, the Mason Lodge, the Eastside Study Group and the George Washington Carver Scholarship Society. As a man who has devoted his life to helping others, I today recognize Grover Barnes as a role model of the very best kind, a man who has been a friend to many and a teacher to all, a shining example of what makes this country and community great.

RECOGNIZING THE 125TH ANNIVERSARY OF URSULINE HIGH SCHOOL

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 2005

Ms. WOOLSEY. Mr. Speaker, I rise to recognize the 125th Anniversary of Ursuline High School. Ursuline High School, founded in 1880 in Santa Rosa by the Ursuline Sisters, is a private Catholic secondary school committed to excellence in educating young women.

Ursuline High School, known in the early years as Ursuline Academy, first opened its doors at 10th and B Streets in the former Santa Rosa Christian College Building. By 1957, the school relocated to its current location in northern Santa Rosa on a portion of the Howarth Estate. The year 1965 saw the addition of Cardinal Newman High School, a private school for young men, on the adjacent property.

Even as Ursuline High School has grown and spawned such acclaimed alumni as Olympic Swimming Champion Ann Curtis and Broadway actor Valerie Leonard, the school has remained focused on empowering young women to realize their full potential.

Mr. Speaker, it is my pleasure to recognize Ursuline High School for its 125 years of commitment to educating young women to be leaders.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 27, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 28

9:30 a.m.

Environment and Public Works

To hold hearings to examine the role of science in environmental policy making.

SD–406

Foreign Relations

To hold hearings to examine the international response to Darfur.

SR–325

Homeland Security and Governmental Affairs
To resume hearings to examine issues relating to recovering from Hurricane Katrina, focusing on the needs of those displaced, today and tomorrow.
SD-342

Judiciary
To hold hearings to examine protecting copyright and innovation in a post-Grokster world.
SD-226

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 1334, to provide for integrity and accountability in professional sports, and S. 1114, to establish minimum drug testing standards for major professional sports leagues.
SH-216

Finance
To hold hearings to examine community rebuilding needs and effectiveness of past proposals relating to Hurricane Katrina.
SD-215

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD-366

2 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine whether there is more consolidation or new choices for consumers regarding video competition in 2005.
SD-226

Appropriations
Business meeting to markup H.R.2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006.
SD-106

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold oversight hearings to examine the grazing programs of the Bureau of Land Management and the Forest Service, including proposed changes to grazing regulations, and the status of grazing permit renewals, monitoring programs and allotment restocking plans.
SD-366

SEPTEMBER 29

9:30 a.m.
Armed Services
To hold hearings to examine U.S. military strategy and operations in Iraq.
SD-106

Foreign Relations
To hold hearings to examine the Protocol of 1997 Amending MARPOL Convention (Treaty Doc. 108-7), Agreement with Canada on Pacific Hake/Whiting (Treaty Doc. 108-24), Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Doc. 109-1), Convention Strengthening Inter-American Tuna Commission (Treaty Doc. 109-2), and the Convention on Supplementary Compensation on Nuclear Damage (Treaty Doc. 107-21).
SD-419

Judiciary
Business meeting to consider pending calendar business.
SD-226

Homeland Security and Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the effectiveness and cost of the Defense Travel System of the Department of Defense.
SD-342

10 a.m.
Banking, Housing, and Urban Affairs
Business meeting to consider the nominations of Emil W. Henry, Jr., of New York, to be Assistant Secretary for Financial Institutions, and Patrick M. O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, both of the Department of the Treasury, Keith E. Gottfried, of California, to be General Counsel, and Kim Kendrick, of the District of Columbia, to be Assistant Secretary, Keith A. Nelson, of Texas, to be Assistant Secretary, and Darlene F. Williams, of Texas, to be Assistant Secretary, all of the Department of Housing and Urban Development, and Israel Hernandez, of Texas, to be Assistant Secretary and Director General of the United States and Foreign Commercial Service, Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary, Franklin L. Lavin, of Ohio, to be Under Secretary for International Trade, and David H. McCormick, of Pennsylvania, to be Under Secretary for Export Administration, all of the Department of Commerce; to be followed by a hearing to examine the implementation of the Exon-Florio provision by the Committee on Foreign Investment in the United States (CFIUS), Department of the Treasury, which seeks to serve U.S. investment policy through reviews that protect national security while maintaining the credibility of open investment policy.
SD-538

Commerce, Science, and Transportation
To hold hearings to examine communications for first responders in disaster.
SD-562

Veterans' Affairs
To hold hearings to examine the nominations of William F. Tuerk, of Virginia, to be Under Secretary for Memorial Affairs, Robert Joseph Henke, of Virginia, to be Assistant Secretary for Management, John M. Molino, of Virginia, to be Assistant Secretary for Policy and Planning, Lisette M. Mondello, of Texas, to be Assistant Secretary for Public and Intergovernmental Affairs, and George J. Opfer, of Virginia, to be Inspector General, all of Department of Veterans Affairs.
SR-418

Aging
To hold hearings to examine the impact of direct-to-consumer drug advertising on seniors' health and health care costs.
SH-216

2 p.m.
Judiciary
To hold hearings to examine pending judicial nominations.
SD-226

2:30 p.m.
Intelligence
To receive a closed briefing regarding certain intelligence matters.
SH-219

3 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold hearings to examine certain activities of the General Services Administration.
SD-342

3:30 p.m.
Foreign Relations
To receive a closed briefing regarding the evolving NATO role in Afghanistan.
S-407, Capitol

OCTOBER 6

9:30 a.m.
Armed Services
To hold hearings to examine U.S. military strategy and operations in Iraq.
SD-106

OCTOBER 20

10 a.m.
Indian Affairs
To hold hearings to examine Indian water rights settlement policy effects on the Duck Valley Reservation proposed settlement agreement.
SR-485

CANCELLATIONS

OCTOBER 6

10 a.m.
Energy and Natural Resources
To hold hearings to examine the Environmental Management programs of the Department of Energy.
SD-366

POSTPONEMENTS

SEPTEMBER 28

2:30 p.m.
Indian Affairs
To hold an oversight hearing to examine Indian housing.
SR-485

SENATE—*Tuesday, September 27, 2005*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and everlasting God, the center of our joy, give us this day what we need to honor Your Name. Provide us with a steadfastness of purpose that will enable us to accomplish shared objectives. Strengthen us with the willingness to bear burdens and the courage to persevere. Impart to us the wisdom to know what is right and the strength to do it. Empower us to forget our failures and to press toward the prize of becoming more like You.

Give our Senators a faith that will not shrink though pressed by many a foe. As they seek to do Your will, direct their paths. Grant us the vision and the power to transform dark yesterdays into bright tomorrows.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of Calendar No. 317, which the clerk will report.

The legislative clerk read the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

The PRESIDENT pro tempore. Under the previous order, the time from 10 a.m. until 11 a.m. will be under the control of the majority leader or his designee.

RECOGNITION OF THE ACTING MAJORITY LEADER

The acting majority leader is recognized.

Mr. McCONNELL. Thank you, Mr. President.

SCHEDULE

Mr. President, shortly, we will resume consideration of John Roberts to be Chief Justice of the United States. Last night, we locked in a consent which provides for the final vote on confirmation. That vote will occur at 11:30 a.m. on Thursday.

Today, we have controlled time to allow Senators to come to the Chamber to give their statements on this extremely important nomination. As usual, we will recess from 12:30 until 2:15 for the weekly policy luncheons.

As mentioned last night, the Appropriations Committee is expected to report the Defense appropriations bill tomorrow. We expect the Senate to begin consideration of that bill on Thursday following the Roberts nomination.

I also remind my colleagues that we need to pass a continuing resolution by the close of business this week.

Finally, I once again alert all Members that we are working under a very compressed schedule. Next week, we will need to accommodate the Rosh Hashanah holiday, and therefore we will be stacking rollcall votes for midweek. Given this schedule, it is extremely important that we use our time wisely, both this week and obviously next week as well. Therefore, Members should anticipate busy sessions Thursday and Friday of this week. Friday will be a working day as we make progress on the Defense appropriations bill. Senators should plan their schedules accordingly.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISASTER ASSISTANCE

Mr. DURBIN. Mr. President, it is very clear from Hurricane Rita and Hurricane Katrina that America is now learning how to be prepared for disasters. Many more positive things happened as a result of the threat of Hurricane Rita than happened just a few weeks before in Louisiana, Mississippi, and Alabama. We now know that it is not a question of pointing the finger of blame, but those of us in leadership in Washington need to get to the bottom of this—not so we can decide who was wrong in days gone by but, frankly, to make sure this doesn't happen again.

The American people do not want to know who wins the game of "gotcha" here; they want to know if America is ready for the next disaster. We were clearly not prepared for Hurricane Katrina. The scenes we all saw night and day on television of helpless victims in New Orleans and other communities remind us over and over again that the Federal Emergency Management Agency was not prepared for this challenge. We came to that realization when Mr. Brown was asked to leave FEMA. I believe that was the right decision.

But I was stunned to learn that he is still on the payroll. It is hard to imagine that this man who was at FEMA with such a thin résumé and such limited experiences dealing with disasters was asked to leave and be replaced and then continues on as a consultant to FEMA. He is going to be scrutinized today by a panel in the House of Representatives that may ask him some questions about what he did. The first thing they should ask him is by what standard is he still on the Federal payroll. Why is this man still being paid by the Federal Government? The administration clearly cannot investigate itself when it comes to Hurricane Katrina, and this decision to keep Mr. Brown on the payroll reflects on what he did in the past but, more importantly, what he might do in the future. He doesn't have the skill set needed for the disasters that could come as soon as tomorrow. Why is he still there? I don't believe this is the right way to approach a natural disaster or a terrorist disaster. We need to put people in place who understand how to deal with it.

I believe the President was right in removing Mr. Brown and putting in his place Commander Allen from the Coast Guard. I have met with him in New Orleans. He is a man who apparently takes control of the situation and does it very well, and I believe we should give him a chance to lead—to make certain that we handle that past disaster but also that we are prepared for the next one.

But this is a recurring problem. It isn't just a question of Michael Brown being replaced by Commander Allen. It is a question of whether there are people in other key spots in this Government who do not have the qualifications to lead.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Make no mistake about it: Every President brings in people of their own political persuasion and friendship. This happened from time immemorial. It is understandable that sometimes these people do an excellent job. I can recall when President Clinton suggested that Jamie Lee Witt from Arkansas, his emergency management director, was coming up to run FEMA in Washington. I want to tell you that when I heard that, I thought: Here we go again, an old political friend is going to come up here and run this important agency. This could be awful. I am happy to report I was wrong. Jamie Lee Witt did an extraordinary job. I never heard a word of criticism about the job he did for 8 years in Washington. He had skills, extraordinary skills, and brought them to the job. But we need at this moment in time to ask critical questions as to whether there are men and women in this administration such as Michael Brown who are not prepared to deal with the next challenge to the United States.

I ask unanimous consent to have printed in the RECORD an article from Time magazine of this week entitled "How Many More Mike Browns Are Out There?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From TIME Magazine, Sep. 25, 2005]

HOW MANY MORE MIKE BROWNS ARE OUT THERE?

(By Mark Thompson, Karen Tumulty, and Mike Allen)

In presidential politics, the victor always gets the spoils, and chief among them is the vast warren of offices that make up the federal bureaucracy. Historically, the U.S. public has never paid much attention to the people the President chooses to sit behind those thousands of desks. A benign cronyism is more or less presumed, with old friends and big donors getting comfortable positions and impressive titles, and with few real consequences for the nation.

But then came Michael Brown. When President Bush's former point man on disasters was discovered to have more expertise about the rules of Arabian horse competition than about the management of a catastrophe, it was a reminder that the competence of government officials who are not household names can have a life or death impact. The Brown debacle has raised pointed questions about whether political connections, not qualifications, have helped an unusually high number of Bush appointees land vitally important jobs in the Federal Government.

The Bush Administration didn't invent cronyism: John F. Kennedy turned the Justice Department over to his brother, while Bill Clinton gave his most ambitious domestic policy initiative to his wife. Jimmy Carter made his old friend Bert Lance his budget director, only to see him hauled in front of the Senate to answer questions on his past banking practices in Georgia, and George H.W. Bush deposited so many friends at the Commerce Department that the agency was known internally as "Bush Gardens." The difference is that this Bush Administration had a plan from day one for remakmg the bureaucracy, and has done so with greater success.

As far back as the Florida recount, soon-to-be Vice President Dick Cheney was poring over organizational charts of the government with an eye toward stocking it with people sympathetic to the incoming Administration. Clay Johnson III, Bush's former Yale roommate and the Administration's chief architect of personnel, recalls preparing for the inner circle's first trip from Austin, Texas, to Washington: "We were standing there getting ready to get on a plane, looking at each other like: Can you believe what we're getting ready to do?"

The Office of Personnel Management's Plum Book, published at the start of each presidential Administration, shows that there are more than 3,000 positions a President can fill without consideration for civil service rules. And Bush has gone further than most Presidents to put political stalwarts in some of the most important government jobs you've never heard of, and to give them genuine power over the bureaucracy. "These folks are really good at using the instruments of government to promote the President's political agenda," says Paul Light, a professor of public service at New York University and a well-known expert on the machinery of government. "And I think that takes you well into the gray zone where few Presidents have dared to go in the past. It's the coordination and centralization that's important here."

The White House makes no apologies for organizing government in a way that makes it easier to carry out Bush's agenda. Johnson says the centralization is "very intentional, and it starts with the people you pick . . . They're there to implement the President's priorities." Johnson asserts that appointees are chosen on merit, with political credentials used only as a tie breaker between qualified people. "Everybody knows somebody," he says. "Were they appointed because they knew somebody? No. What we focused on is: Does the government work, and can it be caused to work better and more responsibly? . . . We want the programs to work." But across the government, some experienced civil servants say they are being shut out of the decision making at their agencies. "It depresses people, right down to the level of a clerk-typist," says Leo Bosner, head of the Federal Emergency Management Agency's (FEMA's) largest union. "The senior to mid-level managers have really been pushed into a corner career-wise."

Some of the appointments are raising serious concerns in the agencies themselves and on Capitol Hill about the competence and independence of agencies that the country relies on to keep us safe, healthy and secure. Internal e-mail messages obtained by TIME show that scientists' drug-safety decisions at the Food and Drug Administration (FDA) are being second-guessed by a 33-year-old doctor turned stock picker. At the Office of Management and Budget, an ex-lobbyist with minimal purchasing experience oversaw $300 billion in spending, until his arrest last week. At the Department of Homeland Security, an agency the Administration initially resisted, a well-connected White House aide with minimal experience is poised to take over what many consider the single most crucial post in ensuring that terrorists do not enter the country again. And who is acting as watchdog at every federal agency? A corps of inspectors general who may be increasingly chosen more for their political credentials than their investigative ones.

Nowhere in the federal bureaucracy is it more important to insulate government experts from the influences of politics and special interests than at the Food and Drug Administration, the agency charged with assuring the safety of everything from new vaccines and dietary supplements to animal feed and hair dye. That is why many within the department, as well as in the broader scientific community, were startled when, in July, Scott Gottlieb was named deputy commissioner for medical and scientific affairs, one of three deputies in the agency's second-ranked post at FDA.

His official FDA biography notes that Gottlieb, 33, who got his medical degree at Mount Sinai School of Medicine, did a previous stint providing policy advice at the agency, as well as at the Centers for Medicare and Medicaid Services, and was a fellow at the American Enterprise Institute, a conservative think tank. What the bio omits is that his most recent job was as editor of a popular Wall Street newsletter, the Forbes/Gottlieb Medical Technology Investor, in which he offered such tips as "Three Biotech Stocks to Buy Now." In declaring Gottlieb a "noted authority" who had written more than 300 policy and medical articles, the biography neglects the fact that many of those articles criticized the FDA for being too slow to approve new drugs and too quick to issue warning letters when it suspects ones already on the market might be unsafe. FDA Commissioner Lester Crawford, who resigned suddenly and without explanation last Friday, wrote in response to e-mailed questions that Gottlieb is "talented and smart, and I am delighted to have been able to recruit him back to the agency to help me fulfill our public-health goals." But others, including Jimmy Carter-era FDA Commissioner Donald Kennedy, a former Stanford University president and now executive editor-in-chief of the journal Science, say Gottlieb breaks the mold of appointees at that level who are generally career FDA scientists or experts well known in their field. "The appointment comes out of nowhere. I've never seen anything like that," says Kennedy.

Gottlieb's financial ties to the drug industry were at one time quite extensive. Upon taking his new job, he recused himself for up to a year from any deliberations involving nine companies that are regulated by the FDA and "where a reasonable person would question my impartiality in the matter." Among them are Eli Lilly, Roche and Proctor & Gamble, according to his Aug. 5 "Disqualification Statement Regarding Former Clients," a copy of which was obtained by TIME. Gottlieb, though, insists that his role at the agency is limited to shaping broad policies, such as improving communication between the FDA, doctors and patients, and developing a strategy for dealing with pandemics of such diseases as flu, West Nile virus and SARS.

Would he ever be involved in determining whether an individual drug should be on the market? "Of course not," Gottlieb told TIME. "Not only wouldn't I be involved in that . . . But I would not be in a situation where I would be adjudicating the scientific or medical expertise of the [FDA] on a review matter. That's not my role. It's not my expertise. We defer to the career staff to make scientific and medical decisions."

Behind the scenes, however, Gottlieb has shown an interest in precisely those kinds of deliberations. One instance took place on Sept. 15, when the FDA decided to stop the trial of a drug for multiple sclerosis during which three people had developed an unusual disorder in which their bodies eliminated their blood platelets and one died of intracerebral bleeding as a result. In an e-mail obtained by TIME, Gottlieb speculated that the complication might have been the result of the disease and not the drug. "Just seems like an overreaction to place a clinical hold" on the trial, he wrote. An FDA scientist rejected his analysis and replied that the complication "seems very clearly a drug-related event." Two days prior, when word broke that the FDA had sent a "non-approvable" letter to Pfizer Inc., formally rejecting its Oporia drug for osteoporosis, senior officials at the FDA's Center for Drug Evaluation and Research received copies of an e-mail from Gottlieb expressing his surprise that what he thought would be a routine approval had been turned down. Gottlieb asked for an explanation.

Gottlieb defends his e-mails, which were circulated widely at the FDA. "Part of my job is to ask questions both so I understand how the agency works, and how it reaches its decisions," he told TIME. However, a scientist at the agency said they "really confirmed people's worst fears that he was only going to be happy if we were acting in a way that would make the pharmaceutical industry happy."

The Oporia decision gave Pfizer plenty of reason to be unhappy: the drug had been expected to produce $1 billion a year in sales for the company. Pfizer's stock fell 1.4% the day the rejection was announced. The FDA has not revealed why it rejected the drug, and Pfizer has said it is "considering various courses of action" that might resuscitate its application for approval.

Health experts note that Gottlieb's appointment comes at a time of increased tension between the agency and drug companies, which are concerned that new drugs will have a more difficult time making it onto the market in the wake of the type of safety problems that persuaded Merck to pull its best-selling painkiller Vioxx from the market last year. The agency's independence has also come under question, most recently with its decision last month to prevent the emergency contraceptive known as Plan B from being sold over the counter, after an FDA advisory panel recommended it could be. That Gottlieb sits at the second tier of the agency, critics say, sends anything but a reassuring signal.

David Safavian didn't have much hands-on experience in government contracting when the Bush Administration tapped him in 2003 to be its chief procurement officer. A law-school internship helping the Pentagon buy helicopters was about the extent of it. Yet as administrator of the Office of Federal Procurement Policy, Safavian, 38, was placed in charge of the $300 billion the government spends each year on everything from paper clips to nuclear submarines, as well as the $62 billion already earmarked for Hurricane Katrina recovery efforts. It was his job to ensure that the government got the most for its money and that competition for federal contracts—among companies as well as between government workers and private contractors—was fair. It was his job until he resigned on Sept. 16 and was subsequently arrested and charged with lying and obstructing a criminal investigation into Republican lobbyist Jack Abramoff's dealings with the Federal Government.

Safavian spent the bulk of his pregovernment career as a lobbyist, and his nomination to a top oversight position stunned the tightly knit federal procurement community. A dozen procurement experts interviewed by TIME said he was the most unqualified person to hold the job since its creation in 1974. Most of those who held the post before Safavian were well-versed in the arcane world of federal contracts. "Safavian is a good example of a person who had great party credentials but no substantive credentials," says Danielle Brian, executive director of the Project on Government Oversight, a nonprofit Washington watchdog group. "It's one of the most powerful positions in terms of impacting what the government does, and the kind of job—like FEMA director—that needs to be filled by a professional." Nevertheless, Safavian's April 2004 confirmation hearing before the Senate Governmental Affairs Committee (attended by only five of the panel's 17 members) lasted just 67 minutes, and not a single question was asked about his qualifications.

The committee did hold up Safavian's confirmation for a year, in part because of concerns about work his lobbying firm, Janus-Merritt Strategies, had done that he was required to divulge to the panel but failed to. The firm's filings showed that it represented two men suspected of links to terrorism (Safavian said one of the men was "erroneously listed," and the other's omission was an "inadvertent error") as well as two suspect African regimes. Ultimately, the committee and the full Senate unanimously approved Safavian for the post.

His political clout, federal procurement experts say privately, came from his late-1990s lobbying partnership with Grover Norquist, now head of Americans for Tax Reform and a close ally of the Bush Administration. Norquist is an antitax advocate who once famously declared that his goal was to shrink the Federal Government so he could "drag it into the bathroom and drown it in the bathtub." As the U.S. procurement czar, Safavian was pushing in that direction by seeking to shift government work to private contractors, contending it was cheaper. Federal procurement insiders say his relationship with Norquist gave Safavian the edge in snaring the procurement post. But Norquist has "no memory" of urging the Administration to put Safavian in the post, says an associate speaking on Norquist's behalf. A White House official said Norquist "didn't influence the decision." Clay Johnson, who was designated by the White House to answer all of TIME's questions about administration staffing issues and who oversaw the procurement post, says Safavian was "by far the most qualified person" for the job. Perhaps it also didn't hurt that Safavian's wife Jennifer works as a lawyer for the House Government Reform Committee, which oversees federal contracting.

In addition, Safavian had worked at a law firm in the mid-'90s with Jack Abramoff, one of the capital's highest-paid lobbyists, a top G.O.P. fund raiser and a close friend of House majority leader Tom DeLay. Abramoff was indicted last month on unrelated fraud and conspiracy charges. In 2002, Abramoff invited Safavian on a weeklong golf outing to Scotland's famed St. Andrews course (as Abramoff had done with DeLay in 2000). Seven months after the trip, an anonymous call to a government hotline said lobbyists had picked up the tab for the jaunt. That wasn't true; Safavian paid $3,100 for the trip. But the government alleges that he lied when he repeatedly told investigators that Abramoff had no business dealings with the General Services Administration, where Safavian worked at the time. Prosecutors alleged last week, however, that Safavian worked closely with Abramoff—identified only as "Lobbyist A" in the criminal complaint against Safavian—to give Abramoff an inside track in his efforts to acquire control of two pieces of federal property in the Washington area. Safavian, who is free without bail, declined to be interviewed for this story. His attorney, Barbara Van Gelder, said the government is trying to pressure her client to help in its probe of Abramoff. "This is a creative use of the criminal code to secure his cooperation," she said.

Three days after the Sept. 12 resignation of FEMA's Michael Brown, Julie Myers, the Bush Administration's nominee to head Immigration and Customs Enforcement (ICE) came before the Senate Homeland Security and Governmental Affairs Committee. The session did not go well. "I think we ought to have a meeting with [Homeland Security Secretary] Mike Chertoff," Ohio Republican George Voinovich told Myers. "I'd really like to have him spend some time with us, telling us personally why he thinks you're qualified for the job. Because based on the résumé, I don't think you are."

Immigration and Customs Enforcement is one of 22 agencies operating under the umbrella of the Department of Homeland Security, but its function goes to the heart of why the department was created: to prevent terrorists from slipping into the U.S. If that weren't enough, the head once must also contend with money launderers, drug smugglers, illegal-arms merchants and the vast responsibility that comes with managing 20,000 government employees and a $4 billion budget. Expectations were high that whoever was appointed to fill the job would be, in the words of Michael Greenberger, head of the University of Maryland's Center for Health and Homeland Security, "a very high-powered, well-recognized intelligence manager."

Instead the Administration nominated Myers, 36, currently a special assistant handling personnel issues for Bush. She has experience in law enforcement management, including jobs in the White House and the Commerce, Justice and Treasury departments, but she barely meets the five-year minimum required by law. Her most significant responsibility has been as Assistant Secretary for Export Enforcement at the Commerce Department, where, she told Senators, she supervised 170 employees and a $25 million budget.

Myers may appear short on qualifications, but she has plenty of connections. She worked briefly for Chertoff as his chief of staff at the Justice Department's criminal division, and two days after her hearing, she married Chertoff's current chief of staff, John Wood. Her uncle is Air Force General Richard Myers, the outgoing Chairman of the Joint Chiefs of Staff. Julie Myers was on her honeymoon last week and was unavailable to comment on the questions about her qualifications raised by the Senate. A representative referred TIME to people who had worked with her, one of whom was Stuart Levey, the Treasury Department's Under Secretary for Terrorism and Financial Crime. "She was great, and she impressed everyone around her in all these jobs," he said. "She's very efficient, and she's assertive and strong and smart, and I think she's wonderful."

To critics, Myers' appointment is a symptom of deeper ills in the Homeland Security Department, a huge new bureaucracy that the Bush Administration resisted creating. Among those problems, they say, is a tendency on the part of the Administration's political appointees to discard in-house expertise, particularly when it could lead to additional government regulation of industry. For instance, when Congress passed the intelligence reform bill last year, it gave the

> Transportation Security Administration (TSA) a deadline of April 1, 2005, to come up with plans to assess the threat to various forms of shipping and transportation—including rail, mass transit, highways and pipelines—and make specific proposals for strengthening security. Two former high-ranking Homeland Security officials tell TIME that the plans were nearly complete and had been put into thick binders in early April for final review when Deputy Secretary Michael Jackson abruptly reassigned that responsibility to the agency's policy shop. Jackson was worried that presenting Congress with such detailed proposals would only invite it to return later and demand to know why Homeland Security had not carried them out. "If we put this out there, this is what we're going to be held to," says one of the two officials, characterizing Jackson's stance. Nearly six months after Congress's deadline, in the wake of the summer's subway bombings in London, TSA spokeswoman Amy Von Walter says the agency is in the process of declassifying the document and expects to post a short summary on its website soon.
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> In the meantime, Myers' nomination could be in trouble. Voinovich says his concerns were satisfied after a 35-minute call with Chertoff, in which the Homeland Security Secretary argued forcefully on Myers' behalf. But other senators are raising questions, and Democrats have seized on Myers' appointment as an example of the Bush Administration's preference for political allies over experience.
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> The Post-Watergate law creating the position of inspector general (IG) states that the federal watchdogs must be hired "without regard to political affiliation," on the basis of their ability in such disciplines as accounting, auditing and investigating. It may not sound like the most exciting job, but the 57 inspectors general in the Federal Government can be the last line of defense against fraud and abuse. Because their primary duty is to ask nosy questions, their independence is crucial.
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> But critics say some of the Bush IGs have been too cozy with the Administration. "The IGs have become more political over the years, and it seems to have accelerated," said A. Ernest Fitzgerald, who has been battling the Defense Department since his 1969 discovery of $2 billion in cost overruns on a cargo plane, and who, at 79, still works as a civilian Air Force manager. A study by Representative Henry Waxman of California, the top Democrat on the House Government Reform Committee, found that more than 60% of the IGs nominated by the Bush Administration had political experience and less than 20% had auditing experience—almost the obverse of those measures during the Clinton Administration. About half the current IGs are holdovers from Clinton.
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> Johnson says political connections may be a thumb on the scale between two candidates with equal credentials, but rarely are they the overriding factor in a personnel decision. Speaking of all such appointments, not just the IGs, he said, "I am aware of one or two situations where politics carried the day and the person was not in the job a year later."
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> Still, several of the President's IGs fit comfortably into the friends-and family category. Until recently, the most famous Bush inspector general was Janet Rehnquist, a daughter of the late Chief Justice. Rehnquist had been a lawyer for the Senate Permanent Subcommittee on Investigations and worked in the counsel's office during George H.W. Bush's presidency before becoming an IG at the Department of Health and Human Services. In that sense, she was qualified for the job. But a scathing report by the Government Accountability Office asserted that she had "created the perception that she lacked appropriate independence in certain situations" and had "compromised her ability to serve as an effective leader." Rehnquist also faced questions about travel that included sightseeing and free time, her decision to delay an audit of the Florida pension system at the request of the President's brother, Governor Jeb Bush of Florida, and the unauthorized gun she kept in her office. She resigned in June 2003 ahead of the report.
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> Three weeks ago, however, Joseph Schmitz supplanted Rehnquist as the most notorious Bush IG. Schmitz, who worked as an aide to former Reagan Administration Attorney General Ed Meese and whose father John was a Republican Congressman from Orange County, Calif., quit his post at the Pentagon following complaints from Senate Finance Committee chairman Charles Grassley, Republican of Iowa. In particular, Grassley questioned Schmitz's acceptance of a trip to South Korea, paid for in part by a former lobbying client, according to Senate staff members and public lobbying records, and Schmitz's use of eight tickets to a Washington Nationals baseball game. But those issues aren't the ones that led to questions about his independence from the White House. Those concerns came to light after Schmitz chose to show the White House his department's final report on a multiyear investigation into the Air Force's plan to lease air-refueling tankers from Boeing for much more than it would have cost to buy them. After two weeks of talks with the Administration, Schmitz agreed to black out the names of senior White House officials who appeared to have played a role in pushing and approving what turned out to be a controversial procurement arrangement. Schmitz ultimately sent the report to Capitol Hill, but Senators are irked that they have not yet received an original, unredacted copy.
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> Congressional aides said they are still scratching their heads about how Schmitz got his job. He now works for the parent company of Blackwater USA, a military contractor that, in his old job, he might have been responsible for investigating.

Mr. DURBIN. Mr. President, I will tell you, when we hear about the contracts that are being let for Hurricane Katrina and other natural disasters, it raises similar questions. Just last week, the head of procurement in the White House, Mr. Safavian, was arrested. He was the top man in the White House when it came to procurement and contracts. Because of some misrepresentations that he apparently made—it has been alleged that he made these misrepresentations—he has been asked to step down from this spot in the White House.

But we have to ask about the contracts that are being let now for Hurricane Katrina. The Senate and House approved some $60 billion for emergency aid. So far, 80 percent of the contracts that FEMA has let are no-bid contracts. They have just awarded them to companies without any competitive bidding whatsoever.

The New York Times on September 26 said as follows:

> More than 80 percent of the $1.5 billion of contracts signed by FEMA alone were awarded without bidding, or with limited competition, government records show, provoking concerns among auditors and government officials about the potential for favoritism and abuse. Already questions have been asked about the political connection of major contracts.

And the article goes on:

> Questions are being raised as to whether this money is actually going to the victims and is actually being well spent. It raises a question of compensation, not just to make certain these victims and communities get back on their feet as quickly as possible but to make certain we are prepared for the next disaster that may face the United States. We have seen and read of serious problems which have occurred with Hurricane Katrina. Some of the same occurred with Hurricane Rita.

In Texas, in Express News on September 26, it is written that:

> Jefferson County Texas Judge Carl Griffith said the county has encountered problems gaining access to troops, equipment and supplies needed to help rebuild the storm-battered region. The judge said local authorities weren't able to use about 50 generators the State had prepositioned at an entertainment complex until late Sunday night because no clearance had been given to release them. Mr. Johnson, Jefferson County Administrator, said he had asked for generators to supply power to St. Elizabeth's Hospital and was told there were none available. Then he said, "I had to show the FEMA representatives the generators were sitting in the parking lot."

So there clearly is a need for us to increase the level of competency and performance when it comes to dealing with these disasters.

The bottom line is this: If we want to find out what went wrong and learn how to avoid it in the future, there is one thing that we can do and do now as a Congress which will reach that goal—an independent, nonpartisan commission, not a commission created by Republicans or Democrats in Congress of their own Members, nor an investigation initiated by the administration to look at wrongdoing that it might have committed itself, but an independent, nonpartisan commission. Some have argued against it, saying we waited a year for the 9/11 Commission, why shouldn't we wait a year to look into the problems of Katrina? We waited a year because the White House opposed the creation of that Commission. Ultimately, it was created and did a great service to this country.

The force that kept the 9/11 Commission moving—this independent, nonpartisan commission—was the families who were victims of 9/11. That same force needs to come forward here. The victims of Hurricane Katrina and Hurricane Rita should be the moving force for the creation of an independent, nonpartisan commission.

The Republican leadership in Congress and the Democratic leadership in Congress should acknowledge the obvious: If we are going to get clear answers as to what went wrong so those mistakes will not be made again, we need an independent, nonpartisan commission. We shouldn't be fearful of them. If they point a finger of blame at Congress, so be it. If they point a finger of blame at State and local leaders, so be it. The important thing is not who was wrong before, the important thing is let us make certain that America is safe in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, what is the time allocation?

The PRESIDING OFFICER. The time between 10 a.m. and 11 a.m. is under the control of the majority leader or his designee.

Mr. HATCH. Thank you.

Mr. President, I rise once again to speak in favor of the nomination of John Roberts. I urge all of my colleagues in the Senate to vote to make John Roberts the next Chief Justice of the United States.

The central focus this week is properly on the nomination of Judge Roberts. In addition, the manner in which the Senate acts on this nomination also will be subject to public scrutiny. In this regard, I join those who have commended Senator SPECTER and Senator LEAHY and other members of the Judiciary Committee for working together to plan and carry out a fair series of hearings on the Roberts nomination.

This week, the full Senate faces the challenge of debating the merits of John Roberts to serve as our Nation's 17th Chief Justice. A widely respected journalist, David Broder, observed about the Roberts nomination:

> He is so obviously ridiculously well equipped to lead government's third branch that it is hard to imagine how any Democrat can justify a vote against his confirmation.

To put a fine point on it, if Democrats do not vote for John Roberts, is it fair to ask whether some Democrats will ever give a fair shake to any Republican Supreme Court nominee?

I recognize that many leftwing special interest groups are putting a lot of pressure on Democratic Senators to vote against this extraordinarily qualified nominee. For example, last Wednesday, September 21, 2005, the newspaper Rollcall contained an article with the headline "Liberal Groups Lecture Democrats on Roberts." Let me read a portion of this article:

> . . . Sens. Dick Durbin and Charles Schumer received a sharp rebuke at a weekend meeting in Los Angeles from wealthy activists such as television producer Norman Lear over Roberts' glide path to confirmation.
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> At an event on behalf of People for the American Way, the first of the major liberal groups to announce opposition to Roberts, Lear lashed out at the Democrats for not mounting more determined resistance to the nomination, according to several sources familiar with the event.
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> Schumer, chairman of the Democratic Senatorial Campaign Committee, confirmed that the event included a 'frank discussion' between activists and the Senators.

That says it all, the pressure on our colleagues on the other side: lectures, sharp rebukes, frank discussions. It sounds as if there may be some dissension in "All in the Family." One can only wonder if "the Meathead" took part in this harangue against the Senators. I have no doubt that pressure from some liberal groups was substantial.

There are compelling reasons why the health of both the Senate and Judiciary require that this vote should be about, and only about, John Roberts' qualification to serve as Chief Justice. Some leftwing special interest groups seem to be urging a "no" vote on this highly qualified nominee in large part to somehow send a message to President Bush, as he deliberates on how to fill the remaining vacancy on the Supreme Court. If that is the case, it is a garbled, misguided message.

I understand the political fact of life that some outside interest groups normally affiliated with the Republican side of the aisle might have preferred that Republican Senators would have voted against the Supreme Court nominees of President Clinton. But I also respect the political reality that he who wins the White House has the right under the Constitution to nominate judicial nominees, including filling Supreme Court vacancies.

In undertaking our advice and consent role, the Senate, due to the Constitution, prudence, and tradition, owes a degree of deference to Presidential nominees. This helps explain why the two Supreme Court nominations made by President Clinton were given broad bipartisan support by the Senate once they were found to possess the intellect, integrity, character, and mainstream judicial philosophy necessary to serve on the Court. When the votes were counted for these two Clinton nominees, both of whom were known as socially liberal, Justice Breyer was confirmed by 87 to 9, and Justice Ruth Bader Ginsburg was approved by a 96-to-3 vote. Given the already stated opposition of both the minority leader and the assistant minority leader and many other Democratic Senators, it does not appear likely that Judge Roberts will receive the same level of support from Democrat Senators as Republican Senators provided for the last two Democrat nominees. This is unfortunate, unjustified, and unfair. Comity must be a two-way street.

At least during the debate of this extremely well-qualified nominee the distinguished Senator from Massachusetts has not renewed his over-the-top pledge "to resist any Neanderthal that is nominated by this President of the United States."

Frankly, I do not think that much of the opposition against the nominee can be wholly explained by anything that Judge Roberts said or did or did not say over the course of his exemplary 25-year career as a lawyer.

I commend the growing number of Democrats, including the ranking Democrat member of the Senate Judiciary Committee, Senator LEAHY, for their decisions to support Judge Roberts. I hope many others across the aisle will join them.

I also commend President Bush for consulting closely with the Senate and for sending a truly outstanding nominee in John Roberts. By all accounts, the President is continuing his practice of consulting widely with the Senate in filling the remaining vacancy on the Court.

Turning to the merits of this nomination, I take a few moments to briefly discuss John Roberts' education and experience to help explain why so many think so highly of this nominee. Too often in this debate, Judge Roberts' opponents quickly acknowledged his brilliance and qualifications before launching into a series of speculative if's, and's, or but's that somehow justify a vote against the confirmation in their eyes.

The American public realizes John Roberts has the right stuff. John Roberts graduated from Harvard College summa cum laude in 3 years. He went on to Harvard Law School where he graduated magna cum laude and was managing editor of the Harvard Law Review.

Judge Roberts began his career by clerking for two leading Federal appellate judges, Judge Henry Friendly and Justice William Rehnquist. Judge Roberts began his career in the executive branch by serving as a Special Assistant to Attorney General William French Smith. Next, he was Associate Counsel in the White House Counsel's Office.

In the administration of President George H.W. Bush, John Roberts served as Principal Deputy Solicitor General of the Department of Justice. Upon departing Government and moving back into private practice, he was justifiably recognized as one of the leading appellate lawyers in the country. He has argued an almost astounding number of 39 cases before the Supreme Court.

John Roberts has represented a diverse group of clients, including environmental, consumer, and civil rights interests and has taken seriously his obligation to provide voluntary legal services to the poor, including criminal defendants.

Just 2 years ago, John Roberts was confirmed in the Senate without objection; not one Senator raised an objection to his nomination for a seat on the U.S. Court of Appeals for the District of Columbia Circuit. The American Bar Association evaluated Judge Roberts four times in the last 4 years, and each time he earned the highest ABA rating of "well-qualified." And four times in a row this "well-qualified" rating was unanimous. This must be some kind of a record for ABA ratings.

John Roberts has the temperament, integrity, intelligence, judgment, and judicial philosophy to lead the Supreme Court and Federal Judiciary well into the 21st century.

The Senate and the American public heard directly from John Roberts as he testified for over 20 hours before the Judiciary Committee. Most of us liked what we saw and heard. Judge Roberts told us he would bring back to the Supreme Court no agenda—political, personal, or otherwise. He told us he would consider each case based solely on the merits of the relevant facts and the applicable laws. With Judge Roberts, all litigants will continue to receive the bedrock American right of equal justice under the law.

Here is what Judge Roberts said about the rule of law during his hearing:

> Somebody asked me, "Are you going to be on the side of the little guy?" And you want to give an immediate answer. But if you reflect on it, if the Constitution says the little guy should win, the little guy should win in court before me. But if the Constitution says the big guy should win, well, the big guy should win, because my obligation is to the Constitution. . . .The oath that a judge takes is not that "I'll look out for special interests" . . . the oath is to uphold the Constitution and laws of the United States and that's what I would do.

It seems to me that Judge Roberts got it exactly right. I cannot say the same thing about those, including the distinguished Senator from Massachusetts and the distinguished Senator from California, Mrs. BOXER, who embraced results-oriented litmus tests when they repeatedly asked just whose side will Judge Roberts be on in deciding cases. As Judge Roberts explained, a judge has to hear the case and consider the law before he or she decides who should prevail under the law.

I also greatly appreciated Judge Roberts' comments on judicial activism and judicial restraint. Judge Roberts believes that in our system of government, judges "do not have a commission to solve society's problems, but simply to decide cases before them according to the rule of law."

I found enlightening Judge Roberts' description about how he decides cases through a careful process of reviewing briefs, participating in oral arguments, conferring with other judges at conference, and, finally, writing the decision. He noted that he often adjusts his view of the case throughout the course of the deliberative process.

Both in his opening testimony and in answering questions, Judge Roberts stressed the response of judges exercising institutional and personal modesty and humility. I have no doubt that this view is genuinely held by this nominee. I can say that an overwhelming majority of my fellow Utahans say they are fairly impressed with Judge Roberts' attitude toward the law and the role of judges.

Some, particularly many leftwing special interest groups, do not share my enthusiasm for Judge Roberts. Despite the fact that Judge Roberts answered dozens of questions on many topics, some complain that Judge Roberts did not answer all the questions.

Let us be clear. Under the Cannons of Judicial Ethics, it would have been inappropriate for Judge Roberts to comment on matters that could come before the Court. These liberal groups apparently have forgotten that back in 1993 when Democrat nominee, Ruth Bader Ginsburg, appeared before the Judiciary Committee in connection with her 96-to-3 confirmation to the Supreme Court, she took a position of "no hints, no forecasts, no previews," on many questions.

This was consistent with what the distinguished Senator from Massachusetts, Mr. KENNEDY, said back in 1967 with respect to the Supreme Court nomination of Thurgood Marshall. He said:

> We have to respect that any nominee to the Supreme Court would have to defer any comments on any matters which are either before the court or very likely to appear before the court.

Some critics argue that the administration should have turned over memos that Judge Roberts wrote in his former capacity as Deputy Solicitor General, when the fact is that several years ago a bipartisan group of seven former Solicitors General, four of whom were Democrats, wrote to the Judiciary Committee to tell us that, generally, providing these documents to the Senate and making them public was a bad idea given the unique role of the Solicitor General's Office.

Some critics assert that Judge Roberts is insufficiently sensitive to their views in some areas of the law, including civil rights, voting rights, women's rights, and abortion, Presidential power and the commerce clause. A careful analysis of Judge Roberts' professional record over the last 25 years, coupled with the rigorous review of the hearing transcript, leads to the conclusion that Judge Roberts is well within the mainstream on his general perspectives on these issues and has pledged to be fair and openmined on any future litigation involving these and other areas. I take him at his word.

For example, the distinguished Senator from Massachusetts has attempted to suggest that Judge Roberts is somehow against voting rights and other civil rights. Yet in response to questions from Senator KENNEDY, Judge Roberts clearly stated that he believed that voting is the preservative of all other rights. It is this principle that undergirds the leading case of Baker v. Carr that brought us into the one man-one vote era that changed the political landscape of America.

Moreover, Judge Roberts acknowledges the importance of the Voting Rights Act, and he has supported its reauthorization and said he is unaware of any fundamental legal deficiency in the statute.

While in the Solicitor General's Office, John Roberts joined several briefs urging the Supreme Court to adopt broad interpretations of the Voting Rights Act. For example, in the 1993 case of Voinovich v. Quilter, Roberts successfully argued in a brief on behalf of the United States for a reading of the Ohio redistricting plan that made it easier to create minority legislative districts. The Supreme Court concurred.

To claim John Roberts is hostile to voting rights is simply not true. Nor is he hostile to, or predisposed against, any other rights, interests, or legal claims. John Roberts is committed to hearing every case in a fair, unbiased manner.

Let me conclude by saying that some, including some members of the Judiciary Committee, having failed to make a substantial case against this stellar nominee, have resorted to suggesting we are somehow "rolling the dice" or "betting the house" with this nominee.

To me, supporting John Roberts is a sound investment and, I will say, a sound investment in our Nation's future, not some long-shot bet.

John Roberts' long and distinguished record as an advocate and judge over the past 25 years, buttressed by his recent confirmation hearing testimony, demonstrates he is a bright, careful, and thoughtful legal professional of the highest integrity and character. He is not an ideologue inclined to, or bent on, high court mischief.

I think it likely one day historians will conclude that in making John Roberts our 17th Chief Justice, the President and Senate made a wise choice that helped maintain and advance the rule of law for all present and future citizens of the United States.

Mr. President, I will vote aye to confirm Judge Roberts, and I hope the vast majority of Senators will do likewise.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be allowed to speak for a minute as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. STEVENS are printed in today's RECORD under "Morning Business.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I would like to be recognized to speak on behalf of Judge Roberts.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAHAM. Mr. President, as Senator HATCH indicated, I do not think we are "rolling the dice" at all to vote for this uniquely qualified man. It is not about whether he gets confirmed. He will be confirmed in the Senate by the close of business on Thursday, unless something major happens that no one anticipates now. Judge Roberts will then become the 17th Chief Justice of the U.S. Supreme Court, and his confirmation will receive somewhere in the range of 70-plus votes probably. So his nomination is not in doubt.

But I think this whole process will be viewed by scholars of the Court and those who follow the confirmation process, in the Senate particularly, in a very serious way because the vote totals do matter. He will get well over 50 votes, but the reasons being offered to vote "no" I think suggest a change in standard from the historical point of view of how the Senate approaches a nominee.

One of the things I think they will look at in the Roberts confirmation process is: What is the standard? If it is an objective standard of qualifications, character, integrity, has the person lived their life in such a way as to be able to judge fairly, not to be ideologically driven to a point where they cannot see the merits of the case, then Judge Roberts should get 100 votes. The reason I say that is, not too long ago in the history of our country President Clinton had two Supreme Court vacancies occur on his watch. One was Justice Ginsburg, who sits on the Court now. I believe she received 96 votes. The other was Justice Breyer, who sits on the Court now, who received well over 90 votes. Shortly before that, under President Bush 1's watch, Justice Scalia—a very well-known conservative—received 98 votes.

What is the difference between then and now? I think that is a very important point for the country to spend some time talking about. If he receives 70 or 75 votes, then, obviously, there has been a reduction in the vote total for someone who I think is obviously qualified. But in terms of qualifications, I am going to read some excerpts from what some Senators have said about Judge Roberts.

Senator BIDEN: Incredible. Probably one of the most schooled appellate lawyers . . . at least in his generation.

Senator BOXER: A brilliant lawyer. Well qualified. Well spoken. Affable. Unflappable.

Senator CORZINE: Eloquen[t]. A great lawyer. A great litigator.

Senator DURBIN: A judge [who] will be loyal and faithful to the process of law, to the rule of law. A great legal mind.

Senator FEINSTEIN: Very full and forward-speaking. Eloquent. Very precise.

Senator KENNEDY: An outstanding lawyer. A highly intelligent nominee. Well-educated and serious. A very pleasant person. Intelligent.

Senator KERRY: Obviously qualified in his legal education and litigation experience. Earnest. Friendly. Incredibly intelligent. A superb lawyer.

Senator LANDRIEU: Very well credentialed.

Senator OBAMA: Qualified to sit on the highest court in the land. Humble: Personally decent. Very able. Very intelligent. Unflappable.

Senator REID: A very smart man. An excellent lawyer. A very affable person. A thoughtful mainstream judge on the D.C. Circuit Court of Appeals.

Senator SCHUMER: Brilliant. Accomplished. Clearly brilliant. A very bright and capable man. Very, very smart man. Outstanding lawyer. Without question, an impressive, accomplished and brilliant lawyer. A decent and honorable man.

There is more, and I will read those later. I would hope half that could be said about me in any job I pursued. The reason those testimonials were offered is, it is obvious to anyone who has been watching the hearings and paid any attention to what has gone on here in the last week or so that we have in our midst one of the most well-qualified people in the history of our Nation to sit on the Supreme Court—probably the greatest legal mind of his generation or maybe of any other generation. I think when history records President Bush's selection of Judge Roberts, it will be seen historically as one of the best picks in the history of this country.

The man is a genius. I was there in his presence a whole week. He never took a note. He never asked anybody how to say something or what to say, or get any advice from anyone as to how to answer a question. He had almost complete total recall of memos from 20-some years in the past. Not only did he understand every case he was questioned upon without notes, he understood how the dissenting opinions did not reconcile themselves. I have been around a lot of smart people. I have never been around anyone as capable as Judge Roberts.

Now, why would he not get 96 or 98 or 100 votes? Well, some people have said all these glowing things but said that is not enough. There comes the problem. If him being intelligent, brilliant, a superb lawyer, the greatest legal mind of our generation, and well qualified is not enough, what is? What are some of the reasons that have been offered in terms of why anyone could not support this eminently qualified man?

Most of the reasons I think have to do with a subjective analysis of the nominee that apparently was not used before. Because if a conservative went down the road of something other than qualifications, character, and integrity, I doubt if a conservative could have voted for Justice Ginsburg or Justice Breyer, if you wanted to use some subjective test as to how they might vote on a particular case or if you had a philosophical test in place of a qualifications test. I will talk about that a bit later.

One of the reasons people have offered for a "no" vote is that during the questioning period he would not give complete answers to constitutional issues facing the country. I think Senator KERRY said: He is a superb, brilliant lawyer, but I can't vote for him because I don't know how he will come out on the great constitutional issues of our time.

Well, I would say that is good. You are not supposed to know how he is going to decide the great constitutional questions of our time because that is done in a courtroom with litigants before the judge. It is not done in a confirmation process where you have to tell people before you go on the Court how you are going to rule.

At least one Senator has said: I can't vote for this man because he won't tell me if he will buy into the right of privacy and uphold Roe v. Wade. If that becomes the standard, the hearing could be limited to one question: Will you uphold Roe v. Wade, yes or no? And that is the end of the deal.

I would argue if we go down that road as a nation, using one case, an allegiance to one line of legal reasoning, or a particular case, whether you uphold it or whether you will reverse it, then you have done a great disservice to the judiciary because we are not looking for judges to validate our pet peeves as Senators in terms of law. We are looking for judges to sit in judgment of our fellow citizens who will wait until the case is being litigated, listen to the arguments, read the briefs, and then decide.

That is not unknown to the Senate. The idea that Court nominees in the past would refuse to give specific answers to specific cases is not unknown at all.

Mr. President, I have excerpts from past nominees and questions that were asked.

I will read some of these excerpts.

This is an abortion question by Senator Metzenbaum to Justice Ginsburg: After the Casey decision, some have questioned whether the right to choose is still a fundamental right. In your view, does the Casey decision stand for the proposition that the right to choose is a fundamental constitutional right?

That is a very direct question: Do you buy into the precepts of Roe v. Wade?

Ginsburg: What regulations will be permitted is certainly a matter likely to be before the Court. Answers depend in part, Senator, on the kind of record presented to the Court. It would not be appropriate for me to go beyond the Court's recent reaffirmation that abortion is a woman's right guaranteed by the 14th amendment. It is part of the liberty guaranteed by the 14th amendment.

She recited the current law and said: There will be lines of attack on the right to privacy. I am going to wait until the record is established.

Good answer.

Voting rights. Senator Moseley-Braun: I guess my concern in Presley really is a matter of your view of the language of the statute, the specific language of section 5 of the Voting Rights Act, and given the facts of that case whether or not the Court gave too narrow an interpretation of the language in such a way that essentially frustrated the meaning of the statute as a whole.

That is a topic before the Senate now.

Ginsburg: I avoided commenting on Supreme Court decisions when other Senators raised that question, so I must adhere to that position.

The death penalty. Senator SPECTER: Let me ask you a question articulated the way we ask jurors, whether you have any conscientious scruple against the imposition of the death penalty.

Ginsburg: My own view of the death penalty I think is not relevant to any question I would be asked to decide as a judge. I will be scrupulous in applying the law on the basis of the Constitution, legislation, and precedent.

Who does that sound like?

Ginsburg: As I said in my opening remarks, my own views and what I would do if I were sitting in the legislature are not relevant to the job for which you are considering me, which is the job of a judge.

A very good answer.

Ginsburg: So I would not like to answer that question any more than I would like to answer the question of what choice I would make for myself, what reproductive choice I would make for myself. It is not relevant to what I will decide as a judge.

Now, within that answer she does two things that I think are important. She refuses to give a personal view of the death penalty based on the idea that: My personal views are not going to decide how I will judge a particular case. And for me to start commenting in that fashion will compromise my integrity as a judge. She also said: I am not going to play the role of being a legislator because that is not what judges do.

So I would argue not only did she give the right answers, but that is all Judge Roberts has done. When he is advising the President of the United States about conservative policies initiated by the Reagan administration, he is doing so as a lawyer, advising a client. He several times indicated that his personal views about matters are not going to dictate how he decides the case. What will dictate how he decides the case are the facts presented, the law in question, and the record.

All right, more about the death penalty.

Senator HATCH: But do you agree with all the current sitting members that it is constitutional, it is within the Constitution?

Again, talking about the death penalty. This is Senator HATCH trying to get Judge Ginsburg to comment on sitting members of the Court.

Ginsburg: I can tell you that I agree that what you have stated is the precedent and clearly has been the precedent since 1976. I must draw the line at that point and hope you will respect what I have tried to tell you, that I am aware of the precedent and equally aware of the principle of stare decisis.

Now, who does that sound like? That sounds like Roberts on Roe v. Wade, but she is talking about the death penalty.

HATCH: It isn't a tough question. I mean I am not asking——

Ginsburg: You asked me what was in the fifth amendment. The fifth amendment used the word "capital." I responded when you asked me what is the state of current precedents. But if you want me to take a pledge that there is one position I am not going to take, that is what you must not ask a judge to do.

So Senator HATCH was trying to draw her out on the death penalty and follow a particular line of reasoning. She says, no, I am not going to pledge to get on the Court to tip my hand there.

HATCH: But that is not what I asked you. I asked you, is it in the Constitution, is it constitutional?

Again, he was talking about the death penalty.

Ginsburg: I can tell you the fifth amendment reads, no person shall be held to answer for a capital or otherwise infamous crime unless, and the rest. But I am not going to say to this committee that I reject the position out of hand in a case as to which I have never expressed an opinion. I have never ruled on a death penalty case. I have never written about it. I have never spoken about it in a classroom.

SPECTER, on women's rights: Would you think it is appropriate for the court to employ in general terms the original understanding of the 14th amendment which you wrote about in the Washington University Law Quarterly as interpretive to women's rights?

Ginsburg: I have no comment on that, Senator SPECTER. I have said that these issues will be coming before the Court. I will not say anything in the legislative Chamber that will hint or forecast how I will vote in cases involving particular classifications.

It goes on and on. I have 30 pages here. I will put them in the RECORD. The idea that Judge Roberts, during his time before the committee, was evasive or unresponsive, different than people who came before him, is not supported by the record. What we have in this confirmation process is a frontal assault on the nominee in terms of pledging allegiance to Roe v. Wade, something that didn't happen to Ginsburg as directly.

There is at least one Senator who appears to be basing her vote on the idea that he won't tell me whether he will uphold Roe v. Wade; therefore, I can't vote for Judge Roberts. Again, I argue if that is the standard for a yes or no vote, the standard has changed dramatically. It will be unhealthy for the country as a whole. It will do great damage to the judiciary. It will be a standard Democrats would not want to be applied in the future, I can assure my colleagues.

The other issue is about the idea of civil rights, that somehow Judge Roberts' position during the Reagan administration was unfriendly to civil rights to the point that we can't vote for him. Bottom line is, of all the reasons given, that is the most distorted. That is a reason, that is a cut-and-paste job we have seen too much of to try to cast someone in a bad light for doing what their job required of them. John Roberts was in his 20s, working for the Reagan administration. The idea that he would be advising President Reagan about conservative policy initiatives shouldn't surprise anyone. That was his job.

The issue of civil rights is important to all of us. One of the worst things you can do is try to question someone's character, integrity, to the point that it puts a shadow of who they are in terms of being sensitive to other people based on race or any other difference. The idea that John Roberts, when he was working for the Reagan administration, showed a hard heart and insensitivity to people's ability to fairly vote is a shameful attack, not supported by the record. It is a cut-and-paste job. It is a distortion of what he said then, what he said now, and we ought to reject it.

The issue that was being discussed was whether Ronald Reagan's position of reauthorizing the Civil Rights Voting Act as written was extreme. The Reagan administration said: We will reauthorize the Voting Rights Act as written. The problem in the early 1980s was that you had a Supreme Court decision, the Boulder case, where the Supreme Court said that when it comes to section 2, where you look at the effects of voting patterns and whether there is discrimination being applied based on race and voting and representation, the test to determine that would be the intent test. Did the people who drew the lines setting up the voting procedures and the voting districts, was it their intent to racially discriminate and undermine African-American voting rights in the States in question. That was the test the Supreme Court applied.

Senator KENNEDY and others wanted to change that test to the effects test, where you would look at the effects of how the lines were drawn and how the districts were set up. It was an honest debate.

The third concept no one has talked much about is proportionality. The Reagan administration was against proportional representation which is basically an electoral quota. You look at a district based on race, and you come to the conclusion that the elected officials within that district have to mirror the population. In other words, you will have a racial quota. If 40 percent of the district is of a particular race, then 40 percent of the people have to be of that race. I don't think most Americans want that. What we want is people to have a chance to run for office, be successful and vote their conscience, without anything interfering and without bad forces standing in the way. I don't think most Americans want to decide the election based on race before you cast any ballot.

That was the debate in the 1980s. The Reagan administration was against proportionality. They were standing for the Civil Rights Act as written in the 1960s. Then you had the Supreme Court case that interjected a new concept. What Judge Roberts, then a lawyer in the Reagan administration, was advising was that the current law was the intent test. The Reagan administration was supporting the Supreme Court's intent test. How that has been twisted and turned to show or to make the argument that John Roberts is insensitive to people's ability to vote and has stood in the way of people having their fair day at the ballot box, to me is a complete distortion of who he is and the position he took.

At the end of the day, here is what happened. There was a legislative compromise. The Supreme Court intent test was replaced by a totality of the circumstances test which is somewhere between the effects and intent test. I know this is a bit hard to follow, but the bottom line is, there was a compromise legislatively dealing with a Supreme Court decision. John Roberts' legal advice to the Reagan administration was very much in the mainstream of where America is, very much in the mainstream of the Reagan position. To say his legal memos arguing that proportionality was inappropriate and the intent test was based on sound legal reasoning, to somehow go from that legal reasoning to the idea that the man, the person, is insensitive to people's voting rights, again, is quite shameful.

He said in the hearing, it is the right of which everything else revolves around, the ability to go to the ballot box and express yourself.

This has happened to Judge Pickering, and it is going to happen to the next nominee. I will put the Senate on record from my point of view, coming from the South, there have been plenty of sins where I live in the South. The Voting Rights Act has cured a lot of those sins. But one of the things we should not lay on John Roberts is the idea that because he represented the Reagan administration, arguing that the Supreme Court was right, somehow he, as a person, is insensitive to minority rights.

The reason that is a bogus argument is because there is not one person who came before the Senate Judiciary Committee or otherwise to say John Roberts has ever lived his life in a way that would suggest he is insensitive to people's rights based on race. As a matter of fact, one of the witnesses before the committee analyzed the cases Judge Roberts presented to the Supreme Court dealing with civil rights. They found out he won 71 percent of his cases dealing with civil rights issues. That says not only does he understand civil rights law well, he is arguing mainstream concepts. When he looked at how Justices agreed or disagreed with him, apparently Thurgood Marshall agreed with John Roberts, the advocate, over 60 something percent of the time. So if you look at the way he has lived his life, the way he has argued the law and who he has represented, there is not one ounce of evidence to suggest John Roberts the man is in any way insensitive to people's ability to vote based on race.

Tomorrow we will come back and we will look at the other reasons to say no to this fine man. I think we are getting into a dicey area, if we are going to play this game of voting no based on "you won't tell me how you will vote on a particular case" or that we take someone's legal advice and use the client's position against that person, that you are going to set a standard that will chill out a lot of people wanting to be members of the Court. There are other things being said about this fine man that would be dangerous if the Senate adopted as the test in the future. I will talk next time about how the sitting Justices would not fare so well. The bottom line is there is a reason that Scalia, Ginsberg, and Breyer received well over 90 votes apiece. They were well qualified. They were people of good character and good integrity.

If this man, John Roberts, after all that has been said about him in terms of his qualifications, doesn't get 90-plus votes, the Senate needs to do some self-evaluation because we have gone down the wrong road.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me associate myself with the remarks of the Senator from South Carolina. He so clearly lays out the foundational basis by which we ought to be reviewing nominees to our highest Court. At the same time, he brings a lot of valid criticism to those who would choose to be tremendously selective not by character but by philosophy of those who are sent to us to consider.

Like many of our colleagues engaged in the confirmation process of John Roberts to the position of the Chief Justice of the Supreme Court, I have been here before. Maybe that is one way of saying it. The last time John Roberts came before the Senate, he was confirmed for his position by unanimous consent. He was placed on the District of Columbia's Circuit Court of Appeals, the second highest in the land as it relates to our judicial system. However, unlike most of our colleagues, I was a member of the Senate Committee on the Judiciary at that time, and his was one of the first confirmations before the committee that session. That only increased my sense of duty to thoroughly review his fitness for a lifetime appointment to the court.

Undoubtedly, one of the most serious duties of a Senator is the constitutional obligation and opportunity to confirm the President's judicial nominees. At that time I was satisfied that John Roberts was a superior candidate for the job. A review of his record for the past 20 months only proves that decision to have been the correct one. Not a single question has been raised as to his competence or his character during that time serving on the DC Circuit. Furthermore, in his time on the court, John Roberts has shown he does not bring an agenda to work with him in the morning. Rather, he takes an intellectual approach to each case, basing his rulings on the facts and the law, not any personal bias.

To the extent there has been a debate over the nomination, it has not been about Judge Roberts' qualifications to sit on the Supreme Court. Rather, he has been subject to an ideological litmus test.

I submit that this is not the job of the Senate. We are not social engineers, even though some of my colleagues might like to be, and it is not our role to pack the courts with members of certain ideologies.

Judge Roberts points out that he is not standing for election, and appropriately so. I agree with this critical distinction. We are not here to debate his politics or whether we agree with them. Our duty is to give advice and consent to our President's nominations.

To politicize this duty of supreme importance, I think is fundamentally wrong, but it is occurring with this nominee. For the last 2 weeks, we have been subjected to some of that rhetoric coming out of the Judiciary Committee which is purely political and an attempt to politicize the process. Politicizing the confirmation hearings runs contrary to the idea of an unbiased judiciary. As Judge Roberts himself has suggested, it undermines the integrity of that judicial process.

That being the case, we must ask why anyone would want to bring issues of politics to the process. The simple answer is that opponents of Judge Roberts are not looking impartially. They want a nominee who will agree with their beliefs. Judge Roberts has said, time and time again, he would not engage in bargaining or state his beliefs on specific issues.

Let me suggest that a Member who votes against this nominee because he will not state his position on a specific case or ruling is voting against an unbiased judiciary. In other words, they want a bias in the Court to fit their political beliefs instead of the unbiased Court that our Founding Fathers envisioned.

While some seem bound and determined to inject politics into the Court and have applied intense pressure to secure his assistance in that effort, Judge Roberts has stood by his commitment to the rule of law, and that is what a judge should do.

This speaks highly of his integrity, but again his integrity is not in question. No one had brought forth any evidence to suggest that he is not a person of high moral character. In fact, many of the Members who say they will vote against his confirmation say that he appears to be a very fine fellow—smart, witty, thoughtful. So where are they going and what are they attempting to dredge up? His judicial demeanor is also not in question.

The overwhelming assessment of Judge Roberts' performance before the Senate Committee on the Judiciary is that he did an outstanding job. He remained calm, thoughtful, impartial, and unshaken. In a word, he was judicial.

I said during my tenure on that committee and during confirmation processes, while I may agree or disagree, what I was looking for was the character of the individual, the judicial demeanor: How would he or she perform on the court? Would they bring integrity to the court in those kinds of rulings to which they would be subjecting their mind and their talent?

Some believe that all documents related to Judge Roberts during his service as Deputy Solicitor General should be disclosed even though this would violate attorney-client and deliberate process privileges. He will not infringe upon past employers' rights and privileges. He knows this would discourage consultation and new ideas and reduce the effectiveness of the Office of Solicitor General. This is a man who truly exemplifies integrity. Although he is criticized for not releasing some documents, it is his integrity that will not allow that to happen. If it were not unethical to disclose these documents, I am sure the judge would release them. In fact, those that would not infringe upon his integrity have been released.

We have reviewed some 76,000 pages of documents, including documents for more than 95 percent of the cases he worked on in the Solicitor General's Office. Our access has been restricted to a mere 16 out of 327 cases. Finding Judge Roberts unfit to be Chief Justice on the grounds of undisclosed privileged internal deliberations is not only unfair, I believe it is illegal and, at any test, it is ludicrous.

Judge Roberts' competence is not being called into question, not in any sense by any Senator. It would be very difficult to find a better candidate anywhere to serve as Chief Justice. He seems to have done extremely well in whatever he has undertaken. Graduating summa cum laude says that this man is bright. Managing editor of the Harvard Law Review—that only comes to the top of the class. Later, he clerked for Judge Friendly of the U.S. court of appeals in Manhattan and for Supreme Court Justice William Rehnquist. He has tried 39 cases before the Supreme Court, both as a private litigant and as a Government litigant while serving as the Deputy Solicitor General. Judge Roberts now serves, as I mentioned, on the U.S. Court of Appeals for the DC Circuit.

His credentials are impeccable. This man deserves a unanimous vote, as he received 20 months ago. But that will not be the case today because some have chosen to inject politics into this process. Thank goodness Judge Roberts has stood unwaveringly not allowing that to happen when it comes to himself. His integrity is not in question. That is why he was nominated by the President of the United States to serve as the Chief Justice of our highest Court.

He deserves my vote. He will get my vote. He deserves the vote of every Senator serving in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

SENATOR BILL FRIST

Mr. McCONNELL. Mr. President, I first met BILL FRIST 11 years ago when he was a world-renown heart transplant surgeon from the neighboring State of Tennessee. He was considering a career change to public service in the Senate. Then, as now, I believe he was one of the most gifted, hard-working, and honest people I had ever met. He is a bit of a rarity in this town. He has more talent and less ego than almost anyone I can think of.

There has been this question raised about the sale of some stock. Of course, a bit lost in this dustup is the simple fact that the Senate Ethics Committee preapproved the sale. However, this is Washington, and sometimes even honest actions are questioned.

I have absolutely no doubt that the facts will demonstrate that Senator FRIST acted in the most professional and the most ethical manner, as he has throughout his distinguished medical and Senate career.

Senator FRIST has been clear that he welcomes the opportunity to meet with the appropriate authorities and put this situation in its proper context as a completely—a completely—appropriate transaction.

Furthermore, Senator FRIST has my full and unconditional support. He is a great majority leader. I find myself agreeing with my good friend from Nevada, the Democratic leader, HARRY REID, who said he knew Senator FRIST would not do anything wrong. Senator REID has it right.

Finally, I think there are few settled facts in this contentious capital of ours, but there is one fact of which I am completely certain: BILL FRIST is a decent, honest, hard-working man who puts public service before private gain.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ISAKSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we have had several people on the Senate floor this morning speaking of the Roberts nomination. I understand that we have several Senators on this side of the aisle who are going to speak in a few minutes, and I will yield the floor when they arrive.

I hope the American people will listen to this discussion. The outcome is sort of foreordained because we know the number of people who are going to vote for Judge Roberts, as am I. The reason it is important to hear all the different voices is that we are a nation of 280 million Americans. But for the Chief Justice of the United States, only 101 people have a say in who is going to be there and, of course, they are the President, first and foremost, with the nomination, and the 100 men and women in this Senate.

We have to stand in the shoes of all 280 million Americans. Can we be absolutely sure in our vote of exactly who the Chief Justice might be as a person, somebody who will probably serve long after most of us are gone, certainly long after the President is gone and actually long after several Presidents will be gone? No. We have to make our best judgment. I have announced how I am going to vote. With me, it is a matter of conscience.

I see the distinguished Senator from Colorado. I know he wishes to speak, and I will be speaking later about this issue. I will yield the floor to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I thank my wonderful friend from Vermont for his great leadership in the Senate Judiciary Committee, along with Senator SPECTER.

I rise today concerning the nomination of Judge John Roberts to be Chief Justice of the U.S. Supreme Court. I have interviewed and recommended the appointment of many men and women who serve as State and Federal judges in my home State of Colorado. I am no stranger to analyzing the record of a candidate for the judiciary. I am no stranger to evaluating the character and temperament of people to serve in these positions. Yet I know this confirmation vote is special. It is one of the most significant votes that I will cast during my tenure as a Senator. I know this vote is likely to endure the rest of my life and the lives of those who serve in this Chamber.

The decisions of the Supreme Court significantly affect the everyday lives of the people in my State and all the people who live throughout our great Nation. The Chief Justice is first among equals among the nine Justices who make these decisions. The Chief Justice's ability to run the Court's conferences and to assign opinions gives the Chief Justice important influence on the directions taken by the Court. The Chief Justice molds and defines the cohesiveness of the Court in the sense that he or she can lead efforts to reduce separate and complicated opinions and to make the opinions of the Court clear and understandable to all. This is an especially important influence to reduce confusion in the law.

Finally, the Chief Justice sits at the very pinnacle of our Federal judicial branch. The Chief Justice leads the judges and the rest of the 21,000 employees of the Federal court system. The Chief Justice is responsible for making sure the Federal courts run effectively and efficiently. The administrative responsibilities of the Chief Justice are important for another reason. The Chief Justice can lead the judicial branch to become a place of inclusion, a place where women are as welcome as men, and where people work together who are black, brown, yellow, white, and every other color of human skin.

The Chief Justice can make the judicial branch a shining example of diversity and inclusiveness. This is not an abstraction. When people of any background come to the Court they should be looking in the mirror. The faces of the Court should be the same as the faces of those who come before the Court. In my view, this is an essential aspect of justice.

I commend the Senate Judiciary Committee for its fair, serious, and dignified hearings on the Roberts nomination. Chairman SPECTER, Ranking Member LEAHY, and all members of the committee have earned our gratitude. They have performed a very valuable service for our country. These Senators gave us a wonderful example worthy of repetition in the Senate of how the Senate should operate in the interest of our Nation. They did their work with courtesy, civility, and in the spirit of the parties working together in good faith to discuss their differing views. Our Nation is better for their efforts.

I also want to take a minute to thank Democratic Leader REID. I have been surprised and taken aback by the attacks on him from some people in this debate. To read the musings of Washington insiders, Senator REID is somehow guilty of not uniting Democrats, and at the same time not being too beholden to Democratic interest groups. As is the usual case in the debates in Washington, the truth can be found elsewhere.

Senator REID made very clear to this Senator and to the entire caucus that this is a vote of conscience. To suggest otherwise is unfair and dishonest. Our leader, a man of unshakable faith and conviction, helped ensure that this Senate lived up to its constitutional obligation of advice and consent.

I want to speak briefly about the history of America and our Constitution concerning equality under the law and the key role of the U.S. Supreme Court. The history of equal protection is a reminder of the most painful and at the same time the most promising moments of our Supreme Court and our Nation. We must not forget that history and its lessons, for to do so would undo our progress as a nation.

In retracing our history, the inevitable conclusion is that we have made major progress over four centuries. That history includes 250 years of slavery in this country, 100 years of legal segregation of the races, and the struggle in the new and recent times to achieve another age and celebrate the age of diversity.

We must look back at that history so that we do not forget its painful lessons. We must never forget that for the first 250 years of this country, after the European settlers reached the shores of Mexico and New England, the relationship between groups was characterized by slavery and the subjugation of one group for the benefit of another.

In Mexico and in the Southwest, the Spanish enslaved Native Americans. In the East and the South, the Americans brought Blacks from Africa and treated them as property. In the Dred Scott decision in 1857, the U.S. Supreme Court, in a terrible moment for our Nation, reasoned that Blacks were inferior to Whites and therefore the system of slavery was somehow justified.

At that point, the U.S. Supreme Court was endorsing the untenable proposition that one person could own another person as property simply because of their race. But the march toward freedom and equality would not be stopped by the U.S. Supreme Court in the Dred Scott decision.

The Civil War ensued. Let us never forget that the Civil War became the bloodiest war in American history, with over 500,000 Americans killed in battle. In the end, the 13th, 14th and 15th amendments to the U.S. Constitution ended the system of slavery and ushered in a new era of equal protection under the laws. Yet even with the end of slavery and the civil rights amendments to the Constitution, equal protection under the laws for the next 100 years would still require the segregation of the races.

The law of the land in many States and cities required the separation of the races in schools, theaters, restaurants, and public accommodations. It was not until 1954 that the U.S. Supreme Court marked the end of legal segregation by the Government in its historic decision of Brown v. Topeka Board of Education.

In that decision, Chief Justice Warren, writing for a unanimous Supreme Court, stated that in the field of public education the doctrine of separate but equal has no place. The Brown decision marked an historic milestone for the U.S. Supreme Court and our Nation about the relationships between groups.

Over the next decade, the U.S. Supreme Court struck down laws that required segregation on golf courses, parks, theaters, swimming pools, and numerous other facilities. These changes were met with intense controversy, marked by marches, protests, riots, and assassinations. Because of the leadership of Dr. Martin Luther King, Presidents Kennedy and Johnson, Robert Kennedy, and thousands of civil rights activists, Congress ushered in the sweeping civil rights reforms of the 1960s.

We, as an American society, began to understand that the doctrine of separate but equal truly had no place in America and that the age of diversity truly was upon us. But the age of diversity has been marked by significant and continuing tension. A part of that debate was put to rest only recently with the majority opinion authored by Justice Sandra Day O'Connor in the University of Michigan Law School case.

There, Justice O'Connor said:

> Today, we hold that the Law School has a compelling interest in attaining a diverse student body.

Justice O'Connor continued:

> The Law School's claim of a compelling interest is further bolstered by its amici, who point to the educational benefits that flow from student body diversity.

She explained further:

> These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas and viewpoints.

What is more, high-ranking retired officers and civilian leaders of the U.S. military assert that, and she quotes:

> [B]ased on [their] decades of experience, a highly qualified, racially diverse officer corps . . . is essential to the military's ability to fulfill its principal mission to provide national security.

She continued:

> . . . To fulfill its mission, the military must be selective in admissions for training and education for the officer corps, and it must train and educate a highly qualified, racially diverse officer corps in a racially diverse setting.
>
> We agree that [i]t requires only a small step from this analysis to conclude that our country's other most selective institutions must remain both diverse and selective.

I believe Justice Sandra Day O'Connor was a beacon of wisdom at this moment in our Nation's history. We know we have had beacons of wisdom in our past to help guide us in our future. I am hopeful that Judge Roberts will be that kind of Chief Justice.

In 1896, Justice Harlan was a beacon of wisdom when he dissented in Plessy v. Ferguson against his colleagues on the U.S. Supreme Court when they decided to sanction the right to segregation under the law. Then Justice Harlan stated in his dissent:

> The destinies of the races, in this country, are indissolubly linked together and the interests of both require that the common government law shall not permit the seeds of race hate to be planted under the sanction of law.

I do not know exactly how judge Roberts will provide us with that beacon of wisdom for the 21st century, but the doctrine of inclusion is somehow at the heart of the answer, and I expect and implore Judge Roberts to follow that doctrine.

That doctrine means that we should be inclusive of all, and that doctrine means that there is something wrong when we look around and we see no diversity in the people who surround us, and that doctrine means that the motto on our American coins, "E Pluribus Unum," can only be achieved if we include all those who make the many of us into one nation.

My criteria for the confirmation of judges remain the same as they have been. I reviewed Judge Roberts' record for fairness, impartiality, and a proven record for upholding the law. I have given this difficult decision the careful deliberation it deserves. I have reviewed his writings. I have read his cases. I have reviewed his testimony to the Judiciary Committee. I have met twice with Judge Roberts, the second time last Friday, asking him pointed and specific questions to gauge the measure of the man.

I am grateful for his courtesy and appreciative of his time. I concluded that a vote to confirm Judge Roberts as the next Chief Justice of the U.S. Supreme Court is the appropriate vote to cast. Judge Roberts' intellect is unquestioned. His technical legal skills are unquestioned. He is a lawyer that other lawyers respect, those who have worked with him as well as those who have worked against him.

Judge Roberts has convinced me that he understands the constitutional need for judicial independence. He believes in the bedrock principle that decisions of the Supreme Court must be carefully based upon the facts of the case and the law. He believes that all cases must be decided on their specific merits by a judge with an open and fair mind. These concepts lie at the heart of our judicial system. They differentiate the courts from other institutions of government. They are critical to our freedom.

I am favorably impressed by Judge Roberts' statement to do his best to heal the gaping fractures in the opinions of the Supreme Court in recent years. When the Court issues three or five or nine opinions in a single case, it is a recipe for confusion and uncertainty for judges, lawyers, and litigants. This is bad for the law.

I believe Judge Roberts has a clear understanding of the jolts to the system that disrupt the country when the Court overturns settled law, and he is equally understanding and determined to avoid these jolts. I lived through that type of difficult and expensive disruption as Colorado attorney general, when the Supreme Court changed long-settled expectations about sentencing by judges in criminal cases. The criminal justice system in Colorado and across the Nation was thrown into turmoil. It still has not recovered.

I believe Judge Roberts has an understanding of the Supreme Court's role to guide the lower courts, lawyers, and litigants, with clear and understandable direction. I have been particularly interested in Judge Roberts' views on diversity and inclusion of all people, women as well as men, in our country. I have lived my life by the bedrock principle that people of all backgrounds and both genders should be included in all aspects of our society. This is very important to me. So I have asked Judge Roberts directly and personally about his commitment to diversity and inclusiveness in our country. He has assured me of his commitment to this principle.

Finally, Judge Roberts passes a simple test that I will apply to judicial candidates for as long as I am a Senator. I do not believe he is an ideologue. He is not the kind of judge—like some—for whom anyone can predict the outcome of a case before the case is briefed and argued. The ideologue's approach to the law makes a mockery of judicial independence, and it is the opposite of being openminded and fair.

In conclusion, I have reached my decision to vote for Judge Roberts based upon his word that, first, he will stand up and fight for an independent judiciary and defend the judiciary from unwarranted attacks on its independence; second, he will not roll back the clock of progress for civil rights and recognizes that the equal protection provided under the Constitution extends to all Americans, including women and racial and ethnic minorities; third, he will respect the rule of law and the precedents of the U.S. Supreme Court, including the most important decisions of the last century; fourth, he understands the importance of the freedom of religion and religious pluralism as a cornerstone of a free America; and five, he will work to create a Federal judicial system that embraces diversity and has a face that reflects the diverse population of America.

I will vote to confirm Judge Roberts to be the Chief Justice of the United States. I wish Judge Roberts the very best as he assumes his new responsibilities on behalf of our Nation.

I yield the floor to my wonderful and good friend from the State of Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank my friend from Colorado for his very thoughtful and eloquent statement.

I rise to speak on the President's nomination of John Roberts of Maryland to be Chief Justice of the U.S. Supreme Court. During my 17 years as a Member of the Senate, I have had the opportunity on four previous occasions to consider nominees to the Supreme Court—two from the first President Bush and two from President Clinton. On three of those occasions—Justices Souter, Ginsburg and Breyer—I carried out my constitutional responsibility by giving not only advice but consent. On the fourth, Justice Thomas, I withheld my consent.

I must say that on each of those preceding four occasions, I was struck, as I am again now in considering President Bush's nomination of John Roberts, by the wisdom of the Founders and Framers of our Constitution and by the perplexing position they put the Senate in when we consider a nominee to the U.S. Supreme Court.

As we know, our Founders declared their independence and formed their new government to secure the inalienable rights and freedoms which they believed are the endowment of our Creator to every person. But from their knowledge of history and humanity, and from their own experiences with the English monarch, they saw that governments had a historic tendency to stifle, not secure, the rights and freedoms of their citizens. So in constructing their new government, they allocated power and then they limited it, time and time again. Theirs was to be a government of checks and balances, except for one institution which is, generally speaking, unchecked and unlimited, and that is the Supreme Court.

I understand that Congress can reenact a statute that has been struck down by the Court as inconsistent with the Constitution, but I also know that the Court can then nullify the new statute. I understand, too, that the people may amend the Constitution to overturn a Supreme Court decision with which they disagree, but that is difficult and cumbersome and therefore rare in American history. So the Supreme Court almost always has the last word in our Government. It can be, and has been, a momentous last word, with great consequences for our national and personal lives.

Why then, in constituting the Supreme Court, did our Nation's Founders vary from their system of limited government, of checks and balances? I believe one reason is that they were wise enough to know that to be orderly, to function, a system must have a final credible point where disputation and uncertainty end and from which the work of society and government proceeds. But there was a larger reason, I am convinced, consistent with their highest value, and that was their understanding, again from their knowledge of history and humanity, that freedom can just as easily be taken by a mob of citizens as it can by a tyrannical leader. So they created a Supreme Court that was to be insulated from the political passions of the moment and that would base its decisions not only on transitory public opinion but on the eternal values of our founding documents—the Declaration, the Constitution, the Bill of Rights—and the rule of law.

They did this, these Founders and Framers, not just by giving the Court such enormous power but also by giving its individual members life tenure. The President nominates Justices, the Senate advises and decides whether to consent, and then the Justice who is confirmed serves for as long as he or she lives or chooses to serve, absent the unusual possibly of impeachment, of course; limited in that service only by the Justice's own conscience, intellect, sense of right and wrong, understanding of what the Constitution and law demand, and by the capacity of the litigants who appear before the Court and by the Justice's own colleagues on the Court to convince him or her.

This gets to why I have described the Senate's responsibility to act on nominations to the Supreme Court as perplexing. It is our one and only chance to evaluate and influence the nominees, and then they are untouchable and politically unaccountable. But the Senate is a political body. We are elected by and accountable to the people. So naturally during the confirmation process we try to extract from the nominees to this Court, on this last chance that we have, commitments, political commitments that they will uphold the decisions of the Court with which we agree and overrule those with which we disagree; and they naturally try to avoid making such commitments.

We are both right. Because the Supreme Court has such power over our lives and liberties, we Senators are right to ask such questions. But because the Court is intended to be the nonpolitical branch of our Government, the branch before which litigants must come with confidence that the Justices' minds are open, not closed by rigid ideology or political declaration, the nominees to the Court are ultimately right to resist answering such questions in great detail. I understand that I am describing an ideal which has not always been reached by individual Justices on the Court. But on the other hand, the history of the Supreme Court is full of examples of Justices who have issued surprisingly different opinions than expected, or even than expressed before they joined the Court; and also of Justices who have changed their opinions over the years of their service on the Court. That is their right, and I would add the responsibility the Constitution gives to Justices of our Supreme Court.

Our pending decision on President Bush's nomination of John Roberts to the Supreme Court is made more difficult because it comes at an excessively partisan time in our political history. That makes it even more important that we stretch to decide it correctly and without partisan calculations, whichever side we come down on. Judge Roberts, after all, has been nominated to be Chief Justice of the highest Court of the greatest country in the world, and our decision on whether to confirm him should be a decision made above partisanship.

Today in these partisan times, it is worth remembering that seven of the nine sitting Justices were confirmed by overwhelmingly bipartisan votes in the Senate. Justices O'Connor by 99, Stevens and Scalia by 98, Kennedy by 97, Ginsburg by 96, Souter by 90, and Breyer 89. So it was not always as it is now, and it is now hard to imagine a nominee who would receive so much bipartisan support. That is wrong and it is regrettable.

One reason for this sad turn, is that our recent Presidential campaigns have unfortunately made the Supreme Court into a partisan political issue, contrary to the intention of the Founders of our country as I have described it, with candidates in each party promising to nominate only Justices who would uphold or overrule particular prevailing Supreme Court decisions. I know that is not the first time in our history this has happened.

But it nonetheless today undercuts the credibility and independence of the Supreme Court, and I might add it complicates this confirmation process. Because President Bush promised in his campaign that he would nominate Supreme Court Justices in the mold of Justices Scalia and Thomas, an extra burden of proof was placed on Judge Roberts to prove his openness of mind and independence of judgment.

All of that is one reason why earlier this year I was proud to be one of the "group of 14" Senators. I view the agreement of that group of 14 as an important step away from partisan politicizing of the Supreme Court. By opposing the so-called nuclear option, we were saying—7 Republicans and 7 Democrats—that a nominee for a lifetime appointment to the Supreme Court should be close enough to the bipartisan mainstream of judicial thinking to obtain the support of at least 60 of the 100 Members of the Senate. That is not asking very much for this high office.

When I was asked during the deliberation of the group of 14 to describe the kind of Justice I thought would pass that kind of test, I remember saying it would be one who would not come to the Supreme Court with a prefixed ideological agenda but would approach each case with an open mind, committed to applying the Constitution and the rule of law to reach the most just result in a particular case. I remember also saying the agreement of the group of 14 could be read as a bipartisan appeal to President Bush which might be phrased in these words:

> Mr. President, you won the 2004 election and with it came to the right to fill vacancies on the Supreme Court. We assume you will nominate a conservative but we appeal to you not to send us an extreme conservative who will confront the court and the country with a disruptive, divisive, predetermined ideological agenda. Send us an able, honorable nominee, Mr. President, who will take each case as it comes, listen fully to all sides, and try to do right thing.

Based on the hours of testimony Judge Roberts gave to the Judiciary Committee under oath, the lengthy personal conversation I had with him, a review of his extraordinary legal and judicial ability and experience, and the off-the- record comments of people who have known or worked with Judge Roberts at different times of his life, and volunteered them to me, and uniformly testified to his personal integrity and decency, I conclude that John Roberts meets and passes the tests I have described. I will, therefore, consent to his nomination.

In his opening statement to the Judiciary Committee on September 13, Judge Roberts said:

> I have no platform.
>
> Judges are not politicians who can promise to do certain things in exchange for votes. If I am confirmed, I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench. And I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability.

I could not have asked for a more reassuring statement.

During the hearings, some of our colleagues on the Judiciary Committee challenged Judge Roberts to reconcile that excellent pledge with memos or briefs he wrote during the 1980s or early 1990s, or opinions he wrote on the Circuit Court in more recent years. They were right to do so. I thought Judge Roberts' answers brought reassurance, if not total peace of mind. But then again, I have no constitutional right to total peace of mind as a Senator advising and deciding whether to consent on a Justice of the Supreme Court.

From his statements going back more than 20 years, I was troubled by, and in some cases strongly disagreed with, opinions or work he had been involved in on fundamental questions of racial and gender equality, the right of privacy, and the commerce clause. But in each of these areas of jurisprudence, his testimony was reassuring.

On questions of civil rights, Judge Roberts told the Judiciary Committee of his respect for the Civil Rights Act and the Voting Rights Act, as precedents of the Court, and he said they "were not constitutionally suspect."

He added that he "certainly agreed that the Voting Rights Act should be extended."

When asked by Senator KENNEDY whether he agreed with Justice O'Connor's statement in upholding an affirmative action program that it was important to give "great weight to the real world impact of affirmative action policies in universities," Judge Roberts answered, "You do need to look at the real world impact in these areas and in other areas as well." He also told Senator DURBIN that he believed the Reagan administration had taken the "incorrect position" on Bob Jones University.

I have said, and I say again, that I found those answers to be reassuring.

With regard to the right of privacy, Judge Roberts gave a lengthy and informed statement: "The right of privacy is protected under the Constitution in various ways."

He said:

> It's protected by the Fourth Amendment which provides that the right of people to be secure in their persons, houses, effects, and papers is protected.
>
> It's protected under the First Amendment dealing with prohibition on establishment of a religion and guarantee of free exercise.
>
> It protects privacy in matters of conscience.

These are all quotes from Judge Roberts, and I continue:

> It was protected by the framers in areas that were of particular concern to them—: The Third Amendment protecting their homes against the quartering of troops.
>
> And in addition the Court—has recognized that personal privacy is a component of the liberty protected by the due process clause.
>
> The Court has explained that the liberty protected is not limited to freedom from physical restraint and that it's protected not simply procedurally, but as a substantive matter as well.
>
> And those decisions have sketched out, over a period of years, certain aspects of privacy that are protected as part of the liberty in the due process clause of the Constitution.

I thought that was a learned embrace of the constitutional right of privacy, particularly when combined with Judge Roberts' consistent support of the principle of stare decisis, respect for the past decisions and precedents of the Court in the interest of stability in our judicial system and in our society.

Regarding Roe v. Wade, Judge Roberts specifically said, "That is a precedent entitled to respect under the principles of stare decisis like any other precedent of the Court."

When asked by Senator FEINSTEIN to explain further when, under stare decisis, a Court precedent should be revisited, Judge Roberts said:

> Well, I do think you do have to look at those criteria. And the ones that I pull from these various cases are, first of all, the basic principle that it's not enough that you think that the decision was wrongly decided. That's not enough to justify revisiting it. Otherwise there would be no role for precedent, and no role for stare decisis. Second of all, one basis for reconsidering the issue of workability (And) . . . the issue of settled expectations, the Court has explained you look at the extent to which people have conformed their conduct to the rule and have developed settled expectations in connection with it.

Again, specifically with regard to Roe v. Wade, I found those answers reassuring.

One of Judge Roberts' circuit court opinions on the commerce clause gave rise to fears that he would constrict Congress's authority to legislate under that important clause. But in his consistent expressions of deference to the work of Congress and his several references to the Supreme Court's recent decision in Gonzales v. Raich, Judge Roberts was once more reassuring.

So I will vote to confirm John Roberts and send him off to the nonpolitical world of the Supreme Court with high hopes, encouraged by these words of promise he spoke to the Judiciary Committee at the end of his opening statement to that committee as follows:

> If I am confirmed, I will be vigilant to protect the independence and integrity of the Supreme Court, and I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Thank you, Mr. President.

Mr. President, along with a vote to authorize war, the vote on the nomination of a Supreme Court Justice, especially a Chief Justice, is one of the most important votes that Senators ever cast. Because the Supreme Court is the guardian of our most cherished rights and liberties, the vote on any Supreme Court nominee has enormous significance for the everyday lives of all Americans.

Supporting or opposing a Supreme Court nominee is not—and should not be—a partisan issue. Indeed, in my time in the United States Senate, I have voted to confirm nearly twice as many Republican nominees to the high Court as Democratic nominees. To be sure, there are also some nominees that I have opposed. But that opposition was not based on the political party of the President who nominated them, but on the record—or lack of record—of the testimony and writings of each individual nominee. In hindsight, there are some votes—either for or against—that I wish I had cast differently, but each vote reflected my best, considered judgment at the time, based on the information and record before me. That is what the Constitution calls us to do as Senators.

Yet some of our friends on the other side of the aisle have tried to portray a vote against John Roberts as a reflexive, partisan vote against any nominee by President Bush. Still others have made the sweeping statement that any Senator who can't vote for Roberts can't vote for any nominee of a Republican President. These broad statements are patently wrong and suggest partisan posturing that does serious injustice to the most serious business of giving a lifetime appointment to a Justice on the highest Court in the land.

With full appreciation and awareness of the Senate's solemn obligation to give advice and consent to this all-important Supreme Court nomination by President Bush, I have read the record, asked questions, re-read the record, and asked even more questions. But after reviewing the record such as it is, I am unable to support the nomination of John Roberts to be the Chief Justice of the United States Supreme Court.

Our Founders proclaimed the bedrock principle that we are all created equal. But everyone knows that in the early days of our Republic, the reality was far different. For more than two centuries, we have struggled, sometimes spilling precious blood, to fulfill that unique American promise. The beliefs and sacrifices of millions of Americans throughout the history of our Nation have breathed fuller life and given real world relevance to our constitutional ideals.

With genius and foresight, our founders gave us the tools—the Constitution and the Bill of Rights—that have aided and encouraged our march towards progress. The guarantees in our founding documents, as enhanced in the wake of a divisive Civil War, have guided our Nation to live up to the promise of liberty, equality and justice for all.

We have made much progress. But our work is not finished. We still look to our elected representatives and our independent courts in each new generation to uphold those guiding principles, to continue the great march of progress, and never to turn back or give up hard-won gains.

The commitment to this march of progress was the central issue in the John Roberts hearing. We asked whether he, as Chief Justice, would bring the values, ideals and vision to lead us on the path of continued equality, fairness, and opportunity for all. Or would he stand in the way of progress by viewing the issues that come before the Court in a narrow and legalistic way, thereby slowly turning back the clock and eroding the civil rights and equal rights gains of the past.

We examined the only written record before us and saw John Roberts, aggressive activist in the Reagan Administration, eager to narrow hard-won rights and liberties, especially voting rights, women's rights, civil rights, and disability rights. As Congressman John Lewis eloquently stated in our hearings, 25 years ago John Roberts was on the wrong side of the nation's struggle to achieve genuine equality of opportunity for all Americans. And, despite many invitations to do so, Judge Roberts never distanced himself from the aggressively narrow views of that young lawyer in the Reagan administration.

Who is John Roberts today? Who will he be as the 17th Chief Justice of the United States?

John Roberts is a highly intelligent nominee. He has argued 39 cases before the Supreme Court, and won more than half of them. He is adept at turning questions on their head while giving seemingly appropriate answers. These skills served him well as a Supreme Court advocate. These same skills, however, did not contribute to a productive confirmation process. At the end of the 4 days of hearings, we still know very little more than we knew when we started.

John Roberts said that "the responsibility of the judicial branch is to decide particular cases that are presented to them in this area according to the rule of law."

Of course, everyone agrees with that. Each of us took an oath of office to protect and defend the Constitution, and we take that oath seriously. But the rule of law does not exist in a vacuum. Constitutional values and ideals inform all legal decisions. But John Roberts never shared with us his own constitutional values and ideals.

He said that a judge should be like an umpire, calling the balls and strikes, but not making the rules.

But we all know that with any umpire, the call may depend on your point of view. An instant replay from another angle can show a very different result. Umpires follow the rules of the game. But in critical cases, it may well depend on where they are standing when they make the call.

The same is true with judges.

As Justice Oliver Wendell Holmes famously stated: The life of the law has not been logic; it has been experience." He also said that legal decisions are not like mathematics. If they were, we wouldn't need men and women of reason and intellect to sit on the bench—we would simply input the facts and the law into some computer program and wait for a mechanical result.

We all believe in the rule of law. But that is just the beginning of the conversation when it comes to the meaning of the Constitution. Everyone follows the same text. But the meaning of the text is often imprecise. You must examine the intent of the Framers, the history, and the current reality. And this examination will lead to very different outcomes depending on each Justice's constitutional world view. Is it a full and generous view of our rights and liberties and of government power to protect the people or a narrow and cramped view of those rights and liberties and the government's power to protect ordinary Americans?

Based on the record available, there is insufficient evidence to conclude that Judge Roberts view of the rule of law would include as paramount the protection of basic rights. The values and perspectives displayed over and over again in his record cast doubt on his view of voting rights, women's rights, civil rights, and disability rights.

In fact, for all the hoopla and razzle-dazzle in four days of hearings, there is precious little in the record to suggest that a Chief Justice John Roberts would espouse anything less that the narrow and cramped view that staff attorney John Roberts so strongly advocated in the 1980s.

On the first day of the hearing, Senator KOHL asked, "Which of those positions were you supportive of, or are you still supportive of, and which would you disavow?" Judge Roberts never gave a clear response.

Other than his grudging concession during the hearing that he knows of no present challenge that would make section 2 of the Voting Rights Act "constitutionally suspect"—a concession that took almost 20 minutes of my questioning to elicit—John Roberts has a demonstrated record of strong opposition to section 2, which is almost universally considered to be the most powerful and effective civil rights law ever enacted. Section 2 outlaws voting practices that deny or dilute the right to vote based on race, national origin, or language minority status—and is largely uncontroversial today.

But in 1981 and 1982, Judge Roberts urged the administration to oppose a bi-partisan amendment to strengthen section 2, and to have, instead, a provision that made it more difficult some say impossible to prove discriminatory voting practices and procedures. Although Judge Roberts sought to characterize his opposition to the so-called "effects test" as simply following the policy of the Reagan administration, the dozens of memos he wrote on this subject show that he personally believed the administration was right to oppose the "effects test."

When Roberts worried that the Senate might reject his position, he urged the Attorney General to send a letter to the Senate opposing the amendment, stating, "My own view is that something must be done to educate the Senators. . . ."

He also urged the Attorney General to assert his leadership against the amendment strengthening section 2. He wrote that the Attorney General should "head off any retrenchment efforts" by the White House staff who were inclined to support the effects test. He consistently urged the administration to require voters to bear the heavy burden of proving discriminatory intent—even on laws passed a century earlier—in order to overturn practices that locked them out of the electoral process.

Judge Roberts wrote at the time that "violations of section 2 should not be made too easy to prove. . . ." Remember, when he wrote those words there had been no African-Americans elected to Congress since Reconstruction from seven of the States with the largest black populations.

The year after section 2 was signed into law, Judge Roberts wrote in a memorandum to the White House Counsel that "we were burned" by the Voting Rights Act legislation.

Given his clear record of hostility to this key voting rights protection, the public has a right to know if he still holds these views. But Judge Roberts gave us hardly a clue.

Even when Senator FEINGOLD asked whether Judge Roberts would acknowledge today that he had been wrong to oppose the effects test, he refused to give a yes-or-no answer.

Judge Roberts responded: "I'm certainly not an expert in the area and haven't followed and have no way of evaluating the relative effectiveness of the law as amended or the law as it was prior to 1982."

So we still don't know whether he supports the basic law against voting practices that result in denying voting rights because of race, national origin, or language minority status.

You don't need to be a voting rights expert to say we're better off today in an America where persons of color can be elected to Congress from any State in the country. You don't need to be a voting rights expert to know there was a problem in 1982, when no African American had been elected to Congress since Reconstruction from Mississippi, Florida, Alabama, North Carolina, South Carolina, Virginia, or Louisiana—where African Americans were almost a third of the population—because restrictive election systems effectively denied African Americans and other minorities the equal chance to elect representatives of their choice.

You don't need to be a voting rights expert to say it's better that the Voting Rights Act paved the way for over 9,000 African American elected officials and over 6,000 Latino elected officials who have been elected and appointed nationwide since the passage of that act.

And you don't need to be an expert to recognize that section 2 has benefited Native Americans, Asians and others who historically encountered harsh barriers to full political participation.

Yet Judge Roberts refused in the hearings to say that his past opposition to section 2 doesn't represent his current views.

Judge Roberts also refused to disavow his past record of opposition to requiring non-discrimination by recipients of federal funds. These laws were adopted because, as President Kennedy said in 1963, "[s]imple justice requires that public funds, to which all taxpayers . . . contribute, not be spent in any fashion which . . . subsidizes, or results in . . . discrimination."

He supported a cramped and narrow view that would exempt many formerly covered institutions from following civil rights laws that protect women, minorities and the disabled. Under that view, the enormous subsidies the Federal government gives colleges and universities in the form of Federal financial aid would not have been enough to require them to obey the laws against discrimination. That position was so extreme that it was rejected by the Reagan administration and later by the Supreme Court. Although Judge Roberts later acknowledged that the Reagan administration rejected this view, he would not tell the committee whether he still holds that view today.

He also never stated whether he personally agrees with the decision in Franklin v. Gwinnett, where the Supreme Court unanimously rejected his argument that title IX, the landmark law against gender discrimination, provided no monetary relief to a schoolgirl who was sexually abused by her schoolteacher.

A careful reading of the transcript of his testimony makes clear that he never embraced the Supreme Court's decision to uphold affirmative action at the University of Michigan Law School, nor did he expressly agree with the Supreme Court decision that all children—including those who are undocumented—have a legal right to public education. He emphasized his agreement with certain rationales used by the court in those cases, but he left himself a lot of wiggle room for future reconsideration of those 5-4 decisions.

Finally, a number of my colleagues on the committee asked Judge Roberts about issues related to women's rights and a woman's right to privacy. On these important matters, too, he never gave answers that shed light on his current views.

No one is entitled to become Chief Justice of the United States. The confirmation of nominees to our courts—by and with the advice and consent of the Senate—should not require a leap of faith. Nominees must earn their confirmation by providing us and the American people with full knowledge of the values and convictions they will bring to decisions that may profoundly affect our progress as a nation toward the ideal of equality.

Judge Roberts has not done so. His repeated reference to the rule of law reveals little about the values he would bring to the job of Chief Justice of the United States. The record we have puts at serious risk the progress we have made toward our common American vision of equal opportunity for all of our citizens.

There is clear and convincing evidence that John Roberts is the wrong choice for Chief Justice. I oppose the nomination. I urge my colleagues to do the same.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, my constituents have been asking me, "Who will President Bush nominate for the second Supreme Court vacancy?" The question reminds me of a story about a punter from California who went all the way to the University of Alabama to play for Coach Bear Bryant. Day after day, this punter would kick it more than 70 yards in practice. Day after day, Coach Bear Bryant watched the punter kick it 70 yards and said nothing. Finally the young kicker came over to the coach and said: Coach, I came all the way from California to Alabama to be coached by you. I have been out here kicking for a week, and you haven't said a word to me.

Coach Bryant looked at him and said: Son, when you start kicking it less than 70 yards, I will come over there and remind you what you were doing when you kicked it more than 70 yards.

That is the way I feel about President Bush and the next Supreme Court nominee. My only suggestion for him would be respectfully to suggest that he try to remember what he was thinking when he appointed John Roberts and to do it again. Especially for those of us who have been trained in and who have respect for the legal profession, it has been a pleasure to watch the Roberts nomination and confirmation process. It is difficult to overstate how good he seems to be. He has the resume that most talented law students only dream of: editor of the Harvard Law Review and a law clerk to Judge Henry Friendly.

I was a law clerk to Judge John Minor Wisdom in New Orleans, who regarded Henry Friendly as one of the two or three best Federal appellate judges of the last century. In fact, we law clerks used to sit around and think about ideal Federal panels on which three judges would sit. Sometimes Judge Wisdom and Judge Friendly would sit on the same panel, and we tried to think of a third judge. There was a judge named Allgood. We thought if we could get a panel of judges named Wisdom, Friendly, and Allgood, we would have the ideal panel.

So Judge Roberts learned from Judge Friendly. Then he was law clerk to the Chief Justice of the United States. Add to that his time in the Solicitor General's Office, where only the best of the best lawyers are invited to serve; then his success as an advocate before the Supreme Court both in private and in public practice. Then what is especially appealing is his demeanor, his modesty both in philosophy and in person, something that is not always so evident in a person of superior intelligence and such great accomplishment. Then there are the stories we heard during the confirmation process of private kindnesses to colleagues with whom he worked.

Judge Roberts' testimony before the Senate Judiciary Committee demonstrated all those qualities, as well as qualities of good humor and intelligence, and an impressive command of the body of law that Supreme Court Justices must consider. Those televised episodes, which I took time to watch a number of, could be the basis for many law school classes or many civics classes. Judge Roberts brings, as he repeatedly assured Senators on the committee, no agenda to the Supreme Court. He understands that he did not write the Constitution but that he is to interpret it, that he does not make laws—Congress does that—but that he is to apply them. He demonstrates that he understands the Federal system. It is not too much to say that for a devotee of the law, watching John Roberts in those hearings was like having the privilege of watching Michael Jordan play basketball at the University of North Carolina in the early 1980s or watching Chet Atkins as a sessions guitarist in the 1950s in Nashville.

One doesn't have to be a great student of the law to recognize there is unusual talent here.

If Judge Roberts' professional qualifications and temperament are so universally acclaimed, why do we now hear so much talk of changing the rules and voting only for those Justices who we can be assured are "on our side"? That would be the wrong direction for the Senate to go. In the first place, history teaches us that those who try to predict how Supreme Court nominees will decide cases are almost always wrong. Felix Frankfurter surprised Franklin Roosevelt. Hugo Black surprised the South. David Souter surprised almost everybody. In the second place, courts were never intended to be set up as political bodies that could be relied upon to be predictably on one side or the other of a controversy. That is what Congress is for. That is why we go through elections. That is why we are here. Courts are set up to do just the opposite, to hear the facts and apply the law and the Constitution in controversial matters. Who will have confidence in a system of justice that is deliberately rigged to be on one side or the other despite what the facts and the law are?

Finally, failing to give broad approval to an obviously well-qualified nominee such as Judge Roberts—just because he is "not on your side"—reduces the prestige of the Supreme Court. It jeopardizes its independence. It makes it less effective as it seeks to perform its indispensable role in our constitutional republic.

For these three reasons, Republican and Democratic Senators, after full hearings and discussion, have traditionally given well-qualified nominees for Supreme Court Justice an overwhelming vote of approval. I am not talking about the ancient past. I am talking about the members of today's Supreme Court, none of whom are better qualified than Judge Roberts. For example, Justice Breyer was confirmed by a vote of 87 to 9 in a Congress composed of 57 Democrats and 43 Republicans. Justice Ginsburg was confirmed by a vote of 96 to 3 in the same Congress. Justice Souter was confirmed by a vote of 90 to 9 in a Congress composed of 55 Democrats and 45 Republicans. Justice Kennedy was confirmed by a vote of 97 to 0 in a Congress composed of 55 Democrats, 45 Republicans. Justice Scalia, no shrinking violet, was confirmed by a vote of 98 to 0 in a Congress composed of 47 Democrats as well as 53 Republicans. Justice O'Connor was confirmed by a vote of 99 to 0 in a Congress composed of 46 Democrats and 53 Republicans. And Justice Stevens was confirmed by a vote of 98 to 0 in a Congress composed of 61 Democrats and 37 Republicans. The only close vote, of those justices on this Court, was for the nomination of Justice Thomas, following certain questions of alleged misconduct by the nominee. Thomas was confirmed by a vote of 52 to 48. However, even in that vote, 11 Democrats crossed the aisle to support the nominee.

If almost all Republican Senators can vote for Justice Ginsburg, a former counsel for the American Civil Liberties Union, and a nominee who also declined, as Judge Roberts occasionally did, to answer questions so as not to jeopardize the independence of the Court on cases that might come before her. If every single Democratic Senator could vote for Justice Scalia, then why cannot virtually every Senator in this Chamber vote to confirm John Roberts?

I was Governor for 8 years in Tennessee. I appointed about 50 judges. I looked for the qualities that Judge Roberts has so amply demonstrated: intelligence, good character, respect for the law, restraint, and respect for those who might come before the court. I did not ask one of my nominees how he or she might vote on abortion or on immigration or on taxation. I appointed the first woman circuit judge, as well as men. I appointed the first African-American chancellor and the first African-American State supreme court justice. I appointed some Democrats as well as Republicans. That process, looking back, has served our State well. It helped to build respect for the independence and fairness of our judiciary.

I hope that we Senators will try to do the same as we consider this nomination for the Supreme Court of the United States. It is unlikely in our lifetime that we will see a nominee for the Supreme Court whose professional accomplishments, demeanor, and intelligence is superior to that of John Roberts. If that is so, then I would hope that my colleagues on both sides of the aisle will do what they did for all but one member of the current Supreme Court and most of the previous Justices in our history and vote to confirm him by an overwhelming majority.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY

Mr. NELSON of Florida. Mr. President, I am going to vote for Judge Roberts as Chief Justice. I will be making a lengthy statement later on in the day as there is time allowed, since the time allocated right now under the previous order is very limited.

However, I did want to take this opportunity to say, with the fresh memories of Katrina and now Rita, I think it is incumbent upon us to finally get our collective heads as Americans out of the sand and face up to the fact that we are dependent on foreign energy sources, and that since we cannot drill our way out of the problem because the development of those resources of oil would take years and years to complete, one of the great natural resources of this country is coal.

Of course, that does not affect my State of Florida; we have 300 years of reserves of coal, and we now have the technology to cook this coal with highly intense heat in what is known as a coal gasification project. It burns off the gas, and that is a clean-burning gas.

It would be my hope that this country will start getting serious about weaning ourselves from dependence on foreign oil by using our technology to address this problem.

So that is what I wanted to share with my colleagues, since there were a couple of minutes under the previous order, and then I will be making my statement about Judge Roberts later in the day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I ask unanimous consent that the time be extended until the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I rise in support of the nomination of John G. Roberts to be Chief Justice of the United States. By his nomination of Judge Roberts to be Chief Justice, President Bush has not only fulfilled his constitutional responsibility but he has demonstrated sound judgment and great wisdom by this nomination.

In bipartisan fashion, our colleagues on the Judiciary Committee have similarly demonstrated such judgment and wisdom in recommending that we consent to that nomination. I urge my colleagues to follow the committee's recommendation.

Judge Roberts is an able jurist, a decent man, and he should be the next Chief Justice of the Supreme Court of the United States. Both by his professional career and his answers to questions during the committee's consideration of his nomination, Judge Roberts has demonstrated his unwavering fidelity to the Constitution and commitment to the rule of law.

"The rule of law" is a phrase often used in public discourse. It trips easily off the tongue. Too often, it seems, we recite it with a banality that comes with the assumption that it is self-evident and self-executing. It is neither.

Jefferson wisely taught that eternal vigilance is the price of liberty. So, too, the rule of law requires both vigilance and continuous oversight.

Far beyond fulfilling the constitutional responsibilities of this body, the confirmation process involving Judge Roberts has served as an essential reminder of the constitutional role of judges and the judiciary under our Republican form of government. At a time when too many of those in the judicial branch have sought to use their lifetime-tenured position to advance their own personal ideological or political preferences in deciding matters which come before them, at a time when too many within the legal, media, and political elites have sought to recast the role of the judiciary into a superlegislature, approving of and even urging judges to supplant their views for those of the elected representatives of the American people, Judge Roberts has served to remind us that such actions and such views are anticonstitutional and contrary to the rule of law itself.

The American people have listened to Judge Roberts in this regard. They like what they have heard because it rings true with what we all learned but some have forgotten, from high school civics class and what we profess in doctrines of separation of powers among the branches of our Federal Government.

Let me repeat some of what Judge Roberts has said:

> Judges and Justices are servants of the law, not the other way around.
>
> Judges are not to legislate, they're not to execute the laws.
>
> Judges need to appreciate that the legitimacy of their action is confined to interpreting the law and not making it.
>
> Judges are not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs.

These are simple but profound statements. They go to the heart of our constitutional system and what we mean by the rule of law.

As Chief Justice of the United States, John Roberts will not only serve as the Chief Justice of the Supreme Court but he will also serve as the leader of the entire Federal judiciary, setting the standards, showing the way, and speaking for an entire branch of our Federal Government. Every judge in our Federal system and every person who aspires to join its ranks at some future date should hear and receive Judge Roberts' words and seek to follow them with fidelity. A lot is riding on their willingness to do so.

Judicial independence is another phrase bantered about of late by judges and others who feel threatened by legitimate congressional oversight of the judiciary. Judicial independence does not exist to shield judges from congressional and public scrutiny from improper judicial actions. Judicial independence does not shield judges from the inquiry of impeachment and removal from office for lawless actions on the bench. Federal judges, appointed for life, subject to removal only upon impeachment, are afforded this extraordinary power precisely to permit them to follow the law, even when following the law may be politically unpopular.

Describing his own fidelity to the Constitution and to the rule of law, Judge Roberts told the Judiciary Committee:

> As a judge I have no agenda. I have a guide in the Constitution and the laws and the precedents of the Court, and those are what I would apply with an open mind, after fully and fairly considering the arguments and assessing the considered views of my colleagues on the bench.

We should confirm Judge Roberts not merely because he said that; we should confirm him because he has lived it. We can ask no more of our judges but we must ask no less. Let this be the standard we apply to this nominee and to future nominees, both to the Supreme Court and to lower courts.

I urge my colleagues to confirm the President's nomination of Judge John G. Roberts as Chief Justice of the United States.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:20 p.m. and reassembled when called to order by the Presiding Officer (Mr. CHAMBLISS).

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Continued

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, what is pending before the Senate?

The PRESIDING OFFICER. Under the previous order, the time from 2:15 to 2:45 p.m. will be under the control of the majority. We are on the Roberts nomination.

Mr. SESSIONS. Mr. President, I appreciate the opportunity to share some thoughts on this important matter and I probably will speak again before this final vote occurs.

Mr. President, this is an important process. What we are doing here is more important than the average confirmation, in my view. What has been going on for virtually the entire time I have been in the Senate, going on 8 years, and certainly in the last 5 years, has been a rigorous and vigorous debate over the role of courts in American life. The American people have become very concerned that those we appoint and confirm to the Federal judiciary and have been given a lifetime appointment, as a result of that are unaccountable to the American people; that they are not, therefore, any longer a part of the democratic process and can only be removed from office on causes relating to an impeachment or their own resignation or death.

This has raised concerns because these lifetime-appointed, unaccountable officials of our Government have set about to carry out political agendas. There is no other way to say it. I hate to be negative about our courts because I believe in our courts. The courts I practiced before, the Federal courts in Alabama, are faithful to the law. If a Democratic judge or Republican judge, a liberal or conservative, is faithful to the law, I do not see a problem. Overwhelmingly, in the courts of America today, justice is done.

But we have a growing tendency among the members of our Supreme Court. Many of them have been there for many years. It strikes me that perhaps they have lost some discipline. They have forgotten they were appointed and not anointed. As my good friend said—a former judge, now deceased, Judge Thomas, in the Southern District of Alabama: Remember, you were appointed, not anointed.

I think they have forgotten that. I believe they have begun to think it is important for them and the courts to settle disputed social issues in the country; that they are somehow an elite group of guardians of the public health and that they should protect us from ourselves on occasion.

We have seen that. We have seen a series of opinions that, as a lawyer, I believe cannot be justified as being consistent with the words or any fair interpretation of the words of the Constitution of the United States. That is what a judge is sworn to uphold.

These issues are important, as I said, because if this is true, and if judges are going beyond what they have been empowered to do, and they are twisting or redefining or massaging the words of the Constitution to justify them in an unjustified act of imposing a personal view on America, then that is a serious problem indeed, and I am afraid that is what we have.

They say it is good. The law schools, some of them, these professors, believe judges should be strong and vigorous and active and should expand the law and that the Constitution is living. So, therefore "living" means, I suppose, you can make it say what you want it to say this very moment.

But Professor Van Alstyne at Duke once said to a judicial conference I attended many years ago: If you love this Constitution, if you really love it, if you respect it, you will enforce it—

"it"—as it is written. When judges don't do that they therefore do not respect the Constitution. In fact, they create a situation in which a future court may be less bound by that great document. It can erode our great liberties in ways we cannot possibly imagine today.

The name of Justice Ginsburg sometimes came up at Judge Roberts hearings because of her liberal positions on a number of issues before she went on the bench. Yet she was confirmed overwhelmingly. An argument was made therefore Judge Roberts, who has mainstream views, ought to be confirmed. She just recently made a speech to the New York Bar Association. She said she was not happy being the only female Justice on the Court but she stated:

> Any woman will not do. There are some women who might be appointed who would not advance human rights or women's rights.

What about other groups' rights? Do you need to advance all those other rights, too? And what is a right?

Then she dealt with the question of foreign law being cited by the Supreme Court of the United States. We have had a spate of judges, sometimes in opinions and sometimes in speeches, making comments that suggest their interpretation of the law was influenced by what foreign people have done in other countries. She said:

> I will take enlightenment wherever I can get it. I don't want to stop at the national boundary.

Then she noted that she had a list of qualified female nominees, but the President hadn't consulted with her—and I would hope not, frankly.

Why are we concerned about citing foreign law? We are concerned because this is an element of activism. Our historic liberties are threatened when we turn to foreign law for answers.

This is a bad philosophy and a bad tendency because we are not bound by the European Union. We didn't adopt whatever constitution or laws or documents they have in the European Union. What does our Constitution say?

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Not some other one. Not one you would like, not the way you might like to have had it written, but this one. That is the one that we passed. That is the one the people have ratified. That is the one the people have amended. And that is the one a judge takes an oath to enforce whether he or she likes it or not.

You tell me how an opinion out of Europe or Canada or any other place in the world has any real ability to help interpret a Constitution, a provision of which may have been adopted 200 years ago.

I submit not.

You see, we have to call on our judges to be faithful to that. I do not want, I do not desire, and the President of the United States has said repeatedly that he does not want, he does not desire that a judge promote his political or social agenda. That is what we fight out in this room right here, right amongst all of us. We battle it out, and I am answerable to the people in my State, the State of Alabama. That is who I answer to, and each one of us answers to the people in our states; and the President answers to all the people of the United States. That is where the political decisions are made, and we leave legal decisions in the court.

My time to speak is limited. I will close with this: We have never had a judge come before this Senate, in my opinion, who has in any way come close to expressing so beautifully and so richly and so intelligently the proper role of a court. Judge Roberts used a common phrase: You should be a neutral umpire. Certainly he should be that. Absolutely that is a good phrase.

A judge should be modest. He should decide the facts and the law before the court, not using that in an expansive way to impose personal views beyond the requirement of that court; that a court does not seek to set out to establish any result, it simply decides the dispute that is before a court.

That is why I think we have had a long political battle over this. Frankly, Senator after Senator has been elected after committing to support the kind of judges President Bush has said he would nominate and has, in fact, nominated. If we continue this process, we will return our courts to that wonderful station they need to always hold; that is, they will be neutral, fair, objective arbiters, will not legislate in any way based upon their personal views, their personal biases, their political opinions, their social agendas to affect or infect and corrupt their decisions as they go about their daily jobs. John Roberts understands that completely. He has articulated that principle far more eloquently than I could ever do, and he has won the support of the people. Everywhere I go, people tell me how magnificent they thought he has been in explaining these issues.

It is what the American people want. The President has given us that. And I believe, in the long run, this could be a turning point in which we take politics out of the courtroom, leave the politics to the politicians, and put the courts back in the business of deciding the legal cases.

I think my time has expired. I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Georgia.

Mr. ISAKSON. Mr. President, I rise on the advice and consent question of Judge John Roberts.

Before I address my judgment on that, I would like to pay tribute for a second to Sandra Day O'Connor and the late William Rehnquist.

Sandra Day O'Connor's announced retirement caused the nomination by the President of John Roberts, and subsequently the untimely passing of Chief Justice Rehnquist afforded the opportunity for that nomination to be for Chief Justice as well. In the anticipated furor of this debate and confirmation, the credit never was given that should have been to Justice O'Connor or Justice Rehnquist.

Sandra Day O'Connor was the first woman appointed to the U.S. Supreme Court. She served with honor and distinction. She wrote brilliantly, concisely, and succinctly, and, most importantly of all, she had an insight and wisdom second to none. In fact, I commend to everyone her final writing, her dissenting opinion on the eminent domain case, if you want to see a Justice who was well grounded and interested in the American people.

Judge Rehnquist was the 16th Justice of the United States, an outstanding individual of immense capacity, dedication, and commitment to the United States of America. His loss is a tragedy, and the retirement of Justice O'Connor is a loss to the Court.

But now we are confronted with our constitutional responsibility as Members of the Senate to address the question of John Roberts, the nominee of President Bush.

I come to this debate somewhat differently than a lot who preceded me. I am not an attorney. Before my election to the Senate, I was a businessman, always had been, always will be when I leave. I come also as a new Member of the Senate. In fact, a year ago today, I was engaged in a debate in Columbus, GA, with my Democratic opponent for the Senate seat. The issue that night of that debate was clearly what was the role of the Senate in terms of the confirmation of a Justice to the Supreme Court and the issue of the day, which was filibuster. It was only a year ago when whether a judge could even get an up-or-down vote was a major question on the floor of the Senate.

I happen to have been elected, obviously, to that Senate seat, sworn in on January 4, and came to the Senate to find that advice and consent was impossible because filibuster was the rule of the day. Then a unique thing happened. Fourteen Members of this body made a deal—and I commend them for it. They broke a logjam, and very quickly we were able to confirm six appointments to the court, some who had languished as long—as in the case of Judge Pryor—as 4 years.

No one knew Justice O'Connor would announce her retirement a few weeks later, nor that Chief Justice Rehnquist would die, but all of us knew that when an appointment came, the agreement that had been made might be put in jeopardy because it set forth a standard that filibuster might be necessary under extraordinary circumstances. There were many who anticipated whomever the President appointed would be in and of itself an extraordinary circumstance.

Then along came John G. Roberts, who is an extraordinary man.

I will vote to confirm the President's nomination of John G. Roberts as Chief Justice of the United States. In large measure, I will do so because of who and what John G. Roberts is, has been, and will be—a decent and humble man of immense intelligence and demonstrated compassion.

We will hear and I have heard earlier today some in this Chamber who will tell us that he never answered any questions; we don't know where he stands. Well, to me, those are simply code words for them saying they couldn't pin him down, tie him in knots, or prejudice him for future decisions. Personally, I don't want a Justice who any lawyer can tie in knots or predispose. I want a judge I can stand before and count on the fact that he will call them like he sees them, that he won't be in one corner or the other, that he will do what is right, what is dictated by the law and the Constitution.

In my 33 years in business, I was in court from time to time—as few times as possible. But all of us have been. I served as a foreman of a grand jury. I served on a petit jury. I have been, in the case as a businessman, in court myself. I don't want to go into a courtroom where I know I have a judge who has a bent, a predisposition, or an agenda. I want to go before a judge who wants to treat me under the law as equally and as fairly as my opponent on the other side, who will rule based on the facts, based on what is before him, based on the law, and based on our Constitution. I want a Justice who will study the law, listen to my side of the case, listen to the other side, and call it as he sees it.

In his introduction, John Roberts said he was an umpire and he was a humble man. That says a lot about John Roberts. If there is anything we need on the bench today, it is those who see themselves umpires making the right call, the right decision the right time in every single case, for there is no instant replay on the Supreme Court of the United States of America. As Judge Roberts said in his confirmation hearing before the Judiciary Committee, just as people do not go to a baseball game to watch the umpires, they do not go to court to watch the judge. They go to court to get a fair decision, unvarnished and untainted.

I was in Columbus, GA, during the break in August. I did an education listening session. After it was over, I met with some 6th grade kids of that school, some kids I gave the chance to ask me questions, some children I gave the chance to find out what they would like to know from a Senator.

A little girl by the name of Maleka said: Senator ISAKSON, I have one question for you. What is the hardest decision you are going to have to make in the U.S. Senate? What is the most important decision you are going to have to make in the U.S. Senate?

That was about a month ago today.

The first answer I gave her was confirming Justices to the Supreme Court of the United States.

It came to my mind instinctively because we all knew the nomination of Judge Roberts had been made and we would make that decision. All of us in here also know that the Constitution specifically says it is our advice and our consent which makes that determination.

We also know that the third leg of the stool which is the great genius of the United States of America is the judicial branch, which is equal and separate from the courts and the executive. But it is also in these confirmations where the executive, the legislative, and the judicial come together. There is no more important decision made by a Member of the Senate than who the next Justice or Chief Justice of the United States will be.

I close my remarks by telling you this: John G. Roberts has made the toughest decision I will have to make an easy one. He is a class act. He is an intellect. He is an honorable man. He is a man who, when the cases of justice in America are decided before our Supreme Court, will call it as he sees it, listen to both sides, rule on the law, and understand the Constitution. You can ask no more of a man than John Roberts has demonstrated time and again. That is precisely what he will deliver.

Thursday at 11:30 I will be honored to cast my vote on behalf of the people of Georgia to confirm John G. Roberts as the 17th Chief Justice of the United States in the history of our country.

I yield the floor.

ORDER OF PROCEDURE

Mr. ISAKSON. Mr. President, I ask unanimous consent that I now be permitted to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JACOB L. FRAZIER POST OFFICE BUILDING

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3767 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3767) to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois as the "Jacob L. Frazier Post Office Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3767) was read the third time and passed.

KARL MALDEN STATION

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 3667 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 3667) to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California as the "Karl Malden Station."

There being no objection, the Senate proceeded to consider the bill.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3667) was read the third time and passed.

SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENT ACT OF 2005

Mr. ISAKSON. Mr. President, I ask unanimous consent that the committee on Veterans' Affairs be discharged from further consideration of H.R. 3200 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3200) to amend title 38, the United States Code, to enhance the Servicemembers' Group Life Insurance Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Craig amendment which is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1872) was agreed to, as follows:

(Purpose: to provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicemembers' Group Life Insurance Enhancement Act of 2005".

SEC. 2. REPEALER.

Effective as of August 31, 2005, section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 244), including the amendments made by that section, are repealed, and sections 1967, 1969, 1970, and 1977 of title 38, United States Code, shall be applied as if that section had not been enacted.

SEC. 3. INCREASE FROM $250,000 TO $400,000 IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE.

(a) MAXIMUM UNDER SGLI.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A)(i), by striking "$250,000" and inserting "$400,000"; and

(2) in subsection (d), by striking "of $250,000" and inserting "in effect under paragraph (3)(A)(i) of that subsection".

(b) MAXIMUM UNDER VGLI.—Section 1977(a) of such title is amended—

(1) in paragraph (1), by striking "in excess of $250,000 at any one time" and inserting "at any one time in excess of the maximum amount for Servicemembers' Group Life Insurance in effect under section 1967(a)(3)(A)(i) of this title"; and

(2) in paragraph (2)—

(A) by striking "for less than $250,000 under Servicemembers' Group Life Insurance" and inserting "under Servicemembers' Group Life Insurance for less than the maximum amount for such insurance in effect under section 1967(a)(3)(A)(i) of this title"; and

(B) by striking "does not exceed $250,000" and inserting "does not exceed such maximum amount in effect under such section".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 1, 2005, and shall apply with respect to deaths occurring on or after that date.

SEC. 4. SPOUSAL NOTIFICATIONS RELATING TO SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

Effective as of September 1, 2005, section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) If a member who is married and who is eligible for insurance under this section makes an election under subsection (a)(2)(A) not to be insured under this subchapter, the Secretary concerned shall notify the member's spouse, in writing, of that election.

"(2) In the case of a member who is married and who is insured under this section and whose spouse is designated as a beneficiary of the member under this subchapter, whenever the member makes an election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i), the Secretary concerned shall notify the member's spouse, in writing, of that election—

"(A) in the case of the first such election; and

"(B) in the case of any subsequent such election if the effect of such election is to reduce the amount of insurance coverage of the member from that in effect immediately before such election.

"(3) In the case of a member who is married and who is insured under this section, if the member makes a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter, the Secretary concerned shall notify the member's spouse, in writing, that such a beneficiary designation has been made by the member, except that such a notification is not required if the spouse has previously received such a notification under this paragraph and if immediately before the new designation by the member under section 1970(a) of this title the spouse is not a designated beneficiary of the member for any amount of insurance under this subchapter.

"(4) A notification required by this subsection is satisfied by a good faith effort to provide the required information to the spouse at the last address of the spouse in the records of the Secretary concerned. Failure to provide a notification required under this subsection in a timely manner does not affect the validity of any election specified in paragraph (1) or (2) or beneficiary designation specified in paragraph (3).".

SEC. 5. INCREMENTS OF INSURANCE THAT MAY BE ELECTED.

(a) INCREASE IN INCREMENT AMOUNT.—Subsection (a)(3)(B) of section 1967 of title 38, United States Code, is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 1, 2005.

The bill (H.R. 3200), as amended, was read the third time and passed.

WATER RESOURCES RESEARCH ACT AMENDMENTS OF 2005

Mr. ISAKSON. Mr. President. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 139. S. 1017.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1017) to reauthorize grants for the water resources research and technology institutes established under the Water Resources Research Act of 1984.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments.

[Insert the parts shown in italic.]

S. 1017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Resources Research Act Amendments of 2005".

SEC. 2. WATER RESOURCES RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)) is amended—

(1) in the subsection header, by striking "IN GENERAL";

(2) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, to remain available until expended—

"(A) $12,000,000 for each of fiscal years 2006 through 2008; and

"(B) $13,000,000 for each of fiscal years 2009 and 2010."; and

(3) in paragraph (2), by striking "(2) Any" and inserting the following:

"(2) FAILURE TO OBLIGATE FUNDS.—Any".

(b) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) in paragraph (1)—

(A) in the first sentence—

(i) by striking "*(1)* There" and inserting the following:

"(1) IN GENERAL.—There"; and

(ii) by striking "$3,000,000 for fiscal year 2001, $4,000,000 for *each of* fiscal years 2002 and 2003, and $6,000,000 for *each of* fiscal years 2004 and 2005" and inserting "$6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for each of fiscal years 2009 and 2010";

(B) in the second sentence, by striking "Such" and inserting the following:

"(2) NON-FEDERAL MATCHING FUNDS.—The"; and

(C) in the third sentence, by striking "Funds" and inserting the following:

"(3) AVAILABILITY OF FUNDS.—Funds".

Mr. ISAKSON. Mr. President. I ask unanimous consent that the committee-reported amendments be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 1017), as amended, was read the third time and passed.

GULF COAST EMERGENCY WATER INFRASTRUCTURE ASSISTANCE ACT

Mr. ISAKSON. Mr. President. I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 1709 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1709) to provide favorable treatment for certain projects in response to Hurricane Katrina, with respect to revolving loans under the Federal Water Pollution Control Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ISAKSON. Mr. President, I ask unanimous consent the amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1873) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gulf Coast Emergency Water Infrastructure Assistance Act".

SEC. 2. DEFINITION OF STATE.

In this Act, the term "State" means—

(1) the State of Alabama;

(2) the State of Louisiana; and

(3) the State of Mississippi.

SEC. 3. TREATMENT OF CERTAIN LOANS.

(a) Definition of Eligible Project.—In this section, the term "eligible project" means a project—

(1) to repair, replace, or rebuild a publicly-owned treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)), including a privately-owned utility that principally treats municipal wastewater or domestic sewage, in an area affected by Hurricane Katrina or a related condition; or

(2) that is a water quality project directly related to relief efforts in response to Hurricane Katrina or a related condition, as determined by the State in which the project is located.

(b) Additional Subsidization.—

(1) In General.—Subject to paragraph (2), for the 2-year period beginning on the date of enactment of this Act, a State may provide additional subsidization to an eligible project that receives funds through a revolving loan under section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383), including—

(A) forgiveness of the principal of the revolving loan; or

(B) a zero-percent interest rate on the revolving loan.

(2) Limitation.—The amount of any additional subsidization provided under paragraph (1) shall not exceed 30 percent of the amount of the capitalization grant received by the State under section 602 of the Federal Water Pollution Control Act (33 U.S.C. 1382) for the fiscal year during which the subsidization is provided.

(c) Extended Terms.—For the 2-year period beginning on the date of enactment of this Act, a State may extend the term of a revolving loan under section 603 of that Act (33 U.S.C. 1383) for an eligible project described in subsection (b), if the extended term—

(1) terminates not later than the date that is 30 years after the date of completion of the project that is the subject of the loan; and

(2) does not exceed the expected design life of the project.

(d) Priority Lists.—For the 2-year period beginning on the date of enactment of this Act, a State may provide assistance to an eligible project that is not included on the priority list of the State under section 216 of the Federal Water Pollution Control Act (33 U.S.C. 1296).

SEC. 4. PRIORITY LIST.

For the 2-year period beginning on the date of enactment of this Act, a State may provide assistance to a public water system that is not included on the priority list of the State under section 1452(b)(3)(B) of the Safe Drinking Water Act (42 U.S.C. 300j-12(b)(3)(B)), if the project—

(1) involves damage caused by Hurricane Katrina or a related condition; and

(2) is in accordance with section 1452(b)(3)(A) of that Act (42 U.S.C. 300j-12(b)(3)(A)).

SEC. 5. TESTING OF PRIVATELY-OWNED DRINKING WATER WELLS.

On receipt of a request from a homeowner, the Administrator of the Environmental Protection Agency may conduct a test of a drinking water well owned or operated by the homeowner that is, or may be, contaminated as a result of Hurricane Katrina or a related condition.

The bill (S. 1709), as amended, was read the third time and passed.

Mr. ISAKSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Continued

Mr. DODD. Mr. President, I believe the time will be allocated to my colleague from Michigan, Senator Levin, but he has agreed to allow me to use his time to speak. He will speak at a later time today.

The PRESIDING OFFICER. The Senate is under the control of the Democrats from 3:45 on, so the Senator can speak.

Mr. DODD. Mr. President, the outcome of this nomination is now all but certain. In that regard, what I am about to say will have little impact on the fate of this nominee.

Nevertheless, it is exceedingly rare that the Senate is asked to consider a nominee to fill a vacancy in the office of Chief Justice of the United States. Indeed, there have only been 16 Chief Justices in our Nation's history. Further, it is difficult to overstate the importance of the next Chief Justice on our Nation's future.

For these reasons, I feel compelled to come to the floor today to explain how I will vote on the nomination of John Roberts to be our country's next Chief Justice.

Every vote we cast as Senators is important. But some votes are more important than others. In my view, the most important votes that we cast in this body are those giving the President authority to go to war, those amending the United States Constitution, and those that fill vacancies in the judicial branch.

These votes, more than any others, can permanently affect the essential character of our Nation. They involve fundamental questions about whether our Nation will spend blood and treasure in armed conflict; about whether the cornerstone document of our Republic will be modified; and about the make-up of a third, separate, coequal branch of our Government—the principal duty of which is to make real for each American the promise of equal justice under the law.

Of the votes that we cast regarding judicial nominees, a small percentage is cast for Supreme Court Justice. An even smaller number of votes is cast for Chief Justice. In nearly a quarter of a century in this body, I have had the privilege of casting 8,415 votes—more than all but 16 of our colleagues. This is only the 10th time in that period that I have had the duty to consider a vote for Supreme Court Justice. And it is only the second time that I have considered a nominee for Chief Justice.

In casting these votes—and in casting other votes for judicial nominees—I have supported the vast majority of candidates nominated by this and prior presidents. That includes nominees to the Supreme Court. I have supported six of the last nine nominees to the High Court. Of the current president's 219 judicial nominees, only five have failed to win confirmation. I, like all of our colleagues, have supported the overwhelming majority of these nominees.

In reviewing a nomination for the judicial branch, I believe the Senate has a duty to undertake a higher degree of independent review than might be appropriate for a nomination to the Executive branch. There are two reasons for that heightened degree of scrutiny:

First, because we are considering nominees who will populate—and in this case, lead—a separate, coequal branch of government; and

Second, because Article III nominees, when confirmed, are confirmed for life. That makes them unique among all other Federal officials.

In reviewing judicial nominees, I have never imposed any litmus tests.

Indeed, I have supported nominees—including to the Supreme Court—whose views and philosophy I did not necessarily share. I did so because they met what I consider to be the three crucial qualifications that every judicial nominee must meet:

First, that they possess the legal and intellectual competence required to discharge the responsibilities of their office;

Second, that they possess the qualities of character required of a judge or justice—including reason, wisdom, and fairmindedness; and

Third, that they possess a commitment to equal justice for all under the law, which is the legal principle that is the foundation for all of our laws.

With respect to the nomination now before the Senate, I have reviewed the record. I have read the briefs, if you will, of both sides. I have heard the case both for and against Judge Roberts.

In so doing, I would be remiss not to thank the distinguished chairman Senator SPECTER, and ranking member of the Judiciary Committee PATRICK LEAHY of Vermont, for the extraordinary service they have rendered to the Senate and to the country. The hearings into this nomination were thorough, thoughtful, and deliberate, and I have watched many over the years. They are to be congratulated for the manner in which they led the committee in discharging its duties.

I approached Judge Roberts' nomination with an open mind. I harbored no hidden proclivity to oppose his nomination because of his conservative record. Nor did I carry a presumption to support it because he is "the President's choice", or because he was described by the President as a "gentleman", or because of his stellar legal credentials.

The written and testimonial record with respect to this nominee is mixed. It does lead this Senator to unequivocally conclude that his nomination should be supported or opposed. For those of us concerned about the right to privacy, about a woman's right to choose, about equal opportunity, about environmental protection, about ensuring that all are truly equal before the bar of justice—in short, for those of us concerned about keeping America strong and free and just—this is no easy matter.

The record in several respects provides cold comfort for those of us seeking to preserve and expand America's commitment to equal justice for all. I was concerned about numerous written statements he made during his previous stints in Federal service—about voting rights, about the right to privacy, about Roe v. Wade, about equality between men and women, about restricting the ability of courts to strike down racially discriminatory laws and practices, and about environmental protection.

Nor did Judge Roberts' hearing testimony do much to dispel my concerns about those earlier statements. On multiple occasions, he explained that he was reflecting the views of his superiors, rather than voicing his own personal opinions. Yet, when invited to explain his personal views, he repeatedly demurred—explaining that to state his own views would potentially telegraph his position on sensitive matters that could come before the Court.

I can certainly understand the nominee's reluctance to prejudge a matter. No responsible nominee would do that: it would be inherently injudicious to do so. Yet, it is hard to escape the conclusion that these were answers of convenience, as well as duty.

At the very least, his refusal to answer certain questions leaves us wanting. We certainly know less about this nominee than many of us would like to know.

For that reason, I understand and respect the decision by those of our colleagues—including the Democratic Leader, Senator REID, Senator KENNEDY, Senator BIDEN, Senator FEINSTEIN, and others—who feel that they cannot vote to confirm this nominee in large part because the Senate has been denied additional information about his background and views.

Nevertheless, we are required to make a judgment based on the information we know, as well as in consideration of what we do not know. The record is incomplete. But unfortunately it is all we have. It cannot and should not be read selectively. The question for this Senator is not whether the record is all I would like it to be, but whether it provides sufficient information to determine whether the nominee meets the three qualifications I have just set forth—competence, character, and a commitment to equal justice.

On the question of competence, there is absolutely no doubt that John Roberts possesses the capabilities required to serve not only as a Justice on the Supreme Court, but as Chief Justice, as well. He has been described as one of finest lawyers of his generation—if not the finest. His academic and legal qualifications are superior. Even those who oppose his nomination readily agree that he has proven himself an outstanding advocate and jurist.

On the question of character, there is no real question that this nominee possesses the qualities of mind and temperament that make him well-suited to serve as Chief Justice. He impressed me as someone who is personally decent, level-headed, and respectful of different points of view. In his answers to questions and in his demeanor, he convinced me that he will exercise judgment based on the law and the facts of a particular matter.

Judge Roberts demonstrated that he understands the unsurpassing importance of separating his personal views—including his religious views—from his judicial reasoning in arriving at decisions. And I believe that his decisions as a Federal appellate judge demonstrate his ability to do that.

I was particularly intrigued and impressed by Judge Roberts' discussion of former Justice Robert Jackson. Justice Jackson was known for opinions protecting first amendment freedoms and placing principled checks on the power of the President. These opinions—including Board of Education v. Barnette, the "Steel Seizure Cases", and the Korematsu case—were all the more remarkable for the fact that Jackson went to the Court directly from his position as Attorney General under President Roosevelt. In the Youngstown case, Justice Jackson actually disagreed with a position he had taken as Attorney General.

In these and other cases, Jackson demonstrated a remarkable capacity for independent, progressive thought, and a deep commitment to uphold the constitutional rights that belong to each and every American, regardless of their station in life. Judge Roberts cited Justice Jackson with admiration. That provides some reassurance to those of us looking for him to demonstrate an understanding that as a Justice of the Supreme Court he will carry no brief for a particular party or president, but rather for the Constitution and the people it governs.

On the question of competence, and on the question of character, this nominee clears the high bar required of a Supreme Court Justice. We are left, then, to consider the question of his commitment to the fundamental principle of our law: that all men and women are entitled to equal justice.

In so doing, we do not have a crystal ball. We cannot say with certainty how he will rule on the critical issues that the Court is likely to face in months and years to come: on privacy, on choice, on civil rights, on the death penalty, on presidential power, and many others.

However, I believe that the record contains sufficient information to provide a reasonable expectation of how Judge Roberts will go about making decisions if confirmed. His approach, in my view, is certainly within the mainstream of judicial thinking. Allow me to briefly discuss two critical aspects of that approach as I see it.

First, he demonstrated an appropriate respect for precedent. This respect is the first and most important quality that a good judge must possess. If a judge is unwilling or unable to consider settled precedent, then the law is unsettled—and our citizenry cannot know with assurance that the rights, privileges, and duties that they possess today will continue to exist in the future.

This is a delicate area, for the obvious reason that some precedents deserve to be overruled. Cases such as the Dred Scott decision and Plessy v. Ferguson come to mind. But in many other instances, precedent is of enormous importance in maintaining and strengthening our system of laws.

Judge Roberts acknowledged as much in his discussion of the right to privacy. In vigorous questioning by the Judiciary Committee, he made clear that he respects Supreme Court precedents that recognize a constitutional right to privacy. He stated further that this right is protected by the liberty clauses of the 5th and 14th Amendments to the Constitution, as well as by the 1st, 3rd, and 4th Amendments. Moreover, he asserted that this right is a substantive one, and not merely procedural. This view stands in stark contrast to that of Justice Scalia, for instance, who believes that the right to privacy has no basis in the Constitution.

In discussing the right to privacy, Judge Roberts favorably cited both the Griswold and Eisenstadt cases, which recognize the right to privacy with respect to birth control for married and unmarried couples, respectively. Moreover, he stated that Roe v. Wade and Planned Parenthood v. Casey are settled law and therefore deserving of respect under principles of stare decisis.

The second aspect of his approach to judging that places him squarely in the mainstream is his view of the role of judges in our constitutional system. He made clear that he rejects theories that view the judicial function as one where the Constitution is considered as a static document. He rejects in my view, the notion that the job of the judge is to place himself into a time machine and decide cases as if he or she lived in the 19th century.

In his view, the Framers intended the Constitution, by its very language, to live in and apply to changing times. A judge by that view is neither a mechanic nor a historian.

Words like "liberty," "equal protection" and "due process" are not sums to be solved, but vital principles that must be applied to the untidiness of human circumstances—including those circumstances that the Framers themselves could never have envisioned.

In that sense, the "original intent" of the Framers, if you will, was that their marvelous handiwork be interpreted in light of modern concepts of liberty and equal justice—not just those concepts as they were understood 218 years ago.

At the same time, Judge Roberts rejects the notion that judges may act as superlegislators. His discussion of the 1905 Lochner case which crippled the ability of Congress to pass laws protecting children and workers—was pivotal in articulating the dangers of judges who substitute their policy preferences for those of the legislative branch.

Here again, in my view, he reiterated his view that judges act on the basis of the facts and the law, not their own personal preferences. In this regard, it is worth noting that he indicated a willingness to examine recent Supreme Court decisions that severely restrict Congressional authority under the Commerce Clause to protect the public well-being.

Mr. President, in closing, today I am deciding not to vote on the basis of my fears about this nominee and I have them Rather, I choose to vote on the basis of my hopes that he will fulfill his potential to be a superb Chief Justice of the Supreme Court. He is a person of outstanding ability and strong character who possesses in my view a deep commitment to the law and the principle of equal justice for all.

As Chief Justice, John Roberts will have a great deal to do with what kind of country America will become in the 21st century. On the personal note, he will have a lot to say about what kind of lives my two young daughters will lead.

His relative youth, his intellect, his decency, and his dedication to justice provide him with a unique opportunity to shape the destiny of our Nation. For the sake of children like my daughters who will grow up in a world with opportunities and challenges we can barely imagine—and for the sake of the country we all love—I will support his nomination for Chief Justice of the United States and do so with my highest hopes for his success.

Mr. President, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I know many will provide us with their views on this nominee for the Supreme Court, and I will make a couple points today as I describe the process by which I arrived at my decision.

Mr. President, the Constitution of this country establishes three branches of Government. When you look at this Constitution and read it, it is quite a remarkable document in all of the history of governments around the world. It was 1787 when in Philadelphia, in a hot room called the Assembly Room, 55 white men went into that room, pulled the shades because it was warm in Philadelphia that summer and they had no air-conditioning, and they wrote the Constitution; the Constitution that begins with the words, "We the people." What a remarkable document. And that Constitution creates a kind of framework for our Government that is extraordinary and that has worked in the most successful way of any democracy in the history of mankind. In that Constitution they provided for what is called separation of powers, and for three branches of Government. One of those branches is the judiciary, and the Supreme Court is the top of the judiciary structure which interprets the Constitution in our country. Further, it is the only area in which there are lifetime appointments.

When we decide on a nominee for the Federal bench to become a Federal judge, as is the case with respect to the Supreme Court, we decide yes or no on a nominee sent to us by the President. That person will be allowed to serve for a lifetime—not for 10 years or 20 years but for a lifetime. So it is a critically important judgment that the Senate brings to bear on these nominations.

The President sends us a nomination and then the Senate gives its advice and consent; America approves or disapproves. Even George Washington was unable to get one of his Supreme Court nominees approved by the Senate. He was pretty frustrated by that. But even George Washington failed on one of his nominees.

The role of the Senate is equal to the role of the President. There is the submission of a nominee by the President, and the yes or no by the Senate. Regrettably, in recent years, these issues have become almost like political campaigns with groups forming on all sides and all kinds of campaigning going on for and against nominees. It did not used to be that way, but it is in today's political climate.

I want to talk just a little about the nominee who is before us now, Judge John Roberts, for the Chief Justice of the Supreme Court. The position of Chief Justice is critically important. He will preside over the Supreme Court. And, it is a lifetime appointment proposed for a relatively young Federal judge. John Roberts, I believe, is 50 years old. He is likely to serve on the Supreme Court as Chief Justice for decades and likely, in that position, to have a significant impact on the lives of every American.

I asked yesterday to meet once again with Judge Roberts. I had met with him previously in my office. He came to my office again yesterday and we spent, I guess, 40 or 45 minutes talking. I wanted to meet with him just to discuss his views about a range of issues. There were a number of things that happened in the Judiciary Committee that triggered my interest—civil rights issues, women's rights, the right of privacy, court striping, and many others. Some of his writings in his early years, incidentally, back in the early 1980s also gave me some real pause.

So I asked to meet with him yesterday morning, and at 9:30 we had a lengthy discussion about a lot of those issues. But I confess that Judge Roberts did not give me specific responses that went much beyond that which he described publicly in the Judiciary Committee hearings. Nonetheless, by having met with Judge Roberts twice and having had some lengthy discussions about these many issues, he is clearly qualified for this job. That has never been in question. He has an impressive set of credentials, probably as impressive a set of credentials as any nominee who has been sent here in some decades. He clearly is smart, he is articulate, he is intense.

The question that I and many others have had is, Who is this man, really? What does he believe? What does he think? Will he interpret the Constitution of this country in a way that will expand or diminish the rights of the American people? For example, there are some, some who have previously been nominated to serve on the Supreme Court, who take the position there is no right to privacy in this country; that the Constitution provides no right to privacy for the American people. I feel very strongly that is an error in interpretation of the Constitution, and the nominees who have suggested that sort of thing would not get my support in the Senate. Those who read the Constitution in that manner, who say there is no right to privacy in the U.S. Constitution, I think, misread the Constitution.

I think at the conclusion of his hearings, it is interesting that advocates from both the left and the right had some concerns as a result of those hearings. I believe the conservatives worried at the end of his hearings that he wasn't conservative enough. I think liberals and progressives worried that he was too conservative.

Well, Judge Roberts clearly is a conservative. I would expect a Republican President to nominate a conservative. But from the discussions I have had with him, I also believe that Judge John Roberts will be a Chief Justice who will honor precedent and who will view his high calling to an impartial interpretation of the laws of this country.

Having now spent two occasions visiting with him about a number of issues, I believe he has the ability to serve this Nation well as Chief Justice, and I have decided, as a result, to vote for the confirmation of the nomination of Judge John Roberts. Some of my colleagues have announced they will vote for him, and they are voting their hopes rather than their fears. I would not characterize my vote that way. I think he is qualified, and I don't think he is an ideologue off to the far right—who believes there is no right to privacy and who wants to take us back in time in ways that would diminish the rights of the American people. As a result of that feeling, I intend to vote for this nominee. I recognize there is plenty of room for disagreement, that there is much that we don't know, not only about this nominee, but about everyone who comes before this Senate. And I fully respect the opinions of those who come to a different conclusion and who have reached a different point on this issue. But for me, this nominee, in my judgment, is well qualified to be a good Chief Justice for the country.

Mr. President, I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. I thank the Chair.

Mr. President, we are at a moment of great importance in our Nation's history: the chance to choose a new Chief Justice for a lifetime appointment on the U.S. Supreme Court.

The Constitution makes the Senate an equal partner in the appointment and confirmation of Federal judges. Article II, section 2, clause 2, of the Constitution states that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court."

Neither this clause itself, nor any other text in the Constitution, specifies or restricts the factors that Senators should consider in evaluating a nominee. It is in upholding our constitutional duty to give the President advice and consent on his nominations to Federal courts that I believe we have our greatest opportunity and responsibility to support and defend the Constitution.

This is the first nominee to the Supreme Court that this body has had the opportunity to vote upon in 11 years. Like Members of this Chamber, this is my first opportunity to review and vote on a candidate for the Supreme Court.

My test for a nominee is simple, and it is drawn from the text, the history, and the principles of the Constitution.

A nominee's intellectual gifts, experience, judgment, maturity, and temperament are all important, but these alone are not enough. In this regard, I want to say something about the difference between a nomination to a lower court, including a court of appeals, and to the Supreme Court. The past decisions of the Supreme Court are binding on all lower courts. Therefore, even if a judge on a circuit court disagrees with well-established precedent about the rule of law, he or she is bound to apply that law in any case. However, the Supreme Court alone can overturn established legal precedent. As a result, I need to be convinced that a nominee for Supreme Court Justice will live up to the spirit of the Constitution.

The nominee needs to be committed not just to enforcing laws, but to doing justice. The nominee needs to be able to make the principles of the Constitution come alive—equality before the law, due process, full and equal participation in the civic and social life of America for all Americans, freedom of conscience, individual responsibility, and the expansion of opportunity. The nominee also needs to see the unique role the Court plays in helping balance the often conflicting forces in a democracy between individual autonomy and the obligations of community, between the will of the majority and the rights of the minority. A nominee for Supreme Court Justice needs to be able to look forward to the future, not just backward. The nominee needs to make the Constitution resonate in a world that is changing with great rapidity.

Judge Roberts' testimony before the Judiciary Committee and the legal documents he has produced throughout his career have not convinced me that he will meet this last test, that he will protect the spirit as well as the letter of the Constitution. In Judge Roberts' work as a private lawyer, and in two Republican administrations, he has created a long trail of documents revealing his judicial philosophy to be narrow and restrictive on issue after issue.

He has attempted to distance himself from some of his record by saying he was merely representing his clients and stating his clients' view. I cannot fully accept this argument. With a degree from Harvard Law School and a Supreme Court clerkship, this man could have chosen any legal role he wanted, but he chose to become a political activist in the Reagan and Bush I administrations, to advocate for the ideas he believed in. He knew what he believed then, and he chose his clients to pursue his own constitutional agenda.

We only have insight into this nominee's political activism because of papers obtained from the Ronald Reagan Presidential Library. I will point out, as others have, that our deliberations have been handicapped because this administration has refused to turn over documents that would be illustrative of his views, his ideas, his principles, and his passions. We only received the documents we have on his early career in the Government because they were in the custody of the Ronald Reagan Presidential Library. That, to me, has hobbled his nomination. I hope in the future, when a nominee is sent to us by the White House, they will be willing to release pertinent documents that will illustrate more clearly the positions of that nominee.

The Bush administration, though, repeatedly refused requests to give Senators records from Judge Roberts' time in the U.S. Solicitor General's Office. If Judge Roberts did wish to disassociate himself from the agenda he has advocated throughout his legal career, he had that opportunity during his hearings before the Judiciary Committee. Each of my colleagues on that committee asked him extensive questions about his judicial philosophy, his understanding of important legal issues, and his opinion of major Supreme Court precedents. Judge Roberts had the burden to convince this body that he would be a judicious and balanced member of the Supreme Court that would uphold the spirit of the Constitution. He had numerous opportunities to do so by releasing legal documents he had written and by candidly discussing his views on previously decided cases and broad areas of the law.

However, Judge Roberts failed to pass this test. He failed, in my view, to inform this body of his views on important constitutional issues. He stonewalled the release of important documents. He evaded fair and important questions, instead of offering honest and insightful answers, and he failed to demonstrate that he would uphold not just the letter of the law but also the spirit. As a result, I cannot support his lifetime nomination to the highest Court in America.

Now I would like to turn to some of the areas I have the most concern about regarding this nominee. The Constitution relies on a careful system of checks and balances between the judiciary, the legislature, and the executive. If the judiciary becomes a blank check for executive desires, this careful balance will break down. As a political appointee in the Reagan White House and Justice Department, however, Judge Roberts advocated expansive Presidential powers. For example, in a July 15, 1983, memorandum to White House counsel Fred Fielding, Roberts supported reconsidering the role of independent regulatory agencies like the FCC and the FTC, bringing them within the control of the executive branch. We lack sufficient information about his advocacy within the Reagan and Bush I administrations. But from his short tenure on the court of appeals, we already have two examples of cases where Judge Roberts has deferred to the administration. Judge Roberts has not had the chance to hear that many cases in his brief stint on the DC Circuit. However, these two are troubling, and they both give the President sweeping and unprecedented powers.

In Hamdan v. Rumsfeld, Roberts joined an opinion that upheld the military commissions this administration has created to try foreign nationals at Guantanamo Bay and agreed with the Bush administration that the Geneva Conventions did not apply to Hamdan. Judge Roberts' majority opinion argued that under the Constitution, the President "has a degree of independent authority to act" in foreign affairs and, for this reason and others, his construction and application of treaty provisions is entitled to "great weight."

But part of this decision was rejected by concurring senior judge Stephen Williams, a distinguished jurist and Republican appointee. He wrote that the United States, as a signatory to the Geneva Convention, was bound by its "modest requirements of 'humane treatment' and 'the judicial guarantees which are recognized as indispensable by civilized peoples.'"

That was not the only case. In another case, Acree v. Republic of Iraq in 2004, Judge Roberts, alone among three judges, supported the Bush administration's position that a Presidential order validly divested the Federal courts of jurisdiction to hear suits against Iraqi officials brought by American prisoners of war for torture they suffered during the first Gulf War. For a man who has so little judicial experience, opinions in support of the administration's expansive powers in two different cases presents a troubling pattern to me.

Finally, if I may add, Judge Roberts' refusal to cooperate in turning over documents from his service in two presidential administrations to this body indicates his support for and compliance in this administration's unprecedented secrecy of executive branch operations. Indeed, memos he wrote in the 1980s show that he agreed with the administration's overly expansive claims of executive privilege to shield documents from the Congress and the public.

A number of cases on Presidential authority are likely to come before the Court in the near future. Although I am reassured that during the hearings Judge Roberts declared his support for the analytical framework established in Youngstown Sheet & Tube Company v. Sawyer, which some in the current administration have not done, I am still concerned about his respect for the balance of power required by the Constitution.

At the same time that Judge Roberts' record suggests he has been excessively deferential to the actions and whims of the executive branch, he has shown a troublesome activism in overruling the sovereign acts of this Congress. In recent years, a narrow majority on the Supreme Court and some lower court judges and right-wing academics and advocates have launched a Federalism revolution, cutting back on the authority of this Congress to enact and enforce critical laws important to Americans' rights and interests. These judges have overturned settled precedent by narrowly construing the commerce clause and section 5 of the 14th amendment, while broadly interpreting the 11th amendment and reading State sovereignty immunity into the text. Judge Roberts' short record raises troubling signs that he may subscribe to this new Federalism revolution.

In one case, Rancho Viejo v. Norton, Judge Roberts issued a dissent from the decision by the full DC Circuit not to reconsider upholding the constitutionality of the Endangered Species Act in this case. In other words, Judge Roberts viewed part of the Endangered Species Act as unconstitutional because he believed its application was an unconstitutional exercise of Federal authority under the commerce clause. This narrow reading of Congress's constitutional authority could undermine the ability of Congress to protect not just the environment but other rights and interests of the American people.

Judge Roberts' reasoning suggests he may subscribe to an extremely constricted interpretation of the commerce clause recently rejected by the Supreme Court in the medical marijuana case, Gonzales v. Raich. There the Court followed longstanding precedent, dating back to the 1940s, to hold that Congress commerce clause authority includes the power to regulate some purely local activities.

And this is not just about endangered species. Congress uses its constitutional authority under the commerce clause for all sorts of purposes in representing the American people. Other environmental protections of clean air and clean water come from the commerce clause. So, too, the commerce clause provides civil rights safeguards, minimum wage, and maximum hour laws, and workplace safety protections.

Although Judge Roberts affirmed that the Constitution does contain a right to privacy, this declaration did not tell me much at all. As we know, at least three Justices on the current Supreme Court believe in a right to privacy but don't believe it extends to a woman's right to choose. Furthermore, Judge Roberts' written record shows that he did not believe there was, in his words, a "so-called right to privacy" in the Constitution. This places a higher burden on him to answer questions regarding this constitutional line of cases. Not only did Judge Roberts fail to answer any direct questions on this issue, he also failed to answer questions about whether he would uphold this line of cases as precedents that a generation of Americans have come to rely upon. Senator SPECTER repeatedly asked questions about how his view on precedent might inform his decisions regarding the constitutional right to privacy. Senator SPECTER pointed out that Chief Justice Rehnquist had ultimately agreed to uphold the Miranda rule, even though he disagreed with the original Miranda case, because he believed the warnings to criminal subjects had become part of our national culture. Judge Roberts refused to agree that the right to certain types of privacy were equally embedded in our national culture.

In fact, Judge Roberts pointedly refused to answer questions about whether the right to privacy applies to either the beginning or end of life. The only decided case in this area he was willing to talk about was in response to a question from Senator KOHL regarding Griswold v. Connecticut, the case that says the Constitution's right to privacy extends to a married couple's right to use contraception. However, in response to a followup question from

Senator FEINSTEIN. Judge Roberts did not make it clear if he agreed with the Supreme Court's opinion in Eisenstadt v. Baird, which upheld the right of single people to use contraception, saying only that "I don't have any quarrel with that conclusion." I found it hard to tell whether he was embracing the right to privacy in this context or just restating what the Supreme Court has said.

So what might this all mean? For me, it is again a question of whether Judge Roberts will uphold not just the letter but the spirit of the Constitution. Since he has a written record demonstrating his lack of support for the so-called right of privacy, I believe Judge Roberts owed us more candid responses to questions regarding these issues. There are a number of cases coming before the Supreme Court this term on these issues, and there will be many more in the future. These cases are not just about parental notification or the relationship between doctors and their patients, they go to core constitutional protections for all members of our society, particularly women.

I am also concerned that as a young lawyer in the Reagan administration, Judge Roberts appears to have joined in its efforts to dismantle the civil rights gains of the 1960s and 1970s. For example, Judge Roberts wrote vigorous defenses of a proposal to narrow the reach of the 1965 Voting Rights Act. That act is now up for reauthorization, and I am proud to see that this Congress and the country as a whole have come to see how important and successful it has been in giving all Americans the ability to participate in our democracy. And we should not have a Justice who would wish for anything less.

In other civil rights cases, Judge Roberts' record suggests that he wished to limit the Congress's authority to protect and enforce civil rights. Recently released documents show that Judge Roberts, when working in the Reagan Justice Department, disagreed with Ted Olsen, himself a strong conservative, on this issue, with Roberts arguing that Olsen's position wasn't conservative enough. In other documents, he challenged arguments by the U.S. Commission on Civil Rights in favor of busing and affirmative action. He described a Supreme Court decision broadening the rights of individuals to sue States for civil rights violations as causing "damage" to administration policies, and he urged that legislation be drafted to reverse it. In the context of the 1984 case of Grove City College v. Bell, he wished to limit the use of title 9, endorsing a narrow reading of that statute that Congress would later overrule in 1988.

Perhaps the issue I am most bothered about in the civil rights area is Judge Roberts' apparent support for court stripping. In the 1980s, there were a number of bills introduced in Congress to effectively gut Brown v. Board of Education. There were other bills proposed to strip courts of the ability to hear cases involving school prayer or reproductive rights, essentially stripping away the right of a citizen to go before a court and claim that they have been aggrieved.

Judge Roberts was supportive of these court stripping bills and wrote several memos trying to influence the administration to support them as well. Although he ultimately appears to have lost the debate in the administration on this issue, I believe these bills would have stripped the Federal courts of the ability to be the final arbiter of what the Constitution means, as well as an assault on the separation of powers.

Perhaps these memos are especially troubling to me since this Congress just passed legislation to strip the courts of the power to hear cases involving the negligence of gun dealers and manufacturers. This legislation is likely to end up before the Supreme Court in the near future and effectively strips ordinary citizens who have been injured from being able to take their grievances to court. Again, this makes me question Judge Roberts' desire to uphold the spirit of the Constitution.

From what we know about Judge Roberts, I am also concerned about his commitment to upholding the constitutional separation of church and state. As is true with many areas of constitutional law, he has not expressed his personal views on these topics in articles or speeches. But the briefs he wrote while in the Solicitor General's Office, if indicative of his views, suggest Judge Roberts would move the Court in a more conservative direction, allowing far more governmental involvement with religion.

One of the geniuses of our Constitution is its separation of church and state. The first amendment has allowed a multitude of religions to flourish in our country. Indeed, I find it ironic, as we try to create a constitution in Iraq that allows a number of religions to flourish, we are not more aware of the importance of our own Constitution in making that possible in America. As well-funded religious movements attempt to inject religion into Government, the Supreme Court remains an important bulwark against going down such a path.

For example, while at the Solicitor General's Office, Judge Roberts authored a brief arguing that school officials and local clergy should be allowed to deliver prayers at public school graduation ceremonies. The Government brief, written by Roberts, contended that religious ceremonies should be permitted in all aspects of "our public life" in recognition of our Nation's religious heritage. The brief argued for no limits on the content of prayers, allowing even overtly proselytizing messages. The Supreme Court, in a 5-to-4 opinion written by Justice Kennedy, rejected Judge Roberts' argument on behalf of the Government, finding that it "turns conventional first amendment analysis on its head."

The Supreme Court in Lee v. Weisman, and elsewhere, has stated it would not reconsider the longstanding Lemon v. Kurtzman test, which is the benchmark for evaluating issues of church and state relations. The Lemon test forbids Government officials from acting with a religious agenda, endorsing religion, or excessively entangling Government and religion. Roberts has advocated that the Lemon test be scrapped and replaced by a far more permissive standard, the coercion test. Under this view, the Government would violate the first amendment only if it literally established a church or coerced religious behavior. Critics of the Lemon test believe Government should be able to give money to religious schools for religious instruction. They believe it is proper for the Government to display profoundly religious symbols in a way that clearly and unambiguously endorses religion.

I worry that a Court with Judge Roberts has the potential to dramatically change the law with regard to the establishment clause. These changes could lead to many activities which today, wisely, are beyond the endorsement of Government and in the province of religion, as they should be.

As a judge, private lawyer, and Government attorney, Judge Roberts also has repeatedly argued to narrow the protections of the Americans with Disabilities Act. He argued in one case before the Supreme Court that a woman who developed severe bilateral carpal tunnel syndrome and tendinitis from working on an auto manufacturing assembly line was not a person with a disability because she was not sufficiently limited in major life activities outside of her job.

Judge Roberts has long held these views. In 1982, Judge Roberts wrote a memo while at the Reagan Justice Department criticizing a trial court and appeals court decision that a Federal law required a deaf student to have a sign language interpreter to assist her in school. Even the conservative Justice Department of that administration disagreed with this view and supported the student. This is just one more area where, based on what we know, it appears Judge Roberts would roll back freedoms and rights this Congress and the American people have long fought for.

Some on the Supreme Court, to judge by their dissenting and concurring opinions, would use the bench to impose a dramatic change in the meaning of the Constitution on the American people. With one or two more votes, they could overturn dozens, even hundreds, of important precedents going back decades. They could dismantle rights and freedoms Americans have fought for and come to rely on: the right to privacy, civil rights, the ability of Congress to fight discrimination, to protect consumers, workers, and the environment.

The next Justice appointed will likely sit on the Court for 25, maybe even 35 years. He or she will be in a position to decide important constitutional questions, not only for our generation, but for our children and our grandchildren. The precedents he or she helps to create will bind our country for the 21st century and beyond. They will be the definitive interpretation of our founding document, not just in the Supreme Court, but in all the Federal appellate courts and all the district courts in the land. They will affect every American, from the earliest days of their childhood through the closing days of their life.

The Supreme Court will cast rulings on every issue of importance to the American people. The list is familiar: right to privacy, civil rights, freedom of speech and religious liberty, environmental, labor, and consumer protections. But these are only the issues we are aware of now. The Court will also confront future issues beyond our foresight or imagination. From cloning and bioethics to control of intellectual property and access to information in a global economy, the Supreme Court in the years to come will face challenging issues we cannot yet even conceive.

A lifetime nomination to the Supreme Court presents an awesome power and responsibility, one that transcends our time. The Supreme Court has been a pillar of America's constitutional democracy, and its responsibility for upholding and protecting the Constitution has proven a model for emerging constitutional democracies around the world. Alexander Hamilton wrote in Federalist No. 78, in defending the Constitution's creation of an independent judiciary with lifetime appointments to judges:

> This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community.

I intend to vote against the nomination of Judge Roberts to be the Chief Justice of the U.S. Supreme Court because I am not convinced he will discharge this great responsibility in the way he should. He has not convinced me that he will protect minority communities in our country, that he will halt dangerous innovations from the executive branch, or that he will guard the Constitution and the rights of all individuals. Judge Roberts has not convinced me he will uphold not just the letter of the Constitution, but the spirit of the Constitution as well.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I rise to speak on the nomination of Judge John Roberts to be the Chief Justice of the United States and I am delighted to indicate my support for his confirmation.

First, I would like to make a couple of preliminary comments about things that others have spoken to, one of which is the question of whether additional documents from the Solicitor General's Office, the Department of Justice, should have been provided as part of a record to consider Judge Roberts.

There were something like 80,000 pages of documents produced. That does not count the scores of pages of opinions he had written as a judge, speeches, law review articles, notes for courses he taught, and a whole variety of other documents he had written—probably more documents than had ever been produced for any other nominee in the history of the United States.

I think it is inappropriate for Members to suggest that Judge Roberts somehow withheld documents. He withheld nothing. He had no documents in his possession that were relevant that were not turned over to the committee. In fact, as I recall, his answers to the committee's questionnaire were some 80 pages, voluntarily provided by him. He did not withhold any documents.

The only documents the administration did not produce were those private memoranda between lawyers in the Solicitor General's Office, of whom he was one, and the other officials of the Solicitor General's Office, including the Solicitor General himself. Those are private attorney/client work product kind of memoranda that should not be produced and, of course, were not produced by the administration.

Judge Roberts is not in possession of those. He did not refuse to turn those documents over and it is proper we retain the precedent that those private communications between attorney and client not be produced.

There was a great hullabaloo, correctly so, in this Chamber when it was discovered that a staffer had broken into the computers of some Democratic members of the Judiciary Committee and found private communication between members of their staff and the Senators. This was rightly condemned as having a chilling effect. If the public is becoming aware now of the communication between staff and a Senator, that would chill the communication between the staff and Senator. It might cause them not to fully and candidly express their views. That is correct. That is why that was wrong and why the people responsible were punished.

The same thing applies here. One cannot get into the private communications between an attorney and a client any more than one would want to in the Solicitor General's Office.

Secondly, there has been some suggestion that the administration did not produce these documents because it had something to hide.

I ask unanimous consent that a letter from the Department of Justice dated September 9, 2005 to Senator LEAHY, the ranking Democrat, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 9, 2005.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I write in response to your letter dated September 7, 2005, regarding your request that the Department disclose confidential legal memoranda from Judge John Roberts' tenure in the Office of the Solicitor General. As you know, we have been working closely with the Committee on the Judiciary to facilitate the Committee's consideration of Judge Roberts' nomination, and we look forward to continuing to do so. The Department recently produced to the Committee another 1,300 pages of documents relating to Judge Roberts' government service, bringing to approximately 76,000 the number of pages the White House and the Department have provided. That number does not include the voluminous production made by Judge Roberts himself.

With regard to your request, we remain unable to provide memoranda disclosing the internal deliberations of the Solicitor General's office. The privileged nature of those documents is widely recognized, and the Department has traditionally declined to breach that privilege. We have considered carefully the legal arguments you make in support of disclosure. As discussed below, the authorities your letter cites relate to contexts very different from this one and have no relevance here.

Your letter cites an opinion by Attorney General Robert H. Jackson and argues that this opinion supports disclosure to the Committee of internal Solicitor General documents. We believe this is an inaccurate characterization of that memo. To be sure, Attorney General Jackson stated that in the context of executive nominations, certain otherwise-confidential documents would be provided to the Senate. But the documents in question were FBI reports of criminal investigations. The Attorney General's opinion that the Senate should be informed of a nominee's criminal activities does not support your request that we disclose privileged and deliberative attorney communications. In fact, the opinion lists several examples of Attorneys General faithfully discharging the "unpleasant duty" of declining to produce to Congress information that should remain confidential. 40 U.S. Op. Atty. Gen. 45, 48.

Your letter also includes a charge that the Department's unwillingness to breach the traditional confidentiality of internal deliberations raises an inference adverse to Judge Roberts. We disagree with this argument on both legal and factual bases.

First, it is a matter of well-settled law that no inference of any kind may be drawn from a decision not to release privileged documents. Notably, none of the judicial decisions you cite dealt with privileged documents. With regard to claims of privilege, the law is clear. As one federal court of appeals recently recognized, "the courts have declined to impose adverse inferences on invocation of the attorney-client privilege." Knorr-Bresme Systeme Fuer Nutzfahrzeuge GMBH v. Dana Corp., 383 F.3d 1337, 1345 (Fed. Cir. 2004). Another court of appeals explained the justification for this firmly established rule: "This privilege is designed to encourage persons to seek legal advice, and lawyers to give candid advice, all without adverse effect. If refusal to produce an attorney's opinion letter based on claim of the privilege supported an adverse inference, persons would be discouraged from seeking opinions, or lawyers would be discouraged from giving honest opinions. Such a penalty for invocation of the privilege would have seriously harmful consequences." Nabisco, Inc. v. PF Brands, Inc., 191 F.3d 208, 226 (1999), overruled on other grounds, Moseley v. V Secret Catalogue, Inc., 537 U.S. 418 (2003); see also Parker v. Prudential Ins. Co., 900 F.2d 772, 775 (4th Cir. 1990).

Second, the implication that the Department's decision is motivated by an attempt to hide something assumes that the decision-makers have some knowledge of the documents' contents. That assumption is factually wrong. No one involved with the Administration's Supreme Court nomination process has reviewed the documents you request. The decision not to disclose the internal deliberations of the Solicitor General's office is made by the Department as a matter of principled regard for preservation of the Solicitor General's ability to represent the United States effectively.

In summary, for the reasons stated above and in my letters of August 5, 2005, and August 18, 2005, we cannot agree to your request to produce the internal, privileged communications of the Office of the Solicitor General. We nonetheless remain committed to providing the Committee full and prompt assistance in its consideration of Judge Roberts' nomination.

Sincerely,

WILLIAM E. MOSCHELLA,
Assistant Attorney General.

Mr. KYL. I will read part of one paragraph:

> No one involved with the Administration's Supreme Court nomination process has reviewed the documents you request. The decision not to disclose the internal deliberations of the Solicitor General's office is made by the Department as a matter of principled regard for preservation of the Solicitor General's ability to represent the United States effectively.

So for anybody to suggest that somebody had something to hide is to ignore the facts. This letter was widely distributed. Every Senator should know that the administration had not even looked at the material, so they obviously could not be hiding something.

There has been some reference—I would almost even refer to it as guilt by association—that John Roberts worked in the Reagan administration. I remind my colleagues that this is the Reagan administration which was reelected with, as I recall, 59 percent of the vote and 49 of our 50 States. I would be pleased to debate any of my colleagues in this Chamber about the record of the Reagan administration, and I can say in advance that I will take the affirmative side of that debate that it should be defended. John Roberts has nothing to apologize for because he worked for President Ronald Reagan.

I want to express in a more formal way my support for Judge Roberts. So much has already been said about his intellect, his character, his qualifications, his experience, his eloquently expressed commitment to the rule of law, and I certainly agree with all of those who have been impressed with those qualities. I believe these are the qualities that should govern this body's advise and consent role. In other words, that intelligence, character, experience, and commitment to the rule of law are the qualities we should be looking for in a nomination for the U.S. Supreme Court and other courts as well. We should not be looking to how this particular nominee might rule in a future case. We certainly should not play a bargaining process with the nominee, in effect saying, if you will tell me how you will rule on these future cases and if I agree with that, then I will support your confirmation. That would, of course, undermine the impartiality and the independence of our courts, and it is improper.

I noted recently that fellow Arizonian Justice Sandra Day O'Connor spoke in Arizona and she said judicial independence is hard to create and easier than most people imagine to destroy.

Well, I think she is exactly right on that. Judge Roberts made a similar comment during his opening statement. He said:

> President Ronald Reagan used to speak of the Soviet constitution, and he noted that it purported to grant wonderful rights of all sorts to people. But those rights were empty promises, because that system did not have an independent judiciary to uphold the rule of law and enforce those rights. We do, because of the wisdom of our Founders and the sacrifices of our heroes over the generations to make their vision a reality.

In other words, that rule of law is what lies at the foundation of the American system of ordered liberty. Judges owe their loyalty to the law, not to political parties, not to interest groups, and they must have the courage to make tough decisions, however unpopular. Consider, for example, how Judge Roberts answered a question of whether he would stand up for the little guy. He said:

> If the Constitution says that the little guy should win, the little guy is going to win. . . . But if the Constitution says that the big guy should win, well, then the big guy is going to win, because my obligation is to the Constitution.

That is the essence of the rule of law as enforced by independent judges, doing what the Constitution and the law demand, regardless of the political or economic power of the parties. Indeed, that is the best way to ensure that the voice of the little guys will, in fact, be heard.

Judge Roberts often spoke of the rule of law during his hearing. Considering this additional excerpt, he explained that he used to represent the U.S. Government before the Supreme Court when he was the Deputy Solicitor General, and then he stated:

> But it was after I left the Department and began arguing cases against the United States that I fully appreciated the importance of the Supreme Court and our constitutional system.
>
> Here was the United States, the most powerful entity in the world, aligned against my client. And yet, all I had to do was convince the Court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law. That is a remarkable thing.
>
> It is what we mean when we say that we are a government of laws and not of men. It is that rule of law that protects the rights and liberties of all Americans. It is the envy of the world—because without the rule of law, rights are meaningless.

I was struck by this comment when I heard Judge Roberts make it, because it reminded me of my earlier career as a private attorney practicing before the State and Federal courts, including the Supreme Court. Parties, be they corporations or civil plaintiffs or governments or criminals, all put their faith in judges to adhere to legal principles and make decisions based on the rule of law, not based on what they personally believe to be right. Parties have disputes that require a neutral arbiter who is beholden to nobody, and who will not be dissuaded from doing his duty, no matter what the cost. As Judge Roberts later emphasized, "This is the oath." This is what the Constitution and an independent judiciary demand.

Of course, it is equally important to understand what judicial independence is not. Judicial independence does not mean the judge has the right to disregard the Constitution or the statutes passed by legislatures. Judicial independence does not mean that because of a lifetime appointment, the judicial role is unconstrained by precedent and by principle, and judicial independence is not an invitation to remake the Constitution or the laws if it does not lead to the result the judge prefers. Nor is judicial independence an invitation to the judge to legislate and resolve questions that properly belong to the democratic branches of our Government, no matter how wise a particular judge might be.

Judicial independence gives judges tremendous freedom, but it is a freedom to do their duty to the law, not a freedom from or independence from the constraints of the law. When judges confuse the freedom to follow the law with the freedom to depart from it, we see the unhinged judicial activism that has infuriated so many Americans throughout my lifetime.

Consider what Justice Antonin Scalia wrote while dissenting from one of the Ten Commandments cases the Supreme Court decided this past spring, McCreary v. ACLU. He said:

> What distinguishes the rule of law from the dictatorship of a shifting Supreme Court majority is the absolutely indispensable requirement that judicial opinions be grounded in consistently applied principle. That is what prevents judges from ruling now this way, now that, thumbs up or thumbs down, as their personal preferences dictate.

I focus on the need for judicial independence and respect for the rule of law because I am very concerned about threats to judicial independence that have infected the confirmation process. During Judge Roberts' hearings, we saw efforts to demand political promises in exchange for confirmation support. Specifically, some Senators demanded to know how Judge Roberts will vote on issues that will come before the Supreme Court. In doing this, Senators risk turning the confirmation process into little more than a political bargaining session in which the Senators refuse to consent to a fully qualified nominee unless the nominee promises under oath to vote a certain way in future cases.

Yet during this confirmation process, some Senators said they would not support Judge Roberts unless they knew where he stood on important issues of the day. In fact, the only reason they asked the question is because they thought the issue might be before the Court; otherwise, there would be no reason to find out how he might rule.

When the Judiciary Committee voted last week, more than one Senator explained that while Judge Roberts was a brilliant man who would be a thoughtful Chief Justice, they were not going to support him because they could not learn enough about his views on issues that they thought would come before the Court.

The Senate must reject this improper politicization of our judiciary. A judicial nominations process that required nominees to make a series of specific commitments in order to navigate the maze of Senate confirmation would bring into disrepute the entire enterprise of an independent judiciary.

In July, I asked the Senate Republican Policy Committee, which I chair, to examine the canons of judicial ethics and the views of the sitting Supreme Court Justices on this matter.

I ask unanimous consent that the resulting report entitled "The Proper Scope of Questioning for Judicial Nominees" be printed after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. Judge Roberts confronted this challenge repeatedly during the hearing. Senators would ask him, sometimes directly, sometimes obliquely, how he felt about certain issues. To his credit, he resisted answering those questions that could have jeopardized his judicial independence. As he explained, the independence and integrity of the Supreme Court requires that nominees before the committee for a position on that Court give no forecast, predictions, nor give hints about how they might rule in cases that might come before the Court.

Judge Roberts' formulation is exactly right. If judges were forced to make promises to Senators in order to be confirmed, constitutional law would become a mere extension of politics. If we allow this radical notion to take hold, and if Senators can demand such promises, then what would become of litigants' expectations of impartiality and fairness in the courtroom? The genius of our system of justice is that people are willing to put their rights, their property, and even their lives before a judge, to be dealt with as he or she sees fit. People do this because of the expectation that they will be treated fairly by a judge, with no preconceived notion of how their case should be decided.

That is a pretty remarkable thing, to have that much confidence in the system that we would literally place our lives, our rights, our property in the hands of one person. Yet we do that every day all over this country because we have confidence in the system. And that system says the judge will decide your case free of any preconceived notion, so we as Senators should not be seeking to find out in advance how that judge might rule.

Let me be clear. I share my colleagues' curiosity about how Judge Roberts and the next nominee will rule on the hot-button issues of the day. For example, I hope he will join most Americans in recognizing that partial-birth abortion does not deserve constitutional protection. Similarly, it is my personal wish that the Supreme Court will allow States to pass laws requiring minor girls to gain the consent of—or at least to notify—their parents before getting an abortion. We remain a Nation at war, and I believe it is crucial to our national security that the Supreme Court support commonsense rules governing the war on terror without requiring that foreign terrorists be treated the same as American criminals with the same constitutional rights as citizens. I would like him to resist the siren songs of those judges who would craft a constitutional right to same sex marriage. I would strongly prefer he uphold legislative efforts to guarantee that crime victims have a substantial role in the prosecution and sentencing of perpetrators. And I hope he will help clean up the Supreme Court's habeas corpus jurisprudence so we do not have to wait 20 years for justice to be done.

On these and many other matters I have a deep interest and strong opinions about what the Supreme Court ought to do. But I did not ask John Roberts for commitments on these matters. Of course, I am curious but I didn't ask him how he would rule because, had I done so, I would have been encouraging him to violate his judicial ethics as a sitting judge as well as to jeopardize the independence of the Supreme Court itself.

Should a nominee fully answer questions? Absolutely. But should a nominee engage in political bargaining by prejudging an issue or a case? Absolutely not. Nobody disputes that John Roberts will be confirmed later this week. I am encouraged by the strong bipartisan support for John Roberts, and I am cautiously optimistic that the size of this vote represents a repudiation of the politicization of the judiciary, but I am concerned that others will see the number of votes against Judge Roberts as justification for the proposition that one should not support a nominee who refuses to indicate how he will rule in future cases.

This vote should represent a fresh start. The President sent us a brilliant and distinguished nominee who had the character and commitment to the rule of law to deserve the Senate's support. The nominee is a Republican who clerked for one of the great conservative judges of the 20th century. He served in the executive branch for Republican Presidents. He advocated conservative policies on those Presidents' behalves. Yet that political background will not be a bar to Judge Roberts' confirmation. Equally important, Judge Roberts' refusal throughout his hearings to make promises to Senators in exchange for their support is being affirmed as an appropriate adherence to judicial ethics. The courage that John Roberts has shown in upholding his ethical standards should not be punished.

Justice O'Connor stated earlier this month:

> We must be ever vigilant against those who would strong-arm the judiciary into adopting their preferred policies.

Once again, my fellow Arizonan was right. The Senate will exercise that vigilance later this week by confirming Judge Roberts and by rejecting the politicization of the confirmation process. In the coming weeks, the Senate will consider the nominee to replace Justice O'Connor. It is my hope that Senators will exercise that same vigilance. The rule of law demands it.

EXHIBIT 1

THE PROPER SCOPE OF QUESTIONING FOR JUDICIAL NOMINEES

INTRODUCTION

Some Senate Democrats are demanding that Supreme Court nominee John G. Roberts announce his positions on constitutional questions that the Supreme Court will be deciding after he is confirmed. [FN1: For example, Senator Charles Schumer has said, "Every question is a legitimate question, period." New York Post, July 6, 2005. Senator Schumer has also said that he will ask how Mr. Roberts will rule on issues that the Supreme Court certainly will consider, including free speech, religious liberty, campaign finance, environmental law, and other political and legal questions. Foxnews.com, July 19, 2005. Likewise, Senator Ted Kennedy has demanded to know "whose side" Judge Roberts will favor, and "where he stands" on legal questions before the Supreme Court. Congressional Record, July 20, 2005. Just yesterday, Senator Evan Bayh picked up this theme: "You wouldn't run for the Senate or for Governor or for anything else without answering people's questions about what you believe. And I think the Supreme Court is no different." CNN "Inside Politics," July 25, 2005.] Although these Senators are quick to say that they do not seek pre-commitments on particular cases, the ethical rules governing judicial confirmations are not limited to preventing prejudgment of particular cases. As nominees in the past have recognized, it is inappropriate for any nominee to give any signal as to how he or she might rule on any issue that could come before the court, even if the issue is not presented in a currently pending case.

If these novel "prejudgment demands" were tolerated, the judicial confirmation process would be radically transformed. While questions about judicial philosophy in general have always been appropriate, any effort to learn how particular constitutional questions will be resolved has always been out of bounds. It was for this reason that all sitting Supreme Court Justices declined to answer some questions on constitutional issues or past cases of the Supreme Court. For example:

Justice Sandra Day O'Connor expressly refused to answer questions about past cases that she believed would later come before the Supreme Court. [FN2: Confirmation Hearing, July 1994, at p. 199.]

Justice Ruth Bader Ginsburg testified during her hearing: "I must avoid giving any forecast or hint about how I might decide a question I have not yet addressed." [FN3: Confirmation Hearing, July 1993, at p. 265.]

Then-Chairman Joseph Biden advised Justice Ginsburg during her hearing: "You not only have a right to choose what you will answer and not answer, but in my view you should not answer a question of what your view will be on an issue that clearly is going to come before the Court in 50 different forms . . . over your tenure on the Court." [FN4: Confirmation Hearing, July 1993, at p. 275.]

There is a reason for this longstanding precedent: to demand that a judicial nominee "prejudge" cases and issues threatens the independence of the federal judiciary and jeopardizes Americans' expectation that the nation's judges will be fair and impartial. That is why the canons of judicial ethics prohibit any judicial nominee from prejudging any case or issue. [FN5: ABA Model Code of Judicial Conduct, Canon 5A(3)(d)(ii) (2003).] Judges should only reach conclusions after listening to all the evidence and arguments in every case. Americans expect judges to keep an open mind when they walk into the courtroom—not to make decisions in the abstract and then commit to one side before the case begins. No judge can be fair and impartial if burdened by political commitments that Senators try to extract during confirmation hearings. Otherwise, judicial nominees will be forced to sacrifice ethics and impartiality to be confirmed.

Senators naturally want to know how future cases will be decided, but curiosity must yield to the greater value—the preservation of an independent judiciary and the guarantee of equal justice. The following materials provide detailed support for why the traditional norms should be upheld, and why the Senate would tread into very murky waters if it were to upset these settled practices.

THE CANON OF JUDICIAL ETHICS

"[A] judge or a candidate for election or appointment to judicial office shall not . . . with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. . . ."—ABA Model Code of Judicial Conduct, Canon 5A(3)(d)(ii) (2003).

ALL NINE SUPREME COURT JUSTICES DISAGREE WITH REQUIRING NOMINEES TO PREJUDGE ISSUES AND CASES

Justice Ruth Bader Ginsburg

"A judge sworn to decide impartially can offer no forecasts, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process. Similarly, because you are considering my capacity for independent judging, my personal views on how I would vote on a publicly debated issue, were I in your shoes, were I a legislator, are not what you will be closely examining."—Confirmation Hearing, July 1993, at p. 52.

"Because I am and hope to continue to be a judge, it would be wrong for me to say or to preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide. Were I to rehearse here what I would say and how I would reason on such questions, I would act injudiciously."—Confirmation Hearing, July 1993, at p. 52. Justice Ginsburg was a judge on the D.C. Circuit when nominated to the Supreme Court.

"I sense that I am in the position of a skier at the top of that hill, because you are asking me how I would have voted in Rust v. Sullivan (1991). Another member of this committee would like to know how I might vote in that case or another one. I have resisted descending that slope, because once you ask me about this case, then you will ask me about another case that is over and done, and another case. . . . If I address the question here, if I tell this legislative chamber what my vote will be, then my position as a judge could be compromised. And that is the extreme discomfort I am feeling at the moment."—Confirmation Hearing, July 1993, at p. 188.

"When a judicial candidate promises to rule a certain way on an issue that may later reach the courts, the potential for due process violations is grave and manifest."—*Republican Party of Minnesota* v. *White*, 536 U.S. 765,816 (2002) (Ginsburg, J., dissenting).

"[H]ow a prospective nominee for the bench would resolve particular contentious issues would certainly be 'of interest' to the President and the Senate in the exercise of their respective nomination and confirmation powers. . . . But in accord with a longstanding norm, every member of this Court declined to furnish such information to the Senate, and presumably to the President as well."—*Republican Party of Minnesota* v. *White*, 536 U.S. 765, 807 n.1 (2002) (Ginsburg, J., dissenting).

"This judicial obligation to avoid prejudgment corresponds to the litigants" right, protected by the Due Process Clause of the Fourteenth Amendment, to an 'impartial and disinterested tribunal in all civil and criminal cases. ".—*Republican Party of Minnesota* v. *White*, 536 U.S. 765, 813 (2002) (Ginsburg, J., dissenting) (internal citation omitted).

Justice Sandra Day O'Connor

"I feel that is improper for me to endorse or criticize a decision which may well come back before the Court in one form or another and indeed appears to be coming back with some regularity in a variety of contexts. I do not think we have seen the end of that issue or that holding and that is the concern I have about expressing an endorsement or criticism of that holding."—Confirmation Hearing, September 1981, at p. 199.

Justice Stephen Breyer

"I do not want to predict or to commit myself on an open issue that I feel is going to come up in the Court. . . . There are two real reasons. The first real reason is how often it is when we express ourselves casually or express ourselves without thorough briefing and thorough thought about a matter that I or some other judge might make a mistake. . . . The other reason, which is equally important, is . . . it is so important that the clients and the lawyers understand the judges are really open-minded."—Confirmation Hearing, July 1994, at p. 114.

"The questions that you are putting to me are matters of how that basic right applies, where it applies, under what circumstances. And I do not think I should go into those for the reason that those are likely to be the subject of litigation in front of the Court." Confirmation Hearing, July 1994, at p. 138 (regarding the right to an abortion).

"Until [an issue] comes up, I don't really think it through with the depth that it would require. , . . So often, when you decide a matter for real, in a court or elsewhere, it turns out to be very different after you've become informed and think it through for real than what you would have said at a cocktail party answering a question."—Remarks at Harvard Law School, December 10, 1999, quoted in Arthur D. Hellman, Getting it Right: Panel Error and the En Banc Process in the Ninth Circuit Court of Appeals. 34 U. C. Davis L. Rev. 425, 462 (2000).

Justice John Paul Stevens

"A candidate for judicial offices who goes beyond the expression of 'general observations about the law . . . in order to obtain favorable consideration' of his candidacy demonstrates either a lack of impartiality or a lack of understanding of the importance of maintaining public confidence in the impartiality of the judiciary."—*Republican Party of Minnesota* v. *White*, 536 U.S. 765,800 (2002) (Stevens, J., dissenting) (internal citation omitted).

Justice David Souter

"[C]an you imagine the pressure that would be on a judge who had stated an opinion, or seemed to have given a commitment in these circumstances to the Senate of the United States, and for all practical purposes, to the American people?"—Confirmation Hearing, September 1990, at p. 194.

Justice Anthony Kennedy

"[The] reason for our not answering detailed questions with respect to our views on specific cases, or specific constitutional issues [is that] the public expects that the judge will keep an open mind, and that he is confirmed by the Senate because of his temperament and his character, and not because he has taken particular positions on the issues."—Confirmation Hearing, January 1987, at p. 287.

Chief Justice Rehnquist

"For [a judicial nominee] to express any but the most general observation about the law would suggest that, in order to obtain favorable consideration of his nomination, he deliberately was announcing in advance, without the benefit of judicial oath, briefs, or argument, how he would decide a particular question that might come before him as a judge."—*Laird* v. *Tatum*, 409 U.S. 824, 836 n.5 (1972) (Mem. on Motion for Recusal).

Justice Clarence Thomas

"I think it's inappropriate for any judge who is worth his or her salt to prejudge any issue or to sit on a case in which he or she has such strong views that he or she cannot be impartial. And to think that as a judge that you are infallible I think totally undermines the process. You have to sit, you have to listen, you have to hear the arguments, you have to allow the adversarial process to work. You have to be open and you have to be willing to work through the problem. I don't sit on any issues, on any cases that I have prejudged. I think that it would totally undermine and compromise my capacity as a judge."—Confirmation Hearing, September 1991, at p. 173.

Justice Antonin Scalia

"I think it is quite a thing to be arguing to somebody who you know has made a representation in the course of his confirmation hearings, and that is, by way of condition to his being confirmed, that he will do this or do that. I think I would be in a very bad position to adjudicate the case without being accused of having a less than impartial view of the matter."—Confirmation Hearing, August 1986, at p. 37.

ADDITIONAL OPPOSITION TO PREJUDGMENT OF ISSUES

Justice Thurgood Marshall

"I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am continued and sit on the Court, when a Fifth Amendment case comes up, I will have to disqualify myself."—Confirmation Hearing, August 1967.

Senator Joseph Biden

In 1989, then-Chairman Joseph Biden crafted the question that is now asked of all nominees to the federal bench: "Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue or question? If so, please explain fully."

"I believe my duty obliges me to learn how nominees will decide, not what they will decide, but how they will decide."—Confirmation Hearing for Ruth Bader Ginsberg, July 1993, at p. 114.

"You not only have a right to choose what you will answer and not answer, but in my view you should not answer a question of what your view will be on an issue that clearly is going to come before the Court in 50 different forms . . . over your tenure on the Court."—Confirmation Hearing for Ruth Bader Ginsberg, July 1993, at p. 275–276.

Democrat-Controlled Senate Judiciary Committee Report on Abe Fortas Nomination

"Although recognizing the constitutional dilemma which appears to exist when the Senate is asked to advise and consent on a judicial nominee without examining him on legal questions, the Committee is of the view that Justice Fortas wisely and correctly declined to answer questions in this area. To require a Justice to state his views on legal questions or to discuss his past decisions before the Committee would threaten the independence of the judiciary and the integrity of the judicial system itself. It would also impinge on the constitutional doctrine of separation of powers among the three branches of Government as required by the Constitution."—Committee Report on Nomination of Abe Fortas to be Chief Justice of the United States, September 20, 1968.

CONCLUSION

Every sitting Supreme Court Justice disagrees with the approach urged by some Senate Democrats—for good reason. Nothing less than judicial independence and the preservation of a proper separation of powers is at stake. The Senate should not allow short-term curiosity about particular issues to override the settled procedures that have governed this process for so long.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. I am pleased to speak on the matter of the nomination of John Roberts to be Chief Justice of the Supreme Court of the United States. The authors of our Constitution were at the same time profound idealists about the human spirit and cold-blooded realists about the evil people are capable of. They had witnessed how even heroism can turn into tyranny, so they wrote a document that struck a balance between power and accountability that has remained level through a Civil War, World War, depressions, booms, and many social upheavals.

We are part that have process in this debate. Our job is not to add value to the Constitution but to conserve as much of its value as we can. We are a government of laws and not men and women. But men and women make and interpret and apply those rules. The voters choose us. The President that the people chose makes the choice of Justices of the Supreme Court, with our advice and consent. It is a solemn and momentous transition in our history when we put a new Justice on the Court to sit for the next generation.

First of all, I commend the President for the quality of his appointment. John Roberts is a person of brilliant mental capacity. We all know Lord Acton's statement about how absolute power corrupts absolutely. But in this case, I also want us to invoke Barbara Tuchman's reply that weakness, which must depend on compromises and deals to maintain its position, corrupts even more.

Judge Roberts is as mentally strong as a person can be. He has the kind of mental strength that does not rely on intimidation, manipulation or style points to carry his argument. It was wonderful to watch his mind work during the nominee confirmation process. Whether you are for or against this nomination, the strength of his intellect has never been in doubt.

The President's choice is also a person of integrity. The word "integrity" has the same root as the mathematical term "integer," which is a whole number. Integrity means that all the pieces fit together to make a consistent whole. Judge Roberts has been in many situations which sorely tested his integrity, and he has held together and held consistent in a remarkable way. Through his writings and testimony, Judge Roberts has demonstrated he knows his historical place. Judge Roberts is not a person driven by ego or ambition. He knows we all have a part to play in this constitutional design and to step out of the role would be to step into the place of others. Respectful humility in the wielding of power is an indispensable attribute that Judge Roberts has shown.

In his own words, Judge Roberts testified before the Senate Judiciary Committee and said:

> My obligation is to the Constitution—that's the Oath.

My colleague from Arizona told about that wonderful exchange between Judge Roberts and members of the committee when he was asked about the big guy and the little guy, how he would decide a case.

There are some in this body who, with past nominees, have looked at the status of the person before the Court as somehow that should be determinative of whether they win. So if they were the little guy or they were a woman or this or that, that somehow that was more important; if they didn't win, that somehow that was a negative to the person who made the decision.

Judge Roberts responded: If the Constitution says that the little guy should win, the little guy is going to win. But if the Constitution dictates that the big guy wins, then the big guy will win.

Little guys need the Constitution because in other places and at other points in times in other countries it is your status that determines whether you win. Typically, it is a person with wealth and power that would use that status to win. So the little guy needs the Constitution. John Roberts is respectful of the Constitution.

Judge Roberts believes in a judicial philosophy that defers to legislative judgments and refuses to insert judges into disputes in which the Constitution gives the judiciary no role.

Judge Roberts told us:

> I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench, and I will decide every case based on the record, according to the rule of law, without fear or favor to the best of my ability.

Judge Roberts' approach to the law is one of restraint. He is not an ideologue, intent on imposing his views on the law. Those who know him say Judge Roberts possesses an ideal judicial temperament. He has a balanced view of the power of the Federal Government that is respectful of Supreme Court precedent.

During his hearings, Judge Roberts described his understanding of the Supreme Court's commerce clause jurisprudence and explained that he had no agenda to overrule established cases. Judge Roberts also demonstrated his respect for the authority of Congress to make factual findings that form the basis for legislation under the commerce clause.

As Judge Roberts explained at the hearings:

> One of the warning flags that suggest to you as a judge that you may be beginning to transgress into the area of making a law is when you are in a position of reevaluating legislative findings, because that does not look like a judicial function. It is not an application of analysis under the Constitution. It is just another look at findings.

Both in private practice and on the bench, Judge Roberts has established, beyond any doubt, that he is a fair judge within the judicial mainstream. Judge Roberts' judicial decisions reflect a fair approach and a scrupulous unwillingness to impose his own policy preferences on law. I commend Chairman SPECTER and the members of his committee for the way they have brought this nomination to the floor. We are a political people, and there were some politics at play. In past times, a nominee of Judge Roberts' intellect and integrity and caliber would receive 96, 97, 98 votes in confirmation. I believe Justice Ginsburg received 86 votes. I also believe Justice Scalia received 98 votes. I suspect that will not happen on Thursday. Special interests and single interests have driven a wedge into this Senate body, and that is lamentable. At times, I wondered if committee members were using the hearing to assess Judge Roberts or to lobby him about future cases. Standards that some Democratic members of the committee have applied to Judge Roberts were the opposite of those applied when appointees of their party's President sent up Justices Ginsburg and Breyer.

Earlier, they counseled judges not to answer specific questions, and now they fault Judge Roberts for being insufficiently specific. But I would say, on a whole, the hearing was fair and dignified. I hope we are making progress toward a consistent standard to apply to judicial nominees, Supreme Court nominees.

A Supreme Court confirmation is not a rehashing of the last Presidential campaign or a preview of the next one. The people chose a President, and that person has a right to appoint a judge who they believe is consistent with their view of the role and the direction the Court should take. This is a conservative approach. They chose us in the Senate not to substitute our judgment for the President's, but to provide a check against a Justice who was deficient in some clear way. That is why I have stated that whether a Republican or Democrat is President, my standard will be: Is the person qualified? Do they have the requisite integrity? Do they have the temperament and commitment to be stewards of the rule of law?

Judge Roberts meets that test with flying colors. He not only will be a strong Chief Justice, he will be a role model for the rest of the Nation. His predecessor and mentor, William Rehnquist, was a midwesterner, as is Judge Roberts. Those of us who call the Midwest home have the utmost respect for those who have the humility to keep their brilliance a secret. My own remarkable State of Minnesota has been compared to a dog that is too shy to wag its own tail. Our license plates say: The Land Of 10,000 Lakes. I actually think we have closer to 15,000, but humility, I think, is a Minnesota way. It certainly is the style of Judge Roberts. We admire Judge Roberts for his grace and humility as he takes on the awesome power of his position. We admire his commitment to equal justice under the law. These are turbulent times in America. The people need a confidence builder. The President has given them one with this nomination, and we can and should add to it with a strong bipartisan vote to confirm Judge Roberts to be Chief Justice of the Supreme Court. On Thursday, the Senate will exercise its solemn advice-and-consent responsibility on the nomination of John Roberts to be Chief Justice of the Supreme Court of the United States. I will vote to give my consent to the Roberts nomination. I will vote in favor of John Roberts.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I rise today to speak in favor of the nomination of John Roberts to serve as Chief Justice of the United States.

The Chief Justice is commonly referred to as the "first among equals," a title reflecting the significance of this position in terms of shaping the Court, and serving as the head of the Judicial branch. Assuming he is confirmed, Judge Roberts will be only the 17th person in our Nation's history to serve as Chief Justice.

In confirming a Chief Justice, we entrust this individual with considerable power—the power to interpret the Constitution, to say what the law is, to guard one branch against the encroachments of another, and to defend our most sacred rights and liberties. Along with these powers, this individual also bears a responsibility to act with an understanding of the limited role of judicial review and the need for judicial restraint.

The cases that come before the Supreme Court each year present legal issues of tremendous complexity and import. Given the difficulty of the questions presented, it is not surprising that most good Justices do not know how they will rule before a case comes before them. Their decisions are rendered only after extensive briefing, argument, research, and discussion with the other Justices. Indeed, when any person goes before the Court, he or she has a right to expect that the Justices will approach the case with an open mind and a willingness to fully consider all of the arguments presented.

Some of our colleagues have called on nominees to announce beforehand how they would rule in cases that have yet to come before them. Yet, a good judge will not know, and would not try to say—even hazarding a guess could raise questions about judicial impartiality and integrity.

Similarly, our ability to question nominees about future cases is limited by the difficulty of predicting the issues that will come before the Court over the next several decades. Twenty years ago, few would have expected that the Court would hear issues related to a presidential election challenge, would try to make sense of copyright laws in an electronic age, or would confront questions on how to protect our cherished civil liberties in light of a new domestic terrorism threat.

And even if nominees were to indicate how they would rule, the reality is that we are not in a position to hold them to their word. Appointments to the Court are, of course, lifetime appointments.

While we can not know with certainty how a nominee will rule on the many questions that may come before him or her, we can and must strive to take the measure of the person: carefully assessing the excellence of the nominee's qualifications, integrity, and judicial temperament, as well as the principles that will guide the nominee's decisionmaking.

Does the nominee have the intellect and learning necessary to be a superb jurist? Is he or she open-minded and pragmatic? Does he or she have a sense of restraint and humility concerning the role of a judge? Does the nominee take seriously the role of our courts in protecting our basic liberties and rights from the passions and fads of the moment? And for Judge Roberts, the answer to these questions is yes.

The excellence of his legal qualifications is beyond doubt. He is a superb attorney and one of the finest legal minds of his generation. Prior to his appointment to the D.C. Circuit in 2003, Judge Roberts had argued an impressive 39 cases before the Supreme Court.

and more often than not, his arguments were accepted by a majority of the Court. The American Bar Association Standing Committee on the Judiciary has reviewed his qualifications for his nominations to the Court of Appeals and the United States Supreme Court on three separate occasions. In every instance, it has given Judge Roberts its highest possible rating.

Earlier this month, I met with Judge Roberts to discuss his judicial philosophy, his views on the importance of precedent, and the role of the judiciary. I was extremely impressed by his answers to my questions, which reassured me that he will be a justice dedicated to the rule of law—not someone who bends the rules to suit personal preferences or to advance a particular agenda.

At our meeting, I asked Judge Roberts about his views regarding the importance of stare decisis—the principle that courts should adhere to the law set forth in previously decided cases. I asked Judge Roberts whether a judge should follow precedent, even if he believed that the original case was incorrectly decided in the first instance. He told me that overruling a case is a "jolt to the legal system" and said that it is not enough that a judge may think the prior case was wrongly decided. He emphasized the importance that adherence to precedent plays in promoting evenhandedness, fairness, stability, and predictability in the law.

Following my personal meeting with Judge Roberts, I felt confident that Judge Roberts was eminently qualified to serve as Chief Justice. The Judiciary Committee hearings have only further confirmed my view that he is the right person for this weighty position.

Without question, these hearings demonstrated Judge Roberts' keen legal intellect and commanding knowledge of the law and the precedents of the Supreme Court. He demonstrated a winning and collegial style while under fire, and his testimony has been justifiably praised. Most important, he demonstrated an understanding of the limited role of the judiciary and a deep and abiding commitment to the rule of law.

During the confirmation process, I was impressed by Judge Roberts' statement that he wants to be known, he said, "as a modest judge." This simple phrase is one that speaks volumes about the approach he brings to the Court. It tells us that he knows a judge must be restrained by the law, and by the principles, the practices, and the common understandings that make up our legal tradition.

It tells us that he has an abiding respect for our Constitution, for the separation of Federal powers it describes, and for the powers it reserves for the States and for the people. Perhaps most important, it tells us that his rulings will not be influenced by his own political views and personal values, whatever they may be.

Given the increasing concerns about judicial activism and the desire by some to use the courts to achieve the political ends that have eluded them, I believe that Judge Roberts' modest and disciplined approach to the law will serve our Nation well.

The President, in consultation with the Senate, has selected an outstanding nominee. We have fulfilled our advice and consent responsibility through extensive interviews, investigations and hearings. Judge Roberts has emerged from this process remaining true to his ideals of the proper role of a judge, and demonstrating beyond a doubt his fitness for the office.

Based on my personal discussions with Judge Roberts, my review of his record, and his testimony before Judiciary Committee, I am confident that Judge Roberts will be a Justice committed to the rule of law and one who will protect the liberties and rights guaranteed by our Constitution. I believe he will exercise his judicial duties with an understanding of the limited role of the judiciary to review and decide the specific cases before them based on the law—not to make policy through case law. He will be guided not by his own personal view of what the law should be, but by a disciplined review and analysis of what the law is. He understands that the very integrity of our judicial system depends on judges exercising this restraint.

For these reasons, I look forward to voting to confirm Judge Roberts, and I applaud the President for making an outstanding choice.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise today to speak about the nomination of Judge John Roberts to be Chief Justice of the United States.

We have had a lot of debate on the Senate floor. We certainly had Judiciary Committee hearings talking about our view of this nominee, exercising our right of advice and consent for the President's nomination, and each of us comes to this role of advice and consent with our own set of criteria.

What do I look for in the Chief Justice of the United States? First, and most importantly, are academic qualifications. Certainly John Roberts started his academic career looking toward a future of academic excellence. He has the background and the intelligence, which he exhibited in his hearings and in the meetings we had one-on-one with him. He also has proven his academic qualifications by excelling at Harvard in every discipline he studied.

Experience: You look for someone who has been tested by life. Someone who is in his 20s probably is not yet ready for cases and laws that will be interpreted for our country because he has not had all of life's experiences to mold him into the person he is going to be—knowing life's difficulties and what the laws are like to live with in the private sector. Looking for experience is very important to me.

Judge Roberts is 50 years old. I think that is exactly the right age to have the requisite experience and is, at the same time, young enough to help shape the Supreme Court. If confirmed, Judge Roberts would be one of the younger Justices in the history of our country.

I believe he will make a very important mark on the Court, and certainly as Chief Justice. From the beginning, he will have the opportunity to weigh in and do what he thinks is right in interpreting our Constitution and keeping the Supreme Court as an equal—not better, not lower—branch of our government.

Of course, the balance of powers in the three branches of Government is what has kept our democracy, our Republic, and our Constitution so relevant for the entire history of our country. The checks and balances in the three branches of Government have been what has allowed the Constitution to stay true to the democracy that it has supported for more than 200 years.

With regard to knowledge of the law and the key rulings of the Supreme Court, I do not think any of us have ever seen a nominee, for any level of the judiciary, sit before the Judiciary Committee without notes and talk about all of the key rulings of the Supreme Court—not only talking about the majority opinions and who wrote them, but also citing from the minority opinions and dissecting what those opinions meant in the context of the question. It was awesome to hear his knowledge of the law and of the key rulings of the Supreme Court.

Humility. A lot has been said about Judge Roberts' humility. It is good that he is a humble man and that he has talked about modesty. However, it was not a factor in my decision-making that he is modest. To me, he could have been an arrogant, smart man with experience, and I still would have supported him. The fact that he is modest is one added advantage that is worth noting, although it was not the prime factor in my decision.

Humility does relate to one other point that is important and worth mentioning; that is, the role of a judge with a lifetime appointment. When we have a lifetime appointment, it is, in my opinion, almost a leap of faith by those who are consenting to him, and certainly by the President who is nominating him, about what kind of accountability that judge will enforce on him or herself. It is a self-enforced accountability on which we must depend. As a matter of fact, when there is a lifetime appointment, unless something patently illegal is done, one will be in that position for an indefinite period of time, maybe even beyond the years of productivity. Having a judge who starts out humble is an advantage though not a deciding factor.

The role of a judge, as Judge Roberts has said on many occasions, is one of being a referee, an umpire; not the batter, not the pitcher. That is a good analogy. A judge with a lifetime appointment certainly is not accountable to an electorate and is no longer accountable to the people who appointed him or her and the people who consented to the nomination. You have to appoint someone who has a pretty good feel for his role in society and in the government. You hope that person is going to remain in the role of a judge, interpreting the law and being faithful to the Constitution, and not step out of that role to become a lawmaker or a decision-maker of the law.

Judge Roberts said during all of his hearings, in response to the questions that were asked of him, the rule of law was so important to him it was the central point that made him want to be a lawyer. I believe the rule of law protects the rights and liberties of all Americans against the tyranny of the majority and against the tyranny of the minority. It is the rule of law, as Theodore Roosevelt once said, that was very simply stated: "No person beneath the law; no person above the law."

Judge Roberts testified he became a lawyer, or at least developed as a lawyer, because he believes in the rule of law. He put it best when he said, if "you believe in civil rights, you believe in environmental protection, whatever the area might be, believe in rights for the disabled, you're not going to be able or effectively to vindicate those rights if you don't have a place that you can go where you know you're going to get a decision based on the rule of law. . . .So that's why I became a lawyer, to promote and vindicate the rule of law."

It is this commitment to the rule of law we must expect in our judiciary. I remember in particular during the hearings the answer to a question I appreciated very much. One of the members of the Judiciary Committee was trying so hard to find out how Judge Roberts would rule—even lean—in a case, so he gave an example. And he said: "Now, what I am trying to find out is, will you vote for the little guy?"

Judge Roberts said:

> If the law is on the side of the little guy, I will vote for the little guy. If the law is on the side of the big guy, I will vote for the big guy.

That is what the rule of law is. As one senior justice on the Fifth Circuit Court of Appeals remarked, the Honorable Tom Reavley:

> The social order and well-being of our country depends upon the preservation of and allegiance to the rule of law.

You can tell a lot about a person by whom he admires and why. I thought one part of Judge Roberts' testimony told us a lot about him. It was about Judge Henry Friendly. Judge Friendly is one of the great justices in the history of our judiciary. He said Judge Friendly had a total devotion to the rule of law and the confidence that if you just worked hard enough at it, you would come up with the right answers. He especially pointed out that Judge Friendly kept at every stage of deciding a case, including reversing his opinion when he found, while writing an opinion, that his original decision—the one he had already written a majority decision on—no longer seemed to be the right one. Then he would take the best majority opinion he could to the other judges and explain that he had changed his mind, and he was going to vote the other way.

Finally, you could see Judge Roberts' admiration for Judge Friendly when he described his humility. He remarked that Judge Friendly was a genius and that most people would agree he would have made a better decision on most matters than the legislature or a Federal agency. Still, Judge Roberts explained that Judge Friendly insisted on deferring to them, the other branches of Government, because those decisions were supposed to be made by the other branches rather then a judge who was supposed to simply consider whether their decisions conformed to the law.

In these remarks Judge Roberts made about his mentor, as well as his own reflections on the rule of law, we clearly see the kind of Chief Justice that Judge Roberts will be. He is the sort of Chief Justice our Nation should have, that our Nation needs. I will support Judge John Roberts to be elevated to Chief Justice of the United States.

I am very pleased this process has gone as smoothly as it has. The President nominated Judge Roberts after direct consultation with almost every Member of the Senate—certainly every Member who had an opinion to give. The hearing process and the time devoted to looking into the background of the nominee was certainly sufficient. The Judiciary Committee had ample time to ask its questions, and we were enlightened by his answers. I believe the Senate will overwhelmingly confirm Judge Roberts. I think he will be one of the great Chief Justices in the history of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the nomination of John Roberts to be Chief Justice to the Supreme Court.

I note, as did the Senator from Texas, this has been a relatively smooth process. We should all be glad for that. It has been one that maybe has taken a little bit longer than some would have hoped. Everything seems to take longer in the Senate. Maybe that is part of the process. It is a process that is straightforward and clear. This is a life appointment, and for that reason alone it should be a process that is very deliberate and thorough.

It is unfortunate that some people have used the deliberate nature of the process to accentuate the dramatic. There has probably been an excess of hyperbole and an excess of rhetoric probably on both sides of the aisle as we consider this nomination. This is something that has been done before; it will be done again for decades to come. The Senate approves nominations for the judiciary all the time. It should be something we are accustomed to and feel comfortable in doing and do in the natural course of things rather than deal with the rhetoric and the hyperbole and sometimes the partisan tactics we have seen, even in this nomination, albeit it has been relatively smooth.

The hearings are a case in point. One would expect the bulk of nomination hearings to be taken up by testimony from the nominee to be a Justice, to be the Chief Justice of the Supreme Court, the bulk of the hearings to be taken up by that nominee answering questions or responding to queries. For those who did watch the hearings, they would agree the bulk of the hearings seemed to be taken up by very lengthy, and at times self-indulgent speeches by members of the committee. I don't think that serves the institution particularly well when we view the nomination process or these hearings as an opportunity to talk about ourselves, to talk about our view of the world, to talk about what we want, rather than to talk about what the country or the judiciary needs.

We seek—and I think opponents and supporters of Judge Roberts would agree with this statement—individuals who are well-qualified to serve on the bench. I argue, to the chagrin of ideologues on both sides, we have found just that in John Roberts. I say to the chagrin of people on both sides because in the past the smallest perceived or argued concern about an individual's qualification would be used as a screen or as a justification for voting against a nominee. In the absence of that decoy, the truth is laid bare that the only reason to object to such a qualified nominee is on partisan or ideological grounds.

Judge Roberts is eminently qualified. I don't need to describe his unbelievably strong record not just as a judge but as an individual bringing cases before the court. He has very distinguished experience in the private sector, as well as Harvard Law School. In recognizing this individual is among the most qualified ever to come before the Senate, his opponents are forced to recognize that their vote against him is simply because he fails their litmus test of partisan ideology because he refuses to tell legislators how he is going to vote on cases that are yet to come before the court because he believes that Justices should decide cases and not write the law.

There are some Members who have already stated their decision to vote against him for just these reasons. But those are the very reasons, or the very principles, that should be the foundation of an independent and impartial judiciary. So when John Roberts' opponents, when those Senators who are going to vote no, say: He is well respected, well qualified, has a great record on the bench, a great academic record and great experience, but I am going to vote against him anyway, they are saying, I am going to vote against him because he does not fit my view of ideology because he has not committed to vote a particular way on a particular case. That is to say, I am voting against John Roberts because I do not want an impartial or independent judiciary.

That is a wrong and, in fact, dangerous view of what the judiciary should be.

They are opposing a capable, accomplished, well-qualified individual, and in doing so they are casting a vote against an independent and impartial judiciary. Those who will vote would take to this floor and say: No, that is not the case at all; we are for an independent and impartial judiciary. But I cite for them the very example, the very testimony that was cited earlier by the Senator from Texas. She spoke about a question that concluded in the Judiciary Committee: Will you vote for the little guys? That very question indicates that someone had already presupposed what the best vote was for that case, hypothetical or not. And if you are looking for a judge who agrees with your presupposed verdict in a case, or your presupposed vote in a case, then you have no interest in an impartial or independent judiciary. I think it is very difficult to argue the contrary.

This is not just a slippery slope, this is a dangerous precedent to set—left or right, liberal or conservative. To ask any judge, whether it is for the Supreme Court or for the Federal judiciary or the appeals court, to sit in front of a room of elected legislators and ask them about the position that they would take in cases that they are yet to hear is to stand up in front of your constituents, to stand up in public and say: I don't want an independent judiciary. I do not want an impartial judiciary. I just want someone who will commit to me to vote a specific way.

That is not what any judiciary should do. That is not how judges should comport or handle themselves, and that means that I will not always agree with cases and decisions rendered by the Supreme Court or my judge or Justice, but it means that as an elected official or as an American feeling confident that instead of looking for a biased judiciary; a judiciary that handles its job like a politician selling votes to get where they are, I can sleep at night knowing that I have cast votes consistently for an independent, impartial, well-qualified judiciary.

I think if you talk to the Republicans who are in the Senate who voted nearly unanimously for Judge Ruth Bader Ginsburg, they will argue that is exactly what they had in their minds—not casting a vote for a judge that would vote a particular way but voting for someone who at the end of the day they recognized was capable, was well qualified, and therefore would bring those skills and that capability to the judiciary in a direct and impartial way. Judge Roberts, in his testimony, summarized the importance of this approach quite well. He said the role of a judge is limited. The judges are to decide the cases before them; they are not to legislate. They are not to decide cases.

I think it was Justice White who first used those two words to describe the role of a judge as a Supreme Court Justice—decide cases, and decide those cases based on the text of the Constitution as it is written, not as any one of us wishes that it might have been written. I think in Judge Roberts we find just such an individual who is qualified, who is capable, who will, I hope, sit on the bench for a long time supporting, verifying, and validating this very concept of an independent and impartial judiciary. And those who vote against him set a bad precedent in striking a blow and casting a vote against that independence and impartiality that the Framers so hoped for our country for years to come.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 4:45 to 5:45 p.m. will be under the control of the Democratic side.

The Senator from Minnesota.

Mr. DAYTON. I ask unanimous consent that the RECORD show that the remarks of the members of the majority caucus have exceeded their allotted time by 5 minutes, and that the hour allotted under the previous order to the Democratic caucus be extended by those 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. I thank the Chair.

I rise today to oppose the nomination of Judge John G. Roberts, Jr., to be the next Chief Justice of the U.S. Supreme Court. The available record of Judge Roberts' writings during his public career in the administrations of President Reagan and the first President Bush and his very brief 2½ years as a judge on the DC Circuit Court of Appeals reveal his persistent opposition to laws enforcing desegregation, protecting minority voting rights, guaranteeing public education to a student with disabilities, and providing damages to a student who had been sexually abused by a teacher.

He, regrettably, declined repeated invitations by Senators during the recent Judiciary Committee hearings to recant or modify some of his most extreme and disturbing statements and positions. For example, in the 1981 memo to White House Counsel Fred Fielding, Judge Roberts referred to Mexican immigrants as "illegal amigos." Before the Judiciary Committee he claimed "it was a play on the standard practice of many politicians, including President Reagan, when he was talking to a Hispanic audience, he would throw in some language in Spanish."

Pressed again, he replied:

> The tone was, I think, generally appropriate for a memo from me to Mr. Fielding.

I strongly disagree.

Also, during the Reagan administration, Judge Roberts was one of the lawyers in the Justice Department fighting against any improvements to the Voting Rights Act, according to William L. Taylor in the New York Review of Books.

Mr. President, I highly commend this article to my colleagues.

Judge Roberts reportedly drafted a letter sent to Senator Strom Thurmond urging him to oppose the bill extending the Voting Rights Act, which the House had passed by a vote of 389 to 24. Despite Judge Roberts' opposition and the opposition of President Reagan, the Senate passed the bill 85 to 8, with Senator Thurmond voting with the majority. President Reagan signed it into law 10 days later.

In the recent judiciary hearings Judge Roberts claimed his respect for precedent, but he clearly showed no respect for the 1965 Voting Rights Act when he opposed it 16 years later.

In 1982, Judge Roberts opposed the claims of a deaf student that she should have the classroom services of a sign language interpreter under the Federal Education for All Handicapped Children Act. He went so far as to write the Attorney General disagreeing with the Solicitor General's support for the student when her case went before the Supreme Court. In Judge Roberts' letter to the Attorney General, he reportedly referred to Supreme Court Justices William Brennan and Thurgood Marshall as "the activist duo" who used the Solicitor General to support "an activist role for the courts."

That he would write the Attorney General criticizing the Solicitor General does not support his claim that he was then merely a staff attorney reflecting the views of his superiors.

Judge Roberts did not fair so well 10 years later when, as Deputy Solicitor

General, he argued that another student, a 10th-grade girl, had no right to damages after having been sexually harassed by a teacher. This time the Rehnquist Supreme Court, which included Justices Scalia and Thomas, rejected Judge Roberts' position and ruled in the girl's favor.

Given these and other indications of Judge Roberts' legal views and judicial philosophy, it is especially troubling that he and President Bush refused Senators' requests for other documents he wrote while he was the Deputy Solicitor General. And given his unwillingness before the Senate Judiciary committee to disavow any of his earlier known writings, I can only assume that later hidden documents contained views as bad or worse.

What Judge Roberts' available writings do show is a man born into wealth and privilege and thereby given all of the advantages to assure his success in life, who consistently opposed even lesser opportunities for Americans born into less fortunate circumstances. He called school desegregation "a failed experiment." He claimed that Federal law entitled the deaf student only to a "free, appropriate education," and denounced the "effort by activist lower court judges" to give her more. He opposed compensatory damages for the student sexually harassed by her teacher even though the Federal Government was not a party in the case, writing that it had "an investment in assuring that private remedies do not interfere with programs funded by title IX."

My principal concerns are not about Judge Roberts' mind but about his heart.

Of even greater concern, because it was so recent, was Judge Roberts' failure to recuse himself from a case before the court of appeals which involved President Bush as a principal defendant while he was being considered for nomination to the Supreme Court. Reportedly, Judge Roberts' first interview with the U.S. Attorney General regarding his possible nomination to the Supreme Court occurred last April 1, before the case was argued before the appeals court panel on which Judge Roberts was one of the three judges. On May 3, Judge Roberts evidently met with Vice President CHENEY, White House Chief of Staff Andrew Card, Attorney General Gonzales, and senior White House adviser Karl Rove regarding his possible nomination. On May 23, White House Counsel Harriet Miers interviewed Judge Roberts again.

On July 15, Judge Roberts and another judge on the appeals court panel ruled entirely in President Bush's favor and against the plaintiff. Four days later, the President nominated him to the Supreme Court. The plaintiff and his attorney were reportedly unaware of Judge Roberts' job interviews with the President's legal counsel and closest associates until his August response to the Senate Judiciary Committee's questionnaire.

Holding those job interviews, not disclosing them to the plaintiff's counsel, and not recusing himself from the case after the interviews began all violated Federal law under disqualification of judges according to a Slate magazine article, which continued:

> Federal law deems public trust in the courts so critical that it requires judges to step aside if their impartiality might be reasonably questioned even if the judge is completely impartial as a matter of fact.

As Justice John Paul Stevens wrote in a 1988 Supreme Court opinion:

> The very purpose of this law is to promote confidence in the judiciary by avoiding the appearance of partiality whenever possible.

Mr. President, I ask unanimous consent that the Slate magazine article entitled "Improper Advances: Talking Dream Jobs with the Judge Out of Court" be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DAYTON. It seems clear to this Senator that the only way to avoid the appearance of impropriety deciding a case directly involving the President of the United States while being considered by him for nomination to the Supreme Court was for Judge Roberts to remove himself from the appeals court panel. At a minimum he should have disclosed those interviews to the plaintiff and his attorney.

When asked about this case during the Judiciary Committee's hearings, Judge Roberts declined to acknowledge any regret for his actions even with the benefit of hindsight. I find his lack of self-awareness to be shocking. Can an impartial observer not wonder whether Judge Roberts would have been nominated by the President to the Supreme Court if he ruled against the President 4 days earlier?

Obviously, the instances I have cited do not comprise the complete public record of Judge Roberts. Regrettably, as I said earlier, we will not have the complete record because important documents from his tenure as Deputy Solicitor General in the first Bush administration are being withheld from us. These and other similar incidents do, however, raise sufficient doubts and concerns so that I cannot vote to confirm Judge Roberts as the next Chief Justice of the U.S. Supreme Court. My doubts and concerns are magnified by the enormity of his influence over the Court and the country during, given his age and life expectancy, probably the next 30 to 40 years.

I disagree with my colleagues and fellow citizens who view the current Supreme Court as some liberal bastion.

In fact, seven of the nine Justices were nominated by Republican Presidents. During the past decade, the Rehnquist Court rejected congressional actions on affirmative action, violence against women, Americans with disabilities, age discrimination in employment, and enforcement of environmental laws. Many crucial cases were decided by 5-to-4 votes. I view the current Supreme Court as closely divided between this country's conservative center and its far-right extreme. I fear this nominee and the President's next nominee will shift the Court drastically and destructively toward that far-right extreme. That may form the President's political base, but it does not constitute the country's citizen base.

The Supreme Court belongs to all Americans, not just a politically favored minority. Its Justices should be exactly what many right-wing activists don't want—men and women of moderate, independent views who will decide cases from mainstream judicial and social perspectives rather than extreme ideological prisms. How much do the Court's opinions matter to the lives of all Americans? Enormously, more than we realize and much more than we take for granted.

I ask unanimous consent that an article from Harper's magazine by University of Chicago law professor Cass R. Sunstein be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. ALEXANDER.) Without objection, it is so ordered.

(See exhibit 2.)

Mr. DAYTON. He pointed out that in 1920, minimum wage and maximum hour laws were unconstitutional in this country. In 1945, he wrote, the Supreme Court permitted racial segregation, did not protect the right to vote, and gave little protection to political dissent. Fortunately, subsequent Supreme Courts reversed those decisions. Unfortunately, subsequent Supreme Courts can reverse them again.

Millions and millions of Americans depend upon the rights and protections secured by those and other longstanding laws, and they assume those rights and protections are guaranteed, not provisional, and not contingent upon who is sitting on the Supreme Court. Those millions of Americans, most of whom do not share the extreme views of the Republican Party's radical right wing, deserve to continue their lives with the rights and protections established by previous Supreme Courts. Those citizens and this Senate are entitled to know whether a Chief Justice Roberts and a Roberts Supreme Court would respect and uphold those long-established precedents and principles or reject them. Instead, we are being asked to wonder now and wait to find out later. That is too risky a gamble with the future of America and why I will vote against Judge Roberts' nomination.

EXHIBIT 1

IMPROPER ADVANCES—TALKING DREAM JOBS WITH THE JUDGE OUT OF COURT

(By Stephen Gillers, David J. Luban, and Steven Lubet)

Four days before President Bush nominated John G. Roberts to the Supreme Court on July 19, an appeals court panel of three judges, including Judge Roberts, handed the Bush administration a big victory in a hotly, contested challenge to the president's military commissions. The challenge was brought by Salim Ahmed Hamdan, a Guantanamo detainee. President Bush was a defendant in the case because he had personally, in writing, found "reason to believe" that Hamdan was a terrorist subject to military tribunals. The appeals court upheld the rules the president had authorized for these military commissions, and it rejected Hamdan's human rights claims—including claims for protection under the Geneva Conventions.

At the time, the close proximity of the court's decision and the Roberts nomination suggested no appearance of impropriety. Roberts had been assigned to hear the appeal back in December, and it was argued on April 7. Surely he had decided the case long before the administration first approached him about replacing Supreme Court Justice Sandra Day O'Connor, who had announced her retirement on July 1. As it turns out, however, the timing was not so simple.

The nominee's Aug. 2 answers to a Senate questionnaire reveal that Roberts had several interviews with administration officials contemporaneous with the progress of the Hamdan appeal. One occurred even before the appeal was argued. Attorney General Alberto Gonzales interviewed the judge on April 1. Back then, it was an ailing Chief Justice William H. Rehnquist, not Justice O'Connor, who was expected to retire. The attorney general, of course, heads the Justice Department, which represents the defendants in Hamdan's case. And as White House counsel, Gonzales had advised the president on the requirements of the Geneva Conventions, which were an issue in the case.

The April interview must have gone quite well because Roberts next enjoyed what can only be labeled callback heaven. On May 3, he met with Vice President Dick Cheney; Andrew H. Card Jr., the White House chief of staff; Karl Rove, Bush's chief political strategist; Harriet Miers, the White House legal counsel; Gonzales; and I. Lewis Libby, the vice president's chief of staff. On May 23, Miers interviewed Judge Roberts again.

Hamdan's lawyer was completely in the dark about these interviews until Roberts revealed them to the Senate. (Full disclosure: Professor Luban is a faculty colleague of Hamdan's principal lawyer.) Did administration officials or Roberts ask whether it was proper to conduct interviews for a possible Supreme Court nomination while the judge was adjudicating the government's much-disputed claims of expansive presidential powers? Did they ask whether it was appropriate to do so without informing opposing counsel?

If they had asked, they would have discovered that the interviews violated federal law on the disqualification of judges. Federal law deems public trust in the courts so critical that it requires judges to step aside if their "impartiality might reasonably be questioned," even if the judge is completely impartial as a matter of fact. As Justice John Paul Stevens wrote in a 1988 Supreme Court opinion, "the very purpose of [this law] is to promote confidence in the judiciary by avoiding even the appearance of impropriety whenever possible." The requirement of an appearance of impartiality has been cited in situations like the one here, leading to the disqualification of a judge or the reversal of a verdict.

In 1985, a federal appeals court in Chicago cited the requirement of the appearance of impartiality when it ordered the recusal of a federal judge who, planning to leave the bench, had hired a "headhunter" to approach law firms in the city. By mistake—and, in fact, contrary to the judge's instructions—the headhunter contacted two opposing firms in a case then pending before the judge. One firm rejected the overture outright. The other was negative but not quite as definitive. Writing for the Court of Appeals, Judge Richard A. Posner emphasized that the trial judge "is a judge of unblemished honor and sterling character," and that he "is accused of, and has committed, no impropriety." Nevertheless, the court ordered the judge to recuse himself because of the appearance of partiality. "The dignity and independence of the judiciary are diminished when the judge comes before lawyers in the case in the role of a suppliant for employment. The public cannot be confident that a case tried under such conditions will be decided in accordance with the highest traditions of the judiciary." Although both law firms had refused to offer him employment, the court held that "an objective observer might wonder whether [the judge] might not at some unconscious level favor the firm . . . that had not as definitively rejected him."

In the fall and winter of 1984, a criminal-trial judge in the District of Columbia was discussing a managerial position with the Department of Justice while the local U.S. attorney's office—which is part of the department—was prosecuting an intent-to-kill case before him.

Following the conviction and sentence, the judge was offered the department job and accepted. On appeal, the United States conceded that the judge had acted improperly by presiding at the trial during the employment negotiations. It argued, however, that the conviction should not be overturned. The appeals court disagreed. Relying on Judge Posner's opinion in the Chicago case, as well as the rules of judicial ethics, the court vacated the conviction even though the defendant did not "claim that his trial was unfair or that the [the judge] was actually biased against him." The court was "persuaded that an objective observer might have difficulty understanding that [the judge] did not . . . realize . . . that others might question his impartiality."

So, the problem in Hamdan is not that Roberts may have cast his vote to improve his chances of promotion. We believe he is a man of integrity who voted as he thought the law required. The problem is that if one side that very much wants to win a certain case can secretly approach the judge about a dream job while the case is still under active consideration, and especially if the judge shows interest in the job, the public's trust in the judiciary (not to mention the opposing party's) suffers because the public can never know how the approach may have affected the judge's thinking. Perhaps, as Judge Posner wrote, the judge may have been influenced even in ways that he may not consciously recognize.

A further complication here is that Roberts' vote was not a mere add on. His vote was decisive on a key question of presidential power that now confronts the nation. Although all three judges reached the same bottom line in the case, they were divided on whether the Geneva Conventions grant basic human rights to prisoners like Hamdan who don't qualify for other Geneva protections. The lower court had held that some provisions do. Judge Roberts and a second judge rejected that view. The third judge said Geneva did apply, but found it premature to resolve the issues it raised. Hamdan has since asked the Supreme Court to hear the case.

Roberts did not have to sit out every case involving the government, no matter how routine, while he was being interviewed for the Supreme Court position. The government litigates too many cases for that to make any sense. But Hamdan was not merely suing the government. He was suing the president, who had authorized the military commissions and who had personally designated Hamdan for a commission trial, explaining that "there is reason to believe that [Hamdan] was ... involved in terrorism."

Moreover, the Hamdan appeal is the polar opposite of routine for at least two reasons. First, its issues are central to the much-disputed claims of broad presidential power in the war on terror. Second, the court's decision on the Geneva Conventions has a spill-over effect on the legality of controversial interrogation techniques used by the government at Guantanamo and elsewhere. That is because the same provision of the Geneva Conventions that would protect Hamdan from unfair trials also protects detainees from cruel, humiliating, or degrading treatment. The D.C. Circuit's decision rejecting the Geneva Conventions' trial protections—a decision that hinged on Roberts' vote—also strips away an important legal safeguard against cruel and humiliating treatment that may fall just short of torture.

Given the case's importance, then, when Gonzales interviewed Roberts for a possible Supreme Court seat on April 1, the judge should have withdrawn from the Hamdan appeal. Or he and Gonzales, as the opposing lawyer, should have revealed the interview to Hamdan's lawyer, who could then have decided whether to make a formal recusal motion. The need to do one or the other became acute—indeed incontrovertible—when arrangements were made for the May 3 interview with six high government officials. (We don't know how long before May 3 the arrangements were made.)

We do not cite these events to raise questions about Roberts' fitness for the Supreme Court. In the rush of business, his oversight may be understandable. What is immediately at stake, however, is the appearance of justice in the Hamdan and the proper resolution of an important legal question about the limits on presidential power. Although the procedural rules are murky, it may yet be possible for Judge Roberts to withdraw his vote retroactively. That would at least eliminate the precedential effect of the opinion on whether the Geneva Conventions grant minimum human rights to Hamdan and others in his position. Better yet, the Supreme Court can remove the opinion's precedential effect by taking the Hamdan case and reversing it.

EXHIBIT 2

FIGHTING FOR THE SUPREME COURT—HOW RIGHT-WING JUDGES ARE TRANSFORMING THE CONSTITUTION

(By Cass R. Sunstein)

In current political theater surrounding George W. Bush's judicial nominations, and the anxiety over the nomination of John G. Roberts as swing Justice Sandra Day O'Connor's successor, there is surprisingly little discussion of what is actually at stake. For, in truth, the battle over the judiciary is part of a much larger political campaign to determine not only the constitutionality of abortion and the role of religion in public life but also the very character of our Constitution, and thus our national government. Many people assume (no doubt because this is what they are told) that the meaning of the Constitution is set in stone, and that the disputes raging in the Senate and on the Sunday talk shows are between liberal judicial activists and conservative "strict constructionists" who adhere to the letter of the text. In fact, the contest is much more complicated and interesting—and, in most important respects, this conventional view of the subject is badly wrong.

Historically, our political disagreements have produced fundamental changes in our founding document. When one president succeeds another, for example, and the makeup of the federal judiciary and the Supreme Court changes, the Constitution's meaning often shifts dramatically. As a result, our most basic rights and institutions can be altered. Participants in the current battle over the judiciary are entirely aware of this point: they know that the meaning of the Constitution will be determined by the battle's outcome, and that significant rights that Americans now take for granted—such as the right to privacy and the power of ordinary citizens to have access to the federal courts—are very much at stake.

In 1920 minimum-wage and maximum-hour laws were unconstitutional. As the Supreme Court interpreted the Constitution at that time, it could not possibly have permitted a Social Security Act or a National Labor Relations Act. In the 1930s, President Franklin Delano Roosevelt sought to legitimate the New Deal, whose centerpieces included minimum-wage and maximum hour laws, the Social Security Act, and the National Labor Relations Act. Roosevelt didn't try to change a word of the Constitution, but by 1937 a reconstituted Supreme Court upheld nearly everything that Roosevelt wanted. In 1945 the Constitution permitted racial segregation, did not protect the right to vote, permitted official prayers in the public schools, and gave little protection to political dissent. By 1970 the same Constitution prohibited racial segregation, safeguarded the right to vote, banned official prayers in the public schools, and offered broad protection not only to political dissent but also to speech of all kinds. If American citizens in 1945 were placed in a time machine, they would have a hard time recognizing their Constitution merely twenty-five years later.

In recent years a new form of judicial activism has emerged from private organizations, law schools, and the nation's courtrooms. Purporting to revere history, the new activists claim that they are returning to the original Constitution—which they sometimes call the Lost Constitution or the Constitution in Exile. The reformers include a number of federal judges, such as Supreme Court Justices Clarence Thomas and Antonin Scalia (though Scalia is more circumspect). Appointed by Ronald Reagan, George H.W. Bush, or George W. Bush, these judges do not hesitate to depart radically from longstanding understandings of constitutional meaning. They would like to interpret the Constitution to strike down affirmative-action programs, gun-control legislation, and restrictions on commercial advertising; they also seek to impose severe restrictions on Congress's powers and to invalidate campaign-finance regulations, environmental regulations, and much else. Justice Thomas would allow states to establish official religions. The logic of the new approach would even permit the federal government to discriminate on the basis of race and sex.

It is tempting to think that what we are seeing today is merely a periodic swing of some hypothetical judicial pendulum, that the courts are returning to a period of restraint after the liberal activism of the past sixty years. And, in fact, some principled conservatives have favored exactly that. But they increasingly find themselves on the defensive. Today, many people are seeking a kind of constitutional revolution—one that involves activism rather than restraint. Many right-wing activists are willing to undo what they readily acknowledge to be the will of the people. Their intentions are no secret; they are publicly proclaimed in articles, judicial opinions, and speeches. There is no question, moreover, that some of these extremists seek to curtail or abolish rights that most citizens regard as essential parts of our national identity. Indeed, it is difficult to escape the conclusion that it is precisely because their ideological goals are politically unachievable that they have turned to the courts.

This ambitious program is the culmination of a significant shift in conservative thought. In the 1960s and 1970s, many conservatives were committed to a restrained and cautious federal judiciary. Their major targets included Roe v. Wade, which protected the right to abortion, and Miranda v. Arizona, which protected accused criminals; conservatives saw these rulings as unsupportable judicial interference with political choices. Democracy was their watchword; they wanted the courts to back off. They asked judges to respect the decisions of Congress, the president, and state legislatures; they spoke insistently of the people's right to rule themselves. This is no longer true. Increasingly, the goal has been to promote "movement judges," judges with no interest in judicial restraint and with a demonstrated willingness to strike down the acts of Congress and state government. Movement judges have an agenda, which overlaps, as it happens, with that of the most extreme wing of the Republican Party.

In many areas, the new activists have enjoyed important victories. Consider the fact that the Rehnquist Court has overturned more than three dozen federal enactments since 1995, a record of aggression against the national legislature that is unequaled in the nation's history. In terms of sheer numbers of invalidations of acts of Congress, the Rehnquist Court qualifies as the all-time champion. A few illustrations:

The Rehnquist Court has thrown most affirmative-action programs into extremely serious doubt, suggesting that public employers will rarely be able to operate such programs and that affirmative action will be acceptable only in narrow circumstances.

The Rehnquist Court has used the First Amendment to invalidate many forms of campaign-finance legislation, with Justices Scalia and Thomas suggesting that they would strike down almost all legislation limiting campaign contributions and expenditures.

For the first time since the New Deal, the Rehnquist Court has struck down congressional enactments under the Commerce Clause. As a result of the Court's invalidation of the Violence Against Women Act, a large number of federal laws have been thrown into constitutional doubt. Several environmental statutes, including the Endangered Species Act, are in trouble.

Departing from its own precedents, the Rehnquist Court has sharply limited congressional authority to enforce the Fourteenth Amendment. In the process, the Court has struck down key provisions of the Americans with Disabilities Act, the Religious Freedom Restoration Act, and the Violence Against Women Act—all of which received overwhelming bipartisan support in Congress.

The Rehnquist Court has used the idea of state sovereign immunity to strike down a number of congressional enactments, including parts of the Age Discrimination in Employment Act and the Americans with Disabilities Act.

For the first time in the nation's history, the Rehnquist Court has ruled that Congress lacks the power to give citizens and taxpayers the right to sue to ensure enforcement of environmental laws.

Even so, the Rehnquist Court has not been a truly radical court, in large part because Justice O'Connor resisted large-scale change. The Court has hardly returned to the 1920s. It has not overruled Roe v. Wade. It has rejected President Bush's boldest claims of authority to detain suspected terrorists. It has struck down laws that criminalize same-sex relationships. It has not entirely eliminated affirmative-action programs. In especially controversial decisions, it has invalidated the death penalty for mentally retarded people and for juveniles. But even if those who seek to reorient the Supreme Court have not received all that they wanted, they have succeeded in producing a body of constitutional law that is fundamentally different from what it was twenty years ago. To a degree that has been insufficiently appreciated, the contemporary federal courts are fundamentally different from the federal courts of two decades ago. The center has become the left. The right is now the center. The left no longer exists.

Consider a few examples. Justices William Brennan and Thurgood Marshall were the prominent liberals on the Court in 1980; they did not hesitate to use the Constitution to protect the most disadvantaged members of society, including criminal defendants, African Americans, and the poor. Brennan and Marshall have no successors on the current Court; their approach to the Constitution has entirely disappeared from the bench. For many years, William Rehnquist was the most conservative member of the Court. He was far to the right of Chief Justice Warren Burger, also a prominent conservative. But Justices Antonin Scalia and Clarence Thomas are far to Rehnquist's right, converting him into a relative moderate.

In 1980 the Scalia/Thomas brand of conservative had no defenders within the federal judiciary; their distinctive approach was restricted to a few professors at a few law schools. But it is extremely prominent on the federal bench today. Justice John Paul Stevens is a Republican moderate, appointed to the Court by President Gerald Ford. For a long period, Justice Stevens was well known as a maverick and a centrist—independent-minded; hardly liberal, and someone whose views could not be put into any predictable category. He is now considered part of the Court's "liberal wing." In most areas, Justice Stevens has changed little if at all; what has changed is the Court's center of gravity.

Of the more cautious decisions in recent years, almost all were issued by a bare majority of 5–4 or a close vote of 6–3. With looming changes in the Court's composition, the moderate decisions might well shift in immoderate directions. We can easily foresee a situation in which federal judges move far more abruptly in the directions they have been heading. They might not only invalidate all affirmative-action programs but also elevate commercial advertising to the same status as political speech, thus preventing controls on commercials by tobacco companies (among others). They might strike down almost all campaign-finance reform; reduce the power of Congress and the states to enact gun-control legislation; and significantly extend the reach of the Fifth Amendment's Takings Clause, thus limiting environmental and other regulatory legislation.

I have said that the new activists believe the Constitution should be understood to mean what it originally meant. Because of their commitment to following the original understanding, we may call them judicial fundamentalists. When President Bush speaks of "strict construction," he is widely understood to be endorsing fundamentalism in constitutional law. Fundamentalists insist that constitutional interpretation requires an act of rediscovery. Their goal is to return to what they see as the essential source of constitutional meaning: the views of those who ratified the document. The key constitutional questions thus become historical ones. Suppose that the Constitution was not originally understood to ban sex discrimination, protect privacy, outlaw racial segregation, or forbid censorship of blasphemy. If so, that's that. Judges have no authority to depart from the understanding of 1789, when the original Constitution was ratified, or 1791, when the Bill of Rights was ratified, or 1868, when the Fourteenth Amendment was ratified.

Fundamentalists are entirely aware that current constitutional law does not reflect their own approach. They know that for many decades, the Court has not been willing to freeze the Constitution in the mold of the eighteenth and nineteenth centuries. For this reason fundamentalists have radical inclinations; they seek to make large-scale changes in constitutional law. Some fundamentalists, like Justice Scalia, believe in respecting precedent and hence do not want to make these changes all at once; but they hope to make them sooner rather than later. Other fundamentalists, including Justice Clarence Thomas, are entirely willing to abandon precedent in order to return to the original understanding. Many conservative activists agree with Thomas rather than Scalia.

Suppose the Supreme Court of the United States suddenly adopted fundamentalism and began to understand the Constitution in accordance with the specific views of those who ratified its provisions. What would happen? The consequences would be extremely dramatic. For example:

Discrimination on the basis of sex would be entirely acceptable. If a state chose to forbid women to be lawyers or doctors or engineers, the Constitution would not stand in the way. The national government could certainly discriminate against women. If it wanted to ban women from the U.S. Civil Service, or to restrict them to clerical positions, the Constitution would not be offended.

The national government would be permitted to discriminate on the basis of race. The Equal Protection Clause of the Fourteenth Amendment is the Constitution's prohibition on racial discrimination—and by its clear language, it applies only to state governments, not to the national one. Honest fundamentalists have to admit that according to their method, the national government can segregate the armed forces, the Washington, D.C., public schools, or anything it chooses. In fact, the national government could exclude African Americans, Hispanics, Asian Americans, whenever it liked.

State governments would probably be permitted to impose racial segregation. As a matter of history, the Fourteenth Amendment was not understood to ban segregation on the basis of race. Of course, the Supreme Court struck down racial segregation in its 1954 decision in Brown v. Board of Education. But this decision was probably wrong on fundamentalist grounds.

State governments would be permitted to impose poll taxes on state and local elections; they could also violate the one-person, one-vote principle. On fundamentalist grounds, these interferences with the right to vote, and many more, would be entirely acceptable. In fact, state governments could do a great deal to give some people more political power than others. According to most fundamentalists, there simply is no "right to vote."

The entire Bill of Rights might apply only to the national government, not to the states. Very possibly, states could censor speech of which they disapproved, impose cruel and unusual punishment, or search people's homes without a warrant. There is a reasonable argument that on fundamentalist grounds, the Court has been wrong to read the Fourteenth Amendment as applying the Bill of Rights to state governments.

States might well be permitted to establish official churches. Justice Clarence Thomas has specifically argued that they can.

The Constitution would provide much less protection to free speech than it now does. Some historians have suggested that on the original understanding, the federal government could punish speech that it deemed dangerous or unacceptable, so long as it did not ban such speech in advance.

Compulsory sterilization of criminals would not offend the Constitution. The government could ban contraceptives or sodomy. There would be no right of privacy.

This is an extraordinary agenda for constitutional law, and it provides only a glimpse of what fundamentalism, taken seriously; would seem to require. Should we really adopt it? During the controversy over the 1987 nomination of Judge Robert Bork to the Supreme Court, Judge Richard Posner, a Reagan appointee, produced an ingenious little paper called "Bork and Beethoven." Posner noticed that Commentary magazine had published an essay celebrating Bork's fundamentalism in the same issue in which another essay sharply criticized the "authentic-performance movement" in music, in which musicians play the works of great composers on the original instruments. Posner observes that the two articles "take opposite positions on the issue of 'originalism'—that is, interpretive fidelity to a text's understanding by its authors." While one essay endorses Bork's fidelity to the views of people in 1787, the other despises the authentic-performance movement on the grounds that the music sounds awful. If originalism makes bad music (or bad law), Posner asks, "why should the people listen to it?"

Fundamentalists get a lot of rhetorical mileage out of insisting that their approach is neutral while other approaches are simply a matter of "politics." But there is nothing neutral in fundamentalism. It is a political choice, which must be defended on political grounds. The Constitution doesn't set out a theory of interpretation; it doesn't announce that judges must follow the original understanding. Liberals and conservatives disagree on many things, but most would agree that the Constitution forbids racial segregation by the federal government and protects a robust free-speech principle. If fundamentalism produces a far worse system of constitutional law, one that abandons safeguards that are important to the fabric of American life, that must count as a strong point against it.

Fundamentalists often defend their approach through the claim that it is highly democratic—far more so than allowing unelected judges to give meaning to the constitutional text. But there is a big gap in their argument. Why should living people be governed by the particular views of those who died many generations ago? Most of the relevant understandings come from 1789, when the Constitution was ratified, or 1791, when the Bill of Rights was ratified. If democracy is our lodestar, it is hardly clear that we should be controlled by those eighteenth-century judgments today. Why should we be governed by people long dead? In any case, the group that ratified the Constitution included just a small subset of the society; it excluded all women, most African Americans, many of those without property, and numerous others who were not permitted to vote. Does the ideal of democracy really mean that current generations must follow the understandings of a small portion of the population from centuries ago? Yet fundamentalists want to strike down many laws enacted by the people's representatives. What's democratic about that?

I am not arguing that the Constitution itself should not be taken as binding. Of course it should be. The Constitution is binding because it is an exceedingly good constitution, all things considered, and because many bad things, including relative chaos, would ensue if we abandoned it. We're much better off with it than without it. But no abstract concept, like "democracy," is enough to explain why we must follow the Constitution; and invoking that concept is a hopelessly inadequate way to justify fundamentalism.

Fundamentalists have other problems. It is a disputed historical question whether those who ratified the Constitution wanted judges to be bound by the original understanding. The Constitution uses broad phrases, such as "freedom of speech" and "equal protection of the laws" and "due process of law"; it does not include the particular views of those who ratified it. Maybe the original understanding was that the original understanding was not binding. Maybe the ratifiers believed that the Constitution set out general principles that might change over time. If so, fundamentalism turns out to be self-defeating.

In any case, it isn't so easy to make sense of the idea of "following" specific understandings when facts and circumstances have radically changed. Does the free-speech principle apply to the Internet? Does the ban on unreasonable searches and seizures apply to wiretapping? To answer such questions, we cannot simply imagine that we have gone into a time machine and posed these questions to James Madison and Alexander Hamilton. For one thing, Madison and Hamilton would have no idea what we were talking about; for another, they probably wouldn't believe us if we explained it to them. Changed circumstances are pervasive in constitutional interpretation. To say the least, they complicate the fundamentalist project; they might even make it incoherent.

Many fundamentalists appeal to the idea of consent as a basis for legitimacy. In their view, we are bound by the Constitution because we agreed to it; we are not bound by the constitution of France or any model constitution that might be drafted by today's best and brightest. Although it's true that we're not bound by those constitutions, it is false to say that we're bound by the Constitution because "we" agreed to it. None of us did. Of course we benefit greatly from its existence, and most of us do not try to change it; but it is fanciful to say that we've agreed to it. The legitimacy of the Constitution does not lie in consent. It is legitimate because it provides an excellent framework for freedom and democratic self-government and promotes many other goals as well, including economic prosperity. The fundamentalists' arguments about legitimacy beg all the important questions. Ancient ratification is not enough to make the Constitution legitimate. We follow the Constitution because it is good for us to follow the Constitution. Is it good for us to follow the original understanding? Actually, it would be terrible.

Justice Antonin Scalia emphasizes the stability that comes from fundantalism, which, in his view, can produce a "rock-hard" Constitution. True, fundamentalism might lead to greater stability in our constitutional understandings than we have now. Unless readings of history change, the Constitution would mean the same thing fifty years from now as it means today. But fundamentalism would produce stability only by radically destabilizing the system of rights that we have come to know. At least as bad, fundamentalism would destabilize not only our rights but our institutions as well; many fundamentalists would like to throw the Federal Reserve Board, the Securities and Exchange Commission, and the Federal Communications Commission into constitutional doubt. In a way, fundamentalism would promote the rule of law—but only after defeating established expectations and upsetting longstanding practices on which Americans have come to rely.

Stability is only one value, and for good societies it is not the most import one. If an approach to the Constitution would lead to a little less stability but a lot more democracy, there is good reason to adopt it. Since 1950 our constitutional system has not been entirely stable; the document has been reinterpreted to ban racial segregation, to protect the right to vote, to forbid sex discrimination, and to contain a robust principle of free speech. Should we really have sought more stability?

Unfortunately, many fundamentalists are not faithful to their own creed. When their political commitments are intense, their interest in history often falters. Here's a leading example: Fundamentalists on the bench, including Justices Scalia and Thomas, enthusiastically vote to strike down affirmative-action programs. In their view, the Equal Protection Clause of the Fourteenth Amendment requires color blindness. History strongly suggests otherwise. In the aftermath of the Civil War, Congress enacted several programs that provided particular assistance to African Americans. The Reconstruction Congress that approved the Fourteenth Amendment simultaneously enacted a number of race-specific programs for African Americans. The most important examples involve the Freedmen's Bureau, created in 1865 as a means of providing special benefits and assistance for African Americans. The opponents of the Freedmen's Bureau Acts attacked the bureau on. the ground that it would apply to members of only one race. The response was that discrimination was justified in the interest of equality: "We need a freedmen's bureau," said one supporter, "not because these people are negroes, but because they are men who have been for generations despoiled their rights."

Curiously, fundamentalists don't investigate the pertinent history, but one of the explicit goals of the Fourteenth Amendment was to provide secure constitutional grounding for the Freedmen's Bureau Acts. It is peculiar at best to think that the Fourteenth Amendment prohibited the very types of legislation it was designed to legitimate. Voting to strike down affirmative-action programs, fundamentalists haven't offered a hint of a reason to think that such programs are inconsistent with the original understanding.

And this is just the beginning. Fundamentalists would very much like to strengthen the constitutional protection of property, especially by striking down "regulatory takings"—reductions in the value of property that occur as a result of regulation, including environmental protection. But the historical evidence, which fundamentalists ignore, shows that as originally understood, the Constitution did not protect against regulatory takings. The most careful survey, by legal historian John Hart, concludes that "the Takings Clause was originally intended and understood to refer only to the appropriation of property"-and that it did not apply to regulation.

Hart demonstrates that regulation was extensive in the founding period and that it was not thought to raise a constitutional question. Buildings were regulated on purely aesthetic grounds, and no one argued that compensation was required. States asked farmers who owned wetlands to drain their lands and to contribute to the costs of drainage—all without any complaints about "taking." Some landowners were forbidden to sell their interests in land, and compensation was not required. In numerous cases, the public interest took precedence over property rights. Of course, government was not permitted literally to "take" land. But regulation was pervasive, and it was not considered troublesome from the constitutional point of view.

Fundamentalists usually don't even try to muster historical support for their view that the Constitution protects commercial advertising and bans campaign-finance legislation. Fundamentalists, including Justices Scalia and Thomas, vote to ban Congress from authorizing taxpayers to bring suit in federal court to enforce environmental laws. But they don't even investigate the historical evidence, which strongly suggests that they're wrong. In England and in early America, it was perfectly conventional for government to-give taxpayers the right to sue to enforce the law. No one suggested that such suits were unconstitutional.

In the same vein, many fundamentalists, including Justice Thomas, believe that the Constitution grants broad "war power," or authority "to protect the national security," to the president. But the text and history of the Constitution strongly suggest a careful effort to divide power between Congress and the president. If we favor "strict construction," we will not believe that the president has a general "war power." Perhaps most notably, Congress, not the president, has the power to "declare War." The Constitution also grants Congress, not the president, the power to "raise and support Armies." It authorizes Congress to "provide and maintain a Navy." The founding document permits Congress to "make Rules for the Government and Regulation of the land and naval Forces." It is Congress that is authorized to raise funds to "provide for the common Defense and general Welfare of the United States." Congress, not the president, is empowered to "regulate Commerce with foreign Nations." Congress is also authorized to "define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations," as well as to "make Rules concerning Captures on Land and Water."

In this light the Constitution does not repose in the president anything like a general authority "to protect the national security." Fundamentalists neglect the most natural reading of the document, which is that protection of national security is divided between Congress and the president-and that if either has the dominant role, it is the national lawmaker. To be sure, the Commander in Chief Clause does give the president direction of the armed forces, an expansive authority; but even that authority is subject to legislative constraints, because Congress controls the budget and because Congress can choose not to declare war. And if Congress refuses either to authorize the use of force or to declare war, the president is usually not entitled to commence hostilities on his own. In arguing that the Constitution gives the president "the war power," fundamentalists ignore the document itself.

Much of the time, the emphasis on "original understanding" turns out to be a sham—a rhetorical smoke screen for an aggressive political agenda that would never survive the scrutiny of the political process. Writing in the midst of World War II, Learned Hand, the great court of appeals judge, wrote that the "spirit of liberty is the spirit which is not too sure that it is right." Claiming their own neutrality, fundamentalists are all too willing to engage in partisan politics under the guise of constitutional law; in so doing, they defy liberty's spirit.

Mr. DAYTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I rise to announce that I will vote to confirm Judge Roberts to serve as Chief Justice of the United States. As I see it, we must ensure that a nominee will serve the interests of the people and interpret the Constitution without any preconceived notions or agendas. On the highest Court in our Nation, the nominee will decide cases with the potential to move our country forward and to strengthen our democracy. This Court, under the leadership of Judge Roberts, if he is confirmed as the next chief justice, likely will hear cases addressing important issues, such as the right to privacy and the role of religion in public life; decisions that will impact all of our lives, as well as the direction of our country, for years to come. We must therefore be deliberative in our decision and, to the extent possible, make sure the President's nominee will not allow any personal bias or political beliefs to color the administration of justice or the interpretation of the Constitution.

On August 10, I met with Judge Roberts in my office. I came back to Washington during the August recess, where I was conducting town hall meetings in Florida, so that I could look Judge Roberts in the eye and get his response to questions that were important to Floridians, and would allow me to assess his fitness to serve. Following that meeting, and in the weeks leading up to today, I have listened to the testimony during his confirmation hearing in the Judiciary Committee. I have reviewed the decisions he wrote as a judge on the D.C. Circuit Court of Appeals, and I have looked at his writings from the time when he was an attorney in the Reagan administration. I also considered the views of my constituents who have called my office and written letters.

In our meeting last August, I could clearly see that he is a man who possesses a certain amount of humility. I found this very attractive. Despite his impressive academic and professional record and legal credentials, he did not appear arrogant, nor did he appear to be inflexible. I specifically talked to him about one of the things that is missing today in America. As we get so divided, we get increasingly highly partisan and ideologically rigid. It makes it difficult to govern a nation as large and as broad and as diverse and as complicated as this Nation is unless we can be tolerant toward one another, unless we can reach out and bring people together. As the Good Book says: Come, let us reason together.

Judge Roberts expressed to me reverence for both the Court and the rule of law. He said he was honored to be a nominee to serve on the same Court on which he used to work as a clerk. And, I told him what a great honor it was for me as a Senator to participate in this constitutional process. His responses to several of the questions I posed to him during our meeting form the basis for my decision to support his nomination. I wish to share some of those responses now.

I asked Judge Roberts whether he believed he could put aside his personal beliefs and be fair. He assured me that any personal beliefs he has, be they based on religion or other issues, personal beliefs that all of us carry, would not factor into any of his decisions. He said that they had not while he served on the D.C. Circuit Court of Appeals, and they would not if he is confirmed to the Supreme Court.

The oath of a judge, he noted, is to faithfully follow the rule of law and set aside personal beliefs. To ensure the fair and objective application of the law so that each litigant appearing before the court receives a fair chance with the same rules applied to each regardless of personal views, with justice meted out to both poor and rich, black and white, equally and based on the law.

Decisions of the Court must be reached with sound explanations, and the facts and the law alone determining the outcome.

I take Judge Roberts at his word.

I also asked Judge Roberts about two issues important to the citizens of Florida: the right to privacy and the Court's respect for congressional authority, the separation of powers doctrine. When I asked Judge Roberts whether he recognized a right to privacy, either express or implied in the U.S. Constitution, he informed me that he does. He noted several amendments to the U.S. Constitution in which he believed this right was recognized. This response to me on August 10 was consistent with his testimony before the Judiciary Committee. It was during his testimony before that committee that he stated that he believed a right to privacy exists in the 14th amendment, the 4th amendment, the 3rd amendment, and the 1st amendment. This recognition was vital in reassuring me that he would not interpret the Constitution to limit individual freedoms and allow the Government broad powers to intrude into the lives of its citizens—something that makes our society unique compared to other societies in the world. The rule of law protects our citizens from the intrusion of the Government.

Then we had a discussion of Kelo v. New London, CT. It is the Court's recent ruling regarding eminent domain. Judge Roberts refused to relay his own personal opinion as to whether he believed the opinion reached by the Court was correct, the split 5-to-4 decision, of which Justice O'Connor was one of the vigorous dissenting Justices.

In our discussion of the opinion he used the words "a person's home is their castle." He noted that the majority decision in Kelo provided that it was not for the Court to draw the line between what is permissible public use in the taking of private property, and that it was up to the legislative branch of Government to establish limits and to set constraints.

I appreciated that answer.

Now it is important for me to also address the concerns raised by some Floridians who urged me to vote against Judge Roberts' confirmation. They are worried that we are taking a big gamble with Judge Roberts, as we know very little about what he believes, and I share some of those same concerns, particularly with the administration not willing to come forth with some of the documentation that was asked for.

And, if not for his strong legal credentials and his repeated public and private statements and assurances that he would act independently on the bench, not allowing any personal beliefs to color his decisions, then I am not certain that I would have reached the decision to support his confirmation.

It is impossible to predict how Judge Roberts, if confirmed, will vote on any particular case that comes before the Supreme Court. All we can do, as Senators, is look at the nominee's judicial philosophy to determine whether the nominee will be faithful to the rule of law and to the U.S. Constitution and set aside personal or political beliefs and ideologies to ensure that the law and the facts govern judicial decisions; that all citizens of this country can go before the courts of this land and be treated equally and fairly under the law. Judge Roberts has pledged to be that type of Chief Justice, and that is why I have concluded that I will vote for the confirmation of his nomination.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this will be the 10th Supreme Court nomination on which I will have voted. With every nomination, I have used the same basic test. If the nominee satisfies fundamental requirements of qualification and temperament, there are two traits that I believe should still disqualify a nominee: If a nominee possesses a rigid ideology that distorts his or her judgment and brings into question his or her fairness and openmindedness; or if any of the nominee's policy values are inconsistent with fundamental principles of American law.

Judge Roberts possesses extraordinary credentials suitable for this revered position. That he is highly qualified is not in doubt, and to say that he is highly capable is an understatement. Judge Roberts has an unusually fine legal mind. His ability to cite and to synthesize case law has impressed us all. He has great respect for the law and extensive experience arguing cases before the Supreme Court.

Judge Roberts is articulate and unflappable, with both a judicial temperament and a personal demeanor worthy of our highest Court. It is easy to understand why he is so liked and respected by those who know him.

While nearly everyone agrees he is qualified, concerns have been raised about Judge Roberts' earlier writings, and I share some of those concerns. More important, though, are the views he holds today. Is he an ideologue or is he capable of revising his views as he receives new evidence or hears new arguments?

During the confirmation hearings, Judge Roberts was pressed on many significant issues raised by his prior writings. He did not answer as an ideologue would. For the most part, he gave reassuring responses showing welcomed shifts—some subtle and some not so subtle—away from ideology and toward moderation. Here are a few examples.

As a young White House lawyer, Judge Roberts wrote several times on the question of Executive power, and he was supportive of broadly expanding the power of the President. Yet, relative to the power of the Executive to act in violation of an act of Congress, he said in his confirmation hearing:

> If it's an area in which Congress has legitimate authority to act, that would restrict the executive authority.

In 1981, while working in the Attorney General's Office, Judge Roberts wrote:

> Affirmative action program(s) required the recruiting of inadequately prepared candidates.

During his confirmation hearings, however, Judge Roberts told the Judiciary Committee something that sounded quite different with respect to affirmative action. He stated:

> The court permits consideration of race or ethnic background, so long as it's not sort of a make-or-break test.

He also stated:

> If a measured effort that can withstand scrutiny is affirmative action of that sort, I think it's a very positive approach.

In 1991, during his work as the Principal Deputy Solicitor General, Mr. Roberts was a signatory to a Government brief that stated in part:

> We continue to believe that Roe v. Wade was wrongfully decided and should be overruled.

However, Judge Roberts was asked during the recent hearings:

> Do you think there's a liberty right of privacy that extends to women in the Constitution?

He replied:

> Certainly.

Judge Roberts also stated regarding Roe v. Wade that "it's settled as a precedent of the court, entitled to respect under the principles of stare decisis."

There have also been questions about positions he took while in private practice. As a private lawyer, Judge Roberts argued a number of times against the power of Congress to legislate in several areas—attempting to limit the scope of the Americans with Disabilities Act, the Clean Water Act, and against the ability of Congress to withhold Federal funds from States with a drinking age lower than 21.

While I disagree with the positions he took, he was advocating the position of his clients, not necessarily his own positions. And during his confirmation hearings, Judge Roberts said with respect to congressional power under the commerce clause:

> It would seem to me that Congress can make a determination that this is an activity, if allowed to be pursued, that is going to have effects on interstate commerce.

There were times in the past when it appears he went beyond the position of his client to advocate for his own more restrictive views. For example—although I do not believe it was the position of the Reagan administration regarding Federal habeas corpus—Judge Roberts suggested that the Supreme Court could lessen its workload if habeas corpus petitions were taken off its docket.

On this issue, too, though, his thinking appears to have evolved. Judge Roberts said to the Judiciary Committee and reiterated to me his belief that habeas corpus is an important and legitimate tool in the search for due process and justice. Judge Roberts said that in those early memos he was opposing the repetitious habeas corpus petitions that appeared to be gaming the system, not the core right of access to Federal courts for a habeas corpus petition.

An observer of the legal scene for whom I have great respect, Cass Sunstein, professor at the University of Chicago Law School, said the following recently about the Federal judiciary and this nomination:

> At this point in our history, the most serious danger lies in the rise of conservative judicial activism, by which the interpretation of the Constitution by some Federal judges has come to overlap with the ideology of right wing politicians. For those who are concerned about that kind of activism on the Supreme Court, opposition to the apparently cautious Judge Roberts seems especially odd at this stage.

Professor Sunstein also wrote:

> In [Judge Roberts'] two years on the Federal bench, he has shown none of the bravado and ambition that characterize the fundamentalists. His opinions are meticulous and circumspect. He avoids sweeping pronouncements and bold strokes, and instead pays close attention to the legal material at hand.

That is not what I consider to be the description of an ideologue.

One troubling aspect of the confirmation hearings was Judge Roberts' excessive reluctance at times to share his own views. While caution is understandable from a nominee, I wish Judge Roberts had been more willing to answer appropriate questions from Senators on a number of issues.

The administration has also made this process more difficult than it should be. Reasonable requests for relevant requests were denied. Although we have memos from his early service as a young lawyer in the Reagan administration, we still do not have his writings from the period when he was Deputy Solicitor General during the first Bush administration. The papers that were sought and denied were perhaps more significant than the ones that we received. The administration's refusal to provide those documents inevitably raises questions about what they might contain.

Frankly, I believe the administration has too often treated the confirmation process as something to escape from rather than an opportunity to assure the American people that a nominee shares their basic values. The nominations of John Bolton and Alice Fisher are recent examples of where relevant documents and information were denied the Senate. This is not helpful to the confirmation process nor to the Senate's ability to make an informed decision.

In an attempt to glean more information about the views of Judge Roberts, I asked him to meet with me, and he agreed to do so, although my request came late. Judge Roberts' responses gave me further confidence that he has an open mind and is not driven by ideology.

At our meeting, I reviewed his approach to the interpretation of the Constitution. I asked him whether he agreed with the Chief Justice in the Dred Scott case who wrote that the Constitution "must be construed now as it was understood at the time of its adoption, [and] it speaks not only in the same words, but with the same meaning and intent with which it spoke when it came from the hands of its framers."

Judge Roberts assured me that he meant what he said to the Judiciary Committee relative to interpreting the Constitution. In response to a question at his hearing about constitutional intent, Judge Roberts had answered:

> Just to take the example that you gave of the equal protection clause, the framers chose broad terms, a broad applicability, and they state a broad principle. And the fact that it may have been inconsistent with their practice may have meant that . . . their practices would have to change—as they did—with respect to segregation in the Senate galleries, with respect to segregation in other areas. But when they adopted broad terms and broad principles, we should hold them to their word and [apply] them consistent with those terms and those principles.

Judge Roberts continued, and this was to the Judiciary Committee:

> And that means, when they've adopted principles like liberty, that doesn't get a crabbed or narrow construction. It is a broad principle that should be applied consistent with their intent, which was to adopt a broad principle.

And then he said the following:

> I depart from some views of original intent in the sense that those folks, some people view it as meaning just the conditions at that time, just the particular problem. I think you need to look at the words they use, and if the words adopt a broader principle, it applies more broadly.

I also asked Judge Roberts about his 1982 memo which argued that "Congress has the constitutional authority to divest the Supreme Court of appellate jurisdiction in school prayer cases."

He assured me he was assigned to argue that position internally for discussion purposes in the Attorney General's office as a young lawyer and that, as he said at the Judiciary Committee hearing:

> If I were to look at the question today, to be honest with you, I don't know where I would come out.

At our meeting, I told Judge Roberts his answer to the question I had submitted for the Judiciary Committee's record as part of his confirmation hearing was counterintuitive and difficult to accept. This was my question to him, whether between January 2005 and the President's announcement of his nomination:

> Did you discuss with [Vice President CHENEY, Andrew Card, Karl Rove, Alberto Gonzales, Scooter Libby, and Harriet Miers] or others your views on the following: a, whether or not abortion related rights are covered by the right of privacy in the Constitution; b, powers of the President; c, constitutionality of allowing prayer in public places; d, the scope of the right of habeas corpus for prisoners; e, the extent of congressional authority under the Commerce Clause of the Constitution; f, affirmative action; and g, the constitutionality of court stripping legislation aimed at denying Federal courts the power to rule on the constitutionality of specific activities or subject matter.

Judge Roberts' answer to the Judiciary Committee was:

> I do not recall discussing my views on any of these issues with anyone during the relevant period of time in connection with my nomination.

When I met with Judge Roberts, I asked him:

> Wouldn't you surely remember if discussions on these subjects had taken place?

He looked me square in the eye and said they did not take place, nor did such discussions occur when the White House was considering him for his present job on the Court of Appeals.

I must take Judge Roberts at his word. The Senate is being asked to confirm John Roberts to the highest position on the highest Court of the land. I believe he is qualified to assume that awesome responsibility. To vote against Judge Roberts, I would need to believe either that he was an ideolog whose ideology distorts his judgment and brings into question his fairness and openmindedness or that his policy values are inconsistent with fundamental principles of American law. I do not believe either to be the case.

Judge Roberts has modified some of his views over time, which I take as evidence that he is not an ideolog and has not only a keen mind but a mind open to argument and consideration of our Nation's experience. I will vote to confirm John Roberts to be Chief Justice of the United States.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent, since we are in executive session, to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY INDEPENDENCE

Mr. NELSON of Florida. Mr. President, I am going to continue to speak out on the vulnerable position our country finds itself in with regard to our dependence on foreign oil. Somewhere between 58 percent and 60 percent of our daily consumption of oil comes from foreign shores. If that in and of itself is not enough to alarm us—and I think the collective Nation has put its head in the sand to ignore the ramifications of that fact—certainly the two hurricanes, Katrina and Rita, hitting the gulf coast at a very vulnerable position of our oil supply as well as our oil refining capacity has reminded us.

So now with several of the refineries shut down first from Katrina in the New Orleans region and the gulf coast region of Mississippi, but now with some additional refineries that will be shut down in the Lake Charles, LA, region as a result of Hurricane Rita, it all the more underscores how vulnerable we are on this thin thread of oil supply and oil distribution.

I think we need an Apollo project or a Manhattan project for energy independence. I do not think we ought to make decisions for the governing of our country and the comfort and protection of our people based on a system of supply and distribution of energy that makes us so subject to the whims of things that can happen beyond our control. I think we are likely to see this play out in the concern that we are not going to have enough home heating fuel for this winter because of the disruption that has already occurred. We clearly know what the disruption has done already to the prices, but I want to remind the Senate that the prices were very high before Hurricane Katrina happened.

In the townhall meetings I was conducting throughout the month of August in Florida, continuously people were telling me: Senator BILL, we cannot afford to drive to work or, Senator, we cannot afford to drive to the doctor.

That is when the price was at $2.70. After Katrina, of course, it went to $3. Who knows what the effect is going to be now as a result of Rita. We are living on a thin little margin of error in our supply, in our distribution of oil products.

Is this not enough to wake us up to the fact that this Nation collectively ought to come together and say we are going to reduce and ultimately eliminate our dependence on foreign oil? We can do that in so many different ways.

Yesterday, I spoke about the coal gasification process for which we have put incentives in the energy bill that was signed into law, a process that cooks coal, emitting the gas that is a clean-burning gas. But that is just one process. Remember, we have 300 years of reserves of coal in this country. We do not have to worry about going elsewhere in the world to get oil if we are able, through technology development, to convert that coal so that it is a clean-burning fuel. That is what I spoke about yesterday.

Today, I tell my colleagues about a process that was actually developed back in the first part of the last century by the Germans, that is the making of synthetic fuel from coal that is clean burning. The South Africans did it, and a lot of the transportation vehicles in South Africa run on this synthetic fuel—I think it is a kind of diesel—that powers almost all of their vehicles and some of their airplanes. Well, we certainly have the resource. We have the coal. Do we have the will? The technology is certainly here. It has been here since the early part of the last century and one country has already employed it and employed it very successfully.

Tomorrow I am going to come to the Senate floor again and I am going to talk about another technology that will help us move toward energy independence and to stop this dependence that has put us in such a vulnerable position with regard to the defense interests of our country and certainly our economic interests. Look what has happened to Delta Airlines already. They were in trouble economically long before the price of fuel started shooting up, but that is just one consequence. Look at the ripple effects of the thousands of people who are going to be laid off. Look at the ripple effects of what this Congress is going to have to do as we consider the protection of those employees' pensions.

So here it goes. It all comes back to one thing, and that is our dependence on an economy that runs on oil when we have known for years that we were going to reach the crisis point. It happened with Katrina, but it happened back in the early 1970s when there was an oil embargo out of the Middle East. It happened again in the late 1970s when there was another embargo. When is America going to wake up?

Each of us has our own ideas, but whenever we try one little thing, we cannot get a consensus in the Senate. For the last 4 years, we have brought an amendment to the floor, a simple little amendment on doing nothing more than raising miles-per-gallon on SUVs, phased in over a 10-year period so it would not hurt anybody, and we cannot get the votes on this floor to pass that.

Are we beginning to wake up because of what we are facing with Katrina? I hope so. This Senator is going to continue to speak out. My State, Florida, is in a vulnerable position because we are a peninsula that sticks down into these wonderful seas that surround us. But that energy has to be brought in. We are a State that does not have a natural resource such as oil or coal. We are a State that has to import that, and we have to bring it usually from long distances.

I will continue my dialog with the Senate of the United States tomorrow, bringing forth another technology that we can develop if we but have the will to change our dependence on foreign oil.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 5:45 to 6:45 p.m. will be under the control of the majority.

The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I rise this afternoon to join many of my colleagues speaking in strong support of the nomination of Judge John Roberts to the position of Chief Justice to the United States. It is unquestionable that Judge Roberts is eminently qualified to take on the position of Chief Justice. He has an impeccable resume. You can look at that and say: There is a person who has given his life to the law. An encyclopedic recitation of the law and a solid record as both a lawyer and a judge void of an ideological agenda indicate that he will be a thoughtful and impartial Justice.

I had an opportunity to speak with Judge Roberts. There are some individuals whose knowledge of the law is so overwhelming and so impressive that, quite honestly, they are leaps and bounds above the rest of us and it is difficult to follow the conversation. The conversation I had with John Roberts was one where you are carrying on a conversation, he is able to bring in and impart his legal knowledge and continue a conversation that both flows and is comfortable. That is a unique talent.

Of interest to me and my State of Alaska is that John Roberts has litigated on behalf of Alaskan clients. When the Mayor of Juneau, who was Bruce Botelho, testified on behalf of Judge Roberts before the Judiciary Committee, he did so as a former attorney general for the State of Alaska and as a Democrat. He had this to say in his testimony about Judge John Roberts. He said:

> Working with Judge Roberts, I was fortunate to get to know the most remarkable and inspiring lawyer I have ever met. He will lead the Court in a way that will instill public confidence in the fairness, justice and wisdom of the judiciary.

When he was attorney general, Mayor Botelho retained John Roberts to represent Alaska in cases to defend Alaska's sex offender registry, Alaska's right to submerged lands, and most notably a case involving Indian country, an Alaska Native Claims Settlement Act.

While he was retained by the State of Alaska, John Roberts, I think very eagerly, traveled up to the State to learn firsthand those things that he was going to be speaking to. He toured the waters of Glacier Bay in a Fish and Game boat, went out on a little riverboat, a skiff by most people's standards, in the Yukon-Kuskokwim Delta for a couple of days just traveling around. He traveled around and not only talked with the other lawyers who might be with the group, but he spoke with the people. He talked to the crews on the fishing boats. He engaged the people where they were. He talked with them about their local concerns. He practiced the pronunciation of the native village names. He was engaged. He was a real person to those Alaskans he met.

So often when we have kind of your east coast lawyers coming back to visit us up North, they are viewed with a little bit of suspicion. But I think it is fair to say that John Roberts made a very serious and a very genuine effort to know and appreciate firsthand the facts that were going to be presented to him, the facts he was going to be arguing. He was not just going to read some brief in the comfort of his study, he was going to come and learn for himself.

As Alaskans, we are fortunate to have a nominee who understands Alaska's unique landscape, our people, and its laws. We have some Federal laws and acts that are unique to where we are and our people and our land up there, so much so that it is very difficult to become well versed in the law. Sometimes I think it is fair to say we think those on the outside, those in the lower 48, just don't get what happens up North and how it applies with us. But I think we have learned with Judge John Roberts that he will take the time to know and understand not only Alaska's people but the facts and circumstances all over.

As Americans, we have yet to imagine some of the legal questions John Roberts will consider in his tenure. But with his breadth of experience and his desire to wholly understand the legal matters before him, I believe Judge John Roberts will serve the court with integrity, thoughtfulness, and dedication to the law.

John Roberts has made it clear as a judge that it is not his place to use the law to further politics or to seek to question settled law. The role of justice is one of great restraint, of strict application of the law and not judicial activism. I believe John Roberts when he unequivocally pledged to uphold impartiality in the law.

Judge Roberts has explicitly assured us that his respect for the law and legal principle vastly outweigh his personal values, his views, or loyalty to anyone or anything other than the rule of law. This is the basis, the fundamental standard from which we should consider Judge Roberts' nomination. In my mind, there is simply no clear cause for opposing his nomination.

If in his testimony Judge Roberts did not communicate his views on legal matters which may come before the Court during his tenure, he was entirely forthcoming on his judicial philosophy. Judge Roberts stated repeatedly that he would bring no agenda to his work as Chief Justice. He stated he would judge each issue on its merits and approach each case with an open mind, that legal precedent and not his personal views would be his guide.

Perhaps more so than any other recent nominee, Judge Roberts has demonstrated a sound understanding and appreciation of the role of a Justice and the necessary constraints within which the third branch of government should operate. So today, I call on my Senate colleagues to take a step back from our politically charged setting to consider fairly a man who is incredibly qualified to become our Chief Justice.

I will quote from Roberts' testimony as I end here. He said:

> The rule of law—that's the only client I have as a judge. The Constitution is the only interest I have as a judge. The notion I would compromise my commitment to that principle . . . because of views toward a particular administration is one that I reject entirely. That would be inconsistent with the judicial oath.

John Roberts has what it takes to be the Chief Justice of the United States, which is complete love for the law, an erudite legal mind, and judicial modesty. I lend my support to the nominee and look forward to this body confirming him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise in support of Judge Roberts to be the next Chief Justice of the U.S. Supreme Court. That probably comes as no great surprise to anyone who has followed my career, but I think my reasoning hopefully will illuminate a little bit as to the difference between my passions as a Member of the Senate and as a legislator and my duty as a Senator to confirm nominees to the courts of this country because I do see them as different.

My job as a Senator is to be a passionate advocate for the things I believe are best for my State, for the constituents I represent, and best for the country and ultimately the world. I come here, as my colleagues have noted on occasions, with a fair degree of energy and passion and commitment to those causes.

When I approach the issue of nominations, particularly to a position of this import, judicial nominations, I come with a different agenda. A court is not a place for zealous advocates to impose their will upon the American public. It is not a place for people who believe their views as judges are superior to the views of the democratically elected officials in this country—better put, that their views are better than the people's views because we are, in fact, accountable to the people we represent. When I look at the confirmation process for judges, I try to step back and use a different criteria—not whether I agree with the judge's points of view on a variety of different issues but whether I believe the judge can carry out the role of a judge.

It is interesting in this debate that we have heard here in the Chamber and we have been hearing across this country now for the better part of 3 or 4 years since we have been locked up in the judicial confirmation battle that it has been a battle about ideology. It has been a battle about interpretations of the Constitution and rights derived from that Constitution and whether they will be upheld or whether they will be struck down or whether they will be modified. I believe that is an unfortunate debate. It is unfortunate that those who are applying or have been nominated for judicial positions are put in the positions of now being questioned as if they are running for political office, under the scrutiny of someone who is running for political office and make judgments about public policy as opposed to what the traditional role of the Court has been up until the last 40 or 50 years, just to decide the case before them in a narrowly tailored fashion, to do justice to the parties, in concert with the Constitution of this country—applying the law in this narrowly tailored fashion to come up with a just result for the parties in the case.

In the last 40 or 50 years, that type of justice has been rarer and rarer to find in our decisions, particularly on the Supreme Court.

As I come here, I again don't come here as a conservative. A lot of my supporters have said I am not sure Judge Roberts is a conservative. My response is, I am not sure either. Further, I am not sure it matters. What I am sure of is Judge Roberts will be a good judge, will be someone who sits and judges the case on the merits of the arguments as they apply to the Constitution of this country, and will do so in a way that comports with the great tradition in the last 40 or 50 years of the American judiciary. I am confident of that.

I think if there is anything that those on both sides of the aisle would say it is that Judge Roberts understands the limited role of the courts.

When Judge Roberts came into my office shortly after he was nominated, he stunned me. I have met with a lot of nominees who wanted to be judges from Pennsylvania, from the circuit courts as well as district courts. This was my first opportunity to meet a nominee for the Supreme Court. I have been here 11 years, and this is the first nomination for the Supreme Court in my 11 years here in the Senate. But having met many people who wanted to aspire to be judge, he was the first nominee I met with who used terms such as "humility" and "modesty" when describing the role of a judge in his role in the judicial process. Words such as "judicial restraint" again are not hallmarks of this judicial debate we have been engaged in now for the last few years. That may give some pause to conservatives who would like to see an activist conservative reversing lots of decisions conservatives are concerned about which the Court has passed down in the last few decades.

But to me, it gives me comfort to know this is a judge who will apply the law, who will not seek to replace the role of the legislature, or the President, State legislatures, and the Governors, township supervisors, county councils, but that he will do justice with the facts before him in the case in solving the dispute that has been presented to him.

As I said, we have had far too little of that kind of justice over the last few years.

As a result, I have written and spoken about the concern I have in this country that the judiciary is taking an ever increasing and dominant role in our society and in our Government. We are supposed to be a government that has checks and balances. When you talk about checks and balances, most people think about Republicans and Democrats. Of course, checks and balances were written long before there were such things as Republicans and Democrats. Checks and balances are the remainder of power between the branches of Government, one to check the other to make sure this finely tuned and crafted document, the Constitution, that establishes these three branches would stay in equilibrium.

There were concerns at the time about a strong President running roughshod over the Congress and the judiciary and a strong Congress doing the same. Very few had concerns about the judiciary, particularly Hamilton in the Federalist Papers. He showed very little concern about a judiciary getting out of control. One exception to that was Thomas Jefferson. It was not at the time of the writing of the Constitution but years later, after a few court decisions had been handed down which gave power to the courts, which I am not sure many of the writers of the Constitution envisioned.

But having given them power as a result of earlier court decisions, Jefferson wrote in 1821, "The germ of destruction of our Nation is in the power of the judiciary, an irresponsible body working like gravity by night, and by day gaining a little today and a little tomorrow and advancing its noiseless step like a thief over the field of jurisdiction until all shall render powerless the checks over one branch over the other, and will become as venal and oppressive as the government from which we were separated."

That was Jefferson's concern about our judiciary, this "irresponsible" body, in his terms—irresponsible in the sense that it owes no responsibility or duty, has no real ability over the executive or legislative branches to be checked.

Why do I go off on this discussion about the courts? It is because of this penchant of the judiciary to grab more authority, to act as a superlegislature and lord itself over the rest of society that we need men such as John Roberts on this Court who understand as Chief Justice the danger a judiciary of this kind is to the United States of America and to our democracy.

While I am not sure John Roberts is a conservative, I am not sure he will overturn cases which I believe should be overturned, I am sure he will do justice. He will execute his duties with restraint, modesty, and humility as the Founders who had no concern about the judiciary believed those in positions on the Court would do. He is someone whom our Founders would be proud of to serve in that position. He is someone we desperately need to speak in the Court, to speak to the Court, and lead the Court in a direction that usurps less the powers reserved for the people in our Constitution.

I strongly support John Roberts. I hope the President in his next nomination will nominate someone very much in the vein of John Roberts. This Court and this country need people such as John Roberts.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARTINEZ. Mr. President, today I rise for the first time as a U.S. Senator to exercise my constitutional obligation to provide advice and consent to a presidential nominee for Chief Justice to the United States Supreme Court. It is a high privilege that carries with it great responsibility. The responsibility to ensure, in so much as is possible, that the nominee is not only of the highest intellect, integrity and character, but that he or she comes to the process with no personal ideological agenda. That the nominee recognizes there is no room in the business of judging for the personal policy ideals of individual judges and that the symbolism of the judge's black robe to shield both the litigants and the country from the personal idiosyncrasy must be carried out in the discharge of the heavy responsibilities of the Court.

Today I add my voice to that of my colleagues speaking in support of the nomination of John Roberts to become the 17th Chief Justice of the United States of America.

Before the confirmation hearings began, we knew that John Roberts had impeccable academic qualifications to serve as the chief judicial and administrative officer of the highest court in the land.

Before the hearings began we knew that John Roberts had the wholehearted support of prior Solicitors General, in both Democrat and Republican administrations.

We knew that he had the overwhelming support of a majority of members of the District of Columbia bar where he practiced and we knew that he received the highest possible rating from the American Bar Association.

In short, we knew that his qualifications to serve were impeccable and unassailable.

And what we now know after the confirmation hearings, after extensive interaction with Members of the Senate, 20 hours of testimony and the give and take of responding to over 500 questions, is that Judge Roberts is possessed of: a quiet humility; a deep understanding and modest view of his own significance; a healthy appreciation of the role of the Court in the governance of our nation; respect for the limitation of precedent; an awareness of the dangers of looking to foreign jurisdictions for guidance in shaping the laws of our land; and a commitment to respecting the proper role of the courts in interpretation of the law.

I am persuaded that Judge Roberts will look to established precedent, be respectful of the doctrine of stare decisis and will use the constitution and the law as his guideposts as opposed to any personal whim or political agenda.

In my private meeting with Judge Roberts we discussed his view of the role of the Chief Justice. From his thoughtful response, it was clear that he had well considered ideas about providing effective and constructive leadership to his colleagues on the Court. In every institution or endeavor, great leadership finds a way to unite rather than to divide. I am confident that Judge Roberts will provide that leadership.

I want to mention that while a nominee's views issues such as the "right to privacy" are unquestionably significant and have occupied a great deal of the time dedicated to the confirmation process, our entire judiciary looks to the Supreme Court for guidance on many other issues other than the "great constitutional questions of our day."

I'm hopeful that as we go forward with our next nominee, we can find some time to also discuss issues that are vital to the day-to-day administration of justice.

What are the nominee's views on the cost of litigation in our country or the length of time required for litigants to have their claims adjudicated? Is there a fair mechanism to address legitimate concerns about nonmeritorious cases?

What has the effect of the speedy trial rule been on the ability of litigants in civil case to have a fair and prompt resolution of their claims?

What are the nominee's views on the argument that complex cases involving scientific evidence are beyond the ken of average jurors?

Where does the nominee stand on the difficult issue of sentencing guidelines and the current tension existing between the Congress and the Courts on the appropriateness of giving federal judges discretion in the imposition of sentences?

Where does the nominee stand on the problems of electronic discovery in civil and criminal cases?

What are the nominee's views on the importance of 12 member juries in civil cases? Could juries of 6 serve justice just as well? Why are unanimous verdicts required in civil cases could another method lead to a better quality of justice?

These questions may not make for good headlines, but they surround issues that are vital to the administration of justice in our great country.

It is my hope we will take the time to discuss them in the coming weeks as we go forward with the confirmation process of a nominee to replace Sandra Day O'Connor. These are the questions we should consider as we depoliticize the confirmation process and return our attention to working together to advance the cause of justice in our Nation.

My colleagues should take note that the American Bar Association gave Judge Roberts the rating of "Well Qualified" for Chief Justice of the United States.

To earn that rating, the ABA which is viewed as the solo standard, says, "the nominee must be at the top of the legal profession, have outstanding legal ability and exceptional breadth of experience and meet the highest standards of integrity, professional competence and judicial temperament.

The evaluation of "Well Qualified" is reserved for only those found to merit the Standing Committee's strongest affirmative endorsement." In conducting its investigation, the ABA reached out to a wide spectrum of people across political, racial and gender lines, including lawyers, judges and community leaders—people with personal knowledge of Judge Roberts.

The ABA interviewed Federal and state court judges, including all members of the Supreme Court of the United States, members of the United States Courts of Appeals, members of the United States District Courts, United States Magistrate Judges, United States Bankruptcy Judges, and numerous state judges. The results were as follows:

On integrity: "He is probably the most honorable guy I know and he is a man of his word." "I would be amazed if anyone had any greater integrity on either a personal or professional level." "He's a man of extraordinary integrity and character."

On judicial temperament: "He has the kind of temperament and demeanor you would want in a judge." "He was extremely even-tempered and was so good that he could give classes on it." "John Roberts is respectful, polite and understated. He has no bluster and is a fabulous lawyer. He has no need to impress anyone.

On professional competence: "He is brilliant and he understands the importance of the independence of the judiciary and the role of the rule of law." "His opinions are clear, succinct and very well-written." "His opinions are in the mainstream of American jurisprudence."

In my own meeting with Judge Roberts, I was particularly impressed with his discussion of the dangers associated with looking beyond the borders for guidance or the support of precedent.

His response reflected a deep and comprehensive understanding not only of the importance of judicial precedent in setting boundaries for the Court, but also the role of the people, the legislative process and our representational form of government. Judge Roberts noted in our meeting and again in his testimony before the committee that our judges are appointed by our elected President and their appointment requires the consent of the duly elected members of the Senate.

This provides a measure of accountability consistent with the intention of the Founding Fathers.

Looking to a foreign source for legal principles deprives the American people of that accountability. To use Judge Roberts words, and I paraphrase, it's a bit like looking out over a large crowd to identify your friends. If you look hard enough, you can find something you like.

To my colleagues who are poised to cast a vote in opposition to the nominee, I would ask them to take a close look at Judge Robert's testimony at the commencement of the hearing:

> I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind.
>
> I will fully and fairly analyze the legal arguments that are presented.
>
> I will be open to the considered views of my colleagues on the bench, and I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability, and I will remember it's

my job to call balls and strikes, and not to pitch or bat.

I must ultimately arrive at my decision based on a considered judgment as to whether this nominee has the qualifications, temperament and experience required of such high appointment. Does he have the requisite personal ethics and moral code to serve as our nation's highest judicial officer?

I have measured this nominee against this high bar for confirmation and find him qualified in every respect.

I accept Judge Roberts' word as his bond, consistent with his history as a man of unquestioned integrity and commitment to the highest ideals demanded of our judicial officers. I look forward to casting a historic vote in support of this most highly qualified nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, first, I have the distinct privilege of being on the Judiciary Committee. I also have the distinct privilege of serving with three other members on that committee who are nonlawyers so I bring to that committee not a legal background but a citizen background. One of the things I found very refreshing during the hearings was the fact that we have a person in the name of John Roberts who recognizes the role of the judiciary as outlined by our Founders. I will go into that in a minute.

I will address, first, some issues that are important.

We heard today some criticisms of Judge Roberts in sitting and hearing the Hamdan case while he was under consideration for this position. For the record, I show that Justice Ginsburg, during her consideration, decided 24 cases. Justice Breyer decided 15 cases during the period of time he was under consideration. I have the attestation of ethicists who have made statements in support of the fact that Judge Roberts violated no ethical creed and did nothing but his job as an appellate justice while hearing this, and I ask unanimous consent to have them printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEORGE WASHINGTON
UNIVERSITY LAW SCHOOL,
Washington, DC, August 18, 2005.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: A recent story in the Washington Post suggested that it might have been improper for Judge John Roberts to participate on the D.C. Circuit panel that decided the recent case of *Hamdan* v. *Rumsfeld*. The Post story relied heavily on a short article written by three professors, Stephen Gillers, David Luban and Steven Lubet, and published on the internet in slate.com.

I write to provide perspective on the issues raised by these articles and to make clear that Judge Roberts' participation on the panel was proper. To briefly suggest my background to draw such a conclusion, I have taught and written in the field of legal and judicial ethics for over thirty years. The law school text that I co-author has long been the most widely used in the country, and it covers judicial ethics in considerable detail.

There are several points on which all observers would agree. First, 28 U.S.C. §455 requires Judge Roberts or any other federal judge to disqualify himself "in any proceeding in which his impartiality might reasonably be questioned." The key term, of course, is "reasonably." Anyone could assert that a given judge was not impartial. Indeed, a litigant might be expected to do so whenever he or she preferred to have someone else hear their case. Thus, the statute does not allow litigants (or reporters or professors) to draw a personal conclusion about the judge's impartiality; the conclusion must be "reasonable" to a hypothetical outside observer.

Second, saying as some cases do, that judges must avoid even "the appearance of impropriety" adds nothing to the analysis. Unless the "appearance" is required to be found reasonable by the same hypothetical outside observer, the system would become one of peremptory challenges of judges. That is not the system we have, nor would it be one that guarantees the judicial authority and independence on which justice ultimately depends.

Third, there is no dispute that judges may not hear cases in which they would receive a personal financial benefit if they were to decide for one party over another. The first case cited (albeit not by name) by Professors Gillers, Luban & Lubet was Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988). It simply decided that a judge had a personal interest conflict and could not decide a case that would financially benefit a university on whose Board of Trustees the judge sat. In short, the case says nothing relevant to Judge Roberts' conduct.

Fourth, a judge may not hear a case argued by a private firm or government office with which the judge is negotiating for employment. The reason again is obvious. That was the fact situation in the remaining two cases cited by Professors Gillers, Luban & Lubet in their slate.com article. The cases break no new ground and provide no new insights relevant to this discussion.

Critics of Judge Roberts suggest, however, that his "interviews" with the Attorney General and with members of the White House staff were analogous to private job interviews. That is simply not the case. A judge's promotion within the federal system has not been—and should not be—seen as analogous to exploration of job prospects outside of the judiciary.

Except for the Chief Justice, every federal judge is at least in principle a potential candidate for promotion to a higher status in the judiciary. One might argue that no district judge should ever be promoted to a court of appeals, and no court of appeals judge should be elevated to the Supreme Court, but long ago, we recognized that such an approach would deny the nation's highest courts the talents of some of our most experienced and able judges. One need only imagine the chaos it would cause if we were to say that no federal judge could hear a case involving the federal government because he or she might be tempted to try to please the people thinking about the judge's next role in the federal judiciary. Nothing in §455 requires us to say that it would be "reasonable" to assume such temptation. We properly assume that judges decide cases on their merits and see their reputation for so doing as their basis for promotion, if any.

To be fair to the critics, they argue that a judge's situation might be different once actual "interviews" begin for the new position. The problem with that, of course, is that interviews are only a step beyond reading the judge's decisions in a file, interviewing observers of the judge's work, and the like. That kind of thing goes on all the time, including in the media. Further, all accounts suggest that several judges were being "interviewed" and that for most of the period of the interviews, there was not even a Supreme Court opening to fill. Assuming, as even Professors Gillers, Luban & Lubet do, that no improper pressure or discussion took place in the interviews themselves, it is hard to see that physically meeting with White House staff transforms what is inevitable and proper in the judicial selection process into something more suspect.

Again, even Professors Gillers, Luban & Lubet ultimately concede that Judge Roberts should not have had to withdraw from all cases brought by the government as the logic of their criticism would seem to suggest. They argue instead that the Hamdan was special. It was "important" to the Administration and therefore required special caution.

I respectfully suggest that an "importance" standard for disqualification could not provide sufficient guidance for the administration of the federal courts. Every case is important, at least to the parties. Furthermore, while some cases have greater media interest than others, and some are watched more closely by one interest group or another, every case before the D.C. Circuit that involves the federal government is there because high level Justice Department officials have concluded that the appeal is worth filing or resisting.

Saying that some cases are important and others are not ultimately reveals more about the speaker's priorities than it does about the intrinsic significance of the case. Indeed, earlier this year, the Supreme Court decided United States v. Booker and United States v. Fanfan involving the Sentencing Guidelines. Few decisions have had more impact on the operation of federal courts in recent years, yet it was widely reported that Professor Gillers opined to Justice Breyer—correctly in my view—that he need not recuse himself even though his own work product as a former member of the Sentencing Commission arguably was indirectly at issue. Importance of the case was not the controlling issue for Professor Gillers then, and it is simply not a standard now that can clearly guide a judge as to which cases require disqualification and which do not.

Indeed, the critics of Judge Roberts' remaining a part of the Hamdan panel overlook the fact that judges of the D.C. Circuit are assigned to the cases that they hear on a random basis. That randomness is part of the integrity of the court's process and it guarantees that no panel can be "stacked" with judges favorable to one litigant or another. Weakening the standard for a reasonable appearance of impropriety, and making recusal turn on which litigants can place news stories accusing judges with of a lack of ethics would adversely affect the just outcomes of cases more than almost any other thing that might come out of the hearings on Judge Roberts' confirmation.

In short, in my opinion, no reasonable observer can "reasonably question" the propriety of Judge Roberts' conduct in hearing the Hamdan case. He clearly did not violate 28 U.S.C. §455. Indeed, he did what we should hope judges will do; he did his job. He participated in the decision of a case randomly assigned to him. We should honor him, not criticize him, for doing so.

Respectfully,

THOMAS D. MORGAN,
George Washington University Law School.

STATEMENT BY PROFESSOR GEOFFREY C. HAZARD, JR., UNIVERSITY OF PENNSYLVANIA LAW SCHOOL

In my opinion, Judge Roberts could have decided to recuse himself in the Hamdan case but was not obliged to. Hence, it was a matter of professional judgment. These situations, where a judge is being considered for some other or additional possibility, are fairly common these days, hence part of the environment. Also, recusing would require some kind of explanation, which could lead to leaks, which could embarrass other government procedures, such as background checks. I believe that it is reasonable to say that he should, have recused himself, but also reasonable for him to have concluded that it was not obligatory.

Mr. COBURN. I thought it would be important for the American people to hear what our Constitution says about our judges. I also thought it would be important for the American people to hear the oath sworn by a judge.

I have been a Senator for less than a year. When I was campaigning—I also will readily admit I am a pro-life conservative from Oklahoma—but when I was asked during that campaign if I had a litmus test on a Supreme Court nominee, every time I said "no," except one: Integrity. It doesn't matter what position a judge holds. It doesn't matter what their background is. It doesn't matter what their thoughts on any issue are. If they lack integrity, none of the rest of it matters. No one can claim that John Roberts lacks integrity.

During that campaign, I very well explained to the people of Oklahoma that I didn't want a Justice that sided with me. I didn't want a Justice that sided with anybody, except the law and the Constitution.

Here is what article III says about judges:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and in inferior Courts, shall hold their offices during good Behavior, [we heard some conversation about foreign law; Judge Roberts passes the bar on his refusal to use foreign law] and shall at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.
>
> [Their power] shall extend to all Cases, in Law and Equity, arising under this Constitution, and the Laws of the United States, and Treaties made, or which shall be made, under their Authority;

It reads in article 6 that: .

> This Constitution and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
>
> The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and the several States, shall be bound by Oath or Affirmation, to support this constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

The oath John Roberts will take and each Justice before him is as follows:

> I do solemnly swear that I will administer justice without respect to persons and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me under the Constitution and the laws of these United States, so help me God.

There are going to be several of my colleagues who will vote against John Roberts. The real reason they will be voting against John Roberts is because he would not give a definite answer on two or three of the social issues today that face us. He is absolutely right not to give a definite answer because that says he prejudges, that he has made up his mind ahead of time. The religious test I spoke about is one of if you don't agree with me and what I believe and if you don't believe there are certain rights to privacy or certain rights that are there that are not spelled out in the Constitution that have become rights, you have set up a religion. The religious test is going to be that if he won't give an answer on those controversial social issues such as abortion today, he will never qualify. Under that religious test, no nominee President Bush will nominate to the Supreme Court will ever get their vote, regardless of whether they are pro-Roe v. Wade or against Roe v. Wade. The fact is, they will not commit.

Therefore, if you can't know or you are suspicious that somebody might take one position or the other ahead of time and you have that as a test, you yourself are violating one of the tests of the Constitution.

I believe John Roberts is a man of quality. Most importantly, he is a man of integrity. I don't want him to rule my way. I want him to rule the right way. The right way is equal justice under the law for all of us. If he does that and if the rest of the Supreme Court starts following him, we will reestablish the confidence that is sometimes lacking in the Court today, and we will also reestablish the balance between the judiciary, executive, and legislative branches.

It is my hope this body will give a vote to John Roberts that he deserves based on his interpretation, knowledge, and honesty with the committee and, fundamentally, with his integrity that is endorsed by the American Bar Association. Everyone who knows him knows he will do just that, equal justice under the law for every American.

I yield the floor.

Mr. ENZI. I rise today to share my thoughts on the nomination of Judge John Roberts to be the Chief Justice of the U.S. Supreme Court. Like most Americans, I watched the Judiciary Committee hearings with great interest and curiosity. Judge Roberts could potentially be the 17th Supreme Court Chief Justice in the history of the United States. It is amazing to consider that only 16 other people have shared that honor. It is a much shorter line than the number of Presidents back to George Washington—42.

Considering this tie with history, I was thrilled to be watching the proceedings. However, I am also aware of my serious responsibility as a U.S. Senator at this time. The Senate has the duty to give its advice and consent to the President's nomination. Given the comparative youth of Judge Roberts, the vote this week could affect the dispensation of constitutional questions for many decades.

During over 20 hours of questions, I had ample opportunity to consider the qualities and character of Judge Roberts. I observed Judge Roberts' keen intelligence and modesty regarding his accomplishments. I also enjoyed his sense of humor in the midst of intense and repetitive questioning. He convinced me that he is qualified to serve on the highest Federal bench.

During the hearings, I was reminded of a common fallacy where people think judges are politicians. Judges are not politicians. It has been easy to slip into the thinking that we need to know their political allegiance so that we can know what their decisions will be. We also begin thinking that judges should make decisions based on good policy. Finally, we believe that judges have to make us promises on the future decisions so they can win our votes. Judges are not politicians. We need to know their qualifications, not their political allegiances. We need to know that their decisions will be made on the rule of law, not on good policy. We need to know that judges will not make promises to prejudge future cases in order to win votes. Judges are not politicians. A judge's only constituent should be the U.S. Constitution. If the people were the constituents of judges, our confidence in an impartial hearing and ruling on our case would collapse.

A judge should be an intelligent, impartial, open, and unbiased executor of the law. I believe that Judge Roberts meets these qualifications and is fit to serve as the Chief Justice of the Supreme Court. I am pleased that a bipartisan majority of the Judiciary Committee passed him through the committee. I go home to Wyoming most weekends. It lets me personally poll my constituents. That is an advantage of being from the least populated State. I can assure you they are impressed with Judge Roberts. That is probably not a surprise. However, during the week when I am in DC, I visit with the janitors, electricians, picture hangers, and others around the offices. To a person they had comments like "this man really knows his stuff." "He answers their questions without a single note or staff person whispering in his ear. I bet he could take the bar exam tomorrow and still pass it. This guy is good" and I think that is the opinion of mainstream America. I look forward to voting on his nomination later this week.

Even after the vote, the Senate's work to fill the Supreme Court will not be complete. We are waiting for another nomination from President Bush to replace retiring Justice O'Connor. I am pleased with the recent precedent set by the Judiciary Committee.

In a bipartisan and timely manner, they voted out a nominee based on his qualifications. They voted him out based on his stated devotion to applying the rule of law. As the Senate prepares to consider the next Supreme Court nomination, it is my hope that the same process will be followed—a timely consideration based upon the qualifications of the nominee and not on scoring political points.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. COBURN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIDDLE EAST OIL

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a recent article from Petroleum News which is entitled "Saudi Oil Shock Ahead," in which Matthew R. Simmons discusses the relative importance today of oil and gas exploration in the Arctic National Wildlife Refuge and discusses the valuable role this area can play in our national energy policy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Petroleum News, Sept. 11, 2005]

SAUDI OIL SHOCK AHEAD—SIMMONS POKES HOLES IN IMAGE OF UNLIMITED MIDDLE EAST OIL; PREPARE FOR WORST

(By Rose Ragsdale)

As Congress turns to legislation that could open a new era of Alaska Arctic oil production, one highly regarded energy analyst says he's convinced the move is critical to the success of a national energy strategy.

Matthew R. Simmons, author of "Twilight in the Desert: The Coming Saudi Oil Shock and the World Economy," (John Wiley & Sons Inc., 2005), says crude from the Arctic National Wildlife Refuge's 1.5-million-acre coastal plain could play a valuable role in the nation's energy policy.

Simmons, an investment banker who holds an MBA from Harvard University, is chairman and chief executive officer of Houston-based Simmons & Co. International, which specializes in the energy industry. He serves on the boards of Brown-Forman Corp. and The Atlantic Council of The United States. He's also a member of the National Petroleum Council and The Council of Foreign Relations.

Simmons recently shared his views with Petroleum News on Alaska's oil and gas industry. He has been busy promoting his book with appearances on several talk shows, including a recent radio interview with Jim Puplava, host of Financial Sense Newshour. "Twilight in the Desert" hit the bookstores in the spring and is generating considerable comment in energy, economic and political circles.

Simmons' book is the culmination of years of research, including scrutiny of 200 technical papers, published by the Society of Petroleum Engineers, on problems encountered by professionals working in Saudi Arabia's oil fields. The papers, combined with transcripts from little-noticed U.S. Senate hearings in the 1970s and Simmons' discovery that little actual public and verifiable data exists on Saudi oil reserves, form the backbone of observations and conclusions in the book.

While most energy economists start with the assumption that Middle East oil reserves are plentiful, Simmons questioned that assumption after he found that no one had ever compiled a verifiable list of the world's largest oil fields and the reserves they hold.

His questions first surfaced at a Washington, D.C., workshop, conducted by CIA energy analysts, where top energy experts gathered several years ago.

"We'd spend a day doing a discussion of all the key countries, and how much oil capacity they had in place over the course of the corning three years," Simmons recalled. "And I basically said, 'How do you all even know that? What are the three or four top fields in China?' And no one had any answers.

"So I decided it would be interesting and educational to see if you could actually put together a list of the top 20 oil fields by name," he added.

That exercise revealed that Saudi Arabia, like most of the other Middle East countries, extracted 90 percent of its oil production from five huge fields, and the biggest of the fields, Ghawar, had been producing oil for more than 50 years.

"What I also found is that the top 14 fields that still produce over 500,000 barrels per day each, were 20 percent of the world's oil supply, and on average they were 53 years old," he observed.

Historically, oil field discoveries fit a pattern that Simmons likens to the nobility of a European country or the pieces on a chessboard. In each of the world's great oil basins, explorers have found a large field first, most often the "queen" field but sometimes the "king." Next explorers typically find another large field, usually the other half of the royal pair. After that, oil basins typically yield several moderate-sized fields, or "lords." Beyond that, only small pools of crude reserves or "peasants" typically remain, he said.

In "Twilight in the Desert," Simmons not only documents the history of Saudi Arabia and its oil fields, he also questions the Middle East country's claims that it still has plentiful oil reserves. He notes that Ghawar is the "king" field and is flanked by a score of lesser fields, ranging from "queen" size in Abqaiq to much smaller pools.

Simmons also suggests that Saudi production is very near its peak. But the feedback he has received from technical people who have read the book, leads him now to believe that Saudi Arabia has "actually exceeded sustainable peak production already."

"And I think at the current rates they are producing these old fields, each of the fields risks entering into a rapid production collapse," he said.

Simmons said energy economists are reluctant to even entertain the notion that Saudi oil output is past its peak because they really don't understand the difference between oil supply peaking and running out of oil.

"I continue to remind people that the difference is as profound as someone saying, 'I'm getting a little bit hungry,' and someone saying, 'I have about two more minutes to live before I starve to death,'" Simmons said. ". . . We will never run out of oil, in our lifetime, our children's lifetime, our grandchildren's lifetime. But by 2030 we could easily have a world that can only produce 10 or 15 or 20 million barrels per day, and the shortfall from what we thought we were going to produce is only a modest 100 million barrels per day. So this is really a major, major, major global issue."

Compounding the problem is that every energy supply model used by economists today starts with the assumption that Saudi oil is plentiful, Simmons said. "What's interesting is that we've based all of this assumption on no data," he explained.

Meanwhile, as the world's thirst for oil grows, Saudi Arabia and other oil-producing countries will be unable to keep pace. Some analysts say Saudi Arabia is capable of producing 20 million to 25 million bpd, but Simmons says that level of production is "impossible."

"And I also believe that—Ghawar, for instance, which is really the whole nine yards, because that is 60 percent of their production—that North Ghawar, which is the top 20 percent of the field, has a productivity index that is about 25 times the productivity index of the rest of Ghawar, and that's the area that is almost depleted now," Simmons observed. "And when that drops, you could basically see Ghawar go from 5 million down to 2 million bpd in a very short period of time."

Until now, Simmons said the United States has been lucky because Saudi oil production was 3 million bpd when U.S. oil production peaked in 1971. Saudi output soared and today ranges from 9 million bpd to 11 million bpd.

Elsewhere, explorers discovered the last three great provinces of brand new oil in the last three years of the 1960s—Prudhoe Bay in Alaska in 1967–68; Siberian oil fields in the same period of time; and oil in the North Sea in 1969.

"And Siberia, Alaska, and North Sea oil, effectively combined to produce: the North Sea peaked in 1999 at a little over 6 million bpd, it's already down 25 percent; Alaska oil peaked in the 1990s at 2 million bpd; it's now at about 900,000 bpd; and Siberia oil peaked at about 9 million bpd; and it's about 5 million bpd," Simmons said. "And we haven't basically found another province since the late '60s."

To meet growing demand from existing customers as well as a new surge in demand from emerging countries such as China and India, Simmons said producers have continued to pull more and more oil out of the North Sea. "And then we found deep water which was a fabulous last shot from the basins (in which) we already had shallow water production. And we took the Middle East oil back up to unsustainably high levels of production," he said. "So probably, we're sweeping the cupboard bare. People looked at the way we were able to do this and thought, 'Wow! This is actually easy,' without realizing what we were actually doing was totally non-sustainable."

America needs more oil sources and Alaska is a good place to look, Simmons said. As for ANWR, he said it's ludicrous for people, whether geologists or environmentalists, to make definitive statements about the quantity of oil reserves in the refuge.

"Drilling on the (North) Slope has been tricky. Otherwise, it would not have been so hard to find the 'king,' Prudhoe Bay, or we would never have drilled Mukluk," he said. "So we shall never know whether ANWR is a series of dry holes or where the missing 'queen' of the slope lies until an intense drilling is done. A few dry holes does not mean much either."

The environmental community's claim 'that ANWR contains only a six months supply' of oil is a calculation that assumes the nation has no other source of oil when ANWR oil comes on line, Simmons said.

"On that standard, we end any new energy development, period," Simmons said. "What is very important about the urgent need to find more oil at ANWR, the Naval Reserve or somewhere else on the slope is the inevitable decline of North Slope oil, and the fast decline that will happen if a gas pipeline is built and the gas caps (are) blown down."

Moreover, it would not take 10 years to get a big oil find in ANWR into production since the infrastructure is in place, Simmons observed.

"At some point, the oil that flows through the 2 million bpd pipeline must fall to a level insufficient to get oil over the Brooks Range other than by shutting in for part of a month so the oil can be batched," he explained. "If all ANWR does is extend the life of the pipeline, it has filled a very valuable role.

"If a 'lord' is found, let alone a 'queen,' it is a home run," he added.

As for the rest of Alaska, Simmons said he has no idea whether the state contains other large pools of oil. "The only way oil is ever found (and gas, too) is to drill wells," he said.

Though the world needs more oil sources, Simmons does not see additional reserves curbing prices in the long term.

While others lament the high price of oil, the investment banker says crude oil at current prices of 18–20 cents a pint is "cheap."

"Obviously it's cheap. I don't know what's the next cheapest liquid we actually sell in any bulk is, that has any value. I suspect there are places around the United States where municipal water costs more than 18 cents a pint," he observed. "And yet for some reason, we created a society built on a belief that oil prices in a normal range were some place in the $15–20 level. It turns out $15 per barrel, which is the average price of oil—in 2004 dollars—it sold for, for the last 140 years, is less than 4 cents a pint. So we've basically used up the vast majority of the world's high flow rate, high quality sweet oil at prices that were effectively so cheap, you basically couldn't sustain an industry. And now we're left with lots of oil. But it's heavy, gunky, dirty, sour, contaminated-with-various-things oil. It doesn't come out of the ground very fast, is very energy intensive to get out of the ground, and we're going to pay a fortune for it."

Simmons predicted we would encounter problems with oil supplies this year, nearly a month before Hurricane Katrina struck the Gulf Coast.

He said we must operate the nation's refineries at 100 percent, or we have major product shocks, and we have to import oil at a rate of 10 million to 11 million bpd, or we lose crude oil stocks. We have to basically create almost 3 million bpd of finished product imports and we have to run the system 24/7, all summer long, and we still liquidate stocks, he said.

"So we have actually now created a pending domestic embargo, and we're going to be lucky to get through the summer without some periodic shortages," he told Financial Sense Newshour the week of Aug. 6. "We probably will, but the odds are probably as high we will have some shortages, and then if we get through the summer we have a fabulous respite from Labor Day to Thanksgiving, until we hunker to try to figure out how the world gets through the Winter of 2005 and 2006 because oil demand globally could easily go to 86–88 million bpd during the winter, and that could easily exceed supply by 2 million to 5 million bpd."

In a worst case scenario, Simmons said oil prices could easily soar past $100 a barrel without slowing down.

Such high prices would simply be a sticker shock, not an end to driving, he said. "At $3.20 a gallon, gasoline costs 20 cents a cup. A cup of gasoline can take a full car of people about 1½ miles. If you think this is expensive, try and hire a rickshaw or a horse-drawn wagon and pay only 20 cents to go a mile and half. After haggling price for an hour or so, you pay about $5 to $6 for the ride and thank the person for not making you walk."

To cope with the coming oil shock and much higher oil prices, Simmons told Financial Sense Newshour, the world, led by the United States, will have to become drastically energy efficient virtually overnight. A series of changes, including transporting all goods that currently travel by truck, by rail or water, could cut oil consumption 20–40 percent, he said.

"So by getting trucks off our highway system we have a major impact on removing traffic congestion. And traffic congestion is public enemy number 1 through 5 on passenger car fuel efficiency. So it's a real win, win, win," he observed.

He also suggested returning to a system of growing most foods close to where they will be consumed and using technology to allow people to work at home or in their village rather than requiring them to commute to a central location.

Simmons also advocates jumpstarting the largest energy R&D program ever envisioned, and "just pray that over 5–7 years it has the same impact as when people got serious about developing radar, and developing nuclear power, so that we could actually win World War II."

"But if we don't do these things, then this really ends up being a very dark world—no pun intended," he added.

HONORING OUR ARMED FORCES

TRIBUTE TO JOHN FLYNN AND PATRICK STEWART

Mr. REID. Mr. President, I rise today to say a few words about two heroes from Nevada who were killed in Afghanistan this weekend. Their names were John Flynn and Patrick Stewart, and my heart goes out to their families today.

John and Patrick were courageous soldiers—true American heroes. John was from Sparks. He had two young children. Patrick was from Reno. He also had two children. Both of them were distinguished soldiers who did their part to make the world a better, safer place.

On behalf of all Nevadans—and indeed all Americans—I offer my deepest condolences to the Flynn and Stewart families. They have paid the ultimate price for their country, and we are forever indebted to them. It was John and Patrick's mission to keep us safe, and they performed this mission with honor.

It's never easy when one of our soldiers dies, but we can seek small comfort in the fact that their sacrifice will never be forgotten. It's because of the bravery of these individuals and others like them that we are free today.

This morning, I'd like to also remember the hundreds and hundreds of brave men and women from Nevada who are serving this country in Iraq, Afghanistan, and even in devastated regions of our own country. My thoughts are with these soldiers, and I continue to pray for their safety.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On July 7, 2004, two men were attacked outside a local restaurant by 10 to 12 men. The apparent motivation for the attack were their sexual orientation. According to police, the men were yelling anti-gay slurs during the attack.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SIMON WIESENTHAL: IN MEMORIAM

Mrs. BOXER. Mr. President, I rise to share with my colleagues the memory of one of the world's heroes, Mr. Simon Wiesenthal, who died on September 20, 2005, at the age of 96.

Simon Wiesenthal was a Holocaust survivor who dedicated his life to honoring its victims by bringing its perpetrators to justice. By fighting against intolerance and genocide everywhere, he worked tirelessly to see that "never forget" would someday mean "never again."

We in California have a special bond with Simon Wiesenthal because the Simon Wiesenthal Center is based in Los Angeles. Founded in 1977, the Wiesenthal Center preserves the memory of the Holocaust and continues the work of Simon Wiesenthal by fostering tolerance and understanding through community involvement, educational outreach, and social action. Today, the center also includes the world-renowned Museum of Tolerance.

Simon Wiesenthal was born on December 31, 1908, in western Ukraine. He received his degree in architectural engineering from the Technical University of Prague in 1932. After graduation, he worked as an architect in Lvov, Poland. In 1936, he married his high school sweetheart, Cyla Mueller.

Three years later, Germany and Russia signed their nonaggression pact and partitioned Poland. As a result, the Soviet Army occupied Lvov and began purging Jewish professionals. Simon was forced to close his business and work in a bedspring factory. Many of his family members were imprisoned or killed. Simon tried to save his family from deportation by bribing the Soviet Secret Police. However, he and his wife were sent to the Janwska concentration camp and then to a forced labor camp for the Eastern Railroad. By 1942, nearly 90 members of his and his wife's family perished.

Simon was able to help his wife Cyla escape through the Polish underground on false papers. However, after escaping the forced labor camp in 1943, Simon was captured and sent back to Janwska. When the Soviet Army advanced on the German eastern front, he was forced to join SS guards on a march westward. The march ended in the Mauthausen concentration camp. Simon narrowly survived when Mauthausen was liberated by the Americans on May 5, 1945. At 6 feet tall, he weighed 100 pounds.

In late 1945, Simon and his wife were reunited. Both had believed the other to be dead. In 1946, their daughter Paulinka was born.

Simon spent the rest of his life tracking down Nazis and working to bring them to justice. He said that in various ways he helped bring 1,100 former Nazis to trial. Of these were Adolf Eichmann, who supervised implementation of the "Final Solution," Karl Silberbauer, the Gestapo officer who arrested Anne Frank, and Hermie Braunsteiner Ryan, who supervised the killing of hundreds of children at a Polish camp.

Mr. Wiesenthal prepared evidence on Nazi atrocities for the war crimes section of the U.S. Army. He headed the relief and welfare organization, Jewish Central Committee of the United States Zone of Austria. After the Nuremberg Trials, Simon opened the Historical Documentation Center in Linz, Austria, to assemble evidence for future Nazi trials. The center was eventually relocated to Vienna and continues to gather and analyze information on German war criminals and neo-Nazi groups; thousands of former Nazis are considered still at-large throughout Germany today.

For his courage and commitment to justice, Mr. Wiesenthal has been honored with many awards, including: the U.S. Congressional Gold Medal presented to him in 1980 by President Jimmy Carter; the United Nations League for the Help of Refugees Award; and an honorary British knighthood.

Mr. Wiesenthal is survived by his daughter Paulinka Kreisberg, who lives in Israel, and three grandchildren.

With the passing of Simon Wiesenthal, the world has lost one of its great heroes, but we shall never lose sight of the lesson he taught us: that humanity will rise up against hate and tyranny, and those who commit crimes against humanity will be brought to justice. As Mr. Wiesenthal said in a 1964 article in the New York Times Magazine:

> [w]hen we come to the other world and meet the millions of Jews who died in the camps and they ask us, "What have you done?", there will be many answers. . . . But I will say, I didn't forget you.

TRIBUTE TO JEFFREY C. GRIFFITH

Mr. DODD. Mr. President, I take this opportunity to recognize a dedicated public servant at the Congressional Research Service, Jeffrey C. Griffith, who is retiring this month after 30 years of service to the U.S. Congress. A recognized expert in information technology, Mr. Griffith led CRS into the digital age and was instrumental in developing and implementing an integrated Legislative Information System, LIS, for the Congress.

He has been particularly helpful to the Senate Rules Committee and served as an information technology adviser and facilitator to then Chairman JOHN WARNER and Ranking Member Wendell Ford during the implementation of the committee's strategic planning process for information technology in the Senate. Mr. Griffith's expertise and his understanding of the Senate institution proved invaluable to the committee during a critical time when the committee was grappling with expanded Internet use, including the development and expansion of the legislative information system, and changing technology expectations and opportunities in the Senate.

Mr. Griffith earned both A.B. and MAT degrees at Harvard College and a masters in library science from UCLA. He came to the Library of Congress in 1976 as a participant in the Library of Congress Intern Program and then moved on to the Congressional Research Service in 1977. In the years since, he has held positions of increasing responsibility and he retires as the chief legislative information officer.

Leading change in information technology has been the hallmark of Mr. Griffith's career. In the early days of automation, he played a key role in developing SCORPIO, a system for retrieving legislative and public policy information that was one of the first systematic uses of digital information in the Federal Government. Similarly, he led the effort to automate CRS's request management system, ISIS, which helps CRS assure Members of Congress and their staff that their information requests will be responded to quickly and efficiently.

When information technology moved to the desktop, Mr. Griffith managed the introduction of personal computers as individual workstations in CRS. Before the Internet and the World Wide Web, Mr. Griffith pioneered the use of optical disk technology for preserving and disseminating information to the Congress.

Mr. Griffith was a champion of interagency cooperation in the Congress. When a high capacity data communications network was established on Capitol Hill, he led an interagency group that resolved issues related to data exchange. This was the first step in the Internet-age. In 1997, when the Congress requested a new legislative information system, the LIS, Mr. Griffith assumed a leadership role as the CRS coordinator and worked closely with the Senate, the House of Representatives, the Library of Congress, and the Government Printing Office to develop and implement the new system. Today the LIS home page has over 4 million hits per year and is the primary resource for legislative information for Members of Congress and their staff.

Mr. Griffith's skill in leading interagency efforts extended to other initiatives as well. He is a recognized leader in efforts to implement XML technology consistently for legislative data and he has championed improvements in security initiatives to protect critical databases and ensure continuity of operations in the event of disaster.

Although Mr. Griffith is retiring from the Congressional Research Service, he will continue to contribute his professional expertise to the scholarship of legislative information. In 2006, through a Fulbright fellowship. Mr. Griffith will study the legislative information systems of the European Union and several European countries. He will be joined by his wife Jane Bortnick Griffith, who is the former assistant chief of the Science Policy Research Division of CRS and a Government information specialist in her own right.

Jeffrey C. Griffith has served the U.S. Congress with distinction for 30 years. The leadership and knowledge he provided has greatly benefited the Congress and the American people and his advice and counsel will be missed. His retirement now provides him the time to pursue study in legislative information systems that will continue to benefit all of us. I congratulate Jeff on a distinguished career and wish him and Jane the best in their future endeavors.

IN CELEBRATION OF THE 60TH ANNIVERSARY OF THE UNITED NATIONS

Mrs. BOXER. Mr. President, I am pleased to have this opportunity to recognize the 60th anniversary of the United Nations.

In 1945, as World War II was ending, representatives of 50 countries met in San Francisco, CA at the United Nations Conference on International Organization to draft the Charter of the United Nations. On October 24, 1945, the Charter achieved the required number of signatories for ratification, and the United Nations officially came into existence. Today, 60 years later, I am proud to reflect on the United Nation's many successes. I would also like to use this occasion to highlight the vital importance of building an even stronger United Nations for the future.

The United Nations was established with the primary purpose of providing a forum for the nations of the world to resolve issues without resorting to war. It has achieved many successes on this front, the greatest of which is that we have not had a world war since the United Nations was founded. For those regions of the world that have endured conflict, the U.N. Department of Peacekeeping Operation has facilitated more than 67 peacekeeping operations and is credited with negotiating more than 170 peaceful settlements that have ended regional conflicts.

Through the World Health Organization, the U.N. has combated the spread of pandemic diseases and continues to provide lifesaving drugs and medical care to millions of people around the world. Another U.N. program, the World Food Program, has served as a lifeline to millions of people who would otherwise face famine. And the United Nations Educational, Scientific and Cultural Organization has helped raise the female literacy rate in many developing countries around the world. I commend the United Nations for these outstanding achievements and the countless others it has made during the last 60 years.

But despite these many successes, there is still a long way to go. First and foremost, the United Nations must be reformed from within. In recent months, there have been far too many troubling incidents involving the United Nations, ranging from the Iraqi oil-for-food scandal, and the tragic sexual abuse cases involving peacekeeping troops in the Congo and elsewhere—and rightfully so; these acts were most egregious. These types of activities cannot continue if the United Nations is to receive the support and legitimacy it needs to tackle the challenges of the 21st century.

If the United Nations is comprehensively reformed from within, then it will find itself in an even better position to meet its larger goals. According to the United Nations' own figures, nearly a quarter of the children in the developed world are malnourished, and in a number of places in the world, the poor are actually getting poorer. I am pleased that the United Nations has embraced these challenges through the establishment of the Millennium Development Goals, which range from eradicating extreme poverty and hunger to combating the spread of HIV/AIDS, malaria, and other diseases. But there is much work to be done if these goals are to become reality. The international community must commit to working together. The only way to achieve real progress on these fronts will require consensus, partnership, and unity of effort on the part of all nations of the world. For this reason, a strong United Nations is more important than ever.

I congratulate the United Nations on its 60th anniversary and look forward to doing my part to ensure its continued success in the future.

INDIANA NATIONAL GUARD IN HURRICANE KATRINA RECOVERY

Mr. BAYH. Mr. President, I rise today to commend the hard work and selflessness of the members of the Indiana National Guard for their efforts to rebuild the gulf coast in the wake of Hurricane Katrina. Helping others in need is a longstanding Hoosier value, and there is no question that the people of Mississippi and Louisiana needed help from all States following such a terrible natural disaster. Our Indiana Guard members, and those from many other States, answered that call for help, and deserve to be recognized for their work.

The Crescent City is a far cry from our Hoosier State, but the men and women of the Indiana National Guard have made New Orleans their home away from home as they work to restore the city to its pre-Katrina greatness. Throughout Louisiana and Mississippi, hundreds of our Guard members are helping in all aspects of the recovery efforts, by clearing neighborhoods, helping evacuees and restoring order to the chaos left by Katrina.

Work like this is part of what makes America great. Over the past month, we have witnessed countless acts of tremendous heroism and heartwarming generosity performed by complete strangers working to help others weather this storm. Americans from across the country came together to give money, food, clothes, and shelter to people they will likely never meet.

Indiana's reaction to this terrible tragedy has made me proud to be a Hoosier. Our Guard members left behind families and loved ones—many of whom they have been separated from during long tours of duty overseas—to come to the aid of other families and help them rebuild their lives. In a true example of Hoosier hospitality, hundreds of Indiana families have opened their homes to evacuees in need of shelter. Many Hoosiers have donated to nonprofits like the Red Cross, and members from local police and fire stations have traveled south to offer their help.

Whether defending our freedom overseas or rebuilding in the face of natural disasters at home, the members of the Indiana National Guard represent the best of Indiana and America. They sacrifice time with loved ones and travel thousands of miles to shoulder some of the heaviest loads in the cleanup efforts. Most importantly, their work gives people hope that life can return to normal and that the towns devastated by Katrina can be rebuilt. For leading the way and reminding us of our ability to recover from such storms, the Indiana National Guard, and all volunteers working in the gulf today, deserve our thanks.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I was necessarily absent for yesterday's vote on the Protocol of Amendment to the International Convention on Simplification and Harmonization of Customs Procedures. Had I been present, I would have voted "aye" on the treaty.

PONTIFICAL VISIT OF HIS HOLINESS ARAM I

Mrs. FEINSTEIN. Mr. President, I am pleased to join the Armenian American community in welcoming the upcoming Pontifical visit of His Holiness Aram I, Catholicos of the Great House of Cilicia. The Pontiff will be visiting the State of California this October at the invitation of His Eminence, Archbishop Moushegh Mardirossian of the Western Prelacy of the Armenian Apostolic Church of America.

His Holiness is one of the most prominent Christian leaders in the

Middle East and a spiritual leader for hundreds of thousands of Armenians around the world. The Pontiff presently serves as the Moderator for the World Council of Churches which is comprised of more than 340 churches from different cultures and countries around the world representing over 400 million Christians. Currently serving his second term, His Holiness is the first Orthodox and the youngest person to be elevated to Moderator.

The theme of the Pontiff's visit is "Towards the Light of Knowledge." This theme reflects the Pontiff's faith that only with greater education and dialogue can the world's conflicts be addressed properly.

I take this opportunity to not only thank The Pontiff for his time and worthy endeavors in California, but also thank the sizable Armenian community which has been actively contributing to the California culture and economy since 1878. California cities of Los Angeles and Glendale are home to the second and third largest populations of Armenians outside of Armenia and are important members of their communities serving as business leaders and city council members.

TRIBUTE TO HARRIS H. SIMMONS

• Mr. BENNETT. Mr. President, I rise today to recognize a son of Utah and a good friend, Mr. Harris H. Simmons, who today, by the selection of his peers, becomes the next chairman of the American Bankers Association. I am honored to highlight a few of his accomplishments, including his significant contributions to the banking world and to the State of Utah.

Mr. Simmons is currently the chairman, president and CEO of Zions Bancorporation. With its corporate offices in Salt Lake City, UT, Zions operates in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Utah, and Washington. It is included in the S&P 500 Index, and is a national leader in Small Business Administration lending.

Harris started banking at the age of 16, when as a summer job he filed canceled checks at Zions. He continued his work at Zions in the investment department as he studied economics at the University of Utah. Harris then left Utah for a period as he furthered his studies and received an M.B.A. from Harvard Business School.

Upon graduating, Harris took a job in Houston, TX for Allied Bancshares. After a year and a half, he returned to Zions and became the chief financial officer at the age of only 27. Nine years later he was named president and CEO of the multibillion-dollar asset bank holding company which has seen fantastic growth and success as it has helped build communities and business under his leadership.

In addition to his professional accomplishments, Harris has been an invaluable member of the Utah community. He has served as president of the Utah Foundation, chairman of the Utah Symphony, and chairman of the Economic Developmént Corporation of Utah. He currently serves as president of the Shelter-the-Homeless Committee, as well as cochairman of the Utah Committee of the Newcomen Society of the United States. Most importantly, he is a loving husband and father of four.

This is but a small glimpse of Harris Simmons' contributions and accomplishments. I commend him to my colleagues as they have the opportunity to meet with him as he serves in his new role with the American Bankers Association. The American Bankers Association is privileged to have Harris Simmons as its new chairman.•

TRIBUTE TO MARK SALO

• Mrs. BOXER. Mr. President, today I wish to salute Mark Salo, who is retiring this fall after more than 31 years as the head of Planned Parenthood of San Diego and Riverside Counties, PPSDRC. A pioneer and visionary in the field of reproductive health care, he is a great champion of women's health and freedom of choice.

When Mark Salo began working with San Diego Planned Parenthood in 1974, it comprised one small clinic whose 12 employees provided 5,000 patient visits a year. Today PPSDRC is the second-largest Planned Parenthood affiliate in the Nation, with an annual budget of $35 million and 400 employees who provide more than 200,000 patient visits.

The San Diego/Riverside affiliate has been a pioneer in the expansion of medical services to include vasectomies, tubal ligations, prenatal care, and mifepristone. PPSDRC oversees an Emmy-award-winning teen theatre and a variety of innovative teen outreach programs. It offers local midlife services, male and female sterilization services, and a thriving prenatal practice.

Mark has reached across the border from San Diego to build a Planned Parenthood of truly international scope by developing and funding a binational program in northern Baja California, Mexico. PPSDRC's "Mexico Fund" supports five medical facilities in the poor colonias around Tijuana and funds contraceptive programs in the foreign-owned manufacturing plants known as maquiladoras.

Over the years, Mark has also become the most visible public advocate of reproductive rights in the San Diego region. He represents Planned Parenthood through television news, interview shows, debate forums, newspaper commentaries, and live radio appearances.

I know that everyone who values women's health and reproductive freedom will join me in saluting Mark Salo and sending him best wishes for a well-earned, active retirement.•

MESSAGE FROM THE HOUSE

At 2:22 p.m., a message from the House of Representatives, delivered by Ms. Niland, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2123. An act to reauthorize the Head Start Act to improve the school readiness of disadvantaged children, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3765. An act to extend through December 31, 2007, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 1771—To express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3994. A communication from the Assistant Secretary of Defense, Reserve Affairs, transmitting, pursuant to law, a report entitled "Report on the Montgomery G.I. Bill for Members of the Selected Service"; to the Committee on Armed Services.

EC–3995. A communication from the Acting Director of Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, a report relative to funding the Foreign Comparative Testing (FCT) Program for Fiscal Year 2006; to the Committee on Armed Services.

EC–3996. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report clarifying a May 4, 2005 report relative to a storm damage reduction project at Silver Strand Shoreline, Imperial Beach, California; to the Committee on Armed Services.

EC–3997. A communication from the Under Secretary of Defense for Acquisition, Technology and Logistics, transmitting, pursuant to law, a report relative to funding for Future Combat Systems (FCS) for Fiscal Year 2006; to the Committee on Armed Services.

EC–3998. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Lieutenant

General Duncan J. McNabb, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-3999. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Levy on Payments to Contractors" (DFARS Case 2004-D033) received on September 18, 2005; to the Committee on Armed Services.

EC-4000. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Assignment of Contract Administration - Exception for Defense Energy Support Center" (DFARS Case 2004-D007) received on September 18, 2005; to the Committee on Armed Services.

EC-4001. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Restrictions on Totally Enclosed Lifeboat Survival Systems" (DFARS Case 2004-D034) received on September 18, 2005; to the Committee on Armed Services.

EC-4002. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Training for Contractor Personnel Interacting with Detainees" (DFARS Case 2005-D007) received on September 18, 2005; to the Committee on Armed Services.

EC-4003. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, a report relative to the proceedings of the Judicial Conference of the United States for the March 15, 2005 session; to the Committee on the Judiciary.

EC-4004. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law a report on compliance by the United States courts of appeals and district courts with the time limitations established for deciding habeas corpus death penalty petitions under Title I of the Antiterrorism and Effective Death Penalty Act of 1996; to the Committee on the Judiciary.

EC-4005. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Scheduling of Controlled Substances: Placement of Pregabalin into Schedule V" (Docket No. DEA-267F) received on September 18, 2005; to the Committee on the Judiciary.

EC-4006. A communication from the Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Adjustment of the Appeal and Motion Fees to Recover Full Costs" ((RIN1615-AA88) (USCIS 2245-02)) received on September 18, 2005; to the Committee on the Judiciary.

EC-4007. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Niagara Escarpment Viticultural Area" ((RIN1513-AA97)(T.D. TTB-33)) received on September 18, 2005; to the Committee on the Judiciary.

EC-4008. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Expansion of the Russian River Valley Viticultural Area" ((RIN1513-AA67)(T.D. TTB-32)) received on September 18, 2005; to the Committee on the Judiciary.

EC-4009. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Certification Requirements for Imported Natural Wine (2005R-002P)" (RIN1513-AB00) received on September 18, 2005; to the Committee on the Judiciary.

EC-4010. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to efforts made by the United Nations and the UN Specialized Agencies to employ an adequate number of Americans during 2004; to the Committee on Foreign Relations.

EC-4011. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 05-214—05-224); to the Committee on Foreign Relations.

EC-4012. A communication from the Ambassador, U.S. Global AIDS Coordinator, Department of State, transmitting, pursuant to law, a report on the President's Emergency Plan for AIDS Relief: Pediatric HIV/AIDS Treatment; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 572. A bill to amend the Homeland Security Act of 2002 to give additional biosecurity responsibilities to the Department of Homeland Security.

S. 939. A bill to expedite payments of certain Federal emergency assistance authorized pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and to direct the Secretary of Homeland Security to exercise certain authority provided under that Act.

S. 1700. A bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1736. A bill to provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies.

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 1738. A bill to expand the responsibilities of the Special Inspector General for Iraq Reconstruction to provide independent objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1777. An original bill to provide relief for the victims of Hurricane Katrina.

MEASURES DISCHARGED

The following bill was discharged from the Committee on the Judiciary by unanimous consent, and referred as indicated:

H.R. 2107. An act to amend Public Law 104-329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORNYN (for himself and Ms. MIKULSKI):

S. 1774. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. CHAFEE, Mr. OBAMA, and Mr. ROCKEFELLER):

S. 1775. A bill to amend the Internal Revenue Code of 1986 to modify the income threshold used to calculate the refundable portion of the child tax credit; to the Committee on Finance.

By Mr. DAYTON:

S. 1776. A bill to amend the Federal Crop Insurance Act to establish permanent authority for the Secretary of Agriculture to quickly provide disaster relief to agricultural producers that incur crop losses as a result of damaging weather or related condition in federally declared disaster areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry

By Ms. COLLINS:

S. 1777. An original bill to provide relief for the victims of Hurricane Katrina; from the Committee on Homeland Security and Governmental Affairs; placed on the calendar.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1778. A bill to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; to the Committee on Finance.

By Mr. TALENT (for himself, Mr. ALLEN, and Mr. COLEMAN):

S.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress; to the Committee on the Judiciary.

By Mrs. DOLE:

S.J. Res. 26. A joint resolution proposing an amendment to the Constitution of the United States relative to the line item veto; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. Res. 252. A resolution recognizing the Bicentennial Anniversary of Zebulon Montgomery Pike's explorations in the interior west of the United States; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. Res. 253. A resolution designating October 7, 2005, as "National 'It's Academic' Television Quiz Show Day"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 27

At the request of Mrs. HUTCHISON, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 27, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes.

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 191

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 484

At the request of Mr. WARNER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 612

At the request of Mr. SPECTER, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 612, a bill to require the Secretary of the Army to award the Combat Medical Badge or another combat badge for Army helicopter medical evacuation ambulance (Medevac) pilots and crews.

S. 625

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 625, a bill to amend the Internal Revenue Code of 1986 to allow a $1,000 refundable credit for individuals who are bona fide volunteer members of volunteer firefighting and emergency medical service organizations.

S. 756

At the request of Mr. BENNETT, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 910

At the request of Ms. LANDRIEU, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 910, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 969

At the request of Mr. OBAMA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 969, a bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1191

At the request of Mr. SALAZAR, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1227

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1227, a bill to improve quality in health care by providing incentives for adoption of modern information technology.

S. 1358

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policymaking.

S. 1367

At the request of Mr. ALEXANDER, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1367, a bill to provide for recruiting, selecting, training, and supporting a national teacher corps in underserved communities.

S. 1440

At the request of Mr. CRAPO, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1488

At the request of Mr. VITTER, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1488, a bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes.

S. 1500

At the request of Ms. LANDRIEU, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1500, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and to conduct and coordinate a research program on hormone disruption, and for other purposes.

S. 1630

At the request of Mr. OBAMA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1630, a bill to direct the Secretary of Homeland Security to establish the National Emergency Family Locator System.

S. 1631

At the request of Mr. DORGAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1631, a bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes.

S. 1700

At the request of Mr. COBURN, the names of the Senator from Maine (Ms. COLLINS), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1723

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1723, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes.

S. 1725

At the request of Mr. LIEBERMAN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Colorado (Mr. SALAZAR), the Senator from Virginia (Mr. WARNER) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1725, a bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

S. 1738

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1738, a bill to expand the responsibilities of the Special Inspector General for Iraq Reconstruction to provide independent objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1738, supra.

S. 1761

At the request of Mr. THUNE, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 1761, a bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

S. 1769

At the request of Mr. ENZI, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1769, a bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

S. RES. 87

At the request of Mr. THUNE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. Res. 87, a resolution expressing the sense of the Senate regarding the resumption of beef exports to Japan.

S. RES. 180

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 180, a resolution supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

S. RES. 184

At the request of Mr. FRIST, his name was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

S. RES. 237

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 237, a resolution expressing the sense of the Senate on reaching an agreement on the future status of Kosovo.

AMENDMENT NO. 1472

At the request of Mr. SPECTER, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of amendment No. 1472 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1502

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 1502 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1503

At the request of Mr. KERRY, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 1503 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself and Ms. MIKULSKI):

S. 1774. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pulmonary Hypertension Research Act of 2005".

SEC. 2. FINDINGS.

Congress finds the following:

(1) In order to take full advantage of the tremendous potential for finding a cure or effective treatment, the Federal investment in pulmonary hypertension must be expanded, and coordination among the national research institutes of the National Institutes of Health must be strengthened.

(2) Pulmonary hypertension ("PH") is a serious and often fatal condition where the blood pressure in the lungs rises to dangerously high levels. In PH patients, the walls of the arteries that take blood from the right side of the heart to the lungs thicken and constrict. As a result, the right side of the heart has to pump harder to move blood into the lungs, causing it to enlarge and ultimately fail.

(3) In the United States it has been estimated that 300 new cases of PPH are diagnosed each year, or about 2 persons per million population per year; the greatest number are reported in women between the ages of 21 and 40. While at one time the disease was thought to occur among young women almost exclusively, we now know, however, that men and women in all age ranges, from very young children to elderly people, can develop PPH. It also affects people of all racial and ethnic origins, with African Americans suffering from a mortality rate twice as high as that affecting Caucasians.

(4) The low prevalence of PPH makes learning more about the disease extremely difficult. Studies of PPH also have been difficult because a good animal model of the disease has not been available.

(5) In about 6 to 10 percent of cases, PPH is familial. The familial PPH gene is located on chromosome 2 and was discovered in July 2000. This discovery provided new insights for determining the molecular basis of PPH

and opened new avenues of study for understanding the fundamental nature of the disease.

(6) In the more advanced stages of PPH, the patient is able to perform only minimal activity and has symptoms even when resting. The disease may worsen to the point where the patient is completely bedridden.

(7) PPH remains a diagnosis of exclusion and is rarely picked up in a routine medical examination. Even in its later stages, the signs of the disease can be confused with other conditions affecting the heart and lungs. The use of new diagnostic standards has been positively related to the rates of diagnosis.

(8) In 1981, the National Heart, Lung, and Blood Institute established the first PPH-patient registry in the world. The registry followed 194 people with PPH over a period of at least 1 year and, in some cases, for as long as 7.5 years. Much of what we know about the illness today stems from this study.

(9) As research progresses, so do treatments for PH. Currently, there are 4 FDA-approved medications for PH and 3 more in trials. However, all medications are not effective on all patients. Lung transplantation is often considered a treatment of last resort for PH.

(10) Because we still do not understand the cause or have a cure for PPH, basic research studies are focusing on the possible involvement of immunologic and genetic factors in the cause and progression of PPH, looking at agents that cause narrowing of the pulmonary blood vessels, and identifying factors that cause growth of smooth muscle and formation of scar tissue in the vessel walls.

(11) Secondary pulmonary hypertension ("SPH") means the cause is known. Common causes of SPH are the breathing disorders emphysema and bronchitis. Other less frequent causes are the inflammatory or collagen vascular diseases such as scleroderma, CREST syndrome, or systemic lupus erythematosus ("SLE"). Other causes include congenital heart diseases that cause shunting of extra blood through the lungs like ventricular and atrial septal defects, chronic pulmonary thromboembolism, HIV infection, and liver disease. Sickle cell anemia is also linked to SPH, with preliminary studies suggesting that approximately one third of sickle cell patients develop SPH.

SEC. 3. EXPANSION, INTENSIFICATION, AND COORDINATION OF ACTIVITIES OF NATIONAL HEART, LUNG, AND BLOOD INSTITUTE WITH RESPECT TO RESEARCH ON PULMONARY HYPERTENSION.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by inserting after section 424B the following section:

"PULMONARY HYPERTENSION

"SEC. 424C. (a) IN GENERAL.—

"(1) EXPANSION OF ACTIVITIES.—The Director of the Institute shall expand, intensify, and coordinate the activities of the Institute with respect to research on pulmonary hypertension.

"(2) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under paragraph (1) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to pulmonary hypertension.

"(b) CENTERS OF EXCELLENCE.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct research on pulmonary hypertension.

"(2) RESEARCH, TRAINING, AND INFORMATION AND EDUCATION.—

"(A) IN GENERAL.—With respect to pulmonary hypertension, each center assisted under paragraph (1) shall—

"(i) conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of such disease;

"(ii) conduct training programs for scientists and health professionals;

"(iii) conduct programs to provide information and continuing education to health professionals; and

"(iv) conduct programs for the dissemination of information to the public.

"(B) STIPENDS FOR TRAINING OF HEALTH PROFESSIONALS.—A center under paragraph (1) may use funds provided under such paragraph to provide stipends for scientists and health professionals enrolled in the programs described in subparagraph (A)(ii).

"(3) COORDINATION OF CENTERS; REPORTS.—The Director shall, as appropriate, provide for the coordination of information among centers under paragraph (1) and ensure regular communication between such centers, and may require the periodic preparation of reports on the activities of the centers and the submission of the reports to the Director.

"(4) ORGANIZATION OF CENTERS.—Each center under paragraph (1) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director.

"(5) NUMBER OF CENTERS; DURATION OF SUPPORT.—The Director shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of not less than 3 centers under paragraph (1). Support of such a center may be for a period not exceeding 5 years. Such period may be extended for 1 or more additional periods not exceeding 5 years if—

"(A) the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director; and

"(B) such group has recommended to the Director that such period should be extended.

"(c) DATA SYSTEM; CLEARINGHOUSE.—

"(1) DATA SYSTEM.—The Director of the Institute shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with pulmonary hypertension, including, where possible, data involving general populations for the purpose of identifying individuals at risk of developing such condition.

"(2) CLEARINGHOUSE.—The Director of the Institute shall establish an information clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of pulmonary hypertension by health professionals, patients, industry, and the public.

"(d) PUBLIC INPUT.—In carrying out subsection (a), the Director of the Institute shall provide for means through which the public can obtain information on the existing and planned programs and activities of the National Institutes of Health with respect to primary hypertension and through which the Director can receive comments from the public regarding such programs and activities.

"(e) REPORTS.—The Director of the Institute shall prepare biennial reports on the activities conducted and supported under this section, and shall include such reports in the biennial reports prepared by the Director under section 407.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2010.".

Ms. MIKULSKI. Mr. President, I rise today with Senator CORNYN to introduce the "Pulmonary Hypertension Research Act of 2005." This important legislation increases funding for medical research dedicated to finding treatments and possibly a cure for Pulmonary Hypertension (PH), and would establish Centers of Excellence that would be charged with educating health professionals and the public about the disease.

PH is a serious, often fatal condition. It is estimated that more than 100,000 Americans suffer from pulmonary hypertension. It does not discriminate based on race, gender or age. However, women are more than twice as likely as men to develop the condition. PH is characterized by dangerously high blood pressure in the lungs. In PH patients, the walls of the arteries that take blood from the right side of the heart to the lungs thicken so much that they restrict the flow of blood.

The Pulmonary Hypertension Research Act would do three things: First, it expands PH research at the National Heart, Lung and Blood Institute at the NIH, authorizing $250 million over five years to fund PH research. Additional funding would help researchers further understand PH and develop new treatment options for the illness.

Second, the legislation would establish "Centers of Excellence" which would focus on PH research and education efforts for both health professionals and the general public. One of the greatest tragedies of PH is that it often goes undiagnosed. Most Americans have never heard of PH and do not know that symptoms such as shortness of breath, fatigue, and dizziness are common indicators of the illness. Lastly, the legislation establishes a data system and clearinghouse at the National Heart, Lung and Blood Institute that would disseminate information on PH to the general public in order to facilitate more accurate and timely diagnosis.

Since my first days in Congress, I have been fighting to make sure women don't get left out or left behind when it comes to their health. From women's inclusion in clinical trials to quality standards for mammograms, I have led the way to make sure women's health needs are treated fairly and taken seriously. This legislation builds on these past successes to address this silent disease among young American women. I look forward to working with my colleagues to get this bill signed into law.

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. CHAFEE, Mr. OBAMA, and Mr. ROCKEFELLER):

S. 1775. A bill to amend the Internal Revenue Code of 1986 to modify the income threshold used to calculate the refundable portion of the child tax credit; to the Committee on Finance.

Ms. SNOWE. Mr. President, today Congress is confronted with how to best provide tax relief to American families earning slightly more than the minimum wage. We can do that by expanding the availability of the child tax credit to more working families.

In 2001, I pushed to make the child tax credit refundable for workers making around the minimum wage. As enacted in 2001, a portion of a taxpayer's child tax credit would be refundable—up to 10 percent of earnings above $10,000.

Last year, Congress passed the Working Families Tax Relief of 2004, which increased from 10 percent to 15 percent the portion of the child tax credit that is refundable. Although the legislation increased the amount of the refundable child credit, it failed to increase the number of families eligible for the benefit. The consequences are serious for low-income Americans living paycheck to paycheck. It means that tens of thousands of low-income families will be completely ineligible for a credit they should receive.

This year, because the income threshold is indexed, only taxpayers earning over $11,000 are eligible to receive the refundable portion of the child tax credit. Low-income families earning less than $11,000 are shut out of the child tax credit completely.

For example, a single mother who earns the minimum wage and works a 40 hour week for all 52 weeks of the year fails to qualify for the refundable portion of the child tax credit. Since the mother earns $10,700, she is a mere $300 away from qualifying for the credit. Worse, if the single mother does not receive a raise the following year, it will be even tougher to qualify because the $11,000 she originally needed to earn is adjusted for inflation and will increase.

I am introducing legislation, the Working Family Child Assistance Act, with Senators LINCOLN, CHAFEE, OBAMA, and ROCKEFELLER that will enable more hard-working, low-income families to receive the refundable child credit this year. My legislation returns to $10,000 the amount of income a family must earn to qualify for the credit. Moreover, my bill would "deindex" the $10,000 threshold for inflation, so families failing to get a raise each year would not lose benefits.

Most notably, my bill is identical to the refundable child credit proposal the Senate passed in May 2001 as part of its version of that year's tax bill. Although I was able to ensure that a refundable child credit would be part of the final bill sent to President Bush, conferees did index the $10,000 threshold to inflation despite my best efforts.

The staff of the Joint Committee on Taxation estimates that this legislation will allow an additional 600,000 families to benefit from the refundable child tax credit.

For example, the legislation provides a $113 child credit to a mom who earns $10,750 per year. That's money she could use to buy groceries, rent, school books and other family necessities.

The Commerce Department recently reported that between August 2004 and August 2005 average weekly wages adjusted for inflation fell 1.1 percent. Obviously, families need all the help we can give them.

Our families and our country are better off when government lets people keep more of what they earn. Parents deserve their per-child tax credit, and this bill rewards families for work.

I am committed to this issue and have called on President Bush to work with Congress so we can help an additional one million children, whose parents and guardians struggle every day to take care of them.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Family Child Assistance Act".

SEC. 2. $10,000 INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(d) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended—

(1) by striking "as exceeds" and all that follows through ", or" in paragraph (1)(B)(i) and inserting "as exceeds $10,000, or", and

(2) by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(c) APPLICATION OF SUNSET TO THIS SECTION.—Each amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. OBAMA. Mr. President, I rise to speak about the Child Tax Credit and to support S. 1775, a bill I've worked on with Senators SNOWE and LINCOLN. I am proud to cosponsor this bill to help working families get all the tax relief they deserve. The Child Credit is an important component of our federal tax code, and S. 1775 is an important step in making the credit more valuable and more fair for those who need it most.

The Child Credit recognizes that raising children is expensive and allows middle class families to claim a credit of $1,000 per child against their federal income tax. That's a big help.

Importantly, the Child Credit also recognizes the particular vulnerability of low-income families with children. Since the credit is refundable to the extent of 15% of a taxpayer's earned income in excess of $10,750, families earning more than that threshold level of income get at least a partial benefit even if they have no federal income tax liability. The benefit may be small for families with low incomes, but every penny helps defray the rising costs of being a working parent in America today.

Unfortunately, as currently structured, the Child Credit leaves more and more families out of the benefit each year. That's because the income threshold for eligibility rises annually at the rate of inflation even though family incomes may not rise as fast. That means that if you earn the minimum wage, which has not increased since 1997, or if your wage is low and you didn't get a raise, or if you worked fewer hours than the year before, then your tax refund probably shrunk. It may even have disappeared. That strikes me as unfair, and it's what almost four and a half million households with children will experience this year.

Generally, indexing the parameters of the tax system for inflation makes sense because it neutralizes the effects of inflation on the tax system. In this case, however, indexing the threshold results in an unfair tax increase for low-income families whose incomes are stagnant or falling. Recent data indicates that the typical low-income household actually saw its earnings decline during the first few years of this decade. At the same time, the costs of housing, childcare, and driving to work have increased.

This bill returns the threshold to its original level of $10,000 and freezes it, thereby expanding the benefit to include more kids and protecting those families from unfair tax increases due to inflation. This is an important step in improving the fairness of our tax code and providing necessary support to working families.

In time, I hope we will do more. It is unfair that more than eight million children in families with incomes too low to qualify even for a partial credit—these are incomes far below the federal poverty level—get no benefit at all. Ironically, these children have the greatest needs, and their parents pay an enormous share of their incomes in taxes and basic services, such as food, housing, and clothing.

America can do better. In time, I hope we will tackle the broader challenge of ensuring that their parents have jobs that pay living wages, a home they can afford, a school district that enables a life of opportunity, a community that cares for its children, and the faith that hard work and personal commitment pay off. America can do this.

I urge my colleagues to join me in supporting this important bill as a first step in partnering with me in addressing the broader goal of equal opportunity for all.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1778. A bill to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to join with my colleague Senator MAX BAUCUS in introducing the "Medicare Cost-Sharing and Welfare Extension Act of 2005."

This legislation extends the Temporary Assistance for Needy Families, TANF, for 3 months and provides funding for 6 months of Transitional Medical Assistance, TMA, for families making the transition from welfare to work. As my colleagues know, H.R. 3672, which has been signed into law, would extend TANF until December 31, 2005, so this legislation represents a total extension of TANF until the end of March, 2006.

This is the twelfth extension of TANF and related programs. Welfare reform reauthorization should have been passed years ago. Too many families are languishing on the welfare rolls and we are seeing a backsliding of the improvements that we saw in the early years, after welfare reform. Child care funding has remained stagnant. States have been operating their welfare programs under a cloud of uncertainty regarding what a final Federal welfare reauthorization bill would require of them. We need to make some critical reforms to build on the success of the 1996 bill and give States the ability to manage and plan for their welfare programs. I am hopeful that this represents the final short-term extension of TANF and that the Congress will act quickly to pass a comprehensive welfare bill.

Additionally, this legislation includes a provision to extend cost-sharing assistance to qualifying individuals, QIs, for the Medicare Part B premium through September, 2006. This program has been helping vulnerable individuals with incomes between 120 and 135 percent of the Federal Poverty Level since 1997. It is estimated that the Part B premiums will cost a beneficiary $88.50 a month, an increase of $10.30 from the current $78.20 premium. For these low-income individuals, that represents a significant percentage of their monthly income. The President's budget includes a one year extension of the QI program.

Both the QI and TANF programs provide critical support to individuals and families with children who are in need—folks who otherwise might not be able to get healthcare services or make ends meet.

I urge my colleagues to support this legislation.

By Mr. TALENT (for himself, Mr. ALLEN, and Mr. COLEMAN):

S.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation any bill present by Congress; to the Committee on the Judiciary.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. RES. 25

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The President may reduce or disapprove any appropriation in any bill, order, resolution, or vote, which is presented to the President under section 7 of Article I.

"SECTION 2. Any legislation that the President approves and signs, after being amended pursuant to section 1, shall become law as so modified.

"The President shall return those portions of the legislation that contain reduced or disapproved appropriations with objections to the House where such legislation originated.

"Congress may separately consider any reduced or disapproved appropriations in the manner prescribed under section 7 of Article I for bills disapproved by the President.

"SECTION 3. This article shall take effect on the first day of the first session of Congress beginning after the date of ratification.".

SUBMITTED RESOLUTION

SENATE RESOLUTION 252—RECOGNIZING THE BICENTENNIAL ANNIVERSARY OF ZEBULON MONTGOMERY PIKE'S EXPLORATIONS IN THE INTERIOR WEST OF THE UNITED STATES

Mr. SALAZAR (for himself and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 252

Whereas Zebulon Montgomery Pike was born January 5, 1779, in Lamberton, New Jersey, to a military family, which quickly was on the move across the Nation with Pike growing up on frontier military posts;

Whereas Zebulon Montgomery Pike served the United States with distinction, initially as a commissioned First Lieutenant in the First Infantry Regiment of the United States Army, later as a Captain, further as a Colonel of the 15th Regiment during the War of 1812, and ultimately as a Brigadier General in 1813;

Whereas in July of 1806, Zebulon Montgomery Pike was given the assignment of leading an expedition west from present-day St. Louis, Missouri, up the Arkansas River to its source in the highest of the Rocky Mountains, then into Colorado's San Luis Valley;

Whereas Zebulon Montgomery Pike and his expedition traveled through the present day states of Missouri, Nebraska, Kansas, and Colorado observing the geography, natural history, and population of the country through which he passed;

Whereas Zebulon Montgomery Pike and his expedition reached the site of present day Pueblo, Colorado on November 23, 1806, and, fascinated with a blue peak in the Rocky Mountains to the west, Pike set out to explore the mountain;

Whereas Zebulon Montgomery Pike was prevented from completing the ascent due to waist-deep snow, inadequate clothing, and sub-zero temperatures, and so chose to turn back for the safety of his expedition;

Whereas Zebulon Montgomery Pike never set foot on "Pike's Peak" but did contribute significantly to the interior west's early exploration through the headwaters of the Arkansas River;

Whereas Zebulon Montgomery Pike and his expedition found the area of present day Great Sand Dunes National Park in Colorado and the headwaters of the Rio Grande, which he mistakenly thought was the Red River; and

Whereas on April 27, 1813, Zebulon Montgomery Pike died in valiant service to his country, leading an attack on York, later to become Toronto, during the War of 1812: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the year 2006 as the 200th anniversary of Zebulon Montgomery Pike's discoveries throughout the American West; and

(2) encourages the people of the United States to observe and celebrate his contributions to our Nation's history with appropriate ceremonies and activities throughout the year.

SENATE RESOLUTION 253—DESIGNATING OCTOBER 7, 2005, AS "NATIONAL 'IT'S ACADEMIC' TELEVISION QUIZ SHOW DAY"

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 253

Whereas "It's Academic", the Nation's foremost televised high school quiz show, will begin its 45th season on NBC4 in Washington, District of Columbia, and is the longest running television quiz show in the Nation's history;

Whereas "It's Academic" has used the power of television to motivate and showcase

2 generations of students in cities across the country, including students in Washington, District of Columbia, Baltimore, Maryland, Charlottesville, North Carolina, Buffalo, New York City, and Rochester New York, Los Angeles, California, Chicago, Illinois, Honolulu, Hawaii, Philadelphia, Pennsylvania, Boston, Massachusetts, Denver, Colorado, Cincinnati and Cleveland, Ohio, Jacksonville, Florida, Norfolk, Virginia, Fort Wayne, Indiana, Wilmington, Delaware, and students throughout the state of Kentucky;

Whereas each year hundreds of secondary schools—public, parochial, private, suburban, rural, and inner-city—compete on "It's Academic", demonstrating a diverse student population focused on academic excellence and encouraging community support for education;

Whereas the dedicated teachers who work with the teams and prepare them for the competition on "It's Academic" are introduced on the program, providing those teachers with positive recognition that reflects on the entire teaching profession;

Whereas the corporate sponsors of "It's Academic" have generously given scholarship grants to participating schools to help students pursue their education;

Whereas "It's Academic" has encouraged academic excellence by promoting academic competition as a motivating factor and generates the same adulation and respect for student scholars as for student athletes; and

Whereas "It's Academic" continues to provide a forum for showcasing academic excellence at the high school level and for presenting a positive image of schools, teachers, and students, thereby helping to offset negative stereotypes: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 7, 2005, as "National 'It's Academic' Television Quiz Show Day"; and

(2) calls on the people of the United States to observe the day by supporting the academic success of students and their local schools.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1872. Mr. ISAKSON (for Mr. CRAIG) proposed an amendment to the bill H.R. 3200, to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

SA 1873. Mr. ISAKSON (for Mr. INHOFE) proposed an amendment to the bill S. 1709, to provide favorable treatment for certain projects in response to Hurricane Katrina, with respect to revolving loans under the Federal Water Pollution Control Act, and for other purposes.

SA 1874. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1872. Mr. ISAKSON (for Mr. CRAIG) proposed an amendment to the bill H.R. 3200, to amend title 38, United States Code, to enhance the Servicemember's Group Life Insurance program, and for other purposes: as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicemembers' Group Life Insurance Enhancement Act of 2005".

SEC. 2. REPEALER.

Effective as of August 31, 2005, section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 244), including the amendments made by that section, are repealed, and sections 1967, 1969, 1970, and 1977 of title 38, United States Code, shall be applied as if that section had not been enacted.

SEC. 3. INCREASE FROM $250,000 TO $400,000 IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE.

(a) MAXIMUM UNDER SGLI.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A)(i), by striking "$250,000" and inserting "$400,000"; and

(2) in subsection (d), by striking "of $250,000" and inserting "in effect under paragraph (3)(A)(i) of that subsection".

(b) MAXIMUM UNDER VGLI.—Section 1977(a) of such title is amended—

(1) in paragraph (1), by striking "in excess of $250,000 at any one time" and inserting "at any one time in excess of the maximum amount for Servicemembers' Group Life Insurance in effect under section 1967(a)(3)(A)(i) of this title"; and

(2) in paragraph (2)—

(A) by striking "for less than $250,000 under Servicemembers' Group Life Insurance" and inserting "under Servicemembers' Group Life Insurance for less than the maximum amount for such insurance in effect under section 1967(a)(3)(A)(i) of this title"; and

(B) by striking "does not exceed $250,000" and inserting "does not exceed such maximum amount in effect under such section".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 1, 2005, and shall apply with respect to deaths occurring on or after that date.

SEC. 4. SPOUSAL NOTIFICATIONS RELATING TO SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

Effective as of September 1, 2005, section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) If a member who is married and who is eligible for insurance under this section makes an election under subsection (a)(2)(A) not to be insured under this subchapter, the Secretary concerned shall notify the member's spouse, in writing, of that election.

"(2) In the case of a member who is married and who is insured under this section and whose spouse is designated as a beneficiary of the member under this subchapter, whenever the member makes an election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i), the Secretary concerned shall notify the member's spouse, in writing, of that election—

"(A) in the case of the first such election; and

"(B) in the case of any subsequent such election if the effect of such election is to reduce the amount of insurance coverage of the member from that in effect immediately before such election.

"(3) In the case of a member who is married and who is insured under this section, if the member makes a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter, the Secretary concerned shall notify the member's spouse, in writing, that such a beneficiary designation has been made by the member, except that such a notification is not required if the spouse has previously received such a notification under this paragraph and if immediately before the new designation by the member under section 1970(a) of this title the spouse is not a designated beneficiary of the member for any amount of insurance under this subchapter.

"(4) A notification required by this subsection is satisfied by a good faith effort to provide the required information to the spouse at the last address of the spouse in the records of the Secretary concerned. Failure to provide a notification required under this subsection in a timely manner does not affect the validity of any election specified in paragraph (1) or (2) or beneficiary designation specified in paragraph (3).".

SEC. 5. INCREMENTS OF INSURANCE THAT MAY BE ELECTED.

(a) INCREASE IN INCREMENT AMOUNT.—Subsection (a)(3)(B) of section 1967 of title 38, United States Code, is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 1, 2005.

SA 1873. Mr. ISAKSON (for Mr. INHOFE) proposed an amendment to the bill S. 1709, to provide favorable treatment for certain projects in response to Hurricane Katrina, with respect to revolving loans under the Federal Water Pollution Control Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gulf Coast Emergency Water Infrastructure Assistance Act".

SEC. 2. DEFINITION OF STATE.

In this Act, the term "State" means—

(1) the State of Alabama;

(2) the State of Louisiana; and

(3) the State of Mississippi.

SEC. 3. TREATMENT OF CERTAIN LOANS.

(a) DEFINITION OF ELIGIBLE PROJECT.—In this section, the term "eligible project" means a project—

(1) to repair, replace, or rebuild a publicly-owned treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)), including a privately-owned utility that principally treats municipal wastewater or domestic sewage, in an area affected by Hurricane Katrina or a related condition; or

(2) that is a water quality project directly related to relief efforts in response to Hurricane Katrina or a related condition, as determined by the State in which the project is located.

(b) ADDITIONAL SUBSIDIZATION.—

(1) IN GENERAL.—Subject to paragraph (2), for the 2-year period beginning on the date of enactment of this Act, a State may provide additional subsidization to an eligible

project that receives funds through a revolving loan under section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383), including—

(A) forgiveness of the principal of the revolving loan; or

(B) a zero-percent interest rate on the revolving loan.

(2) LIMITATION.—The amount of any additional subsidization provided under paragraph (1) shall not exceed 30 percent of the amount of the capitalization grant received by the State under section 602 of the Federal Water Pollution Control Act (33 U.S.C. 1382) for the fiscal year during which the subsidization is provided.

(c) EXTENDED TERMS.—For the 2-year period beginning on the date of enactment of this Act, a State may extend the term of a revolving loan under section 603 of that Act (33 U.S.C. 1383) for an eligible project described in subsection (b), if the extended term—

(1) terminates not later than the date that is 30 years after the date of completion of the project that is the subject of the loan; and

(2) does not exceed the expected design life of the project.

(d) PRIORITY LISTS.—For the 2-year period beginning on the date of enactment of this Act, a State may provide assistance to an eligible project that is not included on the priority list of the State under section 216 of the Federal Water Pollution Control Act (33 U.S.C. 1296).

SEC. 4. PRIORITY LIST.

For the 2-year period beginning on the date of enactment of this Act, a State may provide assistance to a public water system that is not included on the priority list of the State under section 1452(b)(3)(B) of the Safe Drinking Water Act (42 U.S.C. 300j-12(b)(3)(B)), if the project—

(1) involves damage caused by Hurricane Katrina or a related condition; and

(2) is in accordance with section 1452(b)(3)(A) of that Act (42 U.S.C. 300j-12(b)(3)(A)).

SEC. 5. TESTING OF PRIVATELY-OWNED DRINKING WATER WELLS.

On receipt of a request from a homeowner, the Administrator of the Environmental Protection Agency may conduct a test of a drinking water well owned or operated by the homeowner that is, or may be, contaminated as a result of Hurricane Katrina or a related condition.

SA 1874. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 167, between lines 6 and 7, insert the following:

(c) ADDITIONAL DEATH GRATUITY.—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e) of title 10, United States Code, as added by section 1013(b) of Public Law 109-13, the eligible survivors of such decedent shall receive an additional death gratuity in the same amount and under the same conditions as provided under such section 1478(e).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 27, 2005, at 9:30 a.m., in open session to receive testimony on needed improvements to defense acquisition processes and organizations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 27 at 10 a.m.

The purpose of this hearing is to receive testimony on S. 1701, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines; and S. 961, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to preauthorize and reform the abandoned mine reclamation program and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 27, 2005, at 9:30 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 27, 2005 at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, September 27, 2005, at 2:30 p.m. for a hearing regarding "Housing-Related Programs for the Poor: Can We Be Sure That Federal Assistance Is Getting to Those Who Need It Most?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Tuesday, September 27, 2005, at 2:30 p.m. to hold a hearing on energy supplies in Eurasia and implications for U.S. energy security.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Tuesday, September 27, 2005 at 10 a.m. for a hearing entitled, "Alternative Personnel Systems: Assessing Progress in the Federal Government."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jay Apperson for the duration of the debate on the nomination of Judge Roberts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask unanimous consent that my chief counsel on the Judiciary Committee, William Smith, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING WAIVER AUTHORITY OF THE SECRETARY OF EDUCATION

Mr. COBURN. Mr. President, I ask unanimous consent that the HELP Committee be discharged and the Senate proceed to the immediate consideration of H.R. 2132.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2132) to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

There being no objection, the Senate proceeded to consider the bill.

Mr. COBURN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2132) was read the third time and passed.

POSTAGE STAMP FOR BREAST CANCER RESEARCH

Mr. COBURN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 221, S. 37.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 37) to extend the special postage stamp for breast cancer research for 2 years.

There being no objection, Senate proceeded to consider the bill.

Mrs. FEINSTEIN. Mr. President, I rise today to thank very much all of my colleagues for their support in extending the Breast Cancer Research Stamp for another 2 years.

This bill has the strong bipartisan support of Senator HUTCHISON and 68 other Senators from both sides of the aisle.

Without congressional action, this extraordinary stamp is set to expire on December 31 of this year.

During the past 7 years, the U.S. Postal Service has sold over 650 million semipostal breast cancer stamps—raising $47.4 million for breast cancer research.

These dollars allow the National Institutes of Health, NIH, and the Department of Defense, DOD, to conduct new and innovative breast cancer research.

So far the NIH has received approximately $31 million and the DOD about $13 million for breast cancer research—helping more people become cancer survivors rather than cancer victims.

In addition to raising much needed funds, this wonderful stamp has also focused public awareness on this devastating disease and provided hope to breast cancer survivors to help find a cure.

The breast cancer research stamp is the first stamp of its kind dedicated to raising funds for a special cause and remains just as necessary today as ever. For example: breast cancer is considered the most commonly diagnosed cancer among women in every major ethnic group in this country; over 2 million women in the U.S. are living with breast cancer, 1 million of whom have yet to be diagnosed; this year, approximately 211,240 women in this country will get breast cancer and about 40,410 women will die from this dreadful disease; and about 1,300 men in America are diagnosed with breast cancer each year though much less common.

Extending the life of this remarkable stamp is crucial so that we can continue to reach out to our women and men who do not know of their cancer and to those who are living with it.

This bill would permit the sale of the breast cancer research stamp for 2 more years—until December 31, 2007.

The stamp would continue to have a surcharge of up to 25 percent above the value of a first-class stamp.

Surplus revenues would continue to go to breast cancer research programs at the National Institutes of Health, 70 percent of proceeds, and the Department of Defense, 30 percent of proceeds.

This bill does not affect any other semipostal proposals under consideration by the Postal Service.

With this stamp every dollar we continue to raise will help save lives until a cure is found.

Again, I thank my colleagues for supporting this important legislation to extend the breast cancer research stamp for 2 more years.

Mr. COBURN. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 37) was read the third time and passed, as follows:

S. 37

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 2-YEAR EXTENSION OF POSTAGE STAMP FOR BREAST CANCER RESEARCH.

Section 414(h) of title 39, United States Code, is amended by striking "2005" and inserting "2007".

MEASURE PLACED ON THE CALENDAR—S. 1771

Mr. COBURN. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1771) to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes.

Mr. COBURN. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar under rule XIV.

DISCHARGE AND REFERRAL—H.R. 2107

Mr. COBURN. Mr. President, I ask unanimous consent that H.R. 2107 be discharged from the Committee on the Judiciary and that it be referred to the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, SEPTEMBER 28, 2005

Mr. COBURN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, September 28; I further ask that following the morning prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to executive session to continue consideration of Calendar No. 317, John Roberts to be Chief Justice of the United States; I further ask consent that the time from 10 to 11 be under the control of the majority leader or his designee; the time from 11 to 12 be under the control of the Democratic leader or his designee; 12 to 1 under the majority control; 1 to 2 under Democratic control; 2 to 3 under majority control; 3 to 4 under Democratic control; 4 to 5 under majority control; 5 to 6 under Democratic control; 6 to 7 under majority control; 7 to 8 under Democratic control.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COBURN. Mr. President, this week the Senate has been considering the nomination of Judge Roberts. Tomorrow we will continue making statements on this important nomination, with the vote on Mr. Roberts' nomination occurring at 11:30 a.m. Thursday. The majority leader is asking that all Senators be seated at their desk for this historic vote. As a reminder, the leader has announced that the Senate will turn to the Defense appropriations bill on Thursday, and votes are expected on Thursday and Friday of this week. The Senate will also need to act on a continuing resolution before the close of business this week.

ORDER FOR ADJOURNMENT

Mr. COBURN. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the 60 minutes allocation of time for the other side which begins at 6:45 and that the Senate now resume executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, may I inquire, are we in a quorum call?

The PRESIDING OFFICER. We are in morning business.

Mr. DURBIN. May I inquire of the Chair, it is my understanding that the remaining 60 minutes in executive session on Judge Roberts is allocated to the minority?

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Could the Chair tell me when that 60-minute period begins?

The PRESIDING OFFICER. It begins at 6:45 p.m.

Mr. DURBIN. Until 6:45, if no other Senators are seeking recognition, may I speak in morning business?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Chair.

NOMINATION OF JOHN ROBERTS TO BE CHIEF JUSTICE

Mr. DURBIN. Mr. President, the Senate is considering the nomination of John G. Roberts, Jr. to be Chief Justice of the United States. This is a rare occurrence, rare for us to even consider a Supreme Court vacancy, let alone a Chief Justice. I have been honored to be a member of the Senate Judiciary Committee and have spent the week before last, a major part of it, in hearings where Judge Roberts came and testified. They were historic in nature. I am surprised, as I go back home to Illinois, how many people followed them and listened, either over the radio or watched them on television, and followed the questions and answers so closely.

It has been a very difficult process for many. I can't think of a more challenging assignment than to try to measure a person and try to decide how a person will react to certain questions and challenges over the rest of their natural lifetime. But that is our responsibility. Filling this vacancy on the Supreme Court means choosing a person of Judge Roberts' age, for example, who could serve for 20 or 30 years. That is the reality of this decisionmaking process.

The greatest compliment one can pay a judge is not that he is smart or has great intelligence. The greatest compliment one can pay a judge is that he is wise, that in his work on the bench, he has shown the wisdom of Solomon.

In the Scriptures, Solomon was often described as the wisest man who ever lived. But in chapter 3 of First Book of Kings, we learn what Solomon wanted even more than wisdom. It is written:

> In Gibeon, the Lord appeared to Solomon in a dream at night, and God said, "Ask what you wish me to give you." Then Solomon said, "So give your servant an understanding heart to judge your people, to discern between good and evil. For who is able to judge this great people of yours?"

Many questions were asked of John Roberts at his hearings. If there was any effort to determine whether he had a great legal mind or great intelligence, he certainly satisfied every question. But then if you look at the questions more carefully, more closely, you will find we were asking even more fundamental questions of John Roberts. We were asking and trying to determine not his knowledge but his wisdom, whether he had, as Solomon wished, an understanding heart.

Some have argued that it is unfair for any Senator to raise that kind of a question. Senator LINDSEY GRAHAM of South Carolina is my friend. He said it was not fair to get into this whole line of questioning about what is in your heart. I disagree. I believe we are not being fair to the American people if we don't understand the values of people who serve on the Supreme Court, if we don't strive to understand their philosophies, and if we don't try to put ourselves inside the mind and heart of someone we are entrusting with a lifetime position to serve on the highest Court in the United States.

In 1991, at his confirmation hearing, Justice Souter said that judges must understand that since they are people who have the power to "affect the lives of other people and who are going to change their lives by what they do, we had better use every power of our minds and our hearts and our beings to get these rulings right."

Justice Breyer in 1994 said:

> That is why I always think that law requires both a heart and a head. If you do not have a heart, it becomes a sterile set of rules removed from human problems and will not help. If you do not have a head, there is a risk that in trying to decide a particular person's problem in a case that may look fine for that person, but cause trouble for a lot of other people, making their lives worse. So it is a question of balance.

I asked John Roberts if he could meet the test that my mentor and predecessor, Illinois Senator Paul Simon, brought to the Judiciary Committee questioning years ago. Senator Simon asked of the judicial nominees: Is this nominee committed to expanding the freedom enjoyed by all Americans, or will he or she restrict it? I also asked Judge Roberts whether he had the courage of Frank Johnson, an Alabama Federal judge and a Republican appointee who stood up for civil rights in the 1960s at a time and place when it was very unpopular to do so. What did we learn? Regrettably, we learned very little about Judge Roberts during the 20 hours of testimony.

Senator FEINSTEIN and Senator BIDEN asked an important line of questions that I followed carefully. They asked of Judge Roberts what he would do, not as a judge, not as a lawyer, but as a father in a family circumstance where someone you love has left instructions to you that at the closing moments of their life, they do not want any extraordinary life support. This happens thousands of times every day. Families face this decision, and it is an important decision, not just on a personal and emotional basis but on the basis of our right of privacy in America. In the Terry Schiavo case—that tragedy in Florida—this sad woman was on a support system for some 15 years, if I am not mistaken. The case went through the courts year after year, and finally, when all the appeals in Florida had been exhausted, there was an effort made by some in the House of Representatives to have the Federal courts intervene and try to make the decision for that family, a decision which her husband believed had already been made. It was unfortunate that Judge Roberts, even on a personal basis, would not address that issue. We were looking for an insight into his thinking about a family decision that many will face.

I asked him as well about his decision as a private attorney to represent an HMO in a case called Rush Prudential HMO v. Moran. That was a case that was important because this patient had an expensive surgery that cost over $90,000. When the doctor said the patient needed the surgery and went ahead with it, the HMO said: No, we didn't approve it, and refused to pay.

John Roberts as a private attorney represented the HMO. He went before the Supreme Court and argued that the HMO should not have to pay for this patient's expensive surgery. I asked Judge Roberts: When you took that case, did you ever consider the fact that if you won that case, millions of Americans could lose their health insurance protection? Did you have any reservations about taking a case where so many people could suffer as a result?

He said no. And he said something more. He said: If the other side on that case had walked in first and asked me to be their lawyer, I would have represented the other side as well.

The following day, I asked him questions about cases he had taken, cases he pointed to with pride, so-called pro bono cases where lawyers work for free when people cannot afford a lawyer, a case where he represented welfare recipients in the District of Columbia who were about to lose benefits, and another case where he represented people with different sexual orientation, gays and lesbians, who were afraid they would be discriminated against because of a Colorado law.

I asked him: In both of those cases you pointed to with pride, you represented the people who were asserting their rights, asking for their freedom, asking not to be discriminated against. From what you said yesterday, could you have represented the other side in those cases, taking away the rights and the freedoms of individuals?

He said: Yes.

So you have to understand that many of us come to the Chamber, having listened to several days of questions and answers, still uncertain about John Roberts and the values he would bring to the U.S. Supreme Court.

Many questions were asked about the power of the President in a time of war. We asked Judge Roberts about a recent decision, Hamdan v. Rumsfeld. Judge Roberts signed on to an opinion in that case which concludes that a detainee can challenge his detention in court but has no legal rights that are enforceable in court. In other words, John Roberts seems to believe that detainees of the Government can get to the courthouse door but cannot come inside. His approach seems to be inconsistent with Supreme Court law. What if detainees claimed they were being tortured or even executed? Would Judge Roberts say the Court has no right to review the Government's actions?

Unfortunately, Judge Roberts would not respond, and I still don't know when it comes to so many issues where he stands.

Fifty-five different times, he said: I will follow the rule of law. But we know that following the rule of law is neither automatic nor something that is easily predicted. Oliver Wendell Holmes, Jr. once wrote:

> The life of the law has not been logic; it has been experience.

Whenever we asked Judge Roberts basic questions about his moral compass and his life experience, he declined to answer. I asked him at one point: What could you say to a poor person in America, a minority in America, a disenfranchised person in America, a powerless person in America, what can you say about your life experience that would lead them to believe that if their case came before your court, they had a fighting chance?

I acknowledged the fact that Judge Roberts was raised in a comfortable middle-class family in the Middle West. When it was all said and done, he could not point to many life experiences which suggest he would have an understanding of those people in his Court. His response again, as it was so many times, was that he would follow the rule of law.

I voted against Judge Roberts two years ago when he was a nominee for the U.S. Court of Appeals for the DC Circuit. I was upset with the way the vacancies were created in that circuit in an effort to fill them with Republicans when President Bush was elected. Perhaps I went a little too far in my language about that with my frustration, but I said at the time that I could not support Judge Roberts because I just didn't know who he was or for what he stood.

When this process began, I promised Judge Roberts that we would start with a clean slate. Sadly, when the process was over, it was largely an empty slate.

I am uncertain about Judge Roberts' commitment to civil rights. He wrote some memos during the Reagan administration which reflect a very narrow view of voting rights in America, a right which he calls the preservative right, which is so important for preserving a democracy. When it came to interpreting the Voting Rights Act under the Reagan administration, he took a position that was ultimately rejected and discredited. We listened as Senator KENNEDY and others asked him many questions about that, and we did not learn too much about his thinking today and whether it has changed.

I asked him about his criticism of a historic case, Plyler v. Doe. This 1982 Supreme Court case held that it is unconstitutional to deny elementary education to children on the basis of their immigration status. The Supreme Court struck down a Texas law that allowed elementary schools to refuse entrance to undocumented children. It has been called the "Brown v. Board of Education" for Hispanics in America.

On the day it was decided, Judge Roberts, then a Reagan staffer, coauthored a memo that criticized the Solicitor General's Office for failing to file a brief in support of the Texas law. His memo disagreed with the administration's position, so he could not seek refuge in the common answer: I was just doing my job for the administration.

It has been 23 years since Plyler v. Doe was decided. Millions of children have been educated. Many have become good citizens. They serve in our military, they have become doctors, police officers, people who constitute the fabric of our society—thanks to the Supreme Court decision that Judge Roberts found objectionable.

So at the hearing, I said to him: As you reflect on this 23 years later, do you agree it was the right decision and should be settled law to offer education to these children? He was unwilling to say that.

It is no surprise that Judge Roberts' nomination is opposed by the League of United Latin American Citizens, LULAC, the organization which for the first time in its history opposes a Supreme Court nominee, as well as by the Mexican American Legal Defense and Educational Fund, MALDEF. The President of MALDEF, Ann Marie Tallman, testified as a witness against Judge Roberts and said that his opinions "often place him in opposition not only to equal justice for Latinos, but opposed to positions taken by bipartisan majorities in Congress and the Reagan administration that he served."

One of the most compelling witnesses against Judge Roberts is a man who is one of my personal heroes, Congressman JOHN LEWIS of Atlanta, GA. Those who don't know JOHN LEWIS should read about this man who literally risked his life time and again during the civil rights movement and now serves a constituency in the House of Representatives. JOHN LEWIS opposes the nomination of John Roberts because he does not believe John Roberts is as sensitive to the issue of civil rights as he should be.

So I asked JOHN LEWIS this. I said: JOHN, I happen to believe in the power of redemption, both politically and personally. I ask you, JOHN, can't people change? Wouldn't you think Judge Roberts may have changed some of his hard-line views from the Reagan days?

This is what Congressman LEWIS said:

> [W]hen you believe and feel and know from your experience, or maybe from the law and from history that you have been wrong, you show some sign. And you are not afraid to talk about it. You are not afraid to go on the record. Judge Roberts has been afraid to show or demonstrate any signs that he has changed. I wonder whether it is part of his mindset.

To follow the words of JOHN LEWIS, we don't have from John Roberts a demonstration of the kind of courage of Frank Johnson, that Alabama Federal judge who issued rulings that allowed Martin Luther King, Jr. as well as JOHN LEWIS and others to march from Selma to Montgomery, rulings that permitted African Americans to organize a boycott of the city of Montgomery's segregated bus system following the arrest of Rosa Parks.

Judge Johnson was also called the most hated man in Alabama by the Ku Klux Klan and received so many death threats that he and his family were under constant Federal protection from 1961 to 1975, with crosses burned on the lawn of his family.

Judge Johnson's enemies, incidentally, called him a "judicial activist." So when you hear that term being used around here today, excuse me if I happen to believe that it has been used in cases where it was entirely inappropriate. Judge Frank Johnson spoke out for civil rights at a moment in America's history when we needed a judge with courage, and risked a lot to do so. He showed courage to do so. If that is judicial activism, then thank goodness for a judicial activist who was sensitive to civil rights in America.

Many conservatives have also railed against the Supreme Court's references to international laws and legal opinions in recent cases. This was an interesting sideline to this hearing. Putting John Roberts on the spot: Does he promise, if he goes on the bench, that he won't be looking to legal opinions from foreign countries.

I was disappointed to hear Judge Roberts' reply. He embraced this hostility toward even considering lessons of foreign law. What does it say of us as a nation when we try to promote democratic ideas around the world and yet recoil at the thought of another country having useful ideas for our own Nation to consider?

Of course, U.S. judges don't base their decisions entirely on foreign law or legal opinions, but the experience of other democracies may help inform their thinking. Just last week, Justice Ginsburg defended the practice of Supreme Court reference to foreign legal opinions, not for precedent but for guidance. She observed:

> I will take enlightenment wherever I can get it.

I hope Judge Roberts will reconsider this position and take heart not only in Justice Ginsburg's wise words but also the wise words of the man whose robes he hopes to fill, Chief Justice Rehnquist, who once said:

> When many constitutional courts were created after the Second World War, these courts naturally looked to decisions of the Supreme Court of the United States, among other sources, for developing their own law. But now that constitutional law is solidly grounded in so many countries, it is time that the United States courts begin looking to the decisions of other constitutional courts to aid in their own deliberative process.

It amazes me that this has become such a whipping point for some political groups in this town. Of course, we should consider other legal opinions from other countries as Justice Ginsburg and Chief Justice Rehnquist suggested. American law will decide the case, but as Justice Ginsburg said, we should take enlightenment wherever we can find it.

I think Supreme Court nominees carry the burden of proof when they come before the Senate. They must prove they are worthy of a lifetime appointment to the highest Court in the land. In the case of Judge Roberts, the burden of proof is especially heavy because President Bush refused to share memos from the period of time when John Roberts served as the Principal Deputy Solicitor General. Those more contemporary memos would have given us a greater insight into what he really believes on some critical issues, but the Bush administration said "no." They denied us these documents.

When it came to the Reagan-era memos, many times Judge Roberts argued they were so old they should be discounted.

I also think Judge Roberts bears a heavy burden of proof because he has been nominated to serve as Chief Justice. When he is approved this week, we will move from the Rehnquist Court to the Roberts Court for 20 or 30 years to come.

The Chief Justice is the most important and powerful judge in America. We need a Chief Justice who has wisdom, courage, and compassion.

At the beginning of the process, Judge Roberts came by my office. I had a chance to sit down for a few minutes with him. I want to congratulate him and thank him for doing that not only for my benefit but for the benefit of so many other Senators. I like him. During the hearings, I looked at his wife and his kids and I said, This is a man I really could like. As I said earlier, I promised him a clean slate but unfortunately he could not add much to that slate during the course of this process.

Next to a vote on whether America goes to war, the most important votes we cast as Senators are for Justices of the Supreme Court. That Court, more than any other institution in America, is the most important when it comes to America's rights and liberties.

The decision made by those nine Justices can change the face of democracy in America. That Court has done that so many times in the past and can certainly do it in the future. Their decisions, more important than any single law we pass, can decide basic personal freedoms for millions of Americans.

I sincerely wish I believed that John Roberts was the right person for this historic appointment. I will vote no on his nomination, but I will pray that John Roberts proves to be a Chief Justice with not only a great legal mind but also the courage of Judge Frank Johnson of Alabama and the understanding heart of Solomon.

WAR IN IRAQ

Mr. DURBIN. Mr. President, this week, just days before the end of the fiscal year, we are going to consider the Defense appropriations bill. This is an important bill for America's national security. The chairman, ranking member, and their staffs worked long and hard on it. I appreciate their commitment and willingness to work with both sides.

Before we even take up this bill, however, we could and should have voted on the Defense authorization bill, which includes critical policy matters crucial to national security importance. As hard as it may be to understand in the midst of a war in Iraq and Afghanistan, the Republican leadership in the Senate pulled the Defense authorization bill from the calendar in July and replaced it with a bill that was requested by the National Rifle Association.

The gun lobby wanted a bill to excuse them from liability in lawsuits and the Republican leadership in the Senate felt that was more important than the Defense authorization bill, which considered massive policy questions involving hundreds of thousands of men and women in uniform and veterans.

I do not understand that thinking. The appropriations bill we will hopefully take up this week includes $50 billion for military operations in Iraq and Afghanistan. I said, at the start of the war in Iraq, that while I felt the invasion was a mistake, I would not deny one penny to our troops in the field for body armor, medical supplies, air support, ammunition, equipment, or any other costs associated with our forces and their security.

I have always thought that if it were my son or daughter in uniform, I would not shortchange them one penny, so that they could come home safely with their mission accomplished, and that is still my pledge.

The American people should be aware of what this war is costing us. First and foremost, it continues to cost American lives. This month, while most Americans were glued to their televisions focusing on Katrina and Rita, the hurricanes that struck us in the Gulf of Mexico, 37 more American soldiers died in Iraq.

Last month, while Congress was in recess, 85 Americans were killed in Iraq. All told, 1,921 Americans have been killed as of today and 14,755 have been wounded. Many have suffered devastating permanent injuries.

Senator HARRY REID and his wife Landra went to Bethesda Medical Center yesterday. Senator REID came to tell us this morning the sad experience he had there, where he saw a young soldier in a wheelchair who had clearly been maimed by this war in ways that are hard to believe. Having lost both legs and suffered a head injury, it is clear that his life will never, ever be the same. Senator REID said to us again at lunch, he cannot get this image from his mind.

When we hear of injured soldiers, we should not believe that these are superficial injuries which can be easily overlooked. Many of those are life changing, life transforming.

This war has cost us in so many other ways as well. Sadly, it has undermined our war on terrorism, while it has created a new front in this conflict and an advanced training ground for terrorists. It has stretched our Armed Forces, especially our Army, National Guard, and Reserves, placing enormous strains on service members and their families. It has diminished our national credibility. That loss of credibility makes it harder now for the administration to go to the United Nations and present information that is needed about security in the world. Some of the presentations made in the lead up to the war in Iraq have cost us dearly in terms of our credibility.

A nuclear Iran is a terrible threat, but I know much of the world is probably wondering if they believe any photographs that we produce relative to that threat in Iran after the discredited photos before our invasion of Iraq. Some Americans probably are asking the same question, and their doubts are another unfortunate product of this conflict.

There are enormous costs to this war. We have already spent over $196 billion in Iraq. This week or next we are likely to approve another $50 billion, which will not cover the cost of the war next year. It is a downpayment for the beginning of those costs. We are currently spending close to $5 billion a month in Iraq, and we are acting on this bill this week in part because of the report that the Pentagon is growing short of money. The new fiscal year starts in several days, and that makes it virtually inevitable that at some point next year, maybe as early as next spring, we will be voting another supplemental appropriation to fund the war in Iraq.

I think simply staying the course under these circumstances is no longer an option. The costs in blood and treasure are too high and the progress in Iraq is not there.

The costs of this war have been brought home to my State. We have lost 77 of our sons and daughters in this war, and by one calculation it has cost the taxpayers in the city of Chicago alone $2.2 billion. Last week, the Chicago city council passed a resolution addressing the war in Iraq. They did so not because they believe that they are in charge of foreign policy but because they wanted to speak their minds. The city council's resolution honors the men and women who serve and those who have been killed or wounded. It states that through their service and sacrifice, our troops have substantially accomplished the stated purpose of the United States of giving the people of Iraq a reasonable opportunity to decide their own future.

The resolution concludes that we should, therefore, make an orderly and rapid withdrawal from Iraq. That is the conclusion of the Chicago city council; it is not mine. But I sure understand the motivations and I sure hear many people back in Illinois saying exactly those words. I think millions of Americans understand and share the sentiments.

Polls show that 63 percent of the people in this country believe we should withdraw all or some of our troops from Iraq. This past weekend, at least 100,000 people, maybe many more, marched on Washington to call for a way out of Iraq. They came from all over the country and from many walks of life. I do not think a rapid withdrawal is in the best interests of Iraq or the United States, but I understand why they came, and I understand why they are trying to raise this issue. It troubles me that we can go for days on end in the Senate without ever talking about the war in Iraq that is so much in the forefront of the minds of the American people.

I bring these charts to the floor as a reminder that as our daily business goes apace, Americans are losing their lives and suffering terrible injuries.

America cannot simply stay the course in Iraq. The administration claims its strategy is working, but there is very little evidence of that. The insurgents are getting more violent, more lethal. Their attacks are killing more people. That is the nature of insurgency. It is an insurgency against foreign occupiers. History says that this can go on for a long time. Do we possess more fire power than these insurgents or terrorists? We sure do, but we alone cannot use that military fire power to be successful.

Our military leaders tell us one cannot score a military victory over an insurgency. It is going to take a political victory. The only people who can defeat or win over Iraqi insurgents are the Iraqis themselves, not our brave soldiers. The only people who can build a sustainable government in Iraq are the Iraqis, and those military and political developments must be linked or neither will succeed.

That linkage is something we were never able to accomplish in Vietnam so many decades ago. What we saw instead in South Vietnam was a long line of corrupt governments with little legitimacy and even less popular support.

We still wait to see whether the Government of Iraq will be up to this challenge. In a few weeks, the people of Iraq will vote on a draft constitution. I hope that the October referendum on this constitution encourages a vigorous and peaceful political process and healthy voter turnout from all sectors of Iraqi society—Shiites, Sunnis, Kurds, and others. One vote does not make a democracy. Regardless of the outcome of the referendum, it is critical that the same people who turn out to vote engage in the state-building that must follow.

This week, according to the schedule, we are taking up the Defense appropriations bill. For the first time, more than 3 years into this bill, we are finally trying to budget for at least some of the costs of this war. Any other time we passed it by emergency supplemental appropriations.

May I say a word about that for a moment. Is it not curious that when it comes to rebuilding the devastation from Hurricane Katrina and Hurricane Rita, that there are many who are arguing that we need to cut spending in other programs, such as health care for the poor or prescription drugs for senior citizens, to pay for that reconstruction in America? There was not a single member of the other political party, that I know of, who came forward and argued for setoffs when it came to the reconstruction of Iraq. Is it not odd that we do not need to set off by cutting spending to rebuild Iraq but now many of these same Congressmen and Senators are saying that before we can help rebuild America we have to cut critical programs for the needy people of this country? I do not understand their logic. It is certainly inconsistent.

We cannot budget for the human costs of war, and we cannot put a number on the possible strategic costs, but we should at least try to account for the fiscal price tag of this conflict. We have to measure those hundreds of billions of dollars which have been spent and will be spent against what we need in America to make our Nation strong.

Last month, when Katrina struck, a third of the Louisiana National Guard was deployed to Iraq. So was much of their equipment. These deployments have had real homeland security consequences. We have learned that we were not only unprepared for Katrina, but we have to learn the lessons of Katrina to be prepared. God forbid another disaster, either natural or terrorist-inspired, should occur. We owe it to our taxpayers to measure those costs. We must also measure the costs of war against the progress Iraqis are making, and I do not see a lot of progress, though I hope that changes.

One thousand nine hundred and twenty-one American soldiers have died in Iraq. Before this number hits 2,000, we have a duty to give our troops and the American people an honest appraisal of the situation and a clear plan to bring the troops home.

When the President of Iraq, Mr. Talabani, announces that by the end of this year, in a few months, 50,000 American troops can come home, the Iraqis are ready to take over that responsibility, let us hold him to that promise. Let us hold him to that responsibility. Unless and until the Iraqis feel that they have to step up to defend their own country, American lives will continue to be lost every single day. We owe our fighting men and women leadership, vision and direction.

FAMILIES USA MEDICARE REPORT

Mr. DURBIN. Mr. President, today a report was released showing the median difference between the lowest Medicare discount card price and the best available price for the Veterans' Administration. The difference was 58 percent.

Most people realize we are about to start this Medicare prescription drug plan. This plan was created to give seniors a discount on prescription drugs, which is something we need. Prescription drugs keep seniors healthy, and the healthier they are the better their lives and the less costs to taxpayers.

But many of us objected to the original Medicare prescription drug plan because it was drawn up, frankly, by the pharmaceutical companies. They were unwilling to give up any of their profits to a Medicare plan, and that is how the law was written. As a result of that, many of us voted no, saying there is a model we should follow. Currently, the Veterans' Administration provides prescription drugs to hundreds of thousands of veterans across America. To provide the drugs, the Veterans' Administration bargains with the pharmaceutical companies for the lowest possible price. We said, Why wouldn't the Medicare system, which is much larger—embracing, I think, some 40 million Americans—why wouldn't the Medicare system be in a strong bargaining position to get the same discounted drug prices and therefore help the seniors to lower costs and reduce the burden on taxpayers that have to subsidize this program? It makes sense for the VA, why wouldn't it make sense for Medicare? The pharmaceutical companies ended up winning that debate. They ended up creating a system under Medicare which does not allow the Medicare system to bargain for lower drug prices.

A group called Families USA took a look at the Medicare drug discount cards being used by seniors today and compared the best prices—not the worst, but the best prices being paid by seniors with those discount cards with the amount being paid by the Veterans Administration for identical drugs. Now we took a look at the most prescribed drugs for seniors. Families USA did, and here is what they found:

For Norvasc, the lowest price per year for treatment under Medicare-approved discount, $467; VA pricing, $301; percentage difference, 54 percent.

Protonix, $827 to Medicare; $253 is what the VA pays; a difference of 226 percent. And Zocor, $793 under Medicare prescription drug cards; $167 a year at the VA. That means we will pay, under the Medicare prescription drug plan, the President has signed and is about to go into effect, almost four times as much for the same drugs that are being dispensed at the Veterans Administration.

That tells a story. It tells us if we use the same bargaining power as the VA, we could save seniors and taxpayers dollars.

When the Medicare prescription drug benefit was designed, it was for the pharmaceutical companies and the HMOs, not for seniors. This report from Families USA makes that point.

Medicare has 25 times the number of people covered by the program as the Veterans' Administration. Imagine, for a moment, the bargaining power of Medicare compared to VA. Unfortunately, instead of simply offering a drug benefit through Medicare and negotiating these bulk discount prices, this Congress and the President handed the drug benefit over to these private pharmaceutical companies.

The bill we passed in 2003 is almost impossible to describe. I can't understand how most seniors will get through this bureaucratic mess that we created with this bill. CMS announced last week that there will be 34 active pharmaceutical regions in the United States. Each one of these regions will have 11 to 20 organizations offering prescription drugs. Illinois, my State, will have 16. So with an average of 15 plans in each region, there will be 510 different organizations across the Nation negotiating with pharmaceutical companies.

It is easy to see we have reduced the bargaining power of these plans in each one of these regions and therefore can expect to pay even more for the basic drugs that the seniors need. Instead of the Secretary of Health and Human Services negotiating on behalf of one pool of 41 million seniors for lower drug prices, Medicare's purchasing power has been divided into 510 small fractions. Bulk purchasing by the Department of Health and Human Services would surely save Medicare significantly more money than handing the negotiation over to these private sector negotiators.

There is a lot of talk in Congress these days about reimportation of drugs from other countries as a way to lower prices. Look to the North. Canada has much lower drug prices than the United States for exactly the same drugs, made by the same companies, that are sold in the United States. However, with just 2 percent of the worldwide pharmaceutical market, Canada does not possess the market power necessary to influence prices through negotiation. They do it through regulation.

The United States, on the other hand, has 53 percent of the worldwide prescription drug market. Half of it is made up of Medicare beneficiaries. Imagine the savings we could achieve simply by giving the Medicare program the authority to negotiate on behalf of its beneficiaries. Unfortunately, in addition to dividing up the purchasing pool, the Medicare prescription drug bill Congress passed specifically forbids the Secretary of Health and Human Services to negotiate with drug companies for lower prices.

The obvious question is, What good would that do if you gave the Secretary the power to negotiate? You remember the anthrax crisis—we all do; and the fear of anthrax contamination led many to prescribe Cipro as a drug to protect those who might have been exposed. This was in October 2001. After anthrax was found on Capitol Hill, this drug Cipro made the news. The average retail price for Cipro in 2001 was $4.67 for each tablet. That is when the anthrax crisis started. So Secretary Tommy Thompson, in President Bush's Cabinet, and the President of Bayer Corporation, announced a pricing agreement for the Government purchase of Cipro in which Bayer would provide HHS with the first 100 million of Cipro at 95 cents per tablet. Look at that, when we bargained with Bayer to reduce the price of Cipro, they cut it down to less than a fourth of what was being charged before this negotiation.

The Government reserved the right to purchase an additional 100 million tablets at 85 cents and another 100 million at 75 cents. Through negotiation, Secretary Thompson brought down the price of Cipro by 490 percent.

That same negotiating mechanism can and should be used on behalf of seniors in America to reduce the cost of prescription drugs and the cost to taxpayers. According to the Washington Times, after the deal was struck, Secretary Thompson said at a press conference:

> Everybody said I wouldn't be able to reduce the price of Cipro. I'm a tough negotiator.

We should have let Secretary Thompson negotiate these prescription drug prices on behalf of all Medicare beneficiaries, but the bill specifically prohibits him from doing it.

I have introduced a bill called the Medicare Prescription Drug Savings Act, which instructs the Secretary of Health and Human Services to offer a nationwide Medicare-delivered prescription drug benefit in addition to the PDP and PPO plans available in the 10 regions and negotiate repurchasing agreements on behalf of beneficiaries who choose to receive their drugs through the Medicare-administered benefits.

Beneficiaries who choose to enroll in the Medicare-administered benefit can stay enrolled as long as they desire. Giving Medicare the authority to negotiate is the right prescription for real savings on drug prices. Not only will this bill provide seniors with lower cost drugs, it will give them a choice to enroll in a Medicare-delivered plan, cutting down on the confusion that the privately delivered system has already created.

Critics and the pharmaceutical industry would say my bill is price controls and big government. They are wrong. It is good old-fashioned free market economics. If one buys in bulk, the price goes down. It is also a benefit in the system that American seniors believe works. Let's make this process easier and cheaper for seniors and the Federal Government as well by allowing seniors to receive their drugs through Medicare and instructing the Secretary of Health and Human Services to negotiate the best price for seniors and America's taxpayers.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I would like to clarify for the record the time periods allocated on the Democratic side to make certain that the Record for tomorrow's debate reflects what the Chair understands is my understanding: That the time on the Democratic side that will be allocated will be from 11 a.m. to 12; from 1 to 2 p.m., from 5 to 6 p.m., and from 6:20 p.m. to 7:20 p.m. During the period through 4 p.m., it is anticipated this will be a period open to anyone desiring to use it. Is that the understanding of the Chair?

The PRESIDING OFFICER. Without objection, the order is so modified.

Mr. DURBIN. I thank the Chair. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES

Mr. SARBANES. Mr. President, in the complex institutional framework established by our Founding Fathers, members of all three branches of our national government take an oath to support the Constitution. However, it falls uniquely to the Supreme Court of the United States to expound and interpret the Constitution and the laws passed pursuant to it so that our governing law remains true to the basic principles upon which the Nation was founded.

The Senate's role in giving advice and consent to the nomination of the men and women who serve on the Supreme Court for a life tenure is amongst the Senate's most important constitutional responsibilities.

The argument is made by some that the President is entitled to the confirmation of his or her nominee unless that person is shown to have a serious disqualification. On the contrary, it is my view that the Senate's duty to advise and consent on nominations is an integral part of the Constitution's system of checks and balances among our institutions of government. Nomination does not constitute an entitlement to hold the office.

Although all Presidential nominations require the most careful and independent review, judicial nominations differ from nominations to the executive branch in two important respects. Within the constitutional framework, the judiciary is a third coequal branch of government, independent of both the executive and legislative branches. Those who sit on the Federal bench receive lifetime tenure and are to render independent judicial decisions. In contrast, appointees to the executive branch are meant to carry out the program of the President who nominates them, and they serve only at the pleasure of the President or for limited tenure. The bar must, therefore, be set very high when we consider a judicial nomination, especially when the nomination is to the Supreme Court and, as in the matter pending before the Senate, to the position of Chief Justice of the United States.

While qualifications and intellect are important criteria, obviously, in considering a nomination to the Supreme Court, the Senate must also take into consideration the judicial philosophy and constitutional vision of any nominee for appointment to the Supreme Court. As Chief Justice Rehnquist, for whom Roberts clerked, wrote in 1959, well before he went on the Court:

> [U]ntil the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

Inquiring into a nominee's judicial philosophy does not mean discovering how he or she would decide specific cases. Rather, it seeks to ascertain the nominee's fundamental perspective on the Constitution: how it protects our individual liberties, ensures equal protection of the law, maintains the separation of powers and checks and balances. The Constitution is a living document. Its strength lies in its extraordinary adaptability and applicability over more than 200 years to conditions that the Framers could not have anticipated or even imagined.

The confirmation process provided Judge Roberts with an opportunity to outline his general approach to the Constitution in critical areas—among them, the rights and liberties guaranteed to our citizens, the extent of Congress's power under the Commerce Clause, and the balance of power among the three branches of government. Regrettably, he declined to do so, saying that he does not have an overarching judicial philosophy and comparing the role of a Justice to that of an umpire. The New York Times put it succinctly in an editorial:

> In many important areas where Senators wanted to be reassured that he would be a careful guardian of Americans' rights, he refused to give any solid indication of his legal approach.

The uncertainty arising from the hearings is compounded by the refusal of the administration to provide documents from Judge Roberts' service as principal Deputy Solicitor General, which members of the Judiciary Committee had requested in the course of carrying out their constitutional responsibility.

As a result, we must try to infer his underlying philosophy and views from the earlier documents made available to the committee. Those documents are not reassuring. I am deeply concerned that the documents we have from John Roberts raise questions about his approach and his thinking on such basic issues as voting rights, affirmative action, privacy, racial and gender equality, limitation on executive authority, and congressional power under the commerce clause.

Given the importance of the position of Chief Justice, in deciding whether to give consent to this nomination it is essential that it be an informed consent—an informed consent.

As the New York Times editorial pointed out:

> That position is too important to entrust to an enigma, which is what Mr. Roberts remains.

I will vote against confirming John Roberts to be the Chief Justice of the United States.

I yield the floor.

Ms. CANTWELL. Mr. President, I rise to share my concerns about the nomination of Judge John Roberts.

Let me say to my colleagues who have taken the floor through the last couple of days and have been eloquent I think on both sides of the aisle in their views, that I really do believe that we are at a very unique point in time at our history, that we are at the tip of the iceberg as it relates to the information age, and that this issue of personal privacy is only going to gain in importance over the lifetime of the next nominee to the Supreme Court.

And that is why this discussion and debate is so important, and that is why a diversity of voices I think should be heard on this issue.

Now, I am not a member of the Judiciary Committee but I did spend 2 years on the Judiciary Committee, and I made it clear in my time there that I had the intention to ask every nominee about their views on the rights to privacy and how they existed in the Constitution and what they thought was settled law as it relates to that and how they viewed some of the important decisions of the Courts in the past.

And I think that you have to give a context to the day and age in which we are making this decision on a Supreme Court nominee and the next nominee as it relates to these privacy rights.

We are at a time and age when individual citizens are concerned about their most personal information being obtained by businesses or health care organizations and somehow being released. They are concerned about government and government's overreaching in privacy matters and the use of technology that could be used without probable cause and warrant. We have even seen discussion by courts and judges and a variety of people on the due process of enemy combatants—even a judge in our State raised concerns about how you balance protecting rights and security interests.

I know in Washington State these are among the key issues that the citizenry of Washington State cares about. They care about their personal privacy and they care about it being protected. They also care about that personal privacy as it relates to a variety of rights that they have come to expect.

In fact, in Washington State, a right of privacy is guaranteed in our Constitution. Article 1, section 7, which says—quote—"no person shall be disturbed in his private affairs or his home invaded without the authority of law." We adopted this constitutional right of privacy upon the founding of our State and the deep respect that we have for those individual rights.

It has been settled for decades by the courts of Washington State. Washington State law even goes further than the Federal Government in protecting people's privacy in a search and seizure context, for example. And I think it is very important to understand how much the State of Washington cares about these constitutional protections.

Now, as it relates specifically to a woman's right to choose, Washingtonians again have been very outspoken. In fact, in 1970, 3 years before the Federal courts spoke on this matter, the residents of my State passed a referendum legalizing abortion rights through the first trimester. That is in 1970. In 1991, the voters of my State passed by initiative a codification of Roe v. Wade into State statute.

I would hope that any nominee to the Supreme Court would understand how important the privacy rights are in not just Washington State but throughout the country and how challenged they are going to be in the next decades as the information age rolls out and more and more issues confront Americans about their privacy and the privacy of information about them.

During my tenure on the Judiciary Committee, I heard many conservative nominees express views in opposition to abortion rights and some were very critical of the decision in Roe v. Wade. I did not agree with these views, but where those nominees demonstrated an understanding that privacy in the choice context is an accepted right, and that the Nation and the courts have determined that right should be upheld, I voted to confirm these judges.

Sixty-one percent of Americans said that they wanted Judge Roberts to answer questions about how he would have ruled on past Supreme Court precedent. And I know that more than a majority of Americans believe that we should do our job in asking judicial nominees about their judicial philosophy.

But as my colleagues have pointed out, I have some concerns about Judge Roberts' views on the rights to privacy as it relates to how those will continue to protect a woman's right to choose. And I am concerned, as he talks about stare decisis exactly what he will uphold.

Now, I think a very important case that probably hasn't gotten a lot of attention on the floor but it is something that again Washingtonians care a lot about is Judge Roberts' dissent in the Rancho Viejo case. Judge Roberts went out of his way in this dissent to raise issues about whether Congress had overstepped its bound in enacting the Endangered Species Act. Courts have already decided this issue: Congress has the authority to protect our most precious species without concern that these efforts might be thrown out bit by bit. Judge Roberts has told us how important longstanding precedent is in his philosophy, yet he questions congress' longstanding authority to enact environmental protections.

In the Northwest, we absolutely rely on a very robust interpretation of the interstate commerce clause, both in its environmental context and with regard to other laws. We have a great, wonderful environment in the Northwest that we want to protect. And just as with the privacy context, Judge Roberts was asked during the hearing about his views on Congress's power to enact environmental protections and he declined to answer them specifically.

The Pacific Northwest is blessed with incredible beauty, complemented by the diverse wildlife that inhabits our lands and coastal waters. Unfortunately, habitat loss and other pressures threaten some of my State's most iconic species, whether that be the salmon that spawn our great rivers, birds that depend on old-growth forests, or even the orca whale that holds a special plan in the heart of everyone who lives near the Puget Sound. The Endangered Species Act is helping protect these animals from extinction. I have concerns about what Judge Roberts says about precedent yet in the case of the Endangered Species Act; his concern for following precedent wasn't there.

I share the concerns of my colleagues who have been to the floor that we want to know how Judge Roberts is going to make his philosophy about the right to privacy clearer for the individuals who have to vote for him. I am not clear what he considers the privacy rights in the Constitution that aren't enumerated. And I know that that may not be the same opinion of our Members on the floor of the Senate, but I think Washingtonians have come to expect that these privacy rights mean a great deal to them.

And so I cannot vote to confirm Judge Roberts until I know more about his philosophy. I am doing the job that I think the State of Washington wants me to do in fighting for these protections that have been constitutionally guaranteed, that have been voted on by initiative of the people in our State, and for the great protection of those privacy rights that they know need to be protected in the future.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:40 p.m., adjourned until Wednesday, September 28, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, September 27, 2005*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 27, 2005.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from California (Mr. DREIER) for 5 minutes.

THE JUSTICE FOR PEACE OFFICERS ACT OF 2005

Mr. DREIER. Mr. Speaker, on April 29 of 2002, Los Angeles County Sheriff's Deputy David March was brutally slain execution-style during a routine traffic stop. Suspect Armando Garcia, an illegal immigrant, fled to Mexico within hours of Deputy March's murder and has avoided prosecution by U.S. authorities for over 3 years.

Mexico's refusal to extradite individuals who may face the death penalty or life imprisonment has hindered efforts to bring Armando Garcia back to the United States to face prosecution for his crime. The same border that Garcia illegally crossed to enter our country now serves as a wall of protection for him. This is an outrage. It is an unspeakable injustice to the loved ones of David March, and to all of the men and women who risk their lives each day so that we can live in safety.

When our peace officers patrol their beats, keep an eye on our neighborhoods and police the streets, they are walking the line, selflessly enforcing our laws and keeping our communities safe. When the very laws they have a duty to uphold are abused by fleeing murderers, justice is denied, the security of peace officers is placed in jeopardy, and the rule of law on which our great Nation is based is weakened.

Over the last 3 years, I have joined many of my colleagues in efforts to see that Armando Garcia and other fugitives accused in killings on our soil are returned to the United States to face justice. We have met with officials from the Department of Justice and the Department of State. We have urged President Bush to call for aggressive action to change Mexico's extradition policy. I have met with President Fox and other high officials of the Mexican government, including their Supreme Court, in an effort to impress upon our neighbor that its extradition policy is intolerable. However, 3 years later, Armando Garcia and thousands of other fugitives still are beyond the grasp of our legal system.

Recently, in a potentially critical turning point, the Mexican Supreme Court issued a decision that allowed consecutive prison terms for certain murders. This could have the effect of recognizing that life imprisonment does not constitute cruel and unusual punishment, a position previously held by the Mexican Supreme Court, as I said. Amid sensitive talks and signs of progress, I remain committed to working with the administration to bring Deputy March's murderer to justice. But until that is achieved, Congress has a duty to take action to ensure that what happened to Deputy March never happens again.

It was at the urging of Los Angeles County Sheriff Lee Baca that my friend from Pasadena (Mr. SCHIFF) and I introduced H.R. 2363, the Peace Officer Justice Act, to make it a Federal crime to kill a peace officer and flee the country to avoid prosecution. This bill ensures that criminals who murder law enforcement officials and escape to another country will have the full weight of the Federal Government on their trail. This legislation is supported by the Fraternal Order of Police, the National Sheriffs Association and Roy Burns, president of the Association of Los Angeles Deputy Sheriffs. After we introduced the bill, Mr. Speaker, Los Angeles County District Attorney Steve Cooley voiced concerns to me with several of its provisions. Specifically, he believed that making such a crime a violation of Federal law would provide exclusive jurisdiction for the Federal Government to pursue a cop-killer who flees the country.

I have reached out to Mr. Cooley on numerous occasions for suggestions on how to improve the bill. Having addressed every single issue that the District Attorney raised, I, along with the gentleman from Pasadena, am reintroducing this legislation. It is now going to be called the Justice for Peace Officers Act. Thanks to the input from Mr. Cooley, this is a stronger, better and more aggressive bill.

This bill makes it a Federal crime to kill a peace officer and flee the country. And it makes the crime for first degree murder punishable by the death penalty or life imprisonment. The bill also goes a step further by making murder in the second degree punishable by a mandatory minimum of 30 years in prison or life imprisonment.

This legislation raises the penalty for those who help cop-killers flee the country from a maximum of 15 years in prison to a mandatory minimum sentence of 15 years behind bars.

Mr. Speaker, it will always be our preference for State and local prosecutors to go after cop-killers. Police keep our local communities safe and local prosecutors should have primary jurisdiction over these cases. That is why we included language to give priority to local prosecutors, and we have made clear that nothing in this bill would supersede that authority. In addition, the penalty under the bill would be a consecutive sentence to any other State or Federal punishment. This provision would ensure that any punishment on the local level would be enhanced by an additional Federal sentence.

Finally, we firmly believe that the Bush administration should use all tools available to bring about a change in Mexico's extradition policy. We included a provision directing the Secretary of State to enter into formal discussions with the Mexican government on the U.S.-Mexico extradition treaty.

Mr. Speaker, this legislation sends a powerful message to Mexico and any other country that refuses to extradite a fugitive cop-killer. It shows that the United States Congress considers this a crime against America. Passage of this bill will ensure that perpetrators of these heinous crimes will be brought to justice.

I urge my colleagues to join with us in cosponsoring this very important measure.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 37 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BRADLEY of New Hampshire) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You are our refuge in trouble and the comforter of Your people. Natural disasters, civil strife, and all forms of suffering may cause Your people to feel vulnerable and become discouraged. But often, right in the midst of conflict or chaos, You reveal Your powerful grace which elevates and redeems.

As we hear the stories of brothers and sisters in distress, we also learn of their bravery, self-sacrifice and the goodness of others. Lord, lead us through present difficulties that we may find deeper solidarity with one another. Help us to shore up this Nation's infrastructure to serve the common good. Wipe away all disillusion so we make better plans for the future.

Lord, inspire all in public service and all citizens to be accountable to You, responsible for one another, and caring most for the weakest in our midst. Only then will we prove ourselves to be truly Your people both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 2385. An act to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

H.R. 3784. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

BLAIR STANDS FIRM AGAINST TERRORISM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, although some war cynics continue to call for a "retreat and defeat policy," Prime Minister Tony Blair has proven that he is committed to finishing the mission in Iraq.

Two weeks ago, Prime Minister Blair gave a scorching speech at the United Nations confirming U.S. and British intent to win the global war on terrorism.

According to The Post and Courier of Charleston, South Carolina, "Mr. Blair's eloquence secured unanimous backing of the Security Council for a British resolution outlawing incitement to commit acts of terrorism."

Prime Minister Blair clearly dismissed the argument that U.S. and British intervention in Iraq had spawned terrorism. As he said, Iraq is a pretext as the cause of terrorism, which actually is the doctrine of fanaticism.

"Terrorism won't be defeated until our determination is as complete as theirs; our defense of freedom as resolute as their fanaticism, our passion for democracy as great as their passion for tyranny," said Mr. Blair.

In conclusion, God bless our troops and we will never forget September 11.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 438

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 438.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRESS NEEDS TO TAKE THE WHEEL

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the administration has the answer to the energy crisis. Drive less, they are telling the American people.

Drive less? Oil companies are making record profits, kids are not going to school in Georgia, gas lines are forming in the South, and here in the Nation's Capital, gas prices are over $3 a gallon.

Drive less? Since this administration moved from Texas to Washington, DC, the top five oil companies earned $254 billion in pure profit. Think about it. These companies made $254 billion in profit from the last 5 years. The cleanup from Katrina will cost at least $200 billion.

What are we doing here? Drive less? The administration is asking every American to sacrifice mobility but not asking the oil companies to sacrifice a dime of their profit. The problem is not that the American people are driving too much. The problem is that the oil companies are driving our Nation's energy policies, driving up the cost of gasoline, natural gas and home heating oil, and every chance of driving themselves toward huge profits.

It is time for Congress to take back the wheel. It is time for a sustainable energy policy which puts consumers, the environment, human health and peace first.

CONGRESSIONAL HURRICANE KATRINA INVESTIGATION

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, in the aftermath of the two hurricanes, Katrina and Rita, the question comes up, how do we evaluate the Federal response and how do we learn from the events of the past 4 weeks? How do we protect our country going forward?

There are some in this body who have called for a special commission to conduct that inquiry, a special commission as opposed to a congressional inquiry. But I believe that Congress not only has the duty, I believe Congress has the constitutional obligation to undertake that process. In fact, Mr. Speaker, this is one job that is too important for the other side to outsource.

In order for this to work, that is a Congressional inquiry, it is going to require participation from both sides of the aisle. It is not healthy for the country for one side to stand on the sidelines and point fingers.

And what about a special commission? Well, we saw that with the 9/11 Commission. Their former commission spokesman said that he could not evaluate the information on Able Data because the information provided did not mesh with the conclusions that they were drawing.

I submit, Mr. Speaker, it is appropriate for Congress to do this investigation and I look forward to the result.

SUPPORT FEDERAL ASSISTANCE PROGRAMS

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in strong opposition to any further potential cuts to Federal assistance programs.

The Census states that 13 percent of Americans live in poverty and we have seen the face of poverty more glaring recently. In Dallas, my hometown, 23 percent live in poverty, almost double the national average.

America's economy is weak. It is strong for the wealthy but it is weak for the poor. Gas prices are outrageous, the cost of this war is crippling, and continuing conflict is an embarrassment. Tax cuts to the rich are putting down the poor.

Since the current administration took over, there are 5.4 million more people in poverty, 6 million more without health insurance. Americans need jobs, a decent minimum wage and affordable health care.

Mr. Speaker, people living in poverty need help. We must strengthen Medicaid, Medicare, Social Security and temporary assistance programs, not cut them.

BANNING EFFORTS OF FAITH-BASED GROUPS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the left is howling about how hurricane relief money is being spent. They want to stop money from going to certain groups. The government has offered to help defray the cost that faith-based groups have incurred in helping victims of the hurricanes. Many have been able to cover costs through donations of goods, money, and volunteers. But in many cases, these groups help more people than they were capable of helping because the government asked them to.

But to serve an extremist agenda, some have called on the government to ban faith-based groups from the publicly funded relief effort. Their call would shut out the poor in churches and synagogues and mosques simply to suit their erroneous reading of the Constitution and to pad their fundraising numbers.

First, they want to keep poor kids in big cities from going to good schools with scholarship vouchers, now they want to stop aid from going to the poor. So much for compassion.

CONGRESS NEEDS TO SIT UP AND LISTEN

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, this weekend, Cindy Sheehan and hundreds of thousands of opponents of the war in Iraq marched here in Washington, DC. The massive outpouring of public demonstration against the war is reflected in national polls showing America's growing dissatisfaction with the President's Iraqi policy.

In the spring of 2003, the President pushed our Nation into a war in Iraq. The decision was not based on proven terrorist threat or WMDs, but President Bush's private agenda.

Two years ago, the American people had spent over $250 billion in Iraq. What do we have to show for it? Not much except for the growing insurgency, close to 2,000 American deaths, and untold innocent Iraqi lives.

Mr. Speaker, President Bush's adventure in Iraq has been an abysmal failure. People such as Cindy Sheehan, who have made a mother's ultimate sacrifice, are speaking out. The President will not listen, but it is time for Congress to sit up and listen.

HURRICANE RESPONSE

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, this month of September 2005 has seen our Nation suffer the ravages of the largest natural disaster in our history and a second hurricane of remarkable power, Katrina and Rita. All Americans extend their hearts and their hands and their hopes to those whose lives have been so drastically disrupted.

In Congress, our responsibility must be to ensure that the money that we have provided for the relief efforts is spent only on relief and recovery efforts. That is why Congress will send a special team of investigators to the Gulf region to monitor disaster expenditures.

That is why Congress will convene oversight hearings to learn from high administration officials, State officials and local folks on the status of the relief efforts and where the funds are being expended. That is why weekly reports on expenditures are mandated by Congress and why ongoing audits and investigations on disaster assistance are being conducted.

Mr. Speaker, recovery efforts will take time and the Federal Government will be there to support the local and State leaders, but anything we do we must do so in a fiscally responsible way.

HONORING BAILEY GOFORTH

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today to recognize a very special constituent of mine, Miss Bailey Goforth, a 7-year-old from Alexander County, North Carolina, a bright young lady who is wise far beyond her years.

On Saturday, July 16 of this year, Bailey's father, David, became pinned beneath a heavy farm implement while attempting to hook up a bush hog to his tractor. Bailey was the person who discovered him. Rather than panic at the sight of her injured father, she acted in a calm and collected manner. She and her younger sister, Ali, tried to phone their grandparents for help but unfortunately they could not reach them.

That is when Bailey sprinted to her family's garage, retrieved a car jack, and followed her father's instructions on how to free him from beneath the bush hog. Her father sustained a broken left leg, but his injuries could have been far worse if his brave young daughter had not come to his rescue.

Mr. Speaker, Bailey Goforth is to be commended for her bravery, determination and sound judgment. She is truly an inspiration for us all.

TOUGH QUESTIONS FOR FEMA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, over the past few minutes, beginning with the great prayer from our Chaplain, we have been talking about the devastation of Hurricanes Katrina and Rita. And we know that immediately following Hurricane Katrina, Speaker HASTERT called along with Senator FRIST for the establishment of select committees that would deal with an analysis of what the problems were leading up to Hurricane Katrina and what took place in the aftermath of Hurricane Katrina. Unfortunately, the Democratic leadership chose to not appoint any Members to this select committee.

I have just been watching over the last while the hearings that have been taking place. Before they took place, the Democratic leader said that these hearings would be nothing but a whitewash. Well, having seen the questions raised by my Republican colleagues on the committee, they are tough, strong, hard questions that are being raised of the former FEMA administrator, Mr. Brown.

□ 1415

I believe, Mr. Speaker, that it is responsible to appoint the full complement of membership. It is imperative that the people who have been victimized by these tragedies are heard through their representatives on this select committee, and for those of us in the rest of the country who face the prospect of a disaster, in my State, earthquakes, fires, mudslides create the threat of really causing a tremendous loss of life, we need to figure out what the problems are at FEMA.

So, Mr. Speaker, let us see the leader appoint the full complement of membership to that committee so that their very important questions can be raised.

SIGNIFICANT VICTORY IN IRAQ

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, as my colleague was saying, we have talked quite a bit about Hurricanes Katrina and Rita today and over the past few weeks, and we do express our sympathies to all of those families that have been affected.

I had a colleague mention a moment ago something about Iraq, the war against terrorism, spoke about it from the negative. I want to highlight a positive and a real victory, a significant victory in Iraq.

Al Qaeda's second-highest ranking operative in Iraq was killed in a joint strike by U.S. and Iraqi forces. This is a huge win, Mr. Speaker, a huge win for our troops and for freedom; and it is another sign that we are taking al Qaeda and the terrorist organizations apart, piece by piece.

Whether they are in Iraq, Afghanistan, or working to infiltrate our borders, we are working to uncover and destroy the terrorists' network. We are being led in this effort by our men and women in uniform. God bless them and their good work, and bless those wonderful American-Iraqi forces who are leading in this war against terror.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

NATURAL DISASTER STUDENT AID FAIRNESS ACT

Mr. JINDAL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3863) to provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster, as amended.

The Clerk read as follows:

H.R. 3863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Natural Disaster Student Aid Fairness Act".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 2. ALLOCATION AND USE OF CAMPUS-BASED HIGHER EDUCATION ASSISTANCE.

(a) WAIVER OF MATCHING REQUIREMENTS.—Notwithstanding sections 413C(a)(2), 443(b)(5), and 463(a)(2) of the Act (20 U.S.C. 1070b–2(a)(2); 42 U.S.C. 2753(b)(5); 20 U.S.C. 1087cc(a)(2)), with respect to funds made available for academic years 2004–2005 and 2005–2006—

(1) in the case of an institution of higher education located in an area affected by a Gulf hurricane disaster, the Secretary shall waive the requirement that a participating institution of higher education provide a non-Federal share or a capital contribution, as the case may be, to match Federal funds provided to the institution for the programs authorized pursuant to subpart 3 of part A, part C, and part E of title IV of the Act; and

(2) in the case of an institution of higher education that has accepted for enrollment any affected students, the Secretary may waive that matching requirement after considering the institution's student population and existing resources, using consistent and objective criteria.

(b) WAIVER OF REALLOCATION RULES.—

(1) AUTHORITY TO REALLOCATE.—Notwithstanding sections 413D(d), 442(d), and 462(i) of the Act (20 U.S.C. 1070b-3(d); 42 U.S.C. 2752(d); 20 U.S.C. 1087bb(i)), the Secretary shall—

(A) reallocate any funds returned under any of those sections that were allocated to institutions of higher education for award year 2004–2005 to an institution of higher education that is eligible under paragraph (2) of this subsection; and

(B) waive the allocation reduction for award year 2006–2007 for an institution returning more than 10 percent of its allocation under any of those sections.

(2) ELIGIBLE INSTITUTIONS FOR REALLOCATION.—An institution of higher education may receive a reallocation of excess allocations under this subsection if the institution—

(A) participates in the program for which excess allocations are being reallocated; and

(B)(i) is located in an area affected by a Gulf hurricane disaster; or

(ii) has accepted for enrollment any affected students in academic year 2005–2006.

(3) BASIS OF REALLOCATION.—The Secretary shall determine the manner in which excess allocations shall be reallocated to institutions under paragraph (1), and shall give additional consideration to the needs of institutions located in an area affected by a Gulf hurricane disaster.

(4) ADDITIONAL WAIVER AUTHORITY.—Notwithstanding any other provision of law, in order to carry out this subsection, the Secretary may waive or modify any statutory or regulatory provision relating to the reallocation of excess allocations under subpart 3 of part A, part C, or part E of title IV of the Act in order to ensure that assistance is received by affected institutions for affected students.

(c) AVAILABILITY OF FUNDS DATE EXTENSION.—Notwithstanding any other provision of law—

(1) any funds available to the Secretary under sections 413A, 441, and 461 of the Act (20 U.S.C. 1070b; 42 U.S.C. 2751; 20 U.S.C. 1087aa) for which the period of availability would otherwise expire on September 30, 2005, shall be available for obligation by the Secretary until September 30, 2006 for the purposes of the programs authorized pursuant to subpart 3 of part A, part C, and part E of title IV of the Act, respectively; and

(2) the Secretary may recall any funds allocated to an institution of higher education for award year 2004–2005 under section 413D, 442, or 462 of the Act that, if not returned to the Secretary as excess allocations pursuant to any of those sections, would otherwise lapse on September 30, 2005, and reallocate those funds in accordance with subsection (b)(1).

SEC. 3. EMERGENCY DESIGNATION.

Section 2 of this Act is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SEC. 4. TERMINATION OF AUTHORITY.

The provisions of this Act shall cease to be effective one year after the date of the enactment of this Act.

SEC. 5. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Education.

(2) AFFECTED STUDENT.—The term "affected student" means an individual who has applied for or received student financial assistance under title IV of the Act, and who—

(A) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution of higher education in an area affected by a Gulf hurricane disaster;

(B) was a dependent student enrolled or accepted for enrollment at an institution of higher education that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane disaster; or

(C) suffered direct economic hardship as a direct result of a Gulf hurricane disaster, as determined by the Secretary using consistent and objective criteria.

(3) GULF HURRICANE DISASTER.—The term "Gulf hurricane disaster" means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), and that was caused by Hurricane Katrina or Hurricane Rita.

(4) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term "area affected by a Gulf hurricane disaster" means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(5) AFFECTED STATE.—The term "affected State" means the State of Alabama, Louisiana, Mississippi, or Texas.

(6) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. JINDAL) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. JINDAL).

GENERAL LEAVE

Mr. JINDAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3863.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 3863.

In my home State of Louisiana, several institutions of higher education have been impacted by both Hurricanes Katrina and Rita, literally dozens across the entire State.

The bill we are discussing today addresses an approaching deadline for the Department of Education that requires the Department to redistribute campus-based aid funds.

Currently, campus-based aid funds include the Federal Work Study program, Perkins loans, and Supplemental Educational Opportunity Grants.

Currently, schools that have additional campus-based aid funds are required to return those funds to the Department. Under current law, after September 30, the Department is required to redistribute the funds to schools all over the country.

This bill we are discussing today would extend the September 30 deadline to allow the Department to recapture unspent funds and reallocate them to the institutions that have taken in students from Louisiana, from Mississippi, from Alabama, and from Texas.

In addition, the bill would allow the Department to give additional campus-based aid funds to colleges in the affected States when they got up and running again.

Waiving the Federal matching requirements will assist the financially strapped institutions since the affected schools do not have matching funds that are currently required to receive this funding.

The authority granted to the Secretary in this bill is important to ensure that the affected institutions in the gulf coast region do not experience additional financial strain and provides assistance to get them back on their feet.

As the former president of the University of Louisiana system, a system that comprises universities and colleges that have been impacted directly by the storm, I truly understand the need to be flexible and responsive and to help the neediest students in the affected institutions in their time of need.

Mr. Speaker, I reserve the balance of my time.

Mr. TIERNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3863 is, in fact, a good bill, and I want to congratulate my colleague for filing this bill and working on it.

Obviously, as he stated, the bill directs the Secretary of Education to waive an institution's match requirement and to redistribute millions of dollars in unused campus-based aid funds such as work study and Supplemental Educational Opportunity Grants to students and colleges that are impacted by Hurricanes Katrina and Rita.

The bill in the first instance states that the Secretary shall waive those match requirements if, in fact, an institution is located in the gulf area that is affected by the hurricanes, and it may waive them for institutions that accept for enrollment any affected students after considering an institution's student population, existing resources, and applying objective and consistent criteria. That makes great sense.

Under current law already, colleges that participate in the campus-based aid programs have to return any unused aid to the Secretary of Education at the end of the year. Then the Secretary can reallocate those funds to colleges that have an additional need or return the money to the Treasury.

This bill gives the Secretary the instruction and the latitude to take that money and redistribute it where it is most needed at this particular time after the devastation of the storms. The Department of Education estimates that this change could result in an additional $36 million of student aid to help affected students and colleges this year.

I support this commonsense step and believe that it will provide immediate relief to the affected colleges and students.

Mr. Speaker, I reserve the balance of my time.

Mr. JINDAL. Mr. Speaker, I reserve the balance of my time.

Mr. TIERNEY. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, this bipartisan bill could result in an additional $36 million in aid this year for students and colleges impacted by Hurricane Katrina and Hurricane Rita. It is a commonsense bill, and I am proud to rise in support of H.R. 3863; but we cannot stop here.

Congress must do more to make college affordable for all students, including victims of the hurricanes.

Unfortunately, the House probably will vote next month on H.R. 609, a Republican bill that would increase the cost to students of Federal aid by billions of dollars.

Ironically, one of the provisions of the Republican H.R. 609 legislation would change the formula for distributing campus-based aid while not increasing the amount of that aid.

Earlier this summer, the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Wisconsin (Mr. KIND) offered an amendment in committee that would have ensured that changes in the formula were not tied to full increases but to real increases in aid; but the amendment was defeated by the Republicans in our committee.

H.R. 609 simply would rob Peter to pay Paul, rather than address the real problem, which is the Republican refusal to significantly increase Pell grants and other grant aid to make colleges more affordable for low- and middle-income families.

Of course, Mr. Speaker, I support what Congress is doing today because it will help college students in the gulf region, but I encourage everyone to keep an eye on what Congress does next month because that will change what we do to help college students nationwide.

Mr. TIERNEY. Mr. Speaker, assuming that my colleague has no other speakers, I yield myself such time as I shall consume.

I just want to, Mr. Speaker, highlight the point that the gentlewoman from California (Ms. WOOLSEY) finished with in her remarks.

If this bill is enacted, that she was talking about, H.R. 609, which, in fact, redistributes the campus-based aid formula, these very States that we are trying to help today, this afternoon, would be harmed. If it was enacted and those funds were redistributed without adding additional funds to protect schools that now receive assistance under that provision, Louisiana would lose almost $1.2 million in work study funds under the plan. Alabama would lose $1.3 million, Mississippi would lose nearly $2.5 million in work study. So almost $4.5 million in all the three campus-based aid programs.

This clearly does not make sense. Rearranging the deck chairs on a sinking ship is not going to save that ship from going down.

In higher education, we have a tremendous obligation now to have more children take advantage of college and graduate. It used to be a high school education was enough to catapult a son or daughter into the middle class. We all know today that that is not enough any longer, that we really need to encourage 2 to 4 years beyond high school; and in doing that, campus-based aid plays a very significant and important role.

Redistributing the funds in such a way that you are taking them away from some campuses and then putting them on other campuses is, in fact, as the gentlewoman from California (Ms. WOOLSEY) said, taking from Peter to pay Paul.

The fact of the matter is we ought to increase the funding so that no student loses current assistance and new students who should be getting it do indeed receive the assistance that they need.

A reallocation of campus-based funds must include a significant boost in that funding in order to continue our efforts here so we give more children the responsibility and the opportunity to complete a college degree.

The gentleman from Wisconsin (Mr. KIND) and I had offered that amendment in committee. It failed on a tie vote, 24 to 24. We got significant bipartisan support. In fact, a number of schools would be impacted. More than 80 Members of Congress have signed a letter to the committee asking them to take that offending provision that would redistribute the funds without adding additional money, to take that out of the bill.

Mr. Speaker, I will place in the RECORD at this point a list of each of the States and how much money they would lose on campus-based aid if that redistributed formula under H.R. 609 passed without adding more funds in.

ESTIMATED CHANGE IN CAMPUS-BASED AID FUNDING—BASE GUARANTEE ELIMINATION PROPOSAL

	SEOG change in allocation	FWS change in allocation	Perkins change in allocation	Total change	% Change
Alabama	$319,328	−$1,366,249	$193,908	−$853,013	−2.9
Alaska	−357,194	−292,672	0	−649,866	−39.1
Arizona	184,692	191,795	495,118	871,605	3.5
Arkansas	−109,651	−847,811	−223,204	−1,180,666	−8.8
California	5,346,622	6,981,497	1,367,670	13,695,789	7.0
Colorado	354,210	−35,688	−224,410	94,112	0.4
Connecticut	68,743	744,203	−2,244	810,702	3.8
Delaware	184,837	170,007	−4,868	349,976	10.5
District of Columbia	17,425	1,884,291	240,916	2,142,632	11.3
Florida	1,894,571	2,956,506	1,975,050	6,826,127	9.1
Georgia	1,172,369	−896,299	414,028	690,098	1.7
Hawaii	−109,763	−161,240	−16,180	−287,183	−7.4
Idaho	−68,365	276,785	−146,554	61,866	1.2
Illinois	1,582,535	1,975,747	−703,749	2,854,533	3.0
Indiana	875,175	1,201,143	−164,648	1,911,670	5.0
Iowa	268,598	1,088	−391,244	−121,558	−0.5
Kansas	−609,378	−821,312	−693,636	−2,124,326	−14.6
Kentucky	803,328	−1,518,496	−11,330	−726,498	−3.2
Louisiana	915,018	−1,193,153	99,218	−178,917	−0.7
Maine	−3,346,280	−3,425,036	−460,794	−7,232,110	−46.5
Maryland	−262,256	272,230	43,102	53,076	0.2
Massachusetts	−4,398,750	−4,886,369	−96,665	−9,381,784	−11.7
Michigan	−1,798,914	752,152	−1,213,575	−2,260,337	−4.0
Minnesota	−2,377,299	−1,248,027	−452,806	−4,078,132	−11.1
Mississippi	−1,282,404	−2,487,498	−700,467	−4,470,369	−20.0
Missouri	923,933	945,748	−63,658	1,806,023	5.0
Montana	241,460	−378,709	−177,076	−314,325	−5.2
Nebraska	52,045	−138,681	−268,659	−355,295	−3.1
Nevada	195,286	295,456	66,199	556,941	13.2
New Hampshire	−769,185	−1,502,087	−156,759	−2,428,031	−18.7
New Jersey	501,889	450,066	106,108	1,058,063	2.8
New Mexico	−586,005	−2,183,573	−204,870	−2,974,448	−26.2
New York	7,189,176	7,766,963	3,204,027	18,160,166	9.7
North Carolina	−1,820,724	−1,384,785	−88,970	−3,294,479	−8.0
North Dakota	−965,544	−577,921	2,866,841	1,323,376	19.9
Ohio	775,727	46,677	620,384	1,442,788	2.0
Oklahoma	36,553	−619,493	−456,089	−1,039,029	−5.3
Oregon	−1,738,961	−889,047	−185,769	−2,813,777	−11.2
Pennsylvania	2,514,303	4,595,845	1,265,707	8,375,855	7.5
Puerto Rico	1,650,308	432,023	442,540	2,524,871	7.1
Rhode Island	21,779	−533,551	36,572	−475,200	−2.8
South Carolina	100,627	−789,970	97,811	−591,532	−2.5
South Dakota	−635,011	−1,360,964	−234,921	−2,230,896	−27.7
Tennessee	5,768	−452,951	−6,719	−453,902	−1.4
Texas	647,894	1,103,488	−1,236,695	514,687	0.5
Utah	−422,039	214,156	−477,662	−685,545	−6.4
Vermont	−2,382,485	−1,778,571	−264,202	−4,425,258	−37.7
Virginia	854,144	−174,968	12,640	691,816	2.0
Washington	−844,292	771,689	−229,162	−301,765	−1.0
West Virginia	−76,805	−302,606	−127,184	−506,595	−4.1
Wisconsin	−4,769,861	−1,419,305	−1,192,894	−7,382,060	−19.3
Wyoming	16,325	112,844	−80,097	49,072	1.9

NOTE.—Total 29 states would lose funding under this proposal.
Source: American Council on Education, Center for Policy Analysis.

My colleagues will see that 29 States lose money overall, and in fact, every State loses some aid through some of its campuses in one of those three programs.

I just say again, we have an agreement on this particular bill today. It makes sense to do what we are doing to help those affected in the areas that were hurt by Hurricanes Rita and Katrina; but it makes little sense to go through that effort to do that and at the same time, in a week or two or from now, pass a bill that is going to rob them of money of campus-based aid and leave them set back even further.

We can have it both ways. We can help them now through the legislation that is currently on the floor, and we can do a better job with H.R. 609 when it comes to the floor by adding in resources so that existing student aid does not go down on campuses that are using it and projected aid for those campuses that need additional funds, those needs can be met, and all students and more students will have the opportunity to have a college education so that they, too, can go into the middle class and help make this country strong and its economy strong as well.

Mr. Speaker, I yield back the balance of my time.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume.

I am certainly sympathetic to what the gentleman and my colleague have both referred to in terms of the provision in H.R. 609. Indeed, I was one of the Republicans that actually voted for his amendment.

However, my understanding from the majority on the committee, the rationale for the current language in H.R. 609, is that right now campuses are keeping the financial aid they receive regardless of the number of needy students they have enrolled on campus. The intent behind H.R. 609 is, over a number of years, phase this out and allow the funds to actually follow the needy students to whatever campuses they may be on.

Regardless of the merits of both sides of this issue, certainly today we are here to talk about a provision that will help those institutions impacted by Hurricanes Katrina and Rita. I want to, first of all, thank my colleagues both in the majority and across the aisle for their support for today's legislation.

Certainly, nobody thinks today's legislation will solve all the problems facing institutions of higher education in Louisiana, in Texas, and Mississippi and Alabama; but today, with consideration of this legislation, I do think we are taking an important step forward.

I also want to thank the Members across the aisle and the members of my committee and the chairman in particular for not only moving so quickly on this legislation but for, lastly, moving so quickly on another piece of legislation that helps students directly, waiving some of the requirements that they repay their Pell grants and their other financial assistance if their studies were interrupted by Hurricane Katrina.

□ 1430

I certainly think with the steps we are taking today, we are providing quick, flexible relief, both to students in great need, but also their institutions of higher education.

I have literally spent hours visiting with the leaders of these various institutions, campus presidents, with students visiting some of the impacted campuses, and there are questions in their minds regarding how they are to continue their studies, how are they going to continue their payrolls, how are they going to get their facilities back in preparation for welcoming students back to continuing their studies and their research as the rebuilding process continues.

Again, as a former president of a university system, I know how important these institutions are to the vitality, the economic growth, and the well-being of the region and the families that have been so devastated by these hurricanes. So I certainly thank my colleagues on both sides of the aisle for their bipartisan support for this legislation, and I want to thank the chairman and the House for moving so quickly.

Again, this is not a comprehensive solution, but it is, again, a very important first step forward.

Mr. BOEHNER. Mr. Speaker, I rise in support of this bill to protect financial aid opportunities for students and schools affected by the recent hurricanes in the gulf coast region.

I would like to thank my friend from Louisiana, Representative BOBBY JINDAL, for his ongoing efforts to provide higher education assistance to the victims of Hurricanes Katrina and Rita. I would also like to thank Representatives MILLER, KILDEE, and HINOJOSA for working with us in a bipartisan manner to provide critical higher education relief.

The Natural Disaster Student Aid Fairness Act protects financial aid opportunities for students and schools affected by the recent hurricanes by providing needed flexibility for the campus based aid programs.

The three campus based aid programs—Supplemental Educational Opportunity Grants (SEOG), Federal Work Study, and the Perkins Loan program—provide valuable financial assistance to low- and middle-income students.

The funds are allocated to colleges and universities, which then combine Federal funds with their own dollars and award financial aid to their students. Because the campus based aid programs are awarded to institutions and require institutional matching funds, colleges and universities impacted by the hurricanes are facing additional challenges in maintaining these programs.

The Natural Disaster Student Aid Fairness Act allows the Secretary of Education to waive the institutional matching requirements for institutions affected by the gulf coast hurricanes and for institutions whose financial aid budgets have been stretched more than anticipated as they open their doors to affected students.

This flexibility will ensure colleges and universities are still able to participate in the campus based aid programs as they work to rebuild their campuses and serve their students.

The bill also extends the deadline for the Department of Education to reallocate excess funds for these programs to provide ample time to assess the needs of all participating institutions.

Moreover, the bill allows these excess funds to be targeted to the institutions located in the affected regions or to the institutions that have accepted displaced students.

The campus based aid programs have always been aimed at meeting the needs of disadvantaged students. For the students and schools impacted by the gulf coast hurricanes, the time of need is now. This bill will provide much needed flexibility to ensure these funds are available to the students and schools that need them the most.

Once again, I would like to thank the sponsor of this bill, Representative JINDAL, and members on both sides of the aisle for working quickly on this bill to protect financial aid opportunities for students and schools impacted by Hurricanes Katrina and Rita.

I urge my colleagues to support this bill.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 2005.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.

DEAR CHAIRMAN NUSSLE: I am writing concerning H.R. 3863, the "Natural Disaster Student Aid Fairness Act," which is scheduled for floor consideration today. Section 3 of the bill designates that any provision of Section 2 affecting receipts, budget authority, or outlays in the bill will be for emergency purposes pursuant to the budget resolution of this year (H. Con. Res. 95). Thus, the Committee on Education and the Workforce shares the jurisdiction with the Committee on the Budget on this provision.

I recognize the Committee on the Budget's jurisdictional interest in Section 3 of the bill, but ask that you allow H.R. 3863 to go forward. I agree that by allowing the bill to be considered, the Committee on the Budget does not relinquish any jurisdiction over H.R. 3863 or similar legislation. I would also support your request to be represented on a conference on H.R. 3863, if one should become necessary.

Finally, I will include my letter and your response in the Congressional Record during floor consideration of the measure.

Sincerely,

JOHN A. BOEHNER,
Chairman.

COMMITTEE ON THE BUDGET,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 2005.

Hon. JOHN A. BOEHNER,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BOEHNER: In recognition of the desire to expedite floor consideration of H.R. 3863, the Natural Disaster Student Aid Fairness Act, the Committee on the Budget agrees to waive its right to consider this legislation. H.R. 3863, as introduced on September 22, 2005, contains subject matter that falls within the legislative jurisdiction of the Committee on the Budget pursuant to rule X of the Rules of the House of Representatives. Section 3 of the bill, relating to the designation of provisions of the bill as emergency requirements pursuant to section 402 of H. Con. Res. 95, is of jurisdictional and substantive interest to this Committee.

The Committee on the Budget appreciates the Education and Workforce Committee's recognition of our jurisdictional interest in section 3. The Budget Committee also appreciates your offer to support any request we might make to be represented on the conference for H.R. 3863. Finally, the Committee on the Budget recognizes that the Committee on Education and the Workforce retains sole jurisdiction over all provisions of H.R. 3863 other than section 3.

Thank you for including our letters in the Congressional Record during floor consideration.

Sincerely,

JIM NUSSLE,
Chairman.

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of the Natural Disaster Student Aid Fairness Act.

Hurricane Katrina and Hurricane Rita have caused destruction of monumental proportions. First and foremost, our priority should remain delivering food, water and other aid to those most in need. During this time of national crisis we should tap every available resource of the Federal Government to make sure that we are providing relief in every corner of the devastated Gulf Coast region. This relief extends to the colleges and universities that work so hard to provide our young people with the skills they need to succeed.

This important legislation would allow the Secretary of Education to grant waivers to colleges and universities affected by these disasters that participate in Federal Campus-Based Aid programs such as SEOG and Federal Work-Study. This would waive the requirement that participating institutions of higher education provide matching Federal funds provided to the institution for these programs.

I am pleased to see the speed at which legislation is being considered to help students in the affected regions and applaud the spirit of bipartisanship in addressing these important issues. I commend the gentleman from Louisiana (Mr. JINDAL) for introducing this legislation, and I thank the leadership for calling this legislation to the floor so quickly.

Mr. Speaker, this is a good bill in a difficult hour. I strongly encourage my colleagues to vote for it.

Mr. JINDAL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The question is on the motion offered by the gentleman from Louisiana (Mr. JINDAL) that the House suspend the rules and pass the bill, H.R. 3863, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF "LIGHTS ON AFTERSCHOOL!"

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 66) supporting the goals and ideals of "Lights on Afterschool!", a national celebration of after-school programs.

The Clerk read as follows:

H.J. RES. 66

Whereas high-quality after-school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high-quality after-school programs support working families by ensuring that their children are safe and productive after the regular school day ends;

Whereas high-quality after-school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's young people, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high-quality after-school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas "Lights On Afterschool!", a national celebration of after-school programs on October 20, 2005, promotes the critical importance of high-quality after-school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home, and 14,300,000 children have no place to go after school; and

Whereas many after-school programs across the Nation are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress supports the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. EHLERS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

GENERAL LEAVE

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 66.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.J. Resolution 66, offered by my colleague, the gentlewoman from New York (Mrs. LOWEY). This resolution seeks to support the goals and ideals of "Lights on Afterschool!", a national celebration of after-school programs.

This year's Lights on Afterschool rally, taking place October 20, 2005, is expected to include more than 7,000 events in the United States and at military bases around the world. This event is aimed at bringing attention to the need for high-quality, after-school programs that keep kids safe, help working families, and improve academic achievement.

I support this resolution, because after-school programs are an important part of many American students' lives. High-quality after-school programs provide safe, challenging, and fun learning experiences that help children and youth develop their social, emotional, physical, cultural, and academic skills.

In my hometown of Grand Rapids, Michigan, after-school programs have proven to be highly beneficial. For example, the LOOP after-school program has shown that students who participated 3 or more days a week did better academically and had better attendance in school than students who did not participate.

I am pleased we are able to bring attention to the critical importance of after-school programs in the lives of children, their families, and their communities. I commend the communities across the Nation that engage in innovative after-school programs and activities and ensure that the doors stay open and the lights stay on for all children after school.

This resolution is simple and straightforward. It supports the goals and ideals of "Lights on Afterschool!", a nationwide celebration of after-school programs. I commend my colleague, the gentlewoman from New York (Mrs. LOWEY), for her leadership in offering House Joint Resolution 66 and urge all my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume, and I want to first thank the gentlewoman from New York (Mrs. LOWEY) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) for introducing this resolution.

Mr. Speaker, supporting after-school programs is one of the most important things that we in Congress and the people around the country can do to improve our children's lives and ensure that they have bright futures. High-quality after-school programs provide children with safe, enriching activities, a place to be where they are welcome and where they are comfortable. Without these programs, the hours between the end of the school day, actually between the school bell and the dinner bell, become the time that children are most likely to get into trouble.

So while these programs are important to all families, they are particularly important and invaluable to working families. Good after-school programs build stronger communities by involving parents, community leaders, business leaders, and adult volunteers in the lives of young people. That is why I am delighted to support "Lights on Afterschool!", a national celebration of after-school programs.

On October 20, 2005, as many as 1 million people around the country will attend events to spread the word about the critical importance of high-quality, after-school programs. But we also have to remember that resolutions are not enough. As this resolution notes, there are more than 14 million children in the United States of America who do not have a place to go after school. Yet in recent years, this President and Congress have cut funding for after-school programs.

So by all means, let us resolve today to support these programs, but when it comes time to put our money where our mouths are, let us support them financially also.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. LOWEY), the sponsor of this resolution.

Mrs. LOWEY. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise in strong support of H.J. Res. 66, which I introduced with my friend and colleague from Florida (Ms. ROS-LEHTINEN) to highlight the goals of the sixth annual "Lights on Afterschool!" celebration.

This event, organized by the Afterschool Alliance and sponsored by the J.C. Penney Afterschool Fund is the only national celebration of after-school programs and the important role they play in the lives of children, families, and communities.

On October 20, more than 1 million Americans, representing thousands of after-school initiatives across the country, including 166 programs in my home State of New York, are expected to open their doors to parents, neighbors, business leaders, and elected officials to showcase their accomplishments. In my own district, events will take place in New Rochelle, Mamaroneck, Ossining, and Yonkers, and more programs are registering every day.

In spite of the growing enthusiasm for this year's "Lights On!" celebration, we do need more than just one day a year to highlight the importance of after-school programs. That is why I joined with other representatives, the gentlewoman from Florida (Ms. ROS-LEHTINEN), the gentleman from Michigan (Mr. KILDEE), and the gentleman from California (Mr. CUNNINGHAM), and I thank also my colleagues on both sides of the aisle, the gentleman from Michigan (Mr. EHLERS), who I did not mention before for supporting this program, as well as the gentlewoman from California (Ms. WOOLSEY). We formed the bipartisan Congressional After-School Caucus earlier this year. Our mission is simple: Build support for these programs within Congress and to translate that support into sufficient funding to meet the growing demand for after-school initiatives.

For years, we have known that what our kids do after school can have as great an impact as what they do in school. In 1996, from my seat on the Committee on Appropriations, I helped create the 21st Century Community Learning Centers, the first ever Federal after-school initiative. Since then, we have watched it grow from a $1 million demonstration project to a $1 billion permanent program today because there is astonishing demand and tremendous unmet need for it.

In fact, according to a study conducted by the Afterschool Alliance, 40 percent of middle school children, the age when kids are most vulnerable to engaging in dangerous activities, are unsupervised for a good portion of the day. Parents need safe, structured environments where their kids can learn and play, make friends, and develop new interests, yet Congress is not doing what we should to ensure that our kids are safe and engaged while their parents are at work.

The Congressional After-School Caucus and the "Lights On!" celebration will focus on changing that. We will share the lessons we have learned to make sure after-school does not become an after-thought in our Federal education priorities. I urge my colleagues to support this resolution, join the Caucus, and fight tooth and nail for every dollar available so that kids and their parents have access to these desperately needed programs.

Mr. EHLERS. Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. LARSEN), an original cosponsor of the resolution.

Mr. LARSEN of Washington. Mr. Speaker, I rise today in strong support of "Lights on Afterschool!", and House Joint Resolution 66, which recognizes the goals and ideals of "Lights on Afterschool!"

"Lights on Afterschool!" started in 2000, celebrating the importance of after-school programs, and it continues to grow 6 years later. This year's celebration is scheduled for October 20, and roughly 1 million Americans are expected to participate.

After-school programs play an important role in keeping many kids safe and engaged in positive activities. The hours between 3 and 6 p.m. on school days represent the peak times for juvenile crime. During those few hours after school, kids are most likely to experiment with drugs, alcohol and cigarettes.

Today, there are currently over 6 million students, kindergarten through grade 12 participating in after-school programs, and these children are growing and learning in a safe and healthy environment. Congress must protect this opportunity for kids. Congress must do more to give families and children who are not currently participating the chance to do so.

"Lights on Afterschool!" reminds us all of our obligation to give children the resources they need to succeed in school and to succeed in the future. I urge my colleagues to support this resolution.

Ms. WOOLSEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this resolution fits directly into my legislation, the Balancing Act, legislation that is intended to help working families bridge their responsibilities of work and their responsibilities to their families.

As this resolution notes, there are more than 14 million children in the United States who do not have a place to go after school. Yet in recent years, this President and this Congress have cut funding for after-school programs. So by all means, let us resolve today to support these programs, but when it comes time to put our money where our mouths are, let us support them financially as well.

Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I grew up in a small farming village in Minnesota. There was no need for after-school programs because after school, everyone went back home to the farms to milk the cows, feed the animals, and so forth. We live in a different world today, and it is absolutely essential that children have appropriate, meaningful, and useful activities after school in today's world.

This resolution commemorates a very good program, the "Lights on Afterschool" program, which has been invaluable in many communities, and I am pleased to join in this resolution to honor that effort and to recognize it.

Mr. HOLT. Mr. Speaker, I rise in support of H.J. Res 66, which recognizes the fifth annual celebration of Lights on Afterschool! on October 20 and honors the contributions of afterschool programs to our communities.

As a former educator, I understand the importance of after-school programs. These programs enrich children's lives with artistic, athletic, and educational activities. They support working parents who want to know that their children are in safe, nurturing environments. After-school programs reduce crime by giving young people positive outlets for the energy. Schools, community members, volunteers and families come together every school day to make these programs successful.

Over six million students across the country benefit from after-school programs, and in New Jersey, there are 28,000 students attending these programs. Many after-school programs are federally funded including the 21st Century Community Learning Centers.

My district is fortunate to have several of these centers. The Trenton Public Schools have partnered with several organizations, including the Boy Scouts, Imani Community Center and Passage Theatre Company, to integrate after-school, summer and adult education programs to better serve students. The Middlesex County Educational Services Commission provides educational and social activities for students with multiple disabilities, including autism. And the Princeton Regional Schools' after-school program benefits from its designation as a 21st Century Community Learning Center.

These programs, and others in my district, strengthen our communities and improve our children's lives. But we can do better. If the No Child Left Behind Act were fully funded, another 64,000 students in New Jersey alone would have a safe place to go after school.

I applaud the staff and volunteers of afterschool programs, and I am glad to join the one million Americans expected to celebrate Lights on Afterschool! on October 20th.

Mr. REYES. Mr. Speaker, I rise today in strong support of H.J. Res. 66, a bill supporting the goals and ideal of "Lights On Afterschool!," a national celebration of after-school programs.

While my district of El Paso, Texas is fortunate to be served by several excellent afterschool programs, I am here to say we need more.

As more families have two parents who work every day—and single parents struggle to balance the duties of providing for their kids and caring for them—more children are left without supervision after school. The Afterschool Alliance estimates there are 14.3 million of these children across America.

Without available after-school programs, many of these children will be left to wander the streets between 3:00 p.m. and 6:00 p.m., the time of day when juvenile crime is most likely to occur and children are most likely to experiment with drugs, alcohol, and cigarettes. Or they might just sit in front of the television or video game console all afternoon.

By creating more after-school programs—at schools, community centers, and faith-based organizations—we provide children a fun and productive place to go after school. Also, parents have peace of mind knowing their kids are safe and are thus better able to focus on their jobs.

Mr. Speaker, the American people support after-school programs, and so should we. I urge my colleagues to join me in supporting "Lights on Afterschool" and the movement for more afterschool programs in America.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of Resolution 66, supporting the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs. Passage of this bill will not only recognize this celebration, but also reaffirm the United States Congress' continuing commitment to providing our children after-school programs.

The "Lights On Afterschool!" celebration was started in October of 2000 and was hosted in over 1,000 communities across the nation. The goal of the program at its inception was to call attention to the importance of after-school programs for America's communities. Last year, 7,500 communities celebrated Lights On Afterschool! events. This October, the Afterschool Alliance, the founding organization, expects 1 million Americans to participate in "Lights On Afterschool!"

In this time of political pressure for budget cuts, "Lights On Afterschool!" seeks to celebrate the importance of after-school programs to American Society, and assert the need for even more programs. The worth of after-school programming is not lost on the American public. Nine in ten Americans think children need organized activities or a program to go to after school where they have learning opportunities. Nine in ten also support funding for after-school programs in low-income neighborhoods.

The "Lights On Afterschool!" program calls for expanding after-school opportunities so that every child who needs a program has access to one. This is not only a good idea on paper, but a good idea in practice. Teens who participate in after-school programs are three times less likely to try drugs, and less likely to smoke or drink. Teens who do not attend after-school programs are three times more likely to skip class. Students who participate in after-school programs have better grades, are more likely to attend college, and reach higher levels of achievement. The benefit of these programs also extends to the tens of millions of parents of school aged children, who, with the help of these programs, were better able to balance family and work life.

It seems like a simple decision to support the "Lights On" program, but budget-tightening is forcing many programs to cut back or even close. There is a tremendous unmet demand for after-school programs. Today, millions of children have no adult supervision after school. Mayors surveyed in 86 cities reported that only one-third of the children needing after school care were receiving it. Over two-thirds of principals whose children lack after-school programs claim a lack of funding as the reason for not having sufficient programming.

The "Lights On Afterschool!" program is scheduled next month on the 20th of October. Supporting this program—and after-school programs in general—should be a high priority for this country and this congress.

I support H.J. Res. 66 for the foregoing reasons, and I urge my colleagues to follow suit.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H.J. Res. 66, a resolution supporting the goals and ideals of "Lights On Afterschool." Lights On Afterschool is a national celebration of after school programs and the dedicated people who keep them going.

After school programs play an important role in the lives of millions of school children throughout the United States. These programs provide fun and educational activities that help develop the social, emotional, physical, cultural, and academic skills of children, while giving them a safe and enriching alternative to the streets.

Students in my home town of Chicago benefit from hundreds of exciting after school options. Many of these are coordinated through After School Matters, a non-profit organization which partners with the City of Chicago, the Chicago Public Schools, the Chicago Park District, the Chicago Public Library, and the Chicago Department of Children and Youth Services to create a network of after school opportunities for teens in underserved communities.

Through After School Matters, Chicago teens take part in engaging activities that provide skills that translate to the workplace. After School Matters helps kids build positive relationships with adults and peers, providing them with access to educational and career opportunities in their neighborhoods and the city.

Programs such as After School Matters are making a difference in communities throughout the United States. These programs deserve our support, and I urge my colleagues to make after school programs a priority as we move through the budget process.

Mr. Speaker, I am pleased to take this opportunity to recognize the work of these dedicated people who help provide quality after school opportunities for children. On October 20th, I urge my colleagues to participate in "Lights On Afterschool" and honor the after school programs which serve their communities.

Mr. EHLERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and pass the joint resolution, H.J. Res. 66.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. EHLERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1445

STAFF SERGEANT MICHAEL SCHAFER POST OFFICE BUILDING

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3703) to designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building".

The Clerk read as follows:

H.R. 3703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STAFF SERGEANT MICHAEL SCHAFER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, shall be known and designated as the "Staff Sergeant Michael Schafer Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Staff Sergeant Michael Schafer Post Office Building".

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Pursuant to the rule, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) and the gentlewoman from California (Ms. WATSON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

GENERAL LEAVE

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3703. I introduced this bill to honor the life of fallen U.S. Army Staff Sergeant Michael Schafer. On July 25 this year, while fighting extremist forces in Afghanistan, Sergeant Schafer made the ultimate sacrifice for our great Nation that he loved so dearly.

I sincerely appreciate leadership's willingness to schedule this legislation for consideration today. I can only hope that with the enactment of H.R. 3703, Michael's widow, parents, and family will be comforted by this small token on behalf of a Nation that is eternally grateful for Michael's service.

Michael Schafer, a native of the beautiful town of Spring Hill in my district, answered the call to service by enlisting in the Army in 1998. At the age of 25, Michael had already served tours of duty in Kosovo, Iraq, and Afghanistan. He became the team leader of the Chosen Company, 2nd Battalion, 503rd Regiment, 173rd Airborne Brigade. In addition to being an excellent soldier, he was a model citizen, a dutiful son, and a very caring husband.

Tragically, enemy combatants ambushed Sergeant Schafer and his squad in Oruzgan, Afghanistan, on July 25, 2005. They fired shots at the American forces. One shot struck Sergeant Schafer. Although wounded, he still managed to alert the rest of his team to the imminent danger and ordered them to evacuate the area. However, another shot then killed him.

The Army posthumously awarded Sergeant Schafer the Silver Star and Purple Heart. The Army recognized that his last act saved the lives of at least two of his own soldiers. I am deeply humbled by the brave and selfless actions of this young hero.

I urge my distinguished colleagues to join me in honoring the sacrifice made by Michael Schafer to defend the freedom of our great Nation, and I thank the gentleman from Virginia (Mr. TOM DAVIS) for making possible House passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. WATSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) in consideration of H.R. 3703, legislation naming a postal facility in Spring Hill, Florida, after Staff Sergeant Michael Schafer, a courageous soldier who was killed in Afghanistan.

This measure, which was introduced by the gentlewoman from Florida on September 8, 2005, and unanimously reported by the Committee on Government Reform on September 15, 2005, enjoys the support and cosponsorship of many Members, including the entire Florida delegation.

Staff Sergeant Michael Schafer grew up in Spring Hill and enlisted in the Army in 1998, serving tours of duty in Kosovo, Iraq, and Afghanistan. Sergeant Schafer was the team leader of the Chosen Company, 2nd Battalion, 503rd Regiment, 173rd Airborne Brigade.

On July 25, 2005, Staff Sergeant Schafer was killed in action while leading his team on patrol in Oruzgan, Afghanistan. Enemy combatants ambushed his squad and wounded him with a bullet. Before the second fatal shot was fired, Sergeant Schafer alerted his team to the imminent danger and ordered them to run. The Army awarded him both the Silver Star and the Purple Heart, recognizing that his last actions saved the lives of at least two of his soldiers at the sacrifice of his own life.

Mr. Speaker, I commend my colleague for seeking to honor the legacy of Staff Sergeant Michael Schafer whose loyalty to his company saved his soldiers' lives. I urge the swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) that the House suspend the rules and pass the bill, H.R. 3703.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RANDALL D. SHUGHART POST OFFICE BUILDING

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2062) to designate the facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, as the "Randall D. Shughart Post Office Building".

The Clerk read as follows:

H.R. 2062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RANDALL D. SHUGHART POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, shall be known and designated as the "Randall D. Shughart Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Randall D. Shughart Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) and the gentlewoman from California (Ms. WATSON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

GENERAL LEAVE

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2062 honors a soldier of the highest distinction, Sergeant First Class Randall Shughart of the U.S. Army's Special Operations Command. Along with my distinguished colleague from Pennsylvania (Mr. SHUSTER), I strongly support H.R. 2062 which designates this post office in Newville, Pennsylvania, as the Randall D. Shughart Post Office Building.

On October 3, 1993, while serving as a sniper team member with the Special Operations Command with Task Force Ranger in Mogadishu, Somalia, Sergeant Shughart embarked on a mission that would leave him fatally wounded.

While performing precision sniper fires at a helicopter crash site, Sergeant Shughart and his team leader, Master Sergeant Gary Gordon, volunteered to be inserted into the crossfire in order to save a wounded soldier below, knowing that there were no ground troops available to secure the area. After having to abort the first mission due to enemy ground fire, Sergeant Shughart descended 100 meters south of the crash site. Only armed with a long-range rifle and sidearm, SFC Shughart fought his way to the fallen helicopter facing tremendous opposition.

Upon arriving at the site, Sergeant Shughart secured the perimeter by offering protective fire for the pilot of the aircraft so he could escape to safety. Sadly, upon the depletion of his ammunition, Sergeant Shughart was killed in the crossfire. The unmistaken and important heroic acts by Sergeant First Class Randall Shughart were later depicted in the feature film "Blackhawk Down" in 2001.

I certainly want to thank the gentleman from Pennsylvania (Mr. SHUSTER) for his work on this very important issue, recognizing the courageous actions of a true American hero. The men and women who protect our country deserve appropriate recognition for their service and commitment to their country, and that is just what this bill does: it recognizes Sergeant First Class Randall Shughart, whose courageous actions in combat cost him his life, by naming a post office after him. This will serve as a constant reminder to the entire community of his brave actions when his Nation called.

At this moment, the gentleman from Pennsylvania, because of his role on the Select Bipartisan Committee Investigating the Response to and Preparation for Hurricane Katrina, is unable to be with us here. Nevertheless, I thank the gentleman from Pennsylvania again for his leading effort on this legislation that honors one of America's great heroes, Randall Shughart.

Mr. Speaker, I reserve the balance of my time.

Ms. WATSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to join my colleague in support of naming a post office after Sergeant Shughart, and we join the entire Pennsylvania delegation in support of this measure.

Mr. Speaker, Sergeant First Class Randall D. Shughart was an exemplary member of America's Armed Forces who went above the call of duty to save his team member's life. I commend my colleague for sponsoring this measure, and I urge the swift passage of the bill.

Mr. Speaker, as a member of the Government Reform Committee, I am pleased to join my colleague in the consideration of H.R. 2062, legislation naming a postal facility in Newville, Pennsylvania, after the late Sergeant First Class Randall D. Shughart. This measure, which was introduced by Representative BILL SHUSTER (R-PA) on May 3, 2005, and unanimously reported by the Committee on Government Reform on September 15, 2005, enjoys the support and co-sponsorship of the entire Pennsylvania delegation.

Sergeant First Class Randall D. Shughart, born in Newville, Pennsylvania, served in the U.S. Army Special Operations Command, Task Force Ranger in Mogadishu, Somalia. On October 3, 1993, Shughart provided precision sniper fire from the lead helicopter at an assault on a building and at two Black Hawk helicopter crash sites. Sergeant Shughart and his team leader, Master Sergeant Gary Gordon, learned that ground forces weren't available to secure the crash site and protect four critically injured crew members. Shughart and his team leader unhesitatingly volunteered to be inserted for an on-the-ground rescue, well aware of the growing number of enemy personnel closing in on the site.

After three requests, Shughart received permission to perform this volunteer mission. Once inserted, Sergeant Shughart and his team leader fought their way through intense enemy fire to reach the critically injured crew members. Shughart pulled the pilot and the other crew members from the aircraft and killed an undetermined number of attackers while protecting the downed crew. He continued his protective fire until his ammunition was depleted and he was fatally wounded. For his heroic actions, Sgt. First Class Shughart was posthumously awarded the Congressional Medal of Honor in 1994 by President Bill Clinton.

Mr. Speaker, designating the post office in Newville, Pennsylvania is an excellent way to honor the memory of Sergeant First Class Randall D. Shughart. Sergeant Shughart was an exemplary member of America's armed forces who went above the call of duty to save his team member's life.

I commend my colleague for sponsoring this measure and I urge the swift passage of this bill.

Mr. SHUSTER. Mr. Speaker, I rise today to honor and commemorate Sergeant First Class Randall Shughart, a central Pennsylvanian who received the military's highest decoration—the Medal of Honor—posthumously for his service in Mogadishu, Somalia. He is from Newville, Pennsylvania, and served as a Sniper Team Member under United States Army Special Operations Command. He was deployed with Task Force Ranger to Mogadishu and his heroic actions were highlighted in the movie "Black Hawk Down." This bill will name a Newville post office after this American hero whose selfless duty cost him his life but saved another.

During a combat mission, a helicopter was shot down leaving critically injured soldiers vulnerable. Sergeant First Class Shughart and his team leader, without hesitation, volunteered to be reinserted to protect the four critically wounded personnel, despite knowing a growing number of combatants were closing in on the site. They were not granted permission, but knowing their fellow soldiers needed help, they continued to make the request. On their third attempt, they received permission for this volunteer operation and headed back into combat.

Shughart and his team leader were inserted one hundred meters south of the crash site. Equipped with only a sniper rifle and a pistol, Shughart and his team leader fought their way through a dense urban neighborhood to reach the critically injured crew members. Shughart pulled the pilot and the other crew members from the aircraft and established a perimeter. However, they were in a very vulnerable position as the insurgents continued their assault on the site. Shughart used his long-range rifle and side arm to kill an undetermined number of attackers to protect the downed crew. Randall Shughart continued his fire until he depleted his ammunition and was fatally wounded, but his actions saved the pilot's life.

Shughart's extraordinary heroism, commitment to duty and devotion to his fellow soldiers is just one example of the amazing work of the U.S. military—naming a post office after this American hero is the least we can do. The men and women of our armed forces are fighting abroad today so we do not have to fight them here. It is only appropriate that we honor their services and sacrifices. And today, we are moving forward in naming a post office in Newville, Pennsylvania, after this defender of freedom who volunteered for a dangerous mission to save his fellow soldier's life. Not every town is privileged to have a Medal of Honor recipient—in fact it is rare. Now, the entire Newville community will have a reminder of Randall Shughart, a recipient of the military's highest honor and an American hero to everyone.

Ms. WATSON. Mr. Speaker, I yield back the balance of my time.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) that the House suspend the rules and pass the bill, H.R. 2062.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MAUDELLE SHIREK POST OFFICE BUILDING

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 438) to designate the facility of the United States Postal Service located at 2000 Allston Way in Berkeley, California, as the "Maudelle Shirek Post Office Building".

The Clerk read as follows:

H.R. 438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAUDELLE SHIREK POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2000 Allston Way in Berkeley, California, shall be known and designated as the "Maudelle Shirek Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Maudelle Shirek Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) and the gentlewoman from California (Ms. WATSON) each will control 20 minutes.

Mr. KING of Iowa. Mr. Speaker, I seek to claim time in opposition to the motion.

The SPEAKER pro tempore. Is the gentlewoman from California in favor of the motion?

Ms. WATSON. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. KING) will control 20 minutes in opposition.

The Chair recognizes the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

GENERAL LEAVE

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

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Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 438 would name this post office building after long-time Berkeley, California resident Maudelle Shirek. The author of this legislation is the gentlewoman from California (Ms. LEE), who seeks to recognize Ms. Shirek.

Mr. Speaker, I reserve the balance of my time.

Mr. KING of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, normally I would not come to the floor to oppose a bill naming a post office in someone else's district. I am confident I speak on behalf of some of the west coast Members of Congress, as well as the mainstream American values and certainly have no personal animosity towards the lady for whom this post office is named in this bill.

However, there is a plethora of information on the record that sets her apart from. I will say, the most consistent of American values. And rather than read those into the RECORD, Mr. Speaker, I just wish to voice my objection.

Mr. Speaker, I reserve the balance of my time.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield 10 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleagues in consideration of H.R. 438, legislation naming a postal facility in Berkeley, California, after Maudelle Shirek. This measure was introduced by the gentlewoman from California (Ms. LEE) on February 1, 2005.

Maudelle Shirek, the granddaughter of slaves, was born in Jefferson, Arkansas, before moving to the Bay Area over 60 years ago. She became an activist and a community leader. Certainly emblematic of her community. Ms. Shirek has spent a lifetime fighting against injustice, poverty, and housing discrimination. She is now 94 years old.

In the 1960s and 1970s, she was active in the anti-war movement. She founded two senior centers, was one of the first elected officials to address the AIDS epidemic, and helped organize the "Free Mandela Movement."

A well-known and outspoken former member of the Berkeley City Council and former Berkeley vice mayor, Maudelle Shirek was instrumental in encouraging former Congressman Ron V. Dellums to enter politics and has served as a role model for many people in the community, especially the gentlewoman from California (Ms. LEE).

Earlier this year the Young Adult Project 2005, Black History Month Celebration honored Maudelle Shirek's "Life, Legacy and Service."

Mr. Speaker, I commend the gentlewoman from California (Ms. LEE) for seeking to honor her constituent in her community, a former member of the city council, in this manner and urge swift passage of this measure.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KING of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just to make a couple of gentle points, the effort has been, at least on the record, as not, I do not want to say fighting against injustice, but a record of fighting against justice, particularly in the case of the effort to free Mumia Abu-Jamal. I think most of us know about that particular case. And I am concerned about a role-model. I am concerned about young people a generation or two from now. When they go back by that post office in Berkeley and look at the name on the post office, they are going to ask what were the principles that brought this about? And I contend that those principles would be running contrary to American values.

Mr. HOLDEN. Mr. Speaker, I rise today to recognize that on September 27, 2005, I voted "yea" on H.R. 438 (rollcall No. 495), which designates the United States Postal Service facility located at 2000 Allston Way in Berkeley, California, as the "Maudelle Shirek Post Office Building."

Ms. Maudelle Shirek was the former vice-mayor of the City of Berkeley and Member of Berkeley City Council from 1984 to 2004, between the ages of 73 and 93. She was one of California's longest serving elected officials.

For 60 years, Ms. Shirek has been campaigning for fair housing and civil rights for all Americans, especially the poor. Ms. Shirek helped found two Berkeley seniors centers. Until her health started slowing her down, Ms. Shirek helped deliver meals to shut-in seniors and did all the grocery shopping for lunches at the New Light Senior Center. In addition, Ms. Shirek received a Special Recognition Award in 1997 from the Cooperative Center Federal Credit Union for 55 years of tireless work in the credit union movement.

Before voting on H.R. 438, I was fully aware of the aforementioned efforts and achievements during Ms. Shirek's life. I found them reason to name a Post Office after her.

However, after I voted "yea" on H.R. 438, I was informed of Ms. Shirek's active support for the release of Mumia Abu-Jamal, a man convicted of killing a Philadelphia police officer. Upon learning this, I could not, in good faith, support H.R. 438. Had I known this prior to voting on H.R. 438, I would have voted "nay."

Mr. ETHERIDGE. Mr. Speaker, I appreciate the opportunity to make a few comments about H.R. 438.

In the House we routinely name Federal post offices after notable Americans. In fact, last year I responded to a request from numerous constituents to name the post office in Dunn, NC after the late General William C. Lee.

The bill on the floor today, H.R. 438, would rename the post office at 2000 Allston Way in Berkeley, California after Ms. Maudelle Shirek. I am concerned about the lack of committee review over this bill, as H.R. 438 was not heard or marked up by the Government Reform Committee. It is the responsibility of the committee of jurisdiction to review the qualifications of the individual being honored and to determine if he or she should be a candidate for Federal recognition.

Despite my reservations about the review process for H.R. 438, I will vote for this legislation as a matter of routine congressional courtesy and respect for the bill's sponsor Congresswoman BARBARA LEE and her constituents.

Ms. LEE. Mr. Speaker, I come to the floor to recognize an unsung hero and political legend in the East Bay area, Ms. Maudelle Shirek.

The legislation we are considering here today, H.R. 438, would name the post office building at 2000 Allston Way in Berkeley after Maudelle Shirek.

It would have been impossible for the House to consider this bill without the timely help of my colleagues, the Chairman and Ranking Member of the House Government Reform Committee, Congressmen TOM DAVIS and HENRY WAXMAN. I thank the gentlemen for their assistance.

I would also like to thank Majority Leader TOM DELAY, Democratic Leader NANCY PELOSI, and Democratic Whip STENY HOYER for their help in bringing this bill to the floor.

Mr. Speaker, this special tribute is long overdue. In fact, in June 2003, the Berkeley City Council passed a resolution recommending the post office naming. I am pleased that we will finally honor Maudelle Shirek today.

Maudelle Shirek was Berkeley's 94-year-old former vice mayor. Until last fall, Maudelle was one of California's longest-serving elected officials.

As one of my political heroes, she continues to fight for equality and social justice for all. She not only helped me get involved in politics but also inspired my predecessor, Congressman Ronald V. Dellums, to run for Congress. Her understanding of the importance in investing in people has won the solid support of voters in her district and admirers around the world as an international leader for peace and justice.

A granddaughter of slaves, Maudelle left her rural Arkansas home and came to California in the middle of World War II. Before long she was campaigning for fair housing and other civil rights for African Americans. She helped found two Berkeley senior centers, and until her health started to slow her down, she helped deliver meals to shut-in seniors; or if it was a Tuesday, did all the shopping for lunches at the New Light Senior Center, which she founded nearly 30 years ago.

Mr. Speaker, Maudelle Shirek entered elected politics in 1983 after being forced to retire from a senior center simply for having reached the age of 72. Soon after her election to Berkeley City Council, she helped end the discriminatory policy of mandatory retirement in Berkeley city agencies.

Maudelle refuses to accept arbitrary limitations. It is one of the things we all respect about her. Maudelle remains one of the best examples of how one person can make a difference.

Ms. Maudelle Shirek is a fearless and inspirational woman who for over 60 years has tirelessly fought to make this world a fair and just place. She has spoken for the voiceless and has been a staunch defender of our basic civil rights.

Mr. Speaker, I ask that my colleagues join me today in supporting this resolution, H.R. 438.

The world would be a better place if we had more Maudelles.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The question is on the motion offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) that the House suspend the rules and pass the bill, H.R. 438.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KING of Iowa. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUPPORTING THE GOALS AND IDEALS OF DOMESTIC VIOLENCE AWARENESS MONTH

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 209) supporting the goals and ideals of Domestic Violence Awareness Month and expressing the sense of Congress that Congress should raise awareness of domestic violence in the United States and its devastating effects on families.

The Clerk read as follows:

H. CON. RES. 209

Whereas since the Violence Against Women Act was passed in 1994, the rate of domestic violence has diminished; the rate of family violence fell between 1993 and 2002 from 5.4 victims to 2.1 victims per 1,000 United States residents age 12 or older;

Whereas although great strides have been made toward breaking the cycle of violence, much work remains to be done;

Whereas domestic violence affects women, men, and children of all racial, social, religious, ethnic, and economic groups in the United States;

Whereas family violence accounted for 11 percent of all reported and unreported violence between 1998 and 2002;

Whereas about 22 percent of murders in 2002 were family murders;

Whereas family members were responsible for 43 percent of murders of females in 2002;

Whereas of the nearly 500,000 men and women in State prisons for a violent crime in 1997, 15 percent were there for a violent crime against a family member;

Whereas the average age for a child killed by a parent is 7 years old and 4 out of 5 victims killed by a parent were younger than 13 years old;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and children;

Whereas the month of October, 2005, has been recognized as an appropriate month for activities furthering awareness of domestic violence; and

Whereas the dedication and success of those working tirelessly to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that Congress should raise awareness of domestic violence in the Nation by supporting the goals and ideals of National Domestic Violence Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) and the gentlewoman from California (Ms. WATSON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

GENERAL LEAVE

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Con. Res. 209.

This concurrent resolution, introduced by the distinguished gentleman from Texas (Mr. AL GREEN), supports the goals and ideals of Domestic Violence Awareness Month. According to the American Bar Association, nearly one in three women experience at least one physical assault by a partner during their lifetime. Consequently, in October, 1981, the National Coalition Against Domestic Violence found a way to connect both victims of domestic violence with battered women's advocates by instituting a National Day of Unity. The establishment of this day of recognition involve community activities at the national, State, and local levels. The program was successful in heightening awareness and empowering women in violent relationships.

In October, 1987, the first Domestic Violence Awareness Month was observed. Because of this national movement, the first national toll-free hotline was created. In 1989 legislation commemorating "Domestic Violence Awareness Month" was first adopted by Congress and has been adopted every year since. This recognition has helped to bring domestic violence to the forefront of public debate. The awareness has contributed to the expansion of public education campaigns, victim services, recognition activities, and community outreach programs.

I certainly hope that my colleagues will join me in recognizing victims of domestic violence through the adoption of this concurrent resolution.

Mr. Speaker, I congratulate the distinguished gentleman from Texas (Mr. AL GREEN) for authoring this thoughtful resolution. I am proud to be an original cosponsor of this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. WATSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Speaker, I am honored that our leadership has chosen to bring this concurrent resolution, House Concurrent Resolution 209, before this august body. This concurrent resolution highlights the need to focus on and end domestic violence.

First, Mr. Speaker, I would like to thank the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform; and the gentleman from California (Mr. WAXMAN), ranking member, for bringing this important piece of legislation to the House floor.

I would also like to take this opportunity to thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), the co-chair of the Congressional Caucus for Women's Issues, who has worked with me as the Republican lead on this legislation. I am proud to say that this is a bipartisan effort. Her work on behalf of ending domestic violence and violence against women is commendable, and her leadership in this effort is invaluable.

My heartfelt thanks also goes out to my 73 colleagues on both sides of the aisle who have cosponsored this resolution. I am pleased that this bill has received such strong bipartisan support because domestic violence transcends party affiliation; it transcends ethnicity; it transcends gender. Simply put, it transcends the boundaries of human decency that human beings owe each other.

House Concurrent Resolution 209 is intended to support the goals and ideals of Domestic Violence Awareness Month this October. As our Nation strives to persevere in the aftermath of both Hurricanes Katrina and Rita, it is important that we not lose sight of the issues that have continually plagued Americans for decades.

Our Nation faces a distressing crisis that affects women, men, and children regardless of race, ethnicity, or religion. I have seen firsthand some of the dreadful and vile effects of domestic violence. I have seen the blackened eyes, the broken noses, and the broken limbs.

The crisis of domestic violence is one that should not go unnoticed, especially because it is a crisis in which violations typically occur in places where we believe we have a safe haven: in our homes.

Between 1998 and 2002, family violence accounted for 11 percent of all reported and unreported violence. Nearly 22 percent of murders in 2002 were family murders, and women have suffered disproportionately with 43 percent of murders occurring by family perpetrators.

I am deeply saddened that domestic violence continues to occur in our backyards. In my city of Houston, Texas, over 31,000 incidents of family violence were reported in 2004. That is an astounding average of 88 incidents a day. That is more than three family violence incidents an hour. In fact, 34 confirmed deaths in Houston in 2004 were as a result of family violence, many of whom were children under the age of 16 years.

Such horrendous statistics are jarring, but I take great pride in the efforts of the Houston Police Department to combat domestic violence. The police department took the initiative to begin a program known as "Houston Men Against Family Violence." This initiative, which is run jointly by the Houston Police Department and other community partners including the Houston Area Women's Center, works to express the message that ending domestic violence is a responsibility that should be shared equally by all people. It educates and encourages men in the community to volunteer as leaders in the effort to end domestic violence by reducing the part men play as the primary perpetrators of family violence.

I think that it is of utmost importance, utmost necessity, that we all work together to have a chance at effectively eradicating this appalling crime. So I want to commend the Houston Police Department, all law enforcement agencies, and all other organizations that work to make our homes and families safer.

I would like to thank several organizations for their commitment to ending domestic violence and for their endorsements of this concurrent resolution. I appreciate the efforts and support of the Harris County District Attorney's Office, the National Center on Domestic and Sexual Violence, the YWCA, the Institute on Domestic Violence in the African American Community, the Montana State Attorney General's Office, and the Utah State Attorney General's Office.

These organizations work tirelessly every day to combat the epidemic of domestic violence that has ravaged this country.

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I commend them and hope that we in this body will continue to support their efforts. It is my wish that we can continue to work together to bring an end to the pervasive and damaging crime of domestic violence through the future legislative efforts of this august body.

The month of October provides us with an opportunity to recognize the dedication and success of those working tirelessly to end domestic violence and the strength of the survivors, but our efforts and awareness should continue beyond October. Every day ought to be End Domestic Violence Day. Domestic violence knows no boundaries of time or space or place.

I urge all of my distinguished colleagues to support the adoption of H. Con. Res. 209. Doing this will show the American public that we stand united against domestic violence.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I am pleased to yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. FITZPATRICK), another cosponsor of H. Con. Res. 209.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, last week I had the great honor of hosting the Soroptimist International, the Indian Rock Chapter of Pennsylvania, here in the Nation's Capital, a women's organization devoted to improving the lives of women and families across the globe. I was also honored to have the distinguished gentlewoman from New York (Mrs. KELLY) joining me to address the group on a variety of issues important to women and their families.

The Soroptimists do great work by serving as an international voice in advancing the need for improved medical care, poverty relief, and job training for women everywhere. However, during our discussion, one issue took precedence, the need to recognize the plight of victims of domestic violence and to increase the Federal Government's responsibility to support its victims and to punish its abusers.

Domestic violence is a scourge on our social fabric. Although much has been done since the enactment of the Violence Against Women Act in 1994 to reduce domestic abuse, more must be done to break the cycle of violence that has affected the lives of millions of women and children across the Nation.

According to the Department of Justice, each year 1 million women suffer nonfatal violence by an intimate partner. The American Psychological Association reports that nearly one in three adult women experience at least one physical assault by a partner during adulthood. These are statistics that cannot stand in a civil society in the 21st century. We must do more to increase awareness of the needs of battered women and their families. We must do more to stop domestic violence before it begins through education at an early age for boys and girls, and we must make sure that battered women and families receive adequate assistance through shelters, transitional housing assistance and other Federal programs.

Mr. Speaker, I am a proud supporter and sponsor of this bill. Domestic Violence Awareness Month is an important time for women, men, parents, teachers, for all of us, to recognize a problem that continues to plague our society. As Americans, we owe a shared responsibility to help our neighbors and our communities. Let us all take this time to help victims of domestic violence and finally end this cycle which destroys lives and families.

Ms. WATSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, October 1 will mark the 18th annual observation of Domestic Violence Awareness Month. Domestic Violence Awareness Month has its genesis in 1981 when advocates for battered women across the country observed a day of unity in order to publicize domestic violence. Over the next 6 years, the day of unity evolved into a week of activities and in 1987 into Domestic Violence Awareness Month.

In 1989, Congress recognized the tragedy of domestic violence in our country by passing commemorative legislation that honored victims of domestic violence and marked the observance of Domestic Violence Awareness Month. Congress has since passed similar legislation each year to bring added exposure to this issue.

In 1994, through the coordinated efforts of advocacy groups such as the National Coalition Against Domestic Violence, the California Alliance Against Domestic Violence, and the National Organization of Women, Congress passed the landmark Violence Against Women Act. President Clinton signed the VAWA to shine a bright light on an issue that had loomed in the shadows for far too long.

The act provided help to victims who seek justice within the legal system and a refuge from abusive and dangerous domestic situations. To victims of domestic violence and advocates fighting to educate the public, this was truly a momentous occasion; and in the decade that followed the signing of the bill, violence in American homes dropped significantly. Indeed, the rate of family violence fell from 5.4 victims to 2.1 victims per 1,000 United States residents age 12 or older from the year 1993 to 2002.

Since then, other entities of the Federal Government have lent their support. In October 2003, the U.S. Postal Service issued its Stop the Family Violence semi-postal stamp to raise funds for the Department of Health and Human Services' domestic violence programs. To date, the postal service has sold more than 30 million of these stamps and generated $1.8 million for domestic violence programs.

As more Americans become aware of domestic violence, they learn that such violence knows no bounds and affects all parts of society. No race, economic class, or education level is immune from this home-grown tragedy. However, communities of color and Native American communities remain at higher risks of domestic violence. They also have fewer services than other communities to deal with the violence and negative economic consequences that frequently result.

While great strides have been made, an intolerable level of domestic violence still exists in the United States. Indeed, in 2002, nearly one-quarter of all murders in the United States took place within a family setting.

In observing Domestic Violence Awareness Month, we must bear in mind the plight of hundreds of thousands of domestic violence victims and the work of those who continue to dedicate their energy and resources to eradicating domestic violence. As has occurred every year since 1989, I urge this body to pass this commemorative legislation and to mark the observance of Domestic Violence Awareness Month.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I thank the gentlewoman for yielding me time and thank the gentleman from Texas (Mr. AL GREEN) for promoting this issue before this country.

Violence itself is all too prevalent among us. Domestic violence in particular is devastating. It was not long ago that we were able to get the ears and the eyes of those who make a difference, the lawyers, the judiciary, the courts, who understood what it meant to be victims of violence.

I rise today on behalf of the victims who no longer have a voice, on behalf of victims who are weary and too afraid to speak out for fear that speaking out will entrap them even further if they do, speaking on behalf of the millions of women and children who suffer daily from the silent epidemic of domestic violence. This societal ill envelops all socio-economic groups, regardless of race, ethnicity, or education. It does not matter whether you live in the suburbs, a city, or more remote rural areas. It touches all of our communities.

The numbers of domestic violence are staggering. You have heard it from my counterpart, the gentlewoman from California (Ms. WATSON). Surveys conducted over and over again show that one-third of women are at some time in their lives victims of domestic violence.

Regrettably, this violence against women often escalates to homicide. In Indiana there were 60 reported deaths due to domestic violence in 2003. Nationally, 1,880 women were murdered by men in 2002. I realize that sometimes the coin flips and there are women who are perpetrators of violence. We have to, as a body, as a country, address domestic violence from all sides; and I applaud the creators of this resolution to keep it before the ears and eyes of America, and would encourage the support of everyone in this body of good will, of common sense, and of understanding.

Mr. Speaker, I rise today on behalf of victims who no longer have a voice, on behalf of victims who are weary and too tired to speak out or fear what will happen to them if they do. I am speaking for the millions of women and children who suffer daily from the silent epidemic of domestic violence. This societal ill envelops all socio-economic groups regardless of race, ethnicity or education. It does not matter whether you live in the suburbs, the city or more remote rural areas; it touches all of our communities.

The number of domestic violence victims in our country is staggering. A survey conducted by the Commonwealth Fund, found that "One-third (31%) of all women have been kicked, hit or punched, choked, or otherwise physically abused by a spouse or partner in their lifetimes. Three percent—a figure representing more than 3 million women in the U.S.—reported domestic abuse during that year."

Each year in my home State of Indiana, thousands of women and children fall victim to domestic violence. From July of 2003 through June of 2004, 37,396 adults and 12,032 children were served in residential and nonresidential programs for domestic violence.

Domestic violence continues to be the leading cause of injury to women in this country. The agony is augmented by the fact that a great number of victims personally know their perpetrators. Sixty-four percent of women who reported being raped, physically assaulted, and/or stalked since age 18, were victimized by a current or former husband, cohabitating partner, boyfriend or date.

Regrettably, this violence against women often escalates to homicide. In Indiana, there were 60 reported deaths due to domestic violence in 2003.

Nationally, 1,880 women were murdered by men in 2002. The statistics further indicate that of these women who were murdered, 1,587 were killed by a man they knew as compared to 168 who were killed by strangers. These horrific assaults are occurring in our homes and in environments with people we know and should be able to trust.

Given these statistics, it is imperative that we reauthorize, build upon and support the Violence Against Women Act, which has paved the way for significant gains in the fight against domestic violence. Over the last 10 years VAWA has helped to decrease the incidence of domestic violence, improve services for victims, and implement positive institutional changes.

However, there is still much work to be done in our country where on average nearly 3 women a day are murdered by abusive boyfriends or husbands and up to 10 million children a year witness this violence.

We must hold legislative and judicial bodies accountable to promote and enforce laws that protect the victim and respond appropriately to the perpetrators. We must find ways to strengthen our health care response; protect the economic security of victims; ensure safe, decent and affordable housing for victims; provide additional prevention programs; support the particular needs of communities of color and native American women; address the special needs of immigrant women; provide enhanced services for military victims of domestic and sexual violence; and target resources toward children and adolescents who have witnessed or experienced domestic violence.

Since coming to Congress in 1997, I have sought to raise awareness about this silent epidemic and to encourage and support legislation preventing these abuses and violations against humanity. In order for us to put an end to violence against women we must address and educate all audiences; women, men and children. We must support the reauthorization of VAWA, ensure that it is well-funded and expand its reach.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. REICHERT), the former sheriff of King County, who knows a great deal about combating violent crime.

Mr. REICHERT. Mr. Speaker, I thank the gentlewoman and also thank the gentleman from Texas for introducing this resolution.

As has been said already this afternoon, Mr. Speaker, this is an important issue; and I come before this House to talk about this issue because it is a passion that I share with all Americans across this country to eliminate, eventually, domestic violence. As a young person growing up and experiencing domestic violence in my own household, and then also as the sheriff of King County and a law enforcement officer for 33 years, I have a great deal of experience in witnessing the effects and impacts that domestic violence has on our own personal lives and on our communities and our Nation as a whole.

I am proud to be a cosponsor of this resolution and recognize Domestic Violence Awareness Month and to be an original cosponsor of the Violence against Women Act of 2005, which will be considered in the full House tomorrow. The Violence Against Women Act has provided Federal resources and protections for victims of domestic violence and sexual assault. It is crucial that Congress reauthorize this program.

I want to take a moment just to share maybe a story or two, to draw a picture for those who may be listening, about what domestic violence really does. It takes lives, it takes families, it takes communities. I have seen it.

Go to a police call, go to a domestic violence call as a police officer and walk into a home and tell me you will not be impacted and affected by children who are hiding and cowering in a corner, and witness two adults screaming and yelling, and maybe one has a knife, maybe one has a gun. Children witnessing violence in their own home, against people who supposedly love them. It is sad. It is not only sad; it is tragic.

Domestic violence can lead to all sorts of other issues that affect and impact our children: alcoholism; drug abuse; emotional, physical abuse; sexual abuse in the family; and it drives children from their homes and on to the streets. I have seen that too. I have seen them driven on to the streets and into the arms of people who want to do them harm.

The month of October is designated as Domestic Violence Awareness Month. It is good that we have a month where we can think back and look at where we came from. In 1972 when I started out as a police officer and you got a call to a family fight, that is what they called it then, a family fight, you would drive up and meet the people standing in the yard or screaming in their house and the kids in the corner cowering because they are afraid that their mom or dad might be hurt, their mom or dad might go to jail, or they might be hurt.

□ 1530

The police officer back then only would separate the parties and wish them well and they would be on their way; no counseling, nobody went to jail, nobody held accountable, nobody held responsible in 1972 in Seattle. Today, we now have many, many laws in place that hold people accountable who commit these crimes. It is about time.

We need to do this. We need to remember. We need to remember the crimes of domestic violence because it will rip our Nation apart. It rips families apart, it will rip our Nation apart, and I look forward to continuing my work in stomping out domestic violence.

Ms. WATSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield myself such time as I may consume.

Many law enforcement officers will tell us that responding to a domestic violence call is one of the most dangerous crimes to be called to investigate. My husband was a law enforcement officer for 20 years, and they were the calls that he felt threatened by and that he always felt so sorry for the family members involved, and certainly for the children.

I have served on several boards of domestic violence shelters, and I know how important it is to shine that light, the public light of scrutiny on the victim, to bring information about victims, how they are abused, and also, the perpetrator, so that by shining this light on domestic violence and having Domestic Violence Awareness Month, that the public will be better informed, and that we will continue to see a reduction in the number of abusive situations.

Mr. Speaker, I urge all Members to support the adoption of House Concurrent Resolution 209.

Mr. HOLT. Mr. Speaker, I rise today in support of H. Con. Res. 209 recognizing October as Domestic Violence Awareness Month. I would like to thank my colleague from Texas for offering this important resolution.

In 2002, family members were responsible for 43 percent of murders of females. Twenty-two percent of murders in 2002 were by family members. The average age for a child killed by a parent is 7 years old and four out of five victims killed by a parent were younger than 13 years old. I could go on for hours with alarming and truly sad statistics similar to these. As a Member of Congress, I believe it is my duty to stand here on the House floor and draw attention to these startling statistics. It is important to keep reiterating these numbers because they aren't just statistics—they are women, men, and children. They are our mothers, sisters, daughters, aunts, cousins and nieces. In some cases they are our fathers, brothers and sons.

Across the country, day in and day out, individuals work tirelessly to eradicate domestic violence by not only participating in domestic violence help and support groups but by educating those on domestic abuse prevention. In central New Jersey, there are many exemplary organizations that provide valuable services to victims of domestic violence.

One organization in Monmouth County, New Jersey is 180 Turning Lives Around which provides training and education to both victims and offenders of domestic violence. Some of the many services provided by the group are a School-Based Abuse Prevention Program designed to raise the awareness of abuse among adolescents and provide tools to reduce the risk of teens entering into abusive relationships, a temporary Safe House for women and children who are forced out of their homes because of violence and a 180's Families in Transition Program aimed at providing longer term housing for women and children who face economic instability if they leave their abusive relationship permanently. At these homes, counseling services and training is provided to get women who have been abused on their feet again.

Womanspace is a similar organization aimed at serving all victims of domestic and sexual assault in Mercer Country, New Jersey. Womanspace provides counseling and support services, emergency services designed to assist victims immediately following the initial crisis through hotlines, Domestic Violence Victim Response Teams and a confidential and secure short term shelter.

Since we passed the Violence Against Women Act (VAWA) in 1994 the number of reported incidences of domestic violence has decreased. In New Jersey the cases of reported domestic violence decreased by 2 percent from 2004. Although these figures are encouraging, we cannot reduce our attention to this problem. We must continue to support organizations that work day in and day out to educate others on the dangers of domestic violence and counsel those who are already victims. We can do this by reauthorizing full funding for the VAWA which should come to the House floor soon.

I also hope that we will have the opportunity to consider other important legislative measures that will combat this problem. For example, Rep. CAPPS, offered in the 108th Congress the Domestic Violence Screening, and Treatment Act of 2003 that gave States the option to cover domestic violence screening and treatment services under Medicaid. One hundred and twenty two of our colleagues supported this bill, yet it was never brought to the House floor for consideration. Rep. ROTHMAN offered in the 108th Congress the Domestic Violence Victim Protection Act that among other things would allow States that authorize law enforcement to confiscate guns in certain domestic violence to receive Federal grants. As legislators, we must be leaders and take sensible and needed actions to renew our commitment to eliminate domestic violence.

Recognizing October as Domestic Violence Awareness Month is an important first step but it should not be only action in the 109th Congress. I urge my colleagues to support this necessary resolution and by supporting this resolution today make, a commitment to taking even more steps to eliminating domestic violence.

Mr. DICKS. Mr. Speaker, I would like to join my colleagues today speaking in support of H. Con. Res. 209, a Resolution supporting the goals and ideals of Domestic Violence Awareness Month and helping to raise awareness of the impact of domestic violence on families across the nation.

The National Coalition Against Domestic Violence began to observe the concept of Domestic Violence Awareness Month in 1987—the year that the first national toll-free telephone line was established. In 1989, Congress passed the first legislative recognition of Domestic Violence Awareness Month, expressing the importance of awareness and education and encouraging preventative actions in every community around the Nation. And each year since that time, we have renewed the commitment of Congress and the Federal Government to those goals, as we are doing today in passing H. Con. Res. 209.

This legislation is also particularly timely because we are now in the process of renewing the Violence Against Women Act as part of the Justice Department reauthorization. That legislation, originally passed and signed into law in 1994, allocated a substantial amount of Federal funding for prevention efforts, and it broadened the range of services and counseling available to women who become victims of abuse. In 2000, Congress reauthorized the bill and strengthened it, as we must again this year, driven by the goal of eliminating entirely the scourge that still wrecks far too many families across America including, tragically, many innocent children who witness the violence.

One such tragic example occurred in my congressional district in April 2003, when the troubled Chief of Police of Tacoma, Washington, murdered his wife in the parking lot of a suburban shopping center just a few feet away from the couple's two young children. This man, Chief David Brame, ultimately took his own life that day, but he left those two kids with scars that will remain with them for the entirety of their lives. He also left the community questioning why and how such a tragedy could have occurred. An investigation later uncovered serious problems within the Tacoma Police Department which not only allowed the hiring of this individual with a history of domestic violence but continued to promote him despite serious and repeated violent acts against his wife, Crystal Judson Brame. Clearly, something was wrong here. The Tacoma Police Department lacked a strong and enforceable policy to address domestic violence committed by a member of its own—in fact the Chief. And this was not a deficiency exclusive to Tacoma. As a result, the Washington State Legislature passed a law establishing strong standards for law enforcement agencies within the state to prevent and punish future incidents of domestic violence committed by law enforcement officers. We can and we should do more to call attention to the problems, to address the deficiencies that exist, and to stop these pernicious instances of domestic violence from ever occurring.

It is in this spirit that I am pleased today to join my colleagues in supporting H. Con. Res. 209, and in working later this week and this month to improve and strengthen the provisions of the Violence Against Women Act which expire at the end of this year.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise today in support of this resolution to recognize the goals and ideals of Domestic Violence Awareness Month.

This week we will also be considering legislation that will reauthorize the Violence Against Women Act. It is my hope that we will strengthen and improve measures to ensure safe homes and communities for children and families.

Congress must continue to raise awareness of domestic violence in the United States and the devastating effects violence has on too many of our American families. We must also ensure that the organizations working to end domestic violence in our communities have the resources they need to provide services to the survivors of family violence, sexual assault, and stalking. These families and organizations deserve our commitment.

In my own State of Minnesota, VAWA funding went to programs and services for battered women and their children. Some of those projects in my own District include:

The St. Paul based Southern Minnesota Regional Legal Services, which provides legal advocacy services to young Native American women in collaboration with the Ain Dah Yung Center.

Breaking Free in St. Paul: A transitional housing program for women of color escaping prostitution.

St. Paul-based Minnesota Coalition of Battered Women, which links battered women's programs across the state to help fulfill the goals of VAWA, including legal assistance; training for police, prosecutors, and court officers; and protection for battered women and their children.

Other projects in Minnesota include:

The Domestic Abuse Intervention Project in Duluth—a comprehensive review of the criminal justice and civil court response to battered women.

The Women's Rural Advocacy Program in Southwest Minnesota, which purchases and implementation of digital cameras and printers for improved prosecution of domestic violence cases.

Migrant Health Services in Crookston, which provides domestic violence and sexual assault services to Hispanic migrant farm workers in the Red River Valley.

In addition to the lives saved by improved responses to violence against women, VAWA has saved our country nearly $15 billion in social costs, such as savings in the judicial and health care systems.

The month of October also marks the anniversary of a great loss to the domestic violence community—the untimely deaths of Paul and Sheila Wellstone. Not only were Paul and Sheila tireless advocates for abused women and children, they were also instrumental framers of VAWA. The Wellstones are greatly missed by Minnesotans and people throughout our Nation.

It is in recognition of those who continue the legacy of a commitment to ending domestic violence in homes and communities across our Nation, and in honor of survivors of domestic violence, that I stand today in support of Domestic Violence Awareness Month.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Con. Res. 209, Supporting the goals and ideals of Domestic Violence Awareness Month. Domestic violence continues to have a devastating effect on American families. It is important for Congress to take a leading role in raising awareness about this issue.

I am proud to have played a leading role in creating the 1994 Violence Against Women Act during my time in the White House. Since the passage of this important act, the rate of domestic violence in the United States has diminished. However, there is still work to be done in breaking the cycle of violence and addressing the root causes of domestic violence.

Domestic violence affects women, men, and children of all racial, social, religious, ethnic and economic backgrounds. Between 1998 and 2002, family violence accounted for 11 percent of all reported violence in the nation. 22 percent of murders in 2002 were committed by family members of the victims, and approximately 15 percent of violent crime convictions were for an attack on a family member.

Congress must support measures to stop domestic violence before it begins through education, transitional housing assistance and counseling programs. We must also make it a priority to reauthorize the Violence Against Women Act and ensure that this important legislation receives sufficient funding.

Mr. Speaker, I thank the gentleman from Texas for introducing this important resolution, and I urge my colleagues to join me in support of establishing October as Domestic Violence Awareness Month.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to support all the women and children who have survived domestic violence, and for all the women whose lives have been claimed by domestic abuse. It is abhorrent that violence within our homes continues to be prevalent today—nearly one in four American women report being physically or sexually abused by a husband or boyfriend at some point in their lives. Violence against women is a profound and extremely pervasive problem, striking across borders, across economic, cultural and ethnic backgrounds, and across all age groups. It is an epidemic that affects not only women, but their children and families as well.

As we recognize National Domestic Violence Awareness Month this October, it is time that we actively work to end violence against women. I would like to draw special attention to immigrant women who continue to lack access to many resources that would enable them to escape domestic abuse. While we were able to include many critical provisions of relief to battered immigrant women when we reauthorized the Violence Against Women Act in 2000, there are still battered immigrants, like asylees and the elderly, who are forced to remain in abusive relationships, unable to appeal for protection from law enforcement and the courts for fear of deportation. I have introduced H.R. 3188, the Immigrant Victims of Violence Protection Act, which will allow them to safely escape their abusers without fear of deportation or other negative immigration consequences. This legislation would also provide a safety net for battered legal immigrants and their children by allowing them access to work permits, health insurance, food, and other benefits required to escape their abuser and gain economic independence.

It is time that we change attitudes in this country so that violence against women is no longer tolerated. We are devoting extensive resources to ending terror around the world, while at the same time one in four women continue to be terrorized by domestic violence and sexual assault in their lifetime. It is time that we devote the same amount of resources to ending a form of violence that terrorizes over half the population of this globe. We must teach our sons that violence of any kind is unacceptable; we must give our daughters encouragement and support so they have the self-esteem to leave abusive relationships; and we must start to envision a world free of violence against women. I believe that if we all work together, we can turn this vision into reality. But it is going to take resources, hard work, and, most of all, incredible resolve. I challenge my colleagues to make the fight against domestic violence a top priority, and together we can make this country a safer place for our mothers, daughters, sisters, and friends.

Mr. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The question is on the motion offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. AL GREEN of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 34 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GILCHREST) at 6 o'clock and 31 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of he House of the following titles:

H.R. 3667. An act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station".

H.R. 3767. An act to designate the facility of the United States Postal Service located at 2600 Oak Street, in St. Charles, Illinois, as the "Jacob L. Frazier Post Office Building".

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3200. An act to amend title 38, United States Code, to enhance the Service members' Group Life Insurance program, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 1017. An act to reauthorize grants for the water resources research and technology institutes established under the Water Resources Research Act of 1984.

S. 1709. An act to provide favorable treatment for certain projects in response to Hurricane Katrina, with respect to revolving loans under the Federal Water Pollution Control Act, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.J. Res. 66, by the yeas and nays;

H.R. 438, by the yeas and nays;

H. Con. Res. 209, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

SUPPORTING THE GOALS AND IDEALS OF "LIGHTS ON AFTERSCHOOL!"

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, H.J. Res. 66.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. EHLERS) that the House suspend the rules and pass the joint resolution, H.J. Res. 66, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 30, as follows:

[Roll No. 494]

YEAS—403

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—30

Blumenauer
Boswell
Boustany
Brady (TX)
Capps
Cardin
Culberson
Davis (FL)
Fattah
Grijalva
Gutierrez
Harman
Hinojosa
Hunter
Kaptur
McDermott
McKinney
Meek (FL)
Melancon
Menendez
Murtha
Northup
Olver
Ros-Lehtinen
Rush
Ryan (OH)
Shadegg
Strickland
Watt
Weller

☐ 1852

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 494, had I been present, I would have voted "yes".

MAUDELLE SHIREK POST OFFICE BUILDING

The SPEAKER pro tempore (Mr. GILCHREST). The pending business is the question of suspending the rules and passing the bill, H.R. 438.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) that the House suspend the rules and pass the bill, H.R. 438, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 190, nays 215, not voting 28, as follows:

[Roll No. 495]

YEAS—190

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boehlert
Bono
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cubin
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Fossella
Frank (MA)
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa

Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCrery
McGovern
McNulty
Meehan
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Woolsey
Wu
Wynn

NAYS—215

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boren
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—28

Blumenauer
Boswell
Boustany
Brady (TX)
Cardin
Culberson
Davis (FL)
Fattah
Grijalva
Gutierrez
Harman
Hunter
McDermott
McIntyre
McKinney
Meek (FL)
Melancon
Menendez
Murtha
Northup
Pombo
Ros-Lehtinen
Rush
Ryan (OH)
Shadegg
Strickland
Watt
Weller

☐ 1901

Mr. ENGLISH of Pennsylvania and Mr. KIRK changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

SUPPORTING THE GOALS AND IDEALS OF DOMESTIC VIOLENCE AWARENESS MONTH

The SPEAKER pro tempore (Mr. GILCHREST). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 209.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 29, as follows:

[Roll No. 496]

YEAS—404

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster

Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—29

Blumenauer
Boehner
Boswell
Boustany
Brady (TX)
Cardin
Culberson
Davis (FL)
Fattah
Gordon
Grijalva
Gutierrez
Harman
Hunter
Marshall
McDermott
McKinney
Meek (FL)
Melancon
Menendez
Millender-McDonald
Murtha
Northup
Ros-Lehtinen
Rush
Shadegg
Strickland
Watt
Weller

☐ 1918

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes Nos. 494, 495 and 496.

PERSONAL EXPLANATION

Mr. GRIJALVA. Mr. Speaker, I was unable to cast rollcall votes 494, 495, and 496 on September 27, 2005, because I was unavoidably detained on official business.

Had I been present I would have cast the following votes: on rollcall vote No. 494, I would have voted "yea"; on rollcall vote No. 495, I would have voted "yea"; and on rollcall vote No. 496, I would have voted "yea".

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3824

Mr. OWENS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3824.

The SPEAKER pro tempore (Mr. GILCHREST). Is there objection to the request of the gentleman from New York?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXCHANGE OF SPECIAL ORDER TIME

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Minnesota (Mr. GUTKNECHT).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PARITY WITH THE EUROPEAN UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, later this year, another round of World Trade Organization talks will be held. Those talks will be pivotal for the United States economy, especially for our agriculture sector. Of critical importance will be the role the European Union plays in these negotiations along with the United States.

I would like to point out some things, Mr. Speaker, regarding our situation with the European Union. First of all, as far as the economy of both the United States and the European Union is concerned, they are fairly equal. We have an economy of $11.7 trillion, European Union is $9.4 trillion. And in spite of that equality, our tariffs are very different. Those commodities from the European Union coming into the United States are tariffed at 12 percent. Our commodities going into the European Union are tariffed at 30 percent. So it is more than double. It is hard to understand why with roughly equivalent economies, we have this disparity.

The agriculture trade deficit, partly because of this and some other things I am going to discuss in a minute, for the United States last year was a minus $6.3 billion. The European Union obviously benefited to the tune of $6.3 billion in trade.

Now, the interesting thing is that the European Union provides $3 billion in export subsidies. The United States provides $31.5 million. These are subsidies that enhance the opportunity to trade with other countries. So that difference is 90 to 1. They spend 90 times more money to export subsidies than we do, and of course this apparently is allowed under WTO rules. This is one of the major complaints that other countries have about the whole trade situation internationally.

Another issue that is of some interest to those of us in the United States is the fact that we subsidize our agriculture to the tune of $38 per acre. By contrast, the European Union subsidizes their agriculture $295 per acre. Now, the reason this is important is that within the next year, we are going to start rewriting the farm bill and we will have tremendous pressure, particularly from the European Union, to do away with these subsidies here that amount to $38 an acre, even though they are providing $295 an acre.

The reason for that is they are priding themselves on the fact that they have gone with what they call decoupled payments in the past year. This means their payment is not linked to production. It is simply a payment to the farmers. Our payments are largely linked to production. It will be interesting to see what impact this has on our farm bill because we may be forced to some degree to go away from some of our subsidies as we now provide them, even though they are much less than what the European Union provides.

Another issue that is rather interesting is that the United States has had a total of two cases of BSE, or what is commonly referred to as "mad cow disease." In contrast, the European Union has 189,102 cases of BSE. Now the reason that is interesting is they have effectively eliminated our beef exports into the European Union even though we have demonstrated that we have probably the safest beef supply in the world.

You say, how in the world can they do this? Last year in 2004, they had 756 cases of BSE where we had one this last year. And so the reason is that they simply have said, Well, you are using hormones with your beef and, therefore, it is unsafe. And, of course, the WTO has filed a suit against them and they are paying a fine, but it is just the cost of doing business.

In addition to this, they are also disallowing our imports of pork, our imports of poultry and also genetically modified corn and genetically modified soybeans. So in every one of these cases, they have used various means and methods to keep our products out.

So what we are seeing here is in this next round of talks, if the European Union is not brought around to the point where our farmers feel they are being fairly treated, we are going to have a hard time getting any kind of a trade agreement through this body.

You often hear our farmers say, we like free trade, but we especially want fair trade. I would say right now the biggest obstacle to what appears to be fair trade within the WTO framework is our relationship with the European Union. So we certainly think that these things need to be pointed out. We would like to see those things addressed in the next round of talks.

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, on March 8, 2002, Peter Troy purchased a

.22 caliber semi-automatic rifle with no questions asked.

The seller ran his name through the Federal background check system and nothing came up. However, Peter Troy had a history of mental health problems and his own mother filed a restraining order against him because of his violent background.

It was illegal for him to purchase a gun, but he, like so many others, he simply slipped through the cracks in our background check system. Four days later, Peter Troy walked into Our Lady of Peace Church in Lynbrook in my district, opened fire, and killed Reverend Lawrence Penzes and Eileen Tosner.

Peter Troy had no business buying a gun, and the system created to prevent him from doing so has failed. It is only a matter of time before the system's failings provoke larger tragedies.

Earlier today, I submitted an amendment to the Department of Justice authorization bill that will help ensure that others will not be victimized because of our flawed background check system.

NICS, the National Instant Criminal Background Check System, is the database used to check potential firearm buyers for any criminal record or history of mental illness. In large, NICS has been a great success.

Since 1994, more than 700,000 individuals have been denied a gun because of a felony conviction or other qualifying item on their background check. However, the NICS system is only as good as the information that it has. 25 States have automated less than 60 percent of their felony convictions into the NICS system. In these States, many felons will not turn up on the NICS system and would be able to purchase guns with no questions asked. For example, if someone is convicted of a crime in Texas, that disqualifying offense might not appear on a background check conducted in New York.

In 13 States, domestic violence restraining orders are not accessible through NICS. Common sense would tell you and dictate to you that you do not sell a gun to someone who has been served a restraining order.

□ 1930

Thirty-three States do not have automated or do not share mental health records that would disqualify certain individuals from purchasing a gun.

This amendment is similar to the stand-alone legislation that I have introduced. This amendment would require all States to provide the FBI with all of the relevant records needed to conduct effective background checks.

It is the State's responsibility to ensure this information is current and accurate. However, I recognize many State budgets are already overburdened. This legislation would provide grants to States to update their NICS system. States would get the funds they need to make sure records relevant to NICS are up to date.

We need the NICS Improvement Act to become law, and we need more bills like this to pass. These are ideas that impose no new restrictions on gun owners, but give the government tools to ensure existing laws are effective and enforceable. In fact, the NICS Improvement Act already passed this House in the 107th Congress by a voice vote. The bill had the endorsement of the National Rifle Association. Unfortunately, the other body never acted on the bill.

This is common-sense gun legislation we can all agree on. This bill will save lives while not infringing on anybody's second amendment rights.

Mr. Speaker, I hope the Committee on Rules accepts my amendment and we pass it on the floor tomorrow by a voice vote. If we can prevent another tragedy like the one that occurred at the Our Lady of Peace church, and those that are happening around this country, with a simple voice vote, we should do it right away.

We can make a difference in this country in reducing gun violence for over 30,000 people that are killed a year and for those that are injured, not to say how much it would save on our health care costs. We have the laws on the books. We must enforce them, but we need the tools to do so.

THE LADIES OF THE GULF

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, the second lady of the gulf named Rita came across the shore of Texas and Louisiana, howling her winds and bringing her thundering rain this past weekend. Like her sister storm, Katrina, she took aim at the low-lying towns and the energy capital of the world that is located in southeast Texas and southwest Louisiana.

Nine of the 26 refineries in Port Arthur, Texas, alone were shut down. These refineries in and around Port Arthur refine 27 percent of the Nation's gasoline. Sixty percent of the Nation's gasoline is refined from New Orleans to Corpus Christi, Texas. Offshore drilling rigs were also shut down, and the startup time is still undetermined.

Being a target in the hurricane alley, these refineries and oil rigs are vulnerable to nature. That is one reason why the United States must explore opening up new oil and gas leases in the Gulf of Mexico, off the coast of Florida, off the coast of California.

This is a national security issue; and we must, with proper environmental safeguards, drill in these areas so that the energy does not cease because of the anger of the ladies of the gulf.

POLITICAL APPOINTEES

The SPEAKER pro tempore (Mr. GILCHREST). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, words that will be remembered for a long time, unless the White House can erase them: "Brownie, you're doing a heck of a job." That was the President to Michael Brown, the political appointee head of FEMA, while people were drowning in New Orleans and in the southeast. The President was apparently unaware of the lack of assistance being provided by FEMA. Mr. Brown was shortly thereafter sent back to Washington and then resigned.

That might be good if it was an isolated instance. Unfortunately, it is not. This permeates the entire 3,000 so-called plum jobs that the President gets to appoint without any regard to qualification.

I mean, Mr. Brown's predecessor was the President's campaign manager who downgraded, demeaned, and ultimately submerged a previously very functional agency, FEMA, into the Homeland Security bureaucracy. Since then, many of the top people have left, and the agency has become totally demoralized, although we do find with new focus in the last week. Hopefully, that will last.

Just about the same time that Mr. Brown was going down, the government's top procurement official, that is the person in charge of all purchasing by the Federal Government, $300 billion a year of taxpayers' money, a gentleman by the name of Safavian, was being led off in handcuffs by the FBI, but not before he had let out a few more billion dollars in no-bid contracts to the usual suspects in the wake of the Katrina disaster.

He has been found to have not only perjured himself but has taken illegal gratuities and bribes from the now-infamous lobbyist Mr. Abramoff. That was the top procurement official appointed by George Bush.

Beyond that, he also, of course, like Mr. Brown, had no qualifications for the job. He once had interned as a law student, helping in some minor way on a helicopter purchase at the Pentagon, and he jumped from there to his political associations with the President, to being head of all purchasing for the Federal Government.

Basically, we have here a government run by people who disrespect government. They do not like government. They do not believe in government. Their spiritual mentor, Mr. Norquist, says he wants government so small that he can strangle it in a bathtub. We find out that people drown when government starts to get kind of small because government is not there to respond. Now they are backpeddling and they are trying to pretend, oh, that is not really what it is all about, but it has been.

Incompetence threads through so many agencies, conflict of interest, and there might be other things. The one thing they do respect government for is its ability to extract money from all the working people of the United States of America and put it in a place, the Federal Treasury, that they can raid to benefit a very few people and major corporations. Government is a profit center is the way they see it, and they have a wonderful revolving door.

They have a fellow over at the FDA in charge of reviewing medical safety, 33 years old, who is a former columnist in The Wall Street Journal, stock analyst, right-wing think tank guru, attacking the FDA who is not supposed to be in charge of new drug approvals; but when a few very potentially profitable drugs did not get approved, he, as the Assistant Secretary, started leaning on the bureaucrats, the professionals, to say why do you disapprove that drug. Pfizer is going to make $1 billion a year on it; it is a great drug. So what if a couple of people died? They probably would have died anyway.

So there is another fellow, Mr. Gottlieb, yet another outstanding appointment. Unfortunately, the government is rife with these people. There are too many to document, and what they are engaged in is the systematic looting of the Treasury of the United States to benefit a few, to make government less functional so it cannot serve the needs of the many in times of need, like Katrina, or even in less routine times of need, like education, health care, border control.

They have got a beauty here. They have got a woman they want to put in charge of the border control of the United States of America who even the Republican Senators have questioned whether or not she has any capability, a woman named Julie Myers, another political hack. Ohio Republican Senator GEORGE VOINOVICH said he would really like to hear from Mr. Chertoff, the head of Homeland Security, come spend a little time with us, tell us personally why he thinks she is qualified for the job, because based on the résumé, I do not think you are. That is a Republican Senator. This is the woman who would be charged with keeping terrorists out of the United States of America, and that is a dysfunctional bureaucracy and has been for a long time.

That is new to the administration, but it is more essential today than ever. We need to clean house at this administration, put competent people in charge so government is there when the American people need it and stop looting the Treasury.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

IRAQ AND THE MARCH IN WASHINGTON, DC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, Cindy Sheehan, who was arrested yesterday for simply exercising her constitutional right to freedom of speech outside the White House, has awoken a sleeping American public. She deserves a great deal of credit for her tireless campaign against the Bush administration's lies and abuses which have governed the war in Iraq from the very beginning. Her campaign awakened the American people to realize just how awful this war truly is.

This weekend over 300,000 Americans, and I know it was more than 100,000 as reported by the press because I was there, over 300,000 Americans demonstrated the same resolve as Cindy Sheehan by showing up in force at a rally in Washington, DC. It was one of the first times since the 1970s that so many people had descended on the Nation's capital to protest a war.

If strength of numbers demonstrates the injustice of a particular policy, then the thousands who participated in Saturday's march depicted the wrongness of the Iraq war.

Most Americans know that the war in Iraq is not increasing our national security, that by continuing to fight an unwinnable war the President is ensuring our national insecurity.

Most Americans know that the Bush administration had no plan for how to conduct the war. They had no plan for securing the country once Saddam was deposed; and now they have no plan for ending the war.

Most Americans know the terror and chaos that plague Iraq cannot be resolved simply by staying the course. I am sure the families of the 2,000 American soldiers and countless thousands of innocent Iraqi civilians killed in this war would argue that the last 2-plus years of fighting have not brought much stability to Iraq or to their lives.

Let us not forget about the thousands of American soldiers who were not killed in Iraq, but whose lives will nonetheless be changed forever as a result of injuries sustained during the war: arms and legs lost, shrapnel wounds cutting into every body part, emotional trauma. How will these wounds ever heal?

The thousands of Americans who bravely serve in our Nation's military deserve better. In fact, all Americans deserve better. They deserve better than an endless war that is slowly draining our national coffers. They deserve better than $9 billion of congressionally appropriated funds being lost; $9 billion lost. That is really pretty hard to imagine. Lost under the Coalition Provisional Authority's watch, or the new $1 billion that has gone missing to the Iraqi Government. U.S. money intended for training of Iraqi security forces.

While the Bush administration is failing the American people through its foreign policies, they are also neglecting priorities at home. Just take the recent hurricanes that have bombarded the southeastern United States over the past month.

If anything, Katrina and Rita have demonstrated just how skewed our national priorities have become. The Federal Government failed to assist thousands of Americans, mostly poor, mostly underprivileged, mostly African American during their great time of need.

What we need now is an independent commission to investigate how the hurricane response was botched so badly. Unfortunately, the Bush administration's response to the failures at home is just like his response given to its failures in Iraq: deflection and misdirection of any blame whatsoever.

President Bush has announced that he will establish a partisan, congressionally appointed oversight committee; but that is not what the American people need. That is not what the American people deserve. We need an impartial, independent commission to get to the bottom of why the National Guard was in Iraq and not in the United States to protect its citizens.

Mr. Speaker, it is clear that we need a drastic change in policies, both at home and in Iraq. The American people know when they are being lied to, when they are being misled.

It is time that Congress started doing what it was created to do: represent the will of the American people, rescue victims of natural disasters, and rescue our troops by bringing them home.

REPUBLICAN COMMITMENT TO THE VIOLENCE AGAINST WOMEN ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, this evening, many of my colleagues, with the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), who will be our leader, will be rising tonight on the floor to speak in strong support of the reauthorization of the Violence Against Women Act.

Violence against women is a horrific epidemic that continues to plague our world; and as a wife, as a mother, and a female Member of Congress, I realize the profound responsibility that all of us have to work together with our colleagues to pass legislation that would speak to the very heart of each and every woman.

As a result, thanks to the leadership of the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), we have consistently supported legislation that protects women from the grave attacks on human rights that they face.

☐ 1945

It is vital to understand that to promote the welfare of women is also to support the subsistence of mankind.

Domestic violence is not just a woman's issue. It is a national issue that demands our utmost attention and it demands to be a priority. Legislation passed in 1994 and reauthorized in the year 2000 will expire on September 30 of this year, crippling the fight to protect women from domestic abuse. The programs funded by the Violence Against Women Act have had a profound impact on many women who are victims of domestic violence, dating violence, sexual assault, and stalking.

Sexual violence in our colleges and universities has reached epidemic proportions. It is appalling to imagine that when our precious children go to school to learn they are at risk for violence. This bill would provide additional funding for the training of campus law enforcement and campus judicial boards so that universities can focus on the critical task of educating our students.

Violence against women creates significant barriers to equity for women. The Violence Against Women Act would authorize critical programs and develop new services that respond to the needs of our communities. This bill recognizes the importance of cooperation between local law enforcement agencies and the courts and court-related personnel.

Violence against women cuts across racial and ethnic lines. In fact, minority women often face additional hardships which could in turn delay the healing process. Therefore, effective community developed programs that incorporate culturally specific services can break down some of these barriers that often isolate survivors. This bill provides support to local law enforcement, prosecutors, and to victim assistance programs to both stop violence against women and help the survivors so that they can start a new life.

We have to continue to work together to ensure that a culture of equality is cultivated, where the woman's role is increasingly recognized within society. Women make an indispensable contribution to the growth of our culture and their extraordinary presence permeates every aspect of our society. Without the contribution of women, society is less alive, culturally impoverished, and peace is made less stable.

As Vice Chair of the bipartisan Congressional Women's Caucus, I have consistently fought to protect women from domestic and sexual abuse, and I am so glad that we are joined not only by my colleague, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), but the gentlewoman from West Virginia (Mrs. CAPITO), who has been a leader in our women's caucus on this issue.

So we are talking about American women here, not Republican women, not Democrat women, but American women. The Violence Against Women Act is too important an issue for it to be left to partisan politics.

FEDERAL RESPONSE TO ENERGY EMERGENCIES

The SPEAKER pro tempore (Mr. POE). Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, in the wake of Hurricane Katrina and Rita, Americans are pulling together, donating to relief organizations and giving their time to help the people of the gulf coast region. That is how the American people react when they see their fellow citizens in need. Unfortunately, some people have looked at Katrina not as a chance to give, but as an opportunity for excessive profits. Some have decided to take this terrible tragedy and line their own pockets by price gouging the American people at the gas pump.

At a time when many Americans are choosing between filling their gas tanks or filling their prescriptions, oil companies are reaping record profits. People are rightly angry and frustrated with high gas prices, and they deserve to have someone on their side fighting to ensure that they do not get mugged at the gas pump. Sadly, this administration's answer has been to sit on its hands while consumers get the shakedown from the oil companies.

Eight governors, including Governor Granholm of Michigan, sent a letter to the President and Senate and House leadership urging Congress to act immediately by putting forth legislation that would return excessive, unconscionable collected profits to the consumers. As the governor stated, and I quote, "To price gouge consumers under normal circumstances is dishonest enough, but to make money off the severe misfortune of others is downright immoral."

It is obvious to me that Congress needs to protect the American people from price gouging and market manipulations. The Democratic bill, free from price gouging, is the Federal Response to Energy Emergencies bill. The FREE bill, as we call it, as authored by myself, the gentlewoman from South Dakota (Ms. HERSETH), and the gentleman from North Carolina (Mr. ETHERIDGE) is our answer to our Nation's record high gas prices and oil prices.

If you look at this chart right here, from 2002 when gas was $1.34 a gallon, all the way up to September 12, 2005, where it is up to $2.96, that more than double. Just take it from 2004, when gas was $1.58. It has doubled in less than a year.

Currently, only 28 States have laws on the books that define price gouging and that have enforcement mechanisms to go after those found ripping off consumers. At the Federal level, there is no oversight to protect consumers from this predatory pricing. That is why we need our legislation now, the "free from price gouging" legislation. No American should have to pay too much for gas because oil companies are rigging prices.

Our bill would give the President authority to take immediate action in the face of an energy crisis by declaring a national energy emergency. Under our bill, for the first time ever, the Federal Government would have a guideline, a definition of price gouging. Our bill would also provide the FTC, the Federal Trade Commission and the Department of Justice with the authority to investigate and prosecute those that engage in predatory pricing, from oil companies all the way down to the local gas stations, with an emphasis on those who profit the most. This includes the gouging of gasoline, home heating oil, propane, and natural gas.

Our legislation expands the FTC's authority to more aggressively pursue instances of market manipulation, such as geographic price setting and territorial restrictions imposed by refineries.

If we look at the second chart, Mr. Speaker, which appeared this weekend in The Washington Post, just look at what has happened in 1 year. As of September 5, 2005 of this year, from last September, we see a 46 percent increase from the crude oil producer; a 255 percent increase at the refinery level; a 5 percent increase for distributors and retailers, and taxes remain at 2 cents difference, with a 64-cent increase to the consumer. This is price manipulation. This is the market setting not the price, but the opportunity to manipulate and, as they call it, to game the system.

So with our legislation, we want not only to stop price gouging, but also we want transparency. How does the consumer know when he is being charged a fair price for oil and gas when you see statistics like this? How is the price set? That is what the American people want to know. They want to make sure they are not being gouged or unduly taken advantage of by the oil companies, or the refineries in this case.

Our bill empowers the Federal Government to impose tough civil penalties up to triple the damages of all excessive profits of oil companies that have cheated consumers. It also imposes tough criminal penalties of up to $100 million on corporations, and fines of up to $1 million plus jail sentences of up to 10 years for individuals caught in manipulating the price of gas, home heating oil, or natural gas.

This bill would provide relief to those paying skyrocketing energy and transportation costs and it would expand the Low-Income Home Energy Assistance Program through fines for those caught price gouging.

Our bill would protect consumers from unfair gas prices and punish those who think the time of a tragedy is the right time to rob Americans of their hard-earned money. It is the right thing to do for consumers and for our Nation. I urge support of the free from price gouging bill.

VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is recognized for 60 minutes as the designee of the majority leader.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, it is often said by politicians of both parties that Members of Congress must act with compassion and legislate from the heart. It is my strong and fervent belief that there are few pieces of legislation that this body will consider that are more relevant to the hearts and souls of our constituents than the passage of the Violence Against Women Act.

I have looked into the eyes of women beaten by men. Those women thought that that person was their partner for life, their soulmate and their lover. I have seen the pain and rejection and the hurt on their faces as these women struggle to recover their dignity and their strength.

I have spent a great deal of my public life being involved in raising money for domestic violence shelters. In the small county where I lived and was first a county commissioner, I raised money, because I saw the need. I was involved in the board of the domestic violence shelter. For years, the Founding Fathers of the county, the power brokers, were in denial that domestic violence actually occurred in the county. When I finally got elected to the Florida State Senate, I fought long and hard to get funding for domestic violence shelters so that women and their children would have a place to go.

The purpose of this hour this evening is to highlight the Violence Against Women Act, which was first passed in 1994 and which will be on the House floor tomorrow. Before I go into any more detail, however, I would like to yield to my colleague, the gentlewoman from West Virginia (Mrs. CAPITO), a woman with whom I have worked closely over the 3 short years I have been here on issues affecting women and the former Chair of the Congressional Caucus for Women's Issues.

Mrs. CAPITO. Mr. Speaker, I thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for yielding to me, and for her steadfast support of women's issues, and particularly the reauthorization of the Violence Against Women Act. She has been a leader in this area and, as she said, she legislates from the heart on this issue. I appreciate her and all of the bipartisanship that has been shown in the reauthorization of this bill.

In the 5 years since the Violence Against Women Act of 2000 was enacted, we have made remarkable gains towards stopping domestic and sexual violence. But the Violence Against Women Act is due to expire at the close of September and it is time for Congress to renew its commitment.

Since its inception in 1994, VAWA funding has provided tremendous resources and protections for victims of domestic violence and sexual assault in my home State of West Virginia and nationally. Violence against women programs provide increased training for police, prosecutors, and court officials, and greatly improves the response of the criminal justice system to victims of domestic violence and sexual assault. These programs have been successful at providing victims with emergency shelters, hotlines, and supportive services.

In my hometown of Charleston, West Virginia, we have a domestic violence shelter that is run very well by the YWCA of Charleston, West Virginia. It is professional, it is safe, and it is that harbor for women and families who are subjected to the violence that occurs in so many of our families and in domestic situations.

Due to the Violence Against Women Act's worthy accomplishments, many more victims are now referred for services, and demand has steadily risen for the services provided by the grants. The Violence Against Women Act has helped transform the perception of domestic abuse as a situation that should be dealt with in the home. It has moved it to a serious crime that should be addressed in the courtroom. What used to be considered a family matter is now a crime. This bill is a crucial part of this perception change.

At issue now is more than just a reauthorization. Rather, Congress has an opportunity to make a statement by expanding and improving VAWA Acts passed in 1994 and 2000. This year's reauthorization builds on the successes, just what we want to see when we are reauthorizing legislation; to find out what is working, build on that, and remove those elements of a law that maybe are not working or not working as we had thought they might.

Reauthorization of VAWA will improve the help victims receive from the Department of Justice in several ways. One of its more important provisions gives grants to States to ensure victims have better access to trained attorneys and lay advocacy services, such as the one at the YWCA in Charleston, West Virginia. This means grief-stricken victims of violence, stalking and sexual assault will receive vital professional support in the moment they need it the most. This support can make all the difference in the time of tragedy.

Domestic violence, unfortunately, strikes everywhere, among the rich, the poor, within urban and rural communities. As a West Virginian, I have been especially sensitive to the needs of rural communities. That is why I am pleased that the reauthorization of VAWA will expand assistance to rural areas through amendments made to the rural domestic violence and child abuse enforcement assistance program. The Department of Justice is authorized to award 3-year grants for education, training, and services to combat violence against women in rural areas.

All told, $50 million in funding each year from 2006 to 2010 is authorized and will go to VAWA programs that address rural domestic violence, dating violence, and sexual assault. And when it comes to grants that address sexual assault, rural communities are guaranteed to receive a minimum of 25 percent of the funds allotted.

In addition, when we reauthorize VAWA, the Federal Government will be sending a strong message to the criminals who have committed violence against women. Reauthorization will permit the doubling of applicable penalties for repeat Federal domestic violence offenders.

This bill also addresses the accessibility of funding and program dollars for colleges. As the mother of a college student, a young woman college student, I know that the area of sexual assault and dating violence is something that is ever present on the mind of every mother of a young daughter in college.

☐ 2000

So this bill recognizes that and will help strengthen our institutions to deal with this problem.

This October will be the 19th annual Domestic Violence Awareness Month. I cannot wait for the day we no longer need a month to recognize domestic violence. For years, we in Congress have told women that domestic violence is not their fault and is no cause for shame. I believe we have the opportunity this year to redouble our efforts, to say that domestic violence is not just the victim's problems, it is America's problems. That means we in Congress must demonstrate to all Americans that it is incumbent on us as a Nation to stop this violence.

This year, let us usher in Domestic Violence Awareness Month by reauthorizing the Violence Against Women Act.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the gentlewoman from West Virginia (Mrs. CAPITO). Certainly hearing the story about the domestic violence shelter close to her home is one that many Members of Congress certainly can relate to, and I appreciate her sharing that with us tonight.

Whether the victim's name is Mary, Laurie, Kate, Stephanie or Florence, they are all victims. Let me tell about a woman I know who was a victim named Florence. She found herself pregnant at the age of 17. She went on to have several other relationships and a total of four children, all daughters. Those daughters grew up seeing their mother being a victim. These children believed that abuse was normal because all of Florence's partners were abusive. Three of her four daughters turned out to be victims or abusers themselves. It is true that children learn what they live.

Given that story and my background of advocacy for victims, I know how important it is for Congress to recognize that there are millions of Americans out there who have had similar harrowing experiences. I rise this evening to highlight the Violence Against Women Act, which we will be discussing on the floor tomorrow. VAWA, as it is commonly known, is landmark legislation that provides real solutions to reduce the incidence of violence against women.

Mr. Speaker, domestic violence affects our most vulnerable constituents: battered women and their families. I think that every Member of Congress has heard stories of women who wish to leave an abusive situation and face threats, severe physical harm, and in some cases even death. Evidence suggests that the past incarnations of VAWA have been effective in reducing the violence.

I am delighted to see that I am joined by a fellow Floridian this evening, the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, today much attention is focused on our ability as a Nation to respond to the events, natural or unnatural, which have emerged on a visibly grand scale. Mother Nature's naked fury, clothed in hurricanes Katrina and Rita, exposed our vulnerability to her indiscriminate forces and its cruelty, but also its charity, exhibited by thousands of citizens who reached out to the victims' grasping hands. We also continue to respond to terrorism by engaging in a vigilant battle against religious and ideological extremism at home and abroad.

No less vital to the security of our society is our response to the perniciously pervasive scourge of domestic violence. In 1994, this Congress recognized the threat posed by violence against women to the fabric of our society when it passed the Violence Against Women Act, VAWA.

Set to expire in October, I strongly support the reauthorization of VAWA, which has made a valuable contribution to declining rates of violent crime. Yet it is not enough to simply herald the falling violent crimes rates for both males and females since 1984. It is not enough to celebrate the fact the number of total domestic violence cases in Florida started to decline in 1998 and, in 2004, fell a further 3.3 percent.

For the 119.772 Floridians who were victims of abuse or violence in 2004, statistics provide neither comfort nor shelter. By reauthorizing and reinforcing the provision of VAWA, we demonstrate to those victims and their families that we have not lost focus or lost sight of them.

By strengthening the enforcement provisions of VAWA and by making it gender-neutral, I believe it will serve to protect not only women but all victims of domestic abuse and those who suffer its effects. The effects of domestic violence are neither discriminatory nor confined to the bruises of the body.

According to the Child Welfare League, between 3.3 million and 10 million children witness some form of violence in the home each year and children from violent homes exhibit more aggressive or delinquent behavior compared to their peers of nonviolent homes. Furthermore, it has been reported that between 50 and 70 percent of men who abuse their partners also abuse their children. And the cycle continues.

Tomorrow I will proudly lend my support to extending the lifeline VAWA provides to thousands of families and the community organizations which provide them safety and refuge each year. I will reaffirm my support for putting the full force of the law behind the enforcement of our criminal laws while placing my full faith in the families and communities this program serves.

I would also encourage my colleagues to offer the same support to language in the overall measure to prohibit the personal information of victims of domestic violence from being entered into the Homeless Management Information Systems Database. This would permit the use of nonpersonally identifying information for data collection and statistical purposes while safeguarding the identities of women who are most vulnerable to the violence and often dangerous ramifications of reporting domestic abuse. Our Nation faces many challenges, but few are more important than providing shelter for the body and hope for the soul.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the gentlewoman from Florida (Ms. HARRIS). She and I worked together on both funding issues and strengthening Florida's laws to protect the victims and to make sure that the perpetrators were swiftly and adequately punished for their deeds.

She cited the rate of violence against females declining between 1993 and 2004. It has declined and we are glad that that occurred. However, until the violence is entirely wiped out, I do not think there is a person in this body on either side of the aisle who will rest.

Too many people continue to be abused and victimized by family members whom they should be able to trust. Before we voted this evening, I spoke to a person in Tallahassee who confided about the abuse that the daughters in the family sustained. When you realize it has absolutely no economic boundaries, that it happens in the best of families, the wealthiest of families, those middle-class families and those families who are on the lower economic spectrum, you realize how pervasive, unfortunately, it is in our society.

A study was released by the U.S. Department of Justice in June 2005 that reports that roughly 22 percent of murders in 2002 were perpetrated by family members actually against family members. This study also shows that women are much more likely than men to be victims of domestic violence. In fact, three-quarters of violence victims are female while three-quarters of domestic violence perpetrators are male. The study also found that family members are also responsible for the murders of an astounding 43 percent of female victims.

I think we can all agree that these statistics are totally unacceptable. Love should not hurt, nor should it kill innocent victims.

Sometimes we are in a grocery store or at an event and you come across a woman who you may see bruises on and a black eye, and there are some warning signs that I think every American should be looking for. Some of these warning signs are, for example, if the person's partner acts controlling and puts her down in front of others. That is one sign. Another sign is that he is extremely jealous of any attention she gets or perhaps she may get quiet when he is around and seem afraid of making him angry.

Your friend or the person that you may know casually may become increasingly isolated and is seeing less and less of friends and family. Your friend may cancel plans at the very last minute. The perpetrator may also control her finances and her behavior and also her social life. You sometimes see him violently lose his temper.

striking or breaking objects. Sometimes she has unexplained injuries or the explanations she offers just do not add up. Sometimes she has mentioned violent behavior that she has experienced, but she kind of laughs it off.

When I am back in the district, I carry a card with me that gives the telephone number of the domestic violence shelter. I will give it to people when I suspect a case of domestic violence. No one has ever been embarrassed that I gave it to them. Some women just quietly and discreetly tuck it in their purse, and I can only pray that they use it at a later time. We are fortunate that we do have some excellent domestic violence shelters in Florida. They are run very, very well. Of course, they are always running low on money, especially around the holiday times because that is when the domestic violence has a tendency to increase as a result of the stresses of the holidays. Very often those domestic violence shelters can use financial support from members of the community.

Over the last 10 years, we have learned from VAWA what methods are effective in combating violence against women. That learning process is why VAWA of 2005 not only reauthorizes the effective provisions of the existing law but it adds some new provisions to strengthen and improve the law.

VAWA 2005 incorporates the best practices of States and expert opinions. The provisions in this new bill include new grants for court training and improvements. This program improves the court's response to adult youth and minor domestic violence, dating violence, sexual assault, and also stalking cases. There is a provision for access to justice for teens. This program encourages crosstraining and collaboration between the courts, domestic violence and sexual assault service providers, youth organizations, violence prevention programs, and law enforcement agencies so they may establish and implement policies serving youths age 12 to 24.

□ 2015

There are additionally in this excellent legislation new penalties for stalking violations. The measure strengthens anti-stalking laws by including stalking over the Internet to the current list of violations and doubles the prison sentence for repeat offenders of interstate domestic violence violations. Interstate violation of protection orders or interstate stalking violations. Certainly, the Internet can be used these days to benefit a stalker and this portion of the legislation is long overdue. The national stalker database is also reauthorized through 2010.

VAWA reauthorizes grants to combat violent crimes on campuses. So many times we hear of young women who go away to college who are the victims of date rape. Additionally, VAWA 2005 creates new grant programs aimed at mitigating the effects on children exposed to domestic violence, dating violence, sexual assault, and stalking.

A while ago, I mentioned the story about Florence, who had four children and who was always in abusive relationships, and how three of her four children ended up being either an abuser or a victim. It is important to remember that children who experience this phenomena of domestic violence in their childhood often think that this is normal. Clearly the majority of families know that this is abnormal, that this is not the way that families should get along or that children should be treated or that children be exposed to this violence.

In order to continue the learning process, VAWA 2005 requires a government accountability office, or GAO, as most people know it as, study to determine the extent to which men, women, youth, and children are victims of domestic violence, dating violence, sexual assault, and stalking. The report also should examine the availability of shelter, counseling, legal representation, and all other services to all victims.

I, today, submitted an amendment to the Violence Against Women Act also calling for a study to be done correlating the instance of perpetrator's abuse of substance, whether it is alcohol or whether it is drug abuse, and the fact that he was a violent person and committed a violent act on a woman. I know in Florida we did such a study, and we were amazed that the very strong correlation was there. I think once we are armed with this information, we will be able to provide a lot more funding and assistance for drug prevention and alcoholism treatment programs and not just throwing money at the issue, but supporting those programs which truly are effective, not those that just take the money and have no efficacy to them.

Mr. Speaker, as the Members can see from these new programs highlighted here tonight, this VAWA reauthorization is a step forward for victims of domestic violence as well as their families and loved ones. It is frustrating for policymakers to know that we cannot just wave a magic wand and eradicate violence in our society. Yet, Mr. Speaker, it is comforting to know that there are wonderfully generous people who dedicate their careers to making the lives of their fellow man better.

I have been privileged to personally witness the generosity of spirit at the Dawn Center, a domestic violence shelter in my district. I also regularly visit the one in Pasco County. The Dawn Center happens to be in Hernando County, and Sunrise is in Pasco County.

I will tell the Members a little bit about the director of Sunrise, whom I have known for about 18 years now. Penny was a nurse, and certainly as part of her training being a nurse, as nurses tend to be very caring and very nurturing, she learned that there was an opening as the director of Sunrise and applied for the directorship. Penny has risen in the ranks of directors of domestic violence shelters over the years to be one of the absolute premier shelter directors. She is innovative, she has fundraisers in the community which are fun. This past weekend, as a matter of fact, she had a lobster bake where they sold tickets and had lobsters flown in from Maine so that they could have a really upscale party to raise funds and also raise awareness for domestic violence and the need for the shelters.

Penny is certainly indicative of the commitment that many people make once they enter into the field of being a staff person or a director or a counselor or a caseworker at a domestic violence shelter.

The domestic violence shelters throughout our Nation depend a lot on State and Federal moneys for their support. In addition, certainly they are great at fundraising in the community. It seems like every maybe 4, 5 months, I get a solicitation letter from one of the domestic violence shelters.

I would ask the viewing public that as the holidays approach, that they remember the domestic violence shelters. Government cannot do it all, and to remember that the violence does escalate during time of the holidays. So having a generous spirit of the public who can afford to help these centers is a very important.

My husband was a law enforcement officer for over 20 years, and years ago a domestic violence call was one that too many times law enforcement officers kind of did a wink and a nod at. Why? Because too many times women were forced into changing their mind the next day, or when the law enforcement officer got there, they would say do not press charges because they were stay at home moms and realized that if he spent a couple of nights in jail, he might very well lose his job.

Thankfully, we have come a long way from that time and domestic violence is no longer given a wink and a nod by law enforcement. As a matter of fact, I am very proud to say that in most of the counties I represent, the sheriffs' offices actually have a member of their staff, if not the sheriff or first deputy, actually serving on the boards of the domestic violence shelters. This is a message that is being sent, and that message is a strong one. That message is that law enforcement is serious about cracking down on those who would perpetrate harm on women and children. That cycle of abuse, unless it is stopped, unless women have a place to go to with their children, unless the Violence Against Women Act is reauthorized, women and children certainly will be in jeopardy.

In conclusion, Mr. Speaker, I want to remind Members that domestic violence is not just a man against woman phenomenon. When a man hits a woman or a woman hits a man, oftentimes it is the lasting impression of that violence that affects the children and the young adults that are witness to the abuse. Studies show that young men exposed to domestic abuse are more likely to be abusers themselves in the future.

As a matter of fact, I counseled a young woman to that very effect. I knew her family, and I said to her, "I know you did not grow up in this kind of a violent situation and you have sons. Why would you want your sons to grow up to be abusers? Because if they see your husband abusing you, they are going to think that that is okay, and that cycle of abuse will never stop."

She sought counseling. She ended up turning this marriage around, and her husband received extensive counseling. Thankfully, that was a success story where the abuse did stop. And he also taught his sons that abuse is wrong and that he was man enough to say, hey, I was absolutely wrong in what I did.

This vicious cycle is one that can be combated, Mr. Speaker, effectively through education, support networks, increased law enforcement programs, and family counseling programs.

Mr. Speaker, once again, I would urge my colleagues to support the reauthorization of the Violence Against Women Act.

☐ 2030

RECESS

The SPEAKER pro tempore (Mr. POE). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2139

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 9 o'clock and 39 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3402, DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–236) on the resolution (H. Res. 462) providing for consideration of the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CARDIN (at the request of Ms. PELOSI) for today.

Ms. HARMAN (at the request of Ms. PELOSI) for today and the balance of the week on account of official business.

Ms. MCKINNEY (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. MENENDEZ (at the request of Ms. PELOSI) for today.

Mr. RYAN of Ohio (at the request of Ms. PELOSI) for today before 7:00 p.m. on account of attending the funeral for the son of a district staff member.

Mr. GRIJALVA (at the request of Ms. PELOSI) for today.

Mr. CULBERSON (at the request of Mr. DELAY) for today and September 28 on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

(The following Members (at the request of Mr. OSBORNE) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, today.

Mr. POE, for 5 minutes, September 28.

Mr. JONES of North Carolina, for 5 minutes, September 29.

Ms. ROS-LEHTINEN, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1017. An act to reauthorize grants for the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Resources.

S. 1709. An act to provide favorable treatment for certain projects in response to Hurricane Katrina, with respect to revolving loans under the Federal Water Pollution Control Act, and for other purposes; to the Committee on Transportation and Infrastructure; in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2385. An act to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

H.R. 3784. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

ADJOURNMENT

Mr. GINGREY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 28, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4195. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Tebuconazole; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0208; FRL-7727-5] received August 2,2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4196. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fenpropathrin; Pesticide Tolerance [OPP-2005-0133; FRL-7738-7] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4197. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Kasugamycin; Pesticide Tolerance [OPP-2005-0017; FRL-7736-4] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4198. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Muscodor albus QST 20799 and the Volatiles Produced on Rehydration; Exemption from the Requirement of a Tolerance [OPP-2005-0244; FRL-7739-5] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4199. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pesticides; Removal of Expired Time-Limited Tolerance Exemptions [OPP-2005-0238; FRL-7735-8] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4200. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pyridaben; Pesticide Tolerance [OPP-2005-0267; FRL-7738-6] received

September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4201. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pyriproxyfen; Pesticide Tolerance [OPP-2005-0246; FRL-7737-8] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4202. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0225; FRL-7731-2] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4203. A letter from the Chairman, Securities and Exchange Commission, transmitting the annual report of the Securities Investor Protection Corporation for the year 2004, pursuant to 15 U.S.C. 78ggg(c)(2); to the Committee on Financial Services.

4204. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the State of Hawaii State Implementation Plan, Update to Materials Incorporated by Reference [HI 125-NBK; FRL-7946-7] received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4205. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury Containing Equipment [RCRA-2004-0012; FRL-7948-1] (RIN: 2050-AE52) received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4206. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the Commonwealth of the Northern Mariana Islands State Implementation Plan, Update to Materials Incorporated by Reference [CMNI 124-NBK; FRL-7938-6] received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4207. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Texas; Transportation Control Measures in the Dallas/Fort Worth Ozone Nonattainment Area [TX-126-1-7691; FRL-7947-7] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4208. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Lake County Sulfur Dioxide Regulations, Redesignation and Maintenance Plan [R05-OAR-2005-IN-0004; FRL-7972-6] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4209. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—North Dakota; Final Authorization of State Hazardous Waste Management Program Revision [FRL-7974-3] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4210. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Ocean Dumping; Site Designation [FRL-7973-8] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4211. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Texas; Dallas-Fort Worth Voluntary Mobile Emission Reduction Program [TX 126-1-7690; FRL-7960-4] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4212. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Chattanooga, Tennessee; Revised Format for Materials Being Incorporated by Reference [TN-200524-FRL-7952-3] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4213. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Knox County, Tennessee; Revised Format for Materials Being Incorporated by Reference [TN-2000506; FRL-7952-2] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4214. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Wallula, Washington, Area [R10-OAR-2005-WA-0005; FRL-7959-6] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4215. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans for Kentucky; Regulatcry Limit on Potential to Emit [R04-OAR-2003-KY-0001-200410(a); FRL-7958-8] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4216. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Extension of the Deferred Effective Date for 8-hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas [OAR-2003-0090; FRL-7959-2] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4217. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Limited Approval and Promulgation of Implementation Plans; Texas; Excess Emissions During Startup, Shutdown and Malfunction Activities [R06-OAR-2005-TX-0022; FRL-7959-5] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4218. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Standards of Performance for New and Existing Stationary Sources; Electric Utility Steam Genrating Units [OAR-2002-0056; FRL-7960-1] (RIN: 2060-AJ65) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4219. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Stay of the Findings of Significant Contribution and Rulemaking for Georgia for Purposes of Reducing Ozone Interstate Transport [Docket No. OAR-2004-0440; FRL-7960-2] (RIN: 2060-AN06) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4220. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting transmitting the 2004 Report on CFE Compliance pursuant to the resolution of advice and consent to ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe of November 19, 1990, ("the CFE Flank Document"); to the Committee on International Relations.

4221. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as "foreign terrorist organization" pursuant to Section 219of the Immigration and Nationality Act; to the Committee on the Judiciary.

4222. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Mentor Harbor Offshore Powerboat Race, Mentor, Ohio [CGD09-05-026] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4223. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Port of Frederickstед, Saint Croix, U.S. Virgin Islands [COTP SAN JUAN 04-138] (RIN: 1625-AA87) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4224. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-022] (RIN: 1625-AA00) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4225. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Atchafalaya River, Eugene Island Sea Buoy to Mile Marker 119.8, Berwick, LA [COTP Morgan City-04-015] (RIN: 1625-AA87) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4226. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Grande, Pensacola, FL [COTP Mobile-05-003] (RIN: 1625-AA87) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4227. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Chico, Pensacola, FL [COTP Mobile-05-004] (RIN: 1625-AA87) received May 11, 2005, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4228. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Captain of the Port Detroit Zone, Detroit River, Detroit, MI [CGD09-05-0002] (RIN: 1625-AA87) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4229. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Ohio River, Mile 602.0 to 606.0, in Louisville, KY [COTP Louisville-05-006] (RIN: 2115-AA87) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4230. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Palatka, FL [COTP Jacksonville 05-050] (RIN: 1625-AA00) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4231. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Jones Beach Air Show, Jones Beach, NY [CGD01-05-033] (RIN: 1625-AA00) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4232. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Tampa Bay, FL [COTP TAMPA 05-062] (RIN: 1625-AA00) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4233. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Captain of the Port Detroit Zone [CGD09-05-022] received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4234. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Indian River, New Smyrna, FL. [COTP Jacksonville 05-076] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4235. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Tacoma Tall Ships 2005, Commencement Bay, Washington [CGD13-05-021] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4236. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; St. Johns River, Jacksonville, FL. [COTP Jacksonville 05-051] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4237. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zones; Fireworks displays in the Captain of the Port Portland Zone. [CGD13-05-022] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4238. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations, Freedom Fair Air Show Performance, Commencement Bay, WA [CGD13-05-024] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4239. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone: Independance Day Celebration Fireworks—Ipswich, Massachusetts. [CGD01-05-053] (RIN: 1625-AA00) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4240. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Tank Level or Pressure Monitoring Devices on Single-hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo [USCG-2001-9046] (RIN: 1625-AA94) received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4241. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30448; Amdt. No. 455] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4242. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's report on the Exploration Systems Architecture Study; to the Committee on Science.

4243. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Treatment of Certain Amounts Paid to Section 170(c) Organizations under Certain Employer Leave-Based Donation Programs [Notice 2005-68] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4244. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Sherwin-Williams Co. Employee Health Plan Trust v. Commissioner, 330 F.3rd 449 (6th Cir. 2003), rev'g 115 T.C. 440 (2000) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4245. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Returns Prepared For or Executed by Secretary (Rev. Rul. 2005-59) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4246. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Determination of Interest Rate (Rev. Rul. 2005-62) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4247. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Updating Estimated Income Tax Regulations Under Section 6654 [TD 9224] (RIN: 1545-BD17) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4248. A letter from the Assistant Secretary for Health Affairs Under Secretary for Benefits, Departments of Defense and Veterans Affairs, transmitting the Departments' report entitled, "VA/DOD Single Seperation Examinations at Benefits Delivery at Discharge Sites," pursuant to Public Law 107—107, section 734; jointly to the Committees on Armed Services and Veterans' Affairs.

4249. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Conditions for Payment of Power Mobility Devices, including Power Wheelchairs and Power-Operated Vehicles [CMS-3017-IFC] (RIN: 0938-AM74) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 2491. A bill to amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, and for other purposes; with an amendment (Rept. 109–235). Referred to the Committee of the Whole House on the State of the Union.

Mr. GINGREY: Committee on Rules. House Resolution 462. Resolution providing for consideration of the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes (Rept. 109–236). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. H.R. 3824. A bill to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes; with an amendment (Rept. 109–237). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RADANOVICH:

H.R. 3897. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply and Groundwater Enhancement Project; to the Committee on Resources.

By Mr. AKIN:

H.R. 3898. A bill to direct the Administrator of the Small Business Administration to establish Veterans Business Outreach Centers and Technical Mentoring Assistance

Committees; to the Committee on Small Business.

By Mr. ANDREWS (for himself and Mr. Nussle):

H.R. 3899. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide for the combination of defined benefit plans and deferred compensation arrangements in a single plan, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER (for himself, Mr. Schiff, Mr. Herger, Mr. Wilson of South Carolina, Mr. Ruppersberger, Mr. Terry, Mr. Gary G. Miller of California, Mrs. Bono, Mr. McCaul of Texas, Mr. Issa, and Mr. McKeon):

H.R. 3900. A bill to amend title 18, United States Code, to increase the penalty on persons who are convicted of killing peace officers and who flee the country, and to express the sense of Congress that the Secretary of State should renegotiate the extradition treaty with Mexico; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3901. A bill to amend title XVIII of the Social Security Act to provide certain Medicare beneficiaries living abroad a special Medicare part B enrollment period during which the late enrollment penalty is waived and a special Medigap open enrollment period during which no underwriting is permitted; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS:

H.R. 3902. A bill to require proper and accurate labeling for products identified, described or sold as "chamois"; to the Committee on Energy and Commerce.

By Mrs. BLACKBURN (for herself, Mr. Cantor, and Mr. Hensarling):

H.R. 3903. A bill to make 1 percent across-the-board rescissions in non-defense, non-homeland-security discretionary spending for fiscal year 2006; to the Committee on Appropriations.

By Mrs. BLACKBURN (for herself, Mr. Cantor, and Mr. Hensarling):

H.R. 3904. A bill to make 2 percent across-the-board rescissions in non-defense, non-homeland-security discretionary spending for fiscal year 2006; to the Committee on Appropriations.

By Mr. KIND (for himself, Mrs. Johnson of Connecticut, Mrs. Tauscher, Mr. Brown of Ohio, Mr. Grijalva, Mr. Meehan, and Mr. Simmons):

H.R. 3905. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate income tax overpayments to support relief efforts in response to Hurricane Katrina; to the Committee on Ways and Means.

By Mrs. BLACKBURN (for herself, Mr. Cantor, and Mr. Hensarling):

H.R. 3906. A bill to make 5 percent across-the-board rescissions in non-defense, non-homeland-security discretionary spending for fiscal year 2006; to the Committee on Appropriations.

By Mrs. BLACKBURN (for herself and Mr. Norwood):

H.R. 3907. A bill to provide for the creation of an additional category of laborers or mechanics known as helpers under the Davis-Bacon Act; to the Committee on Education and the Workforce.

By Mr. BLUNT (for himself, Mr. Akin, Mr. Bachus, Mr. Bartlett of Maryland, Mr. Bishop of Georgia, Mr. Boozman, Mr. Cantor, Mr. Culberson, Mr. Doolittle, Mr. Duncan, Mr. Emanuel, Mr. Foley, Mr. Ford, Mr. Fossella, Mr. Franks of Arizona, Mr. Garrett of New Jersey, Mr. Gillmor, Mr. Graves, Mr. Green of Wisconsin, Ms. Harris, Ms. Hart, Mr. Hastert, Mr. Hayes, Ms. Hooley, Mr. Hostettler, Mr. Hulshof, Mr. Kennedy of Minnesota, Mr. King of Iowa, Mr. Kingston, Mr. McCotter, Mr. Miller of Florida, Mr. Moran of Kansas, Ms. Norton, Mr. Otter, Mr. Paul, Mr. Pence, Mr. Pitts, Mr. Ramstad, Mr. Regula, Mr. Renzi, Mr. Rogers of Michigan, Mr. Sessions, Mr. Shays, Mr. Smith of Texas, Mr. Souder, Mr. Stearns, Mr. Tiahrt, Mr. Wamp, Mr. Weldon of Florida, Mr. Wilson of South Carolina, Mr. Reichert, Mr. Shaw, Mr. Gordon, Mr. Ruppersberger, Mr. Reynolds, Mr. Sweeney, Ms. Ginny Brown-Waite of Florida, Mr. Ferguson, Mr. Pickering, Mr. McCaul of Texas, Mr. Brown of South Carolina, Mr. Rogers of Alabama, Mr. Crenshaw, Mr. DeLay, Mr. Issa, Mr. Herger, Mrs. Biggert, and Mr. Wicker):

H.R. 3908. A bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GINNY BROWN-WAITE of Florida (for herself, Ms. Hooley, Mr. Bachus, and Mr. Baker):

H.R. 3909. A bill to provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the Board of Governors of the Federal Reserve System, to guarantee checks cashed by insured depository institutions and insured credit unions for the benefit of noncustomers who are victims of certain 2005 hurricanes, and for other purposes; to the Committee on Financial Services.

By Mr. FEENEY (for himself, Mr. King of Iowa, Mr. Bishop of Utah, Mr. Bartlett of Maryland, Mr. Chabot, Mr. Issa, and Mr. Westmoreland):

H.R. 3910. A bill to amend the Help America Vote Act of 2002 to require individuals to present a government-issued photo identification as a condition of voting in elections for Federal office, to prohibit any individual from tabulating votes in an election for Federal office unless the individual has been subject to a criminal background check, and for other purposes; to the Committee on House Administration.

By Mr. GERLACH:

H.R. 3911. A bill to amend the Immigration and Nationality Act to exempt members of the Armed Forces from naturalization requirements relating to English language, knowledge of government, good moral character, and period of service; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mrs. Jones of Ohio, and Mr. English of Pennsylvania):

H.R. 3912. A bill to amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments; to the Committee on Ways and Means.

By Mr. KUHL of New York:

H.R. 3913. A bill to provide for investment and protection of the Social Security surplus; to the Committee on Ways and Means, and in addition to the Committees on the Budget, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAHOOD:

H.R. 3914. A bill to suspend temporarily the duty on 2 Benzylthio-nicotinic acid; to the Committee on Ways and Means.

By Mr. LEWIS of Kentucky:

H.R. 3915. A bill to resolve the structural indebtedness of the Black Lung Disability Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Ms. McCOLLUM of Minnesota (for herself, Mr. Blumenauer, and Mr. Hinchey):

H.R. 3916. A bill to amend the Millennium Challenge Act of 2003 to promote environmental sustainability in the implementation of programs and activities carried out under such Act, and for other purposes; to the Committee on International Relations.

By Mr. PALLONE:

H.R. 3917. A bill to provide for payment by large employers for employees, and spouses and dependents of employees, who are covered under the Medicaid Program or SCHIP; to the Committee on Energy and Commerce.

By Mr. PETERSON of Pennsylvania (for himself, Mr. Cole of Oklahoma, Mr. Doolittle, Mr. Abercrombie, Mr. Regula, Mr. King of Iowa, Mrs. Emerson, Mr. Bishop of Utah, Mr. Duncan, Mr. Wicker, Mr. Osborne, Mr. Edwards, Mrs. Cubin, Mr. Istook, Mr. Pearce, Mr. Flake, Mr. Young of Alaska, Mr. Mica, and Mr. Gene Green of Texas):

H.R. 3918. A bill to terminate the effect of all provisions of existing Federal law prohibiting the spending of appropriated funds to conduct natural gas leasing and preleasing activities, to revoke Presidential withdrawals from disposition of areas of the Outer Continental Shelf with respect to natural gas, and for other purposes; to the Committee on Resources.

By Mr. SHADEGG:

H.R. 3919. A bill to amend the Federal Land Policy and Management Act to enhance the reliability of the electricity grid and reduce the threat of wildfires to electric transmission and distribution facilities on Federal lands by authorizing vegetation management on such lands; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SOLIS (for herself, Mrs. Capito, and Mrs. Capps):

H.R. 3920. A bill to authorize the establishment of domestic violence court systems from amounts available for grants to combat violence against women; to the Committee on the Judiciary.

By Ms. SOLIS (for herself, Mrs. Capito, and Mrs. Capps):

H.R. 3921. A bill to provide grants for public information campaigns to educate racial and ethnic minority communities and immigrant communities about domestic violence; to the Committee on the Judiciary.

By Mr. TAYLOR of Mississippi (for himself, Mr. Melancon, Mr. Frank of Massachusetts, Mr. Blumenauer, Mr. Boyd, Mr. Butterfield, Mr. Cardoza, Mr. Case, Mr. Ford, Ms. Kaptur, Mr. Peterson of Minnesota, Mr. Ross, Mr. Scott of Georgia, Mr. Ackerman, Mr. Costa, Mr. Thompson of Mississippi, Mr. Jefferson, Mr. Barrow, Mr. Berry, Mr. Moore of Kansas, Mr. Michaud, Mr. Cramer, Mr. Holden, Mr. Israel, Mr. Matheson, Mr. Davis of Tennessee, Mr. McIntyre, Mr. Schiff, Mr. Boren, and Mr. Pomeroy):

H.R. 3922. A bill to strengthen the national flood insurance program, encourage participation in the program, and provide owners of properties not located in flood hazard zones that, therefore, were not subject to the mandatory purchase requirements of the national flood insurance program, but which suffered flood damage resulting from Hurricane Katrina or Hurricane Rita and were covered by windstorm insurance, a one-time opportunity to purchase flood insurance coverage for a period covering such hurricane; to the Committee on Financial Services.

By Mr. TIAHRT:

H.R. 3923. A bill to provide for streamlining the process of Federal approval for construction or expansion of petroleum refineries, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TIAHRT:

H.R. 3924. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for oil refineries, oil and gas pipelines, and petroleum storage facilities; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Ms. Pelosi, and Mr. Lantos):

H.R. 3925. A bill to provide that a Federal public safety position may not be held by any political appointee who does not meet certain minimum requirements; to the Committee on Government Reform.

By Mr. WYNN:

H.R. 3926. A bill to prohibit certain transfers or assignments of franchises, and to prohibit certain fixing or maintaining of motor fuel prices, under the Petroleum Marketing Practices Act; to the Committee on Energy and Commerce.

By Mr. LEWIS of California:

H.J. Res. 68. A joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself, Mr. Levin, Mr. Burton of Indiana, Ms. DeLauro, and Ms. Harris):

H. Con. Res. 250. Concurrent resolution supporting the goals and ideals of Gynecologic Cancer Awareness Month; to the Committee on Energy and Commerce.

By Mr. BACHUS (for himself, Mr. Moore of Kansas, Mrs. Tauscher, and Mr. Wilson of South Carolina):

H. Con. Res. 251. Concurrent resolution regarding the awarding of contracts with respect to the recovery from the devastation caused by Hurricane Katrina and Hurricane Rita; to the Committee on Government Reform.

By Mr. BURTON of Indiana (for himself, Mr. Menendez, Ms. Harris, Mr. Weller, Ms. Ros-Lehtinen, Mr. Mack, and Mr. Rohrabacher):

H. Con. Res. 252. Concurrent resolution expressing the sense of Congress that the Government of the United States should actively support the aspirations of the democratic political and social forces in the Republic of Nicaragua toward an immediate and full restoration of functioning democracy in that country; to the Committee on International Relations.

By Mr. BONILLA (for himself, Mr. Reyes, Mr. Norwood, Mr. Sam Johnson of Texas, Mr. McCaul of Texas, Mr. Carter, Mr. Sessions, Mr. Burgess, Mr. Fortuño, Mr. Neugebauer, Mr. Marchant, Mr. Hall, Ms. Granger, and Mr. Moran of Kansas):

H. Con. Res. 253. Concurrent resolution expressing the sense of the Congress that reciting the pledge of allegiance by students attending public schools contributes to the moral foundation of our Nation and urging the Supreme Court to uphold the pledge's constitutionality; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Mr. Doyle, Mr. Burton of Indiana, Mr. Weldon of Florida, Mr. King of New York, Mr. Lantos, Mr. Crowley, Mr. Wolf, Mr. McDermott, Mr. Van Hollen, Mr. Hinchey, Mr. Reyes, Mr. Moran of Virginia, Mr. Kind, Mr. Moore of Kansas, Mr. Peterson of Minnesota, Ms. Ros-Lehtinen, Mr. Wilson of South Carolina, Mr. Kline, and Mr. Putnam):

H. Con. Res. 254. Concurrent resolution honoring the Autism Society of America on the occasion of its 40th anniversary; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER:

H. Res. 460. A resolution providing for consideration of the bill (H.R. 3764) to establish a National Independent Inquiry Commission on Disaster Preparedness and Response to examine and evaluate the Federal Government's response to Hurricane Katrina and assess its ability to respond to future large-scale disasters; to the Committee on Rules.

By Mr. SMITH of New Jersey (for himself, Mr. Payne, Mr. Royce, Mr. Flake, and Mr. Meeks of New York):

H. Res. 461. A resolution encouraging the accelerated removal of agricultural subsidies of industrialized countries to alleviate poverty and promote growth, health, and stability in the economies of African countries; to the Committee on International Relations.

By Mr. BLUMENAUER (for himself, Mr. Holden, Ms. Hooley, Mr. Watt, Mr. Cooper, Mr. DeFazio, Mr. Wu, Mr. Lewis of Georgia, Mr. Menendez, Mr. Ford, Mr. Snyder, Mr. Grijalva, Mr. Pastor, and Mr. Terry):

H. Res. 463. A resolution of inquiry directing the Secretary of Homeland Security to provide certain information to the House of Representatives relating to the reapportionment of airport screeners; to the Committee on Homeland Security.

By Mr. ISRAEL (for himself and Ms. DeLauro):

H. Res. 464. A resolution supporting the goals and ideals of National Ovarian Cancer Awareness Month; to the Committee on Government Reform.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. Meeks of New York, Mr. Honda, Mr. Lantos, Mr. Conyers, Mrs. Jones of Ohio, Mr. Grijalva, Mr. Rothman, Ms. McCollum of Minnesota, Mr. Burton of Indiana, Ms. Berkley, Mr. Holt, Ms. Jackson-Lee of Texas, Mr. Dingell, Mr. Filner, Mr. Abercrombie, Mr. Serrano, and Ms. Schakowsky):

H. Res. 465. A resolution recognizing the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal, and commending Muslims in the United States and throughout the world for their faith; to the Committee on International Relations.

By Mr. MARKEY (for himself, Mr. Smith of New Jersey, Ms. Pelosi, and Mr. Boozman):

H. Res. 466. A resolution expressing the sense of the House of Representatives that the United States Postal Service should issue a semipostal stamp relating to Alzheimer's disease; to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. Owens, Ms. Woolsey, Mr. Bishop of New York, Mrs. McCarthy, Mr. Grijalva, Mr. Van Hollen, Mr. Kucinich, Mr. Davis of Illinois, Mr. Hinojosa, Ms. McCollum of Minnesota, Mr. Tierney, Mr. Wu, Mr. Scott of Virginia, Mr. Kildee, Mr. Holt, Mrs. Davis of California, Mr. Ryan of Ohio, Mr. Payne, Mr. Andrews, Mr. Barrow, and Mr. Kind):

H. Res. 467. A resolution requesting that the President transmit to the House of Representatives information in his possession relating to contracts for services or construction related to Hurricane Katrina recovery that relate to wages and benefits to be paid to workers; to the Committee on Education and the Workforce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. LINDER introduced a bill (H.R. 3927) for the relief of Sung Hee Kim; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mr. Burgess.
H.R. 87: Mr. Pallone.
H.R. 97: Mr. Higgins and Mr. Dicks.
H.R. 114: Mr. Nadler.
H.R. 268: Mr. Schwarz of Michigan.
H.R. 302: Mr. Burton of Indiana.
H.R. 341: Ms. McCollum of Minnesota.
H.R. 363: Mr. Menendez.
H.R. 371: Mr. Price of North Carolina, Mr. Nadler, and Mr. Grijalva.
H.R. 376: Ms. Solis.
H.R. 398: Mr. Sanders.
H.R. 543: Mr. Gutierrez.
H.R. 550: Mr. Cardin.
H.R. 583: Mr. Menendez and Mr. Kanjorski.

H.R. 595: Mr. NADLER.

H.R. 657: Mr. ABERCROMBIE, Ms. BALDWIN, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BOYD, Mr. CARDIN, Mr. CLYBURN, Mr. Cooper, Mr. COSTA, Mr. COSTELLO, Mr. DELAHUNT, Mr. DICKS, Mr. DINGELL, Mr. Emanuel, Mr. GENE GREEN of Texas, Mr. HONDA, Mr. LEWIS of Georgia, Mr. MEEK of Florida, Mr. RUSH, Ms. SCHWARTZ of Pennsylvania, Mr. SNYDER, Mr. STRICKLAND, Mr. OBERSTAR, Mr. KENNEDY of Rhode Island, and Mr. ROTHMAN.

H.R. 699: Mr. SNYDER, Mr. BERRY, and Mrs. DAVIS of California.

H.R. 735: Mr. BISHOP of Georgia.

H.R. 791: Mr. HONDA.

H.R. 818: Mr. BRADY of Pennsylvania, Ms. SOLIS, and Mr. UDALL of New Mexico.

H.R. 823: Mr. MURPHY and Mr. CHANDLER.

H.R. 874: Ms. GINNY BROWN-WAITE of Florida.

H.R. 920: Mr. PUTNAM.

H.R. 926: Mr. KLINE.

H.R. 944: Mr. DAVIS of Tennessee.

H.R. 968: Mr. CARTER.

H.R. 986: Mr. JOHNSON of Illinois and Mr. OTTER.

H.R. 997: Mr. MCKEON.

H.R. 1000: Mr. PALLONE.

H.R. 1002: Mr. CAPUANO, Mr. WELDON of Pennsylvania, and Mr. NEY.

H.R. 1010: Mr. NEY.

H.R. 1016: Mr. REHBERG.

H.R. 1070: Mr. DUNCAN and Mr. SHIMKUS.

H.R. 1106: Mr. WALSH.

H.R. 1150: Mr. BARTLETT of Maryland.

H.R. 1202: Ms. MOORE of Wisconsin and Mr. SENSENBRENNER.

H.R. 1241: Mr. HERGER.

H.R. 1246: Mr. EVERETT, Mr. THOMPSON of California, Mr. LYNCH, Mr. OXLEY, Mr. GREEN of Wisconsin, Mr. KIND, and Mr. JACKSON of Illinois.

H.R. 1251: Mr. ROTHMAN.

H.R. 1287: Mr. JACKSON of Illinois.

H.R. 1298: Mr. DAVIS of Florida, Mr. HONDA, Mr. HOBSON, Mr. PICKERING, and Mr. REICHERT.

H.R. 1310: Mr. PASTOR.

H.R. 1322: Mr. STUPAK.

H.R. 1329: Ms. CARSON.

H.R. 1345: Mr. ALLEN.

H.R. 1353: Mr. ROGERS of Michigan.

H.R. 1380: Ms. MCKINNEY, Mr. RYAN of Ohio, Mr. GERLACH, Mr. LARSEN of Washington, and Mr. AKIN.

H.R. 1402: Mr. THOMPSON of California, Mr. MILLER of North Carolina, and Mr. WILSON of South Carolina.

H.R. 1424: Mr. ANDREWS.

H.R. 1438: Mr. MANZULLO and Mr. PLATTS.

H.R. 1449: Mr. MANZULLO.

H.R. 1549: Ms. VELÁZQUEZ, Mr. VAN HOLLEN, Mr. JOHNSON of Illinois, Ms. MILLENDER-MCDONALD, Mr. GOODE, and Mr. MCKEON.

H.R. 1588: Mr. NADLER.

H.R. 1595: Mr. BRADY of Pennsylvania, Ms. HERSETH, Mr. MOORE of Kansas, and Mr. SCHIFF.

H.R. 1607: Mr. PENCE.

H.R. 1615: Mr. KUCINICH, Mr. PAYNE, Mr. BISHOP of New York, Ms. MATSUI, and Mr. LARSON of Connecticut.

H.R. 1636: Mr. BLUMENAUER and Mr. LYNCH.

H.R. 1665: Mr. PRICE of North Carolina.

H.R. 1671: Mr. EVERETT.

H.R. 1689: Mr. MARIO DIAZ-BALART of Florida and Mr. ROTHMAN.

H.R. 1736: Mr. BRADLEY of New Hampshire and Mr. ROGERS of Michigan.

H.R. 1749: Mr. CONAWAY.

H.R. 1861: Mr. MOORE of Kansas.

H.R. 1872: Mr. BARRETT of South Carolina.

H.R. 1898: Mr. DOOLITTLE, Mr. PETRI, Mr. BACHUS, Mr. PEARCE, and Mr. TOM DAVIS of Virginia.

H.R. 1956: Mr. BROWN of South Carolina.

H.R. 2045: Mr. CHOCOLA.

H.R. 2061: Mr. RUPPERSBERGER and Mr. PUTNAM.

H.R. 2112: Mr. ADERHOLT, Mr. CONAWAY, and Mr. SESSIONS.

H.R. 2231: Ms. JACKSON-LEE of Texas.

H.R. 2233: Mr. SHERMAN.

H.R. 2237: Mr. MOORE of Kansas.

H.R. 2238: Mr. SCOTT of Georgia and Mr. EVANS.

H.R. 2251: Mr. KING of Iowa, Mr. ALEXANDER, and Mr. SOUDER.

H.R. 2339: Mr. PLATTS and Mr. MCCOTTER.

H.R. 2357: Mr. ENGLISH of Pennsylvania.

H.R. 2389: Mr. GREEN of Wisconsin and Mr. OXLEY.

H.R. 2470: Ms. GINNY BROWN-WAITE of Florida, Mr. MORAN of Kansas, Mr. MICA, Mr. BISHOP of Utah, Mr. BURTON of Indiana, Mr. SHAW, Mr. FORBES, Mr. GARRETT of New Jersey, Ms. HART, Mr. MCKEON, Mr. BLUNT, Mr. BASS, Mr. HALL, Mr. WILSON of South Carolina, Mr. MANZULLO, Mr. SESSIONS, Mr. HOEKSTRA, Mr. ADERHOLT, Mrs. MYRICK, Mrs. JO ANN DAVIS of Virginia, Mr. GOODE, Mr. FLAKE, Mr. LEWIS of Kentucky, Mr. BRADLEY of New Hampshire, Mr. FRANKS of Arizona, Mr. GILLMOR, Mr. TANCREDO, Mr. BARRETT of South Carolina, Mr. SHADEGG, Mr. NEUGEBAUER, Mr. MILLER of Florida, and Mr. CHOCOLA.

H.R. 2533: Mr. INSLEE, Mr. JOHNSON of Illinois, Mr. BRADY of Pennsylvania, Mr. KENNEDY of Minnesota, and Mr. HOLT.

H.R. 2562: Mr. WAXMAN and Mr. WEXLER.

H.R. 2646: Mr. GIBBONS and Mr. BOUSTANY.

H.R. 2682: Mr. BARTLETT of Maryland.

H.R. 2695: Mr. MCNULTY.

H.R. 2717: Mr. LEWIS of Georgia and Mr. LARSON of Connecticut.

H.R. 2730: Mr. INSLEE.

H.R. 2786: Mr. UDALL of New Mexico.

H.R. 2804: Mr. FRANKS of Arizona.

H.R. 2926: Mr. GRIJALVA.

H.R. 2941: Mr. RAMSTAD, Mr. DENT, and Mr. MCHUGH.

H.R. 2943: Mr. MOORE of Kansas.

H.R. 2989: Mr. CALVERT, Mr. LANGEVIN, Mr. TURNER, Mr. JOHNSON of Illinois, Mr. NEY, and Mr. PUTNAM.

H.R. 3008: Mr. CANTOR.

H.R. 3042: Mr. FILNER.

H.R. 3050: Mr. BOREN and Mr. CRAMER.

H.R. 3096: Mr. REICHERT.

H.R. 3111: Mr. CANTOR.

H.R. 3128: Mr. SABO.

H.R. 3137: Mr. MILLER of Florida, Mr. ROGERS of Michigan, and Mr. UPTON.

H.R. 3147: Mr. BOUCHER, Mr. GOODE, and Mr. MORAN of Kansas.

H.R. 3162: Mr. JACKSON of Illinois.

H.R. 3191: Mr. ENGEL and Mr. JEFFERSON.

H.R. 3192: Ms. SOLIS and Ms. SCHAKOWSKY.

H.R. 3300: Mr. KING of Iowa.

H.R. 3301: Mrs. BIGGERT, Mr. BARRETT of South Carolina, Mr. BEAUPREZ, Mr. BOOZMAN, and Mr. WESTMORELAND.

H.R. 3334: Mr. LEVIN, Ms. NORTON, Mr. MCNULTY, and Mr. ANDREWS.

H.R. 3352: Mr. STRICKLAND.

H.R. 3359: Mr. MCHUGH.

H.R. 3361: Mrs. MCCARTHY.

H.R. 3385: Mr. CANNON.

H.R. 3420: Mr. WAXMAN.

H.R. 3478: Mr. PAUL, Mr. KLINE, Mr. MILLER of Florida, Mr. MCCOTTER, and Mrs. CAPITO.

H.R. 3505: Mr. PENCE and Mr. RUPPERSBERGER.

H.R. 3532: Mr. STUPAK.

H.R. 3546: Mr. OWENS, Mr. MCNULTY, Ms. SOLIS, and Mr. CONYERS.

H.R. 3565: Mr. GRIJALVA.

H.R. 3579: Mr. PETERSON of Minnesota, Mr. HOLDEN, Mr. FRANK of Massachusetts, and Mr. STRICKLAND.

H.R. 3586: Mr. TERRY and Mr. PAUL.

H.R. 3599: Mr. CANNON.

H.R. 3616: Mrs. DAVIS of California, Mr. GOODLATTE, and Mr. VAN HOLLEN.

H.R. 3617: Mr. FARR and Ms. HARMAN.

H.R. 3639: Ms. HARRIS and Mr. GUTIERREZ.

H.R. 3662: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LANTOS, and Mr. EVANS.

H.R. 3665: Mr. DAVIS of Kentucky and Mr. SCHIFF.

H.R. 3666: Mr. LANTOS and Mr. NADLER.

H.R. 3670: Mr. LANTOS and Mr. NADLER.

H.R. 3680: Mr. BRADY of Texas, Mr. SIMPSON, Mr. CONAWAY, Mr. SAM JOHNSON of Texas, and Mr. OTTER.

H.R. 3683: Mr. SWEENEY.

H.R. 3684: Ms. GINNY BROWN-WAITE of Florida.

H.R. 3693: Mr. MILLER of Florida and Mr. JONES of North Carolina.

H.R. 3696: Mr. BERRY.

H.R. 3698: Mr. OBERSTAR.

H.R. 3711: Ms. SOLIS, Mr. BROWN of Ohio, Mr. CARDIN, Ms. SCHAKOWSKY, and Mr. CONYERS.

H.R. 3714: Mr. PAUL.

H.R. 3727: Mr. LANTOS and Mr. NADLER.

H.R. 3731: Ms. LEE and Mr. FILNER.

H.R. 3748: Mrs. NAPOLITANO, Ms. WATSON, Mr. MOORE of Kansas, Mr. CLYBURN, Mr. BISHOP of Georgia, and Mr. WAXMAN.

H.R. 3749: Ms. MCCOLLUM of Minnesota.

H.R. 3763: Mr. DAVIS of Florida, Mr. BARROW, Mr. WATT, Mr. SPRATT, Mr. CUELLAR, Mr. BOREN, Mr. BOUCHER, Mr. ETHERIDGE, Mr. MARSHALL, Ms. MCKINNEY, and Mr. BISHOP of Georgia.

H.R. 3764: Ms. LINDA T. SÁNCHEZ of California, Ms. HERSETH, and Mr. BOREN.

H.R. 3769: Mr. MCDERMOTT, Mr. WEXLER, Ms. SCHAKOWSKY, and Mr. GRIJALVA.

H.R. 3774: Mr. CLAY, Mr. KUCINICH, Mr. BROWN of Ohio, Mr. DOGGETT, Mrs. MCCARTHY, Mr. HASTINGS of Florida, Mr. HONDA, Mr. MEEHAN, and Ms. BALDWIN.

H.R. 3782: Mr. SWEENEY and Ms. HARRIS.

H.R. 3787: Ms. SCHAKOWSKY and Mr. WEXLER.

H.R. 3788: Mr. GEORGE MILLER of California and Mr. KILDEE.

H.R. 3791: Mr. BISHOP of New York.

H.R. 3792: Mr. BISHOP of New York.

H.R. 3800: Mr. HIGGINS, Mr. REYES, and Mr. CLAY.

H.R. 3811: Mr. BROWN of South Carolina and Mr. KING of Iowa.

H.R. 3813: Mr. ADERHOLT, Mr. BARRETT of South Carolina, Mr. CHABOT, Mrs. CUBIN, Mr. CULBERSON, Mr. FEENEY, Mr. FLAKE, Mr. FORD, Ms. FOXX, Mr. GARRETT of New Jersey, Mr. GOODE, Mr. GUTKNECHT, Mr. HENSARLING, Mr. HERGER, Mr. MARCHANT, Mr. PITTS, Mr. RYAN of Wisconsin, Mr. TANCREDO, Mr. TERRY, and Mr. WELDON of Florida.

H.R. 3824: Mr. BRADY of Texas, Mr. CALVERT, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. DUNCAN, Mrs. EMERSON, Mr. FLAKE, Mr. FORTUÑO, Mr. HAYWORTH, Mr. HUNTER, Mr. ISSA, Mr. KING of Iowa, Mr. LUCAS, Mr. DANIEL E. LUNGREN of California, Mr. MCKEON, Mrs. MUSGRAVE, Mr. NEUGEBAUER, Mr. NUNES, Mr. PEARCE, Mr. RENZI, Mr. SHADEGG, Mr. SULLIVAN, Mr. TANCREDO, Mr. THOMAS, Mr. THORNBERRY, Mr. WELDON of Florida, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. HERGER, Mr. SCOTT of Georgia, Mr. KLINE, Mr. FALEOMAVAEGA, MR. KENNEDY of Minnesota, Mr. MCCAUL of Texas, Mr. MELANCON, Mr. GARY G. MILLER of California, Mr. SIMPSON, Mr. SHUSTER, Mr. KINGSTON, Mr. SOUDER, Mr. NORWOOD, Mr. JENKINS, Mr. SHERWOOD, Mr. FRANKS of Arizona, Mr. BOOZMAN, Mr. COLE of Oklahoma, Mr. BARTON of Texas, Mr. PICKERING, Mr. ORTIZ, Mr.

BACHUS, Mr. EDWARDS, Mr. EVERETT, Mr. BONNER, Mr. GINGREY, Mr. ADERHOLT, Mr. DAVIS of Alabama, Mr. RYUN of Kansas, Mr. BAKER, Mr. ROGERS of Alabama, Mr. SMITH of Texas, Mr. MCINTYRE, Mr. CRAMER, Mr. HINOJOSA, Mr. OSBORNE, Ms. GINNY BROWN-WAITE of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. JACKSON-LEE of Texas.

H.R. 3838: Ms. SCHAKOWSKY, Mr. CARDIN, Mr. MOORE of Kansas, Mrs. MCCARTHY, Mrs. CAPPS, Mr. MEEHAN, Mr. VAN HOLLEN, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. KILDEE, Mr. AL GREEN of Texas, Ms. WOOLSEY, Mr. EVANS, Mr. BISHOP of Georgia, Mr. BRADY of Pennsylvania, Mr. PRICE of North Carolina, Mr. ACKERMAN, Mr. BACA, Mr. SERRANO, Mr. CASE, Mr. CARDOZA, Mr. HINCHEY, Ms. BERKLEY, Mr. MARKEY, and Mr. BLUMENAUER.

H.R. 3860: Mr. PITTS.

H.R. 3861: Mr. LEWIS of Georgia, Mr. DOGGETT, Mr. NEAL of Massachusetts, Mr. FARR, Mr. MCDERMOTT, Mr. JEFFERSON, Mr. EMANUEL, Mr. BRADY of Pennsylvania, Mr. FRANK of Massachusetts, and Mr. MCNULTY.

H.R. 3864: Mr. PAUL, Mr. BACHUS, and Mr. PICKERING.

H.R. 3872: Mr. TERRY.

H.R. 3873: Mr. TERRY.

H.R. 3876: Mr. MOORE of Kansas and Mr. MCNULTY.

H.R. 3883: Mr. PETERSON of Minnesota.

H.R. 3888: Mr. AL GREEN of Texas, Mr. STARK, Ms. VELÁZQUEZ, Mr. CARDIN, Mr. CLEAVER, and Mr. DICKS.

H.R. 3889: Mr. BOOZMAN, Ms. FOXX, Mr. MICA, Mr. COSTA, Mr. SMITH of Washington, Mr. ADERHOLT, Mr. ROGERS of Michigan, and Mr. WESTMORELAND.

H.J. Res. 38: Mr. HOLT, Mr. ANDREWS, and Mr. ROTHMAN.

H.J. Res. 53: Mr. ROGERS of Michigan.

H.J. Res. 64: Mr. SCOTT of Georgia.

H.J. Res. 65: Mr. ABERCROMBIE, Mr. FITZPATRICK of Pennsylvania, Mr. SMITH of New Jersey, and Mr. SCOTT of Georgia.

H.J. Res. 66: Mr. MENENDEZ, Mrs. CUBIN, Mr. GORDON, and Ms. MCCOLLUM of Minnesota.

H. Con. Res. 38: Mr. SHERMAN and Mr. BARROW.

H. Con. Res. 42: Mr. SNYDER.

H. Con. Res. 85: Mr. HULSHOF.

H. Con. Res. 88: Mr. CROWLEY.

H. Con. Res. 90: Mr. ROHRABACHER.

H. Con. Res. 108: Mr. SHERMAN.

H. Con. Res. 137: Mr. SCHIFF.

H. Con. Res. 178: Ms. BALDWIN, Ms. MOORE of Wisconsin, Mr. OWENS, and Mr. KUHL of New York.

H. Con. Res. 190: Mr. ENGEL and Mr. MCCOTTER.

H. Con. Res. 192: Ms. SCHAKOWSKY, Mr. ANDREWS, and Mr. KUCINICH.

H. Con. Res. 230: Mr. PENCE, Mr. WAXMAN, Mr. JENKINS, Mr. CONYERS, Mr. WILSON of South Carolina, Mr. SCHIFF, Mr. WHITFIELD, Mr. GALLEGLY, Mr. FOLEY, and Mr. SIMPSON.

H. Con. Res. 231: Mr. SNYDER.

H. Con. Res. 248: Mr. MCCOTTER, Ms. LINDA T. SÁNCHEZ of California, Mr. WYNN, Mr. SERRANO, and Mr. ISRAEL.

H. Res. 123: Mr. TANCREDO.

H. Res. 192: Mr. FARR.

H. Res. 215: Mr. BARRETT of South Carolina.

H. Res. 229: Mr. ANDREWS.

H. Res. 335: Mr. KILDEE, Mrs. MCCARTHY, and Ms. BALDWIN.

H. Res. 382: Ms. HART and Mr. AL GREEN of Texas.

H. Res. 388: Mr. CHANDLER.

H. Res. 430: Mr. SULLIVAN and Mr. BOREN.

H. Res. 458: Mr. CAPUANO, Mr. MCDERMOTT, Ms. KILPATRICK of Michigan, Mr. OBERSTAR, Mr. MORAN of Virginia, Mr. GRIJALVA, Mrs. MALONEY, Mr. SNYDER, Mr. CONYERS, and Mr. EVANS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 438: Mr. RADANOVICH.

H.R. 3824: Mr. OWENS.

EXTENSIONS OF REMARKS

REMARKS OF JACK ROSEN, CHAIRMAN OF THE AMERICAN JEWISH CONGRESS/COUNCIL FOR WORLD JEWRY, HONORING PAKISTANI PRESIDENT PERVEZ MUSHARRAF

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. LANTOS. Mr. Speaker, just a few days ago, it was my great honor and pleasure to join my dear friend, Jack Rosen, the Chairman of the American Jewish Congress and the Council for World Jewry at a dinner in New York City honoring President Pervez Musharraf of Pakistan. The President gave an outstanding speech reflecting his standing as the quintessential Muslim leader who has fostered moderation, reason, and pluralism.

Mr. Speaker, this remarkable event would not have taken place without the extraordinary leadership of Jack Rosen. He met President Musharraf some time ago when he was conducting business in Pakistan. At that meeting the seeds were planted that eventually blossomed into the event in New York a few days ago.

This event honoring the Pakistani President is only the latest example of Jack Rosen's visionary leadership and indefatigable commitment to public service. In the short time that he has served as Chairman of the American Jewish Congress, he has made an important difference in broadening and deepening the work of this important Jewish organization.

Mr. Speaker, at the event in New York last week, Jack introduced President Musharraf to the audience at the dinner in his honor. Jack's comments were particularly insightful on U.S.-Pakistani relations and the worldwide struggle against terrorism.

My colleagues in the Congress should have the opportunity to read the excellent remarks he made. I ask that his address be placed in the RECORD, Mr. Speaker, and I urge my colleagues to give it thoughtful attention.

INTRODUCTION OF PRESIDENT PERVEZ MUSHARRAF OF PAKISTAN

Mr. Jack Rosen, Chairman American Jewish Congress/Council for World Jewry

This is an unprecedented evening, and we are delighted to welcome not only our keynote speaker, but more than 60 Pakistani-American leaders who have joined us. We demonstrate tonight, by example, something that happens every day in hundreds of communities across the United States—Muslims, Jews and Christians sharing a meal, talking about our desires and dreams and even our differences.

President Pervez Musharraf's presence here tonight is the culmination of two years of preparation. In the summer of 2003, President Musharraf surprised many people in his own country and across the Muslim world when he offered a new set of ideas—first in Washington, then at the United Nations, at the Islamic Summit in Malaysia, and finally in Pakistan. He told his most important audience, his own community, that the extremist path to which some Muslims had turned to would bring nothing but misery and degradation.

He said of the scourge of terror: "The unfortunate reality is that both the perpetrators of these crimes and most of the people who suffer from them are Muslims." Then he offered a vision of an alternative, which he called "Enlightened Moderation." He proposed a new Islamic society based on pluralism, openness, and tolerance, in order to reach what he called "socioeconomic uplift—to drag ourselves out of the pit we find ourselves in, to raise ourselves up by individual achievement and collective socio-economic emancipation."

Just a few months prior to giving that speech, President Musharraf broke new ground when he suggested that Pakistan might need to rethink its refusal to establish diplomatic relations with Israel, although official diplomatic ties could come only after an Israeli-Palestinian peace deal.

These remarks came as the Moslem world was being rent by extremist pressures, amidst cascading violence in the Middle East and dangerously mounting anti-Semitism. Difficult to say at any time, President Musharraf's words were all the more courageous coming at the moment they did.

The extremists in his own country and beyond were quick to recognize the threat to them expressed in his message of hope. Within months, terrorists in Pakistan made two major attempts on his life, and they very nearly succeeded. We must ask ourselves: What if the terrorists had succeeded? What if the vitally important country of Pakistan, with its huge Muslim population, its nuclear arms, its many extremist factions and its critical location in the region known as the arc of crisis, had tumbled into chaos, or gone the way of Iran?

When you think about this, you can see why the terrorists believed it so important to silence him.

President Pervez Musharraf's decision to be with us tonight is an act of individual courage, leadership and vision.

Our process that brings him here also began two years ago, resulting from informal talks we held with Pakistani officials and members of the Pakistani-American community. This led to an invitation to visit Pakistan and meet with President Musharraf. In May, I made a quiet trip to Islamabad with the Vice Chairman of our Council on World Jewry, Mr. Phil Baum, and with our very fine Director, David Twersky. Because we were aware of politically sensitive issues involved, we first consulted with senior officials in Washington and Jerusalem.

Several weeks ago, I spoke with President Bush about this initiative in Crawford. President Bush said he saw this as an important opportunity and understood the significance of this step by President Musharraf. President Bush was enthusiastic about the opportunity.

Since its inception, the American Jewish Congress-Council for World Jewry, working with Jewish communities around the world, has sought to build bridges to the Muslim world by pursuing contacts with authoritative, moderate Muslim political and religious figures in America and around the world.

We approach this mission with sobriety and a hard headedness about the Jewish cause, with a realism about current conflicts and impending threats. But we are also driven by the compelling and urgent necessity to reach out and engage leading individuals in the Muslim world who, by meeting us at least halfway, can accelerate the process by which the Muslim world finds its way into a healthy and productive relationship with contemporary life.

Our dialogue with Muslims starts with an understanding that true moderation begins with tolerance among peoples. Christians, Muslims, and Jews come from a shared common heritage, and we are three branches of one tradition and one set of core values.

We recognize the vital role that mass media and education—in both public school systems as well as madrasas—plays in teaching and advocating values of moderation, tolerance and understanding. We need to ensure that tolerance is more accurately reflected in Muslim media and education systems, including in Pakistan.

This must be the last generation educated to be hateful of Jews. Demonization of the Jewish people is a scourge that offends people of all racial and religious backgrounds. It is troubling that anti-Semitism has reemerged in some quarters in Europe just 60 years after the Holocaust. This is sparked by extremism. We all have an obligation to eradicate anti-Semitism from all our societies.

This must be the last generation educated to be hateful of Israel. We reject the Arab boycott against Israel and we support every effort of diplomacy and dialogue in the quest for peace and security.

This must be the last generation educated to believe it is acceptable to denigrate people of other cultures and religions. For our part, Jews must work to prevent Islam from being attacked with impunity. Unfortunately, many Muslims believe attacks against Islam are fomented by us. There exists a conspiracy-theory mindset among many Muslims that seeks to blame the Jews for the ills of the Muslim world. Jewish leaders must be more active and visible to prevent attacks against Islam, and Muslims leaders, in turn, must help dispel unfounded conspiracy theories.

And, finally, this must be the last generation educated to believe that terrorism is a legitimate means to achieve political ends. Acts of terror have no place in civilized societies and terrorists can never be honored as freedom fighters or martyrs.

President Musharraf, you are an important voice in the Muslim world. You can carry this message to places and people that I, that we, cannot.

President Musharraf's appearance with us tonight is a symbolic act of his determination to take the struggle forward. But it is not an isolated one. Following positive reaction in Pakistan to the announcement of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

this meeting, he initiated other important steps toward Israel.

Two weeks ago, on September 1, his Foreign Minister, Khurshid Kasuri, met openly with Israeli Foreign Minister Silvan Shalom.

Pakistan is taking a stand, supporting the struggle of the Palestinian people to have a state of their own, but at the same time, affirming such a state will exist alongside of—and not seek to replace—the Jewish state of Israel. It has said it will now "engage" Israel, a step forward from Pakistan's previous policy. President Musharraf recently praised Prime Minister Sharon as "courageous" for unilaterally disengaging from Gaza. For its part, Israel has agreed to loosen trade restrictions for imports of Pakistani products. On Wednesday, President Musharraf shook hands with Israeli Prime Minister Ariel Sharon—something that would have been impossible even a year ago.

We are proud to be part of this historic drama. But tonight represents only a beginning of what we hope is a long process of dialogue and engagement. Organizations like ours have a continuing role to play, and we invite all of you here tonight to join with us. We would like to explore with President Musharraf opportunities to bring together Pakistani, American and Israeli citizens in a dialogue about our shared futures through a program of on-going exchanges and visits. The more our people interact with each other, the easier it will be for government leaders to act.

Let me share with you some personal information about our special guest. President Musharraf was born in Delhi in 1943. He spent his early years in Turkey, where his father served in the Pakistani Foreign Ministry. Beginning his military career in 1964, he rose through the ranks as a highly decorated soldier and officer, becoming head of the Armed Forces in 1998. The following year he assumed his country's political leadership. He is married and has a son and a daughter.

He is a critical ally and partner of the United States in fighting terrorism. Under his leadership, Pakistan's economy is growing, it is reducing friction with its Indian neighbor, and his country is increasing its presence on the international stage.

I must tell you many people expressed doubt that tonight would happen. The gap is too wide; the differences are too stark, they said. I am reminded of a famous passage from literature that describes the wide chasm which separates western and eastern cultures:

"Oh East is East and West is West and ne'er the twain shall meet."

So it stands, engraved in conventional wisdom, as if decreed by heaven. But its author, Rudyard Kipling, who wrote as an Englishman in the Indian subcontinent—the land that includes modern day Pakistan—did not accept this insight as destiny. Instead, his poem continues:

"But there is neither East nor West,
Border nor breed nor birth,
When two strong men stand face to face
Tho' they come from the ends of the earth."

These elegant words remind us that leadership and character are indispensable to the progress of Man. Mr. President, we thank you for being here with us tonight, and we look forward to hearing your thoughts on how the cause of Enlightened Moderation will be carried forward.

Ladies and gentlemen, it is my very great honor to introduce to you the President of the Islamic Republic of Pakistan, the Honorable Pervez Musharraf.

CONGRATULATING GREEN VALLEY ELEMENTARY SCHOOL AS A NO CHILD LEFT BEHIND BLUE RIBBON SCHOOL

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize Green Valley Elementary School in North Richland Hills, Texas for being named a No Child Left Behind Blue Ribbon School of 2005. Only 31 schools in Texas will receive this award certificate.

The No Child Left Behind Blue Ribbon Schools program recognizes schools that make significant progress in closing the achievement gap or whose students achieve at very high levels. Schools must make adequate yearly progress in reading, language arts and mathematics.

The No Child Left Behind Act is the bipartisan landmark education reform law designed to change the culture of America's schools by closing the achievement gap, offering more flexibility to States, giving parents more information and options and teaching students based on what works. Under the law's strong accountability provisions, States must describe how they will close the achievement gap and make sure all students, including those with disabilities, achieve academically.

I extend my sincere congratulations to Green Valley Elementary School for receiving this award. This school's contribution and services should serve as inspiration to us all.

HONORING JOSEPH GENCO UPON HIS RECEIPT OF THE JOSEPH H. MASON AWARD

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to honor the exemplary community service of Joseph Genco, a resident of Chautauqua County, City of Jamestown, upon receiving the Joseph H. Mason Award.

The award is given annually to a union member who demonstrates strong volunteer service to the community, and is selected by a committee of past winners. Mr. Genco was presented with this honor at the annual United Way Salute to Labor Dinner.

Joseph Genco, who is a Jamestown Police Department sergeant, has been the president of the Jamestown Kendall Club PBA since 2000, and a past secretary of the Chautauqua County Police Organization and Western New York Police Association. Genco also serves on the Board of Directors of Joint Neighborhood Project and was former secretary of PALMA, the Police and Latino Mediation Advisory committee.

Mr. Genco has donated countless hours towards improving his community. He is hard working, and dedicated. His leadership and generosity sets an example for us all. That is why, Mr. Speaker, I rise to honor him today.

THE BURLINGTON LITERARY FESTIVAL HONORS KATHERINE PATERSON

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. SANDERS. Mr. Speaker, Burlington, Vermont, as I know from my years as Mayor, is one of America's most livable cities. One of the primary reasons for its preeminence and livability is the vibrant arts scene in Vermont's largest city and in the surrounding region. Be it music, dance, theater or film, Burlington is and has been alive with creativity. The same is true for writing of all sorts, so we celebrate a notable moment when much of this writing was showcased at the first Burlington Literary Festival. I extend my congratulations on the inaugural Burlington Literary Festival, to its sponsors Burlington City Arts, Burlington Magazine and the Fletcher Free Library, to festival organizer Susan Weiss, and to the many, many writers who participated.

In particular, I want to highlight that the Festival was dedicated to Katherine Paterson of Barre, Vermont. She is, with all due apologies to Grace Paley and the extraordinary writers who attended the conference, the most honored of all contemporary Vermont authors, with not one but two National Book Awards, not one but two Newberry Medals—and the Hans Christian Anderson Medal as well!

When she writes for children, she takes their intellectual, ethical and political capacities with high seriousness. Social issues, international dimensions, and, if I am correct, a revisiting of the Bread and Roses strike in her next book: this is not escapist literature, but instead writing which draws its young readers into the world they live in, even as they encounter the remarkable characters and circumstances that enliven the domain of fiction.

But Katherine Paterson knows that life asks more of us than writing, important as writing surely is. She established the "Read to Live" program to bring books, story-telling and other activities to Venezuelan communities which had been damaged and devastated by massive flooding. That program was so successful in giving children a sense of community and hope that it has been a model for programs in Indonesia for children left homeless by the tsunami, and is serving as a template for programs that will help the children or New Orleans and other cities destroyed by Hurricane Katrina.

We are proud to have Katherine Paterson living and working among us in Vermont, creating with the many other writers in attendance at the Burlington Literary Festival the imaginative fabric of American life. We wish her, and all, the very best as they continue to create in words both the America that is, and the America that can be.

COMMEMORATING SEA OTTER AWARENESS WEEK

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. FARR. Mr. Speaker, I rise today to call attention to Sea Otter Awareness Week, sponsored by Defenders of Wildlife. The support given by Defenders, Friends of the Sea Otter, the Otter Project, and the Ocean Conservancy to recover the Southern Sea Otter has raised public awareness and helped protect this important species under the Marine Mammal Protection Act and the Endangered Species Act.

The study of southern sea otter populations provides much-needed information on ways to improve the health of coastal ecosystems. We already know sea otters play a critical role in maintaining healthy kelp beds along the California coast, an important habitat and nursery ground for some of the depleted West Coast rockfish stocks. Sea otter research has proven to be an effective method of monitoring toxins and diseases in the marine environment, both of which can affect the health of humans and other wildlife. These charismatic animals also bring significant tourism spending to central Californian coastal communities.

Mr. Speaker, it is fitting to hold Sea Otter Awareness Week this week as Congress moves to reauthorize arguably the bedrock of environmental laws, the Endangered Species Act (ESA). The dramatic turnaround realized by the once thought extinct southern sea otter is a result of two critical protection laws—the ESA and the Marine Mammal Protection Act, the southern sea otter population grew from less than 100 otters in the 1930's to the present total of 2,800. Scientists maintain that it will take 3,100 otters to make a population stable enough to even consider removing them from the Endangered Species list. Unfortunately, threats from disease, exposure to environmental pollutants, and entrapment in fisheries gear are threatening the species' continued recovery. As reauthorization of the ESA moves forward this week in the House, I will fight to keep it strong enough to successfully overcome these threats to the Southern Sea Otter.

Many constituents in my District have an interest in, and are affected by, sea otter management. I introduced H.R. 2323, the Southern Sea Otter Recovery and Research Act, and work with my colleagues to secure funding in an effort to support the recovery of the population. The nonprofit environmental groups work with the Monterey Bay Aquarium, researchers, fishermen, and state and Federal agencies to recover the Southern Sea Otter, obtain increased research funds, and remove threats to this keystone species.

Mr. Speaker, I applaud the many accomplishments of the non-profit environmental organizations and other agencies and people who devote a tremendous effort to protect and recover the Southern Sea Otter. This week I join the people of my and other districts honoring Sea Otters and those people working to save them and restore their populations.

RECOGNIZING NICOLE CALAMUNCI FOR HER OUTSTANDING ACADEMIC ACHIEVEMENTS

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to honor the exemplary academic achievements of Nicole Calamunci, a resident of Chautauqua County, city of Jamestown, upon receiving the United States Academy Achievement Award.

Nicole was named a United States National Award winner in English. Fewer than 10 percent of all High School Students across America are given this prestigious honor. Nicole was nominated for this award by her Middle School English teacher.

Along with her academic achievements Nicole demonstrates a variety of other outstanding characteristics. She possesses leadership skills, an interest in multiple subjects, and a strong motivation to improve and learn new things. Nicole is also very enthusiastic, responsible, and has an excellent attitude.

Nicole is the daughter of John and Gioconda Calamunci of Jamestown, and attends Persell Middle School.

Ms. Calamunci is an exemplary and dedicated student, with much to offer. That is why Mr. Speaker, I rise today to honor this young lady.

IN CELEBRATION OF THE 100TH BIRTHDAYS OF LEOPOLDO CASTRO CASTRO AND LUCIA CONTRERAS PEREZ

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise today to commemorate the 100th birthday celebration of Leopoldo Castro Castro and Lucia Contreras Perez, parents of Jesus V. Castro, a former resident of my Congressional District and an exchange student from Peru at Shaker Heights High School from 1965–1966.

Leopoldo Castro was born in Orcotuna, Peru, a small village in the Andes Mountains, on November 15, 1905. Although his parents were farmers without any formal education, Leopoldo managed to finish grade school, and with only that level of education, became a distinguished resident of Orcotuna. Leopoldo wanted to become a lawyer, but his family could not afford his college education, nor were there any colleges in the region. But those hurdles did not hold him back. Leopoldo saved enough money to purchase a law book and taught himself the Peruvian legal code.

At age 20, he was appointed Justice of the Peace of the District of Orcotuna by the State Supreme Court, a position he held for over 50 years. His fair and thoughtful decisions as Justice of the Peace gained him the respect of his entire village.

Achieving what Leopoldo could not for lack of means, his son, Jesus V. Castro, and his grandson, Jorge E. Castro, attended college and law school and became attorneys. Jorge currently serves as Tax and Trade Counsel in my Washington, DC office.

Leopoldo's wife of over 70 years, Lucia Contreras Perez, also of Orcotuna, will turn 100 years of age March 2, 2006. They live happily in Lima, Peru with their children and grandchildren.

Mr. Speaker, next week their hometown of Orcotuna will honor the lives of Lucia and Leopoldo during the annual Saint Francis of Assisi traditional festivities. I wish Lucia and Leopoldo Godspeed as they celebrate their 100th birthday.

A SMALL BUT IMPORTANT STORY FROM VERMONT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. SANDERS. Mr. Speaker, I wish to tell you a story, and in so doing commend a wonderful grassroots project in northern Vermont. It is a small story and a simple one, but it says volumes about the generosity and support of the people of Vermont, and the care that the citizens of our nation as a whole extend to those who are bravely serving in our military forces.

Sharon Waterhouse, of Richford, Vermont decided to sew a Christmas stocking for her son, Josh, who is serving in Iraq with other members of the Vermont National Guard, and stuff it with small Christmas gifts. It immediately occurred to her that she could sew stockings for his whole unit, all 32 of his fellow Vermont National Guard members.

But Ms. Waterhouse didn't stop there. Since she loves to sew, she set a course to make 500 stockings, asking her aunt, Andrea Bowden, to help get donations to stuff them. Michelle Long of the Guard Family Readiness Group pitched in to arrange the shipping. The Richford Legion and CF's Diner chipped in by setting out donation jars to help buy supplies. And others have volunteered to help sew, including students from Enosburg High School, along with their teachers Jessica Leo and Kaye Mehaffey.

Sharon Waterhouse herself is sewing between 300 and 400 stockings, and with the help of other generous hands, she hopes to provide stockings for the entire Vermont Guard contingent—over 1400 soldiers—serving in Iraq.

There are moments when our brave men and women in uniform, facing daily dangers in Iraq which we can scarcely imagine, need to know that their nation understands the sacrifices they are willing to make on the Nation's behalf. What Sharon Waterhouse and the many others working along with her have done is give those soldiers a clear sign that we in America greatly appreciate their dedication and courage.

IN HONOR OF ELLEN MOIR

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. FARR. Mr. Speaker, I rise today to congratulate Ellen Moir for receiving the prestigious Harold W. McGraw Jr. Prize in education.

Ms. Moir is the founder and executive director of the New Teacher Center (NTC) at the University of California, Santa Cruz. The NTC is a unique place where educators and researchers develop programs for new teachers. Evolving from a staff of 5, NTC has grown into an organization of 65 teachers and researchers who continue to turn Moir's mission into a reality. Ms. Moir has brought academic innovation as well as tireless focus to preparing students and teachers for success and it is certainly fitting that Ms. Moir is nationally recognized for her expertise in teacher preparation, induction, and support.

Thus, I would like to salute Ellen Moir for her outstanding contribution to teacher professional development education. She has dedicated her life to improving the education system in this country and without her motivation and expertise, organizations like the NTC would never have been established. Her accomplishments are invaluable and continue to make a difference in the nation today. Mr. Speaker, I am proud today to honor such a compassionate and innovative individual who resides in the 17th district of California.

SALUTE TO GUARDIANS OF FREEDOM

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. BURGESS. Mr. Speaker, I rise today to salute the Guardians of Freedom for their service our great Nation.

Your Guardians of Freedom is a new program that enables unit commanders and Airmen to quickly communicate with people affected by and interested in the mobilization and deployment of military people. Beyond that, it is designed to tell the story of the American Airmen tirelessly fighting the global war on terrorism.

With this program, commanders can contact and request the support of civilian employers, educators, families, members of Congress and local government leaders, and the local media when Guard members, Reservists and active duty troops get called up for Noble Eagle and Enduring Freedom operations in this country and overseas.

These Guardians of Freedom are being honored by Northrop Grumman with a special program, dinner and reception.

It is with great honor that I stand here today to salute the Guardians of Freedom for their help in safeguarding our Nation's freedom. Through their contribution, they not only stand as devoted American citizens, but serve as an inspiration to others.

HONORING ROBERT KOST FOR RECEIVING THE AWARD FOR EMERGENCY COMMUNICATORS

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to honor the heroic actions of Robert Kost, resident of Chautauqua County, city of Jamestown, upon his receiving the 2005 Emergency Communicators Award.

Although this award is only 2 years old it is an exclusive award. Kost was nominated for this honor by Livingston County Sheriff Joe Gerace. Gerace felt that Kost deserved this award for the actions that Kost displayed when he received a 911 call reporting that a 95 year old woman was choking. Kost calmly and readily took action and walked the son and daughter in law of the woman through the Heimlich maneuver. The procedure was successful after the son performed it a second time. Kost then continued to stay on the line with the woman's son and daughter in law until the fire department arrived and could provide further care.

Robert Kost is a brave and heroic man who has saved the lives of many people thanks to his devotion and dedication to his career as a professional dispatcher. Because of these commendable actions taken by Robert Kost, I rise to honor him today.

CELEBRATING THE 100TH ANNIVERSARY OF E.F. BOYD & SON FUNERAL HOMES, INC.

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor the 100th anniversary of E.F. Boyd & Son Funeral Homes, Inc. The Boyd family, which owns 3 funeral homes in the Cleveland area, has been in business since 1905, and is celebrating a century in business.

Elmer F. Boyd, a native of Cleveland, Ohio, originally owned a barber shop but realized the need for a funeral home that catered to African Americans. Boyd then opened the third funeral home in the Cleveland area that served blacks.

In the time before automobiles Boyd would use a city owned streetcar named the Black Mariah to carry bodies and families to burial sites. Boyd would also go to the homes of the deceased to embalm or preserve the bodies, and he would sew the lining into the casket himself before manufacturers lined caskets.

In the late 1930s Boyd's son William joined the business, and later his son William II, and daughters Marina and Marcella took on the duties of their father and grandfather.

Since the passing of Elmer Boyd many other members of the family have kept the business running, including his great-granddaughter, and oldest daughter of William II, Victoria. Victoria is the only female in the family who has both an embalmer and funeral director's license.

Four generations have made possible the successful continuation and expansion of E.F. Boyd & Son Funeral Homes for 100 years.

On behalf of the people of the 11th Congressional District, I wish to commend E.F. Boyd & Son Funeral Homes, Inc. on their 100th anniversary. Their existence is a true testament to family values and dedication, and the continuing legacy of the American dream.

DEDICATION CEREMONY FOR C. DOUGLAS KILLOUGH LEWISVILLE HIGH SCHOOL—NORTH

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate C. Douglas Killough Lewisville High School—North on the dedication ceremony in honor of their new location.

The Lewisville school district has a history of outstanding distinction throughout the State of Texas and continues to pursue educational excellence. As a learning community built on partnership and respect, they prepare each student to become a responsible, productive citizen by providing a wealth of skills, knowledge and experience.

The Lewisville High School—North staff is devoted to creating positive relationships in an atmosphere of safety, discipline and concern. Strong educations, the sense of school pride, an opportunity at a bright future and friendships are just part of what an excellent school provides its students.

With Lewisville—North's commitment to providing a quality education and safe environment, I know they will make the most of the new, top of the line facility. Again, congratulations and enjoy your new location.

HONORING THE LEGACY OF SIMON WIESENTHAL

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to honor the life and work of an incredible soldier for justice, the late Simon Wiesenthal.

For over fifty years, Mr. Wiesenthal sought justice for the six million Jews murdered during the Holocaust. Over his long career he is credited with bringing more than 1,100 war criminals to trial.

Mr. Wiesenthal had been imprisoned in twelve Nazi death camps, and lost 89 relatives in the Holocaust. His pursuit of war criminals was a personal one, but it was a mission of justice, not vengeance. After the American liberation of the Mauthausen death camp in Austria where Wiesenthal was imprisoned— he weighed just 99 pounds when he was freed—he decided to dedicate himself to seeking justice and ensuring that the Holocaust would never be forgotten.

Many have called him the 'conscience' of the Holocaust. In many respects, though, he was the conscience of the world. When governments would not act on their own, he forced them to act. When others forgot or were anxious to forget the victims of the Holocaust, he kept alive the memories of Nazi atrocities and demanded that those responsible be held accountable for their actions.

Mr. Wiesenthal was born near Lvov in present-day Ukraine. He was educated in Prague and Warsaw, and apprenticed in Russia before returning home to open an architectural office. Shortly thereafter, war broke out. The Russians and Germans invaded Lvov and terror ensued.

After the war, Wiesenthal, based in a small apartment, began his quest for justice. He is best known for his efforts that led to the capture of Adolf Eichmann, the former SS leader who presided over the Nazi's extermination program.

Wiesenthal's career brought him many international awards and distinctions. In 1995, he was made an honorary citizen of Vienna. He was a published writer and maintained office hours at the Jewish Documentation Center he founded, even after turning 90.

Mr. Speaker, I pay tribute to, a man of immense courage and dedication. His passing reminds us of the importance of remembering the victims of the Holocaust, demanding that perpetrators of crimes against humanity be held accountable, and combating intolerance wherever it exists.

In these efforts, one man's life truly made a difference.

IN RECOGNITION OF COMMANDER DEIDRE McLAY'S SERVICE AND DEDICATION TO THE UNITED STATES NAVY

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. PORTER. Mr. Speaker, I rise today to recognize the contributions of a great American, Commander Deidre McLay. I honor her today for her service to our nation in the United States Navy.

Commander McLay recently assumed command of the USS *Farragut*, which is the Navy's newest Arleigh Burke class guided-missile destroyer. CDR. McLay is only the sixth woman in naval history to command a destroyer and is the first commanding officer of the USS *Farragut* and its 383 officers and enlisted personnel.

Commander McLay is from Boulder City, Nevada and was commissioned via the Naval Reserve Officer Training Corps (ROTC) program in 1986. She graduated from the University of Colorado with a B.S. in Civil Engineering. While serving in the United States Navy, she has earned a Masters of Science in Operations Research from the Naval Postgraduate School in Monterey, California and a Masters degree in National Security Affairs from the Naval War College in Newport, Rhode Island.

Commander McLay's most recent operational assignment was as Chief Staff Officer, Destroyer Squadron Thirty-One, where she deployed as part of the Abraham Lincoln Battle Group for Operation Iraqi Freedom. During her earlier tour as Executive Officer in USS *Spruance* DD 963 she was deployed for six months to Standing Naval Force Mediterranean, operating with ships of eight NATO nations.

Commander McLay has been awarded the Meritorious Service Medal, the Navy and Marine Corps Achievement Medal, the Navy and Marine Corps Commendation Medal, and various service and campaign awards.

Mr. Speaker, it is with great pride and heartfelt gratitude that I salute Commander McLay for her service and dedication to our great nation.

CONGRATULATIONS TO HASSAN MAKLED ON HIS RETIREMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. DINGELL. Mr. Speaker, I rise today to honor the service of Mr. Hassan Makled, who after over 30 years of helping ensure our Presidents' safety, is retiring from the Detroit Metropolitan Airport.

Mr. Makled began his service in 1974, as an Airport Police Officer for Detroit Metro Airport. Mr. Makled was promoted to Airport Police Dispatcher in 1980; from this position he developed both policy and procedure for the department. From 1982 to 1986, Mr. Makled served as Operations Supervisor, escorting Presidential limousines on and off the airport grounds and performing the explosive ordinance device checks on the runways for Presidential visits.

From 1986 to 1987 Mr. Makled served as Department Manager II and was promoted to Department Manager V in 1987. He held this position until 1997, during which time he served as the administrative focal point for Presidential visits, assisting in all aspects of their safety and efficiency.

Finally, Mr. Makled served as Deputy Director of Airfield Operations until 2002, when he was promoted to Director. In this position Mr. Makled developed policy and procedures for Airfield Operations. Mr. Makled has had the distinction of helping ensure the safety of six different Presidents; I honor his service as it has been both dignified and meaningful to our country.

Mr. Speaker, I invite all my colleagues to join me in congratulating Mr. Makled on his retirement and wishing him the best in this new chapter of his life.

IN RECOGNITION OF CATHOLICOS ARAM I PONTIFICAL VISIT TO CALIFORNIA

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. SCHIFF. Mr. Speaker, I am honored to join my Armenian American constituents in California's 29th Congressional District in welcoming the upcoming Pontifical visit of His Holiness Aram I, Catholicos of the Great House of Cilicia. His Holiness will be visiting the State of California this October at the invitation of His Eminence, Archbishop Moushegh Mardirossian of the Western Prelacy of the Armenian Apostolic Church of America.

His Holiness Aram I, Catholicos of the Great House of Cilicia, is the spiritual leader for hundreds of thousands of Armenians around the world and one of the most prominent Christian leaders in the Middle East. The Pontiff presently serves as the Moderator for the World Council of Churches (WCC). This prominent ecumenical organization is comprised of more than 340 churches from different cultures and nations around the world representing over 400 million Christians. The Pontiff, who is the first Orthodox and the youngest person to be elevated to this post, is currently serving his second term as Moderator.

The main theme of the Pontiff's visit is "Towards the Light of Knowledge." This theme reflects the Pontiff's deep faith that only with greater education and dialogue can the world's conflicts be properly addressed.

The Catholicos's visit will be marked by a number of major events, including a speech he will deliver on October 14th at the Los Angeles World Affairs Council concerning the challenges to inter-religious dialogue in the Middle East. He will also participate by giving the main address at a symposium to be held at the University of Southern California focusing on "Christian Responses to Violence."

Of special significance to the 29th Congressional District, the Catholicos will be consecrating the Saint Sarkis Armenian Apostolic Church in Pasadena and blessing a new headquarters for the Western Prelacy.

I ask all Members to join with me and the Armenian American community throughout the State of California in welcoming the upcoming Pontifical visit of His Holiness Aram I, Catholicos of the Great House of Cilicia.

CONGRATULATING THE NESTLÉ VERY BEST IN YOUTH AWARD WINNER

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Micaela Watkins, an award winner in the Nestlé Very Best in Youth program. Twenty four recipients, from 13 different States, were selected from over 600 applicants.

This award recognizes exceptional young people, ages 10–18, who have demonstrated a commitment to reading and academic excellence as well as made tangible contributions to the quality of life for their communities. Winners received $1,000 from Nestlé USA to donate to a nonprofit organization of their choice and an all-expense paid, 5-day trip to Los Angeles for an awards ceremony held this past July.

Micaela is a 17-year-old honor student from Fort Worth, TX. She is involved in numerous activities at school, and around the community. Her future plans include receiving an undergraduate degree in political science and a law degree. Further down the road, she would like to establish a law firm that provides legal counsel to those who normally couldn't afford it.

I extend my sincere congratulations to Micaela Watkins for receiving this award. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

RECOGNIZING PATSY D'AMBROSIO

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge Mr. Patsy D'Ambrosio of Spring Hill, FL, a Purple Heart recipient from World War II.

Born in Italy, Mr. D'Ambrosio moved to New York when he was 3 years old. Inducted into the Army on December 26, 1942, Mr. D'Ambrosio served during World War II as part of Company A of the 747th Tank Battalion in the European Theater. Following completion of his service, he received an honorable discharge from the Army on May 26, 1945.

As part of the successful D–Day attack on Omaha Beach, Mr. D'Ambrosio was injured storming the French hedgerows, which were heavily defended by German tanks. While attacking the German fortifications, Mr. D'Ambrosio's tank was struck by two 88 mm shells. Severely wounded and suffering from shrapnel wounds and burns over much of his body, Mr. D'Ambrosio was pulled to safety by his assistant tank driver.

Following his retirement as an optician, Mr. D'Ambrosio and his family moved to Florida to retire and to help his son start a family automotive business. Today, Amber Automotive has been operating in Brooksville for 25 years.

Mr. Speaker, true American heroes like Patsy D'Ambrosio should be honored for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. D'Ambrosio with his long-overdue Purple Heart. He is truly one of America's greatest generation.

THE JUSTICE FOR PEACE OFFICERS ACT OF 2005

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. DREIER. Mr. Speaker, on April 29, 2002, Los Angeles County Sheriff's Deputy David March was brutally slain execution-style during a routine traffic stop. Suspect Armando Garcia fled to Mexico within hours of Deputy March's death and has eluded prosecution by U.S. authorities.

Tragically, Mexico's refusal to extradite individuals who may face the death penalty or life imprisonment has complicated efforts to bring Armando Garcia back to the U.S. to face prosecution for his crimes. Over the last 3 years, I have fought to see Armando Garcia and other fugitives accused in killings brought back to the U.S. I have met with officials from the Department of Justice and the State Department. I have written repeatedly, joined by other members of Congress, to President Bush and to Secretaries of State Colin Powell and Condoleezza Rice, calling for aggressive action to change Mexico's extradition policy. I have even met with high officials of the Mexican government in an effort to impress upon our neighbor the intolerable nature of its extradition policy. However, 3 years later, Armando Garcia and thousands of other fugitives still roam free.

I will continue to work with the administration to bring Deputy March's murderer to justice. I will also continue our fight to persuade Mexico to change its policy. But until that is achieved, I believe that the Congress has a duty to act as well.

It was at the urging of Los Angeles County Sheriff Lee Baca that my friend from Pasadena, Mr. SCHIFF, and I introduced H.R. 2363, the Peace Officer Justice Act, to make it a Federal crime to kill a peace officer and flee the country to avoid prosecution. This bill ensures that criminals who murder law enforcement officials and escape to another country will have the full weight of the Federal Government on their trail.

Currently under Federal law, it is a crime to kill a Federal peace officer or state/local officers if they are engaged in a Federal investigation. We believe there is no reason that a heinous crime, such as the one in Deputy March's case, should not also be a Federal crime with the same penalties as the murder of a Federal officer.

The punishment for fleeing prosecution under existing law is no more than 5 years or merely a fine. I believe that a fine or 5 years imprisonment for the cold-blooded murder of a law enforcement officer is tantamount to no justice at all. The Peace Officer Justice Act makes such an act punishable by the Federal murder statute, which includes the death penalty or life in prison. This legislation is supported by the Fraternal Order of Police and the National Sheriffs Association.

However, Los Angeles County District Attorney Steve Cooley has decided to strongly oppose the bill citing several concerns with its provisions. Specifically, Mr. Cooley believes that making such a crime a violation of Federal law would provide "exclusive jurisdiction" for the Federal Government to pursue a cop-killer who flees the country. In response, I made clear that this bill provides concurrent jurisdiction for the Federal Government to prosecute; not the authority to supersede jurisdiction of states or localities. Therefore, either the Federal Government or the State/local prosecutor could pursue the case. In fact, if the State has already pursued its own prosecution of such a crime, that would not prohibit the Federal Government from pursuing a subsequent prosecution under this bill. For example, in United States v. Lanza, 260 U.S. 377, 382 (1922), the U.S. Supreme Court upheld the conviction in Federal court of a person previously convicted in State court for performing the same act. The Court stated "We have here two sovereigns deriving power from different sources, capable of dealing with the same subject-matter within the same territory. Each government in determining what shall be an offense against its peace and dignity is exercising its own sovereignty, not that of the other." This "dual sovereignty doctrine" has also been used to uphold successive prosecutions by two States for the same conduct. See e.g. Heath v. Alabama, 474 U.S. 82 (1985) (permitting a defendant who crossed a State line in the course of a kidnap/murder to be prosecuted for murder in both States). However, Mr. Cooley strongly disagrees with U.S. Supreme Court precedent.

Mr. Cooley also cites California Penal Code 793, which prohibits the prosecution of any crime that has already been tried in the U.S. or other State. He argues that California would not be able to prosecute cop-killers who flee the country due to the State law and the Federal Government's "exclusive jurisdiction" of such cases.

Mr. Cooley also argues that if Federal prosecutors, using their "exclusive jurisdiction" of such crimes, decide to forego the death penalty or life imprisonment to extradite a suspect back from Mexico to the U.S., that any term of years set by the Federal Government would be less than any term that California prosecutors would seek for punishment. Specifically, he cites that under California law, second degree murder of a law enforcement officer, without special circumstances, is punishable by minimum of 25 years to life with the possibility of parole, while second degree murder under the Federal murder statute is "any term of years or life." In addition, Mr. Cooley cites that local prosecutors are more experienced at prosecuting murder cases and are better at the job than Federal prosecutors.

Finally, Mr. Cooley cites the "Rule of Speciality" in the U.S.-Mexico Extradition Treaty, which states that individuals extradited from one country to another can only be prosecuted under the charges included in the extradition request. Therefore, he argues that since H.R. 2363 provides "exclusive jurisdiction" to the Federal Government in such cases, that California will be barred from prosecuting a cop-killer who flees the country.

Although I strongly disagree with Mr. Cooley's interpretation of "exclusive jurisdiction," I have reached out to him and local law enforcement officers for suggestions on how to improve the bill. Based on their feedback, I, along with Mr. SCHIFF, am introducing the Justice for Peace Officers Act to build on the provisions of H.R. 2363 by enhancing the punishment for cop-killers and those who aid them, providing priority to State/local prosecutors in such cases, making clear that the bill does not supersede State/local jurisdiction and urging the renegotiation of the U.S.Mexico Extradition Treaty to resolve the death penalty/life imprisonment roadblock.

The Justice for Peace Officers Act, like the Peace Officer Justice Act, makes it a Federal crime to kill a peace officer and flee the country. And like H.R. 2363, the Justice for Peace Officers Act makes the crime for first degree murder punishable by the death penalty or life imprisonment. The Justice for Peace Officers Act goes a step further by making murder in the second degree punishable by a mandatory minimum of 30 years in prison or life imprisonment. Under the current "federal murder statute" (18 U.S.C. 1111), the punishment for second degree murder is any term of years or life imprisonment. This change ensures that persons guilty of killing a peace officer under second degree murder and fleeing the country will face a significant minimum number of years under lock and key.

The Justice for Peace Officers Act also raises the penalty for those who help cowardly cop-killers flee the country to avoid prosecution. Under the current "accessory after the fact" federal statute (18 U.S.C. 3), the punishment for helping suspects, facing the death penalty or life imprisonment, to avoid capture is a maximum of 15 years in prison. The Justice for Peace Officers Act ensures that such aiders and abettors would serve a mandatory minimum sentence of 15 years behind bars.

Let me be clear that it will always be my preference for State and local prosecutors to go after cop killers—police keep our local communities safe and local prosecutors should have primary jurisdiction over these cases. That is why I included language in the Justice for Peace Officers Act to give priority to State/local prosecutors to pursue a suspect of killing a peace officer and fleeing the country. Specifically, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General, in consultation with the appropriate State/local prosecutors, must provide formal approval in writing to pursue such a case. This gives State/local and Federal officials the opportunity to confer on the best course of action, and gives preference to State/local officials since no action can be taken on the Federal level without the additional step of obtaining formal written permission. This language is based on a provision in the current "flight to avoid prosecution" Federal statute (18 U.S.C. 1073). Also, the Justice for Peace Officers Act includes language making clear that nothing in the bill would supersede the authority of State/local prosecutors.

In addition, the penalty under the Justice for Peace Officers Act would be a consecutive sentence to any other State or Federal punishment. Since State/local authorities have first priority to prosecute and sentence such a suspect, the provision would ensure that any punishment on the local/State level would be enhanced by an additional Federal sentence.

Finally, we firmly believe that the Bush Administration should use all tools available to bring about a change in Mexico's policy regarding the extradition of nationals that will allow these brutal killers to face justice in the U.S. That is why we included a provision in the Justice for Peace Officers Act directing the Secretary of State to enter into formal discussions with the Mexican government on the U.S.-Mexico Extradition Treaty. The provision also directs the Secretary of State to urge the Mexican Government to use all available actions to persuade the Mexican Supreme Court to reconsider its October 2001 ruling so that the possibility of life imprisonment will not have an effect on the timely extradition of criminal suspects from Mexico to the U.S.

Mr. Speaker, I hope that the Justice for Peace Officers Act will signal to Mexico and any other country that refuses to extradite a fugitive cop-killer that the Congress of the United States considers this a crime against America and will bring the full resources of the Federal Government to bear to seek justice. I urge all of my colleagues to co-sponsor the Justice for Peace Officers Act.

VALLEJO FIGHTING BACK PARTNERSHIP CELEBRATES FIFTEENTH ANNIVERSARY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in congratulating Fighting Back Partnership of Vallejo, CA, as it celebrates its 15th anniversary.

The relationship between a city and its residents is a vital and interdependent one, deriving its strength from the quantity and quality of civic involvement and public spirit generated by such organizations as Vallejo Fighting Back Partnership.

Concerned citizens and members of the Vallejo City Council expressed alarm at the increasing use of drugs and alcohol during the late 1980's and formed a Red Ribbon Committee to address this problem and to explore programs and services that could potentially result in a meaningful reduction of substance abuse and related crimes and violence. The city of Vallejo successfully applied for a grant from the Robert Wood Johnson Foundation to unite the community to comprehensively address substance abuse as one of 15 Fighting Back Partnerships nationwide.

Vallejo Fighting Back Partnership, an independent non-profit coalition, developed a continuum of care approach including education, prevention, treatment, and after-care services. The Partnership, in an effort to adhere to its mission, has organized more than 50 partners and thousands of residents including support from city, county, State and Federal agencies, private non-profits, corporate and foundation donors, who emanate from an array of diverse backgrounds including law enforcement, health care, social services, government, public education, treatment facilities, neighborhood organizations, business, criminal justice, and faith-based groups.

The Partnership began to make noticeable and measurable reductions in substance abuse related crimes, primarily on the strength of renewed funding from the Johnson Foundation in 1995 and a more focused strategic plan that endeavored to create positive outcomes in three key areas:

Neighborhoods, Treatment, and Youth and Families. Local data obtained between 1995 and 2000 validated the successful outcomes of Fighting Back's mission of reducing substance abuse and related mayhem in the community, enabling the Partnership to be chosen as 2001 Outstanding Coalition by the Community Anti-Drug Coalitions of America, CADCA, which was presented to Fighting Back Partnership of Vallejo on December 14, 2001, in Washington, DC.

After 12 years of funding from the Johnson Foundation ended in 2002, totaling over $6 million, Fighting Back Partnership continues to be a dynamic coalition working to reduce substance abuse through innovative and successful programs thanks to its dedicated staff and board of directors. Today, Fighting Back provides counseling and services to families through its three Family Resource Centers, employs science-based educational programs in cooperation with the Vallejo School District, develops leadership skills in young people through its Youth Partnership, and unites residents to improve deteriorating neighborhoods through its Neighborhood Revitalization Program.

I know I speak for all Members of Congress when I congratulate Fighting Back Partnership for its 15-year commitment to decreasing substance abuse and related crimes thereby improving the quality of life for all Vallejoans, and wish its board of directors, staff, and community partners many more years of success.

INTRODUCING A BI-PARTISAN RESOLUTION IN SUPPORT OF AN ALZHEIMER'S SEMI-POSTAL STAMP

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. MARKEY. Mr. Speaker, today I rise to introduce a resolution urging the United States Postal Service to act on a pending petition for an Alzheimer's Semi-Postal Stamp. I am joined by Co-chair of the Congressional Alzheimer's Taskforce, Representative CHRISTOPHER SMITH, Democratic Leader NANCY PELOSI and Representative JOHN BOOZMAN in a bi-partisan effort to raise funds for Alzheimer's research through the issuance of a semi-postal stamp.

The petition of support for the issuance of an Alzheimer's semi-postal has been pending at the United States Post Office for over 4 years. It is long overdue that we honor this petition and allow Alzheimer's the opportunity it deserves to benefit from this public awareness and fundraising campaign.

The race to find a cure for Alzheimer's disease is now more urgent than ever. Four and a half million Americans, including one in 10 people over age 65 and nearly half of those over 85, have Alzheimer's disease. Unless science finds a way to prevent or cure this terrible illness, as the baby boomers continue to age, nearly 16 million Americans will have Alzheimer's disease by the year 2050.

Mr. Speaker, we need to help and give hope to those who are fighting the moment to moment physical, mental and behavioral battles of Alzheimer's every day. We need to help and give hope to the behind the scenes heroes—the family care-givers who selflessly offer their love and care. And we need to help and give hope to the researchers working hard to find a cure. Working together we can do more—and we must. We must do everything we can to ensure that one day Alzheimer's is a disease of the past and issuing a semi-postal stamp can help do just that.

The best way to fight Alzheimer's disease and reduce the number of patients who suffer is to find ways to prevent it before it starts. Investments we make now mean longer, healthier lives for all of us. If we can delay the onset of Alzheimer's disease by even 5 years, it would save this country billions of dollars—and would improve the lives of millions of families. We can act now to strengthen our commitment to prevent Alzheimer's and to finding a cure for this devastating disease.

Semi-postal stamps are special stamps which were authorized by Congress as a tool for the United States Postal Service to not only raise funds but awareness of worthy causes. An Alzheimer's stamp would allow the public to directly contribute to research funds by charging a higher price than normal postage for the stamp and allocating most of the proceeds to research on this insidious and debilitating disease. We simply cannot afford to wait another minute, or another four years until we give Alzheimer's the attention and opportunity it deserves. I hope that the Postal Service will act and help to make a difference in the future by allowing us to contribute to Alzheimer's research through a semi-postal stamp today.

TRIBUTE TO ELMER STOCKER

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. PENCE. Mr. Speaker, I rise today to ask that the members of the House of Representatives allow me to bring to their attention the good works of a man who has long been active in the rural electrification program in Indiana and who is now approaching his well-deserved opportunity to retire from the field. While his retirement will leave a large void of experience, activity and judgment for rural electrics in Indiana, and for his community in Indiana, which will not be easy to replace, today's comments are meant to remind us all of the many people around our nation whose unceasing efforts contribute to the betterment of our quality of life.

Mr. Elmer Stocker, currently the CEO of the Indiana Statewide Association of Rural Electric Cooperatives, Inc., will retire on December 31, 2005. He will end nearly 40 years of service in the electric industry. During that time Mr. Stocker has worked his way up through the ranks from entry-level position to industry leader. He began service with Whitley County REMC in 1966 in the dispatch and work order department of the cooperative. Over the years he also worked in the accounting, member services and marketing departments, developing a hands-on appreciation of all aspects of the electric utility business, and working with customers on their needs and expectations. In 1975 he became Assistant Manager, and in 1976 he began working as executive vice president/general manager of Whitley County REMC. During that time he not only ran the daily operations of his cooperative, but used his talents as a leader to serve as president of the REMC Managers Association in Indiana and as president of the Board of Directors of Wabash Valley Power Association, the generation and transmission cooperative that provides wholesale power to cooperatives throughout central and northern Indiana.

In 1986 Mr. Stocker left Whitley County REMC to work for 11 years at Wabash Valley power, where he was vice president of member and corporate relations and vice president of marketing. During that time he also moved onto the regional stage, serving a term as vice president of the Great Lakes Electric Consumers Association.

In 1997 the board of directors of Indiana Statewide, recognizing Mr. Stocker's knowledge of the program and respect among his peers at a time when the electric industry was facing tumultuous change, asked Mr. Stocker to serve as CEO of the trade group. He took up that leadership role from 1997 until this day.

This impressive record of professional achievement is only a part of Mr. Stocker's role in the American community however. During this time of advancement in his employment, Mr. Stocker also engaged in numerous personal and civic activities that are even better representative of the qualities that are at the foundation of American communities. For example, Mr. Stocker pursued post-secondary education while holding a full time job, and received his bachelor degree from Indiana University in 1975. He served in the Army National Guard from 1964 to 1970.

As a community leader, Mr. Stocker took on the role of Whitley County United Way Drive Chairman. He joined and rose through the ranks of the Masons and Scottish rite. He served as an officer of the Aboite Township Community Association and as president of the Times Corner Little League. He was a long time active member and volunteer in the Columbia City United Methodist Church, and was a member of the board for the Carmel Dad's Club. Among all these roles, he fit in time to join the Indianapolis Airport Rotary Club as well.

As a family man, a community volunteer, and a professional member of the electric utility industry in Indiana, Elmer Stocker has exemplified the best values of American life for many years now. I wanted to share with the members today that this good man will soon enjoy the satisfaction of reaping the rewards of his long service through a well-deserved retirement, in which I am sure he will continue to volunteer good works. Thank you for indulging me in this time today, and especially thank you to Elmer Stocker for all he has given to our proud State of Indiana.

TRIBUTE TO THE REVEREND JAMES WILLIAM BESSERT

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to the Reverend James William Bessert as he celebrates the 25th anniversary of his ordination as a Roman Catholic priest.

As many do, I know him simply as Father Jim. I am proud to call him a friend and join with so many others in offering our congratulations to Father Jim, a servant of God who has truly dedicated himself to walking the path of Christ.

In his 25 years as a priest, Father Jim has shared the Good News and his gift of music since his first ordained assignment as associate pastor of St. Maria Goretti Parish in Bay City to his present calling as pastor at St. Brigid of Kildare Parish in Midland, Michigan. I am especially privileged as a graduate of St. Brigid School and native son of the parish to acknowledge Father Jim's positive impact on the church and the school communities.

At a time when some parishes and schools face the heart-wrenching challenge of decreased membership and enrollment, St. Brigid is experiencing a rebirth on both accounts. The pews are filled with families and the sanctuary resounds with worshipful song. Since he arrived at St. Brigid in 1999, Father Jim's vision and example have proven a reason for this blessing in downtown Midland. With a shepherd's care, he walks with the flock of St. Brigid in learning and loving the way of Christ.

As the members of the community of believers, we offer our prayers and congratulations to Father Jim on his silver anniversary as a priest and wish him many more years of inspired and inspiring leadership. We pray that the sustaining strength of the Spirit continues to guide him.

On behalf of Michigan's Fourth Congressional District, may God continue to lead Father Jim to do His will.

IN HONOR OF SERGEANT MICHAEL EGAN, UNITED STATES ARMY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to Army Sergeant Michael Egan, who made the ultimate sacrifice in the service of his country on September 19, 2005 at the age of 36. While on patrol near Ramadi, Sergeant Egan's convoy came under ambush when an improvised explosive device exploded near his vehicle, claiming the lives of Egan and three comrades.

Following a distinguished career with the United States Marine Corps, including service in Operation Desert Storm, Michael Egan retired and returned to civilian life in 1999. He accepted a job with Reliance Electric in the Philadelphia area, where he was known for his tireless work ethic, eagerness to learn, and outgoing personality. In 2003, Michael made the decision to once again serve his country, joining the United States Army as a member of the Pennsylvania National Guard.

Michael leaves behind a loving wife, Maria, and a three-year-old daughter, Samantha. A dedicated family man, he recently relocated his family to Delaware in the interests of his daughter's education.

In closing Mr. Speaker, Michael Egan will be deeply missed by all who knew him. For Michael's heroic service and valiant sacrifice, our country will forever be indebted to him and his family. I join the countless voices in thanking him for his selfless contributions to our Nation.

IN RECOGNITION OF THE ACHIEVEMENTS OF THE DANNY FOUNDATION

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to recognize the achievements of The Danny Foundation, a non-profit foundation established in 1986 with the mission of providing leadership in keeping babies safe from preventable injuries and deaths associated with unsafe cribs, dangerous children's products, and unsafe sleep environments.

The Danny Foundation's tenacity has been unrelenting, and the accolades the Foundation has received have been unprecedented and well-deserved. The Danny Foundation, often acting alone, prompted and pushed for the establishment of virtually all current government crib manufacturing standards has conducted an untold number of programs and efforts to warn and educate the public about unsafe cribs.

Over the past 19 years, the Foundation has significantly reduced the number of infant injuries and deaths by 84 percent, and can proudly proclaim that the majority of today's new cribs are both safe and reliable.

None of The Danny Foundation's work could have been accomplished without John and Rose Lineweaver. John and Rose, the founders of The Danny Foundation, have dedicated their lives to preventing other families from suffering a needless tragedy similar to the crib accident that eventually took their son Danny's life. Their passion for the well-being of infants across our country is extraordinary and worthy of significant praise and thanks.

It is in that spirit that I ask all my colleagues in the United States House of Representatives to join me in honoring the accomplishments of The Danny Foundation and the passion of its founders, John and Rose Lineweaver.

HONORING DR. MILDRED L. ALDRIDGE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. KILDEE. Mr. Speaker, I rise before you today with a heavy heart, as I ask my colleagues in the 109th Congress to join me in honoring the life and accomplishments of a remarkable woman, Dr. Mildred L. Aldridge. Dr. Aldridge passed away on Thursday, September 22. I am deeply saddened by this loss, for Mildred and the Aldridge family have been inspirations to many throughout the city of Flint, as well as the county, State and Nation.

It is difficult to imagine my hometown of Flint, MI, without Dr. Mildred Aldridge's influence. Married for 54 years to the late Reverend Dr. Avery Aldridge, she stood at her husband's side, helping found Foss Avenue Baptist Church on December 2, 1956. In addition to her many duties and responsibilities at the church, Mildred served as instructor of the Adult Ladies' Fellowship Class, which in the past 23 years grew from 5 participants to 125. Under her leadership, the class sponsors an Annual Autumn Tea and Music Recital, a drive to collect eyeglasses for needy people in the Caribbean and South Africa, and medical supplies for various missions in Africa. Mildred also operated as coordinator for the Youth and Young Adult retreats, and the New Year's Eve retreat.

Professionally, Mildred was a graduate of the University of Michigan and Eastern Michigan University. She received advanced training in administration and curriculum from Michigan State University and received honorary doctorates from Arkansas Baptist College and Selma University. She worked as an elementary school teacher, middle school guidance counselor, and was the principal of Doyle Rider Community School. Later she became director of Eagle's Nest Child Care & Development Center as well as administrative assistant and coordinator for Foss Avenue Baptist Church Enterprises. Mildred was a proud member of the NAACP, Urban League, C.S. Mott Community College Foundation Advisory Board, Visually Impaired Center of Flint Board, Flint Congress of School Administrators, and National Association of Elementary School Principals.

Dr. Aldridge leaves to cherish and carry on her legacy her son, Rev. Derek Aldridge, daughter Karen Aldridge-Eason, and 10 grandchildren.

Mr. Speaker, I ask the House of Representatives to join me in offering condolences to the family of Dr. Mildred Aldridge, and in thanking them for sharing her with our community. The greatest tribute we can render to her is to emulate her love, her dedication, her humility, and her Christ-centered strength.

CELEBRATING THE 90TH BIRTHDAY OF PEARL SCHENKLER. AN EXEMPLARY CITIZEN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. ACKERMAN. Mr. Speaker, I rise today to honor Pearl Schenkler, a rare and special woman on the occasion of her 90th birthday.

Pearl was born in 1915 in New York City to immigrant parents. The second of four daughters in a family that truly lived the American dream, Pearl learned from the example of her parents. Her father, a steelworker, and her mother, a homemaker, unique in their commitment to education, insisted on sending each of their four daughters to college. Inspired by her two younger sisters, Pearl graduated college and became a teacher in the New York Public School System. Pearl spent the first part of her career teaching the second grade in P.S. 221 in Harlem and finished her remarkable career of service not far from my childhood home at P.S. 154 in Queens.

Her commitment to teaching and molding her students was second only to her efforts in raising a strong family. Pearl and her husband Max were married for more than 50 years. He, too, was an educator and together they taught and learned. Their two children, my friends Carole Jacobson and Michael Schenkler, are illustrations of how the important values that weave the fabric of our city have been nurtured by children of immigrant parents and shared with the next generation. Pearl Schenkler gave her children the same meaningful start her parents gave to her.

Carole and Michael and their many cousins, all of whom I have the pleasure of knowing, are part of the wonderful story of our great country. Pearl Schenkler, her parents, her husband, her sisters and brothers-in-law helped to build my home borough of Queens into a beacon of learning and understanding. In 1954, Pearl and Max moved their family from the Bronx to Kew Gardens Hills. Soon, Pearl's parents and eventually all her siblings called that neighborhood their home. The borough of Queens, New York was the beneficiary of the talent, knowledge and kindness the family shared with their neighbors and the greater community.

In one of the great tradition of those before them, Pearl and Max, like so many other New Yorkers, eventually retired to Florida, where Pearl quickly took to working for others and joined the Boca Chapter of B'nai B'rith Women. She became the editor of the Boca Raton Clarion, the organization's newspaper, winning nationwide awards for the best publication from some four hundred chapters of B'nai B'rith. Pearl began spending countless hours helping local children who were sick or in need, as well as helping to fund the construction of a hospital in Israel. She then moved on to become President and led the Boca Raton Chapter for a number of years. Even with all of these selfless responsibilities, Pearl and Max still made time for family. They visited New York often and their kids and grandkids were frequent guests in Boca. During his later years, Pearl spent much of her time caring for Max, her life companion who passed away after a wonderful and fulfilling life at the age of 93.

Mr. Speaker, as Pearl looks back and treasures her memories of 90 wonderful years, she will continue to be flanked by family. On October 8, 2005, her 90th birthday, her children and grandchildren will be with her in Florida to celebrate this momentous occasion.

Mr. Speaker, I ask my colleagues in the House of Representatives to please rise and join me in congratulating my friend Pearl Schenkler and sending her our very best wishes for a very happy 90th birthday.

SPEECH OF PAKISTANI PRESIDENT PERVEZ MUSHARRAF TO THE AMERICAN JEWISH CONGRESS COUNCIL FOR WORLD JEWRY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. LANTOS. Mr. Speaker, just a few days ago, it was my great honor and pleasure to share the dais with President Pervez Musharraf, who is, quite literally, the "Indispensable Man" in Pakistan's politics today—and who promises to be one of the most significant and pivotal figures in Pakistan's history.

In a remarkable demonstration of vision and daring—and at considerable personal and political risk—the Pakistani President addressed the American Jewish Congress and the Council for World Jewry at a dinner in New York City. On that occasion, Mr. Speaker, he emphasized the commonalities among Islam, Judaism, and Christianity, and stressed the importance of working cooperatively to defeat terrorism. He expressed his positive appraisal of Prime Minister Sharon's decision to withdraw Israeli forces from Gaza, and urged cooperation between Israeli and Palestinian leaders with the hope that both sides will "shun confrontation and pursue peace and reconciliation."

Mr. Speaker, the Pakistani President took a very positive step in this direction earlier this month with his support for the unprecedented meeting between the Israeli and Pakistani foreign ministers in Istanbul—an event that we all hope will usher in a new era of cooperation and friendship between these two countries that are of vital importance to the United States. In light of Pakistan's weight and influence in the Islamic world, we also hope and expect that it will be a step toward a process of mutual recognition between Israel and all the Muslim-majority nations of the world. By demonstrating to Israel that its own courageous peace initiatives are both appreciated and reciprocated, President Musharraf has made a most important contribution toward the Middle East peace, for which every person of good will prays.

President Musharraf is a man of vision. When we met in Washington three years ago, I urged him to follow the example of the great modernizer Mustafa Kemal Ataturk, the founder of the modern, secular Republic of Turkey, a nation with which President Musharraf is intimately familiar. He has, in fact, blazed a trail that I believe Ataturk himself would admire. At a time when the civilized world is engaged in a global war against Islamic terrorism, President Musharraf has emerged as the quintessential Muslim leader of moderation, decency, reason, and acceptance of pluralism.

Also, Mr. Speaker, President Musharraf's pragmatic and constructive attitude toward resolving Pakistan's differences with India has brought with it the promise of finally bringing an end to more than half a century of animosity.

He has transformed Pakistan into a tried-and-true ally in the war against terrorism, despite two al-Qaeda attempts against his life. He is a beacon to other Muslim states as the model of a moderate and enlightened Islamic leader.

Mr. Speaker, in New York, I told President Musharraf that we in Congress, on both sides of the aisle, deeply appreciate his courage and his role in creating a new Pakistan and a deeper U.S.-Pakistan friendship.

I also want my colleagues in the Congress to have the opportunity to read the excellent address the Pakistani President gave in New York at the American Jewish Congress and the Council for World Jewry. I ask that it be placed in the RECORD, Mr. Speaker, and I urge my colleagues to give it thoughtful attention.

ADDRESS TO THE AMERICAN JEWISH CONGRESS

Honorable Mr. Jack Rosen, Excellencies, Distinguished guests.

Let me start by expressing my personal and my nation's grief and condolences over the devastation, loss of lives and human suffering caused by Hurricane Katrina in the south eastern states especially New Orleans.

I thank Mr. Jack Rosen for inviting this distinguished gathering under the auspices of the American Jewish Congress. This is a unique occasion. It signifies an endeavor for mutual understanding in a time of uncertainty and fear. The unfortunate events of recent history have created division and tension between the followers of the three great monotheistic faiths—Islam, Christianity and Judaism. Your invitation card described this event as a historic occasion. For a leader of Pakistan, it is indeed so, and I feel privileged to be speaking to so many members of what is probably the most distinguished and influential community in the United States. I also deeply appreciate that in arranging this event, the American Jewish Congress has invited members of other prominent organizations and associations representing the spectrum of American society.

I always speak my mind candidly. And I always do so with total sincerity. This is what I will do this evening. There is no longer any time for ambivalence or leisurely diplomacy.

The world has entered an era where a number of threats—terrorism, political conflicts, proliferation, poverty—have assumed global and catastrophic dimensions. They have to be resolved urgently and with finality. They cannot be merely managed in the hope that they can be resolved later. We can no longer leave these wounds festering. They pose a great danger to the world at large and our future generations.

Our world today has been transformed, by the revolutions in communications and information technology, into a global village. People move, interact and affect each other. The good or bad in one region transcend geopolitical boundaries and have a global impact. The homily: "the common heritage of mankind" is now a visible reality. We are jointly responsible for the well-being, progress and prosperity of our peoples—indeed of mankind at large. Each people, nation, and religion must live with each other, accommodate each other, and do no harm to each other. Today, truly, we are our "brother's keeper". This is a heavy responsibility—given that our world has great wealth, but also grave poverty; great achievements, but also grave injustice; unprecedented capacity for progress and prosperity, but also the awesome capability to destroy our planet.

Ladies and Gentlemen, the major monotheistic religions of the world—Judaism, Christianity and Islam share a common heritage and converge on a multiplicity of universal values. Yet, today, our great religions—which should be a source of hope, tolerance and peace—are seen to be pitted against each other. How and why did this happen? Is it possible to reshape the future for the common benefit of humanity—for all of us? These are the questions I would like to address this evening.

On this occasion, it is relevant to recall that Jews and Muslims have more similarities and few divergences in their faith and culture. The oneness of God (which Muslims call Tauheed), is common to both Islam and Judaism. The Muslim greeting, Salam O Alaikum (peace be upon you), is akin to the Jewish greeting, Shalom, which also means peace. When I watched the last scene in the famous movie "Schindler's List", it concludes with a quotation from the Talmud: "Killing one innocent person is like the murder of humanity and saving one innocent person is like saving humanity." The identical words appear in the Holy Quran.

According to the Holy Quran and our Holy Prophet (PBUH) Jews and Christians are the "People of the Book", belonging to the same spiritual tradition. Abraham, Moses and Jesus are among the most revered prophets of Islam. Moses is the prophet who is most frequently referred to in the Holy Quran. Our experiences and histories intertwine in many regions of the old world and most significantly in the Holy Land.

The history of interaction between the Islamic and Jewish communities is rich and long. This includes the shining examples of Jewish communities coexisting in harmony within Islamic societies in Cordova, Baghdad, Istanbul and Bokhara, contributing to a rich mosaic of culture and traditions. Many Jewish historians have referred to the days of Muslim Spain as the "golden period", when Jewish communities flourished intellectually, politically and economically in an environment of religious tolerance and scholarly inspiration.

The subsequent wrath of the Inquisition was suffered jointly by Muslims and Jews. Indeed, over the centuries, Jewish communities and Islamic societies from Central Asia to Spain, have not only lived together and shared prosperity, but also suffered together.

The past six decades are, therefore, an aberration in the long history of Muslim-Jewish cooperation and coexistence. Many learned studies have been written about the reasons for the hostility and violence that has occurred. I do not wish to dwell on this. Each of us has his own understanding and perception. But, it is relevant to recall that the gulf between the Muslim and Jewish communities arose in what was the bloodiest century in human history, marked by world wars, genocide and mass deportations, in which millions perished. It was in this bloody century that the Jewish people suffered their greatest tragedy—the Holocaust—whose commemoration will be on the agenda of this year's session of the United Nations General Assembly. It was also in this brutal century that other peoples suffered their greatest tragedies—Palestinians, Kashmiris, Bosnians, Rwandese. We must not forget; but we must forgive. Suffering often engenders anger; but this must be soon replaced by compassion. And, we have witnessed such compassion from the Jewish community. It was Jewish groups in the US who were in the forefront in opposing the ethnic cleansing of Muslims in Bosnia. I am told that the largest contributor to the Bosnian cause was the Jewish-American businessman and philanthropist—George Soros. More recently, in the backlash against Muslims, including Pakistani immigrants, after 9/11, they received legal and other assistance from several Jewish groups, I wish to acknowledge and appreciate this.

These noble examples are a source of hope. Hope that we can convert this century into one which will see universal peace, progress and prosperity. This aspiration is achievable but only if we pursue reconciliation and cooperation.

There are a host of challenges we all face in common—political, social and environmental. One of the most pervasive threats we confront is international terrorism. The world today is in the grip of terror. Explosives, car bombs, suicide bombers have all added a new destructive dimension to terrorism. Terrorism threatens to destabilize all modern societies. It is anti-progress. It must be rejected. It cannot be condoned for any reason or cause.

The people of Pakistan have suffered from terrorism. We continue to suffer because of extremism in our region. We are making our contribution to the fight against terrorism. Our efforts have won international appreciation. Pakistan is participating in international action against international terrorism through police and military action, intelligence sharing and measures to curb terrorist financing.

But, I believe, we cannot limit ourselves to fire fighting and local actions against individuals and groups. We should also look for the deeper causes of this malaise and for the motivations that drive individuals to extreme irrational behavior to commit acts of terrorism. The question that arises is: what pushes a human being to such extremes of desperation that he takes his own life to kill others? I have no doubt whatsoever that any attempt to shy away or ignore the root causes of terrorism is shutting ones eyes to reality and is a sure recipe for failure. Military action or use of force against the terrorists today is not, in itself, the ultimate solution to the malaise. It merely buys us time to implement profound policies to eliminate the phenomenon.

A parallel danger lies in fallacious theories and polemical campaigns motivated by prejudice. The postulated clash between civilizations, specifically between Islam and the West, has no basis in history. Civilizations have grown and prospered throughout history, influencing, interacting with and enriching each other. Regrettably, the theory has inspired attempts to turn it into a self-fulfilling prophecy. There are tendencies to associate Islam with terrorism and even suggestions that this great religion of tolerance, compassion and peace, somehow, denies espousal of these universal values. To my mind this is a hate campaign. In today's dynamic world, we need, more than ever before, to foster understanding and harmony among societies. Should we tolerate such campaigns in our midst when we demand their rejection elsewhere? Therefore, I strongly support the endeavor to promote interfaith and inter-civilization dialogue and harmony.

However, it is a fact that, today, most of those involved in terrorist acts, as well most of those who suffer the consequences of these acts, are Muslims. Obviously, there is a deep disturbance and malaise within Islamic societies, which has become specially acute in recent years. The reasons are plain to see. Since the end of the Cold War, almost every major festering problem and conflict affects and torments the Islamic world. Palestine has been at the heart of the troubles in the Middle East. In our region, Kashmir has been the source of tension and conflict. The unfortunate history of Afghanistan spawned extremism and terrorism. Turmoil in Iraq causes great concern in the Islamic world and the rest of the international community. These and other political issues have given rise to a deep sense of anger, desperation and humiliation in the Arab and Muslim populations. It is this political and social environment which breeds terrorism and extremism.

At the same time, I do not shy away from pointing to the failure within the Islamic societies to embrace reform, progress and modernity. The Muslim world emerged from decades of colonization, politically, economically and socially stunted. Political independence did not always lead to good governance. Many of us have remained trapped in a time warp, still struggling to reconstruct our political, social and economic systems to respond to the challenges of our times. In Islamic societies, there is a divide between the outlook of the protagonists of modernity and the custodians of orthodoxy. The resultant economic deprivation and social backwardness are also the source of extremism. And extremism creates a fertile recruiting ground for terrorism.

Ladies and Gentlemen, if we are to succeed against terrorism and end extremism, we must, therefore address the root causes. The leaders of today must change the course of events instead of merely reacting to a series of catastrophic events—such as 9/11 and 7/7.

First of all, I feel we need to clearly understand that terrorism and extremism are two different phenomena. Each requires a different strategy. Lumping terrorism and extremism together, or behaving as if they are synonymous, is a fallacy. Terrorism has to be met head on with all the force required to suppress and eradicate it. In the case of extremism, the battle has to be won in the hearts and minds of people. It cannot be achieved through the use of force. We must adopt separate short term and long-term strategies to address terrorism and extremism. Such immediate and long-term strategies have to be implemented at three tiers: the global level, the Muslim world level and the national level in the concerned countries.

In the immediate context, terrorism, as I said, has to be confronted with force all over the world. Intimate cooperation and coordination of intelligence and squeezing the underworld funding of terrorists and extremists organizations will facilitate counter terrorism operations to a large degree.

At the same time, to ensure success, it is essential, together with the use of force, to promote the resolution of the political disputes, which are exploited by terrorists to justify their criminal actions. Among these political disputes, may I be allowed to say clearly that the Palestinian and Kashmir disputes are ripe for resolution. One can draw satisfaction from the fact that visible signs of movement are appearing towards an end to both these disputes. We ought to put our collective weight behind a push for their final solution. Secondly, for the long term, the socio economic revival of the Muslim world, focusing particularly on education and poverty alleviation, will also erode the core of terrorism and extremism.

I have strongly advocated reform, social and economic progress and rejection of extremism in Islamic societies. In parallel, I have emphasized that the international community, particularly the West, must facilitate the resolution of outstanding problems, in particular the problem of Palestine. I have described this two-pronged approach as Enlightened Moderation. Regardless of the nomenclature, this dual approach responds to the realities of our historical and political circumstances, which cannot be wished away.

The strategy of Enlightened Moderation, at the global and Muslim world level, will also help to end extremism. Domestically, religious bigotry, hate campaigns and confrontational tendencies have to be curbed. This has to be done through bold, determined, well thought out and indigenously applicable strategies. The misuse of religion to spread militancy, hatred and violence has to be suppressed. An international discourse as well as national debate in affected societies, on religious harmony must be initiated. In the Muslim world, I feel we need to initiate a serious discourse to promote an understanding of the true Islam. We must then project its real essence to the world.

I would like to say with pride that today Pakistan is perhaps the only country which is actively confronting and addressing the issue of terrorism and extremism through well-considered and comprehensive separate strategies. The results are already visible on the ground. We are determined to persist with and sustain this effort until we gain complete ascendancy over the terrorist and extremist segments with our national fabric.

Ladies and Gentlemen, I would be remiss if, while addressing the American Jewish Congress, I did not express my views on the Israeli-Palestinian problem. I do not have an iota of doubt that this lies at the heart of terrorism in the Middle East and beyond. In view of its global impact, it is incumbent on the international community—especially the West and the US—to ensure a peaceful resolution of the dispute. Both parties involved—the Israelis and the Palestinians—must shun confrontation and pursue peace and reconciliation.

Israel rightly desired security. This will remain incomplete until the creation of an independent and viable Palestinian state is assured. Israel must come to terms with geopolitical realities and allow justice to prevail for the Palestinians. The Palestinians' desire for freedom and nationhood is as intense as that of any other people. They want their own independent state.

We see hope in recent events. We have welcomed the Israeli decision to pull out of Gaza. The peace process, as set out in the "Road Map", must be pursued as agreed. We hope Israel will also soon withdraw from the West Bank. This will set the stage for the establishment of the independent state in Palestine. By respecting Palestinian aspirations, Israel will attain its legitimate desire for assured security. I am convinced that peace in Palestine that does justice to both the Israelis and the Palestinians will bring to a close the sad chapter in the history of the Middle East. It will revive the historical ties between Islam and Judaism. It will extinguish the anger and frustration that motivates resort to violence and extremism. What better signal for peace could there be than the opening of embassies in Israel by Islamic countries like Pakistan?

There will remain the difficult "final status" issues to be resolved. None is more sensitive than the fate of the Holy City of Jerusalem (which we call Al-Quds al-Sharif). It is a city that is sacred to Jews, Christians and Muslims. It was the first Qibla of Islam. The first edict of Caliph Omar when he entered Jerusalem, over fourteen centuries ago, was to annul the five hundred years of exile of the Jewish people. He invited them to return and build their homes in the Holy City. For durable peace and harmony between Israelis and Palestinians—indeed between Israel and the Muslim world—it is such a gesture of reconciliation and realism that is required of Israel. Any final settlement should respect the international character of Jerusalem as well as international law and the resolutions of the Security Council.

I have always believed that the courage required to compromise and reconcile is far greater than that required to confront. I appeal to Israel to show that courage. I appeal to the American Jewish Congress, and the entire Jewish Community, to use their considerable influence to put an end to the Palestinian dispute once and for all and to usher in a period of peace and tranquility in the Middle East and perhaps the whole world. Failure is no longer an option.

Ladies and Gentlemen, let me conclude with a word about the prospects of Pakistan's relations with Israel. Pakistan has no direct conflict or dispute with Israel. We pose no threat to Israel's security. We trust that Israel poses no threat to Pakistan's national security. But, our people have a deep sense of sympathy for the Palestinian people and their legitimate aspirations for statehood. In response to the bold step taken by Prime Minister Sharon to withdraw from the Gaza, Pakistan decided to initiate an official contact with Israel. Our Foreign Ministers met in Istanbul through the good offices of our Turkish friends. As the peace process progresses towards the establishment of an independent Palestinian state, we will take further steps towards normalization and cooperation, looking to full diplomatic relations.

Ladies and Gentlemen, we can remain mired in old prejudices and keep the world hostage to the politics of perennially defining and redefining of enemy, or we can move forward with courage and reach out to work for the rebirth of history and a new future of peace, harmony, mutual respect, dignity and shared prosperity. We can lose this opportunity to narrow vision and a failure to see humanity in each other. The responsibility to make the right choice is in our hands.

RESOLUTION OF INQUIRY ON TSA SCREENER CUTS

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. BLUMENAUER. Mr. Speaker, today, I am introducing a resolution of inquiry regarding the recent reallocation of Transportation Security Administration airport screeners that is leading to massive cuts in screener workforce levels at Portland International Airport, in my district, and at many other airports across the country. This resolution directs the Secretary of Homeland Security to turn over to Congress all the information in his possession regarding this screener reallocation. Only with this information can our airport authorities ensure that they were treated fairly by this process and can Congress do its oversight job to ensure that our air transportation system is safe, efficient, convenient, and an engine of economic growth for our communities.

TRIBUTE TO DORIS AND IVORY MURPHY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. CLYBURN. Mr. Speaker, it is with great pride that I rise today to pay tribute to two glowing flames that found one another at a young age, and have had the fortune of sharing their lives for the last 50 years.

Ivory and Doris Murphy are two dear friends of my wife, Emily, and me. Our paths first crossed in Charleston, South Carolina in 1962. That chance meeting blossomed into a 43-year friendship that has grown stronger over time, despite the physical distance that has separated us since 1967. Ivory and Doris are a dynamic couple who serve as an inspiration to everyone whose lives they touch.

Both Doris and Ivory grew up in a rural community near Wallace, North Carolina. They met in 1953, and two years later were married. Ivory enlisted in the Air Force and their life together became an extraordinary adventure, which Doris dropped out of Fayetteville State University to pursue.

Shortly after coming to Charleston (South Carolina) Air Force Base, from Albuquerque, New Mexico, Doris decided to return to Fayetteville State from which she received a degree in education while raising three children, Ivory, Jr., Andrea, and Octavius. Ivory's career took them to Air Force bases around the world in distant places like Greenland, Libya and Thailand.

In 1977, Ivory retired from the Air Force, and the Murphy family settled in Goldsboro, North Carolina. Ivory began a second career with Allstate Insurance Co., and Doris devoted herself to a career in education working her way up from classroom teacher to principal. In 1994 Doris was named "Assistant Principal of the Year" while serving at Spring Creek Elementary School.

Ivory and Doris' strong foundation in family and faith has sustained them through their 50-year marriage. The Murphy's golden anniversary is as much a celebration of the institution of marriage as it is this couple who set the standard for so many around them.

Mr. Speaker, I ask you and my colleagues to join me today in honoring a couple that has persevered throughout a lifetime of joys and adversities. Their dignity, grace and love after 50 years together are an inspiration for all of us.

TRIBUTE TO GENE KREKEL

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. LEACH. Mr. Speaker, a friend passed away this week.

Who was Gene Krekel and why do we mourn his passing?

The irony in America is there are a lot of lawyer jokes. Actually good lawyers are the most respected people in the community. Gene personifies the best in his profession—the professional who is careful in judgment and caring in concern. His career and his life were characterized by decency and a steadfast commitment to causes.

Gene was a Republican, the Des Moines county Chairman and my campaign leader for many years, but Gene had as many Democratic as Republican friends. His commitment to his chosen party had little to do with partisanship and everything to do with selfless fair play.

American divides between two political teams, each with a great heritage. The modern-day trend is to accentuate differences, appeal to lowest-common-denominator instincts, and resort to divisive strategies. Gene was an old-fashioned political loyalist who was appalled by such tactics. He believed in principles and values, friendship rather than grudges.

It may have been courtroom training, which while advocacy-oriented, recognized that all sides generally have some justice to their case; it may have been his understanding that there will always be another battle to follow that caused him to eschew the negative. But his approach to work and life were rooted in a deeper instinct as well. Gene was born on a Des Moines County farm and always maintained a rural reserve in a city profession. While temptations to glibness and cynicism abound in our society, Gene was imbued with a genteel Iowa optimism that evoked trust in all with whom he dealt.

It is this trust that caused everyone associated with good causes to seek his leadership. From politics to his church, from bar associations to 4–H, Gene could be counted on for the thoughtful mettle that had earned him Phi Beta Kappa honors in college and order of the coif in law school.

But of all his activities, the one Gene enjoyed the most was the Des Moines county fair, which for many years he chaired. Gene loved, above all, the youth education projects: the showing of cattle and hogs, chickens and sheep, rabbits and gerbels. It was the tie of generations and the nature and history of Iowa's agricultural enterprise that appealed so deeply to him.

None of us can imagine Gene's disappointment not to meet in this life his first grandchild due in just a few weeks. This tragedy is more poignant because Gene and Debbie suffered together one of the gravest of life's tragedies, the death of their son Eric in a car accident eight years ago.

In their close-knit family, nothing could have been sadder that the passing of this freckle faced boy who developed a genius for happiness and friendship.

Now Debbie and Molly are left alone, struck by the loss of the anchor of the family. Their grief is ours also.

This big man with a big hand and bigger heart will be much missed by all who had the good fortune to be touched by his gentleness.

GENERAL WELFARE

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. TANCREDO. Mr. Speaker, I recently spoke with a young high school student in the wake of the Katrina disaster. He was quite interested in discussing the taxpayers role in absorbing costs of reconstruction and relief in the affected areas. He was so enthusiastic, in fact, that he presented me with a research paper he drafted for his government class. The paper provides some interesting historical insights, and I submit it for the RECORD.

GENERAL WELFARE

(By Zachary Robinson)

THE NEW TESTAMENT CHRISTIAN SCHOOL.—The year was 1829, and the setting for a Constitutional test was the nation's capital. A fire had swept through a large part of Washington D.C. leaving many people homeless and in need of help. As one might expect, many people wanted to help, including the Congress of the United States of America. On the morning after the fire, with compassionate haste, Congress voted twenty thousand dollars of the nation's money to be given to the victims of the fire. One well known congressman in particular voted in approval of this bill; his name was Davy Crockett.

When Crockett returned to his home state, he expected to be greeted with much praise and approval for having extended kindness to those in need with his vote in favor of this bill. However, as he was walking down a small, country road, he instead received a surprising rebuke! He met up with a voter from his state. Asking this man if when the time came to reelect Crockett as a Congressman he would vote for him, the man, whose name was Horatio Bunce, responded to Crockett by telling him that he would most definitely not! His reason, even more shocking to Crockett, was because of the way that Crockett had voted on the bill afore mentioned! A shocked and confused Crockett asked him why he was not happy with his position on this bill. Bunce then reminded him that no power had ever been given to the Congress by the Constitution to spend the public's money for the benefit of a special group of people, no matter how desperate the situation was. Any money spent by Congress had to be spent on something that would benefit the whole country equally and not just a special part of it. Crockett quickly realized that he had been wrong failing in the true application of the Constitution's original intent. He apologized to Bunce and his other constituents for what he had done promising that he would always remember the lesson that Bunce had taught him that day concerning the Congress' power in the spending of the people's money as clearly stated in the Constitution.

After this occurrence, Crockett was faced with another Constitutional decision concerning this same controversial 'general welfare' clause. Congress was to vote again on whether they should give money to a special group. This time it was an individual—a widow of a deceased naval officer. When it came time to vote, Congressman Crockett rose and boldly said the following:

"Mr. Speaker, I have as much sympathy as . . . any man in this House, but . . . Congress has no power to appropriate this money as an act of charity. Every member upon this house floor knows it. We have the right as individuals, to give away as much of our own money as we please in charity; but as members of Congress we have no right to appropriate a dollar of the public money . . . Mr. Speaker, I have said the we have the right to give as much of our own money as we please. I am the poorest man on this floor. I cannot vote for this bill, but I give one week's pay to the object, and if every member of the Congress will do the same, it will amount to more than the bill asks."

The bill was turned down as a result of this and Crockett did give one week of his pay as an act of charity to the widow, but, interestingly enough, not one of the other Congressman did the same! This is an important point for us to understand. When the Congressmen were going to give money to the widow that was not theirs to give, the amount of money to be given was to be large. But when it came to giving out of their own pockets, they could not bring themselves to do it! It seems that it is much easier for people to be generous and compassionate with money that is not theirs than to meet other's needs with their own.

In Article 1, Section 8, paragraph 1, clause 4 of the Constitution of the United States, it states that Congress has the power to spend money for the "general welfare of the United States." The key word in this statement is the word "general." When the writers included the word "general" in this sentence, they wanted the people to know and understand that Congress was only allowed to spend money that would benefit the people of the United States as a whole equally, not as a special group or just part of its population.

In fact, there is no provision in the Constitution for the use of monies to be given to any special interest groups, states, cities, or citizens. This would be called special welfare and cannot be found anywhere in the Constitution! Obviously, this clause is now violated all of the time as it has been grossly twisted and misinterpreted ever since the Supreme Court, which has no authority to write law, supported this 'special welfare' view of this clause in 1936. Now we pay taxes and Congress uses them to pay for things that do not help everyone equally in our nation but fall instead to special people with special needs. This is wrong and goes against what the founder's original intentions were for the resource of the people's money that they have been entrusted to protect.

Members of Congress need to be reminded of what the Constitution actually says and means so the abuse of this power will not continue and true 'general welfare' can be reinstated! Also, in light of today's recent tragedies, do not think I am advocating for the neglect of those in our country who are truly in need. On the contrary, the much needed special welfare for specific groups and crisis' can and should be encouraged where it has always been best served—at the local individual, town, and/or state levels. Here is where it can most effectively be given and protected meeting the needs where they can be more clearly understood and aided.

May we all become more respectful and responsible with the interpretation of our Constitution concerning our nation's money learning the lesson Davy Crockett learned so long ago. May we also rise to the occasion when it presents itself and dig deep in our own pockets giving what is ours to give when our fellow countrymen are in obvious need. May we recognize this is what makes our country so strong and great! This—our individual liberty and character to do what is right knowing one day it might be ourselves who are in need of a helping hand!

May God bless America!

CELEBRATING THE 25TH ANNIVERSARY OF THE LOCAL SUPPORT INITIATIVES CORPORATION

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Ms. KAPTUR. Mr. Speaker, I am pleased to announce that tomorrow, Wednesday, September 28, 2005, the Local Initiatives Support Corporation will celebrate its 25th anniversary here in Washington. LISC certainly has a lot to celebrate.

This national organization was born out of the foresight of Mike Svirdoff and the Ford Foundation, with just $10 million and the goal of identifying 50 to 100 local economic development organizations worthy of support. Even Mr. Svirdoff himself might not have envisioned that, within a quarter of a century, LISC would grow into an organization that has raised more than $6 billion dollars in grants, loans and equity for more than 1,700 community development corporations nationwide. These funds support projects in 38 cities and rural areas in 37 states.

LISC's mission is to help "resident-led, community-based development organizations transform distressed communities and neighborhoods into healthy ones—good places to live, do business, work and raise families." It works toward these ends by providing comprehensive services to the CDCs it serves, from capital to technical expertise, training, and information. In addition, LISC supports the development of local leadership and the creation of affordable housing, commercial development, industrial and community facilities, and jobs. In short, it helps residents build and strengthen their own communities.

LISC is an intermediary for more than 900 corporations and foundations, providing technical and financial resources to help CDCs become fiscally sound institutions capable of carrying out a range of community revitalization activities. LISC's second focus is in improving local community development environments. The strength of the organization lies in its abilities to forge partnerships among local LISC programs, community organizations, foundations, commercial interests, and state and local governments. In addition, LISC branches beyond its local focus by advocating for neighborhood-based development and informing related public policy decisions at the federal level.

I have witnessed the value of LISC's work first hand, as our local branch has revitalized many of the most distressed communities in Toledo, OH. Toledo LISC currently funds one dozen of our community development corporations, and over its 15-year presence has funded nearly two dozen. As of December 31, 2004, contributions from corporations, individuals, small businesses and foundations totaling $3.6 million had leveraged nearly $60 million for Toledo CDCs.

As a result of these investments, redevelopment projects have replaced deteriorated homes and buildings with sought-after housing and commercial real estate. One such project was the creation of Toledo's newest sub-division of market-rate single-family homes. Of the ten new homes constructed thus far, nine have already been sold. This development was possible in part because of a pre-development loan from LISC to the Organized Neighbors Yielding eXcellence (ONYX) CDC. Another of LISC's successes is a result of its alliance with the Toledo Warehouse District Association. The Association developed a mixed-use property with 11 lofts and 10 commercial spaces within walking distance of a variety of entertainment venues. This project cost $2.9 million and included Historic Tax Credits, Lucas County Linked Deposit, a city of Toledo Economic Development Loan, a Congressional special purposes grant, and financing through Fifth Third and Sky Bank. Again, the project was possible because of start-up funds from LISC.

Since welcoming LISC into my neighborhood in 1989, it has been my honor to be associated with an organization so important to both our communities and the nation at large. I congratulate LISC on its past successes and encourage corporations, foundations, and individuals alike to continue to support LISC and its worthy mission of converting blighted neighborhoods into vibrant communities.

PERSONAL EXPLANATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. BLUMENAUER. Mr. Speaker, had I been present for the three final votes on Thursday, September 8th, 2005, I would have voted as follows:

Rollcall vote No. 462: I would have voted "aye" on H.R. 3668, the "Student Grant Hurricane and Disaster Relief Act."

Rollcall vote No. 463: I would have voted "aye" on H. Res. 428, expressing the sincere gratitude of the House of Representatives to the foreign individuals, organizations, and governments that have offered material assistance and other forms of support to those who have been affected by Hurricane Katrina.

Rollcall vote No. 464: I would have voted "aye" on H. Res. 427, relating to the terrorist attacks against the United States on September 11, 2001.

RESOLUTION INTRODUCTION STATEMENT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce legislation designed to help poor farmers in African nations who are being undercut and devastated by the continued subsidies some of the world's wealthiest countries offer to their own farmers.

Developed world subsidies drive down global prices for farm products. For farmers in wealthy nations, this often involves the amount of profit possible; for African farmers, this involves their very survival. Since more than 70 percent of Africans depend on the agricultural sector for their livelihoods, normalizing global agricultural trade is an issue of life or death for many African farmers who have few, if any, alternatives to farm income.

For every six dollars daily the United States and the nations of the European Union spend on agricultural subsidies in their own nations, we spend one dollar on official aid to developing countries. This means that the positive impact of our aid programs is being undercut by trade-distorting subsidies, which are crushing the very people our aid is intended to help.

Developed countries agreed to negotiate a multilateral end to agricultural subsidies through the World Trade Organization with a target date of January 1st of this year. That deadline was missed, and the current Doha round of WTO trade talks may fail, largely because of the issue of continuing agricultural subsidies. President Bush recently reiterated America's commitment to accelerate the end of all developed world agricultural subsidies.

American cotton subsidies have been said to endanger the welfare of African cotton farmers in several African nations, but European dairy and meat subsidies pose an even broader threat to African farm incomes. When a Japanese cow can produce more daily revenue than even the most industrious African farmer, something is seriously wrong with the economic order. Curtailing developed world agricultural subsidies will allow Africans to be more self-sufficient. It is estimated that such a change would result in as much as a 45 percent increase in the net agricultural trade by sub-Saharan Africa and a 5.1 percent increase in African farm income.

It is the responsibility of our government, as well as other governments, to address the needs of our farmers, but it should not be done at the expense of low-income African farmers. This resolution, cosponsored by Mr. PAYNE, Mr. ROYCE, Mr. FLAKE and Mr. MEEKS, calls for a multilateral end to agricultural subsidies as quickly as possible and for developed nations to work with African nations to mutually remove remaining impediments to equitable agricultural trade in the global marketplace.

IN RECOGNITION OF THE KAUKAUNA TIMES VILLAGER'S 125TH ANNIVERSARY

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. GREEN of Wisconsin. Mr. Speaker, it is my privilege to recognize before this House the Times-Villager newspaper in celebration of its 125 years in publication.

The first edition of the Kaukauna Times-Villager was published on September 16, 1880 by C.H. Hopkins and L.A. Gates. Despite its humble beginnings, the paper's circulation has grown to include the Villages of Kimberly and Little Chute, helping record their unique history and culture. From the Great Depression to the September .11, 2001 terrorist attacks, the Times-Villager has reported some of the most monumental events in our nation's history. But through it all the newspaper has remained true to its Heart-of-the-Valley roots.

Mr. Speaker, it is my honor to recognize the Kaukauna Times-Villager for its years of dedicated service to northeastern Wisconsin. And, on behalf of the citizens of Wisconsin's 8th Congressional District, I say congratulations on this incredible accomplishment.

COMMEMORATING THE ACHIEVEMENTS OF BISHOP S.C. MADISON

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. NORWOOD. Mr. Speaker, I rise today to honor the lifetime achievements and contributions of Bishop S.C. Madison and his wife Mrs. Deloris Madison to the United House of Prayer for All People, Augusta, Georgia, and to our country as a whole.

Their efforts show their dedication to bettering their fellow man both spiritually and naturally.

Since Bishop Madison became the leader and spiritual advisor of the United House of Prayer for All People in 1991, he embarked on a nationwide building program that included the building and dedication of over 130 houses of worship throughout the United States.

Included in that number were four built or completely refurbished in the Greater Augusta Area.

In these sanctuaries, he promotes wholesome values and a decent way of life.

His tenure in the ministry has exceeded fifty-five years, and he has no intentions of stopping! His soul-stirring messages are memorable, and they serve as a constant inspiration to his congregations that if you do the right thing, "Life can be beautiful."

Not only has Bishop Madison endeavored to better the spiritual body of his congregations, but he has also made other thoughtful contributions to the communities where his congregations reside.

Augusta, Georgia has been fortunate to benefit from his commitment to the community.

Continuing the House of Prayer's commitment to affordable housing, Bishop Madison has maintained housing for Augusta residents—The McCollough Townhouse Square Apartments—that were built with no government subsidies.

He has also acquired houses, apartments, and vacant lots in the city of Augusta. After remodeling, refurbishing, or demolishing and rebuilding them, he has made these properties available to the community once again.

Countless families are able to realize the goal of residing in new homes because of his tireless efforts with no help from the government.

Bishop Madison has also made contributions to the Greater Augusta Business Community with the building and renting of the S. C. Madison Building in Downtown Augusta.

Amazingly, his contributions are not just felt in the city of Augusta, but he exhibits that same entrepreneurial spirit in many other cities throughout the United States.

Mrs. Madison, a native of Augusta, Georgia, has mirrored her husband's commitment. She was the catalyst of the "First Lady's Scholastic Achievement Awards," which not only seeks to inspire children to achieve the honor roll status in their local schools but also promotes the fine values of being an upstanding citizen.

This program began in 1995, has grown every year, and is now celebrating its tenth anniversary.

Thousands of young minds have been challenged, cultivated, and motivated because she is willing to dare them to reach higher heights in the classroom.

She constantly encourages chilren to strive to complete secondary education to make sound economic contributions to our country as well as live the life of a dutiful citizen.

Bishop and Mrs. Madison both have been honored nationwide for their strong commitments not only to the congregations of the United House of Prayer for All People, but also to the city of Augusta.

The contributions they have made to this community are far reaching.

The efforts of Bishop and Mrs. Madison have improved the quality of life of so many, and the people of the Ninth Congressional District of Georgia stand in sincere appreciation for their diligence, dedication, and far-reaching contributions over the years.

TRIBUTE TO MR. HERBERT D. KATZ

HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. WEXLER. Mr. Speaker, Representatives ALCEE L. HASTINGS, KENDRICK B. MEEK, and DEBBIE WASSERMAN SCHULTZ, and I rise to recognize Mr. Herbert D. Katz for his dedication as a member of the South Florida Jewish Community for the past 35 years. During this time, Herb has held numerous leadership positions in organizations including AIPAC and the United Jewish Appeal (UJA). Herb has served on AIPAC's National Board of Directors for over 20 years and played a key role in strengthening U.S.-Israeli relations, especially on Capitol Hill. Herb's knowledge, credibility and passion for politics have led him to foster key relationships with a wide-range of elected officials, and we deeply value his activism, patriotism and exemplary public service.

Herb Katz has dedicated his life to enhancing U.S.-Israeli ties and has an extraordinary history of championing Jewish causes at the local, national and global level. He served on the UJA Young Leadership Cabinet in its earliest years. He also served as the president of Jewish Federation of Hollywood in the early 1970s and was the first president of the newly established Jewish Federation of Broward County in 1996. He chaired the Board of Overseers of the Center for Advanced Judaic Studies at the University of Pennsylvania. He also served as president of the National Board of American Friends of Hebrew University, which awarded him an honorary degree. Herb and his wife Ellie have selflessly exemplified the highest form of hesed and have demonstrated exemplary Jewish leadership and pro-Israel political activism, and we hold them both in the utmost regard.

It is therefore with great pleasure that we offer our heartfelt congratulations to Herb for being honored by AIPAC—one of the foremost advocacy organizations in the world.

Herb's commitment and dedication to U.S.-Israeli relations is immeasurable and his leadership continues to be critical to maintaining the unbreakable bond between the two nations. It is our honor to join AIPAC and its members in recognizing Herb. We thank him for his work, and wish him mazel tov and much continued success.

HONORING BARBARA T. BOWMAN FOR LIFELONG COMMITMENT TO EDUCATION

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to congratulate Barbara T. Bowman, who tonight will receive the prestigious Harold W. McGraw, Jr. Prize in Education. Professor Bowman is co-founder and former president of Erikson Institûte, and currently serves as chief officer of the Chicago Public Schools' Office of Early Childhood Education.

Along with Professor Bowman, Sharon Lynn Kagan and Ellen Moir are being honored during an awards ceremony at the New York Public Library. They have been chosen to receive the prestigious 18th annual award for their work in early childhood education and teacher professional development. They have brought academic innovation, as well as a tireless focus in preparing students and teachers for success.

Professor Bowman is a lifelong proponent of higher education for those who teach and care for young children, and a pioneer in building knowledge and understanding of the issues of access and equity for minority children. She co-founded Erikson Institute in 1966 to educate preschool teachers to work with children from low-income families in the Head Start program. Today, largely because of Bowman's leadership, Erikson's educational programs reach more than 2,500 students and, through them, hundreds of thousands of children.

Professor Bowman and her husband are residents of the Hyde Park Community in Chicago, and they are well known for their community, civic, and political activities. They represent the best of citizenship and what it means to live in a free and democratic society.

I salute Professor Bowman and the other honorees for their outstanding contributions to education. These individuals have dedicated themselves to improving education in this country and their accomplishments continue to make a difference today.

HOUSE INTERNATIONAL RELATIONS COMMITTEE MARK-UP OF H. RES. 375, H. RES. 408, AND H. RES. 419

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I want to express my support for H. Res. 375, as well as H. Res. 408 and H. Res. 419, all requesting information from the Administration regarding plans and communication leading up to the war in Iraq, as well as requesting information regarding the leak of CIA Agent Valerie Plame's name to the media. These resolutions highlight a disturbing trend within the Bush Administration to hide critical information from Congress and the American people. The President owes Americans the truth, especially when it involves the lives of our sons and daughters.

Like so many of my colleagues, and so many of my constituents in the 4th District of Minnesota, I was profoundly disturbed when I learned of the so-called Downing Street Memo in May 2005. This document details minutes of a July 2002 meeting between British Prime Minister Tony Blair and his cabinet. The minutes of the meeting indicate that British officials believed President Bush had already decided to pursue war with Iraq. The minutes further appear to indicate that the Bush Administration was intentionally distorting intelligence information to justify the case for invading Iraq.

Concern by Congress and the American people regarding the Downing Street Memo have escalated since first reported. Earlier this year, over ninety Members of the House sent a letter to President Bush requesting a full accounting of these allegations. The President has yet to respond to this letter. However, the British government has not disputed the authenticity of the Downing Street Memo, and a former senior Bush Administration official has confirmed the accuracy of this account to the press. The failure of the Administration to address these concerns and to adequately investigate the leak of an undercover CIA agent's name to the media is obstructionist. This is a meter of accountability and transparency, and I support all three of these resolutions.

While all Americans stand united in support of our troops, President Bush has offered no plan for success in Iraq. In fact, most Americans now agree that the President's complete mishandling of the war in Iraq has transformed Iraq into a terrorist haven and made our own nation less safe. As a member of the minority party in Congress, I will continue to hold the Bush Administration accountable for the flawed and dangerous policy in Iraq.

H. Res. 375, H. Res. 408, and H. Res. 419 should be favorably reported out of the House International Relations Committee, and the citizens of this country should finally be told the truth by this Administration.

NEXTENERGY CENTER GRAND OPENING

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise today to recognize NextEnergy, a non-profit organization in my district of Detroit. It is a leader in the development and research of technologies that will make our nation more energy independent.

On September 29, leaders from Michigan and around the country will celebrate the grand opening of the NextEnergy Center, a state-of-the-art alternative energy innovation center. This is a wonderful day for everyone interested in making sure that Michigan is at the forefront of alternative technologies which will create jobs and ensure energy security with economic growth in the years ahead. As a member of the House Appropriations Committee, I have been a supporter of Congressional funding for this effort, and I have no doubt that this federal investment will pay many dividends.

At the beginning of the 20th century, the City of Detroit and the State of Michigan revolutionized personal transportation with the development and production of motor vehicles. The automobile industry became a key part of our state's heritage and way of life.

Now at the dawn of the 21st century, we need to find new ways to power our cars and trucks. We want to develop better systems to improve energy efficiency and reduce air pollution. And we know that there is no better place to lead this new effort than from the heart of the Motor City. We have the knowledge, the talent, the expertise, the creativity, and the drive to get the job done.

With the opening of the NextEnergy Center, another important milestone has been reached. It will showcase a new breed of emerging technologies. From my discussions with the automobile companies and other industry leaders, I know that advanced technologies offer great promise for the future. But much research and testing is still required before some are commercially viable. That is why the NextEnergy Center is so important and will play a vital role in developing breakthroughs.

By working with the automotive, electric power and defense industries, NextEnergy offers an exciting mix of opportunities. I am pleased that companies from Minnesota, New York, Texas and other states recognize the value of this effort and are signing up to do business.

The commitment to alternative energy innovation will ultimately address the needs of consumers, train a new generation of workers and lay the foundation for technologies in the marketplace. The future is bright for NextEnergy and I am pleased to be a supporter.

PERSONAL EXPLANATION

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. POE. Mr. Speaker, due to preparations for Hurricane Rita in my district, I unfortunately missed the following votes on the House floor on Friday, September 22, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yea" on Rollcall vote number 488 (Sauder Amendment to H.R. 2123), 489 (Stearns Amendment to H.R. 2123), 491 (Musgrave Amendment to H.R. 2123), 492 (Boehner Amendment to H.R. 2123), and Rollcall vote number 493 (Final Passage of H.R. 2123, School Readiness Act). I strongly support these amendments and the bill because they take important steps to prepare children for success in school.

I also ask that the RECORD reflect that had I been able to vote that day, I would have voted "nay" on Rollcall vote number 490 (Davis (D–IL) Amendment to H.R. 2123).

TRIBUTE TO THE TEAM OF CIVILIAN ENGINEERS STATIONED AT THE COLD WEATHER TEST DETACHMENT, IN LADD, ALASKA

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. ISSA. Mr. Speaker, I rise today to pay tribute to the team of civilian engineers stationed at the Cold Weather Test Detachment, in Ladd, Alaska during World War II. I first became aware of the significant contributions of the engineers at Ladd Field through the first hand accounts of my constituent, Mr. Paul J. Burchett.

From 1942 to 1945, Mr. Burchett and his colleagues served at the Cold Weather Test Detachment in Ladd, Alaska. Civilian employees, Mr. Burchett and his colleagues voluntarily worked alongside our servicemen during the war. They endured extreme weather conditions and worked to ensure the safety of our pilots and our planes in the frigid temperatures of Alaska. The contribution that Mr. Burchett and his colleagues made to support the war effort will not be forgotten. Even today, their innovative work is still used for both commercial and military applications.

While at Ladd Field, Mr. Burchett's commanding officer, Colonel R. Stewart, highly praised Mr. Burchett, and his work. In a report to Mr. Burchett's company, Stewart wrote, "As a result of his diligence and interest, Mr. Burchett was most helpful in assisting maintenance personnel of this organization. As a result of his efforts, many of the problems which were experienced were readily overcome, thus averting a serious loss of time. Mr. Burchett was keenly interested in his work, and spent many hours over the normal working day in accomplishing his mission."

After World War II, Mr. Burchett worked as a professor at Pasadena City College for 35 years. While there, he continued to develop after-war designs for experimental aircraft. Mr. Burchett helped develop aircraft for Lockheed from 1937–1959. While working for Lockheed, Mr. Burchett helped develop the first working jet fighter.

Mr. Burchett, now 90 years of age, has led a remarkable life. Until recently his work at Ladd Field was classified. This is why I now wish to recognize that work and commend Mr. Burchett on a lifetime of dedicated service to his nation. He deserves our respect and gratitude.

HONORING THOMAS HEALY OF ALPHAPOINTE ASSOCIATION FOR THE BLIND

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. CLEAVER. Mr. Speaker, I proudly rise today to pay tribute to Thomas Healy and Alphapointe Association for the Blind, who will retire from the organization September 30, 2005. During his 25 year tenure as President and CEO, Thomas has been the guiding force behind Alphapointe's flourishing as a nonprofit organization in the Greater Kansas City community.

Mr. Healy has been a community leader at Alphapointe for his 34 years with the organization, and as President and CEO helped Alphapointe achieve heights worthy of praise by the organization's founder, Catherine Hale.

To understand how deeply Mr. Healy has touched the Greater Kansas City community, we must all understand what a unique company he has been leading. Founded in 1911 and originally incorporated as the Kansas City Association for the Blind in 1916, Alphapointe was first a group of blind men and women who gathered together for company and recreation. Originally a social organization, Alphapointe has expanded its sense of purpose to provide not only needed social services like rehabilitation and educational services, but also jobs.

Today, the company proudly manufactures over 30 million plastic bottles for pharmaceuticals and over 11 million writing instruments each year. It is not the volume or product of Alphapointe's production that makes it unique; it is the composition of the company's employee base. Over half of the employees, from management to custodial staff, are blind or disabled. Remaining true to its foundation, Alphapointe continues to provide a place of community for all. Under his leadership and guidance, Thomas has helped this vital organization grow from a company of 55 employees to more than 160 earning more than $20 million per year.

Mr. Speaker, I ask that you and our colleagues in the House join me in saluting Mr. Thomas Healy and Alphapointe Association for the Blind for their years of dedicated service to the City of Kansas City, Missouri and the surrounding metropolitan community. Thank you Thomas, we will miss seeing you at the helm, but know you will continue to be an advocate and guided voice in our area as a member of Alphapointe's Advisory Board of Directors.

SENATE—*Wednesday, September 28, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty Father, the giver of gifts, help us to live in purity. Make all our thoughts so pure that they will bear Your scrutiny. Make all our desires so pure that they will be rooted in Your purposes. Make all our words so pure that You will find pleasure in hearing them. Make all our actions so pure that people will know that we are Your children.

Guide our lawmakers through the challenges of this day. Keep them from words that harm and do not help, from deeds that obstruct and do not build, from habits that shackle and do not liberate, and from ambitions that take and do not give.

Give to us all the blessings of asking and receiving, of seeking and finding, and of knocking and opening.

We pray in Your sovereign name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 28, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of Calendar No. 317, which the clerk will report.

The assistant legislative clerk read the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, the time from 10 a.m. until 11 a.m. will be under the control of the majority leader, or his designee.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate resumes consideration of the nomination of John Roberts to be Chief Justice of the United States. Tomorrow at 11:30 we will vote on this nomination. Again, I remind all Senators to be at their desks for that vote. This is among the most significant votes that most of us will cast in our Senate careers, the approval of the nomination of Chief Justice of the United States. We ask Senators to come to the Chamber around 11:20 to be seated for the 11:30 vote.

Following the confirmation on Judge Roberts, the Senate will take up the Defense appropriations bill. Senators should expect votes on Thursday, and we will be voting on Friday on the appropriations bill or any other legislative or executive items that are cleared for action.

I was talking to the Democratic leader to make sure that we are voting on Friday of this week.

We also have a continuing resolution that we must act on this week before the end of the fiscal year. Therefore, I ask that Senators adjust whatever plans they have for the weekend or for Friday to recognize that we will be voting. We will not be voting on Monday or Tuesday in observance of the Jewish holiday. But the Senate will be in session to conduct business and discussing amendments. Those amendments will be stacked for votes on Wednesday. We will notify Senators as to what time that will be. I encourage Senators to come forward and offer their amendments as early as possible so we can vote on Wednesday.

PANDEMIC PREPAREDNESS

Mr. President, on another issue, an important issue—we have so much going on in this body with the appropriations bills, and the nomination coming forward, and that is going very well in terms of the discussion on both sides of the aisle. But there are many other issues as well.

I want to focus for a few minutes on an issue I do not believe is receiving the attention it deserves given the risk that is before us.

Yesterday, I sent a letter to Health and Human Services Secretary Michael Leavitt regarding our Nation's pandemic preparedness. The H5-N1 avian influenza—the name of this particular strain of virus—has spread from Southeast Asia to Russia. It is spreading across the world.

If you look at a map and look at that spread, it gives you real pause—and it should. It threatens to land in Europe. Although you can't say with certainty as you look at that picture of the globe and you see that spread, it will next be in Europe and America, although we don't know what that order will be.

It has infected more people and more poultry than any previous strain. If you look at the animal population—it is called the avian or bird influenza—it has caused the death or destruction of not just a few million but 160 million birds. That includes what is called the "culling" that goes on. But 160 million birds have died as a result of this influenza.

It has jumped from animals, the birds and other animals, actually, with a genetic shift to humans. People ask, How many humans have been infected? We do not know exactly, but we have documented 115 confirmed human cases of this particular H5-N1 influenza.

How fatal is it? It is fatal. The mortality rate is very high. Fifty-nine people out of the 115 confirmed cases died from this particular virus. It has a very high mortality rate.

Just this week, Indonesian health officials reported that yet another person—a young woman age 30—has died from the virus. This follows last week's deaths of two young girls and a boy with very similar symptoms in Jakarta and Samarinda. Since last Monday, Indonesia has put itself on an "extraordinary incident" status.

Experts warn that a global cataclysmic pandemic is not a question of if but when. Like an earthquake, or like a hurricane, it can hit any time. When it does, it could take the lives of tens of millions of people.

People ask, Is that an overstatement? I don't believe it is. You only

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have to go back and look at the history. This August, I spent a great deal of time talking to experts around the country on the H5-N1 influenza virus. In Tennessee, over in Memphis, there is St. Jude's Children's Research Hospital. There is a group of researchers there who probably know more about this particular strain than anybody in the world, led by Dr. Robert Webster at the St. Jude's Children's Research Hospital. He is one of the leading experts of the H5-N1 strain.

He explained in very clear terms that there are 16 families of the avian influenza. Billions of mutations of the virus are occurring every day. It is constantly changing, constantly adapting. With each of these little mutations, the virus multiplies its odds of becoming transmissible from human to human. It is changing up, to be spread throughout the bird population to the human population. And with just one little, tiny change, it can be transmitted person to person to person. It is a little bit like pulling the lever on a Vegas slot machine over and over again. If you pull it enough times, the reels will align and hit the jackpot. In this case the jackpot is a deadly virus to which humans have no natural immunity.

It is very important right now. Nobody listening to me has a natural immunity to this particular virus. Infected hosts are contagious before they are symptomatic. In other words, anyone walking around who is infectious can spread the disease. They may not have any symptoms. The virus would thus have ample opportunity to spread rapidly throughout the population before it could be detected or appropriately contained—but not symptomatic. You don't know whether it can be contained or know to stay away from people.

To make matters worse, we lack our best defense. People say, If it does happen, surely in America or in the world today we have a vaccine, and we have a robust antiviral stockpile. If you think you are disposed, or if you are a physician or health personnel and go into a community to treat it, do we have enough of the antiviral pill which you can take that will protect you? The answer is no.

This particular antiviral pill is Tamifly. I will mention that shortly.

We don't have enough today for first responders, or doctors and nurses who would be taking care of you. The United States of America—the richest country in the world, and the most advanced country in the world—is unprepared in terms of the number of vaccines to treat, as well as the initial antiviral pill or therapy to treat. We do not have enough doses of the antiviral Tamifly. It is a drug which is effective today in the treatment of this particular strain. We have enough to treat about 2 million people—a little over that, 2.3 million people. We have 295 million people in this country and we can treat about 2 million people—and then that is it.

There is only one company located in the United States that produces the influenza vaccine—not the Tamifly, but the vaccine itself. In contrast, Britain, France, and Canada have tens of millions of doses on order—that is the Tamifly, the antiviral agent. We have 2 million. They have tens of millions in Britain, France and Canada.

Where does the Tamifly come from? It comes from Switzerland. That is where the manufacturing facility is located.

With our weakened domestic manufacturing capacity in this country for both something like Tamifly but especially vaccines—we do not have manufacturing plants to do it—it makes us dangerously dependent on other countries and foreign sources.

If there is an outbreak in that country and the manufacturing plant is there, it is very unlikely they will send doses to the United States of America.

The vaccine testing today indicates that an H5-N1 vaccine is safe and able to generate a robust immune response in healthy adults. That is good. That shows real progress. This data is preliminary, but it represents a very positive step that progress is being made. That is an important first step, however, and this is the key: It would take 6 to 9 months to produce 180 million of what are called monovalent vaccines. If this virus did have that transmission ability, it would be traveling and ravaging our population with no vaccine available. Two doses are required. We could make 180 million. That is enough to treat 90 million people in 9 months. It would take at least a full year to produce enough vaccine for the entire country. By that time, because this virus can be transmitted or could be transmitted so easily, the risk is that tens of thousands could die.

Some ask, why do I use such high figures? We do have a historical precedent. Look back to 1917 and 1918 and the Spanish flu. That pandemic killed not just tens of thousands but 40 million people worldwide. The Spanish flu virus killed 40 million people worldwide, the majority of whom were kids, children, and young adults between the ages of 10 and 35.

Vaccines were available for the 1957 and 1968 flu pandemics, but they arrived too late and 104,000 people died in the United States alone.

Dr. Hitoshi Ashitani at the World Health Organization warns this time around the avian flu virus may be impossible to contain. The geographic spread is historically unprecedented.

So people ask: Well, why are you giving us, Senator FRIST, all this bad news? What can and should be done? In my letter sent to Secretary Leavitt—and I had the opportunity to discuss it with him a little bit last night—I did ask him to finalize the agency's Pandemic Influenza Response and Preparedness Plan. We need a coordinated, comprehensive, aggressive plan which draws on public health and homeland security, foreign policy and defense expertise.

The plan should serve a dual purpose: First, to detect, identify, contain, and respond to threats abroad; and, No. 2, to bolster domestic preparedness and response capacity. I also urged the Secretary to purchase enough additional Tamifly to treat a large portion of the U.S. population.

These are critical first steps, but we have to do a lot more. We need to develop a bold vision of how to address this in future threats—whether they are biological weapons or infectious disease, whether they are natural, whether they are accidental, or whether they are deliberate.

That is why earlier this year I called for a Manhattan Project for the 21st Century to launch an unprecedented collaboration among the Federal Government and industry and academia. We must encourage and support advanced support and development into prevention and treatment. We must enable the detection, the identification, and containment of any emerging or newly emerging threat. And we must ensure our domestic ability to manufacture, distribute, and administer the treatments needed to protect the American people. This should be a central focus of our national attention.

As I mentioned in opening, there is a lot going on in our response to natural disaster today. But we need to keep the focus, as well, on the potential for this pandemic. Failing to do so risks the public health and our national security.

In May 2004, the Senate passed Project BioShield and shortly thereafter President Bush signed it into law. Project Bioshield builds on the Bioterrorism Preparedness Act of 2002 and strengthens our Nation's defenses against the threat of anthrax, botulism, smallpox, Ebola, or plague, as well as a radiological fallout from a potential terrorist attack.

Building on the goals of Project BioShield, the leadership has introduced the Protecting America in the War on Terror Act of 2005 earlier this year. I applaud my colleague for the steps we have taken thus far, and I applaud them for their continued leadership. But we have much more to do. More work remains to be done. We are in a race against time, and unlike the flu pandemics of the 20th century, we have been warned.

I urge my colleagues to join me in this effort to protect the health, well-being, and security of the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from the great State of Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAL ENERGY

Mr. NELSON of Florida. Mr. President, I have stated that each day we are in session I am going to try to rise in the Senate to speak about the dependent condition we find ourselves in on foreign oil. Some 58 to 60 percent of our daily consumption of oil comes from foreign shores. This is not a good position for the United States. No matter how much we sounded the alarm bells over the past several years, it is hard to shake the powers that be out of our collective lethargy, to break this stranglehold that oil has running through our economy. And it has led us to our dependence on oil for well over a majority of our daily consumption.

That is not a good position to be in for the defense of our country's interests where we have to protect the free flow of oil to all of the very oil-thirsty world. A lot of those sealanes coming out of the Persian Gulf region look to the United States for the military protection to keep those lanes open so oil can flow.

Clearly, we ought to, after the reminder of Hurricanes Katrina and Rita, be on the journey quickly to weaning ourselves from the dependence on this oil. That means the collective will of this Nation to come together in a major project, like a Manhattan Project or an Apollo Project. In other words, the moonshot of this decade ought to be weaning ourselves from dependence on foreign oil, as going to the Moon as a result of the Apollo Project was to the decade of the 1960s.

Each day I am going to try to chronicle a new technology so that we can do that. Today I will talk about coal gasification, specifically coal-based integrated gasification. It is otherwise called combined cycle technology.

Our Nation has an abundance of coal. The United States has the largest proven coal reserves of any Nation in the world. At the current production levels, U.S. coal reserves should last over the next 250 years. That is the good news; the bad news is coal's high carbon content relative to other fossil fuels so that in the burning of it, it releases significant quantities of carbon.

Right now, coal combustion, the burning of coal, accounts for more than one-third of the world's carbon emissions. Those emissions in the air is what we do not want.

I will never forget being in Beijing, China, in the year 1981 in the dead of winter, January of that year. The city of Beijing was shrouded in black smog that was a result of the coal dust settling over that city because the primary source of heat was the burning of coal, with no attention to the emissions that allowed all of those particulates to go into the air. The last time I visited Beijing, about 2 years ago, after the dead of winter, I must say they have cleaned up their environment quite a bit, but they still have a ways to go.

We know the negatives with regard to burning coal. Now let's look on the positives; that is, coal gasification or coal-based integrated gasification combined cycle technology has much lower pollutant emissions, and it holds great promise. Only two such plants exist in the United States today. One of them is in my State of Florida. It is run by Tampa Electric Company. I commend TECO for being one of the leaders in this country. My State of Florida is going to have another IGCC plant—that is coal gasification—by 2011, through the Orlando commission and the Southern Company. I thank those two companies for being leaders.

This is the technology: First, the coal is gasified using a chemical process rather than just the burning of coal to generate a synthetic gas—or what we call a syngas, synthetic fuels—that is mostly composed of hydrogen and carbon monoxide. Then that synthetic gas is used to fuel a combustion engine, a turbine, and the exhaust heat is employed to produce steam for power generation and for gasification. The process has the potential to be both cleaner and more efficient than just the burning of coal in a steam boiler which is done to make electricity, and it generates considerable waste heat in the traditional burning of coal that then leads to the release of a myriad of undesirable emissions.

In contrast, coal gasification isolates and collects nearly all of the impurities, including mercury and a large portion of the carbon, before the combustion. So those things are not going to be emitted into the atmosphere. The coal is gasified with either oxygen or air, and the resulting synthetic gas or syngas is cooled, cleaned, and fired in a gas turbine, and the hot exhaust from the gas turbine passes through a heat recovery steam generator where it produces steam that drives a steam turbine.

Theoretically, the steam gasification process can be applied to any low-quality carbonaceous feedstock. The progress in developing this technology also raises interesting possibilities with respect to the future of biomass—either alone or in combination with coal—for electricity production. This has a lot of promise.

This whole process, called IGCC, could also be utilized for something called polygeneration. That is co-producing other high-valued products in addition to electricity using gasification.

Gasification could be used to produce ultraclean synthetic fuels from coal and biomass. Carbon dioxide capture and storage would have to be developed to address the climate change issues coal-based synthetic fuels pose.

But the long and short of it is, these synthetic fuels are inherently superior to crude-oil-driven hydrocarbon fuels. This would help us in the transition to more energy-efficient technologies, such as compression-ignition-engine hybrid electric vehicles.

We could exploit our country's huge coal reserves in an environmentally responsible way. The economic and reliability challenges certainly still exist before these kinds of plants become more readily abundant. And the CO_2 carbon capture and storage must be perfected.

Those are all challenges we must meet. But it is a promising technology that would provide the United States with an alternative to electricity produced from natural gas and a way to set us on a course to wean ourselves from dependence on foreign oil.

Mr. President, I will continue to speak out on all of the alternatives in which we can try to sever our dependence on foreign oil.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to speak on the nomination of John Roberts to be Chief Justice of the United States. I speak about this at an exciting time for this country. This will be the 17th person to occupy this position. It is a rarity for this position to become available. I love this Nation. I love the institutions of this Nation. More, I love the people of this Nation.

I know, as well, that John Roberts does too. I know from the time I have spent talking with him and hearing his comments, that he too loves this Nation. He loves the people of this Nation and he looks forward to its greater greatness into the future. I am looking forward to his service.

When the Frenchman, Alexis de Tocqueville, whom many of us quote often, visited the United States in the 1830s, he wondered how Americans could maintain a genuine representative government when the liberty they enjoyed would suggest that the average citizen would be a purely self-interested individual. If we were to give them pure liberty, they would, he believed, just pursue self-interests. So how could you have a government that would govern when everybody is focused on their self-interest?

He was amazed to find what kept Americans joined together and with their government was what he called "habits of the heart." By this, he meant that citizens often were concerned about the greater public good, along with their own narrow self-interests. So, while they had their own self-interests, their hearts pulled them to a greater public good and these "habits of the heart.'' That led to their participation in political discourse, to be involved in their communities, and take care of their fellow citizens.

Throughout our history, our ''habits of the heart'' have informed and driven America's conscience. The people knew the colonial system stifled freedom, so they rejected the British monarchy and ultimately ratified the U.S. Constitution. The people knew in their hearts that slavery was wrong, and that terrible institution was rightly brought to an end. It was difficult, and it was at a terrible cost. And the people knew that the legal promise of equal protection was empty without racial justice.

Throughout the consideration of Judge Roberts' nomination, many of my colleagues have spoken about a particular issue that I want to discuss, and its impact and relationship to that habit of the heart. This particular issue, which is at the center of the debate for Judge Roberts, is the right to privacy. They also have demanded that Judge Roberts adhere in a few cherished cases to stare decisis, that is, the practice of letting a precedent stand for the sake of stability in the law, regardless of whether the precedent reflects the correct interpretation of the law.

What is striking about this discussion is that it has not been illuminated by what Tocqueville saw in us long ago—those ''habits of the heart'' that make Americans aware of the greater good and of the justice due their fellows citizens.

To explain what I mean, consider Judge Roberts' confirmation hearing. During the hearing, Judiciary Committee members spent a lot of time discussing section 2 of the Voting Rights Act. It was often mentioned that it was critical for Congress to enact a so-called effects test in order to eradicate discrimination in voting practices. Under this test, a neutrally worded law was to be struck down if it diluted the political preferences of minority voters, even if that effect was intentional. If there was an effect where it had a negative impact on voting for minority groups, it was to be thrown out, it was to be declared unconstitutional, it was a bad effect.

It seems to me there is a broader lesson to be learned by discussion of an effects test. And I agree with that effects test in the Voting Rights Act; it is absolutely right. It seems to me there is a broader lesson to be learned about the effects test.

During the debate on Judge Roberts, some have argued about whether he will vote to affirm or reject abstract legal principles, without really considering what the real effects of these principles have been. And when it comes to the right to privacy and stare decisis, the discussion of effects has been obscured, if not ignored altogether.

The standard argument we have heard is that cases such as Roe v. Wade and Planned Parenthood v. Casey have established the right to privacy, and that such cases should be maintained for the sake of ''stability'' and ''settled expectations.'' Yet both our heads and our hearts tell us that these decisions deserve much more searching scrutiny. This is in part because we rightly resist insulated courts short-circuiting political debates. But it is also because we rightly believe that these decisions and doctrines have all-too-real effects.

And so it is with the right to privacy. Some of my colleagues have argued that this right, which has been interpreted to guarantee a right to abortion, has been beneficial to women. They argue the right to abortion has ''freed'' them to pursue such goals as full participation in the workforce. But there are certain other effects of this right which should be identified, if we are to have an honest appraisal of what this right has accomplished, and what it has wrought.

I have pointed out repeatedly that in the wake of Roe, 40 million children have been aborted in America—40 million souls who could have brightened our existence and made their contribution to the habits of the American heart. But even this general result of abortion's cold reality masks the specific costs of the Supreme Court's constitutional misadventure in Roe. For it has become clear in recent years that it is the so-called least among us, the disabled, who have paid a disproportionate price as a result of the right established in Roe and other cases.

Let me give you some examples. According to recent numbers released in November of 2004 by the American College of Obstetricians and Gynecologists, over 80 percent of pregnancies involving a child with Down Syndrome were terminated ''by choice'' in the 1980s and 1990s—80 percent. Again, that is ''by choice.'' According to the Centers for Disease Control and Prevention, out of over 55,000 pregnant women screened, 83 percent of unborn children are terminated after testing positive for cystic fibrosis. Finally, the CDC noted that for spina bifida and similar neural tube defects, at least 80 percent of pregnancies ''were electively terminated.''

These particular numbers are astonishing, and not just because they represent the wholesale destruction of generations of unborn disabled children. What makes them painfully ironic is that this trend persists even in a society that has extended significant protections to the disabled once they are born.

A prime example, of course, is the Americans with Disabilities Act of 1990, which was an historic achievement. I applaud my colleagues, Senators KENNEDY and HARKIN, and my predecessor, Senator Bob Dole, for their important role in passing this milestone legislation.

Deeming the protection of the disabled a ''human rights issue,'' the first President Bush called the ADA ''the world's first comprehensive declaration of equality for people with disabilities.'' His successor, President Clinton, stated on the ninth anniversary of the passage of the ADA that ''For too long, we have encumbered disabled Americans with paternalistic policies that prevent them from reaching their potential. But now, we endeavor to empower individuals with the tools they need to achieve their dreams.'' I would note that to dream, they have to be alive.

In enacting the ADA, the Congress explicitly made the following finding, upon which one of the protections of the ADA was based:

> People with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally.

In worthy fulfillment of the promise of the Declaration of Independence that ''all Men are created equal,'' the Congress issued in the ADA a ''clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.'' There were not qualifiers for it. They did not say at certain places or points of time in life. They said this is a ''clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities,'' period.

To enforce this mandate, Congress explicitly ''invoke[d] the sweep of congressional authority, including the power to enforce the Fourteenth Amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.''

The ADA establishes extensive protections for persons with disabilities. It protects them when they seek employment; it protects them when they attempt to use government services; it protects them when they wish to use public transportation; it protects them even when they want to book a hotel room or seek access to a restaurant; it even protects the hearing-impaired and speech-impaired who want to share in the benefits of the revolution in telecommunications.

Similarly, 30 years ago, Congress passed the Individuals with Disabilities Education Act, IDEA. In the act, Congress found, among other things, that ''[d]isability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society.''

These are worthy and grand statements of inclusion and support to people with disabilities.

The ADA and the IDEA demonstrate that the disabled need and deserve the protection of the law in order to fulfill their potential.

Yet ironically, it is when the disabled are most vulnerable—indeed, completely voiceless—that our society leaves them completely unprotected. The laws offer no shelter to them before they are born. In this dangerous legal vacuum has stepped the Supreme Court. In 1973, just 2 years before enactment of the IDEA, the Court invented a right to abortion—a right which has proven lethal to legions of disabled Americans. And in a cruel jurisprudential twist, it was none other than the 14th Amendment, which Congress invoked in enacting the ADA, upon which the Supreme Court based the right to abortion.

What does it say about our society that we refuse to acknowledge the damaging effects of Roe on the disabled? Where does the path lead when we ignore the habits of our hearts, which demand that we extend our compassion to these Americans? What have we become when we have jettisoned the unalienable right to life Thomas Jefferson found self-evident in favor of the moral and legal quicksand of Roe?

The sad experiences of other countries suggest a few unsettling answers to these questions. For example, China recently criminalized abortion for the purpose of sex selection. The reason for this is revealed by figures—an effects test, if you will—showing that 119 boys are born in China for every 100 girls—119 boys for every 100 girls. This gender gap can be attributed to the combination of the Communist government's one-child policy with a culture that often values sons more than daughters. So millions of parents have aborted baby girls hoping to have a boy next time. If current trends continue, some experts say that China could have as many as 40 million men who can't find spouses by the year 2020.

India faces a similar problem. Sex determination has been a serious problem there since the 1970s, when amniocentesis began to be widely used to determine the sex of the unborn child. A 1985 survey revealed that 90 percent of amniocentesis centers were involved in sex determination, with nearly 96 percent of female fetuses aborted. In response, India outlawed fetal sex determination for sex selection 8 years ago, but prenatal sex determination through ultrasonography continues.

Indeed, the situation has become so dire that the Indian Medical Association has appealed to the conscience of that country—the habit of the heart of that nation—and the world to save baby girls from abortion. The association says that up to 2 million baby girls still are killed by abortion every year. A former President of the Indian Medical Association told the BBC that the situation has led to a demographic imbalance of up to 50 million fewer women in the country than would be expected.

This selective destruction of the unborn in other countries has a grim predecessor in American history: the eugenics movement. As Edwin Black has noted in a book called "War on the Weak":

> [T]he eugenics movement slowly constructed a national bureaucratic and juridical infrastructure to cleanse America of its "unfit." Specious intelligence tests, colloquially known as IQ tests, were invented to justify incarceration of a group labeled "feebleminded." Often the so-called feebleminded were just shy, too good-natured to be taken seriously, or simply spoke the wrong language or were the wrong color. Mandatory sterilization laws were enacted in some twenty-seven states to prevent targeted individuals from reproducing more of their kind. Marriage prohibition laws proliferated throughout the country to stop race mixing. Collusive litigation was taken to the U.S. Supreme Court, which sanctified eugenics and its tactics. The goal was to immediately sterilize fourteen million people in the United States and millions more worldwide—the "lower tenth"—and then continuously eradicate the remaining lowest tenth until only a pure Nordic super race remained. Ultimately, some 60,000 Americans were coercively sterilized and the total is probably much higher.

The source of the word "eugenics" is very interesting. The very word was coined by Francis Galton, the nephew of Charles Darwin. Galton believed that "what nature does blindly, slowly, and ruthlessly, man may do providently, quickly, and kindly." In 1883, Galton created a new term for this manmade ordering of life. As Black describes it, Galton "scrawled Greek letters on a hand-sized scrap of paper, and next to them put two English fragments he would join into one. The Greek word for 'well' was abutted to the Greek word for 'born' . . . and the word he wrote on that small piece of paper was 'eugenics'." Well born.

Among the strongest proponents of eugenics was Margaret Sanger. Sanger advocated for the mass sterilization of so-called "defectives" and the wholesale incarceration of the so-called "unfit." She particularly supported the sterilization plan of those people she deemed unfit; she believed this plan would lead to the "salvation of American civilization." She also argued for sterilization of those who were "irresponsible and reckless," including those "whose religious scruples prevent their exercising control over their numbers." For these people, she contended that "there is no doubt in the minds of all thinking people that the procreation of this group should be stopped." She repeatedly referred to the lower classes as human waste not worthy of assistance, proudly promoting the views that these "weeds" should be "exterminated."

Sanger went on to found a group that came to be known as Planned Parenthood, the very same organization which successfully prevailed upon the Supreme Court to reaffirm Roe v. Wade in the 1992 case of Planned Parenthood v. Casey. Sanger's legacy still resonates today.

Dr. John Harris of Manchester University in England has offered a slightly milder formulation than that of Sanger. He has stated that:

> Eugenics is the attempt to create fine healthy children, and that's everyone's ambition. . . . We're not trying to do this through killing people or eliminating individuals, we're trying to do this by making choices about which people will exist in the future.

Given the experience of other countries with abortion; given our own experience with abortion of the disabled; and given the natural repugnance most people have with the eugenics movement, I would suggest to my colleagues that Roe and other related cases simply flunk the "effects test" we have long applied in the context of voting and other rights. These cases have carved millions of voices out of our civic core and cannot withstand moral scrutiny, much less an honest legal examination.

The right to privacy as it has been extended has not only weakened our legal culture; it has made us poorer as a people. It is impossible not to recognize the significant contributions made by those with disabilities who do survive; they help to bring out the humanity in each of us, and we are better for it. Every time I see one of these beautiful children, I am reminded of what joy they bring, and what joy their counterparts might have brought.

How can we, as a nation, stand for the principle of equality, that we are all blessed to be alive, that we are all capable of great success regardless of disability, and that we are a compassionate society, when our laws blithely allow the elective termination of more than 80 percent of a vulnerable population. It is incomprehensible.

Numerous men, women, and children with disabilities have overcome adversity and achieved great successes in their lives. I would like to take a few minutes to share a few of their stories.

Here is a picture of Abby Loy. I met her last week when she visited my office. She is a beautiful young girl and she has Down Syndrome. She does modeling and was recently featured in a book called "Common Threads," which illustrates the numerous accomplishments achieved by people with Down Syndrome. Abby and her mother came to Capitol Hill from Michigan last week to promote awareness of disability issues and to illustrate Abby's wonderful life journey.

Look at this beautiful child. This note is from her parents:

> When Abby was born, physicians and social workers informed our family of all of her potential limitations, developmentally and physically. When we asked what Abby's education path might look like, we were told that she would attend special classrooms.

> Abby has been successfully educated with support in all regular education classes and continues to grow. We felt Abby would prove herself to be much more capable than others believed . . . It continues today.

Again, that note is from her parents.

It is a tough choice when a mother or a spouse gets a diagnosis in utero that a child has Down Syndrome; it is agonizing. I know from my own thoughts when we were having our children. Yet I ask people to look at the beauty of the child and embrace her. If they can't, there are other groups and individuals that will. It is a tough choice, but it is a child, a beautiful child, a child that can accomplish much.

I want to show another example. This one is Samuel. I have had Samuel in to testify before a subcommittee I chaired last year. I am rather partial to the name Samuel myself. In this picture he is catching fish. It doesn't look like a very big fish and the fish doesn't look too happy, but Samuel is sure happy. He has spina bifida, which most medical professionals call a devastating birth defect. These are his parents' words:

> Though we were devastated by learning that our unborn son had spina bifida, we wanted to do all we could to improve the quality of his life. Ending it was never an option. Let's see what we can do to improve it. At 21 weeks gestation, Samuel had fetal repair of his spina bifida lesion. Today he is a 5-year old kindergartner. He is imaginative, funny, and compassionate. He can read, swim, and catch even the fastest lizard. He has touched many lives. We are so thankful for him and are eager to see what great things he will accomplish.

Normally, about 80 percent of children diagnosed with spina bifida are terminated and killed in utero.

I have a final example. This is a lady who looks at her Down Syndrome as an "up syndrome" and has started "Up with Down Syndrome". She has served on President Clinton's Committee on Mental Retardation. She served three terms from 1994 to 2000, one of the first two members with a disability to be appointed to this committee. Her name is Ann M. Forts. She goes around the country and talks with individuals about what she can do. The second paragraph of a letter she sent to me is particularly striking:

> As I think about my active and happy life on the upside of my Down Syndrome dis"ability", I find it extremely frightening to think of how vastly different my life would have been if my parents had taken that ill-conceived professional advice when I was born.

In other words, to put her in some form of an institution rather than bringing her home.

These are inspirations to all of us. And if you need further inspiration, just go talk to Jimmy, the elevator operator right outside the door of the Senate Chamber, who brightens all of our lives.

They will not be defeated by their disabilities, and we celebrate them for that. But think about the many more like them, think about the more than 80 percent of the beautiful capable children, similar to Abby, Ann, Jimmy, and Samuel, who are never given a chance because their lives are terminated before they are born.

We should not use bland phrases such as "right to privacy" or "stare decisis" to disguise the issue at stake with Judge Roberts' nomination to be Chief Justice of the United States. We must be truthful with the American people, as well as ourselves, and admit that this confirmation is, at its root, about the most fundamental and basic right of all: the right to life.

As Americans, it is our duty to protect and defend the weakest among us. The duty is not only mandated by our laws but nurtured by our conscience and our habits of the heart.

With the recent enactment of the bipartisan partial-birth abortion ban and bills like the Pre-Natally Diagnosed Awareness Act, which I sponsored with Senator KENNEDY, we have begun heading in the right direction. However there is still significant work to be done.

There is still a glaring inconsistency between the life that we deem to be worthy of protection under the Constitution, and the life which we do not. The value placed on certain persons and stages of life seems to be arbitrarily assigned. The Constitution clearly states in the 5th and 14th Amendments that "no person" shall be deprived of "life, liberty, or property without due process of law."

"No person." What does that mean? Does it extend to an unborn child? Is an unborn child a person or merely a piece of property? A person is entitled to inalienable rights established under the Constitution and laws of the United States. Property can be done with as its master chooses. I posed this question to Judge Roberts during his confirmation hearing. Because this issue may come before the Court at some point in the near future, he declined to answer directly. But the persistence of this issue simply underlines the importance of each Supreme Court vacancy.

I will support the nomination of John Roberts to be Chief Justice of the United States. I will do so based in part on his stellar credentials for the position, but also on my hope and my prayer that he understands what is at stake when the Supreme Court interprets the people's Constitution—not a sterile debate over arcane legal principles and Latin doctrines but the very habits of our hearts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I pay tribute to my colleague and friend, Senator BROWNBACK, for his eloquent speech on behalf of those who are disadvantaged and deserve protection from the law. He made an outstanding speech.

I rise to express my support of Judge John Roberts in regard to his nomination as Chief Justice of the U.S. Supreme Court. I know what the committee has done, and I know what the majority of Senators will likely do, and that is to vote in favor of Judge Roberts. But I also believe that an open-minded individual, applying Kansas common sense, would reach the same conclusion that I have come to hold.

It is no small event for a Senator to have the opportunity to participate in the confirmation of a candidate for the position of Chief Justice of the Supreme Court. Over the course of our Nation's history, the Senate has come together 155 times to vote on a Supreme Court Justice. This occasion marks the 17th time to confirm a Chief Justice. So I am humbled and honored to be part of this moment of history.

The consultation efforts on behalf of the administration with my fellow Senate colleagues in regard to this nomination have been extensive. That is probably an understatement. The President has made great efforts to open dialog and to invite input and to reach out to Members of the Senate. His nomination of Judge John Roberts is a solid choice and not one made in isolation.

Kansans understand that the words inscribed on our Founding Fathers' documents are not as delicate and fragile as the paper on which they are written. They know that the power behind these ideas is what serves as the foundation of our Nation's democratic government.

My sense from Judge Roberts is that he, too, rigorously believes in the power of the ideals set forth in the Constitution. As illustrated by his record as a judge on the U.S. Court of Appeals for the DC Circuit, he adheres to the guidelines outlined in the Constitution. Simply put, he walks the talk.

After watching Judge Roberts endure—I guess that is the best word for it—over 20 hours of questioning during the nomination hearings, I find myself not only more familiar with his many qualifications, his impressive experiences, but deeply impressed with his character. Judge Roberts' respectful demeanor and his personal humility in the face of periodic abrasive questioning from some are exactly the type of qualities that a Chief Justice should possess. During the question-and-answer portion of the nomination hearing, testimonies of his colleagues, former clients, and others who attested to his character, Judge Roberts has shown to be a man of high integrity, wisdom, and fairness. This assessment was echoed from those representing a broad range of ideologies.

Judge Roberts does possess a brilliant legal mind and a thorough understanding of the law. He performs his duties with a vigor and a meticulous attention to detail that has been noted by all who have spoken about him. As a judge, he approaches a case to understand the legal facts involved and the laws that are affected, while avoiding the temptation to fulfill a specific judicial philosophy. His decisions are based on the merits of the law. His record has earned him the highest rating from the American Bar Association, the ABA. It is worth mentioning that the ABA has often been referred to by my colleagues on the other side of the aisle and those on this side as well as the "gold standard" for evaluating judges.

Most notably, in his opening statement before the Senate committee, Judge Roberts stated:

> Judges and Justices are servants of the law, not the other way around.

And concerning the rule of law, he went on to say:

> It is what we mean when we say that we are a government of laws and not of men. It is that rule of law that protects the rights and the liberties of all Americans. It is the envy of the world. Because without the rule of law, any rights are really meaningless.

Clearly, Judge Roberts understands that the role of a judge is not to rule based on his personal judgments but to adhere to the laws as they are written.

The role of the third branch under our Constitution is paramount, as the Supreme Court is often referred to as the "gatekeeper of democracy." The duty to ensure that legislation passed and executed is in line with the Constitution is an important check within our Government. The lifetime appointment provided for in the Constitution is an important protection for our Justices to guard against any pressure in regard to politics. The forward thinking by the authors of our Constitution actually provided for the preservation of our democracy by including these checks and balances between these three branches.

Some have expressed concern about Judge Roberts' relatively young age to be nominated to such a powerful position. On the contrary, I believe that age will allow for a term of growth and stability for the Court. In my view, his age is of less importance when compared to his style of judging. In his response to my colleague, Senator HATCH, he explains that his style is that of a modest judge. He went on to explain that:

> It means an appreciation that the role of the judge is limited, that a judge is to decide the cases before them, they're not to legislate, they're not to execute the laws.

However, at the same time, we have witnessed judges acting beyond the scope of their duties in making decisions that in a representative democracy are legislative in their jurisdiction. We have seen that all across the country. This what I consider to be abuse of power is a source of tremendous contention, not only with folks from the great State of Kansas but with Americans nationwide on too many issues. In too many cases, we have seen decisions that are contrary to the will of the people. Americans have questioned the rulings on cases ranging from the Boy Scouts of America to the most publicized recent attack on private property rights. In Kansas, land is gold. And if land is gold, farmland is platinum. We have a healthy respect for property rights in middle America. Based on his comments, I believe Judge Roberts holds a similar opinion.

Finally, let us not forget that Judge Roberts is currently a judge. He has already experienced the confirmation process for his judgeship on the U.S. Court of Appeals for the DC Circuit. Let us also remember that the same accolades that led to Senate approval of his nomination by unanimous consent—no disagreement, every Senator—are certainly applicable as of today.

I am hopeful that through the course of debate on this nomination and the next Supreme Court nomination—the next Supreme Court nomination—we can avoid the destructive partisanship that approached the brink of absolutism and ideology, a different criteria in regard to how we select judges. We have a duty to respectfully reflect the great traditions of this Chamber and rise above partisan bickering. We must raise the level of civility in our political discourse more so than ever in regard to considering the nomination of judges.

Our democracy is only as strong as our governmental institutions. Judge Roberts will provide a strong pillar of support in the third branch of our Government. That, and for the reasons I have just enumerated, is why I will vote in favor of Judge Roberts' nomination to be the 17th Chief Justice of the United States.

I yield back the remainder of my time. I thank the Chair.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from South Carolina.

Mr. DEMINT. Mr. President, I rise today in support of the nomination of Judge John Roberts for Chief Justice of the Supreme Court of the United States. Just 1 year ago, I was in the middle of a heated Senate campaign, and one of the most important issues to the voters of South Carolina, an issue that came up again and again, was the topic of judges. At that time, I promised the people of South Carolina that I would fight for fair judges who would judge based on the facts and the law, not on their personal political opinions.

Americans simply cannot understand how certain judges arrive at decisions such as banning the Pledge of Allegiance or allowing local governments to take a person's home and give it to a business simply to generate more taxes.

Judge Roberts clearly understands and demonstrated in his hearings that he is the kind of Justice America needs. He is brilliant, fair, and independent. He has proven himself to be a person of integrity who is committed to equal justice for all Americans.

Judge Roberts is eminently qualified. He has earned the American Bar Association's highest rating of "well qualified." Before being unanimously confirmed by the Senate in 2003 to the DC Court of Appeals, Judge Roberts had already established an unmatched resume in the legal world. After graduating in the top of his class from Harvard Law School, he went on to clerk for Justice William Rehnquist and then worked as a top aide in President Reagan's Justice Department. In private and public practice, he argued an amazing 39 cases before the Supreme Court, establishing his reputation as one of the Nation's top litigators.

During his hearing, Judge Roberts displayed his humble expertise, and I believe Americans warmly welcome his approach to the law. Despite what some Democrats are saying, Judge Roberts was very forthcoming at his hearing in discussing his judicial philosophy, his legal thinking, and his views on a judge's proper role within our constitutional framework.

The Senate was also allowed to review an unprecedented number of documents from Judge Roberts' service in the Federal Government illustrating his judicial philosophy and legal ability. In question after question, Judge Roberts showed an extraordinary knowledge of the law and its history. Without the use of notes or staff, Judge Roberts easily recalled facts from hundreds of years of case law.

I was pleased to see during the hearings that Judge Roberts stuck strictly to the Ginsburg rule, choosing not to comment on cases or issues that are likely to appear before the Court. In her hearings, Justice Ginsburg emphatically declared that she could give "no hints, no forecasts, no previews" as to how she would decide on future cases. She was right to do so. Judges are expected to be impartial and fair, looking at each case without prejudice. Senators who expected Judge Roberts to answer questions that required him to prejudge cases were ignoring the Code of Judicial Ethics and, I suspect, playing politics with the confirmation process for partisan reasons.

Nominees should never compromise their judicial independence and ability to rule fairly by advocating positions on issues that could come before them. Judges are not politicians. In fact, Judge Roberts himself put it best during the hearings when he said:

Judges wear black robes because it doesn't matter who they are as individuals. That's not going to shape their decision. It's their understanding of the law that will shape their decision.

Judge Roberts has earned praise for his conduct during the confirmation hearings, and he has solidified broad, bipartisan support.

I believe Judge Roberts deserves a fair up-or-down vote before the Supreme Court starts its next session in October. It is important to have a Chief Justice on the bench for the start of the session and to have the Court at full strength.

Based on my July meeting with Judge Roberts, based on his qualifications and his exemplary performance before the Judiciary Committee, I am confident he will strictly interpret the law and not legislate from the bench.

Judge Roberts has all the qualities Americans want in their Chief Justice. It is critical that the Chief Justice have the ability to listen to all sides of a debate and work well with each Associate Justice. Judge Roberts has clearly displayed his patience, fairness, and respect.

The votes tomorrow for Judge Roberts will show that an overwhelming majority of Senators agree. The votes tomorrow against Judge Roberts will reveal the Senators who would not support any of President Bush's nominees, no matter how qualified they are.

I fully support the nomination of Judge Roberts. I will cast my vote in his favor for confirmation, and I urge all of my colleagues to support Judge Roberts as the next Chief Justice of the Supreme Court.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I rise today, like my colleague who spoke just before me, to support the nomination of John Roberts to be the Chief Justice of the U.S. Supreme Court. To those who know me, to those who have heard me talk on this subject, this is no great surprise. But voting on a Supreme Court nomination is a very rare task. It is more historic now, as the Senate will consider a nominee for the top job of the Court.

The question I ask today is, Why should America care about this debate? This debate is more significant than a lifetime appointment of Chief Justice of the Supreme Court.

This debate is more significant than the influence that one single individual brings who is chosen. This debate is about future decisions that will affect the lives of every American, that will affect our children and our children's children. From our civil liberties, to property rights, to questions of life and death, to safety in communities, to the very basic freedoms, there is no area in our daily lives that is not somehow affected by the judicial decisions of the U.S. Supreme Court. The decisions made by the Court today will have a lasting effect long after we have gone from this institution. It is essential, absolutely essential, that we confirm not only competent, impartial judges, but those who are the very brightest and those who are good citizens and understand the task for which they have been nominated and confirmed.

Over the course of the last several weeks we have all had the opportunity to hear from legal experts, from political analysts, about Judge Roberts and the chances of the success of his nomination and his confirmation. We have had a process of very detailed hearings where our colleagues, many of whom are lawyers, have asked the most appropriate questions, with a lot of thought, a lot of time to deliver the questions, and we have seen the response of a brilliant lawyer, with no notes, quote case law from years past that appropriately answered the questions that did not affect future cases the Court might hear.

Now, I am not a lawyer and perhaps I do not judge Judge Roberts' legal background the same way lawyers might judge it, but I do understand people. I understand when I meet somebody who is a good person. I have met Judge Roberts. This is a good person. This is an individual in whom America can be proud when they refer to him as Chief Justice.

A couple weeks ago I had the opportunity to have Judge Roberts in my office. We talked about his background, his life experiences, we talked about our families. I did not quiz him about legal precedent or court rulings. I did not present him with hypothetical cases or his position on hot topics of the day. That, quite frankly, was not the ground I was focused to go on. Personally, as a husband and a father, I wanted to know where Judge Roberts truly stood and if he understood the job he has been asked to do. I wanted to know if he understood the responsibilities not just as a lawyer, not just as a Justice, but as a husband and as a father, and the implications of the decisions he would rule on and how they would affect not just his family but in a real way the people of North Carolina.

As Senators, we are all responsible for constituencies. I am responsible for more than 8½ million individuals in North Carolina, and I wanted to know, quite frankly, if Judge Roberts intends to preserve our Nation's constitutional principles by interpreting law, not by making law. I am proud today to tell you, based upon the answers he gave to me in his testimony in front of the Judiciary Committee, I am confident he will do just that—interpret the law, not write the law. Judge Roberts, as every person has heard, has the academic and the professional credentials to serve not only as a Supreme Court Justice but as Chief Justice.

There is something that concerns me today. It concerns me, and it should concern the American people: This vote will not be unanimous. This vote will be far from unanimous based upon the reports from Senators. Why? Politics. I am not sure it has ever permeated the process to the degree it has in this. As we stand here today, with one of the brightest nominees, ready to confirm, some in this institution are already suggesting the next nominee has no chance. There is not a person who has been nominated. There is a group of names that has been talked about. I might remind Senators that Judge Roberts was never talked about in the group that was purported to come up in the President's first nomination. Yet some suggest we are going to move the bar even farther for the next nominee who comes through.

The divisiveness has to stop in this institution. We choose the best and the brightest to serve this country. If we consistently move that bar, if we consistently dig to find things that no other Congress has looked for, if we are not careful, no one will want that job. If we are not careful, the best and the brightest legal minds in this country who would serve on the bench and serve with distinction, regardless of the party they are from, when they get that call, will say, Mr. President, I want to pass. I can't put my family through it. I can't put myself through it. The risk of doing it is too great to everything around me, to make a commitment to serve my country.

I ask all of us, what message are we sending to our children when the best and the brightest pass, when they elect not to go through the process we in this body have control of?

This is a defining time for the Senate. This will determine who is willing in the future to actually serve their country and to serve in one of the single most important areas, the U.S. Supreme Court.

I am confident Judge Roberts holds the academic credentials, he holds the professional credentials but, more importantly, I am confident today that Judge Roberts is a good man. He deserves the support of every Member of the Senate to become the Chief Justice of the U.S. Supreme Court.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina yields. The Senator from Oregon.

Mr. SMITH. Mr. President, I thank you for the time. It is for me a privilege to speak on behalf of Judge Roberts, but especially because while I have voted on hundreds of nominations for President Clinton and now at the present time President Bush, this is the first time I will cast a vote, an affirmative vote, for a member of the U.S. Supreme Court, and, perhaps, if Judge Roberts lives long enough, the only time I will cast one on behalf of the Chief Justice of the U.S. Supreme Court.

It is for that reason that I asked Judge Roberts to come see me. I enjoyed a delightful visit with him prior to announcing my affirmative decision to vote for him without qualification, without reservation, or any reluctance. He is, in short, a brilliant nominee and I believe he will be a brilliant judge who will make us proud for years and years to come.

When I ran for the Senate, I ran as someone with a hat in the political arena. It is an experience where you state your position, you ask for votes. That is a fundamentally different exercise than being a judge. A judge is not someone who comes as a candidate asking for a vote, posturing in any fashion, and playing politics. The nature of the judicial branch, even the executive branch, is fundamentally different from the judicial branch. Ours is to make law. The president is to execute the law. The judge is to interpret that law.

When I was running for an election certificate, I was asked repeatedly about how I would judge nominees to the Court. The underlying question was always, what is your litmus test? Do you have a single issue litmus test? I promised Oregonians that I would have no litmus test and would vote for qualified Democrats and Republicans from the administration that put them forward because I truly believe we have to remember the characteristic distinctions between the roles of these different branches of Government. What I did tell them is that I would judge them by their intelligence, their integrity, and their temperament. By that standard, I am not sure we will ever have the privilege of voting for a nominee who is more intelligent than Judge John Roberts. His academic credentials are without equal. He is clearly qualified by his schooling and by his service in the legal community. His integrity is beyond reproach as well. He has conducted himself honorably. There has been no hint of any kind of scandal that would disqualify him from holding high public office. I like especially the fact that he and his wife late in life decided to adopt two beautiful children. Every parent in America, I think, squirmed when they watched the concerns the Robertses had when President Bush announced his nomination—the little boy Jack was fidgeting on a public occasion, and all chuckled and recognized the humanity of Judge and Mrs. Roberts, and also related to that experience.

When it comes to temperament, I think there are many qualifications Judge Roberts has that are evident in his entire life. He is overwhelmingly qualified. He has promised fidelity to the law. He has said:

> My obligation is to the Constitution, that's the oath.

The quality in his temperament, I think, that was particularly meaningful was the humility he demonstrated in the give and take with our colleagues on the Judiciary Committee. The Judiciary Committee is composed of many very bright men and women, and the back and forth was thrilling to watch for someone who loves constitutional law. He went into a heavyweight ring and he came out the champ. I was impressed and expressed that to him.

The quality of humility is one that I think bears mentioning. Judge Roberts said, in fact, to that committee:

> A certain humility should characterize the judicial role. Judges and justices are servants of the law, not the other way around.

What he is saying is that judges and justices are bound by the law, as we are as individual citizens, and as Members of the Senate we are bound by the law, and so are judges. That humility is important in the life of a judge.

I remember a great public servant once said:

> Pride is concerned with who is right, humility is concerned with what is right.

I believe Judge Roberts will be focused on what is right, not who is right. The greatest threat Judge Roberts identified to the law is that of a judicial branch beginning to act more like a political branch.

That is something many of my colleagues have spoken to. It is something I learned about in law school in a constitutional law class. It is called the political question doctrine. What that doctrine refers to is the wisdom that judges need to have, the humility they have to not intersect questions that are in the political arena, part of the discussion, the debate between we the people about where we want to go. So, instead of reaching over the people and deciding it when the issue is ripe for settlement at the ballot box, judges should be restrained in overreaching and doing things from on high that, frankly, disturb the body politic here in our country. I believe Judge Roberts will have that kind of restraint, that kind of humility.

Judge Roberts made a quote in his opening statement, again without notes; something he feels obviously in his bones and knows in his heart and mind. He said:

> The one threat to the rule of law is the tendency on behalf of some judges to take that legitimacy—the legitimacy of the law, and that authority—the authority of the law, and to extend it into areas where they are going beyond the interpretation of the Constitution into where they are making the law. Judges have to recognize that their role is a limited one.

An aside, Mr. President, I like his metaphor to an umpire.

> Judges have to recognize that their role is a limited one. That is the basis of their legitimacy. Judges have to have the courage to make the unpopular decisions when they have to. That sometimes involves striking down acts of Congress. That sometimes involves ruling that acts of the executive are unconstitutional. That is a requirement of the judicial oath. You have to have that courage.

What I find in that statement is an understanding of the political question doctrine. He is saying we have to be humble in most all instances; to respect the rights of the people. But he is also saying you have to have courage to interpret the Constitution in a way that is faithful to it.

As Cicero once said:

> We are in bondage to the law so that we might be free.

I know my time is up, so I yield the floor and urge my colleagues to vote in support of Judge Roberts. If you can't vote for him, it is hard to know for whom one could vote.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the time from 11 a.m. to 12 p.m. shall be under the control of the Democratic leader or his designee. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. Mr. President, tomorrow the Senate will vote on the nomination of John Roberts to be the 17th individual to serve as Chief Justice of the United States. I have put an enormous amount of contemplation and consideration into my vote on this nomination. Some may wonder why this has been such a difficult decision for me. Clearly Judge Roberts is an individual of great accomplishment. He has an outstanding educational background and keen legal skills. He is a thoughtful, decent, modest person, impressively knowledgeable about constitutional law and the Court.

I watched much of the judiciary hearings. I have reviewed briefs and court decisions written by Judge Roberts. And, thanks to his generosity, I met with Judge Roberts for more than an hour in my office last week, talking one on one.

What I did not find in the hearings or in Judge Roberts' writings or in our meeting was a clear indication that Judge Roberts understands the critical role the courts play in protecting the civil rights of Americans and in allowing those who have suffered discrimination to be able to seek recourse and affirm their rights in Federal court. I was seeking some indication that Judge Roberts understands that the issues that come before the high Court cannot always be viewed with a cool, legal dispassion and detachment, but that the Court and its members play a critical role in protecting the powerless in our country.

This is of grave concern to me because the individual who fills this Supreme Court vacancy will have the ability to enhance and strengthen or undermine and weaken the Americans With Disabilities Act.

Judge Roberts' nomination comes at a time when there is a very significant clash occurring between the Supreme Court and Congress over whether Congress has the authority to require the States to comply with antidiscrimination laws. Unfortunately, the law caught at the center of this clash is the Americans With Disabilities Act.

As I have deliberated on this nomination, the first and foremost question in my mind has been this: What kind of Court would the Roberts Court be? Would it be a Court that serves as a refuge of last resort for the powerless in our society? Or, would it be a Court that will continue down a disturbing path seen in the later years of the Rehnquist Court, a path that limits the ability of Congress to pass legislation that provides meaningful protections to individuals, including the 54 million Americans with disabilities?

Unfortunately, after carefully reviewing the record and talking with Judge Roberts, I am unable to conclude that a Roberts Court would guarantee the rights of the powerless and those with disabilities.

Earlier this year we celebrated the 15th anniversary of passage of the Americans With Disabilities Act. The ADA, as it is known, prohibits discrimination in employment against people with disabilities. It requires that the services and programs of local and State governments be accessible and usable by individuals with disabilities. Since its enactment, the ADA has provided opportunity and access for 54 million Americans with disabilities who, prior to the law's enactment, routinely faced prejudice, discrimination, and exclusion in their everyday lives.

As Members of this body know very well, I was the lead sponsor of the ADA. I championed it because I had seen discrimination against the disabled firsthand, growing up with my brother Frank, who was deaf. During his childhood, my brother was sent halfway across the State to a school for the "deaf and dumb." He was told his career path would be limited because surely someone who is deaf cannot contribute to society. Throughout his life, Frank experienced active discrimination at the hands of both private individuals and government, and this served to limit the choices before him. Frank's experience was by no means unusual, as Congress documented extensively prior to enactment of the ADA. As part of the writing of that bill, we gathered a massive record of blatant discrimination against those with disabilities. We had 25 years of testimony and reports on disability discrimination, 14 congressional hearings, and 63 field hearings by a special congressional task force that were held in the 3 years prior to the passage of the Americans With Disabilities Act. We received boxes loaded with thousands of letters and pieces of testimony gathered in hearings and townhall meetings across the country from people whose lives had been damaged or destroyed by discrimination. We had markups in 5 different committees, had over 300 examples of discrimination by States. I know; I was there. I was the chairman of the Disability Policy Subcommittee.

Yet since enactment of the ADA the Court has repeatedly questioned whether Congress had the constitutional authority to require States to comply with the ADA. Amazingly, it questioned whether Congress adequately documented discrimination. In 2000, the Supreme Court held in a 5-to-4 decision that an experienced nurse at a university hospital—who was demoted 'after being diagnosed with breast cancer because her supervisor did not like being around sick people—was not covered by the ADA. Why? Because she had the misfortune to work for a State hospital.

In contrast, last year, by a 5-to-4 decision, the Court held that Congress did have the authority to require States to make courthouses accessible.

This year, the Court will look at whether a State is required to make a prison accessible. There is no guarantee that the Court will come to the same result. Instead, we could end up with a crazy patchwork where courthouses are accessible, but maybe libraries are not, perhaps prisons are accessible, but employment offices are not.

When we passed the ADA, we in Congress did not forbid employment discrimination against the disabled unless they worked for the State. We didn't say some services must be accessible. But that is what the Court has been saying. Talk about judicial activism.

I would point out here, in those years when we were developing the Americans With Disabilities Act, my friend Senator HATCH was ranking member on the Judiciary Committee. They had their staffs look to make sure we passed the constitutional tests. Attorney General Dick Thornburgh, a great supporter of the Americans With Disabilities Act, had the Department of Justice look and make sure we were passing constitutional muster. Boyden Gray, in the White House Counsel's Office, looked at it to make sure we passed constitutional muster. Fifteen Ronald Reagan appointees to the National Council on Disability, working with constitutional law experts, looked at the bill to make sure it passed constitutional muster. Yet the Court, by 5-to-4 decisions, is undermining all we did.

As a result, 15 years after passage of the ADA, the rights of those with disabilities still hang in the balance. Those rights will be determined in a very significant way by a potential Roberts Court. As Chief Justice, Mr. Roberts personally will have a major role in determining whether the balance swings for or against people with disabilities. If Judge Roberts lends his voice to those on the Court who believe in the rights of States over the rights of people, individuals with disabilities in this country will face enormous setbacks.

Judge Roberts was asked many questions at his hearing about congressional power, the ADA, and the rights of the disabled. I posed similar questions in our meeting. Judge Roberts chose not to answer those questions in any significant or revealing detail. Without some greater assurance that he would give deference to the policies passed by Congress, without solid assurance that he would be a defender of the ability of the less powerful to go to court and have their rights vindicated, without those assurances, I am left guessing and speculating, and that is not good enough.

Without clear assurances from him personally, I am left only with Judge Roberts' paper record and, quite frankly, it is a record that does not bode well for people seeking to vindicate their rights. In the interests of brevity, let me cite one example from Judge Roberts' tenure with the Department of Justice, the 1982 case of Board of Education v. Rowley. In the Rowley case, a trial court ruled that Federal law required the State to provide a sign language interpreter for an 8-year-old student who was deaf. The Second Circuit Court of Appeals affirmed that decision. The case then went to the Supreme Court and the Department of Justice had to decide whether to support the student and argue in favor of an interpreter, or support the local school board and the State and argue against an interpreter.

In a memo to the Attorney General, Judge Roberts said the lower court decisions amounted to an exercise of judicial activism and the lower courts had inappropriately "substituted their own judgment of appropriate educational policy."

This was not the language of a lawyer merely representing the views of a client. This was the language of an attorney in a policymaking position at the Department of Justice, suggesting that the Government should have weighed in against the right of a deaf student to have access to an interpreter under the Education of the Handicapped Act, a predecessor of today's Individuals With Disabilities Education Act. In other words, Judge Roberts thought that this law, the primary Federal law to ensure that students with disabilities have access to the same educational opportunities as all other students, should be interpreted narrowly rather than broadly.

That is not the quality I am looking for in a Chief Justice. I want a Chief Justice who brings a passion for justice to the law; who does not lose sight of the real people whose lives and livelihoods are at stake in the Court's decisions. Some supporters of Judge Roberts have argued that the Rowley case was more than two decades ago and Judge Roberts' views on statutory interpretation and on the ability of individuals to protect their rights through the courts may have evolved since then. But how are we in this body to know that, particularly when the White House has failed to provide us with all requested and directly relevant documents?

Of greatest interest to me are the decisionmaking memoranda written by Judge Roberts during his tenure as Principal Deputy Solicitor General. Again, in his role as Principal Deputy Solicitor General—a position sometimes referred to as a "political deputy" because it is a political appointment—Judge Roberts was not merely representing a client but was involved in crafting the Department's legal positions in some of the most important cases in recent years.

During his tenure as Principal Deputy, Judge Roberts argued before the court that individuals shouldn't be allowed to go to court to enforce their rights under the Medicaid statute, that children shouldn't have access to courts to enforce their rights under the Adoption Assistance and Child Welfare Act, and that courts should take a restrictive view of remedies available under title IX and other civil rights laws.

Given the decision of the White House to withhold these documents from the Senate, I am forced to draw my conclusions on what I do know.

Before I conclude my remarks, I would like to describe an example of one of the "real people" I referred to earlier, a woman by the name of Beverly Jones. Ms. Jones, who testified before the Senate Judiciary Committee on Judge Roberts' nomination, has been using a wheelchair since a 1984 traffic accident in 1990, the year we passed ADA. She completed court reporting school and set out to work as a courtroom stenographer in order to support her family. But what she found as she traveled throughout the State of Tennessee was she couldn't get the jobs in a great majority of Tennessee's courthouses. She was forced to choose between asking complete strangers to carry her into the courthouse or into inaccessible rest rooms or simply turn down employment opportunities. That is an unacceptable choice for a single mother supporting two kids.

Ms. Jones testified to the committee that she spoke to Federal, State, and local officials about the problem of inaccessible courtrooms, but her entreaties were met with indifference, until she filed suit. I would like to quote from Ms. Jones' testimony about her experience because I think it vividly illustrates what is at stake.

She said:

> The door that I thought had been opened [with passage of the ADA] was still closed and my freedom to live my dream was still a dream, and turning into a nightmare. Nobody took either me or the law seriously until I and others brought a lawsuit.

That is what is at stake today—the right of 64 million Americans with disabilities to live their dreams, the right of the powerless in our society, the disenfranchised, to turn to the courts to take them seriously.

Unfortunately, I am not yet persuaded that a Roberts Court would protect these rights.

For this reason, I will be voting no on this nomination.

Certainly, I bear no personal animosity whatsoever toward Judge Roberts. Within this body, there are many people on the other side of the aisle whom I respect, admire, and value as friends. But I don't often vote with them because I have a different viewpoint on many issues. As I said, in our personal meeting, I found Judge Roberts to be a very decent, modest individual.

I hope the future will prove me wrong about Judge Roberts. I hope he proves to be a Justice who recognizes that discrimination in this country occurs in many areas and that Congress has both the authority and the duty to remedy it.

Judge Roberts will have an immediate opportunity to do just that. In this upcoming term, the Supreme Court will hear arguments in a case that will once again examine the question of whether Congress had the authority to order States to make public facilities accessible to people with disabilities. Knowing this, during our meeting I tried to convey to Judge Roberts how discrimination against people with disabilities was deeply ingrained across the decades and across the centuries prior to passage of the Americans with Disabilities Act. I talked with him in detail about how prior to passage of ADA people were institutionalized, segregated, taken from their families, taken from their communities, excluded from schools, excluded from educational opportunities, excluded from employment opportunities, excluded from all aspects of daily life, shopping, going to the movies, playing golf, on and on, simply because of a disability. I explained how people with disabilities were excluded in the same way African Americans were excluded prior to the passage of the Civil Rights Act.

In closing, let me quote from Thurgood Marshall in the Cleburne case, City of Cleburne v. Texas. Here is what Justice Thurgood Marshall had to say. Here is a sense of real injustice and that something needs to be done about it. This is what Justice Marshall said:

> The mentally retarded have been subject to a "lengthy and tragic history," of segregation and discrimination that can only be called grotesque. . . . A regime of state-mandated segregation and degradation soon emerged that in its virulence and bigotry rivaled, and indeed paralleled, the worse excesses of Jim Crow. Massive custodial institutions were built to warehouse the retarded for life; the aim was to halt reproduction of the retarded and "nearly extinguish their race." Retarded children were categorically excluded from public schools, based on the false stereotype that all were ineducable and on the purposed need to protected nonretarded children from them. State laws deemed the retarded "unfit for citizenship."

That has been the experience for the last 200 years or more in this country. We stepped in to remedy that with the Americans with Disabilities Act.

I hope Judge Roberts keeps these things uppermost in his mind and in his heart. Only time will tell.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from New York.

Mr. SCHUMER. Mr. President, I rise to speak on the nomination of Judge John Roberts to be Chief Justice of the United States.

I thank my colleague from Iowa for his heartfelt and outstanding words.

Votes like this come about so rarely that many Senators have spent their entire careers in this body without ever having had the opportunity to vote on a Chief Justice.

And most of us in the Senate today will likely never again vote on a nominee to that incalculably important position.

That is why I have been troubled about how some have characterized the votes of conscientious Senators in this case—Senators from my party who have struggled with, and deliberated over, Judge Roberts's record in arriving at their decisions.

As will be borne out tomorrow, Democratic Senators have given this vote the profound and serious consideration that it deserves.

We are not voting monolothically, but rather each according to his or her own conscience.

And that is what this vote is.

It is a question of principle—not of politics, partisanship, or positioning, as some have cynically suggested.

Democrats have truly struggled with this vote. I know I have. Like some others, I did not make up my mind until late on the night before the committee vote.

We are not marching in lockstep, with nary a dissent like my colleagues across the aisle.

But while this vote was a close call for many, (Like myself) the next one may not be.

While this nomination did not warrant an attempt to block the nominee on the floor of the Senate, the next one might.

If the President sends us a nominee who, like Janice Rogers Brown, believes that the New Deal was the triumph of a "socialist revolution," there will be a fight.

If the President sends us a nominee who, like Priscilla Owen, was criticized by her conservative colleague—Alberto Gonzalez—for an "unconscionable act of judicial activism," there will be a fight.

If the President sends us a nominee who, like Miguel Estrada, refuses to answer any real questions and whose record is not made fully available, there will be a fight.

If the President sends us a nominee who is committed to an agenda of turning the clock back on civil rights, workers' rights, individual autonomy, or other vital Constitutional protections, there will likely be a fight.

And it will be a fight without any winners.

So. Mr. President. on the eve not only of the confirmation vote on John Roberts, but also the President's nomination of a replacement for the seat of Justice O'Connor—for more than two decades a pivotal swing vote on the High Court—I hope and pray that the President chooses to unite rather than divide; that he chooses consensus over confrontation.

Now let me return to the vote at hand.

This vote should be viewed against a unique—and troubling—historical backdrop.

Many are saying the Senate should not bring "politics" into this. Their quarrel should be with the President of the United States if they feel that "politics" means figuring out a judge's ideological, judicial philosophy. Politics, if you define it as that, was introduced by a President who vowed that, if given the opportunity, he would name to the Supreme Court Justices in the "mold" of Clarence Thomas and Anthony Scalia.

Given the President's campaign promise and repeated declarations, there is a presumption that any nominee the President sends to the Senate is in that "mold."

The presumption is especially strong—and is particularly hard to overcome—with a nominee who was carefully vetted, researched, and interviewed at sufficient length by a President who professed a desire to nominate people in the mold of Thomas and Scalia; and, with a nominee who is eagerly embraced by those groups who support the views of Thomas and Scalia and who want to change America through the Courts;

The presumption can be rebutted, of course. And the way it can be rebutted is through the answering of questions and through the production of relevant documents. And here, regrettably, there was much lacking.

To be fair, Judge Roberts did partially rebut the presumption. He made some inroads.

Judge Roberts has a keen and impressive intellect. We all know that. His encyclopedic knowledge of the law and eloquent presentation certainly confirmed what his colleagues have said about him—that he is one of the best advocates, if not the best advocate in the Nation.

But being brilliant and accomplished is not the number one criterion for elevation to the Supreme Court—there are many who would use their considerable talents and legal acumen to set America back. So, while legal brilliance is to be considered, it is never dispositive.

In addition, very good lawyers know how to avoid tough questions. People have said that one of the reasons the nominee was so effective arguing in the Supreme Court is that he mastered the trick of making the point he wanted to make, rather than answer the question asked.

When I reviewed the transcript in the week after the hearings concluded but before we were called on to vote, there was often less than met the ear.

There is an obligation of nominees to answer questions fully and forthrightly, because they are essential to figuring out a nominee's judicial philosophy and ideology—to me, the most important criteria in choosing a Justice.

Many of us were disappointed in his failure to answer so many questions and is one of the contributing factors to the no votes that will be cast against Judge Roberts.

Add to that the refusal of the administration to allow the Senate to examine important and relevant documents, and we are voting on a hunch. Senators voting on the position of Chief Justice should not be relegated to voting on a "hunch."

We should not be left to guesswork, impressions, and hunches.

There was a bit of a game of hide and seek going on—as much as Senators tried to seek out his views, many remained hidden away.

That is why that I so badly hope that the next nominee will be more forthcoming and will answer more questions about his or her legal views, and that all relevant documents will be provided.

But, the answering of questions is only a means to an end—it is a means of finding out what kind of judge, or Justice, a nominee will make.

In this case, because there were not enough questions answered or documents provided, we are still unsure of the answer to the central question: Who is Judge Roberts?

Particularly troubling to me are the eerie parallels between Judge Roberts's testimony and then-Judge Thomas's, especially given President Bush's declaration that he would nominate Justices in the mold of Justice Thomas.

The echoes of then-Judge Thomas's empty reassurances that he was a mainstream jurist are ringing in the ears of every Senator who listened to many nearly identical statements from Judge Roberts last week.

I was particularly troubled by his answers in two areas—the constitutional right to privacy and the Congress Commerce Clause power to protect the rights and improve the lives of the American people.

At his hearing, for example, Judge Roberts said that he believes "there is a right to privacy protected as part of the liberty guarantee in the due process clause." At his hearing, then-Judge Thomas made almost the identical statement. As a Supreme Court Justice, however, Justice Thomas has repeatedly urged the most narrow interpretation of a privacy interest possible, in Casey, in Lawrence, and at every other opportunity.

At his hearing, Judge Roberts repeatedly assured the Committee that he had "no quarrel" with various Supreme Court decisions on issues of privacy, women's rights, civil rights, education, and other important issues. The same assurance in nearly identical words were made by Justice Thomas at his hearings, but when given the opportunity to consider those cases with which he had "no quarrel" from the bench, Justice Thomas voted to overrule.

At his hearing, Judge Roberts repeatedly assured the Committee that he had "no agenda." The same assurance was made by Justices Thomas and Scalia at their hearings.

Besides these concerns about Judge Roberts's views on the right to privacy and on the Establishment Clause, I also was troubled by his answers on the Commerce Clause. I asked him if he would disagree with Justice Thomas's extremely narrow, 19th-century, and widely-discredited view that Congress may not regulate activities occurring within a State even if they have substantial effects on interstate commerce. He refused.

There is therefore too serious a chance that Judge Roberts believes that Congress is without power to protect workers' rights, women's rights, and the environment on this widely-accepted constitutional basis.

We simply did not get definitive answers to these questions at the hearings.

At the hearings, I gave Judge Roberts every opportunity to distance himself from Justice Thomas's most extreme views. He refused.

Now, Senator CORNYN, my good friend from Texas, and others from across the aisle have said that if we can't vote for this nominee who could we vote for? Here is your answer: someone who answers questions fully and who makes his or her record fully available; someone who gives us a significant level of assurance with some answers and a record that he or she is not an ideologue;

Judge Roberts is clearly brilliant and his demeanor suggests he well might not be an ideologue.

But he simply did not make the case strongly enough to bet the farm.

There is a good chance—perhaps even a majority chance—that Judge Roberts will be like Justice Rehnquist on the bench. We know he will be brilliant, and he could well be—while very conservative—not an ideologue. That is why I struggled with this decision so long and so hard.

If he is a Rehnquist, that would not be cause for exultation; nor would it be cause for alarm. The Court's balance will not be altered.

But there is a reasonable danger that he will be like Justice Thomas, the most radical Justice on the Supreme Court.

It is not that I am certain that he will be a Thomas. It's not even that the chance that he will a Thomas is greater than fifty percent. But the risk that he might be a Thomas and the lack of reassurance that he won't—particularly in light of this President's professed desire to nominate people in that mold—is just not good enough.

Because if he is a Justice Thomas, he could turn back the clock decades for all Americans. The Court's balance may be tipped radically in one direction and stay that way for too long.

I hope he is not a Thomas. But the risk is too great to bear, and it exceeds the upside benefit.

Because of that risk and its enormous consequences for generations of Americans, I cannot vote yes. I must reluctantly cast my vote against confirmation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, 5 years have passed since the Presidential election of 2000, and legitimate questions about the outcome of that campaign have left too much of America too divided. Legitimate questions about the outcome of that election have given rise to an ever-growing polarization between so-called red and blue States, between liberals and conservatives, and between Republicans and Democrats in the Congress.

Despite a somewhat more convincing outcome in the 2004 Presidential election, the divisions caused by the events of 2000 show little sign of abating. Having closely observed this widening divide, I now wonder whether Judge Roberts' confirmation will add to the bitterness and distrust of the Federal Government or whether it may serve to remind the people and the lawmakers they elect that we cannot move forward as a nation if we remain dedicated to tearing each other down.

This is my first vote on a nominee to the Supreme Court of the United States, and my obligation as articulated in the Constitution is to either consent or not consent to a choice specifically entrusted to the elected President of the United States. Some of the policy watchdogs that I respect the most and agree with on so many issues have asked whether I oppose Judge Roberts because he is not one of us, because he is too conservative, because he is too young, because he may prove effective. He is not whom we would choose, they say. And on that point, I am in full agreement.

Should the test to confirm a Chief Justice be, he is not one we would choose? I ask my friends to imagine the mess we will have left for our country if the Senate uses this test and votes solely on the basis of a nominee's political beliefs. Friends who a year ago said, We don't want ideologues appointed to the Supreme Court, now want John Roberts and the next nominee to show up at the witness table to submit to an ideological litmus test.

Here is my message to those friends: A sword forged in ideology in 2005 can be used against a progressive nominee in 2009 with an equal disregard for the Constitution and the individual.

In 2008, I fully intend to work harder than ever before to elect a President who rejects the dangerous priorities that have led us to war in Iraq and an energy policy that is folly, that assures our continued dependence on foreign oil. Should this new Democratic President have to contend with a Republican Senate majority, he or she better hope that the judicial nominations in 2005 did not become purely ideology-driven contests. If these debates are purely partisan, our future will include constitutional bedlam whenever a Supreme Court opening occurs while the Senate is controlled by the opposition party.

I reject the suggestion that a Republican nominee is, per se, objectionable. A number of certainly moderate justices nominated by Republican Presidents certainly belie this claim. The decision each Senator must make should be based on the judicial nominee that is before the Senate, not the one that we wish was before the Senate.

To put this into historial perspective under the advice and consent responsibility assigned to the President, the President's judicial nominees to the Court have traditionally been given a large degree of deference. For example, in spite of the divisive national debate surrounding gays in the military, universal health care, Travelgate, Filegate, and the Whitewater investigation, this deference translated into 96 votes for Justice Ginsburg and 87 votes for Justice Breyer when their nominations came to a vote before the Senate. Yet these are two of the most progressive voices in the over 200-year history of the Court.

When I had the opportunity to meet with John Roberts in my office this past August, I pressed him to tell me how he viewed some of the issues that have most divided our country. The answers Judge Roberts gave me during the hour we spent together left me with the impression that he will be his own man on the Court.

Here are my judgments about the individual before the Senate now: One, on the basis of his public testimony, it is hard to see Judge Roberts as a man who will walk into the white pillard building across the street and set about tearing apart the fabric of our society; two, on the basis of his public testimony, it is hard to see Judge Roberts as a judicial activist who would place ideological purity or a particular agenda above or ahead of the need for thoughtful reason; three, on the basis of his public testimony, it is hard to see Judge Roberts as a divisive, confrontational extremist who would try to further exploit the divisions in our country.

What I saw in his public testimony and in our private meeting is an intelligent, thoughtful man, certainly a deeply conservative man with a tempered view of the role of Government.

At his Judiciary Committee hearings, nothing he said in public conflicted with what he had told me in private.

In addition to meeting with him, I have scrutinized Judge Roberts and his record closely, considering his Reagan-era documents, reading the news analysis printed in papers across our country and listened to the hearings and reviewed the transcripts of them as well. No one disputes that Judge Roberts has a brilliant legal mind. My analysis of his record leads me to conclude that he is not cut from the same originalist cloth as Justice Thomas and Justice Scalia. He does not seem to believe that the words of the Constitution are fossilized, leaving only a one-size-fits-all, 18th century remedy for every problem that our society confronts. It is hard not to get the sense that he believes in limited government.

Back in March, I led the effort in the Senate to block attempts to dictate a specific medical treatment in Terri Schiavo's tragic case because I believed the Constitution affords families the right to decide these matters privately. This is an area, in my view, in which the Federal Government has no business intruding. Involving itself in the Schiavo case, Congress was inappropriately meddling and blatantly ignoring the limits of its constitutional authority.

I believe that the Terri Schiavo case is the first of many such end-of-life cases that will arrive at the Supreme Court's doorstep. In my view, most of these cases will involve one individual and passionately held views. Demographic trends and improvements in medical technology assure that there will be many of these cases.

Given what is ahead, I felt I had an obligation to examine how Judge Roberts saw end-of-life issues in the context of the Constitution and whether he would be willing to manipulate its meaning to authorize Government intrusion in private family matters. When I met with Judge Roberts in August, we discussed end-of-life issues at length, not because this was a litmus test for me, and I certainly don't believe in litmus tests, but because I thought it was important to carefully consider Judge Roberts' judicial temperament on this critical issue.

Judge Roberts did not say how he would have handled the Schiavo case or any case before the Court. However, Judge Roberts did say quite a bit that made a lot of sense to me and I think would make sense to the vast majority of Americans. Judge Roberts agreed that there is a constitutionally based privacy right and that while the scope of the privacy right is still being defined in the context of end-of-life care, he said that when he approached the issue, he starts with the proposition that each person has the right to be left alone and that their liberty interests should be factored in as well.

At his hearing, Judge Roberts reiterated his position, stating that a right to privacy exists in the Constitution. He stated that privacy is a component of the liberty protected by the due process clauses of the 5th and 14th amendments, and he stated this liberty interest is protected substantively as well as procedurally.

While discussing the Schiavo tragedy during our August meeting, I also asked him about Congress's authority to legislate a particular remedy in a particular case, and Judge Roberts expressed his concern about judicial independence. It was apparent to me Judge Roberts understands there are constitutional limits to the recent enthusiasm of Congress to prescribe particular remedies in a particular end-of-life case.

Concerning States rights to regulate medical practice and the scope of the 10th amendment, Judge Roberts stated he believed the Framers expected States to do most of the regulating and that they expected most regulation to be State-based. In his view, the basic genius of the Federal system is that it affords different States the ability to approach problems in a way that is best suited to meet their different needs, and that imposing uniformity across the country would stifle the genius of our Founding Fathers.

Judge Roberts also told me he attaches great importance to legislative history in interpreting law. He repeated this point several times during his public hearings. Those who have closely studied former Attorney General Ashcroft's challenge to the Oregon physician-assisted suicide law know there is not one word in the Controlled Substances Act, the law used to launch the case, indicating the Controlled Substances Act is aimed at or should be used to overturn or undermine the right of States to regulate medical practices within their borders.

On the extremely important matter of a woman's right to choose, I asked Judge Roberts about Roe. He did not offer specific comments, but his response indicated he would not enter the Court with an "agenda" and he would respect the Court's precedents. In the public hearings, he also said he personally agreed with the conclusion of the Griswold and Eisenstat decisions, which held that the privacy right protects the right of individuals to use birth control.

His opinions on the issues that matter indicate he is intelligent, thoughtful, and that he has a tempered view of the role of the Federal Government.

Judge Roberts' combination of temperament and intelligence give him the potential to be a conciliatory voice at a divisive time in American history. He has the skills to reach across the divisions in America to show that justice can be a healing force for the wounds that cut our society so deeply. He can help to unify the country by building a record of well-reasoned opinions grounded in the rule of law, not ideology.

He will receive my vote tomorrow to be the next Chief Justice of the United States.

I want to make one final point, Mr. President, a point that is important to me. There is another vacancy on the Court, and the President is expected to send forth his nominee soon. My intention to vote for Judge Roberts tomorrow should in no way be construed as a "weathervane" for how I might vote on the next nominee. In the past, I have not hesitated to vote against several of the President's nominees to the courts of appeals when they carried the ideological and activist baggage I believed would be disruptive to our society. If the President puts forward a nominee to replace Justice O'Connor who is unlikely to ably and respectfully fill her shoes, I will vigorously oppose that nomination.

I began by voicing my question about the impact of this nomination on the body politic of our country. Among the many awesome duties of the Chief Justice, no duty is of greater importance than the duty to unify our Nation when Americans find themselves in disagreement. Different Chief Justices have shouldered this burden with varying degrees of success. This ability to unify is what is most sorely needed at this moment in our Nation's history, and I am of the opinion that Judge Roberts possesses the nature and the desire to unify the Court and, with it, our Nation. I wish him wisdom, diplomacy, and moderation as he prepares to assume this critical role.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the time from 12 p.m. to 1 p.m. will be under the control of the majority.

The Senator from South Carolina.

Mr. GRAHAM. Madam President, I would like to comment a bit on the nomination of Judge Roberts. I wish to make a political observation. This is certainly a political body, and the nomination process has politics to it. That is not a bad thing. That is to be expected.

From a Republican point of view, this is an easy vote. We are inclined to support a President when he is in power making a nomination. But that is not always the case, that every Republican votes for every nominee. I expect that will be the case here. Most of us on our side of the aisle are pleased with the nominee, someone of extraordinary intelligence and legal abilities and seems to be an all around good guy who has served his country well in every capacity that he has been called upon to serve. We will all vote en masse. It is an easy vote for us.

To our Democratic colleagues, it is not so easy. Any time you are in the minority, and the Court being an important part of American life and politics, there is a lot of pressure on my Democratic colleagues to say no for different reasons by special interest groups on the left. We certainly have them on the right. Our day will come. If there is ever a Democratic nominee, we will face the same pressure.

I would like to compliment my Democratic colleagues. Every one has taken the process seriously. There will be a healthy number of Democratic votes for Judge Roberts. To those who have decided to vote for him, history will judge you well. You have based your votes on the qualifications test. You have seen in Judge Roberts someone who loves the law more than politics. Over time, history will judge you well. One of the highlights of the Bush administration will be the selection of Judge Roberts to be the Chief Justice of the United States.

For those who vote no, to a person everyone has struggled with it, thought about it, cast your vote. Generally speaking, the debate in committee and in the Chamber has lived up to the best traditions of the Senate. A few months ago, we were at each other's throats, about to blow up the place. There is plenty of blame to go around, but we have sort of broken that cycle. We have had a confirmation process that is in the best tradition of the Senate. We will go forward, and I hope he gets a healthy number of votes. It looks as if he will.

One thing I wanted to take some time to discuss is some of the reasoning given to vote no and make a cautionary tale about some of the suggestions why a "no" vote would be appropriate. There seems to be some suggestion that if he does not have an allegiance to a particular line of cases, particularly the right of privacy cases centering around Roe v. Wade, that you can't vote for him. That one case or that line of legal reasoning is so important that without some commitment on his part to uphold Roe v. Wade or the concept of Roe v. Wade, a "no" vote would be in order. I would argue that could be applied on our side. Most of us are pro-life. I would say 90 percent of the Republican caucus is pro-life. Probably 90 percent of the Democratic caucus is pro-choice. The country is pretty evenly divided. If we have a litmus test about Roe v. Wade or any other case, that is not doing the judiciary a good service because you are putting a judge in a bad spot.

Senator HARKIN mentioned the Americans with Disabilities Act, something he should be very proud of. He fought hard to make it part of law, and we are a better Nation for it. There are some cases involving the Americans with Disabilities Act that will come before the Court. Senator HARKIN did not think that he could vote yes because he wasn't assured that Judge Roberts would uphold the Americans with Disabilities Act in a way that he felt comfortable with in that States have been exempted from the act. We are all dealing with that issue.

The only thing I can say about a guarantee with Judge Roberts, if you are a conservative and would like to see certain Court decisions reversed, if you are a liberal and would like to see certain decisions sustained, the one thing I can promise you about Judge Roberts is he is going to make his decision based on the facts, the briefs, the record in the particular case, and the arguments made by litigants. If he overturns a precedent of the Court, he will apply the four-part test that has been the historical analysis of how to overturn a standing precedent. He is going to do it in a businesslike fashion. He is going to apply the rule of law. If you are looking for an outcome-determinative judge, someone who is going to see things your way before they get your vote, you are going to be disappointed. To be honest, the law is better off for those answers. He is not the only one to refuse to bargain his way on the Court.

Justice Marshall was asked by Senator McClellan: Do you subscribe to the philosophy expressed by a majority of the Court in Miranda?

That is a major league constitutional case in our Nation's history where police officers have to inform a criminal defendant of certain rights they possess under the Constitution. That was a big deal. When Justice Marshall was coming along, that case had not been long decided. He said: I cannot answer your question because there are many cases pending that are variations on Miranda that I will have to pass on if I were confirmed.

Senator McClellan: Do you disagree with the Miranda philosophy?

Justice Marshall: I am not saying whether I disagree or not, because I am going to be called to pass on it.

Senator McClellan: You cannot make any comment on any decision that has been made in the past?

Justice Marshall answered: I would say that on decisions that are certain to be reexamined in the Court, it would be improper for me to comment on them in advance.

I couldn't say it better. This idea that Judge Roberts has been evasive, that he will not give you a detailed answer of how he will decide the concept of the right of privacy or how he might rule on interstate commerce clause cases that will certainly come before the Court, he is doing exactly what Justice Marshall did when he was in the confirmation process. He was not going to bargain his way on the Court.

Justice Ginsburg gave a very famous quote: I am not going to give you hints, any previews, no advisory opinions about matters that I believe will be coming before the Court.

If that is your test, that you have to have a guarantee in your mind that a certain line of cases or a legal concept will be upheld or stricken down, Judge Roberts is never going to satisfy you. It is good for the country that he not try to do that, just as Justice Marshall avoided that dilemma.

This is a question by Senator KOHL to Justice Souter: What was your opinion in 1973 on Roe v. Wade?

Justice Souter: Well, with respect, Senator, I am going to ask you to let me draw the line there, because I do not think I could get into opinions of 1973.

Senator LEAHY: You do not have the same sense, to whatever degree you consider privacy in Griswold settled—which is the ability to engage in birth control practices—to whatever extent that is, you do not have in your own mind the same sense of settlement on Roe v. Wade: is that correct?

Justice Souter: Well, with respect, sir, I think that is a question that I should not answer. Because I think to get into that kind of comparison is to start down the road on an analysis of one of the strands of thought upon which the Roe v. Wade decision either would or would not stand. So with respect, I will ask not to be asked to answer that question.

He said it better than I read it. Bottom line is, he is telling Senator LEAHY and Senator KOHL that if you start asking me to compare one case with another that has viable legal concepts, that could be a foreshadowing of how I might rule on matters before the Court, and you are putting me in a bad spot and I like not to do that. I can talk about Griswold, but if you ask me to say am I settled about Roe v. Wade as I am Griswold, then you are basically getting a preview how I might rule on a Roe v. Wade-type scenario.

So the idea that Judge Roberts did not want to make such comparisons with the interstate commerce clause is not unknown to the confirmation process. Justice Souter did not want to go down that road with the right of privacy.

Judge Roberts was asked probing, hard, clever questions to try to get him to tip his hand. I think what he said was the right answer: I will follow the rule of law. There is a process of how to overturn a case. There is a process of how to decide a case. That process is, you look at the facts, you look at the record, you listen to the arguments of the litigants, and you don't prejudge. I think that will serve the country well.

The other concept that is coming into play is what burden does the nominee have, what deference should the Senate give to the President, what is the standard for confirmation. I have always believed that the idea that the President's nominee should be given deference by the Senate is a longstanding concept in our country. I am not the only one who believes that.

There is a lot of information out there from our Democratic friends who have gone down that same road and have come to the same conclusion. There are prominent law professors out there who have suggested that there is a presumption of a nomination by the President that the Senate should give great deference to the Presidential nominee and that our advise-and-consent role does not replace the judgment of the President but simply to see if the person is qualified, has the character and integrity and will wear the robe in the way that is consistent with being a judge and not turn it into power grab.

Professor Michael Gerhardt, who has advised our Democratic friends about the confirmation process established now and in the past, says:

> The Constitution establishes a presumption of confirmation that works to the advantage of the President and his nominee.

He also said:

> The presumption of confirmation embodied in the Constitution generally puts the onus on those interested in impeding a nomination to mobilize opposition to it.

So the general idea that the President should be given deference, in Professor Gerhardt's opinion, is accepted in terms of the practice of the Senate.

Senator BIDEN, on past nominations, has said: First, as a Member of the Senate, I am not choosing a nominee for the Court. That is the prerogative of the President of the United States and we, Members of the Senate, are simply reviewing the decision he has made. Second: Our review, I believe, must operate within certain limits. We are attempting to answer some of the following questions: First, does the nominee have the intellectual capacity, confidence, and temperament to be a Supreme Court Justice? Second, is the nominee of good moral character and free of conflict of interest that would compromise her ability—in this case it was Justice Ginsburg—to faithfully and objectively perform her role as a member of the Supreme Court? Third, will the nominee faithfully uphold the laws and Constitution of the United States of America? We are not attempting to determine whether the nominee will address with all of us—being the Senate—every pressing social or legal issue of the day. Indeed, if that were the test, no one would pass this committee, much less the full Senate.

I could not agree with Senator BIDEN more. If that is the test, we are OK. If it becomes some subjective test where you have to adopt our view of a particular line of legal reasoning, then I think you have undermined the role of the President. I think you put the Judiciary at a great disadvantage, and I think you will be starting down a road that will not pay great dividends for the Senate.

I argue that whatever votes you cast, let's not create standards that will come back to haunt the judiciary. Let's not put people in a bind, in trying to get on the Court, by making decisions or answering questions that will compromise their integrity and violate their judicial ethics to get votes.

I do not think anybody is intentionally trying to do that, but there are some disturbing comments about what the standard should be. There have been a couple of occasions on the Judiciary Committee where people have looked at Judge Roberts and said: Convince me, the burden is on you to convince me you will not do the following or you will do the following. I don't think that is helpful.

There have been some occasions in the committee where people have acknowledged the great intellect of Judge Roberts. His preparation for the job is not in question. I said in committee: If you question his intellect, people are going to question yours. He is a genius. There is no way of getting around that. He is one of the greatest legal minds in the history of the country, and I think he will be a historic choice by the President.

People have suggested: I don't know if he has the real-world experience; I know about your brain, but I don't know about your heart. I suggest it is dangerous for us in the Senate to begin judging other people's hearts. That gets to be a slippery slope.

Senator WYDEN's statement, I thought, was dead on point. He understands the deference the body gives to the President. He pointed out, in fact, that Justice Ginsburg and Justice Breyer, two Clinton nominees, received 87 votes and 96 votes, respectively. If you start applying heart tests, I can tell you that gets to be so subjective and so political, and I think it is dangerous for the judiciary and not healthy for the Senate.

One of the issues Justice Ginsburg wrote about was the idea that prostitution should be a legal activity because to restrict women from engaging in prostitution is basically restricting a woman's right to engage in commerce.

You can agree or disagree, but from my point of view, looking at the world as I know it to be as a former prosecutor and former defense attorney who has had some experience in criminal law, if I am using the heart test or the real-world experience test, I would argue that from the experiences I have seen as a criminal defense lawyer and as a criminal prosecutor, that prostitution is hell for women; that if you really understood the life of a prostitute, it would not be a good business endeavor to uphold. It would be something we would want to deter.

That is my view based on life as I know it, having been involved in the criminal law business for 20-something years.

She said she supported the idea of Federal funding for abortion. If you wanted to try to question someone's heart from a pro-life perspective, I think it would be pretty tough to take taxpayers' dollars and use them for a procedure that millions of Americans find morally wrong.

So if we start going down the road of whether we believe a person before us has the right heart or the right real-world experiences, then you are taking the objective qualification, intellect, and character test, not an ideologue—which I think is an appropriate thing—and you are beginning to put subjective elements in it that will not be good for the judiciary and will not be good for the Senate. I can assure you, if we started looking at those type of tests for Justice Ginsburg or Justice Breyer, who was a Democratic staffer, if we started looking at their philosophy or trying to judge their heart or having their value system equate with ours to the point we feel comfortable, then they would not have gotten nearly the votes they did because it is clear to me that not too long ago Republicans, during the Clinton administration, overlooked all the differences they had with Ginsburg and voted for her 96 to 3 and overlooked all the differences they had with Justice Breyer and gave him 87 votes. It is clear to me that Democrats and President Bush 1's administration overlooked all the differences they had with Justice Scalia, and he got 98 votes.

It has been mentioned that the President has politicized this process, and there have been all kinds of veiled and direct threats about the next nominee: If you pick so and so, you are going to get a fight. If you pick Priscilla Owen, if you pick Janice Rogers Brown, you are going to get a fight, bringing back the specter of the filibuster.

What did the President do when he ran in his campaign? He talked about the Supreme Court and how important it was to him. He said, basically: If I am the President of the United States, on my watch, I am going to nominate well-qualified, strict constructionists to the Court with no litmus test, who will interpret the law and not become legislators themselves. He showed praise and admiration for Scalia and Thomas.

I would argue that something is wrong with the Senate if they can vote for someone 98 to 0 and say, If you pick someone like him, they are out of the mainstream and desiring a filibuster. How can you go from 98 to 0, someone similar to the person a decade later, and you filibuster? I would argue that if you do that, it is more about politics than it is about qualifications.

I hope we don't do that because the one thing I can assure you, knowing the President reasonably well, is that he is going to fulfill his campaign promise. He is going to send over to this body a well-qualified, strict constructionist, and to expect anything else, you ignored the last two elections. We are not going to sit on the sidelines and watch the election be overturned because of political pressure from the left. That is not going to happen.

I do expect the President to listen, as he did before he nominated Judge Roberts. I expect him to consult, as he did before he nominated Judge Roberts. I was very pleased and proud of his pick. I am encouraging the President to listen to our Democratic colleagues, listen to us all. But the most encouragement I could give the President is: Fulfill your campaign promise. Do what you said you would do when you ran for President. Send us over a well-qualified, strict constructionist conservative with no litmus test attached. If you do that, then you will have done a good service for the American people because you got elected twice telling them what you are going to do.

I have about 5 minutes, and I will let my other colleagues speak.

There were a couple of other comments about concerns with this nominee. It goes back to the memos. This nominee worked for the Reagan administration. He was in his midtwenties, and that has gotten to be a bad thing. Working for Ronald Reagan, I think, is a good thing. Justice Breyer was a Democratic staffer. No one held that against him. He worked for the Democratic side of the aisle in the Senate.

and I don't remember anyone suggesting that was a bad thing.

Presidents pick people they know and with whom they are comfortable. Clinton was comfortable with Ginsburg, the executive general council for the ACLU, someone we would not have picked. He was comfortable with Justice Breyer, a former Democratic staffer, someone this President would not pick. This President picked someone who worked for his dad, President Bush 1, and Ronald Reagan.

There is an argument out there that adopting the Reagan position on extending the Civil Rights Act in toto, without a change, that would lead to a reverse discrimination test called "proportionality" and is out of the mainstream. Ronald Reagan won 49 States. If you can win 49 States and be out of the mainstream, I would argue the person saying you are out of the mainstream is out of the mainstream. If you picked someone similar to Scalia and that would justify a filibuster and the guy got 98 votes, there is a disconnect going on here.

One of the memos that is in question is a memo that Judge Roberts wrote about the Reagan administration's decision to grant amnesty, for lack of a better word, to illegal aliens in this country. He was writing a memo to suggest how the President should respond to an inquiry by Spanish Today, a Latino, Hispanic newspaper. He talked about the idea that it would be well received in the Hispanic community to grant amnesty. And he said to the effect that Spanish Today would be pleased that we are trying to grant legal status to their illegal amigos.

Somehow that one phrase has been suggested that this young man, working for the Reagan administration, committed some kind of a wrong that would deny him the ability to be fairly considered for the Supreme Court 20-something years later. I argue. No. 1, that if you read his writings in terms of what he was talking about, it was not meant to be slanderous, it was not meant to be a derogatory remark—he answered the question fully—that it was not meant to be that way at all. That was a commonly used term in the White House, the term "amigos," and he made a correct observation: that certain Hispanic groups did welcome President Reagan's decision.

Bottom line is, if we are going to take a phrase that a person wrote when they were 26, and that is going to be a reason to vote no, woe be to anybody else coming before this committee. I would not want that to be the standard for me.

He never apologized because he did not think he had anything to apologize about. So this is much ado, in my opinion, about nothing. You have read his writings. He used Latin, French, and Spanish terms all over the place. He is kind of a witty guy. You may not like his sense of humor, but I think it is given sometimes in that vein. The idea about, you know, more homemakers becoming lawyers, who said we need more homemakers than lawyers—and I think a lot of people agree with that, and his wife happens to be an attorney, by the way—taking these phrases out of context and not looking at life in total is not fair. Not one person came before this body or the committee to say Judge Roberts has lived his life in any way, shape, or form to demean any group in America or individual. It is quite the opposite. He has received praise from everybody he has worked with on both sides of the aisle because he is basically a very good man. So I hope we will not make that the standard in the future.

Final thoughts. The vote is not in question in terms of confirmation. The process is in question. And that to me is as important as the vote total. The President is going to get another pick. That is the way it has happened. He has had a lot of things happen on his watch historic in nature. Whatever you think about President Bush, whether you like him or not, he has had to deal with some major league events. Let me tell you, some will go down good and not so good in history. That is the life of a President. But one thing I can say for certain is that his decision to make John Roberts Chief Justice of the U.S. Supreme Court will go down well in history. It will be one of the greatest things he has done as President of the United States because he has picked one of the most uniquely qualified men in American history to serve on a Court that needs all the unity it can find, and this guy will be a consensus builder. The next one is coming and it is coming soon. There is all kind of jockeying already about what the President should do and what he should not do. I hope and pray we will remember the best traditions of the Senate, that we will listen to the Joe Bidens of the past, when he informed us that our role is to give deference to the Presidential nominee, look at their character, intelligence, and qualifications; that we will remember what Senator KENNEDY said about Justice Marshall: it is not your job, we shouldn't hold someone's political philosophy against them. We should look at who they are and what kind of judge they would be, would they be fair.

So as the next pick is about to be made, the Senate can fight if we want to or we can recognize that elections matter, we can judge the nominees based on their qualifications, integrity, and character, whether they are going to wear the robe in some improper fashion, or we can start putting political tests on the Presidency that will come back to haunt everybody and every party. If you want someone such as O'Connor—President Clinton did not think 1 minute about replacing Justice White with Justice Ginsburg. No one asked him to think about that. This idea that you have to have an ideological match is something new. What is old and stood the test of time is that Presidents get to pick once they win, and our job is to make sure they pick wisely in terms of character, integrity, and qualification. And if we will stick to that test and not substitute our political philosophy for that of the President and not require a political allegiance of the nominee to our way of thinking about a particular line of cases or a particular concept in law, but judge the entire person, we will have served the country well. If we get into the mud and start fighting each other over the second pick, because some people don't like how the election turned out, then we will set a trend that will come back to haunt this body, haunt all future Presidents, and we will be worse off as a nation.

With that, I am going to end with the idea I am optimistic that we will not go down that road, we will give the next nominee the respect and deference this nominee has, and we will vote our conscience, and the vote will come and the vote will go. And the worst thing we could do is politicize the judiciary any more than it has been politicized. If you are selected to be on the Supreme Court, there will be millions of dollars to run you down and destroy your life, and that is going to happen on both sides of the aisle if we do not watch it. The best thing the Senate can do is use this opportunity to stand up to those people who want to run down somebody and ruin their life unfairly, because our day will come as Republicans. If we can unite around the idea we are not going to let special interest groups take over the Senate, the country will be stronger.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I congratulate my colleague and good friend from South Carolina for a fine statement.

I also rise today in support of President Bush's nomination of Judge John Roberts to serve as Chief Justice of the United States.

President Bush could not have nominated an individual more qualified to be confirmed as the next Chief Justice of the United States. If one were to prescribe the ideal training regimen for a future Chief Justice, Judge Roberts' career may well serve as the model.

Judge Roberts has interacted with the Supreme Court in nearly every conceivable capacity. After law school, he held a prestigious position at the Supreme Court as a clerk to Justice William Rehnquist. He then went on to argue 39 cases before the Supreme Court, representing both public and private litigants. He currently serves as a judge on the U.S. Court of Appeals for the DC Circuit often referred to as the second highest court in the land.

In short, he has worked at the Supreme Court, represented dozens of clients before the Supreme Court, and served as a judge on the court that many consider a stepping-stone to the Supreme Court. I cannot imagine someone more qualified to now serve as Chief Justice of the Supreme Court.

After spending considerable time with Judge Roberts the nominee, I came to be equally impressed with John Roberts the man. He is humble, unassuming, polite, and respectful. In that respect, he shares the values of many of my fellow Coloradans.

The humility he exudes is reflected in his view on the role of judges and the courts. Judge Roberts says:

> [A] certain humility should characterize the judicial role. Judges and Justices are servants of the law, not the other way around.

He describes himself as a "modest judge," which is evidenced in his "appreciation that the role of the judge is limited, that judges are to decide the cases before them, they're not to legislate, they're not to execute the laws."

This judicial philosophy is imperative to preserving the sanctity of the Constitution that is under attack by a handful of activist judges activist judges who proclaim the Pledge of Allegiance unconstitutional and attempt to redefine the institution of marriage. Unlike these activist judges, Judge Roberts will be on the side of Constitution.

As a Senator representing Colorado, I also appreciate the uniqueness of the issues important to Colorado and the West. The departure of Justice O'Connor, and now Chief Justice Rehnquist, marks the loss of a Western presence on the Supreme Court.

Earlier this year, I asked President Bush to nominate a judge with an understanding of issues important to Colorado and the West, such as water and resource law.

I asked Judge Roberts about his understanding of Western resource and water law. Judge Roberts acknowledged the loss of the Western presence on the Court and assured me that he understands the uniqueness to the West of such issues as water, the environment, and public lands.

He shared his experience working on several cases in the State of Alaska, encompassing issues on rivers, Indian law, and natural resources. He also described his practice of traveling to the site of cases when he believes it is beneficial to his understanding of the facts. This practice is demonstrative of his commitment to fully understanding cases from the perspective of both sides.

I was pleasantly surprised to learn that he currently has a law clerk from New Mexico. Law clerks sit at a judge's right hand and are integral in the judge's decisionmaking process. I am hopeful that Judge Roberts will continue to surround himself with individuals who have a Western perspective.

The Senate Judiciary Committee has reviewed Judge Roberts' record more extensively than any previous Supreme Court nominee. The Administration produced more than 76,000 pages of documents related to Judge Roberts' distinguished career in public service. Judge Roberts testified for more than 20 hours before the Senate Judiciary Committee.

During the extensive review process, the country learned a great deal about Judge Roberts' fitness to serve on the Supreme Court.

We learned about his judicial philosophy, one which is firmly rooted in the rule of law and unwavering in its reverence for the Constitution. I believe his most telling statement was this:

> I come before the Committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench, and I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability, and I will remember that it's my job to call balls and strikes, and not to pitch or bat.

We learned that Judge Roberts subscribes to "the bedrock principle of treating people on the basis of merit without regard to race or sex." His belief in these principles is echoed in praise from several women's and minority groups.

The Minority Business Round Table says "his appointment to the U.S. Supreme Court would certainly uphold our core American values of freedom, equality and fairness."

The Independent Women's Forum applauds Judge Roberts as a "very well qualified candidate with a reputation of being a strict interpreter of the law rather than someone who legislates from the bench."

We learned that Judge Roberts recognizes the limitations on the government's taking of private property and the role of the legislature in drawing lines that the Court should not. The Court in Kelo permitted the transfer of property from one private party to another private party to satisfy the Constitution's "public use" requirement, essentially erasing this fundamental protection from its text. Judge Roberts says the Kelo decision "leaves the ball in the court of the legislature. . . . [Congress] and legislative bodies in the States are protectors of the people's rights as well. . . . [Y]ou can protect them in situations where the Court has determined, as it did 5-4 in Kelo, that they are not going to draw that line."

We learned that Judge Roberts will rely on domestic precedent to interpret the U.S. Constitution, not foreign law. Judge Roberts said, "as a general matter . . . a couple of things . . . cause concern on my part about the use of foreign law as precedent . . . . The first has to do with democratic theory. . . If we're relying on a decision from a German judge about what our Constitution means, no President accountable to the people appointed that judge, and no Senate accountable to the people confirmed that judge, and yet he's playing a role in shaping a law that binds the people in this country."

Given his keen intellect, impartiality, temperament, sound legal judgment, and integrity, it is not surprising that Judge Roberts enjoyed bipartisan support by the Senate Judiciary Committee. I expect that he will enjoy similar bipartisan support in his confirmation vote tomorrow morning.

I want to commend President Bush on the unprecedented level of bipartisan consultation he engaged in with the Senate prior to this nomination. The Constitution grants the power to the President to nominate and the Senate to provide advice and consent. Although Senators can provide input, the Senate does not co-nominate. When the President sends forth highly qualified candidates, this body has an obligation to the American people to provide a timely up-or-down vote.

I commend my colleagues on the respectful hearings and expeditious process. The Ginsburg Standard was applied to Judge Roberts fair, respectful hearings; no prejudging of cases likely to come before the court; and a timely, up-or-down vote.

With consultations on the next nominee already well under way, and an announcement imminent, I am hopeful that my colleagues will apply the same standards.

Judges are not politicians. The Senate debate should reflect that the job of a judge is to review cases impartially, not to advocate issues. Judges should be evaluated on their qualifications, judicial philosophy, and respect for the rule of law.

I am confident that President Bush will send forth a highly qualified nominee to replace Justice O'Connor, and I am hopeful that my colleagues will continue to build on the spirit of bipartisanship witnessed during this confirmation process.

In conclusion, I cannot imagine a better qualified candidate than Judge Roberts to lead this nation's highest Court into the 21st century. I believe his rhetoric matches his actions.

On behalf of the citizens of Colorado, I thank Judge Roberts for his willingness to serve our country. I am hopeful that the fair and respectful hearings accorded to him by this body will serve to inspire the best and the brightest of future generations to make similar sacrifices in the name of public service.

I strongly urge my colleagues to cast a vote in favor of Judge John G. Roberts' confirmation as the 17th Chief Justice of the United States.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, after listening to my friend from Colorado and my good friend from South Carolina, and then to look at the statement that I have, it appears we are all saying about the same thing, but we just all haven't had the opportunity to say it yet. I will try to put a little different slant on it.

We know the qualifications of this man, Judge Roberts. He has consistently shown me excellence in all aspects of his previous academic and his professional career. He is widely thought of as one of the best legal minds in the country, is highly respected by his colleagues as a fair-minded, brilliant, and temperate jurist. He graduated from Harvard College summa cum laude. He did it in only 3 years. He then graduated from Harvard Law School at the top of his class.

Less than 3 years ago, Judge Roberts was confirmed by a unanimous vote to the DC Court of Appeals, which is often referred to, as my friend from Colorado says, as the second highest court in the land. He was also a partner in the prestigious law firm of Hogan & Hartson. He specialized in U.S. Supreme Court litigation, arguing numerous cases before the very Court to which we seek to confirm him today. Further, he had an active practice in appellate law.

I guess what we look for in the men and women we like to see on the country's highest Court is pretty much found in all the qualifications of Judge Roberts. He had worked in the private sector. He also worked in the White House under President Ronald Reagan as Associate Counsel. In addition, he earned a highly prestigious clerkship on the Supreme Court for Chief Justice William Rehnquist—that in 1980 and 1981. Then he was nominated by this President and went before the Judiciary Committee.

We watched those hearings with a great deal of interest. I speak not as a member of that committee or even as an attorney, but what we heard more than anything else—and this is important to my State of Montana—is that we will have a qualified, fair, and competent Supreme Court Justice. That is important. When questioned on all of those qualifications, fairness, and competence, no one challenged any part of those elements. In this respect, Judge Roberts earned the "well qualified" rating from the American Bar Association, which is the highest rating that association offers. There was no challenge there.

He continually impressed my colleagues in the Senate by showing his immense knowledge of the law while reflecting his vast understanding of the rule of law and the importance of precedent. There was no challenge there.

What becomes important is that we know that our Supreme Court Justices understand their duty is to interpret the law as it is reflected in the cases that come before them and refrain from personal biases and from legislating or putting their biases into those cases.

He impressed me when he said that he wanted to be the umpire. He didn't want to be the pitcher or the batter; he just wants to call the balls and the strikes. I appreciate that. I spent a lot of years on a football field, and I was one of those who wore the striped shirt. When I look back on that game, maybe our judiciary should be a little bit like this great American sports feature of football. When you think about it, 4 old referees—some of them overweight whom I could talk about—go out on a field of 22 young men who are hostile, mobile, and bent on hurting each other, and we have very few problems because those striped shirts are the arresting officers, the judges, and the penal officers. They do it in 30 seconds, and they do it without very many complaints. Thus the discipline of the game: 22 young men in armor and dead set on winning the contest.

Throughout his hearings before the Judiciary Committee, Judge Roberts proved over and over that he understands the role of the judiciary as an interpreter and not a legislator and why it is important to our governmental system that our judges across America refrain from overstepping their duties. The law is the law. Yes, it can be a subject of interpretation, but look how simple our Constitution is. It doesn't use very many big words. They are very simple. There is a lot of difference between the word "may" and the word "shall," and you can interpret them.

He explained his judicial style during his hearings by saying:

> I prefer to be known as a modest judge . . . It means an appreciation that the role of the judge is limited, that a judge is to decide the cases before them. . . .

They are not to change it or use their biases to execute a judgment. That is pretty important.

When you look at his private life, the values of how he has progressed in his professional life, how he has carried himself and what is personally important to him—family, being a good husband, a provider—we see all of those values that we Americans hold in very high esteem.

Then we move it over into now what kind of a judge will he be. He was questioned on a lot of social issues that the courts have no business even considering. That falls on us, the elected representatives of America, and our constituency. What their values are should be reflected here. Yet what I heard was questions on human rights.

It is a wonderful thing, this Constitution we have. The Constitution was not written for groups, it was written for you as the individual. It is your personal Bill of Rights and how we structure our Government and the role of each one of those equal entities and how they relate and interact with each other—the executive, the judicial, and the legislative.

It is important to me and the people I represent that we have judges on the bench who will not prejudge cases. He may have a bias one way or the other, but what does the law say as it pertains to me as an individual citizen? This judge made his own commitment to listening, to hearing both sides of the case, and is committed to a fair and reasonable outcome, whether the judge personally likes or dislikes the eventual results. His approach to the law, simply put, is one of restraint. He is shown not to be an ideologue with an intent of imposing his views or his biases on the law.

Will he always rule in a way that would be consistent with my philosophy? I would say no. I have a feeling, though, however he rules will be fair, and he will not compromise any of the principles of the law as written. He explained:

> As a judge I have no agenda, I have a guide in the Constitution and the laws that are precedents to the court, and those are what I apply with an open mind after fully and fairly considering the arguments and assessing the considered views of my colleagues on the bench.

I am not sure if it is the job to really draw a consensus when you have nine men and women who have strong views of the law and the Constitution and maybe would interpret them in many different ways, but what this man has shown us is strong character, integrity, and his immense knowledge of the law.

Uphold the Constitution, which protects us all—and we have heard a lot about that lately. People who are maybe short of patience would come up to us and ask, What is taking Iraq so long to get a constitution? I said, You know, it took almost 3 years to put ours together.

I still question: If we had had television and news channels, spin meisters, commentators, and reporters who seemed to inject their bias every now and again into the news, I am not real sure we would have a Constitution yet.

This man has shown us he has all the qualifications to be a judge, especially a judge on the highest Court in the Nation.

On behalf of my constituents in Montana, and from all that I can read and all the information I can gather, I strongly urge my colleagues to join me in voting aye on Judge Roberts as Chief Justice of the United States.

When the premise was wrong, he wasn't afraid to challenge the premise.

That is unique when coming before any kind of a committee in a legislative body. That is what impressed me. The premise is assumed instead of factual. That is the importance to all of us when making judgments that affect so many of us in our daily lives.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, it is, indeed, a privilege for me to——

The PRESIDING OFFICER. Will the Senator abstain for a moment.

Under the previous order, the time from 1 to 2 p.m. is under the control of the Democratic side.

Mr. WARNER. That is correct. I see one of my distinguished colleagues rising to be the floor manager of this period of time, but he very courteously said I could open up, if that is approved by the Chair.

Mr. President, as I said, it is a great honor for me to first and foremost stand on this floor at this great moment in contemporary history. Tomorrow, this Chamber will, I anticipate, with a strong bipartisan vote, exercise its constitutional right of giving consent to the nomination of John Roberts to serve as the next Chief Justice of the United States.

I am privileged to know the nominee by virtue of the fact that we both, at different times in our careers, served in a very prestigious and revered law firm in our Nation's Capital, the law firm of Hogan & Hartson. When I joined the firm approximately forty-five years ago, Nelson T. Hartson was very active in Hogan & Hartson. I had the good fortune of being one of his aides-de-camp. Mr. Hartson's philosophy and his standard of ethics permeated that law firm then, as they still do today.

As a consequence of our mutual affiliation with Hogan & Hartson, I was privileged to be asked by Judge Roberts to introduce him when he was nominated by the President to serve on the United States Court of Appeals for the District of Columbia Circuit. In the 2 years he served on that court, he established an extraordinarily fine record.

I was privileged to once again introduce Judge Roberts to the Judiciary Committee some two weeks ago at the start of his confirmation hearing to serve in this highest of positions in our land.

I would simply say this: As I have come to know this magnificent individual, he is, in my judgment, an unpretentious legal intellectual. I say that because he is a man of simplicity in habits. He has a lovely family. He has a marvelous reputation among colleagues in the legal profession who are both Democrats and Republicans and conservatives and liberals. He is admired by all. In that capacity, as an unpretentious legal intellectual, he is, in my judgment, a rare if not an endangered species here in America for his personal habits and extraordinary intellect and for the manner he conducts himself every day of his life.

In fact, in the 27 years I have been privileged to serve in the Senate, slightly more than 2,000 judicial nominations have been submitted by a series of Presidents to the Senate for "advice and consent." John Roberts stands at the top, among the finest.

I commend our President on making such an outstanding nomination—a nomination which will receive strong bipartisan support in the Senate.

Just 4 months ago, with the judicial confirmation process stalled in the Senate, and with the Senate on the brink of considering the so-called nuclear or constitutional option, there was an aura of doubt, at the time, that any Supreme Court nominee would receive a vote reflecting bipartisan support.

But on May 23, 2005, 14 U.S. Senators, of which I was one, committed themselves, in writing, to support our Senate leadership in facilitating the Senate's constitutional responsibility of providing "advice and consent" in accordance with article II, section 2.

In crafting our Memorandum of Understanding, the Gang of 14 started and ended every discussion with the Constitution. We discussed how, without question, our Framers put the word "advice" in our Constitution for a reason: to ensure consultation between a President and the Senate prior to the forwarding of a nominee to the Senate for consideration.

Accordingly, in the Gang of 14's Memorandum of Understanding, Senator BYRD and I incorporated language that spoke directly to the Founding Fathers' explicit use of the word "advice." That bipartisan accord reads as follows:

> We believe that, under Article II, Section 2, of the United States Constitution, the word "Advice" speaks to consultation between the Senate and the President with regard to the use of the President's power to make nominations. We encourage the Executive branch of government to consult with members of the Senate, both Democratic and Republican, prior to submitting a judicial nomination to the Senate for consideration.
>
> Such a return to the early practices of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate.

With respect to the nomination before us today, I believe that the President has met his constitutional obligations in an exemplary way.

In my view, that consultation between the President and individual Senators laid a foundation for the confirmation of John Roberts with bipartisan support.

The Gang of 14's Memorandum of Understanding provided a framework that has helped the Senate's judicial confirmation process. It has enabled the Senate to have six up-or-down votes on judicial nominations and now the Senate is about to confirm Judge John Roberts.

While I thoroughly understand that President Bush didn't choose a nominee that some in the Senate might have chosen if they were President, that is not what the Constitution requires. Indeed, in Federalist Paper No. 66, Alexander Hamilton makes it clear that it is not the Senate's job to select a nominee. It is the Senate's responsibility to provide advice to a President on who to nominate and then to grant or withhold consent on that nomination. On the other hand, it is the President's responsibility, and solely the President's responsibility, to nominate individuals to serve on our courts. As Hamilton so clearly wrote:

> It will be the office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice of the President.

In my view, the Senate was given a meaningful opportunity to provide its advice to the President, and the President respected the Senate's views when he nominated John Roberts. Soon, the Senate will provide its consent to that nomination.

John Roberts' credentials are well-known and of the highest quality.

He earned a B.A., summa cum laude, from Harvard College and his law degree, magna cum laude, from Harvard Law School. At Harvard Law School, he served as managing editor of the Harvard Law Review. Subsequent to graduation, Mr. Roberts worked as a Federal law clerk for Judge Friendly on the U.S. Court of Appeals for the second Circuit, and later as a law clerk for Justice William Rehnquist on the Supreme Court. He has worked in the Department of Justice, the Reagan administration, the George H.W. Bush administration, and he practiced law for many years in private practice.

But while John Roberts' legal credentials are unquestionably impressive, equally important is the type of person that he is. Throughout his legal career, both in public service, private practice, and through his pro bono work, John Roberts has worked with and against hundreds of attorneys. Those attorneys who know him well typically speak with one voice when they tell you that dignity, humility, and a sense of fairness are hallmarks of John Roberts.

In my view, all of these traits came across to those of us who watched the hearings before the Senate Judiciary Committee. John Roberts unquestionably demonstrated a mastery of the law and a commitment to decide cases based upon the Constitution and the law of the land, with appropriate respect and deference to prior Supreme Court precedents. He views his role as one of impartial umpire, rather than as one of ideologue with an agenda. He testified to all of this under oath.

To me, all of these qualities—John Roberts' legal credentials and his temperament—represent the embodiment of a Federal judge, particularly a Chief Justice of the United States. And, I am confident that the vast majority of the millions and millions of Americans who watched his confirmation hearings agree.

Indeed, the American Bar Association has given John Roberts its highest rating, unanimously finding him "well qualified" for this position. And just slightly more than 2 years ago, the Senate unanimously confirmed him for a Federal appeals court judgeship by voice vote.

Before I conclude my statement in support of this outstanding nominee, I would like to highlight a few key facts of Senate history and tradition with respect to Supreme Court nominees. I find these facts particularly illustrative.

Over the last 50 years, America has seen a total of 27 Supreme Court nominees. Six of those nominees received the unanimous consent of the Senate by voice vote. Another 15 of those nominees, including seven current members of the U.S. Supreme Court, received the consent of the Senate by more than 60 votes. In fact, only three nominees to the Supreme Court over the course of the last 50 years have failed to receive the consent of the Senate.

Chief Justice Rehnquist was confirmed to the Court as an Associate Justice in 1971 with 68 votes in support, and later confirmed as Chief Justice with 65 votes. John Paul Stevens received the consent of the Senate 98 to 0. Justice O'Connor, Justice Scalia, and Justice Kennedy were all confirmed by the Senate unanimously. Justice Souter was confirmed via a vote of 90 to 9. Justice Ginsburg was confirmed by a vote of 96 to 3. And Justice Breyer received the Senate's consent by a vote of 87 to 9.

Like all of these highly qualified Americans who came before him seeking Senate confirmation to the Supreme Court, John Roberts has earned, over a lifetime, the strong vote of bipartisan support he is about to receive.

Mr. President, I will yield the floor to my distinguished colleague at this time who will be the manager of this period. I say to my colleague, thank you for participating in the Gang of 14, as we have become known. Perhaps in the course of our remarks today we can talk about the mission, the challenge of that group, and how, in my humble judgment, we did succeed in enabling our leadership to once again put in motion the Senate's role in the confirmation of those nominated by our President for the Federal judiciary.

I think back when there was a great uncertainty about that process, and even some thought of invoking certain rules of the Senate by way of change, and how my distinguished colleague from Nebraska and I stood, with others in that group, and were able to lay a foundation which, I say with a deep sense of humility, may well have contributed to our being here today and casting that historic vote tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I first thank you for the opportunity to speak today. And I say to my distinguished colleague from Virginia, it was a pleasure to get to know you better through the Gang of 14 in our efforts to bring about advice and consent with the White House in the nomination process for the Supreme Court.

It is always difficult to take either less or more credit than you deserve, but I think in this situation, by working together, we were able to bring the Senate into fulfilling its obligation to deal with the confirmation of judicial nominees. It made it possible for us to be able to have a nomination and a process that works so well that it will now result in an up-or-down vote on Judge Roberts.

The Senator from Virginia is right. There were suggestions that we needed to change the rules because of certain practices on the part of certain Members of the Senate that raised doubts about the process, whether we could get up-or-down votes on judicial nominees, particularly appellate court nominations and perhaps Supreme Court nominees. But by working together, we found a solution that I believe in very many ways held on to the traditions of the Senate that are good but also invoked a process that has resulted now in what we are going to be able to accomplish tomorrow. We were able to refuse to engage in extreme partisanship but worked together in partnership to develop a compromise. We paved the way. We preserved the traditions. And I believe in some respects we have also assisted in leading to the historic outreach by the White House to an overwhelming number of our colleagues for their input under the advice and consent portion of our agreement that we shared with the White House.

I personally thank the White House for reaching out. The administration has reached out to many of our Members on several occasions. Most recently, I had the pleasure and the privilege of being contacted for my thoughts about the next nominee and the process that would be used there.

I think we have also learned not to believe everything we hear about the Senate not being able to accomplish much, the criticism that Senators are lost in partisanship and deadlock through the unwillingness of people to compromise or be able to work together. I believe we disproved that theory with this Gang of 14.

We have gone through divisive elections. We know America needs to be brought together. We do not seek to further divide ourselves. We need to work together. It gave us an opportunity to, in many ways, reduce the partisan tension that was ripping this body to the extent that it was difficult to get anything done, particularly as it might have been difficult to get through the nomination process for the Supreme Court.

So it is a pleasure for me to be here on the floor and a real privilege to be associated with my colleague from Virginia. We have been joined by other members of the Gang of 14 who I know have some similar thoughts they would like to express.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, if I might say, the distinguished Senator from Nebraska was a leader among the Gang of 14. I say to the Senator, I guess you might say you were one of the "Founding Fathers" of that group, and modesty prevents you from acknowledging that leadership. We are joined on the floor by two of our colleagues. I purposely scheduled my appearance to coincide with members of the Gang of 14 whom I am privileged to be with today.

But I think, as the Senator pointed out about the advice and consent clause, we, the Gang of 14, want to acknowledge the important contribution of Senator BYRD of West Virginia. He and I sort of partnered together to draw up that short paragraph which recognizes and points out the Founding Fathers put the word "advice" in the Constitution for a specific purpose. As the distinguished Senator from Nebraska said, indeed, our President fulfilled that. But I wanted to acknowledge Senator BYRD's very major participation in our group.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I rise today to comment with respect to the Gang of 14. I join my good friend from Nebraska and my good friend from Virginia and my good friend from Arkansas here today in again reminding ourselves as a Chamber that the 14 Members of the U.S. Senate who came together came here to do good. What they decided to do and we decided to do in the formation of that agreement was to transcend partisan politics to try to find a common purpose for the benefit of this great institution, the U.S. Senate, and for the benefit of our Nation.

I commend the leadership, particularly of our senior members of that group of 14 Senators, including the great Senator from West Virginia, ROBERT BYRD, who worked closely with the Senator from Virginia, especially on the advice and consent portions.

All of the members of the group were very instrumental in putting the compromise together.

I would offer two observations with respect to that process and that agreement. The first is, it is my hope, as the newest Member of the U.S. Senate, the Senator who still ranks No. 100, that this is a kind of template that can be used as our Nation faces difficult issues in the future. We were able to put aside partisan politics to get beyond the gridlock that had existed in this body for some period of time.

We must be able, as a Chamber to do the same thing with respect to other very difficult issues, such as the Federal deficit or how we engage in the recovery of the gulf coast or how we deal with the issues of health care, because my involvement in this group was based on the fact that I believe it is our responsibility as leaders in our country to get about doing the people's business. What was happening was we had gotten too involved in this impasse that had been going on for a very long time.

The second point I wish to make is to underscore the importance of the advice and consent provision of our Constitution. It was Senator BYRD and Senator WARNER who believed it was important to include that provision as part of the agreement. It was in recognition there is a joint responsibility between the President of the United States and the Senate in the appointment and confirmation of persons to the bench that that advice and consent provision really needed to be part of that agreement.

From my point of view, it is very important that advice and consent provision of the Constitution be honored because of the fact that, as we make our decisions, it is very important that these decisions, which will have a long-lasting impact on the history of America, be based on the most informed consent possible. The way you get the most informed consent possible is that there be a communication and a free flow of information between the President and the White House and the members of the Judiciary Committee and this body.

So I again commend the Senators from Virginia and West Virginia for having worked so hard on that long weekend to craft language that became a keystone of this document.

Finally, I would say that through this process I also became comfortable with Judge Roberts, recognizing that he is in the mainstream of political and, more importantly, legal thought of America. I think the Members who were part of this group, led by the Senator from Nebraska and the Senator from West Virginia, are also part of that mainstream of America.

Mr. President, I thank my colleagues from Virginia and Arkansas and Nebraska.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, one of the things that was surprising to my constituents in Arkansas is that I would actually come to Washington, DC, and join a gang. They sometimes wonder what we do up here and why we do it. I am very proud to be part of this gang, with my 13 colleagues who stood tall and exercised some of the best traditions and best judgment that Senators can. One of the lessons we learned through the Gang of 14 process and trying to take the nuclear option off the table—and also trying to get some up-or-down votes on some more nominees—is that good things happen when Senators talk to each other.

I have learned since I have been in Washington that we spend a lot of time talking about each other and not enough time talking to each other. I hope this serves as an object lesson. It shows we can work together in this political environment. The truth is, we talk about how bad things are, and sometimes they do get bad. But basically, we are all sent here by our States. Each State gets two Senators. Even the two Senators from the same State don't always agree. We don't have to agree. But certainly all 100 of us should, as the Book of Isaiah says, reason together. We should come together and put the country first and put others' interests ahead of our own. We should try to continue to work together and build on not just a bipartisan approach but in many ways a nonpartisan approach where we look at the challenges facing our country and try to approach those as best we possibly can.

I know a lot of people around the country and in this Chamber and this city are focused on the next nomination. We haven't even had a vote on John Roberts. Nonetheless, a lot of people are concerned about the next nomination. I understand that. In some ways, and rightfully so, we should be focused on that. My colleagues have touched on it already. But part of the language Senator WARNER and Senator BYRD crafted during this agreement—we all helped in different ways on this language and had our thoughts incorporated in the language, but Senator BYRD and Senator WARNER took the lead on the language—is the advice and consent portion of the agreement. Basically all we do is encourage the President to take the Constitution literally. When the Constitution says that it shall be with the advice and consent of the Senate, we take that literally. We hope the President will seek our advice.

Supposedly either the President or the White House reached out to about 70 of us when we received the John Roberts nomination. That works, and that is very positive. I hope we see that again.

Some of my constituents in Arkansas have asked me: Don't you have some anxiety about John Roberts? Gosh, he used to work for the Reagan administration. There are things in his background that various people don't agree with.

My response is: Certainly, I have anxiety about John Roberts. I have anxiety about any nominee that any President will nominate to the Supreme Court. It is a lifetime appointment. There is no question about the influence and the impact that one Supreme Court Justice can have on the American system of justice and on American society. I have anxiety about anybody. I certainly have some about John Roberts. But nonetheless, he has the right stuff to be on the Court.

I am proud of the courage my colleagues showed in the time when it mattered and we came together and worked it out, the Gang of 14.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, today I am announcing my support for Judge John Roberts to be Chief Justice of the United States.

From the beginning, I told the White House I would like to see a nominee that the vast majority of the American people would say, yes, that is the quality of person who ought to be on the Supreme Court. When the nomination of Judge Roberts was first announced, my initial impression was that he met that test. I had a chance to visit with him personally at some length in my office, and I concluded from that visit that Judge Roberts is exceptional. Not only is he of high intelligence and strong character, he also is someone of midwestern values of honesty and decency.

I have looked at his record. I find that he is in the judicial mainstream. Yes, he is a conservative, but my own belief is that the Court is strengthened by a range of views. I don't think we should have all progressives or all conservatives. We need to have people of differing views and differing backgrounds to make the Supreme Court function appropriately.

When Judge Roberts came to my office, I asked him about his association with Judge Friendly. He clerked for Judge Friendly. He is reported to be very impressed by Judge Friendly's service. I asked him what impressed him about Judge Friendly. He told me one of the things that most impressed him is that Judge Friendly did much of his own work. He didn't just rely on clerks to do the work. I also asked him what else impressed him about Judge Friendly.

He said: You know, you could not tell whether he was a liberal or a conservative, a Democrat or Republican. All you could tell from his rulings was that he had profound respect for the law.

I thought that was a pretty good answer. I went on to ask him: Judge, at the end of your service, how would you want to be remembered?

He said: I would want to be remembered as a good judge, not as a powerful judge but as a good judge.

I said to him: What does that mean to you, being a good judge?

He said to me: Listening to both sides, putting aside one's personal prejudices to rule based on the law. He said: I have a profound respect for the law.

In the confirmation hearings, we saw Judge Roberts perform brilliantly. His mastery of the law, his judgment, his demeanor confirmed for me that he is someone who deserves my support.

Beyond that, I had a chance to talk to Judge Roberts again on the phone last week. I said: Judge, I saw in your confirmation hearings that you said you are not an ideologue.

He said: Senator, I can tell you, I do not bring an ideological agenda to the court. What I bring is a profound respect for the law.

I told him I believed him. I think he is absolutely conservative. That is not disqualifying. I also think he is somebody of extraordinary talent and somebody who will listen to both sides and rule based on the law. He has a healthy conservatism, believing that the job of a Justice is not to make the law but to interpret the law. That is the appropriate role for a judge in our system. He has it right with respect to that issue.

I believe Judge Roberts has the potential for greatness on the Court. Rarely have I interviewed anyone in my 19 years who so impressed me with the way their mind works and their basic demeanor. I have interviewed others who struck me as arrogant and pompous and filled with themselves, somebody I would never want to have in a position of power over the people I represent. I do not feel that way in the least bit about Judge Roberts. He is someone who is steady and even. He is somebody who is thoughtful and quite exceptional.

I know there are groups who feel very strongly on one side or another. There are colleagues who have made different judgments. I respect that. But I believe Judge Roberts is the kind of nominee who deserves our support, and he will have mine.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank our distinguished colleague from North Dakota. That was truly a beautiful set of remarks. It is not just that you indicated that you will cast your vote in support; it was a very thoughtful reflection on a very important responsibility we as Senators have.

I thank again the Senator from Nebraska, the Senator from Arkansas, the Senator from Colorado. We have been a team together for some time. I am delighted to have had the privilege to be here on the floor with each of them.

In conclusion, I reflect back on, once again, the Federalist Paper No. 66 in which Alexander Hamilton said: It will be the office of the President to nominate and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the executive and oblige him to make another, but they cannot themselves choose. They can only ratify or reject the choice of the President.

We are on the eve of accepting that choice, giving our consent. Again, in my 27 years in this institution, I cannot recall a more humble and yet enjoyable group I have worked with than these 14 Senators. It had been my hope that our distinguished colleague from West Virginia could join us today. I asked him and he said he would if he possibly could. But were he here, we would all stand again and thank him for his guidance as we worked through this situation.

I thank my colleague from Nebraska and yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague from Virginia for his wise counsel through the process of bringing together 13 other colleagues to bring about a confirmation process and nomination process that has worked. Now we are on the eve of this confirmation vote on the 17th Chief Justice of the United States. The question is, what is next? We also have another Supreme Court vacancy to fill. I hope the President and the White House will continue to reach out and seek the advice of our colleagues so we can face that nomination with the same kind of input we did in the case of Judge Roberts.

Let me say that the late Senator from Nebraska Ed Zorinsky said on so many occasions that in Washington there are too many Republican Senators and too many Democratic Senators and not enough United States Senators. I can say as the gang of 14 got together, there were less Republicans and less Democrats than there were United States Senators, anxious to work and bring about a resolution to the judicial impasse, but also to pave the way for where we are today and where we are going to be tomorrow and where we are going to be in the next confirmation process.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 2 to 3 p.m. will be under the control of the majority.

Mr. SUNUNU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. TALENT. Mr. President, I ask unanimous consent that the next hour under majority control be allocated as follows: 15 minutes for Senator TALENT, 10 minutes for Senator VITTER, 15 minutes for Senator THUNE, and 20 minutes for Senator BUNNING.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, it is really a privilege for me to spend a few minutes visiting with the Senate about Judge Roberts. He is probably the most analyzed and evaluated Supreme Court nominee ever. Based on my study of his record and my discussions with him—which have certainly not been extensive but have been enough to help me get a feel for the man—I believe that he will turn out to be one of the best Chief Justices ever.

We have learned a great deal about who he is. We know about his extraordinary professional accomplishments. We have seen the overwhelming bipartisan support that he has earned from his colleagues in the legal profession. We heard from John Roberts himself on the rule of law, on the judicial role, and the kind of service he intends to provide to the Nation as Chief Justice should the Senate confirm him.

I said before he is one of the most analyzed and evaluated Supreme Court nominees. He spent almost 20 hours before the Judiciary Committee while Senators asked him 673 questions. Senators then asked him 243 more questions in writing. And I am sure he thought the bar exam was a struggle. Judge Roberts provided nearly 3,000 pages to the Judiciary Committee, including his published articles, congressional testimony, transcripts from interviews, speeches, and panel discussions, and material related to the dozens of cases he argued before the U.S. Supreme Court.

The Judiciary Committee obtained more than 14,000 pages of material in the public domain. And as if all of that were not enough, the committee obtained a staggering 82,943 pages of additional material from the National Archives and both the Reagan and Bush

Libraries regarding Judge Roberts' service in those administrations.

If you total that up, there was more than 100,000 pages of material on a 50-year-old nominee, which amounts to 2,000 pages for every year of his life.

What did all that material reveal? Simply put, that Judge Roberts is one of the finest nominees ever to come before the Senate. His professional record speaks for itself, but I am going to speak about it for a minute.

He was an excellent student. He graduated from Harvard—I can forgive him that—in only 3 years as an undergrad. I am a University of Chicago lawyer myself. He became the top graduate in law school and became editor in chief of the Harvard Law Review. He served as clerk for Judge Friendly, who was, by consensus, one of the greatest circuit court judges ever. He served as clerk for Chief Justice Rehnquist. He went on to become Deputy Solicitor General of the United States. He became one of the top partners in one of the top law firms in the country and argued 39 cases before the Supreme Court. In 2003, he was confirmed unanimously by this Senate to be a judge on the Court of Appeals for the District of Columbia Circuit.

We learned a lot about him as a person as well. He embodies the idea of being fair, being thoughtful, and being capable. He is certainly hard working. He is certainly brilliant. He managed his testimony before the Judiciary Committee without a note. He is a man of integrity, he is honest, and he is devoted to his family.

Those are the qualities we want in the men and women who serve our Nation on the High Court. They are the kind of qualities that will move America forward and move the judicial branch forward, and more on that in a minute or two.

He has proven beyond any doubt that he has the qualifications, the temperament, the knowledge, and the understanding to serve as America's next Chief Justice. I was particularly impressed by the humility he showed through the process. I think it is very important that judges have a judicial temperament and, for me, that begins with the idea of service.

When you are a judge, the people who come before you have to treat you with respect because of your position. You should conduct yourself in that position so they want to treat you with respect, they feel that is owing to you, not just because of your office but because of how you conduct yourself in office.

I would hazard to say even those who will oppose his nomination for other reasons would agree that he has that kind of a temperament. He wants to be on the Court because he loves the law, and he wants to be a judge because he wants to serve the United States of America. Those are the right reasons to want to be on the Supreme Court of the United States.

We have had this opinion ratified by the individuals who know him the best—by his colleagues on the bar, Democrats and Republicans alike, who have overwhelmingly supported his elevation to the Supreme Court. I think it is very important when you look at judicial nominees to make certain they have support from people from all parts of the political spectrum and all parts of the jurisprudential spectrum.

A point I made on other occasions on this floor about judicial nominations is that it is misleading in a way to talk about a judicial nominee being in or out of the mainstream of American jurisprudence because the truth is, there is more than one mainstream. Lawyers are divided over which jurisprudential theory ought to guide judges in interpreting statutes and interpreting the Constitution. They may differ as to theories or constructs, if you will, as they approach different parts of the Constitution.

There is not one mainstream, and often there is not any one completely correct answer when you are interpreting a vague provision of the Constitution. But that does not mean there are no incorrect answers. Just because reasonable people looking at the history and the text of the document might disagree as to what is exactly the right answer does not mean there are no wrong answers.

The wrong answer, as Judge Roberts said so eloquently and so often in his testimony, is one that does not respect the rule of law. A wrong answer is one that is based on an idea of the judicial role that allows the judge to do whatever he or she thinks they would want to do if they were in control of the policy in issue. Whatever their theory of interpreting the Constitution is, they should be consistent in applying it. They should be circumscribed by their own jurisprudence. They should have a standard against which they measure their decisions, and that standard has to be other than their own predilections on the underlying issue.

It is one thing to be ruled, to some extent, by judges. We are talking about officers of the Government. So the decisions have the power of law, and we have always, to some extent and in appropriate ways, been ruled by judges. It is another point to be ruled by judicial whim. This is the distinction Judge Roberts made over and over again, for which I think we should all be grateful.

Because of his attitude in that respect, more than 150 Democratic and Republican members of the DC Bar, including well-known Democrats such as Lloyd Cutler and Seth Waxman, wrote to the Senate calling Judge Roberts one of the very best and most highly respected appellate lawyers in the Nation.

The American Bar Association has given Judge Roberts a rating of "unanimously well-qualified," its highest possible rating. As Steve Tober, the chairman of the ABA Standing Committee on the Federal Judiciary, explained: Judge Roberts has the admiration and respect of his colleagues on and off the bench, and he is, as we have found, the very definition of collegial. This is another quality that I hope and believe Judge Roberts will bring to the role of Chief Justice. I think he can operate in that Court in a way that pulls the Justices together where their convictions honestly allow them to be pulled together. It is one thing to disagree when you have strongly different opinions on the jurisprudential matters before the Court; it is another to disagree because over time you have become part of one faction or you have become alienated or estranged on some other grounds from some of the other Justices.

That is not good, and I believe, just my gut opinion after talking with him and watching him is that this is a person who can lower the temperature on the Court, who can shed light rather than just heat on many of the issues that are before the Court.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining of the 15 minutes allocated.

Mr. TALENT. I did not want my eloquence to outstrip the time I had available, Mr. President, so thank you for that.

We have heard a lot from Judge Roberts himself, and maybe it is good for me to close by quoting some of what he has said about the judicial function. I thought he did an excellent job of explaining to people what the judicial role is. Of course, to explain something clearly you have to, to some extent, oversimplify it, and he admitted the times he was doing that.

He talked about the judge being the umpire, and somebody else basically writes the rules. The judge is the umpire. Believe me, that gives plenty of discretion and authority to the judge to develop the law in one direction or another but to develop it within the constraints of an objective rule of law.

Judge Roberts said about this:

> If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, "Let's take all the hard issues and give them over to the judges." That would have been the farthest thing from their mind. Now judges have to decide hard questions when they come up in the context of a particular case. That is their obligation. But they have to decide those questions according to the rule of law, not their own social preferences, not their policy views, not their personal preferences, but according to the rule of law.

That leaves room for Supreme Court Justices, for the rule of law, to include their views developed over time carefully with respect to colleagues and arguments from litigants about how particular provisions of the Constitution ought best to be interpreted in a range of cases so as to reflect the purposes of the document and the impulses of the Framers.

There is room there for that. but always according to the rule of law, not according to a desire to make the case or make the result be a particular thing, or to make Americans live the way the judge wants them to live, rather than the way they have chosen to live in the decisions they make about their own lives or the decisions they make through their representatives. I think Judge Roberts understands that. He understands that is a judicial role with which we can all live.

He clerked for Judge Henry Friendly. Another great court of appeals judge—he had an interesting name—was Learned Hand. If I had met his parents, I would have asked them why they called him Learned Hand, but they did. Judge Hand said one time, and he was referring to the same thing Judge Roberts was referring to about the rule of law: I would not choose to be governed by a bevy of platonic guardians even if I knew how to choose them, which I most assuredly do not.

The first right, the first birthright of every American, is to participate through the representative process in their own governance. The first and most basic right is the right to govern yourself through the processes set up in our Constitution. And it is not out of a desire to avoid difficult decisions but out of a respect for that right that Judge Roberts talked about the rule of law. He manifested in those hearings a confidence that I think we should all reflect on in the judgment and the decency of the American people. It is OK, whether your views about social policy are on the rightwing or whether they are on the leftwing, whether they are someplace in the middle, it is OK basically to leave the development of our culture and our society to the wisdom and the decency of the American people. The center will hold. The people will move us in an orderly and decent direction as they have for 200 years. We don't need to be ruled by platonic guardians or dictators, whether they are in the form of judges or anybody else. There is plenty of scope, in the Senate, on the other end of Pennsylvania Avenue, and in the Supreme Court building as well, for the exercise of individual leadership and appropriate discretion to try to move the people in a direction that we think is appropriate, with their consent. But there is no reason to feel out of some fit of desperation or panic that courts or anybody else have to make the American people do something they have not chosen the orderly processes to do. That is what Judge Roberts meant when he was talking about the rule of law.

That is why I believe, because of that and also his professional qualifications, he is going to do an outstanding job as Chief Justice of the United States, and that is why, I think he will be confirmed by an overwhelming majority of this body.

I thank the Chair, and I yield back whatever remains of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from South Dakota is recognized for 15 minutes.

Mr. THUNE. Mr. President, I rise today to voice my strong support for the nomination of Judge John G. Roberts to be Chief Justice of the United States. This is a historic moment, Mr. President, as many of my colleagues have already noted. This moment marks only the 17th time in the history of our Republic that the U.S. Senate has considered a nominee to be Chief Justice.

As one of the Senate's newest Members, it is a great privilege for me to participate in this process. To have had only 16 individuals lead the judicial branch of government in our history illustrates the most important characteristic of the judicial branch, and that characteristic is lifetime tenure.

I believe the guiding question for each of us in determining a nominee's fitness for this post should be whether the person is dedicated to applying the Constitution to every case considered by the Court, and not adding to or changing the Constitution's text to suit his or her own personal policy preferences.

I was pleased to have met privately with Judge Roberts just yesterday. I came away from that meeting even more convinced that this man has the ability and temperament necessary to lead the Supreme Court. I believe Judge Roberts is dedicated to the rule of law and the principle of judicial restraint, and most importantly, will not substitute his own policy preferences for those of the elected representatives in the executive and legislative branches of our government.

The Supreme Court gets the last word on some of the most challenging and divisive issues of our day. Because Federal judges and justices have lifetime tenure, we must ensure that those who populate Federal bench are people of strong character and high intellect, with a passionate commitment to applying the law as it is written, rather than legislating from the bench.

Judges and justices must say what the law is, not what they believe it should be. That is the job of the Congress. That is what the authors of the Constitution intended.

I believe Judge Roberts' career embodies these principles. As Judge Roberts stated during his hearing, judges are like umpires, and umpires don't make the rules, they apply them. I do not believe Judge Roberts will engage in the judicial activism that we have witnessed on the Supreme Court and the lower Federal courts in the past few decades.

Even in the recent past, we have witnessed several instances of judicial activism. Judicial activism manifests itself when justices detect "penumbras, formed by emanations" in the Constitution, as Justice Douglas did in the case of Griswold v. Connecticut—in other words, judges who rely on their personal views rather than the Constitution when deciding matters of great importance.

We have seen what damage the Supreme Court is able to do when it is composed of individuals who are not committed to judicial restraint. Instead of acting as umpires and applying the law, some on the Supreme Court and the Federal bench are pitching and batting.

The most recent example came in the case of Kelo v. City of New London, decided just this past June. As you know, Mr. President, the Constitution says the government cannot take private property for public use without just compensation. However, in the Kelo case, the Supreme Court emptied any meaning from the phrase "for public use" in the fifth amendment.

In Kelo, the Supreme Court held that a city government's decision to take private homes for the purpose of economic development satisfies the "public use" requirement of the fifth amendment. This case makes private property vulnerable to being taken and transferred to another private owner, so long as the government's purpose for the taking is deemed "economic development."

While I understand that many of the principles reflected in the Constitution are written broadly, and sometimes can be subjected to conflicting interpretations, I think we can all agree that the Supreme Court cannot be adding or deleting text from the Constitution. Yet that is what happened in the Kelo case. The majority effectively deleted an inconvenient clause in the fifth amendment.

The Supreme Court is also engaging in a troubling pattern of relying upon international authorities to support its interpretations of the laws of the United States. In Atkins v. Virginia, the Court cited the disapproval of the "world community" as authority for its decision. In Lawrence v. Texas, the Court cited a decision by the European Court of Human Rights as authority for that decision. Most recently, in Roper v. Simmons, the Court cited the U.N. Convention on the Rights of the Child—a treaty never ratified by the United States—as authority for that decision.

Article II, section 2 of the Constitution requires two-thirds of the Senate to ratify a treaty. Democratically elected Members of the Senate, accountable to the people, have refused to ratify the U.N. Convention on the Rights of the Child.

Unfortunately the Supreme Court chose to ignore this fact and based their judgment in part on a treaty never ratified by the United States. Clearly, some on the Supreme Court are substituting the policy preferences of democratically elected representatives with their own. This is judicial activism at its worst.

As we near the completion and expected confirmation of Judge Roberts, I want to take a moment and look ahead as the President will soon make another nomination to the Supreme Court. It is important that the nominee to replace Justice O'Connor share Judge Roberts' commitment to judicial restraint and dedication to the rule of law. It is important because the Supreme Court will be considering several cases in the near future that may have far-reaching consequences.

The Supreme Court will probably consider the Pledge of Allegiance case that was recently decided in the Ninth Circuit at the district court level. In that case, the district court held that the words "under God" in the Pledge of Allegiance violate the establishment clause of the first amendment. However, in the Fourth Circuit, the appellate court came to the opposite holding—that the Pledge of Allegiance did not violate the establishment clause. Where there are conflicting holdings in the lower courts, the Supreme Court must become the final authority on the matter, and it is important that Judge Roberts and individuals who share his approach are on the court to confront this issue.

During the next term, the Supreme Court will also consider a case about a State's parental notification law and possibly a case about partial-birth abortion. Again, these are instances where the Supreme Court will have the last word on one of the most divisive moral issues of our time. It is critical that those who confront these cases are deferential to the elected branches of our government, exercise restraint, and follow the law.

After our confirmation vote tomorrow on Judge Roberts, the President will forward his nominee to fill the seat vacated by Justice O'Connor. It will then become our duty in the Senate to provide our advice and consent on that nomination. It is a responsibility that we should all take very seriously. The manner in which we handle that nomination will say a lot about the Senate as an institution.

I read in today's edition of the Washington Post that several of our Democratic colleagues, as well as the Democratic National Committee chairman, are already threatening to filibuster the next nominee to the Supreme Court. It is shocking to me that they are threatening a filibuster of the next nominee before they even know who the nominee is going to be. They are even threatening to filibuster possible nominees who were just confirmed to the appellate courts and explicitly included in the Memorandum of Understanding that seven Democrats and seven Republicans signed onto last May.

That is wrong and the American people will see it for the blind partisanship that it is. I would remind my colleagues on the other side of the aisle that they have sworn to uphold the Constitution through their representation in this body, not to thwart its intent or reshape its application to suit the nattering liberal elite and their special interest groups. I implore my Democratic colleagues not to blindly abuse the filibuster. These threats are symptomatic of the breakdown of the nomination process, and they must stop.

The process by which justices and judges are nominated and confined has degenerated to a point where ideological litmus tests are too often applied and nominees are torn apart by personal attacks.

The nomination process should not be brought down to the level of personal attacks on the nominee or fishing expeditions into the nominee's political allegiances. I believe there is a lot of room for improvement in the process, and I hope to see such improvement as we consider the next nominee.

One ideological litmus test I am hearing about a lot these days is that the Supreme Court must somehow maintain its "balance." Where in the Constitution does it say that a certain balance must be maintained on the Supreme Court? According to the Constitution, the President is entitled to nominate the individuals he desires to have on the courts, and we in the Senate must determine whether the nominee is fit and qualified. There should be no ideological litmus test for nominees. If a nominee is fit and qualified, he or she should be confirmed.

I believe Judge Roberts is eminently fit and qualified to serve as the next Chief Justice. I will proudly cast my vote for him, and I urge my colleagues to do the same.

Thank you, Mr. President. I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana is recognized for 10 minutes.

Mr. VITTER. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana is recognized for 10 minutes.

Mr. VITTER. I thank the Chair.

I, too, rise in strong support of the nomination of John Roberts to be Chief Justice of the U.S. Supreme Court. I do that for two reasons, two equally important reasons. One is the strong qualification and background of Judge Roberts. But the second and perhaps just as important or even more important is the fact that this nomination and this confirmation process I believe has gotten us back as a Senate, as a country to the process that the Founders intended and the sort of values and the sort of qualifications, the sort of judgment by the Senate that the Founders intended.

We are finally remembering that it is the President's prerogative to nominate qualified persons to fill judicial vacancies, and in the past the Senate has accorded great deference to the President's selection. Justice Ginsburg was overwhelmingly confirmed 42 days after her nomination. Justice O'Connor was overwhelmingly confirmed 33 days after her nomination. So we are returning to that determination of the President's prerogative.

The White House is to be commended for engaging in unprecedented consultation with respect to this nominee. So we are also returning to a very robust and full and healthy consultation process. I understand that the Bush administration consulted with more than 70 Senators on the Roberts nomination, countless conversations and phone calls and meetings and now is a strong part of our tradition which we are certainly returning to.

Moreover, few would disagree that President Bush could not have nominated a more qualified person for this position. John Roberts has an impressive academic background, a distinguished career in Government service, private practice, and as a Federal judge.

So we are also returning to that fine tradition that actual qualifications matter. It is not all about ideology and political positions but qualifications, judicial temperament, those sorts of important considerations matter, first and foremost.

Certainly, Judge Roberts has those. He graduated summa cum laude from Harvard college, my alma mater. He also graduated from Harvard Law school, magna cum laude. I guess he couldn't get into Tulane Law School, as I did, but I congratulate him on his accomplishments at Harvard. After graduation, he law clerked for Judge Henry Friendly on the U.S. Court of Appeals for the Second Circuit and then for William Rehnquist on the U.S. Supreme Court.

Judge Roberts enjoyed a distinguished career as a public servant in many different positions during the Reagan administration and became a partner at a major and highly respected law firm in Washington, DC, where he acquired the reputation as one of the finest Supreme Court advocates in the country. In fact, he argued an impressive 39 cases before the Supreme Court. Of course, as we all know, Judge Roberts was appointed in 2002 by President Bush for the U.S. Court of Appeals for the District of Columbia Circuit—those sort of mainstream qualifications.

Academic, practice, smarts, judicial temperament—all are certainly very important. But I think the single most important factor which qualifies Judge Roberts for this esteemed position is his appropriate view of what it means to be a judge, his appropriate view of the limited role of the judiciary and what that means in our system of government.

He has said, frankly and refreshingly, in a straightforward way, that judges should not place ideology above thoughtful legal reasoning. He is not the sort who will legislate from the bench. His judicial philosophy is based on the rule of law and on respect for the Constitution.

Let's think about what he said in his own words. This is what he said on September 12 at his confirmation hearing:

> [A] certain humility should characterize the judicial role. Judges and justices are servants of the law, not the other way around. Judges are like umpires. Umpires don't make the rules, they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules but it is a limited role. Nobody ever went to the ball game to see the umpire."

He also said on the same occasion:

> . . . I come before the committee with no agenda, I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda. But I do have a commitment. If I am confirmed, I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench, and I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability, and I will remember it is my job to call balls and strikes, and not to pitch or bat.

That, first and foremost, is the tradition we are getting back to with this confirmation. I sincerely hope that it is a tradition in which we remain grounded. Let's remember again the lessons of this nomination and this confirmation. Let's remember that it is the President's prerogative to nominate qualified persons to the bench. Let's remember that the Senate does have an important consultative role and let's all encourage the President to perform that consultation in a full and robust fashion, as he did with Judge Roberts. Let's remember that qualifications—smarts, academic credentials, practice history—are very important when you are talking about a judicial nominee. And let's all remember, first and foremost, that judges are umpires, they are not the players in the baseball game. That is the crucial distinction that I think we have lost over the past several decades and that we are finally trying to pull back to.

It is very important for us as a body to remember that lesson of this nomination of this confirmation as we move on. As we move on, I do think that is the most important open question. As the previous speaker mentioned, already certain Democrats in this body are threatening a filibuster without having the foggiest notion who the next nominee to the U.S. Supreme Court may be. Already they are threatening a filibuster of circuit court nominees who have basically been agreed to in terms of no filibuster in the Senate.

That would move us dramatically in the opposite direction from the one I have spoken about. That would turn the clock back. That would move us 180 degrees and point us again in that wrong direction.

I will be proud to join with other Members of this body tomorrow for this historic confirmation vote. I will be proud to vote yes for Judge John Roberts to be the next Chief Justice of the U.S. Supreme Court.

Just as proudly, just as fervently, I will argue and fight to make sure that where we are today is where we remain in terms of future nominations and future confirmations; that we all remember that we are talking about an umpire to enforce the rules of the game, not a player—not a batter we like or a fielder we prefer but the umpire to enforce the rules as written.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized for 20 minutes.

Mr. BUNNING. Mr. President, I rise in strong support of John Roberts to be the next Chief Justice of the U.S. Supreme Court. Confirmation of a Supreme Court Justice, particularly the Chief Justice, is one of the most important duties we have in the Senate. I hope we can put politics and partisanship aside and swiftly confirm him.

Earlier this year, we found ourselves in an unprecedented position. The Democratic minority decided to use Senate rules to block judicial nominees. The minority tried to take away the power of nomination that the Constitution gives the President. But President Bush was solidly reelected last fall, and during the campaign he stressed the type of judges he would nominate—those who respect the law and the Constitution and who will not legislate from the bench.

The American people knew what they were getting when they reelected President Bush. President Bush kept his word. His judicial nominees have been highly qualified and worthy of confirmation. The minority's obstructionism ended earlier this year, or at least for now. Many on the left want to see a filibuster against John Roberts, but I have no doubt that John Roberts will be confirmed soon. Our job is to determine the qualifications of the nominees. Then we should vote to approve or oppose them. Anything else is to disregard the oath we took when we joined the Senate.

Our job is not to oppose nominees because we think their views are different from ours. We should not oppose nominees to keep our political base happy. Regardless of all the excuses, nominees deserve a vote. That is it.

John Roberts is extremely qualified to serve on the Supreme Court, and he is as qualified to be Chief Justice. He is, no doubt, one of the most qualified nominees to come before the Senate since I have been here. He is a brilliant legal scholar, an accomplished attorney, and a fine judge. I will strongly support him.

I do not need to spend too much time restating John Roberts' qualifications. They have been stated. He graduated with honors from Harvard college and its law school. He clerked in the Second Circuit Court of Appeals and for Chief Justice Rehnquist when he was an Associate Supreme Court Justice. John Roberts also worked for the Attorney General, the White House counsel and Solicitor General in previous administrations.

In private practice, he was one of the best appellate and Supreme Court litigator's in the Nation. He argued an unprecedented 39 cases before the Supreme Court. Now he is a judge on the DC Circuit Court of Appeals, where he has been since we confirmed him unanimously in 2003.

His resume is not what convinces me that he will be a fine Chief Justice. What is clear is that John Roberts respects the law and Constitution and will be faithful to the proper role of a judge. In his confirmation hearings, Judge Roberts used an example to explain the proper role of a judge. It has been stated before. He said a judge is like an umpire, not a player or a coach. And similar to an umpire, a judge applies the rules to the situation at hand. An umpire doesn't rewrite the rules or enforce what he thinks the rules ought to be.

I know a little bit about umpires. I have dealt with them, and all types of them, for years. Some are liberal and some conservative with the strike zone. Some were unpredictable and made the strike zone up as the game went along. The worst umpires decided the outcome of the game by playing favorites or enforcing their own version of the rules. The best umpires applied the rules as written in the rule book and let the rules and the players dictate the outcome of the game.

As Judge Roberts said, that is how judges should act. The law, and not judges, should decide the outcome of the cases. The rules of the game, the writing of the laws is done by Congress. The President implements and enforces the laws, the judiciary settles disputes by applying laws and the Constitution. Judges are not lawmakers as umpires are not players. If umpires want to be players, that umpire should quit and join a team. If a judge wants to write laws, he should run for Congress.

We have seen courts try to replace Congress and legislatures. Social issues have been taken out of the political process and decided by unelected judges. The voice of the people has too often been ignored. Activism of a few judges threatens our judicial system.

If judges keep exercising powers not granted to them, the public and its servants may tune out the courts and ignore them altogether. That would be bad and we would all suffer. I think Judge Roberts sees that danger. As Chief Justice, he will protect the Constitution and reputation of the courts.

At his confirmation hearing, Judge Roberts recognized the damage of an activist judiciary. Their activism undermines the authority and respect needed to overturn truly unconstitutional actions. Courts must not be activists and settle public policy disputes. Judge Roberts also sees that danger, and I trust he will work hard to keep the Court within its boundaries and implore judges to exercise restraint in decisionmaking. A key part of that restraint is to not wade into public policy disputes. I imagine it is tempting for judges to impose their personal views when making decisions.

But I believe Judge Roberts will exercise restraint and encourage the Federal court system to do the same.

Many of my colleagues are frustrated over Judge Roberts not revealing his views on public policy.

As Chief Justice, Judge Roberts is not going to act like a Senator. He will not let his personal views influence his decision and rulings.

The complaints of some of my colleagues led me to believe that they did not understand the role our Founding Fathers intended for the courts. Congress is the policymaking branch of government. The President and the administration enforce the laws. And the courts act as neutral decisionmakers when disputes arise.

But my colleagues know this.

And so I fear they see the courts as a political arm to implement their liberal policy agenda.

To them—the Supreme Court is a super legislature. But that is not what our Framers envisioned. And that is not how Judge Roberts will use his position as Chief Justice.

The left turns to the courts to impose their agenda because they cannot advance it through elections. They cannot pass their laws through Congress or legislatures. They cannot even get elected by running on their liberal policies. So they must use the courts to impose their agenda.

What is that agenda?

Unlimited abortion on-demand; banning schoolchildren from saying the Pledge of Allegiance; banishing the Ten Commandments from public places; rewriting the definition of marriage; and banning arms for self-defense.

That agenda does not sell with America or in Congress.

So the last great hope for liberals is the judicial bench. And that is why they oppose nominees who do not agree to their liberal activist agenda.

The only thing stopping the rewriting of our Constitution are judges that will support the rule of law.

John Roberts is one such judge. He will not write new laws from the bench.

As Chief Justice, he will set an example for the court system to follow the same principles.

Many Senators have expressed frustration at not knowing Judge Roberts' political views. I do not know his views either.

I have not asked him. And I will not ask him.

They do not matter. I trust him not to let his political beliefs influence his decisions.

During his hearing, Judge Roberts rightly declined to answer how he would rule in specific cases.

The current Supreme Court Justices also declined to answer similar questions.

Answering those kind of questions would corrupt and politicize the process.

Judicial nominees would turn into politicians campaigning for office to get confirmed—pledging to vote a certain way in order to gain votes.

They would also have to make promises to the President in order to get nominated.

Judges must be selected based on their qualifications.

I have not asked Judge Roberts about his personal political views. I have not asked him about his legal views. I do not need to know how he will rule in a certain particular case—because I know his approach to the law—and that is all I need to know.

John Roberts will lead by example and earn the respect of the other Justices and the American public. He will also be joined on the Court by another new Justice.

I trust President Bush will choose another highly qualified nominee to replace retiring Justice Sandra Day O'Connor.

If the new nominee is in a similar mold and has the same respect for the rule of law, then I will be glad to support the next nominee.

I have seen comments from some of my Democrat colleagues that they will filibuster certain nominees. That is most unfortunate. And it could bring us back to the point where we were earlier this year.

I hope and pray the minority does not do this.

But make no mistake about it. We will ensure that the next nominee receives fair treatment in the Senate and gets a vote.

I thank President Bush for keeping his promise to nominate outstanding individuals to our courts.

I thank Chairman SPECTER for ushering this nomination swiftly through his Judiciary Committee.

And I thank John Roberts for his service to our country.

I vow very strongly to vote for him when his vote comes up tomorrow.

I yield the floor.

Mr. SESSIONS. Mr. President, I would like to express my agreement with the Senator from Kentucky. He stated the case very clearly for the proper role for a judge. I know he faced many an umpire in his Hall of Fame baseball career. But he knows when they make the call, they are stuck with it, and he has every right to expect that that umpire is going to make the call not based on whether they favor one team or another or one side or another but what the rules of the game are.

I think that metaphor Judge Roberts utilized as he talked about the role of a judge is an apt one.

I saw Senator BURNS here. He used to be a football referee. I wanted to ask him: Senator BURNS, if you thought that the holding call was a little bit inadvertent and it wasn't too a bad a holding call but the penalty called for 15 yards, should the referee be free to impose 10 yards because they think that might be more fair? No. Of course, not. Those are the basic principles of rules.

I am pleased that we have a nominee who I think understands it.

Activism is a concern of the American people. It is something that should concern all of us because it represents a movement by unelected, lifetime-appointed judges to impose policy decisions and values on the American people. If it is required by the Constitution, that is their job. If it is not required and not a part of the Constitution, they should not be engaged in those kinds of issues.

The high point I think of activism was when two Supreme Court Justices in every death penalty case declared that they dissented and they would oppose all death penalty cases in the United States because they believed the Constitutional prohibition on cruel and unusual punishment prohibited the death penalty. That might sound plausible. But the Constitution itself has half a dozen references to capital crimes. That means crimes for which you may take somebody's life. It has references to not being able to take life without due process of law. Obviously, you could take life with due process of law. And when the Constitution was written, every single State, every single Colony, members of the Confederacy, had the death penalty, and they did when the Constitution was written.

So it is obviously the judges' decision that they didn't like the death penalty. They declared it was unenlightened public policy involving a standard of decency and all of that, and that justified their opinion. But that wasn't so, was it? Because State after State has maintained the death penalty. Many have enacted death penalties after they eliminated the death penalty.

It is not what the American people rejected, in fact, and would never have been rejected by the members of the legislatures of all the States.

They tried to say the Constitution prohibited any State from having a death penalty.

That is an extreme abrogation of power, and it is something we should be concerned about.

What did Judge Roberts say?

I see my chairman, Senator SPECTER, who has done such a great job in moving this nomination forward. I want to speak long and will yield the floor to him. I had my opportunity to make a few remarks earlier.

But I think it is important for us to listen to the eloquent, beautifully repeated—I am going to touch on a few of his statements—but the repeated statements of Judge Roberts in different ways that affirm so clearly that he knows what the role of the judge is in the American legal system. I picked out a few.

> It is that rule of law that protects the rights and liberties of all Americans. It is the envy of the world, because without the rule of law any rights are meaningless.
>
> Mr. Chairman, I come before this committee with no agenda. I have no platform.

Neither the President nor Members of our side of the aisle are asking any nominee to impose our political agenda on this country. I would never do that. That is not the role of a judge. But neither do I think the judge ought to be opposing any agenda. And I certainly am offended when they oppose the agenda which I don't agree with, which I think is the province of the legislative branches. Judge Roberts understands that.

Then he goes on:

> That's a paraphrase, but the phrase, calmly poise the scales of Justice if, if anything, the motto of the court on which I now sit. That would be the guiding principle for me whether I am back on that court or a different one, because some factors may be different, the issues may be different, the demands may be different, but the Bill of Rights remains the same. And the obligation of a court to protect those basis liberties in times of peace and in times of war, in times of stress and in times of calm, that doesn't change.

What a beautiful statement.

Another:

> Like most people, I resist the labels. I have told people when pressed that I prefer to be known as a modest judge, and to me that means some of the things that you talked about in those other labels. It means an appreciation that the role of the judge is limited, that a judge is to decide the cases before them, they're not to legislate, they're not to execute the laws.

Another:

> I don't think the courts should have a dominant role in society and stressing society's problems. It is their job to say what the law is.

Isn't that correct?

> But the Court has to appreciate that the reason they have that authority is because they're interpreting the law, they're not making policy, and to the extent they go beyond their confined limits and make policy or execute the law, they lose their legitimacy, and I think that calls into question the authority they will need when it's necessary to act in the face of unconstitutional action.

That is a brilliant statement.

If a court consistently abuses its power, does not remain faithful to the Constitution, at some point it may have to take a very unpopular stand to truly and rightfully defend the Constitution against congressional Presidential overreaching.

Will they have the credibility to do so? Not so, perhaps, if they have squandered it by improper legislation for many years that has undermined public confidence in the Court.

That is exactly what he is saying—a beautiful statement.

If you believe in our Constitution, if you believe in the laws to protect our liberties and that laid the foundations for our prosperity, one must believe that we have to enforce the Constitution, even if you might not agree with some part of it.

He was asked, "Are you an originalist? Are you a strict constructionist? What label do you put on yourself, Judge?"

He said this:

> I do not have an overarching judicial philosophy that I bring to every case, and I think that's true. I tend to look at the cases from the bottom up rather than the top down. And like I think all good judges focus a lot on the FACTS. We talk about the law, and that's a great interest for all of us, but I think most cases turn on the facts, so you do have to know those, you have to know the record.

In other words, we were asking him to blithely make his views known on how he would rule on this case or that case. By the time it gets to the Supreme Court of the United States there has been a full trial and maybe hundreds, maybe thousands of pages of transcript and records. There are facts that underlie the dispute, and it is only after the facts are asserted that a judge needs to be making a decision about the outcome of a case.

Judges apply the facts to the legal requirements of the situation, and only then make a decision. He refused to make opinions on cases that may come before him. Of course, he should not make opinions on that. He has not studied the record, the transcript, talked with the other judges, read the briefs, or heard the oral arguments of counsel. He should not be up there making opinions on the cases. That is so obvious. He was pushed, pushed, and pushed to do that and criticized for not doing so. That is the rule of the law: Do not make a decision until you know the facts and the law.

I will say this: We have had a tutorial on the rule of law under the American system. We have had a classroom exercise beyond anything any Member could ask for on the role of a judge in the American system. It was a beautiful thing. I am pleased to see many of my colleagues on the other side of the aisle have seen fit now to announce they intend to support Judge Roberts. That is the right thing. I am confident, also, the President will submit another nominee, just like he promised, who will be consistent with the same philosophy of Judge Roberts—one who does not seek to impose any political agenda, liberal or conservative, on the American people, but will simply consider the facts, consider the arguments of counsel, and decide the case before them.

That is what we have a right to ask and to insist on to preserve the rule of law in this country, which, more than any other country in the world, reveres and respects and venerates law and order.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, before the distinguished Senator from Alabama yields the floor, I thank and compliment him for his comments and for his work on the Judiciary Committee. He has been steadfast in his participation in all matters but especially with the nomination proceedings as to Judge Roberts. It ought to be noted for the record.

Mr. President, Senator DOMENICI was here seeking an opportunity to speak. I ask unanimous consent he be sequenced following my speech.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition today to comment on a story which is in the Washington Post today captioned "Filibuster Showdown Looms in the Senate: Democrats Prepare For Next Court Pick."

I suggest it is in the national interest that there be a lowering of the decibel level of the partisan rhetoric. There is no doubt that the process for the nomination, hearings, and confirmation of a Supreme Court nominee is part of the political process. I further suggest partisanship has its limits.

The partisanship which is demonstrated in this report by the Washington Post today seems to me to be flagrant, extreme partisanship, flagrantly excessive partisanship, really out of bounds and out of the mainstream.

The core objection raised by certain Democratic political activists as outlined in the Washington Post story is frustration among party activists who think their elected leaders did not put up a serious fight against Judge Roberts.

I was present as chairman of the committee during the entire proceeding. I can state it was a very vigorous fight. It is not necessary to have

ARLEN SPECTER's characterization of it. The record speaks for itself. We had experienced Senators on the Democrat side of the aisle who questioned Judge Roberts very closely and who came to the conclusion they would vote no, which they did in the committee proceedings. Senator KENNEDY, who can doubt his tenacity? Senator BIDEN, who can doubt his sincerity? And Senator FEINSTEIN questioned eloquently in many directions. Senator SCHUMER was on top of all of the issues not only in three rounds of questioning which we had, 30 minutes and then 20 minutes and then 30 more minutes, but in the submission of written questions. And Senator DURBIN, the assistant minority leader, spoke and all voted against Judge Roberts because that was their conclusion.

But who can say they didn't put up a strong and tough fight? That is an insult to those dedicated Senators tending to their business to say they did not put up a professional fight.

There are at this moment some 18 announced or reported Senators on the Democrat side who are going to vote in favor of the Roberts nomination: Senator BAUCUS, Senator BINGAMAN, Senator BYRD, Senator CONRAD, Senator DODD, Senator DORGAN, Senator FEINGOLD, Senator JOHNSON, Senator KOHL, Senator LANDRIEU, Senator LEAHY, Senator LEVIN, Senator LIEBERMAN, Senator NELSON of Nebraska, Senator NELSON of Florida, Senator PRYOR, Senator SALAZAR, and Senator WYDEN.

Among those 18 Senators are some veterans of the Senate whose credentials cannot be challenged as progressive, as liberal, as forward-thinking Senators.

I will quote from just a few of the comments which they have made. Senator LEAHY was the first among the Democrats to speak out in favor of the nomination of Judge Roberts to be Chief Justice. As the ranking member, I sat next to him during the entire proceeding. I can attest firsthand the conscientious way Senator LEAHY approached this nomination. It was not a matter of our discussing the merits. It was not a matter of my trying to persuade him.

I have served with Senator LEAHY for 25 years, and many years before that, back in 1969 when I was the host at the National District Attorney's Association Convention in Philadelphia, I was Philadelphia's D.A., and Pat Leahy, a young prosecutor from Burlington, VT, was the prosecuting attorney in his jurisdiction. I could see him struggle with the nomination as a matter of conscience. He came to the conclusion that was where his conscience led.

I identified with his courageous move in the committee. It is not easy to go against the party line, and Senator LEAHY was prepared to do that.

His statement was a very thoughtful statement, as Senator LEAHY is accustomed to be: He commented extensively on Judge Roberts' reliance on the Raich decision, moving away from Lopez and Morris on the commerce clause. He comments extensively on the precedence of Roe and Planned Parenthood v. Casey and forcefully on a number of occasions regarding the recognition to the right to privacy embodied in Griswold v. Connecticut.

Senator LEAHY commented about the assurances which he accepted from Judge Roberts about taking the mold of Justice Jackson, moving away from being a partisan in the administration as Attorney General to being an impartial judge.

There is much more, but the record of what Senator LEAHY has said speaks for itself.

In addition to Senator LEAHY, there are other very well established Senators on the other side of the aisle, impeccable standing in the liberal community. Senator LEVIN spoke in favor of Judge Roberts; Senator DODD spoke in favor of Judge Roberts for Chief Justice; Senator FEINGOLD in the committee; Senator LIEBERMAN. I have already enumerated the Senators.

So when there are some so-called Democrat political activists who speak up and are critical, as they were of Senator LEAHY after he made the opening declaration, first of the Democrats to speak—we are all subject to comment and we are all subject to criticism, but I was taken a little aback by the criticism which came to Senator LEAHY after he made his declaration. I have been the object of such substantial criticism myself, so I know what it was like. But I think it goes a little too far when the so-called political activists are raising these objections out of purely partisan motivations. One activist was quoted in this story as saying that Democrats must vote against Judge Roberts, otherwise "we will not win an election."

The political process, I submit, goes only so far. And as foreign policy debate stops at the water's edge, at least it used to traditionally, I think that extreme partisanship stops at the consideration of a nominee for the Supreme Court of the United States. That is a line at which party loyalties ought to end and there ought to be independence. That is the confluence of the three branches of Government where, as we all know under our Constitution, the President nominates, where the Senate conducts proceedings and confirms or rejects, and where the nominee, if confirmed, if approved, then takes a seat on the Supreme Court. That is a line in the administration of justice in the United States where partisanship, rank, extreme partisanship ought to end.

The so-called political activists are blunt in what they had to say. Their concern is "restoring enthusiasm among the rank and file on the left."

I suggest there is a higher calling on selecting a nominee for the Supreme Court, and especially for a Chief Justice, which transcends appeal to extremes at one end of the political spectrum or the other.

This kind of comment, I believe, is only going to inspire corollary comment from the other end of the political spectrum. We simply do not need it. I sensed, and have commented publicly on, a lot of frustration bubbling just below the surface in the Roberts nomination hearings. I am concerned about the next nomination. We are looking at a replacement for Justice O'Connor, who was a swing vote. I have stated both publicly and privately my hope we will find someone in the mold of Judge Roberts.

The statements which were made by Senator LEAHY, by Senator LEVIN, by Senator DODD, by Senator FEINGOLD, and others all focused on the approach of Judge Roberts to modesty and stability. And it was more than the words he uttered, it was the way he conducted himself. It was the way he spoke about the cases when he answered the questions and when he did not answer questions. I spoke at length earlier, on Monday, about questions which I thought he should have answered but he did not answer. But that is the nominee's prerogative. And then the Senator's prerogative is to make a decision on how the Senator is going to vote. But when you talk about a filibuster, this body was at the risk of a virtual civil war, with the Democrats filibustering and with Republicans threatening to exercise the constitutional or nuclear option. I took the floor earlier this year on several occasions to urge an independent stand. I heard so many Democrats say they did not like the idea of a filibuster and I heard so many Republicans say they did not like the idea of the constitutional or nuclear option, but Democrats felt constrained to the filibuster and Republicans felt constrained to the nuclear or constitutional option.

I urged my colleagues to take an independent stand, that when you talked about the long-range composition and the long-range approach of the institution of the Senate, it was more important than the passions of the moment. I went into some detail and quoted how the Senate saved judicial independence in the impeachment proceedings of Supreme Court Justice Chase in 1805 and 1806 and how the U.S. Senate saved the independence of Presidential prerogatives in the impeachment proceeding of President Andrew Johnson. The Congress had passed a law saying there had to be consent by the Senate for the President to remove a Cabinet officer. Secretary of War Stanton bolted himself in his office. He would not leave. Because President Johnson would not tolerate that kind of usurpation of Presidential power, he was impeached. In this Chamber, he was saved. The Senate saved him.

When you talk about the institutions of the Senate, we do not need outsiders telling us when to filibuster. We do not need outsiders and political activists on either side telling us when to filibuster or when to exercise the constitutional option. We were elected. They were not.

When you have men of the stature of Senator LEAHY and Senator DODD and Senator LIEBERMAN taking a position, those positions ought to be respected. When you have hard-fighting Senators such as KENNEDY and BIDEN and SCHUMER fighting a nomination and voting no, their positions ought to be respected.

So I hope as to this headline in the Post about "Filibuster Showdown Looms in Senate," it is the last time we will hear the word "filibuster" and that we will have a nominee who will command respect, that we will have an orderly, dignified proceeding in the Judiciary Committee in another round of hearings, and that we will acquit ourselves with distinction.

At a time when the Congress is under a very heavy fire on all sides for so many items—or the response to the hurricane and for the highway bill and for spending and for a lack of offsets—I have heard many comments that the Senate has acquitted itself very well throughout the entire confirmation process, not just what was done in the Judiciary Committee, but what has been done on the floor of the Senate, and what will be concluded tomorrow when the full body votes.

So we do not need outsiders telling us how to conduct our business. They can make their suggestions. They have freedom of speech. But it ought to be within bounds. This sort of extreme, excessive partisanship has no place in the selection of the next Supreme Court Justice.

In the absence of any Senator seeking recognition, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is it proper now to speak on the nomination of Judge Roberts?

The PRESIDING OFFICER. Yes, it is in order.

The President pro tempore is recognized.

Mr. STEVENS. Mr. President, having lived and studied alongside one of the greatest legal minds of my generation, I believe Judge Roberts' capability and knowledge of the law is superior to any of his generation. When I was at Harvard Law School, my roommate was H. Reed Baldwin. He had abilities quite similar to those of John Roberts. He was the top of our class, No. 1, and on the Harvard Law Review. He was what I call a Renaissance man. He could handle almost any subject. Unfortunately, he suffered an untimely death; otherwise, he might have once been in the same place John Roberts is today.

During the Judiciary Committee's hearings, Juneau Mayor Bruce Botelho testified in support of Judge Roberts' nomination. Bruce, whom I know well, was Attorney General for the State of Alaska from 1994 through 2002. He employed John Roberts to represent our State before the Supreme Court on a wide range of issues, including the Venetie case involving Indian country claims and cases related to submerged lands issues, natural resource matters, and the Alaska Statehood Act. As a matter of fact, I met with Judge Roberts then and have met with him since. He has a brilliant legal mind.

I am not alone in that opinion. Judge Roberts has been to our State many times, and he has won the respect of Alaskans who hold a wide range of political beliefs and opinions.

Judge Roberts also won the respect of the bar association of the District of Columbia, of which I am a member. In 2002, when Judge Roberts was nominated to serve as a Federal court of appeals judge on the U.S. Court of Appeals for the District of Columbia Circuit, more than 150 Members of the DC bar sent a letter to the Judiciary Committee of the Senate supporting his nomination. I know many of the bar members who signed this letter. They are a distinguished and bipartisan group of lawyers, law professors, and public servants. I think they said it best:

> John Roberts represents the best of the bar.

I agree with their opinion and the opinion of many Alaskans who have worked with him. I shall vote to confirm Judge Roberts as the 17th Chief Justice of the U.S. Supreme Court. I urge all of my colleagues in the Senate to do the same.

I ask unanimous consent that the letter I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 18, 2002.

Re Judicial Nomination of John G. Roberts, Jr. to the United States Court of Appeals for the District of Columbia Circuit.

Hon. TOM DASCHLE,
Hon. ORRIN HATCH,
Hon. PATRICK LEAHY,
Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

DEAR SENATORS DASCHLE, HATCH, LEAHY, AND LOTT: The undersigned are all members of the Bar of the District of Columbia and are writing in support of the nomination of John G. Roberts, Jr., to serve as a federal court of appeals judge on the United States Court of Appeals for the District of Columbia Circuit. Although, as individuals, we reflect a wide spectrum of political party affiliation and ideology, we are united in our belief that John Roberts will be an outstanding federal court of appeals judge and should be confirmed by the United States Senate. He is one of the very best and most highly respected appellate lawyers in the nation, with a deserved reputation as a brilliant writer and oral advocate. He is also a wonderful professional colleague both because of his enormous skills and because of his unquestioned integrity and fair-mindedness. In short, John Roberts represents the best of the bar and, we have no doubt, would be a superb federal court of appeals judge.

Thank you.

Sincerely,

Donald B. Ayer, Jones, Day, Reavis & Pogue; Louis R. Cohen, Wilmer, Cutler & Pickering; Lloyd N. Cutler, Wilmer, Cutler & Pickering; C. Boyden Gray, Wilmer, Cutler & Pickering; Maureen Mahoney, Latham & Watkins; Carter Phillips, Sidley, Austin, Brown & Wood; E. Barrett Prettyman, Jr., Hogan & Hartson; George J. Terwilliger III, White and Case; E. Edward Bruce, Covington & Burling; William Coleman, O'Melveny & Myers; Kenneth Geller, Mayer, Brown, Rowe & Mawt; Mark Levy, Howrey, Simon, Arnold & White; John E. Nolan, Steptoe & Johnson; John H. Pickering, Wilmer, Cutler & Pickering; Allen R. Snyder, Hogan & Hartson; Seth Waxman, Wilmer, Cutler & Pickering; Jeanne S. Archibald, Hogan & Hartson; Jeannette L. Austin, Mayer, Brown, Rowe & Mawt; James C. Bailey, Steptoe & Johnson; Stewart Baker, Steptoe & Johnson.

James T. Banks, Hogan & Hartson; Amy Coney Barrett, Notre Dame Law School; Michael J. Barta, Baker, Botts; Kenneth C. Bass, III, Sterne, Kessler, Goldstein & Fox; Richard K. A. Becker, Hogan & Hartson; Joseph C. Bell, Hogan & Hartson; Brigida Benitez, Wilmer, Cutler & Pickering; Douglas L. Beresford, Hogan & Hartson; Edward Berlin, Swidler, Berlin, Shereff, Friedman; Elizabeth Beske (Member, Bar of the State of California); Patricia A. Brannan, Hogan & Hartson; Don O. Burley, Finnegan, Henderson, Farabow, Garrett & Dunner; Raymond S. Calamaro, Hogan & Hartson; George U. Carneal, Hogan & Hartson; Michael Carvin, Jones, Day, Reavis & Pogue; Richard W. Cass, Wilmer, Cutler & Pickering; Geogory A. Castanias, Jones, Day, Reavis & Pogue; Ty Cobb, Hogan & Hartson; Charles G. Cole, Steptoe & Johnson; Robert Corn-Revere, Hogan & Hartson.

Charles Davidow, Wilmer, Cutler & Pickering; Grant Dixon, Kirkland & Ellis; Edward C. DuMont, Wilmer, Cutler & Pickering; Donald R. Dunner, Finnegan Henderson Farabow Garrett & Dunner; Thomas J. Eastment, Baker Botts; Claude S. Eley, Hogan & Hartson; E. Tazewell Ellett, Hogan & Hartson; Roy T. Englert, Jr., Robbins, Russell, Englert, Orseck & Untereiner; Mark L. Evans, Kellogg, Huber, Hansen, Todd & Evans; Frank Fahrenkopf, Hogan & Hartson; Michele C. Farquhar, Hogan & Hartson; H. Bartow Farr, Farr & Taranto; Jonathan J. Frankel, Wilmer, Cutler & Pickering; Johnathan S. Franklin, Hogan & Hartson; David

Frederick, Kellogg, Huber, Hansen, Todd & Evans; Richard W. Garnett, Notre Dame Law School; H.P. Goldfield, Vice Chairman, Stonebridge International; Tom Goldstein, Goldstein & Howe; Griffith L. Green, Sidley, Austin, Brown & Wood; Jonathan Hacker, O'Melveny & Myers.

Martin J. Hahn, Hogan & Hartson; Joseph M. Hassett, Hogan & Hartson; Kenneth J. Hautman, Hogan & Hartson; David J. Hensler, Hogan & Hartson; Patrick F. Hofer, Hogan & Hartson; William Michael House, Hogan and Hartson; Janet Holt, Hogan & Hartson; Robert Hoyt, Wilmer, Cutler & Pickering; A. Stephen Hut, Jr., Wilmer, Cutler & Pickering; Lester S. Hyman, Swidler & Berlin; Sten A. Jensen, Hogan & Hartson; Erika Z. Jones, Mayer, Brown, Rowe & Maw; Jay T. Jorgensen, Sidley Austin Brown & Wood; John C. Keeney, Jr., Hogan & Hartson; Michael K. Kellogg, Kellogg, Huber, Hansen, Todd & Evans; Nevin J. Kelly, Hogan & Hartson; J. Hovey Kemp, Hogan & Hartson; David A. Kikel, Hogan & Hartson; R. Scott Kilgore, Wilmer, Cutler & Pickering; Michael L. Kidney, Hogan & Hartson; Duncan S. Klinedinst, Hogan & Hartson; Robert Klonoff, Jones, Day Reavis & Pogue.

Jody Manier Kris, Wilmer, Cutler & Pickering; Chris Landau, Kirkland & Ellis; Philip C. Larson, Hogan & Hartson; Richard J. Lazarus, Georgetown University Law Center; Thomas B. Leary, Commissioner, Federal Trade Commission; Darryl S. Lew, White & Case; Lewis E. Leibowitz, Hogan & Hartson; Kevin J. Lipson, Hogan & Hartson; Robert A. Long, Covington & Burling; C. Kevin Marshall, Sidley Austin Brown & Wood; Stephanie A. Martz, Mayer, Brown, Rowe & Maw; Warren Maruyama, Hogan & Hartson; George W. Mayo, Jr., Hogan & Hartson; Mark E. Maze, Hogan & Hartson; Mark S. McConnell, Hogan & Hartson; Janet L. McDavid, Hogan & Hartson; Thomas L. McGovern III, Hogan & Hartson; A. Douglas Melamed, Wilmer, Cutler & Pickering; Martin Michaelson, Hogan & Hartson; Evan Miller, Hogan & Hartson.

George W. Miller, Hogan & Hartson; William L. Monts III, Hogan & Hartson; Stanley J. Brown, Hogan & Hartson; Jeff Munk, Hogan & Hartson; Glen D. Nager, Jones Day Reavis & Pogue; William L. Neff, Hogan & Hartson; J. Patrick Nevins, Hogan & Hartson; David Newmann, Hogan & Hartson; Karol Lyn Newman, Hogan & Hartson; Keith A. Noreika, Covington & Burling; William D. Nussbaum, Hogan & Hartson; Bob Glen Odle, Hogan & Hartson; Jeffrey Pariser, Hogan & Hartson; Bruce Parmly, Hogan & Hartson; George T. Patton, Jr., Bose, McKinney & Evans; Robert B. Pender, Hogan & Hartson; John Edward Porter, Hogan and Hartson (former Member of Congress); Philip D. Porter, Hogan & Hartson; Patrick M. Raher, Hogan & Hartson; Laurence Robbins, Robbins, Russell, Englert, Orseck & Untereiner; Peter A. Rohrbach, Hogan & Hartson; James J. Rosenhauer, Hogan & Hartson.

Richard T. Rossier, McLeod, Watkinson & Miller; Charles Rothfeld, Mayer, Brown, Rowe & Maw; David J. Saylor, Hogan & Hartson; Patrick J. Schiltz, Associate Dean and St. Thomas More Chair in Law, University of St. Thomas School of Law; Jay Alan Sekulow, Chief Counsel, American Center for Law & Justice; Kannon K. Shanmugam, Kirkland & Ellis; Jeffrey K. Shapiro, Hogan & Hartson; Richard S. Silverman, Hogan & Hartson; Samuel M. Sipe, Jr., Steptoe & Johnson; Luke Sobota, Wilmer, Cutler & Pickering; Peter Spivak, Hogan & Hartson; Jolanta Sterbenz, Hogan & Hartson; Kara F. Stoll, Finnegan, Henderson, Farabow, Garrett & Dunner; Silvija A. Strikis, Kellogg, Huber, Hansen, Todd & Evans; Clifford D. Stromberg, Hogan & Hartson.

Mary Anne Sullivan, Hogan & Hartson; Richard G. Taranto, Farr & Taranto; John Thorne, Deputy General Counsel, Verizon Communications Inc. & Lecturer, Columbia Law School; Helen Trilling, Hogan & Hartson; Rebecca K. Troth, Washington College of Law, American University; Eric Von Salzen, Hogan & Hartson; Christine Varney, Hogan & Hartson; Ann Morgan Vickery, Hogan & Hartson; Donald B. Verrilli, Jr., Jenner & Block; J. Warren Gorrell, Jr., Chairman, Hogan & Hartson; John B. Watkins, Wilmer, Cutler & Pickering; Robert N. Weiner, Arnold & Porter; Robert A. Welp, Hogan & Hartson; Douglas P. Wheeler, Duke University School of Law; Christopher J. Wright, Harris, Wiltshire & Grannis; Clayton Yeutter, Hogan & Hartson (former Secretary of Agriculture); Paul J. Zidlicky, Sidley Austin Brown & Wood.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is it appropriate now for the Senator from New Mexico to speak?

The PRESIDING OFFICER. It is appropriate.

Mr. DOMENICI. Is there a time limit?

The PRESIDING OFFICER. There is none.

Mr. DOMENICI. I thank the Chair.

Mr. President, it is, indeed, a privilege to come to the Senate Chamber to speak on behalf of such a distinguished nominee for Chief Justice of the Supreme Court. I have a unique perspective on Judge Roberts because I practiced law for 16 years before I came to the Senate, during which time I got to meet and try cases, and read opinions by many judges. I have also been here for 33 years, during which time I have had the luxury and privilege of hearing from, reading transcripts of, and voting for 10 Supreme Court nominees. So everyone sitting on the Supreme Court now I have had the luxury of considering through the confirmation process, which means I have heard what each of those eight justices said, and I have seen what qualifications they came before the Senate with.

Based upon my previous experiences, it is almost as if Judge Roberts were destined to be a Supreme Court Justice. As I have listened to him, read what he has written, reviewed his background, and watched his conduct before the Judiciary Committee, it has become clear to me that he exemplifies many great qualities. When I look at him in comparison with nominees of the past, considering those men and women that I have previously voted for, it has become clear to me that he was born to serve his nation on our highest court.

Frankly, in all deference to the judges I have voted for heretofore, I have never been more confident that the President picked the right person for the right job at the right time as I am today.

If there is a perfect judge that can be visualized based upon all of the judges I have seen, listened to, read about, and voted for, this man seems to me to be extremely close to such a picture. He will be a judge for whom I will be extremely proud to have voted for.

Many people have described the message I am trying to convey about Judge Roberts in different ways, and there have been some excellent analyses of his qualifications. The largest newspaper in my home state of New Mexico wrote: "In addition to his encyclopedic fluency in constitutional law and the flesh and blood history behind it, Roberts exhibited a fine quality for a Chief Justice: collegiality. Justices, like Senators, disagree. Roberts showed he can disagree without disrespect, leaving open the door to work toward consensus. If Democrats cannot accept Roberts, is there any suitable Republican nominee?"

I appreciate those words from the Albuquerque Journal, and I agree with the question they raise. Democrats who want a Democratic nominee who fits their mold and agrees with their positions will have to wait until there is another Democratic President for such a nominee to come before the Senate. That is the way it has always been, and my friends from the other side of the aisle cannot expect a Republican President to nominate an individual who will carry their beliefs onto the court. Such a belief is not consistent with history or with tradition.

I will close by saying that I have great confidence that in 5 years, God willing, in 10 years, God willing, I can look back at Judge Roberts' performance as our Chief Justice and say: I was right in how I analyzed what he has been, what he is today, and what he will be as a Supreme Court Justice. I don't think I will be surprised or let down.

And I know, looking back at nominees for whom I voted, that such is not an ordinary expectation. Some judges for whom I voted did not turn out to be what I expected. But I am quite confident that Judge Roberts will not be anything but the great judge I expect as I look back on his tenure in the ensuing years.

I congratulate the Judge on his nomination. I hope he will remain loyal to what he has said and the way he has said it when he pledged what he wanted to be and what he would be. I wish him the very best because if he is successful, it will be good for America. His success in this job is correlated with good relationships under our Constitution between the great powers of the executive, legislative, and judicial branches.

I yield the floor and thank the Senate for listening.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I appreciate the opportunity to comment on the issue before us, which of course is Judge John Roberts. Certainly we have been hearing all about him for the last several days and nearly everything that is to be said has been said at least once. But I do want to take the opportunity to say I am very impressed with this candidate for Supreme Court Chief Justice. I am convinced that he will be a strong defender of the Constitution, that he has an exceptional ability to interpret the Constitution with respect to the law, and that certainly he has the background and qualifications to do that.

I am not an expert in law, but I do feel strongly that the Court is there to measure what is done in other places, what is done in the executive branch, and what is done in the legislative branch with respect to how it fits into the Constitution.

I have met with Judge Roberts, and I appreciated the opportunity to get better acquainted with him. I am very impressed with his demeanor and his character. It is comforting to see someone you think is extremely qualified for such an exceptional job and, at the same time, seems to see the world pretty much from the standpoint we all do, just as a human being, a person who wants to live in a country with freedom, in a country with constitutional law, in a country that does the best for everyone, and I have that impression. So I feel very good about him.

He has great respect for the rule of law and that, it seems to me, is one of the most important aspects of our country. I have had a chance to visit other places. I have had a chance to talk with kids about other countries. As I have gone about, one of the big differences is we have a rule of law, not a rule of people who happen to be in a strong position at the time, but a rule of law that exists and continues in the Constitution to be interpreted by the Supreme Court.

Of course, Judge Roberts has credentials that are outstanding. His educational background is great. He has been a White House Counsel, so he knows how that works. He has been a Deputy Solicitor General, so he knows how that aspect of it works, too. And he is a circuit judge, so he has a background as a judge. I believe that is very important.

I am very impressed, I am very pleased, and I am very proud to be a part of voting for him. I think the vote will be strong.

I shared with Judge Roberts a few areas about which I am concerned. I did not ask his opinion on them, but rather in the State I am from, Wyoming, we are very concerned about venue shopping. We are very concerned about the idea of people filing suit or going to the proper district court or area to get one that is sympathetic. That is not the way it ought to be. The Federal court that deals with the issue from an event in our history has to be in that history, and I wanted to share that with Judge Roberts.

I am very concerned about emminent domain, with regard to people's rights and property, gun rights, endangered species. Again, I did not ask him for his opinion on those issues because that is not the issue. The issue is, as legislation is passed, are they consistent with the Constitution, and that is, indeed, the role of judges—to listen to the facts and see how they apply to the rule of law.

I was very impressed, as most of us were as we watched some of the interrogation in the committee, with his conduct. Of course, he was pressed many times with different kinds of questions and tried to be pushed into making specific stands on his own opinion on issues, which really is not what it is all about. That is for him to decide when those issues come up with respect to the law, with respect to the Constitution. He handled that situation very well.

We have the opportunity—and a very pleasant opportunity—to support a man who has the qualifications, who has not politicized his background, a learned lawyer, a well-trained lawyer. I am persuaded he will be a strong defender of the Constitution.

I must confess that is the strongest point I support and seek to see the Court do. I think that will happen.

Mr. President, if I may, during this time, I wish to divert from this subject for a minute or two.

GOVERNMENT REORGANIZATION AND PROGRAM PERFORMANCE IMPROVEMENT ACT OF 2005

Mr. President, I wish to talk about a condition that is very much important to us, where we have unusual events happening in our country. We have the situation in Iraq. We are defending ourselves there and the freedoms of this country there. I just came from a hearing. I am very proud of what is happening in Iraq, and I think we are making some progress towards getting people to take care of their own country. That, of course, is the goal, and I am sure we will be there until that goal is achieved.

Then comes along the problems with the disasters on the gulf coast. Both of those events, of course, have given us special needs for spending, and we have had to spend. It is right to spend when we have emergencies that arise of that nature, but then we find ourselves in the position of, what do we do about this excessive spending and how do we handle it?

I see it as the same thing we undertake in our families. If an emergency happens in the family, you have to handle it. You have to find some way to deal with that emergency. At the same time, your family activities go on and you have to take care of those. Then you have to decide: How can I make some changes in my economic situation to deal with this excessive spending because of an emergency.

That is where we are now. We are talking about all kinds of ways. I hope we take enough time to deal with these situations on the gulf coast and give the help those people need. That is the responsibility of the Federal Government. I hope we make sure there is accountability with those moneys spent, that we can be sure they are spent the way for which they are defined to be spent. I hope we make sure the Federal Government does what it is supposed to do and that the other units of government—State, local, and private sector—do what they are supposed to do. But we still will spend a great deal of money and, indeed, we should.

We also have to consider that over the past year, because of Iraq and other events, we have also had an increase in our deficit. Our deficit has gone up. So we need to find some ways to do something about it. Obviously, we will take a look at spending and see what areas we can reduce. I hope we do that as we finish our budget for this year. We need to.

We should take a look at some of the ways we raise money, in the case of some taxes, that probably we might otherwise change. Perhaps they will have to be left as they are for a while and continue to offset some of these costs.

I wish to specifically mention a bill I am currently sponsoring that requires the regular review of Federal programs. This should be done anyway, but it makes it particularly important as we look toward this business of spending. It is called the Government Reorganization and Program Performance Improvement Act. It creates the necessary mechanism, I believe, to set up some commissions to take a look, No. 1, at programs that have been in place, let's say, for 10 years, and to determine if, in fact, the program is still as needed as it was 10 years ago, to see if it accomplished what it was set up to do 10 years ago and now is completed, could be ended, or could be put in with some other program, or could be reduced because the situation may not be the same as it was when a program was put in place. Even though there probably was a very good reason to have the program then, is the reason still good? Should we be changing it?

It is really a modernization effort. something we would do in every business, something we should do, which is take a look at what we have done historically and see if they are appropriate and can be done better.

The second half is to not only look at programs that might be unnecessary or wasteful, but take a look at programs that will continue, but are they being done as efficiently as they can be.

One of the issues we have to take a look at in terms of excessive spending is controlling the size of the Federal Government. It has continued to grow and grow. We have sort of developed a political notion that if there is anything needed anywhere, let's get the Federal Government to pay for it.

Well, that is a nice thing to do. The fact is we are supposed to be divided up, and there are local governments, State governments, and the Federal Government, each of which has its own responsibilities and its own areas and we ought to be seeking to define what the role of the Federal Government is and sort of restrict those things to that area so that we can control size.

So this program would inventory the programs, would have proactive steps toward improving and eliminating unnecessary and redundant efforts, and it would help us return to fiscal responsibility. It is kind of common sense in Government. It provides a framework to do that. I don't think anybody will disagree with the notion that we ought to evaluate programs to see if they are still efficient, effective, and needed, if they could be more productive. Nobody would argue that concept, but we don't really have a system to do that. I believe this is a good Government measure, and I certainly urge my colleagues to take a look at the bill S. 1399 and urge their consideration and sponsorship of this bill.

Mr. President, we always have a responsibility to make sure that Government is as efficient as possible, that spending is as effective as possible, that we hold spending to the minimum to do the things we need to do but not in excess of that, and I think we have an opportunity to put that kind of measurement into place and to ensure that those things can happen.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I ask unanimous consent that the next hour under majority control be allocated as follows: 20 minutes for Senator CORNYN, 5 minutes for Senator COCHRAN, 15 minutes for Senator BENNETT, and 20 minutes for Senator ALLEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. I thank the Chair.

Mr. President, I am going to talk about the nominee that we presently have before the Senate, Judge John Roberts, in a moment. First, let me express my concerns about a Washington Post story that was published today entitled "Filibuster Showdown Looms in Senate." The curious thing about this article is it does not talk about the nominee for Chief Justice of the United States, John Roberts, the nominee that is actually pending before the Senate. Rather, what this article talks about is the next nominee of the President of the United States to fill the seat of Justice Sandra Day O'Connor.

I am afraid it is perhaps a sign of the times in which we are living and perhaps a sign of the contentiousness with which the nomination for a vacancy on the Supreme Court has met in the Senate that some of my colleagues are already talking about a filibuster of the next nominee of the President when that nominee has not yet been named. I think it takes partisanship to a new level, to threaten to block an up-or-down vote on the Senate floor when we do not even know who that person is yet and, indeed, some apparently cannot conceive of the possibility that this President would nominate someone on whom they would at least allow an up-or-down vote. We are not talking about a Senator not following their conscience but talking about Senators, a minority in the Senate prohibiting a bipartisan majority from casting an up-or-down vote without even knowing who that nominee is going to be.

We ask that nominees for the courts not prejudge cases that will come before them. I would think that we should also ask Senators not to prejudge nominees who have not even been nominated by the President yet. Whomever the President nominates should be entitled to an up-or-down vote on the Senate floor. We are not a country that believes in the tyranny of the minority but, rather, we believe in a fair process and an up-or-down vote and majority rule. That is all we would ask for this yet-to-be-named nominee.

But now let me go to the business at hand and say that I will vote to confirm Judge John G. Roberts as the next Chief Justice of the United States. Before I explain why I am going to vote for his confirmation, I first want to explain the reasons why I am not.

First, I am not voting for his confirmation because he told us how he would rule on cases or issues that might come before the Supreme Court. Some of my colleagues have said that they will not vote to confirm Judge Roberts because they are not certain how he would rule on cases or issues that will come before the Court. They are not certain whether he will vote in favor of abortion rights, for example. They are not certain that he will vote in favor of racial preferences and quotas. They are not certain whether he will vote to give the Federal Government unlimited regulatory power to the exclusion of State and local government. I am not certain how Judge Roberts is going to vote on these issues either, but although my constituents are as concerned and as interested in these issues as anyone, I am not going to refuse to vote for this nominee on that basis. Judges are not politicians. They do not come to Washington to run on a political platform. They do not say: Vote for me, and I will put a chicken in every pot. They are not supposed to come before the Senate and promise to vote this way or that way on a matter that will come before them. Certainly, I understand as well as anyone why the American people, and Members of the Senate included, are curious about how Judge Roberts is likely to rule on future cases. I am curious about that, too. But sometimes we have to put our curiosity aside for a greater good. We do not want to create a situation where a Justice cannot win confirmation to the Supreme Court unless he pledges to vote this way or that way on certain hot-button issues of the day. Judges are supposed to be impartial, and they are supposed to be independent. That is why they have lifetime tenure once confirmed. Judges cannot be either impartial or independent if they are forced to make promises to the Senate of how they will vote in order to get confirmed.

Some of my colleagues have said they simply cannot or will not put promises to politicians aside for this greater good of independence and impartiality. One of my colleagues says she wants to know who will be the winners on certain issues when Judge Roberts is on the Court. I can tell you who the winners will be. The winners are going to be the parties whose positions are supported by the Constitution and laws of the United States of America. Judge Roberts eloquently explained this during his confirmation hearing. He was asked whether he would rule in favor of the little guy. His answer was that if the Constitution and laws of the United States supported the little guy's position, the little guy will win. But if the Constitution says that the big guys are supported, their position is supported by the Constitution and laws of the United States and the facts in the case, then he will vote in favor of the big guy.

This is exactly how it should be. Over the Supreme Court of the United States, as you look at that stately edifice, it says, "Equal justice under the law," not that justice will be rendered in favor of the little guy all the time or against the big guy all the time or, conversely, for the big guy all the time and against the little guy. That is the antithesis of equal justice under the law. As a matter of fact, we all recall that Lady Justice wears a blindfold for a very good reason—because justice is about the law, not about persons who are sitting in front of a judge.

Mr. President, second, I am not voting for this confirmation because he turned away clients with legal positions with which my constituents or some of us might disagree. Some of my colleagues have said they will vote against Judge Roberts because they are unsure of his heart. They are saying that his heart may not be pure because in private law practice he would not turn down clients with positions anathema to liberal special interest groups. Now, although they acknowledge that Judge Roberts has donated his time to clients who, for example, were on the liberal side of a lawsuit over gay rights, they criticize Judge Roberts because at his confirmation hearings he said he would have donated his time to clients on the conservative side of that same issue had they approached him first.

This is perhaps the strangest argument of all against this nominee. My colleagues are going to vote against him because they think it is heartless to take on clients regardless of whether he agreed with them or not? That is the very essence of being a lawyer, a professional, an advocate. Lawyers are somewhat like public accommodations in a sense. Similar to hotels, restaurants, and the like, when lawyers place their shingle out and say, I am willing to entertain cases that people may bring to me, they are supposed to serve anyone who comes through the door, as long as they have an arguable legal position or factual position with which the Court might ultimately agree. As a matter of fact, our adversarial system of justice depends on lawyers not just taking cases with which they perhaps ideologically are inclined to agree but, rather, they are supposed to take the facts and the legal arguments and do the very best they can so that in a clash that plays out in our adversarial system of justice in the court room, the judge can make the best decision based on the best legal arguments and that jurors can decide what the truth is based on this clash of opposing positions.

People are not supposed to be judged by the lawyers. Rather, in our system they are supposed to be judged by a jury of their peers. But if lawyers were constrained or prohibited from representing people with whom they might personally not agree, then they would never have a chance to be judged by a jury of their peers because they would not have a lawyer to take their case so that it could be presented to that impartial conscience of the community.

I wish to ask where this reasoning of my colleagues might lead. There are any number of clients who few people would support politically but who need legal representation in our adversarial system. Criminal defendants are the most obvious example. Do my colleagues plan on punishing a lawyer who did not refuse to represent someone who is accused of a crime? Do they plan to disqualify anyone from service in the Federal judiciary who has ever represented, someone accused of a crime? Or do they plan to disqualify only those lawyers who did not shun conservative clients or causes? I do not believe you can tell anything about a person's heart, that is, a legal professional, professional advocate by whom that person has represented as a lawyer. But even more important, I do not think the confirmation process should be about the nominee's heart. I, for one, do not want judges sitting in judgment in a court of law who are going to be guided by their heart and sympathies, rather than the law of the land and the facts as found by the trier of fact. I want judges who will side with the party who has the best argument and whose position is most consistent with established law that we all can recognize and read and understand for ourselves.

Again, Lady Justice is blindfolded for a reason. Justice should not depend on who you are or who you know. It should depend on who has the law on their side.

Third, I am not voting for John Roberts because he will preserve some hypothetical quixotic ideal of balance on the Supreme Court. Some of my colleagues have said they will vote for Judge Roberts because he is not any more conservative than his predecessor, Chief Justice Rehnquist, whom he will be succeeding. But they issued the warning that I started out with: Mr. President, don't you dare nominate someone we disagree with next time or we will use this unconstitutional filibuster. We will break with 200 years of precedent in the Senate and the very premise of our law, which is based on majority rule. We will break with that and we will filibuster in the Senate and prevent your nominee from ever taking the bench if you nominate someone we perceive is more conservative than Sandra Day O'Connor.

My colleagues have said this is important because they want to preserve balance on the Court. Preserving so-called balance on the Court has never been the basis of a Supreme Court confirmation vote. The examples of this are legion. One of the last Supreme Court nominees to win confirmation was Justice Ruth Bader Ginsburg, who replaced Justice Byron White. Justice Ginsburg, I think it is clear, I think we would all agree, was an unabashed liberal and one of the most zealous supporters of abortion rights who has ever been confirmed to the U.S. Supreme Court.

Justice White, nominated by President John F. Kennedy, was fairly conservative by contrast and indeed was one of the dissenters in the celebrated case of Roe v. Wade. Yet Justice Ginsburg, a self-avowed liberal, replaced a moderate to conservative Justice on the Court, and she was confirmed by a vote of 96 to 3. No one argued that Justice Ginsburg should be defeated because she would somehow shift this ideological balance on the Court.

But she is only one example. Justice Clarence Thomas, one of the most conservative members of the Court, was nominated and confirmed to succeed Justice Thurgood Marshall, arguably one of the most liberal.

Chief Justice Burger, President Nixon's antidote to judicial activism, replaced Chief Justice Earl Warren, whose name, in the minds of some, was synonymous with the phrase judicial activism.

Justice Goldberg, who believed the ninth amendment gave the Supreme Court a license to invent new constitutional rights, replaced Justice Frankfurter, the father of judicial restraint.

So it is clear this has never been the way it has been, historically. Nor is there any precedent or any obligation of a President to try to seek ideological balance when nominating someone to the Supreme Court. The reason why is very simple. Elections are supposed to have consequences. The President is entitled to put the people on the Supreme Court who share his values and his judicial philosophy; in this case one who believes the policymaking ought to primarily emanate from the elected representatives of the people in Congress, not life-tenured judges who are unaccountable.

If Presidents were not entitled to change the Supreme Court, then Abraham Lincoln could not have changed the Dred Scott case, and Franklin Delano Roosevelt could not have changed the Lochner Court. I doubt my colleagues who are arguing for this ideological lockstep, or uniformity, would have favored that.

But that brings me to why I am supporting this nominee, and the reasons are actually pretty simple. First, Judge Roberts is simply one of the most qualified individuals ever nominated to serve on the Supreme Court. Indeed, he may very well be the best qualified. We have heard it before. He graduated the top of his class, he clerked for two of the finest judges in the Nation, he served, with great distinction, two Presidents. He has argued 39 cases before the U.S. Supreme Court and is widely regarded as the finest oral advocate before the Court living today.

In only 2 years on the D.C. Circuit Court of Appeals, he has already acquired a reputation as one of the most respected judges in America. Even the New York Times, which has editorialized against this nomination, has conceded that few lawyers in America could compete with Judge Roberts in professional accomplishments.

There was a time not too long ago when a brilliant career such as Judge Roberts' was sufficient to win confirmation to the Supreme Court, when we did not have ideological tests, litmus tests; when we didn't have filibusters that blocked the majority from actually having an up-or-down vote to confirm a nominee.

Whereas Judge Roberts has spent his career representing clients on both sides of every issue, we saw in Justice Ginsburg, whom I mentioned a moment ago, a jurist spending most of her career representing the single client, the American Civil Liberties Union, on one side of these issues. She voiced support for some pretty extreme positions. She supported taxpayer funding for abortions. She thought there was a constitutional right to polygamy and prostitution. Suffice it to say, her ideas were far outside of the legal, not to mention the political, mainstream of America.

Finally, I am going to vote to confirm this nominee because this judge understands the proper role of an unelected Supreme Court Justice in a democratic Nation.

Mr. President, I ask unanimous consent for an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. To repeat, Judge Roberts understands the proper role of an unelected Supreme Court Justice in a democratic Nation. Ours is not a nation where nine judges sit in a marble edifice and decide what is good for us. Nor is it a Nation conceived on the premise that these nine unelected judges should be primarily policymakers. Rather, our notion of justice and law is based on consent of the governed. You can read it in the Declaration of Independence. Obviously, were unelected, lifetime-tenured judges to depart from the text of the Constitution, depart from precedent, and get into a mode of sort of freewheeling ad hoc public policymakers, they would have departed in the extreme from the framework laid down by our Founders and from the framework ensconced in our Constitution.

I will vote to confirm this nominee. I hope my colleagues will do likewise. I hope further that my colleagues, who have already stated their intention to filibuster the next nominee, will wait until the President has in fact named a nominee to succeed Justice Sandra Day O'Connor. It is just possible—it is just possible they will be surprised and they will find the President has, indeed, selected another nominee in the mold of John Roberts, who will be overwhelmingly confirmed as Chief Justice of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. COCHRAN. Mr. President, I appreciate the opportunity to speak on behalf of Judge John G. Roberts' nomination to serve as Chief Justice of the United States. The Members of the Senate may disagree on many legal and political issues, but I am confident a majority of the Senate will agree that Judge John Roberts should be confirmed. He has provided the Judiciary Committee with the story of his life. He has answered questions on a wide range of issues. In the process, he has demonstrated the ability, the temperament, and the wisdom to serve as Chief Justice of the United States.

The process of providing advice and consent on a Supreme Court nomination is one of the Senate's most significant constitutional responsibilities, although it is not something we are called upon to do very often. Eleven years have passed since the Senate last exercised its duty to provide advice and consent to the President on his selection of a Supreme Court nominee; 19 years have passed since the Senate last considered a nominee for Chief Justice.

By now, all Senators and most Americans have come to know the impressive life story of John G. Roberts, Jr. He is a summa cum laude graduate of Harvard University and an honors graduate of the Harvard Law School. He was an editor of the Harvard Law Review.

After graduating from law school with high honors, Judge Roberts served as a law clerk to a judge on the Second Circuit Court of Appeals and as a law clerk to then Associate Justice Rehnquist on the U.S. Supreme Court. He has also served as a Special Assistant to the Attorney General of the United States and as an associate counsel to President Ronald Reagan.

After those years of public service, he spent 3 years in private practice at a well-respected law firm, specializing in civil litigation. Judge Roberts then returned to public service as the Principal Deputy Solicitor General of the United States.

During these years of service at the Department of Justice and as a lawyer in private practice, Judge Roberts argued 39 cases before the U.S. Supreme Court. His performance before the Court earned him a reputation as one of the Nation's premier appellate court advocates.

Two years ago Judge Roberts was unanimously confirmed by this Senate to the U.S. Circuit Court of Appeals for the District of Columbia. This circuit court is considered by many to be the Nation's second highest court.

Judge Roberts is a devoted husband, a dutiful father of two young children, and he is a good and honest man. I closely followed the Senate Judiciary Committee's hearings on his nomination to be Chief Justice. It is clear to me that he is the right person for this very important responsibility. Judge Roberts has served with distinction in every job he has ever had. His record is compelling evidence that he would be an able and thoughtful member of the Supreme Court, and that his experience and his respect for the rule of law demonstrate he would be an outstanding Chief Justice of the United States.

The quality and correctness of opinions and decisions by the Supreme Court will depend upon the conscientious application of reason and the rule of law by Chief Justice Roberts and his colleagues on the Supreme Court. I think Judge Roberts fully understands the role of the Supreme Court Justice and is totally qualified to discharge the duties of Chief Justice. I believe he will be fair to all and, in the application of the rule of law, impartial and unbiased.

This is serious business. The members of the Federal judiciary are charged with the responsibility of protecting our rights as American citizens, adjudicating our grievances, promoting order and justice, and serving as stewards of the rule of law. The Chief Justice of the United States is the highest ranking official in the judicial branch of our Federal Government. He is in charge of the management and administration of the highest Court in the land. I believe Judge Roberts has what it takes to be an outstanding Chief Justice.

I congratulate the President for his selection of Judge Roberts and I commend the President for his nomination. His nominee will be in an important position in our Government. I am pleased, indeed, that I will be able to vote in favor of his confirmation by the Senate.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized for 15 minutes.

Mr. BENNETT. Mr. President, most of the speakers who have discussed this subject have talked about Judge Roberts' qualification. There is no point in my referring to them or repeating them again.

There is a point that I do wish to make with respect to the entire process, which I think needs to be emphasized and stressed. It is this: Nominations are not elections.

Read the Constitution, and we see that it allows for elections. It provides for elections. It says there are places where elections are appropriate. The President is elected. The Vice President is elected. The Members of the Senate and House are elected. But members of the Cabinet are not; they are appointed by the President. And to allow the election process to have an influence, they have to be confirmed by the Senate. But they are not elections.

The same thing is true very much with respect to the judicial branch. A nomination for the Supreme Court is not an election.

The reason I make such stress of that is because there are many groups out there who think this is an election. There are big ads on television. They are organizing demonstrations. They are walking around with placards. That is what you do when you try to influence voters in an election. This is not an election. The Founding Fathers understood that it should not be an election.

There are some who have made up their minds long in advance of any nomination as to what they are going to do. I think, quite frankly, if President Bush were to somehow resurrect John Marshall and send his name to the Senate to be the Chief Justice of the United States, People For the American Way and Ralph Neas would insist that he was badly out of the mainstream and unqualified to be Chief Justice, even though history says he was the greatest Chief Justice in our history. But if he were picked by George W. Bush, that group would immediately say he is radical, he is out of the mainstream.

We are getting the same thing with respect to Judge Roberts—an election campaign complete with television ads and placards and demonstrations saying that Judge Roberts is out of the mainstream.

I do not know where you go to find mainstream today. I do not know exactly where the mainstream is. I know where the left bank of this particular stream is. The New York Times is against Judge Roberts. That was predictable. That was as sure as the Sun would rise—that the New York Times would be opposed to anybody George W. Bush proposed.

The Washington Post is usually thought of as being fairly close to the left bank, but the Washington Post looked at this nominee and said this is a qualified nominee.

The American Bar Association tries to be as much of the mainstream as they can. They have given Judge Roberts' nomination their highest support, "well qualified," unanimously. Maybe they are not mainstream enough for some of these people who are using this argument.

The Los Angeles Times is not thought of as a rightwing organization. The Los Angeles Times said it would be a travesty if we didn't confirm Judge Roberts by a wide margin.

Why do we want to confirm somebody like Judge Roberts? Why is the President's nomination a good one? In my view, it is because Judge Roberts understands one fundamental truth. Along with the one I have just given, a second fundamental truth, if you will, is that nominations are not elections and judges are not politicians, or more appropriately judges are not legislators. You have elections for legislators. You should not have elections for judges.

Judge Roberts put it this way in describing his understanding of his responsibility. We have heard this before with respect to this nominee, but it is worth repeating. He said to the committee:

> I come before the committee with no agenda. I have no platform.

Again, judges are not legislators.

> Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda but I do have a commitment. If I am confirmed, I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench, and I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability. I will remember that it is my job to call balls and strikes and not to pitch or bat.

In other words, he is the umpire, he is not a player. We have seen an example brought up in an effort to try to derail Judge Roberts' nomination of how he called "balls and strikes" and how he was not a legislator. It has been dropped now because those people who raised it didn't realize that it was going to be analyzed properly and turn out to be embarrassing to them rather than to the judge.

But there was the case of the 12-year-old girl in Washington who, while waiting with her friend at the Metro station to buy a Metro ticket, happened to eat a single french fry, and she was arrested, handcuffed, and taken down to the station. Judge Roberts upheld the action of the Metro Police.

Horrors, came the groups. There is an election. We can grab onto this as an example that we can sensationalize and win votes on. Then they examined the matter very carefully, and we got Judge Roberts' actual opinion in this case. He did not victimize a 12-year-old girl who was arrested for eating a french fry. This is what he said in his opinion that once again outlines the truth of his position that he will be an umpire, not a player, not a legislator.

He said:

> No one is very happy about the events that led to this litigation. A 12-year-old girl was arrested, searched and handcuffed, all for eating a single french fry in a Metro rail station. The child was frightened, embarrassed, and crying throughout the ordeal. The District Court described the policies that led to her arrest as "foolish," and, indeed, the policies were changed after those responsible endured the sort of publicity reserved for adults who make young girls cry. The question before us, however, is not whether these policies were a bad idea but whether they violated the Fourth and Fifth Amendments to the Constitution.

He put the emphasis in the right place. This was a stupid law. It was passed for some other reason and turned out in administration to be a stupid law. It was passed by legislators, people with legislative responsibility. It was repealed by legislators. It should not be repealed by the judge just because it is stupid.

I remember a conversation that took place after the Supreme Court ruled on the bipartisan Campaign Reform Act. It is no secret that I opposed that act as vigorously as I could. We passed it nonetheless. The President signed it. Then a lawsuit was filed. It went all the way to the Supreme Court. The Supreme Court found that the law was constitutional and upheld it.

I will not reveal names because these were private conversations, but a Member of the Senate had the occasion to have a conversation with a member of the Supreme Court. The Member of the Senate said to the member of the Supreme Court: How could you uphold that law? That is a terrible law.

The member of the Supreme Court appropriately said: You are right. It is a terrible law. You shouldn't have passed it.

In other words, the Supreme Court should not be the one that corrects our mistakes unless we violate the Constitution. The Supreme Court should not take a position unless we violate the Constitution. The Supreme Court is not made up of legislators who fix things; it should be made up of people who examine the law.

Even if the law is foolish enough to punish a 12-year-old girl for eating a french fry on the Metro, the Supreme Court should say: Legislators, this is a dumb law. You ought to fix it. But it is not our responsibility to legislate.

The real reason so many groups have tried to turn Judge Roberts' nomination into an election rather than a nomination is because they lost the election and they are hoping they can turn the Supreme Court into a superlegislature that is beyond the reach of voters. Clearly, that is not what the Founding Fathers had in mind. Clearly, when they put the responsibility to make the choice in the hands of the President, they were saying this will be a nomination and not an election. If the Founding Fathers had wanted the Supreme Court at the national level to be open to the electoral process, they would have done what others have done at the State level. There are States where the appointment to the supreme court of the State is an electoral process. Whether that is good or bad is the subject for another conversation. But in this circumstance, we are talking about the U.S. Constitution, which every Member of this Chamber has taken an oath to uphold.

If we are going to uphold the Constitution of the United States and defend it against all enemies who would undermine it, be they foreign or domestic, we should preserve the constitutional process of nominations coming from the President of the United States. He has to answer to the people for his decisions. He should be the one to make the nomination. He is the one who is given the powers specifically.

We can say, Mr. President, we don't consent to that because we think you made a mistake, but we in the Senate should not condone those who are trying to turn the nomination process into an electoral process. Because we should understand as Members of the legislature that members of the judiciary are not legislators, and we should not move in a direction of turning them into legislators by participating in an election-type process in vetting their credentials. If this man is qualified, he should be confirmed. If he is unpopular with the electorate, that should be irrelevant. The Constitution does not allow for that to intrude upon the confirmation process.

There is no question but that John Roberts is qualified.

I end with a conversation I had with one of my colleagues who made up his mind to oppose Judge Roberts. I said to him: In a theoretical situation, suppose you had everything you own on the line in a nasty lawsuit, and you had a legal problem where you could lose everything. Who would you choose to defend you? Which lawyer would you hire, John Roberts or a member of the Senate Judiciary Committee? He laughed immediately. He said: Bob, it isn't even close. If John Roberts is the obvious choice for a personal attorney for someone who needs real help, why should he not be the obvious choice for the Nation that needs real help?

He will be a superb Chief Justice, and I will vote for him with great confidence.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized for 20 minutes.

Mr. ALLEN. Thank you, Mr. President.

Mr. President, I rise this afternoon in strong support of the confirmation of Judge John Roberts to be the 17th Chief Justice of the United States.

When we first learned of this vacancy on the Supreme Court earlier this summer, I laid out the principles of what kind of judge I believe the President should nominate and how the nomination process should proceed. It should be a dignified approach as a due process. It should be fair, and there should be a vote.

Federal judges are appointed for life. When one recognizes those debates in the founding of our country, Mr. Jefferson wanted judges appointed for terms, and Mr. Hamilton wanted them for life. Unfortunately, in my view, Mr. Hamilton won. The only time there is any scrutiny on the part of the public is at this time of confirmation. While some may not like the editorials, some may not like the TV ads, the demonstrations, and all the speeches. I don't think judges ought to be legislators, and I don't agree with some of their perspectives in our free country. Let us as Senators not say that people are wrong to demonstrate, run TV ads, advocate and express their views, even if we may not be in agreement with them. That is one of the foundational principles of our country. Ultimately our role is to listen, to examine judicial nominees based upon our criteria. Obviously, we can listen to the people and then ultimately it is our responsibility to vote.

The following are the criteria I use to judge a judge. I have always believed the proper role of a judge is to apply the law, not invent the law. The proper role of a judge is to uphold the Constitution, not amend the Constitution by judicial decrees. The proper role of a judge is to uphold the intent of the Constitution and the principles of our Founders, not to indulge in self-satisfying judicial activism. The proper role of a judge is to protect and, indeed, to defend our God-given rights, not to create or deny rights out of thin air.

I believe it is my responsibility and the responsibility of all Senators to make sure that America's courts, including, of course, and most importantly, the Supreme Court, are filled with qualified men and women who possess the proper judicial philosophy in our representative democracy.

Laws are to be made by the representatives of the people. The people are the owners of the government. At the local level, they elect city councils, parish leaders, county boards of supervisors. Then we have State legislators, Governors, and, of course, Federal legislators, Congress, and the President.

However, colleagues, every week, and almost every day, we see the consequences of activist judges who do not properly respect our representative democracy. They do not understand or respect the proper role and responsibilities of a judge not to be an executive and not to be a legislator.

Let me share with my colleagues two examples of judicial activism, decisions where the rule of law which is one of those foundational bedrock pillars of a free and just society, where these concepts have been eroded and ignored by judges.

Exhibit A comes from the Ninth Circuit Court of Appeals. The Ninth Circuit has trampled upon the will of the people of California by ruling that the Pledge of Allegiance cannot be recited in California public schools because it contains the words "under God." They fail to see that the Pledge of Allegiance is not the establishment of any religion. It is a patriotic act. If a student does not wish to recite the Pledge of Allegiance, he or she is not compelled to do so. They can sit there quietly as the pledge is recited.

This is a terrible ruling, not just because it violates the will and the values of the people of California, which it surely does, but it is also a terrible ruling because it actually displays a woeful and inexcusable ignorance of America's legal and historical traditions going all the way back to Mr. Jefferson's statute of religious freedom. This is all sacrificed on the altar of judicial activism.

Unless the Ninth Circuit reverses itself, then the Supreme Court of the United States should ultimately reverse this prohibition of the Pledge of Allegiance in schools.

Exhibit B comes from, I regret to say, the highest Court in the land, the Supreme Court of the United States. This past summer, in the case of Kelo v. City of New London, Connecticut, five Supreme Court Justices willfully ignored the Bill of Rights, allowing local governments, acting as commissars, the right to take someone's home, a person's home to be taken not for a road, not for a school, not for a legitimate public use, but simply because they think they can generate more tax revenue from the property upon which that home is located.

Colleagues, home ownership is the greatest fulfillment of the American dream. Every American should have the opportunity to own the home in which they live. Every child is enriched by learning and appreciating the value and pride of home ownership. That is why I advocate economic policies that make home ownership more affordable to more people. It is not just good economic sense, it is also an issue of fairness. It is an issue of opportunity in this land we call home, America.

This outrageous decision that is forcing people out of their homes, the very definition of the American dream, in the name of expanded government tax revenue, is amending the Bill of Rights by judicial decree and is contrary to what I believe is a fair and just society.

These are just two examples of judicial activism. We do not need any more judicial activists on the Ninth Circuit, on the Supreme Court, or any court in this land. The only way to stop this insidious effect of judicial activism is to confirm well-qualified judges who possess good legal minds and understand their role in our Republic. Judges are not to be legislators or executives. Judges should fairly adjudicate disputes based upon the law and the Constitution.

I believe Judge Roberts is precisely that kind of judge. I believe Judge Roberts has the credentials, the values, and the temperament to be an outstanding Chief Justice.

Let me briefly touch on some of his outstanding credentials. He graduated summa cum laude from Harvard College, magna cum laude from Harvard Law School, was a law clerk for both Judge Friendly and later for Chief Justice William Rehnquist, a Justice Department aide for the Reagan administration, the Principal Deputy Solicitor General in the first Bush administration, a private attorney with Hogan & Hartson, and since 2003, an esteemed judge on the D.C. Court of Appeals.

I supported Judge Roberts' confirmation to the D.C. Court of Appeals, and his service there has confirmed my confidence in his outstanding capabilities. I have been impressed not only by his keen judicious mind but also his commitment to the Constitution and understanding the importance of the rule of law and the role of a judge.

I met with Judge Roberts back in August. We discussed things one on one. I found him to be a very well grounded individual. He possesses the right judicial philosophy. I know people are concerned that some judges might get in there and somehow get out of touch in the rarefied air of judgeships, particularly on the Supreme Court. I thought it was good he cuts his grass every now and then—not that it is a qualification to be a judge, but it shows he understands how people live in a relatively normal way.

Most importantly, we talked about the importance of precedence, individual rights, the interpretation of Federal and State laws, and what deference should be given to laws passed by the representatives of the people, as well as a variety of other issues.

I am very comfortable with Judge Roberts and his understanding of the role of a judge, the importance of the Constitution, and that the Constitution should not be amended by judicial decree.

I enjoyed asking him what he thinks the role of international law or laws from other countries should be for judges. We will not have others from another country tell us what our laws ought to be. I love his judicious approach that any judge who uses international laws or the laws from other countries to make decisions upon cases in the United States, those judges are trying to accrue to themselves more power than they should have. The powers of Federal judges in this country come from the laws that are passed by the people in the United States. If you start trying to get extraneous laws, that is judicial expansion. He understands the modest and respectful way a judge should handle cases.

Later in his confirmation hearings, we saw how Judge Roberts continued to show a rare reverence for our Constitution and the Supreme Court's responsibilities under our Constitution. He declared:

> Judges are not to put in their own personal views about what the Constitution should say, but they are supposed to interpret it and apply the meaning that is in the Constitution.

Judge Roberts went on to say:

> [J]udges need to appreciate that the legitimacy of their action is confined to interpreting the law and not to making it, and if they exceed that function and start making the law, I do think that raises legitimate concerns about [the] legitimacy of their authority to do that.

It is refreshing to hear those words from the lips of a Supreme Court nominee. May other judges in the Federal court system understand and respect that, as well.

As we get ready to vote tomorrow on Judge Roberts, this is exactly how this system and this process ought to work—fair and open hearings where the nominee explains his or her judicial philosophy but refuses to prejudge individual cases, and following all of the scrutiny and the questions and examination, there is a fair, up-or-down vote on the Senate floor. This is the American tradition. This should not be an exception. This should be the rule and the way we treat judicial nominees, not just this nominee but future nominees.

I remind my colleagues, we will soon have another Supreme Court vacancy to fill. We will need to fill it very soon. We should be fair and dignified, we should be deliberative, and when it is over, we should vote. Yes, that is our responsibility, to vote.

I am looking forward to having John Roberts serve as Chief Justice of the Supreme Court of the United States. I am also looking forward to confirming other well-qualified judges who understand and appreciate the foundational principles of our country and who will reinforce the rule of law by fairly adjudicating disputes protecting our freedom of religion, protecting our private ownership of property, and our freedom of expression.

John Roberts, I believe, will go down in history as one of the great Chief Justices of the Supreme Court. Let him also become a role model for all other men and women who will follow on Federal benches.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the time from 5 p.m. to 6 p.m. will be under the control of the Democratic side.

The Senator from Delaware.

Mr. CARPER. Mr. President, those of us who are privileged to serve in the Senate literally cast thousands of votes during the years we spend here. Some votes are procedural in nature and of little consequence. Others are far more meaningful. Katrina relief, pension reform, and trade agreements come to mind. Once in a great while, though, we are called upon in this body to cast a vote of such importance to our Nation that it will resonate for years to come—whether to authorize the use of military force against another nation or whether to impeach a President. There are few votes, however, we will cast in our time here that are likely to leave a more lasting impact on America than the one we will cast tomorrow morning. In confirming the nomination of John Roberts—something that is all but certain—we not only will authorize him to serve as the Chief Justice of the U.S. Supreme Court, we will also make him the leader of the judicial branch of our Government. God willing, he will hold that post for as long as most of us in the Senate are likely to live. A great deal is riding on this vote for our country and its people, both today and for a long time to come.

For many of us, this one is a close call. Understandable concerns have been raised on a number of fronts about what kind of Chief Justice John Roberts ultimately will make. Do the writings of a young man in his twenties reflect the views of this 50-year-old man today? If not, why was he reluctant to clearly say so publicly when given that opportunity? Why did the current administration refuse to allow any scrutiny of the writings of Judge Roberts from when he served as the No. 2 person in the Solicitor General's Office of former President Bush? What direction would Chief Justice Roberts seek to lead the Supreme Court in the coming years on issues relating to privacy, to civil rights, and to the prerogatives of the Congress to set policy that may be at odds with the views of State and local governments? How will Judge Roberts seek to interpret and apply the Constitution and a wide variety of laws, both State and Federal? Will the Roberts Court respect precedent or aggressively seek to establish new ones?

The honest answer to most of these questions is that none of us really know for sure—not the President, probably not even Judge Roberts himself. That uncertainty explains at least in part why this vote is so difficult for many Members of this body. So we are asked to make a leap of faith. For some, that leap is large. For others, it is not.

For myself, I have decided to take that leap of faith. After a great deal of deliberation, conversations with many Democrats and Republicans on the Senate Judiciary Committee, as well as with others back home and here, I have decided to vote tomorrow to confirm the nomination of John Roberts to serve as our Nation's Chief Justice. Time will determine the wisdom of that decision, along with the decisions of each of our colleagues who join me in casting our votes tomorrow.

Yesterday, I had the privilege of meeting with Judge Roberts in my office. There, we discussed many of the concerns and question marks I mentioned just a few minutes ago. His responses were forthright. They were insightful. And I believe they were sincere.

Our conversation also provided me with insights into how a young man from a small town in Indiana could grow up, attend Harvard, become one of the most admired lawyers in America, be nominated for the Supreme Court, not once but twice, and then sit through 3 days of often grueling questioning before the Senate Judiciary Committee, responding calmly and respectfully to questions on a wide range of legal issues without the benefit of any notes or even a pad of paper.

Judge Roberts and I spoke with one another at length about our respective childhoods and of our parents and the roles they played in our lives and the values they instilled in us and in our siblings. We also talked about our educational opportunities, our careers, our mentors, our spouses, and even about the children we were raising.

It was a revealing and encouraging conversation. It was a revealing and encouraging conversation in that it provided me with important insights into his personal values and with a measure of reassurance on the direction he may ultimately seek to lead the highest Court of our land.

I shared with him that in the 8 years before coming to the Senate, I served as Governor of Delaware. In that role, I nominated dozens of men and women to serve as judges in our State courts, several of whom enjoy national prominence given my State's role in business and corporate law.

Ironically, and I think wisely, Delaware's Constitution requires overall political balance on our State's courts. For every Democrat who is nominated to serve as a judge, Delaware Governors must nominate a Republican, and vice versa. The result has been an absence of political infighting and a national reputation for Delaware's State judiciary regarded by some as the finest of any State in our land.

The qualities I sought in the judicial nominees I submitted to the Delaware State Senate included these: unimpeachable integrity, a thorough understanding of the law, a keen intellect, a willingness to listen to both sides of a case, excellent judicial temperament, sound judgment, and a strong work ethic. In applying those standards to Judge Roberts, I believe he meets or exceeds all of them. To my knowledge, no one has questioned his integrity, his intellect, or his knowledge of the law. Democrats and Republicans alike watched, along with a national audience, as Judge Roberts fielded any number of tough questions over the 3 days of hearings and responded knowledgeably, respectfully, with humility, and occasionally with self-deprecating good humor. In all candor, I am not sure any of us would have done as well.

Having said that, though, questions and doubts remain about where Chief Justice Roberts will come down on a number of issues—reproductive rights, civil rights, and respect for congressional prerogatives, to mention a few. I might add that, if truth be known, all of those doubters are not liberal Democrats. Some of them are conservative Republicans.

The answers to these questions will come in the years ahead as Chief Justice Roberts assumes this important post and begins to lead this Court and the judicial branch of our Government. In the end, some of the decisions he helps to formulate may surprise and confound people on all sides of the political spectrum. That is something one of his earliest mentors, Judge Henry Friendly of the Second Circuit Court of Appeals, has done for years.

Let me pause and ask my colleagues today to think back just for a moment. How many of us would ever have imagined that a Texas Congressman and Senator with Lyndon Johnson's early civil rights record would go on to champion the civil rights of minorities like no other American President in the 20th century? Who among us, watching former Representative and Senator Richard Nixon, a Cold War warrior for decades, would have foreseen the role he played in opening the door for U.S. relations with Communist China? Then, too, recall, if you will, the loathing many conservatives came to feel toward the late Chief Justice Earl Warren, a nominee of President Eisenhower, or the disdain many liberals came to feel toward former Justice "Whizzer" White, a nominee of President Kennedy.

The truth is that life and its experiences do change us and some of our views in ways that cannot always be predicted. Having children of our own and later welcoming those children into our lives as well as learning from our mistakes and from the mistakes of others can combine to make us wiser, to temper our views, to broaden our horizons and deepen our understanding of the views of others with whom we share this planet. And so it is likely to be with Judge Roberts.

As I prepare to take a leap of faith tomorrow—albeit not a reckless one, in my view—let me close with a few words of advice, respectfully offered, to our President. A second nomination looms just around the corner. President Bush's choice of that nominee is, in many respects, as important as this one. The next choice can divide this Congress and our country even further or it can serve to bring us a little closer together. We need a choice that unites us, not one that divides us further.

We also need a choice that reflects the diversity of this country in which we live. There are any number of well-qualified women, and maybe even a few men, who would be a good choice for the seat now held by Justice Sandra Day O'Connor. On behalf of all of us, Mr. President, let me encourage you to send us one of those names.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I rise to announce my vote on the nomination of Judge John G. Roberts, Jr., to be the 17th Chief Justice of the United States.

I do not cast this vote lightly. I recognize how critical the courts are in protecting and advancing the rights of all Americans. I know what is at stake. I am also mindful that John Roberts has been nominated for a lifetime appointment to the highest seat on the highest Court in our country. In our system, there is no backstop or review of a Supreme Court Justice once he or she is confirmed. That means under the Constitution we in the Senate have the responsibility to fully evaluate each nominee before voting, and that is exactly what I have done.

For me personally, casting a vote on a nominee to the Supreme Court carries special meaning. Thirteen years ago the nomination of another Supreme Court Justice, Clarence Thomas, helped launch my own path from the kitchen table in Shoreline, WA to this historic desk on the floor of the Senate. During the Thomas confirmation, I was deeply frustrated that the questions I believed needed to be answered were not even raised. I was troubled that average Americans, moms and dads, had no voice in a process that would affect their rights and liberties.

This time I had the opportunity to ask those questions directly to the nominee. I was pleased to work with my Democratic women colleagues to open the process and empower people across the country to submit questions to the nominee via a Web site that Senator BARBARA MIKULSKI created. Today not only did I have the opportunity to ask those questions directly, but the weight has also been on my shoulders.

For days I have struggled with whether this nominee represents the fear I have of the worst motives of this administration or whether he represents the best hopes of a country for wise decisions that protect our rights and our freedoms and our responsibilities. No one of us can know for sure. There is no doubt that anyone I would have nominated would have come from a different background with a different history, but this was not my choice. There is much I do not know about how Judge Roberts will rule, but as history has shown, none of us can predict that. And without a crystal globe, I must make this very difficult decision based on what I do know and upon the criteria I have long used to evaluate nominees for judicial appointments.

This evening I talk about how I have applied my standards to other nominees for the Federal bench. I am especially pleased that in Washington State we do judicial nominations the right way, through a careful, bipartisan process that helps us select qualified candidates without regard to politics. In Washington State, I have worked with different administrations to craft a process that helps us identify and confirm qualified individuals for the Federal bench. We solicit input from a wide variety of respected individuals within the Washington State legal community, and then we personally interview each recommended candidate prior to submitting his or her name to the White House for consideration.

During the Clinton administration, my colleague Senator Gorton and I worked together to recommend and support individuals for appointment to the Federal bench. Senator Gorton and I disagreed on a lot of issues, but we did agree that when it came to our duty in confirming individuals to the third and coequal branch of our Government, we should set aside partisanship and focus on qualifications. That tradition has continued with my colleague Senator CANTWELL. We got off to a rough start on this approach because the Bush administration at first did not want to continue the fair process Senator Gorton and I had established, but eventually the wisdom of our process prevailed. While there have been hiccups along the way, we have used it to confirm qualified people to serve on the bench.

Through this fair and deliberative process, I have supported nominees with a wide variety of backgrounds. I have supported people who have come from privileged backgrounds and those who beat the odds to realize their achievements. I have supported Democrats and Republicans. Each time, though, I was confident that I was supporting an individual who would serve every American who came before them well, and I have not been disappointed.

My home State of Washington is 2500 miles away from Washington, DC. In many ways it is even further than that in terms of our independence of thought. The White House would do well to learn from the example we set in Washington State, and I hope the Bush administration will do a better job of consulting with the Senate on its next nominee and providing a more complete record of that nominee's background and writings.

Some have suggested to me that I use my vote to register my disapproval at things the Bush administration has done or that I use my vote to send a message to the President. While I am angry about mistakes and miscalculations and misrepresentations and misdirected priorities of the Bush administration, this vote is not the place to vent those frustrations. Fairness requires that I evaluate each nominee on his or her own merits, without a predetermined outcome, just as I expect every judge to do when a case comes before them. My vote is based on the same standards I have used for years, not on anger or in sending messages or ignoring a nominee's actual record.

This would be an easier decision if we had a complete record. The White House has refused to provide more recent memos from Judge Roberts' work in the Solicitor General's office which would have provided us with a clearer picture of the nominee. I, frankly, think the White House's position is a reflection of the general breakdown in the process that we use to select and confirm judges today. With this administration, consultation with the Senate is cursory at best, and from the very beginning there has been often a kind of "spoils of war" approach to how they view appointments to the Federal bench. I believe this approach has resulted in unqualified individuals being forwarded by the administration to the Senate for consideration. This approach has contributed to the partisan rancor regarding nominations to the courts.

These actions are even more concerning in light of the second vacancy the Bush administration is set to fill in the coming weeks. I do not believe that an honest, fair evaluation could be completed with any less material information than we were provided during this confirmation process. I believe the Bush administration is attempting to set a dangerous precedent with its words and actions or lack thereof, and I fear that future court nominations could be even more contentious as a result.

In looking at nominees for our courts, I always follow a very deliberative process of having a set of standards and comparing individuals who come before us as nominees to that set of standards. I examine their record and their experience and their testimony. I see if they meet the basic standards of honesty and ethics and qualifications and fairness. Then I evaluate if they will be independent, evenhanded in deciding cases, and if they will uphold our rights and our liberties. Those standards help me ensure that when any American, regardless of background, comes before the court, he or she receives a fair hearing and that the resulting decision renders justice according to the law.

In reaching a decision on Judge Roberts, I reviewed all of the information that was available, and then I examined how Judge Roberts measured up to my criteria for judicial nominees. I followed the Judiciary Committee hearings closely. I read the transcripts. I have spoken directly with Judge Roberts twice, once in a meeting in my office and once by phone.

Looking at my standards, I found Judge Roberts to be honest, ethical, qualified, and fair. I believe he will be evenhanded in deciding cases. On those criteria, Judge Roberts clearly met my test. It was my last criteria, upholding the rights and liberties of all Americans, where I had a harder time evaluating Judge Roberts. I wish the White House had been more forthcoming in making available more documents that would have shed light on some of his more recent work and opinions. I wish the nominee himself had been more responsive to questions in his testimony before the Senate Judiciary Committee.

Through this process, I have concluded that Judge Roberts is a decent person with keen intellect and high ethical standards. I believe he does know the difference between the role of advocacy, which he has held in the past, and the role of judge. I think he has the capacity to be fair, and I think he aims to serve all of the American people.

On the question of upholding the hard-won rights and liberties of the American people, I believe Judge Roberts has a healthy regard for precedent and intends to apply a thoughtful approach to interpreting the law. This is not to say I would expect or even hope to agree with every decision he might make or every opinion a Chief Justice Roberts might author. In making my decision, I recognize that history has shown no one can accurately anticipate what type of Justice a nominee may ultimately become.

For many weeks I have known some people in Washington State will be disappointed in my decision regardless of what that decision is. I have heard from friends and colleagues, constituents and strangers, on all sides of the question. Many of them have surprised me in their candor and in their position. All this has led me to struggle with the decision for many days now. I have read up on Judge Roberts. I have listened to the thoughts of others. I have talked with the judge himself. All the while, it has been an extremely close call in my mind, for I know the gravity and the consequences of this important vote. I have had deep and lasting concerns. But I have had strong, heartfelt hopes as well.

In the end, I returned to the basic criteria I use on any tough question and to the values the people of Washington State sent me here to protect. In examining that criteria and those important values, I have made a decision that I hope everyone can understand and appreciate and even be proud of. I am satisfied that Judge Roberts meets my long-held criteria and, therefore, I will vote to confirm his nomination.

I believe Judge Roberts is well qualified to serve. I believe he is intelligent and honest and fair. Is he wise? Only time can answer that. I cast this vote with the hope that John Roberts will be an individual who will combine common sense and decency with a real respect for how the law affects each American as he serves out his tenure on the Supreme Court. In spending time with him and reviewing the available record, I believe Judge Roberts has the capacity to be that kind of justice.

Throughout our history, America has always had to confront challenges and enjoyed a lively debate on how to meet them. Today is no different. Our great Nation is confronting enormous challenges, and the debate over how to address those challenges has caused great divisions in our country. Many people, as I do, fear the direction in which this country is headed. They fear for our security. They fear we are not doing enough at home to secure a stronger future, and they fear the progress we have made in the last several generations is being eroded by a political agenda. Those fears are well founded, and they are real. But our country was also founded on hope, hope that by securing individual liberty, a free people could govern themselves in the interest of promoting the common good, hope that despite our differences, we could band together to create strong communities and a better future for generations of Americans to come. That spirit of hope is alive today and should help guide us at least as much as our fears.

My vote tonight is a vote of hope—hope that despite our differences, we can unite around the common good; hope that equal justice under the law means something powerful to every American, regardless of background or political persuasion; and hope that John Roberts responds to the needs of this Nation to have a Supreme Court that honors our past and helps secure the rights and liberties of every American into the future.

When I asked Judge Roberts what kind of judge he wanted to be, he said: A Justice for all Americans. I hope my vote, along with the diverse group of my Senate colleagues, reminds him every day that he must be a judge for all Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I compliment my colleague from Washington State for the incredible job she does here every day, for the thoughtfulness she brings to this process, and the wonderful job she does representing the people of Washington State. She is a delight to work with and someone who I think brings to the table thoughtful consideration, with a strength and a courage and a wisdom that should make the people of Washington State proud, and I know it does.

I come here today after much thought and prayer over a decision that is incredibly important. I agree with my colleague from Washington State that this is a time where our Nation needs much hope, whether it comes from the devastation we have seen in the gulf coast in the southern region of our Nation, whether it is the families of our soldiers who find themselves giving of themselves and of their families to protect the rights and the freedoms in which we in this Nation take great pride, and it is also as we come to the consideration of a Supreme Court nomination by the Senate which I find to be one of the most important and consequential duties we have as an institution in our system of Government.

I think the American people look to us now with hope that we will work in a bipartisan way, in a way of union, in uniting our Nation to bring about a coequal branch of our Government that can reassure the American people of justice and of hope.

This is especially true when the candidate being considered has been nominated to the position of Chief Justice of the United States, not simply an Associate Justice but someone who is going to provide the leadership to the highest Court in our land.

As the Senate performs its duty under the Constitution with regard to this nominee, I am also mindful this is the first Supreme Court nominee I have been called upon to evaluate as a Senator from the great State of Arkansas. I have no doubt this is one of the most important nominations I will consider during my tenure in public service.

Given the import of this decision for the future of this Nation and the responsibilities I have to my constituents and my country, I have examined all of the information available about Judge Roberts' nomination to ensure I have given this matter the full attention it needs and, most importantly, that it deserves.

In making my decision, I very carefully and deliberately reviewed the record compiled by the Senate Judiciary Committee. Further, I have considered the views of Arkansans, both those who think Judge Roberts will make a fine Supreme Court Justice and those who have real concerns about the direction he might lead this very important Court.

I have also met with Judge Roberts privately to get a better sense of who he is as a person, his temperament, and, most importantly, what his experiences have been in his life that may form his views and the interpretation of the Constitution.

Additionally, I have considered the views of his peers and colleagues in the legal community on both sides of the political spectrum who know Judge Roberts, who have worked with him firsthand and have a firsthand knowledge of his works and abilities.

Finally, I have prayed. I searched my conscience and reflected on my principles as a Senator for the people of the State of Arkansas, using my experience, coming from the salt of the earth in east Arkansas, a farmer's daughter, my experience as a wife, a mother, a neighbor, to make what I believe is the right decision and one I will have to live with for the rest of my life.

I want to say at the outset this has been one of the hardest decisions I believe I have been called upon to make since I came to the Senate more than 6 years ago. It has been difficult because the consequences of confirming a new Chief Justice are so profound.

Judge Roberts will likely serve on the Court for several decades, and I believe he will have more influence on the future of our Nation than any Member who serves perhaps in this body today.

This decision has also been difficult for me because of the manner in which this administration has handled this nomination, in some respects, and certainly many other nominations that have come before it.

When President Bush first ran for office in 2000, he told the American people he was a uniter, not a divider. He talked about how well he had worked with Democrats as Governor of Texas and that he was going to continue that approach as President to change the tone in Washington. And, oh, how that tone in Washington needed to be changed.

But sadly, that did not happen. President Bush has not followed through on that promise, and judicial nominations, unfortunately, are one of the most glaring examples of where his administration has fallen short. In my opinion, this administration has gone out of its way to divide this Nation and the Senate on judicial nominations, which I think is truly a disservice to our judiciary and to the American people.

When the Senate rejected only a handful of Federal appeals court nominees during the President's first term in office, I expected a uniter who would work with Senators, who expressed concerns, and nominate other qualified candidates who could win confirmation with broad bipartisan support. Instead, after winning reelection, the President renominated many of the same controversial nominees and essentially dared the Senate to challenge him again.

Reflecting on the last 5 years, his administration apparently believes it is better for them politically to pick a fight over judicial nominees than it is to pick sometimes qualified nominees who have earned the support and respect from those on both sides of the aisle in the legal community in which they work and in the Senate.

As a pragmatic Democrat who has always been willing to find common ground and to work in good faith with members of both parties to serve the best interests of my constituents, I am alarmed by the confrontational approach this administration has taken.

We can all be proud of the Founders of this great Nation who created our system of government, where they wisely divided the power of appointment and confirmation of the Federal court Justices between the executive and legislative branches of our Government. They did this to ensure only the most qualified candidates who had the confidence of the President and the Senate would be confirmed to a lifetime seat on the Federal bench.

I truly worry that the political tug of war over the judiciary, which President Bush has encouraged, threatens to undermine the judicial selection process and with it our framework of checks and balances which has preserved for centuries the rights and freedoms we cherish as Americans, not to mention the sense of pride and comfort or peace of mind it provides the American people to know that in that third coequal branch of Government, they can rest assured that their freedoms, their rights will be justly directed.

To work properly, the process depends on mutual trust and respect between the executive and the legislative branches, and when that trust and respect is strained, our ability to do our very best as a government, to preserve and to protect a fair and independent judiciary for future generations, becomes in jeopardy.

So it is into this atmosphere of political confrontation that Judge Roberts was nominated to the Supreme Court. And it is why, frankly, I have had difficulty separating my profound disappointment with the administration and the distrust it has fostered from my opinion of Judge Roberts as an individual. So to separate that opinion of Judge Roberts that I needed to develop as an individual, as a lawyer, and potentially the next Chief Justice of the United States, ultimately, I concluded it is unfair to hold Judge Roberts accountable for the actions of the President who appointed him.

As I have set aside the history of the last 5 years to take a closer look at this nominee, it has become apparent to me that Judge Roberts does meet the test I believe we should strive to achieve in the judicial selection process. After careful thought and deliberation, I have concluded Judge Roberts is a very smart man who has an enormous respect for the law.

There is no question in my mind that Judge Roberts has the legal skills and the intellect necessary to perform his duties on the Supreme Court. He has impeccable academic credentials and has demonstrated an impressive command of the law and Constitution throughout his professional career and during his recent confirmation hearings.

I also believe that above all else, Judge Roberts is devoted to the Constitution and the institutional integrity of the judiciary and the vital role it plays in our system of Government.

I have no doubt John Roberts is a Republican, like the President who appointed him. But I don't believe his party affiliation will prevent him from giving both sides in each case before the Court a fair and impartial hearing.

Simply put, I believe John Roberts cares more about following the law and maintaining the respect for the judiciary than he does about politics and ideology.

I base this conclusion on the respect and support he has earned from lawyers and colleagues on both sides of the aisle who know Judge Roberts well—they know him far better than I do—on the evidence in the record from his own comments and those of his colleagues that he has had an abiding respect for the Court's decisions and that he understands the value of continuity in the law, and on his distinguished career as a lawyer and advocate before the Federal judiciary over many years.

I regret Judge Roberts has made this decision more difficult than it needed to be by refusing to be more forthcoming about his views on protections in the Constitution for individuals, especially as those protections and guarantees relate to civil rights and gender equality.

As many of my colleagues have already mentioned, Judge Roberts wrote several memos when he worked in the Reagan administration in which he advocated for a narrow application of Federal antidiscrimination statutes, specifically the Voting Rights Act and title IX. Judge Roberts indicated in his response to questions about these memos during his confirmation hearings that he was representing the views of his client, the administration, without elaborating on whether he held those same views today.

He stated he could not say more regarding his views on those subjects because to do so might undermine his ability, if confirmed, to impartially consider similar cases that are likely to come before the Court.

I believe he could have said more on those and other issues before crossing that line, but I don't believe Judge Roberts is entirely to blame for failing to be more responsive.

The partisan atmosphere which pervades the confirmation process today almost guarantees that Senators are left with no choice but to ask legitimate questions of a Supreme Court nominee they know will not be answered. So the Senate is left to make a decision based on the limited information provided during the confirmation process and from a nominee's previous work and life experience.

My vote for John Roberts is by no means an endorsement of his nomination process, nor is it an endorsement of the decision by the administration to withhold documents from Judge Roberts' tenure in the Solicitor General's Office during the first Bush administration. That would be helpful to Senators in forming an opinion about this nomination. These are the types of documents previous administrations have made available to the Senate during the consideration of Supreme Court nominees in the past. There is no reason to have not made them available in this instance. Future nominees to the Supreme Court, or any lifetime judicial position, may not possess the same outstanding personal qualities and impeccable reputation that helped Judge Roberts overcome his failure, and the failure of the administration, to respond more fully to legitimate requests for information. Indeed, there have been past nominees who have failed to receive Senate confirmation, at least partially because they refused to answer questions or release documents.

I feel that I have done my level best, despite my misgivings about the actions of this administration in the past, to fairly and carefully and in good faith evaluate this nomination, which is my duty as a Senator. I believe I have done that. It is my hope and expectation that, if confirmed, Judge Roberts will do likewise with respect to every litigant who comes before the Court, especially those who have not experienced the same opportunities with which he has been so richly blessed.

I believe Judge Roberts will do that, and therefore I will support his nomination. I join my other colleagues who look to leadership in hopes, in hopes that we can mend many of the fences and the difficulties that have been conjured up by very partisan attitudes in these nomination processes, but to look toward Judge Roberts in a way that understands and takes in full faith his commitment that he will administer the law through the courts in a just way, without regard for his political or personal views but with the kind of sincere devotion to the Constitution and the rule of law and the precedent of the courts that he has expressed to many of us personally; that he will move forward, and deal with every litigant who comes before him in Court in a fair and just way.

In closing, I wish to comment briefly on the future as we move beyond this nomination. When I first ran for office as a young single woman in the early 1990s, I did so because I had hope, hope that I could improve my Government and make it more responsive to the needs of the citizens of my State. Perhaps my greatest attribute was the fact that I was naive. It never occurred to me that I didn't belong here; perhaps that as a young woman, this might have been a place a little bit out of touch for me. But I ran because I believed in my country, I believed in the people of my home State, and I believed in what I had to offer.

I see a good bit of that in Judge Roberts as well. I have tried my best each day that I have been privileged to serve in public office to fulfill that commitment, and today I still have great hope for our Nation's future and its government. I also have hope that we can improve the judicial nomination process as we move forward if all people of good will on both sides of the aisle will work together in a spirit of cooperation and good faith. I stand ready to do my part to overcome our differences as a nation because I believe our country is so much stronger if we are united and not divided.

As we prepare to consider a second Supreme Court nominee in the coming weeks, I hope President Bush will take that opportunity to do the same.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. I note the time is under Democratic control.

Mr. GRASSLEY. I was aware of that. I was asking if there are any Democrats who would object to my starting my comments at this point.

The PRESIDING OFFICER. Without objection, the Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before the Senator from Arkansas goes, I do not have prepared remarks, but to try to put her a little bit at ease about these decisions that we have to make on the Supreme Court because they are very important decisions, I would reflect on some history.

For instance, I probably had the same concerns about President Clinton and Justice Breyer and Justice Ginsburg when I voted for them. Regarding the political positions that Justice Ginsburg stood for in her life before coming to be a judge, I wouldn't agree with many of them. But she was totally qualified to be on the Supreme Court, and I voted for her based upon the proposition that Alexander Hamilton said that the purpose of our activities here of confirming people for the courts is basically two. Maybe there is some historian around who will say GRASSLEY has it all wrong, but I think it was, No. 1, to make sure that people who were not qualified did not get on the courts. In other words, only qualified people get appointed to the courts and that political hacks do not get appointed to the courts.

That is somebody who was around when the Constitution was written, and the Federalist Papers, stating those things about our role. So I have a fairly flexible point of view of how I ought to look at people, even those with whom I disagree.

In regard to what the Senator said about hoping what President Bush would do, or what he has done in the past in regard to these appointments, I would want you to look at that as I looked at President Clinton being elected in 1992. I don't know whether court appointments were an issue in that campaign as they were in 2000 or 2004, but I assume that he had a mandate to appoint whom he wanted appointed, as long as they were not political hacks and as long as they were qualified. So I gave President Clinton that leeway.

I am hoping that even more so with President Bush, since he made very clear to the people of this country that he was going to appoint strict constructionists and people who were not going to legislate from the bench. You may not like what he is doing, but he is doing exactly what he said he was going to do, and I hope that would enhance credibility to the American people of at least one more politician who keeps his word when he is in office. He appoints whom he said he was going to appoint, and that is what he is doing here. It should not be any surprise, and I hope he would be respected for doing that and have leeway in doing that, as long as they are not political hacks but they are qualified.

The other one is, over a long period of time, to maybe take away some worry about whether or not we have to be concerned about this specific person doing exactly what he said he was going to do. I would refer to Judge Souter. I was thinking Judge Souter was maybe not exactly whom I would want on the Court, but he would be pretty close to it. During that debate—I think it was in committee and not on the floor—there was one of the Senators on your side, who I have named but I will not name him this time, who made this point about Justice Souter—that he didn't have respect for the right to privacy and then was a threat to Roe v. Wade.

Here is one Republican who thought maybe Souter would work out OK, from my point of view. There was a Democrat over there who thought Souter would be a threat to Roe V. Wade. We were both wrong.

So it is difficult to predict what people are going to do down the road, so you have to look at are they qualified. I don't have any doubt but that Judge Souter is qualified to be on the Court. But I misjudged him and this Democratic Senator also misjudged him.

The other one is, if you worry about Republicans, to look at what they might appoint versus what Democrats might appoint, and you end up getting something from a Republican you don't like. I assume you are more to the liberal end than the conservative, and you have to stop to think that a Republican appointed John Paul Stevens and a Republican appointed Justice Souter, two of the four most liberal people on the Supreme Court.

To some extent, you get what you want from a Republican President as much as you do from a Democratic President because the other two were appointed by President Clinton.

Then, also, from a historical standpoint, time brings a great deal of balance to the Court. Justices change their views sometimes over a period of 25 or 30 years on the Court. Or Presidents that you might be thinking are appointing conservatives end up appointing liberals—they end up being liberals on the Supreme Court.

History is going to bring balance to the Court. Right now, if Justice Roberts is appointed, we will have four liberals. I don't need to name them. Everyone understands who they are. You are going to have three conservatives: Roberts, Scalia and Thomas. And then you are going to have two moderates, Kennedy and O'Connor—O'Connor for a little while now. So you have some balance, but it is tilted a little bit more toward the liberal side than it is to the conservative side.

Maybe, when President Bush gets done with this next nominee, there will be even more balance, four conservatives and four liberals and one moderate, Justice Kennedy left as a moderate.

Then I keep thinking about what we ought to do if we want to bring balance to the Court, and I hear more about that on your side than I do on this side: Let's just say that Justice Ginsburg, obviously a woman, and Justice O'Connor is obviously a woman; we have two women, so maybe we ought to have a woman appointed to the Supreme Court.

The liberal women of America have Justice Ginsburg as voting the way that they think Justices ought to vote. Maybe the conservative women of America are entitled to a seat on the Supreme Court. We might be fortunate enough to get appointed a very qualified woman who is also a strict constructionist. Then we would have one liberal woman and we would have one conservative woman on the Supreme Court, and we have even more balance brought to the Court.

So you see history kind of takes care of these things. I hope 25 years from now—and you are a lot younger than I am and you will be around here 25 years from now—that you are satisfied that history will take care of all these problems that are brought up about what the Supreme Court might do 10 or 15 years from now.

Mrs. LINCOLN. If the Senator will yield, I want to say how grateful I am to my chairman because he always does provide hopefulness, without a doubt, as well as a bipartisan attitude, in trying to get things done.

I guess you are exactly right. Some of my fear comes from the role that I have in helping to create history and the thoughtfulness that I need to put into it.

Some of it also certainly comes from recognizing that there is a right way and a wrong way to do everything. My hope is, as we go through these processes, that we become a more united body, looking at the right way to go about things and a more unified way.

I am grateful to the chairman. He is always a wonderful Member of this body to work with and he always brings balance and hopefulness and I am glad he is my chairman.

Mr. GRASSLEY. She said she is glad I am her chairman. She means she and I serve on the Finance Committee together. I don't want to mislead the audience, I am not chairman of the Judiciary Committee.

Mr. President. I will proceed, then, with the remarks I wanted to make in regard to my support for Judge John Roberts to be the next Chief Justice of the United States. I do support that nomination. Judge Roberts has earned our vote. He understands the proper role of a judge in our constitutional democracy. He understands the courts are not superlegislatures.

He understands that I am elected to be a legislator, to make law. If people do not like the law I make, they can vote me out of office. But if Judge Roberts makes law, with a lifetime appointment to the Court, he can never be voted out of office unless he is impeached. He understands that the courts are not responsible for addressing every social ill or injustice that, in fact, ought to be settled through law and public policy. He understands that courts do not create new rights. Rather, courts protect those liberties and rights guaranteed by our Constitution and the laws appropriately enacted by Congress and State legislatures.

He also understands that there are a great deal—infinitesimal—number of unenumerated rights out there for you and me that are reserved under our Constitution to the States and to the people thereof.

Judge Roberts said this to the committee:

> Judges and Justices are servants of the law, not the other way around. Judges are like umpires. Umpires don't make rules, they apply them.

Judge Roberts underscores that "judges and Justices" make sure everybody plays by the rules. But these rules limiting the power of Government over the people apply to the courts as well. He made it very clear to us. In Judge Roberts' view, "Not everybody went to a ball game to see the umpire."

That is the right approach to the job of a Supreme Court Justice.

Judge Roberts has demonstrated, particularly to the committee, that he understands the limited nature of judges, and especially the humility and the modesty necessary to be the kind of judge we need on our highest Court. Judge Roberts believes that courts may act only to decide cases and controversies. That is exactly what it says in article III of the Constitution. So judges cannot address every unaddressed and unremedied social problem.

Judge Roberts said:

> Judges have to decide hard questions when they come up in the context of a particular case. That is their obligation. But they have to decide those questions according to the rule of law, not their own social preferences, not their policy views, not their personal preferences but according to the rule of law.

That is what he told us in committee.

Judge Roberts also said:

> We don't turn a matter over to a judge because we want his view about what the best idea is, what the best solution is. It is because we want him or her to apply the law. Let me say parenthetically, as I would interpret that, not to make law, but to apply the law.

He went on to say:

> They—

Meaning judges—

> are constrained when they do that. They are constrained by the words that I choose to enact into law in interpreting that law. They are constrained by the words of the Constitution. They are constrained by the precedents of the other judges that became part of the rule of law that they must apply.

This answer he gave to the committee demonstrates that Judge Roberts believes in and will exercise judicial restraint on the bench. This principle of judicial restraint is a cornerstone of our constitutional system, best defined by the tenth amendment—that that power is not specifically given to the Federal Government or reserved to the States and the people thereof. This is the defining characteristic of the judiciary in our Government of divided powers.

In particular, I was pleased when Judge Roberts told the committee that he has no agenda to bring to the bench. I want to remind you what Judge Roberts said in a very short opening statement. To quote a little bit of it:

> I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda but I do have a commitment. If I am confirmed, I will confront every case with an open mind. I will fully and fairly analyze the legal arguments that are presented. I will be open to the considered views of my colleagues on the bench, and I will decide every case based on the record according to the rule of law, without fear or favor, to the best of my ability, and I will remember that it's my job to call the balls and strikes and not to pitch or bat.

I was also pleased when Judge Roberts told the committee that:

> I had someone ask me in this process: Are you going to be on the side of the little guy? And you obviously want to give an immediate answer. But as you reflect on it, if the Constitution says that the little guy should win, the little guy is going to win in court before me. But if the Constitution says that the big guy should win, well, then the big guy is going to win because my obligation is to the Constitution. That's my oath.

So, obviously, Judge Roberts will strive to uphold the Constitution and the laws of the United States, regardless of his personal beliefs.

I want to take a little time to commend Chairman SPECTER for conducting a fair and respectful hearing. I am pleased we are looking at a timely up-or-down vote on this nominee. Obviously, so many people for so long were inclined to filibuster judges, and to have this important person—this "well-qualified" person—go through in the tradition of the Senate doing what the Constitution says to do, give its advice and consent with a 51-vote margin, is something that surprises me to some extent after the last 2 years. But to have it happen gives me a very warm feeling toward all my colleagues for having that up-or-down vote.

Article II of the Constitution puts the appointment power in the executive, and says the President gets to nominate the person of his choice to the Supreme Court. And President Bush in an unprecedented manner consulted with more than 70 Senators on both sides of the aisle before sending up Judge Roberts' nomination. President Bush didn't have to do that under the Constitution. But it was wise for him to so do.

Even though I have been a member of the Judiciary Committee for my 25th year, I don't remember a President who has talked to me about who I think ought to be appointed. I wouldn't want to say over 25 years that I couldn't have forgotten some Republican or Democrat talking to me about it, but I don't remember. I was consulted by this President on the type of person I thought should be nominated. I was even offered to give names, if I wanted to. And I took advantage of giving my advice to him.

At the hearing which Senator SPECTER conducted, Senators were able to ask numerous questions of the nominee over a period of 3 days. The Judiciary Committee also reviewed thousands of documents, opinions, and other information produced by the White House.

Throughout the process, Judge Roberts was patient; he was candid and forthcoming in his responses.

Judge Roberts clearly has been the most scrutinized judicial nominee to come before the Senate in my years on the committee. No nominee in these years before the committee has testified as thoroughly and comprehensively on his judicial philosophy as Judge Roberts. I have gone through 10 Supreme Court hearings. Judge Roberts' command of the law and the facts of cases was without precedent.

Still, some of my colleagues objected to Judge Roberts' refusal to review the results of cases. But his refusal was absolutely the right thing to do. Judge Roberts wisely resisted the bait to confuse results and reasoning when it comes to the judicial function. No doubt this greatly frustrated some of my colleagues, particularly on the other side of the aisle, who wanted to impose litmus tests on all judicial nominees, who want to extract commitments from nominees to rule in a predetermined way, their political way, regardless of the facts of the law.

If they can't get that, if they can't get allegiance to their personal political predilection, and work with their far-left activist groups, well, then it seems as though that nominee isn't worthy of their vote.

It stymies me why it would be wrong for the President of the United States to ask a nominee if they support Roe v. Wade or not—and Judge Roberts under oath answered the question of whether the President discussed it with him, and the President didn't discuss it with him—but a lot of Senators were saying, or at least implying, that it would be wrong for the President to get that sort of litmus test type of commitment from a nominee, but some of those very same Senators found it not in the least bothering their conscience to ask him exactly that same question and expect an answer from him.

Frankly, I have no way of knowing how Judge Roberts will rule on the hot-button issues in the next 25 years. I acknowledge that he might rule in ways that will disappoint me in some of the same ways that I was disappointed by Justice O'Connor, Justice Kennedy, and Justice Souter in the years since they have been on the Court. These were all nominees I supported through the Supreme Court confirmation process, but no Senator has a right to impose his or her particular litmus test on an otherwise qualified nominee.

I voted, as I said earlier to the Senator from Arkansas, for Ruth Bader Ginsburg, as did almost all of my Republican colleagues, because we acknowledge the President's—that was President Clinton—primacy in the appointments to the Supreme Court, even where we knew this Justice Ginsburg had a different philosophy. I knew then that I shared very little in terms of political, social, or philosophical views of Ruth Bader Ginsburg. As everyone knows now, Judge Ginsburg was then affiliated very closely with extremely liberal views—views a majority of the American public would deem way out of the mainstream. But the Judiciary Committee evaluated her as a fully competent person to serve on the Supreme Court. And then because of that, because we were doing what we should constitutionally be doing, we voted her in 96 to 3.

As I said in committee, it seems there is a whole new ball game out here when we have an individual with the competence, intelligence, and brilliance of Judge Roberts who nonetheless is going to get a lot of Democrats voting against him. This says far more about the Democrats today than it does about the nominee John Roberts.

The truth is that at another time Judge Roberts would have been confirmed 100 to 0, and properly so, as Justice Scalia 20 years ago was approved almost unanimously. Today's Democrats have made the needle's eye for approving so small, so impossibly tiny, even the Supreme Court giants of the past could never pass through it.

The reality is that today's Democrat Party seems to be beholden to far left pressure groups who know their radical agenda for America can only be implemented by judicial fiat. I am sad to say that the other party has expressed an unquestionable loyalty to what is probably their base but a base out of touch with the vast majority of Americans.

When we finally cast our vote on the nomination of Judge Roberts, most Senate Democrats will show they will be voting in lockstep with the demands of their leftwing interest groups regardless of how qualified, brilliant, or worthy the nominee is.

On the other hand, I have to admit since I prepared these remarks, I have heard speeches by two Members of that party within the last hour who I did not think would come to the conclusion of voting for him, who have said within the last hour they were going to vote for Judge Roberts. I am pleased with that.

But we still have a situation that has been demonstrated over the last 3 years, up until May of this year when some judges finally got through for the circuits, that judges were being held up for very partisan reasons. The other party and their outside groups have their own agenda. They want the Supreme Court or courts, generally, to implement it, particularly things they might not be able to get through the Congress of the United States.

My colleagues like to say they voted for more judges appointed by Republican Presidents than judges appointed by Democrat Presidents. But my friends on the other side of the aisle who say this, are not telling the whole picture. Sure, they voted for a lot of Republican nominees during my time in the Senate. More Republican nominees have been sent up for consideration than Democrat nominees. The point is, the Democrats have stuck like glue to their outside interest groups through thick and thin and voted in lockstep against more Republican-appointed judges than Republicans have voted against Democrat-appointed judges. That has been by a landslide margin.

The fact is, a majority of the Democrats voted in lockstep against Judge Bork and Justice Thomas. A majority of Democrats voted in lockstep against Justice Rehnquist when he was elevated to Chief Justice.

On the other hand, Republicans voted overwhelmingly for President Clinton's two liberal nominees, Justices Ginsburg and Breyer. So I think my party has shown it is not wedded to the single-issue interest groups.

My friends on the other side of the aisle are weaving revisionist history saying the more conservative Justices of the Court, such as Scalia and Thomas, are the ones who are really the judicial activists on the bench. But we all know this is just not true.

The American people know what is really going on. The liberal leftwing interest groups and Senate enablers, as my friend, Senator HATCH, has sometimes called them, want to win in the courtroom what they cannot win in the ballot box. The Democrats have taken this to a new level. They are already talking about filibustering the next nominee, and we do not even know who that is yet. They are really the ones who are judicial activists.

We should take care because the independence of the Federal judiciary is at stake. Our entire framework of government as we know it and was intended by the Framers is at stake.

We are told the Democrats are laying the groundwork for the next Supreme Court nominee by sending a message, I presume, to the President and those of this party. These messages are an argument that Justice O'Connor must be replaced by a liberal or moderate, and that individual should be a woman or another minority, claiming the balance of the Court must be maintained at all costs.

I hope I made this clear in my comments that Senator LINCOLN listened to so closely, and that was that history takes care of a lot of this. Of the four liberals on the Supreme Court today, two were appointed by Republicans, President Ford and President Bush 1. The moderates, O'Connor and Kennedy, were appointed by a Republican President. So we do not know what we get. I wish we did. I wish we could predict 25 years from now, but we can't.

The Democrats did not expect President Clinton to appoint a moderate judge to replace Justice Byron White. I remind my colleagues that Justice White was one of the two Justices who dissented in Roe v. Wade. We Republicans did not say: Well, Justice White is retiring so we need to make sure we appoint another person like Justice White to the Supreme Court. President Clinton wasn't elected to appoint people the Republicans wanted.

The PRESIDING OFFICER. Under the previous order, the time from 6:20 to 7:20 is under the control of the Democrat side, if the Senator would like to ask unanimous consent to finish his remarks.

Mr. GRASSLEY. I ask unanimous consent for 3 or 4 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. So we get appointments such as Ruth Bader Ginsburg, totally qualified to be on the Court. I voted for her; Justice Breyer, totally qualified to be on the Court, I voted for him. We did not try to second-guess President Clinton.

Clearly, Justice Ginsburg does not share Justice White's philosophy. Yet Senate Republicans overwhelmingly confirmed her, with only three "nay" votes. The fact is, the President picked people they thought would be good Justices.

The bottom line is we should not be thinking of liberal, conservative, or moderate judges—men or women for that matter. We ought to think of who is qualified. If you are qualified for the job, you ought to get the vote of the Senate. Someone who has the right temperament and integrity on the job is also a requirement. But these liberals I voted for have had that as well.

Judge Roberts recognized this problem, politicizing the Federal bench, and in particular the Supreme Court, when some of my colleagues on the other side of the aisle attempted to pin him down on certain litmus test questions at his nomination hearings. Judge Roberts said:

> [I]t is a very serious threat to the independence and integrity of the court to politicize them. I think that is not a good development to regard the courts as simply an extension of the political process. That's not what they are.

Judge Roberts went on to say:

> Judges go on the bench and they apply and decide cases according to judicial process, not on the basis of promises made earlier to get elected and promises made earlier to get confirmed. That's inconsistent with the independence and integrity of the Supreme Court.

I am in total agreement with that statement. So when Judge Roberts testifies his oath is to uphold the Constitution and the laws of the United States and that he won't impose a political or social agenda in his decisionmaking, that is what we need to hear. That is because the bottom line is, irrespective of Judge Roberts' impressive resume, brilliant intellect, and personal integrity, he would not be qualified to be a Supreme Court Justice unless he was truly willing and able to subject himself to that judicial restraint.

Judge Roberts says his obligation is to the Constitution and that is his oath. He says he will not impose his personal views on the people but will make decisions in an impartial manner in accordance with the Constitution, the laws enacted by Congress. He says he will be modest in his judging and exercise judicial restraint. He says he will respect the limited role of a judge in society. That is the kind of Justice we need to see on the Supreme Court. That is the kind of Justice the Senate should support.

I yield the floor.

Mr. JEFFORDS. Mr. President, generally when we vote, the decisions we make can be revisited within a few months or years. This year's appropriations policy can be replaced by a new one next year. Unintended consequences can be rectified, legislation fine tuned.

But the consequences of confirming a Supreme Court Justice last well beyond a Senator's term and maybe even his or her life. Given Judge John Roberts' age, he may be making critical decisions on constitutional rights when my newborn grandson is welcoming children of his own into this world.

Not surprisingly then, I consider voting on the confirmation of a Supreme Court Justice, and especially the Chief Justice, one of the most important responsibilities of a Senator.

While I have considered and voted on four Supreme Court nominees during my tenure in the Senate, the nomination of Judge Roberts to be the 17th Chief Justice of the U.S. Supreme Court is my first chance to consider the nomination of an individual to be the Chief Justice.

I have spent a great deal of time the last few weeks considering this nomination. I looked at Judge Roberts' decisions during his tenure on the D.C. Circuit Court of Appeals, reviewed the memorandums he wrote while working in the Reagan administration, watched the nomination hearing, and listened to what my Senate colleagues have said on this nomination. After considering all of this, I have decided to support Judge Roberts' nomination to be Chief Justice of the U.S. Supreme Court.

My decision to support Judge Roberts did not come easily. As my father, who served as the Chief Justice of the Vermont Supreme Court, first taught me, the law trumps any personal beliefs when a judge is working to reach a decision on a case. A fair, equal application of the law is what Olin Jeffords was known for, which is a reflection of Vermont's view of the judiciary.

As the former attorney general in Vermont, and as a lawyer, I have always been deeply devoted to the Framers' concept of an independent judiciary filled with intelligent, capable individuals serving the law and the public. As a Senator, I have watched in dismay as this independence has increasingly been threatened and demeaned by partisan bickering.

It has been my general policy while in the Senate to support the executive branch nominations made by a President, provided the individual is appropriately qualified and capable of performing the duties required of the position. However, while a position in the executive branch lasts only as long as the President remains in office, an appointment to the Federal bench is for the life of the nominee.

I believe it would be illogical to assume that our Founding Fathers used the phrase, " . . . with the Advice and Consent of the Senate . . ." in the Constitution to mean the Senate can only look at the legal experience and character of a judicial nominee. So in addition to those factors I also look at a nominee's judicial temperament and ideology and whether these factors will influence the decisions they make.

This higher standard is especially appropriate for a nominee to the U.S. Supreme Court. This Court is the final authority on the meaning of laws and the U.S. Constitution. The Supreme Court gives meaning to what is the scope of the right of privacy; whether Vermont's limits on campaign contributions and spending are constitutional; what is an unreasonable search and seizure; how expansive the power of the president can be; or whether Congress exceeded its power in passing a law. These are issues that affect everyone, and it is the responsibility of the Senate to closely and carefully review every nominee to the Supreme Court.

There are clearly many stances Judge Roberts took as a lawyer in the Reagan administration that I do not agree with. Here it is unfortunate the Senate has been denied access to the memorandums Judge Roberts wrote while part of the Solicitor General's office. These documents would have provided a more complete picture.

From the record we have, nobody has raised a question on whether Judge Roberts has the proper legal experience or character to be the next Chief Justice of the U.S. Supreme Court. It also appears to me from a review of his judicial decisions that Judge Roberts has not allowed his judicial temperament or ideology to influence his decisionmaking process.

This belief was reinforced by Judge Roberts himself in sworn statements he made to the Senate Judiciary Committee. In his opening statement Judge Roberts stated, "I have no platform." He also said, that he would "confront every case with an open mind . . . And I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability." Near the end of 3 days of testimony Judge Roberts reiterated this view when he said, "I set those personal views aside."

With the information and sworn testimony on the record it is clear Judge Roberts has the necessary legal experience and character to be the Chief Justice of the U.S. Supreme Court. It also appears that Judge Roberts will use the law and the Constitution to make his judicial decisions, not his ideological or personal beliefs. Judge Roberts gave this pledge at the conclusion of his opening remarks, "I will be vigilant to protect the independence and integrity of the Supreme Court, and I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans." I trust he will stay true to these words during his tenure as Chief Justice. History will be the judge.

Finally, let me acknowledge and thank the Senate Judiciary Committee. Senators SPECTER and LEAHY led a dignified, bipartisan and thorough

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We should take care because the independence of the Federal judiciary is at stake. Our entire framework of government as we know it and was intended by the Framers is at stake.

We are told the Democrats are laying the groundwork for the next Supreme Court nominee by sending a message, I presume, to the President and those of this party. These messages are an argument that Justice O'Connor must be replaced by a liberal or moderate, and that individual should be a woman or another minority, claiming the balance of the Court must be maintained at all costs.

I hope I made this clear in my comments that Senator LINCOLN listened to so closely, and that was that history takes care of a lot of this. Of the four liberals on the Supreme Court today, two were appointed by Republicans, President Ford and President Bush 1. The moderates, O'Connor and Kennedy, were appointed by a Republican President. So we do not know what we get. I wish we did. I wish we could predict 25 years from now, but we can't.

The Democrats did not expect President Clinton to appoint a moderate judge to replace Justice Byron White. I remind my colleagues that Justice White was one of the two Justices who dissented in Roe v. Wade. We Republicans did not say: Well, Justice White is retiring so we need to make sure we appoint another person like Justice White to the Supreme Court. President Clinton wasn't elected to appoint people the Republicans wanted.

The PRESIDING OFFICER. Under the previous order, the time from 6:20 to 7:20 is under the control of the Democrat side, if the Senator would like to ask unanimous consent to finish his remarks.

Mr. GRASSLEY. I ask unanimous consent for 3 or 4 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. So we get appointments such as Ruth Bader Ginsburg, totally qualified to be on the Court. I voted for her; Justice Breyer, totally qualified to be on the Court, I voted for him. We did not try to second-guess President Clinton.

Clearly, Justice Ginsburg does not share Justice White's philosophy. Yet Senate Republicans overwhelmingly confirmed her, with only three "nay" votes. The fact is, the President picked people they thought would be good Justices.

The bottom line is we should not be thinking of liberal, conservative, or moderate judges—men or women for that matter. We ought to think of who is qualified. If you are qualified for the job, you ought to get the vote of the Senate. Someone who has the right temperament and integrity on the job is also a requirement. But these liberals I voted for have had that as well.

Judge Roberts recognized this problem, politicizing the Federal bench, and in particular the Supreme Court, when some of my colleagues on the other side of the aisle attempted to pin him down on certain litmus test questions at his nomination hearings. Judge Roberts said:

> [I]t is a very serious threat to the independence and integrity of the court to politicize them. I think that is not a good development to regard the courts as simply an extension of the political process. That's not what they are.

Judge Roberts went on to say:

> Judges go on the bench and they apply and decide cases according to judicial process, not on the basis of promises made earlier to get elected and promises made earlier to get confirmed. That's inconsistent with the independence and integrity of the Supreme Court.

I am in total agreement with that statement. So when Judge Roberts testifies his oath is to uphold the Constitution and the laws of the United States and that he won't impose a political or social agenda in his decisionmaking, that is what we need to hear. That is because the bottom line is, irrespective of Judge Roberts' impressive resume, brilliant intellect, and personal integrity, he would not be qualified to be a Supreme Court Justice unless he was truly willing and able to subject himself to that judicial restraint.

Judge Roberts says his obligation is to the Constitution and that is his oath. He says he will not impose his personal views on the people but will make decisions in an impartial manner in accordance with the Constitution, the laws enacted by Congress. He says he will be modest in his judging and exercise judicial restraint. He says he will respect the limited role of a judge in society. That is the kind of Justice we need to see on the Supreme Court. That is the kind of Justice the Senate should support.

I yield the floor.

Mr. JEFFORDS. Mr. President, generally when we vote, the decisions we make can be revisited within a few months or years. This year's appropriations policy can be replaced by a new one next year. Unintended consequences can be rectified, legislation fine tuned.

But the consequences of confirming a Supreme Court Justice last well beyond a Senator's term and maybe even his or her life. Given Judge John Roberts' age, he may be making critical decisions on constitutional rights when my newborn grandson is welcoming children of his own into this world.

Not surprisingly then, I consider voting on the confirmation of a Supreme Court Justice, and especially the Chief Justice, one of the most important responsibilities of a Senator.

While I have considered and voted on four Supreme Court nominees during my tenure in the Senate, the nomination of Judge Roberts to be the 17th Chief Justice of the U.S. Supreme Court is my first chance to consider the nomination of an individual to be the Chief Justice.

I have spent a great deal of time the last few weeks considering this nomination. I looked at Judge Roberts' decisions during his tenure on the D.C. Circuit Court of Appeals, reviewed the memorandums he wrote while working in the Reagan administration, watched the nomination hearing, and listened to what my Senate colleagues have said on this nomination. After considering all of this, I have decided to support Judge Roberts' nomination to be Chief Justice of the U.S. Supreme Court.

My decision to support Judge Roberts did not come easily. As my father, who served as the Chief Justice of the Vermont Supreme Court, first taught me, the law trumps any personal beliefs when a judge is working to reach a decision on a case. A fair, equal application of the law is what Olin Jeffords was known for, which is a reflection of Vermont's view of the judiciary.

As the former attorney general in Vermont, and as a lawyer, I have always been deeply devoted to the Framers' concept of an independent judiciary filled with intelligent, capable individuals serving the law and the public. As a Senator, I have watched in dismay as this independence has increasingly been threatened and demeaned by partisan bickering.

It has been my general policy while in the Senate to support the executive branch nominations made by a President, provided the individual is appropriately qualified and capable of performing the duties required of the position. However, while a position in the executive branch lasts only as long as the President remains in office, an appointment to the Federal bench is for the life of the nominee.

I believe it would be illogical to assume that our Founding Fathers used the phrase, " . . . with the Advice and Consent of the Senate . . ." in the Constitution to mean the Senate can only look at the legal experience and character of a judicial nominee. So in addition to those factors I also look at a nominee's judicial temperament and ideology and whether these factors will influence the decisions they make.

This higher standard is especially appropriate for a nominee to the U.S. Supreme Court. This Court is the final authority on the meaning of laws and the U.S. Constitution. The Supreme Court gives meaning to what is the scope of the right of privacy; whether Vermont's limits on campaign contributions and spending are constitutional; what is an unreasonable search and seizure; how expansive the power of the president can be; or whether Congress exceeded its power in passing a law. These are issues that affect everyone, and it is the responsibility of the Senate to closely and carefully review every nominee to the Supreme Court.

There are clearly many stances Judge Roberts took as a lawyer in the Reagan administration that I do not agree with. Here it is unfortunate the Senate has been denied access to the memorandums Judge Roberts wrote while part of the Solicitor General's office. These documents would have provided a more complete picture.

From the record we have, nobody has raised a question on whether Judge Roberts has the proper legal experience or character to be the next Chief Justice of the U.S. Supreme Court. It also appears to me from a review of his judicial decisions that Judge Roberts has not allowed his judicial temperament or ideology to influence his decisionmaking process.

This belief was reinforced by Judge Roberts himself in sworn statements he made to the Senate Judiciary Committee. In his opening statement Judge Roberts stated, "I have no platform." He also said, that he would "confront every case with an open mind . . . And I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability." Near the end of 3 days of testimony Judge Roberts reiterated this view when he said, "I set those personal views aside."

With the information and sworn testimony on the record it is clear Judge Roberts has the necessary legal experience and character to be the Chief Justice of the U.S. Supreme Court. It also appears that Judge Roberts will use the law and the Constitution to make his judicial decisions, not his ideological or personal beliefs. Judge Roberts gave this pledge at the conclusion of his opening remarks. "I will be vigilant to protect the independence and integrity of the Supreme Court, and I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans." I trust he will stay true to these words during his tenure as Chief Justice. History will be the judge.

Finally, let me acknowledge and thank the Senate Judiciary Committee. Senators SPECTER and LEAHY led a dignified, bipartisan and thorough hearing on Judge Roberts. For all this hard work they deserve our thanks and appreciation.

Mr. GREGG. Mr. President, I rise today to speak on the nomination of Judge John Roberts to become Chief Justice of the United States. If confirmed, which is widely expected, Judge Roberts would be the seventeenth Chief Justice in Nation's history. As such, this nomination is historically significant, both in its relative rarity and its potentially lasting impact on our judiciary. The confirmation process therefore warrants serious, meaningful, and dignified consideration by the Senate. I believe that the Senate has met this responsibility over the past weeks, in spite of the efforts by outside groups and the urgings of some members to turn the process into something much different. After closely following the confirmation hearings and careful review of the nominee, I strongly support President Bush's nomination of Judge Roberts to be the next Chief Justice.

Let me first start by saying the obvious. Judge Roberts is an incredibly talented and gifted attorney. Armed with a sharp legal mind and extensive experience making arguments before the Supreme Court, this man is truly one of the best in a very select group of legal superstars—namely, the exclusive club of Supreme Court appellate specialists. Judge Roberts has therefore rightfully received broad praise from coworkers and from all corners of the legal community. He also is respected by the very Justices whom he may soon be sitting alongside, and he has served our Nation ably on the D.C. Circuit Court of Appeals. We are all familiar with these facts, and even my colleagues who somehow oppose this nomination have not questioned Judge Roberts' intellect or legal skills.

Judge Roberts has testified, under oath, about his views regarding the proper constitutional role of a Supreme Court Justice and the judiciary branch overall. Consistently and repeatedly, he has said that Justices and judges should approach each case with an open mind and decide cases according to the rule of law—and not based on their own personal preferences or policy views. Judge Roberts has testified, again under oath, that he would fully and fairly analyze the legal arguments that come before the Court. He has made it clear that judges are not politicians or legislators, and that he is committed to upholding the cherished liberties and rights that are enshrined in our constitution. Roberts also has stated, under oath, that he is mindful of precedent, recognizes constitutional protections for the right to privacy, and strongly believes in protecting the judiciary's independence.

During 20 hours of oral testimony and after responding to approximately 500 questions, Judge Roberts made it clear—consistent with past precedent for other nominees—that he is not going to comment on unsettled areas of law that may come before the Supreme Court. Although some outside groups and some of my colleagues chafe at such comments, it is wholly appropriate and, in fact, ethically required to protect the Court's integrity. Moreover, many of these same individuals seeking a change in precedent did not complain when previous judicial nominees invoked this requirement, such as now Justice Ruth Bader Ginsburg, whom I supported back in 1993 during her confirmation proceedings. But now, sadly, it appears that some of my colleagues want judicial nominees, or at least those nominated by President Bush, to start issuing opinions on future cases even before the nominees are confirmed, before the facts of the cases are ascertained, and before both sides present their legal arguments before the Court.

This focus on litmus tests and political, even religious, ideology during the confirmation process not only undermines the Supreme Court's role—namely, that of an impartial arbiter of the most important cases—but also represents a potentially dangerous evolution in the history of the confirmation process. Throughout the history of the Senate, Supreme Court nominees have not been expected to swear under oath what their opinions will be on unsettled areas of law. I believe that this is a good thing. If the confirmation process were to become a series of litmus tests and ideological hurdles, the Senate would be politicizing the one branch of government that the Founding Fathers intended to be above politics. The men and women who serve on the Federal bench would no longer be determined on the basis of their legal qualifications and dedication to uphold the rule of law, but mainly based on who wins at the ballot box and on certain hot button issues. Is this what we or the American people want?

I am hopeful that the Senate will not go down this path and establish a precedent that we will someday look back on with regret. Fortunately, most of my colleagues, led by the majority leader, share this same hope and have done an admirable job throughout the Senate's review of the Roberts nomination. They have stayed true to the Senate's proper role under the Constitution and to what truly matters when confirming a judicial nominee. I would never want to come before a court knowing that the judge already has made up his mind based on certain personal views and therefore I will never get a fair hearing. Rather, I want someone who is bright, considerate of different viewpoints, experienced, and dedicated to upholding the rule of law with the Constitution as his guide. In his life, career, and under oath, Judge Roberts already has shown that he would be precisely this type of Chief Justice. In fact, I cannot recall a judicial nominee in recent memory that lives up to this ideal as much as Judge Roberts. As a result, I am pleased to support this nomination and applaud President Bush for making such an outstanding choice.

Mr. INOUYE. Mr. President, I had the privilege and honor of meeting with Judge Roberts. I was impressed by his legal scholarship, but expressed a hope that he would be forthright and open with the American people as he progressed through the Senate confirmation process. Although I must regretfully conclude that there are still questions outstanding on Judge Roberts' record, in light of the urgency of ensuring that our Nation's Supreme Court has its full complement of Justices, I agree with my Democratic and Republican colleagues that his nomination should be given an up-or-down vote.

I have studied the development of the Supreme Court by our Founding Fathers, and it is apparent to me that our Nation's leaders did not want this group of citizens to be subjected to the political pressures of the day, so they provided for lifetime appointments, with no termination date. Further, candidates were not required to be lawyers, perhaps as a reminder that legal brilliance alone does not qualify a man or woman to sit on the bench of our highest court. Integrity, compassion, and wisdom are also required in equal—or perhaps greater—measure.

Reconciling lifetime appointments with the demands of democratic elections, created understandable consternation. After much debate, our Founding Fathers provided that the executive and legislative branches of our Federal Government would employ every means available to them to make certain that the selection is a wise one, and one that a nation could live with for the lifetime of the judge. Today, we walk again the careful path laid out by the Founding Fathers to ensure for the American people that Judge Roberts is a man worthy of their trust.

Fully realizing that Judge Roberts will most certainly receive substantial support from the Senate, I will cast my vote against this appointment. I do not object to Judge Roberts' politics, nor do I object to his personal beliefs. Our democracy guarantees him both the freedom to think and speak as he chooses, and the opportunity to ascend to any position in our government for which he is qualified.

My concerns lie instead with the failure of the Department of Justice and the White House to honor the request of members of the Senate Judiciary Committee to make available certain documents relating to 16 cases Judge Roberts worked on when he served as Principal Deputy Solicitor General. These documents, written during Judge Roberts' tenure in his most senior executive branch position, are relevant to the Senate's evaluation of his fitness to serve as the Chief Justice of the highest court of this land.

I am not suggesting that these documents might contain dark shadows—far from it. The refusal of the White House to allow the American people to see this corner of Judge Roberts' record, however, deviates from the careful road our Founding Fathers paved for us so many years ago, and leaves Americans wondering, "Do those papers hide something I should know?"

Many groups have questioned Judge Roberts' position on civil rights. His early writings outline defiance toward review of civil rights violations by Federal courts, and many have asked how his views have evolved over the years. As one who has spent his life fighting against baseless prejudice and discrimination, I share these concerns. Would the papers withheld from our sight have answered these questions? We will never know.

Throughout my career I have supported a woman's right to choose. I have supported Roe v. Wade. I have also supported stem cell research. The responses Judge Roberts provided when questioned about these issues did not assure me that these questions would be seriously considered. I hope I am wrong. Perhaps the papers hidden from our sight would have allayed my fears.

Similarly, my questions on Judge Roberts' thoughts on the death penalty, and habeas corpus review by the Federal courts will never be answered.

I am not against the person. As I noted, I am impressed by his legal scholarship. Although we seem to differ on the fundamental issues of the day, I respect his right to freely form and hold his own opinions. I do, however, object to the failure of the White House, the Department of Justice, and ultimately Judge Roberts himself, to make available documents from his past. The American people deserve a nominee unclouded by needless secrecy—and our democratic heritage demands that the President and the Congress work together to confirm the worthiness of any man or woman to sit as a Supreme Court Justice. To affirm my allegiance to these most American of principles, I will vote, "no."

Mr. CHAFEE. Mr. President, after careful consideration, I will support the nomination of Judge John Roberts to be Chief Justice of the Supreme Court.

When he was nominated by President Bush in July, it was clear that Judge Roberts had the necessary professional qualifications to sit on the Supreme Court. He graduated from Harvard College, summa cum laude, in 1976, and received his law degree, magna cum laude, in 1979 from the Harvard Law School where he was managing editor of the Harvard Law Review.

Mr. Roberts clerked for Judge Henry J. Friendly of the U.S. Court of Appeals for the Second Circuit and for then-Associate Justice William H. Rehnquist.

John Roberts has served his country twice, working for the President. First, he served as Special Assistant to United States Attorney General William French Smith. He returned to government service in the first Bush administration, serving as Principal Deputy Solicitor General of the United States.

As a lawyer, Roberts has presented 39 oral arguments before the Supreme Court covering the full range of the Court's jurisdiction, including admiralty, antitrust, arbitration, environmental law, first amendment, health care law, Indian law, bankruptcy, tax, regulation of financial institutions, administrative law, labor law, federal jurisdiction and procedure, interstate commerce, civil rights, and criminal law.

During the hearings before the Senate Judiciary Committee, Senators extensively probed the judicial philosophy of Judge Roberts. I think our colleagues Senator SPECTER and Senator LEAHY did an excellent job and conducted a fair and thorough hearing.

We do not know how Judge Roberts will rule in many cases. What we do know is that he was nominated by a President who, in the glare of the lights of a campaign, clearly indicated the type of Supreme Court nominee that he would favor. We also know that Judge Roberts is an extraordinarily accomplished man with the right temperament.

I have long noted that I believe we must retain an appropriate balance on the Supreme Court. I was pleased that during the hearings, Judge Roberts unequivocally acknowledged that the Constitution contains a right to privacy. He further testified that the right to privacy is not a narrow right. He explained his belief that the right to privacy was sufficiently broad to allow the courts to apply it to changing circumstances. It was important to hear Judge Roberts state that as a Supreme Court justice, he would strive to follow precedent in order to ensure stability in the law.

I wish Judge Roberts well as he takes his seat as Chief Justice of the United States Supreme Court.

Mr. HAGEL. Mr. President, 25 years from now most of the events and personalities of September 2005 will have passed into the pages of history. New Orleans will once again stand proudly as one of America's most vibrant cities; America will have been forced to address our need for energy independence; and the legacies of today's politicians will be the work of tomorrow's history professors. However, the confirmation of John Roberts as the 17th Chief Justice of the United States Supreme Court could well be even more significant in 2030 than it is today. The Roberts Court will have a profound and historic impact on the preservation of liberty for decades to come.

I first met John Roberts when we both served in the Reagan administration in the early 1980s. He is a person of enormous intelligence, character and judgement. His performance in his Senate confirmation hearings earlier this month transcended television ads, internet blogs, television talking heads, and the million dollar industry that reduces the judicial nominations process to caricatures and buzz words across the political spectrum. As many of my colleagues have noted, the Roberts confirmation hearings forced a serious examination of the role of the Supreme Court and the Federal Government in our society.

My beliefs about the role of Government were shaped and molded when I served on the staff of Nebraska Congressman John Y. McCollister in the 1970s. I remember him warning America about the wholesale disregard of the 10th Amendment to the Constitution which states:

> The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people.

In the late 1930s and early 1940s, the Supreme Court used Article I, Section 8 of the Constitution which gives the Federal Government the power to "regulate commerce," as a crowbar to pry open the lid of federalism and more fully insert the Federal Government into the lives of the American people. By the 1970s, we saw an expansion of the Federal Government's power our Founders could not have imagined.

At the same time that Congressman McCollister was invoking the 10th Amendment in the House of Representatives, Justice William Rehnquist was frequently the lone voice on the Supreme Court for the discretion of States and the integrity of the 10th Amendment. Much has been said about William Rehnquist in the last month. He was a giant of our time. As history considers his legacy, I believe his ability to move the Court back to a responsible position concerning federalism will be his greatest accomplishment. In this, he had a strong ally in Justice Sandra Day O'Connor.

The Founders did not arrive at the 10th Amendment by accident. It was a necessary compromise in order to get the Constitution ratified. The Founders believed that the Constitution must protect the citizens of the United States from the consolidation of the Federal Government's power. History has proven them wise. Well meaning politicians never have enough power to do all the good things they believe are essential to the Nation's well-being. History shows that the growth of central governments is no substitute for the ingenuity and energy of individual citizens.

It was President Woodrow Wilson who said:

> The history of liberty is a history of the limitation of governmental power, not the increase of it.

As we work to address 21st century challenges like terrorism, the proliferation of weapons of mass destruction and incredible advances in technology, we will constantly be confronted with the need to balance the expansion of the Federal Government's power with States rights, individual liberties and national security. As we act to secure our Nation, we must also guard against Federal overreaching. That is why measures like the sunset provisions in laws like the Patriot Act are so important.

In years to come, Congress will be under great pressure to reach into areas of law historically reserved for State and local governments, including land use, education, economic development, law enforcement and contract law, including marriage. A wise and judicious Supreme Court will be as critical as it has ever been to see America through this volatile time.

Decades from now, if John Roberts can look back upon a legacy of having protected the rights of States and individuals while helping strengthen America from within, and constraining the power of the Federal Government, then it will be a legacy worthy of succeeding William Rehnquist.

Mr. VOINOVICH. Mr. President, I rise today to urge my colleagues to vote to confirm Judge John G. Roberts as the next Chief Justice of the United States Supreme Court.

Before I discuss my reasons for supporting Judge Roberts, however, I would like to make a few remarks about the judicial confirmation process. Judge Roberts is the first nominee to the Supreme Court since I have been a Senator. I have been very pleased with how his nomination has been handled by both the White House and the Judiciary Committee and hope that this confirmation process will be a model for future confirmations.

I want to compliment the President, and in particular the President's Counsel Harriet Miers, for doing an excellent job in reaching out to Senators prior to Judge Roberts' nomination. Ms. Miers called me prior to Judge Roberts' nomination and asked me what qualities I thought the President's nominee should possess. Our conversation gave me confidence that the President wanted to work with Senators to make sure that he nominated an excellent candidate—which I believe he succeeded in doing. I hope the White House undertakes the same outreach to the Senate prior to the President's nomination of the next nominee to the Supreme Court.

I also want to compliment Senator SPECTER and Senator LEAHY for the superb job they have done in handling the confirmation hearings for Judge Roberts. The hearings were fair and orderly and did not significantly interfere with the Senate's other business. I was very pleased that the questioning and debate on Judge Roberts was largely devoid of personal attacks. Indeed, I think the hearings gave the country an opportunity to see what type of judge and person Judge Roberts is. They also gave the country a wonderful lesson in constitutional law. I hope that Judge Roberts' confirmation hearing will serve as a model for future confirmation hearings for nominees to the Supreme Court.

Turning now to Judge Roberts' nomination, I believe that Judge Roberts is among the finest candidates to the Supreme Court in our Nation's history. I believe history will look back on the nomination of Judge Roberts as one of the most important legacies of the Bush administration.

When I spoke with White House Counsel Harriet Miers on the qualities I looked for in a Supreme Court nominee, I told her there were two qualities I valued most. First, a nominee must have outstanding professional credentials. Second, a nominee must be committed to the rule of law. I am very pleased to say that Judge Roberts is extraordinarily qualified on both of these counts.

It is difficult to see how Judge Roberts could have more impressive professional credentials. From his academic record to his Government service to his law practice, Judge Roberts has accumulated a remarkable record of achievement.

As my colleagues have previously noted, he graduated from Harvard College summa cum laude in 3 years, and graduated from Harvard Law School magna cum laude, where he served as the managing editor of the Harvard Law Review. During his time at Harvard, he was awarded numerous academic accolades, including being inducted into Phi Beta Kappa.

He has excellent Government experience, having served as a law clerk to then Justice William Rehnquist and in several top positions in the Reagan and Bush administrations, including as Associate Counsel to President Reagan and as Principal Deputy Solicitor General for the first President Bush.

Prior to his unanimous confirmation to the U.S. Court of Appeals for the D.C. Circuit, Judge Roberts was widely regarded as the best Supreme Court litigator in the Nation. Throughout his distinguished career, he argued an impressive 39 cases before the Supreme Court.

He has now served for 3 years as a judge on the D.C. Circuit, which is regarded as among the most important appellate courts in the Nation. As a judge, he has developed a reputation for fairness and producing well-written and well-reasoned opinions.

This impressive background has made Judge Roberts well prepared to be Chief Justice of the Supreme Court. As he displayed during his confirmation hearings, he has an encyclopedic knowledge of the Supreme Court and of constitutional law. Yet, he also has real world experience in Government and in how law interacts with the actual day-to-day operation of Government. Judge Roberts has the perfect balance of academic and practical experience.

Judge Roberts also has an impeccable ethical record. No question has been raised regarding his integrity or professionalism. On the contrary, the record is full of testimony praising his honesty and propriety from friends and former colleagues. Moreover, during his confirmation hearings he properly resisted the temptation to discuss cases and legal disputes that could come before him as Chief Justice so he would not bias his consideration of those cases and debates. While some would like to hear how Judge Roberts would decide future cases, it is clear that legal ethics prevent him from doing so. Furthermore, knowing how a nominee is going to decide future cases is not necessary to select good judges. When I was Governor, I appointed scores of judges and never—not once—did I ask how they would decide a case. Instead, I examined their credentials, reviewed their writings and past decisions and, on several occasions, personally interviewed them.

Given his professional achievements and ethical record, it is not surprising that the American Bar Association has given him a unanimous well-qualified rating, its highest rating.

I also believe that Judge Roberts has shown a commitment to the rule of law. Now, no two people will agree on how to interpret every provision of the Constitution or every statute. I may not agree with all of Judge Roberts' future decisions. However, I think that it is essential that any nominee displays a conscious commitment to deciding cases based on the law rather than on his or her own personal views.

During Judge Roberts' confirmation hearings, I was struck by how dedicated he is to the law and to correctly applying the law as a judge. As he stated during his testimony, "Judges and Justices are servants of the law, not the other way around." He also revealed his dedication to the law by recognizing that the judiciary has a limited role in our government. This means that judges are, to use Judge Roberts' words, "constrained by the words of the Constitution" and "by the precedents of other judges." Judges must interpret the law based on the text of the Constitution or statute, as the case may be, and based on precedent, rather than on their own personal beliefs about how the case should be resolved. It is the role of Congress to pass legislation and the role of the courts to apply that legislation to particular cases. I believe Judge Roberts not only understands this distinction, but also will prove to be both a skilled practitioner and an eloquent advocate of judicial restraint.

Accordingly, I have every confidence that parties who appear before Judge Roberts will see a fair and brilliant judge who will decide their case according to the dictates of the law, not his own personal preferences.

When I initially spoke to Ms. Miers about the qualities I was looking for in a nominee, we were discussing a replacement for Justice O'Connor. Now that Judge Roberts has been re-nominated to be Chief Justice, I believe that Judge Roberts' management skills are an important aspect to consider. The Chief Justice is the top administrator of the Federal Courts, so any nominee to Chief Justice must possess management skills. Former Chief Justice Rehnquist was an excellent administrator, so Judge Roberts has some shoes to fill.

I had an opportunity to sit down with Judge Roberts, and I asked him about his management experience. We discussed his management responsibilities while he was at his law firm where he helped manage the firm's litigation group. While Judge Roberts has never managed anything as large as the Federal court system, our conversation convinced me that he has the management skills necessary to be Chief Justice. He clearly has already thought about how he will undertake his management responsibilities and what he needs to do in order to effectively carry out those responsibilities.

Finally, I want to offer some personal observations about Judge Roberts. Too often we view executive and judicial nominees through political or ideological glasses and not as human beings. Nominees quickly get labeled as being a "Republican Nominee" or a "Democratic Nominee" or as belonging to a particular "school of thought" or as being a follower of a particular thinker or politician. This is unfortunate, as each nominee's own personality gets overlooked and we fail to see the most important aspect of a nominee. It is, however, a nominee's character that can have the biggest impact on his or her work.

In Judge Roberts, I believe the Senate has before it not only a nominee who has the capability to be a great Chief Justice, but also a nominee who is simply a wonderful person. During my meeting with him, I was struck by his gracious manner and humble attitude. He is clearly very smart and engaging, and it is a pleasure to hear him explain Supreme Court cases. But, he is also a very open minded person, who listens to others with sincerity and a willingness to hear their views. Yet what struck me most about him was his humility. For such a brilliant and successful person, I did not detect a hint of arrogance. He is a dedicated family man with a good sense of humor whom I believe all Americans will be able to respect and admire.

I have been struck by how my regard for Judge Roberts has been echoed by so many others, including many whose politics may differ from his. I would like to encourage my colleagues to get a hold of an interview C-SPAN recently aired of Professor Richard Lazarus and Patricia Brannan, two longtime friends of Judge Roberts. Both Professor Lazarus and Ms. Brannan are Democrats, but they both expressed the highest respect for Judge Roberts and supported his nomination. Now, such testimonials may concern some of my Republican friends, but to me they are further signs that Judge Roberts has the ability to persuade people across the spectrum about the importance of judicial restraint.

In short, I believe Judge Roberts displays the openmindedness and humility that should serve as the paradigm of judicial temperament for members of the Federal bench.

In reviewing Judge Roberts' impeccable academic and professional record, his firm commitment to the rule of law, and his strong character, I believe that Judge Roberts is a nominee of the highest caliber. Indeed, I wonder if a stronger nominee could be found.

I, therefore, urge my colleagues to support the nomination of Judge Roberts to be the next Chief Justice of the Supreme Court.

Mrs. CLINTON. Mr. President, the nomination of Judge John Roberts to be Chief Justice of the United States is a matter of tremendous consequence for future generations of Americans. It requires thoughtful inquiry and debate, and I commend my colleagues on the Senate Judiciary Committee for their dedication to making sure that all questions were presented and that those outside of the Senate had the opportunity to make their voices heard. After serious and careful consideration of the committee proceedings and Judge Roberts's writings, I believe I must vote against his confirmation. I do not believe that the judge has presented his views with enough clarity and specificity for me to in good conscience cast a vote on his behalf.

The Constitution commands that the Senate provide meaningful advice and consent to the President on judicial nominations, and I have an obligation to my constituents to make sure that I cast my vote for Chief Justice of the United States for someone I am convinced will be steadfast in protecting fundamental women's rights, civil rights, privacy rights, and who will respect the appropriate separation of powers among the three branches. After the Judiciary hearings, I believe the record on these matters has been left unclear. That uncertainly means as a matter of conscience, I cannot vote to confirm despite Judge Roberts's long history of public service.

In one memo, for example, Judge Roberts argued that Congress has the power to deny the Supreme Court the right to hear appeals from lower courts of constitutional claims involving flag burning, abortion, and other matters. He wrote that the United States would be far better off with 50 different interpretations on the right to choose than with what he called the "judicial excesses embodied in Roe v. Wade." The idea that the Supreme Court could be denied the right to rule on constitutional claims had been so long decided that even the most conservative of Judge Roberts's Justice Department colleagues strongly disagreed with him.

When questioned about his legal memoranda, Judge Roberts claimed they did not necessarily reflect his views and that he was merely making the best possible case for his clients or responding to a superior's request that he make a particular argument. But he did not clearly disavow the strong and clear views he expressed, but only shrouded them in further mystery. Was he just being an advocate for a client or was he using his position to advocate for positions he believed in? The record is unclear.

It is hard to believe he has no opinion on so many critical issues after years as a Justice Department and White House lawyer, appellate advocate and judge. His supporters remind us that Chief Justice Rehnquist supported the constitutionality of legal segregation before his elevation to the high court but never sought to bring it back while serving the court system as its Chief Justice. But I would also remind them of Justice Thomas's assertion in his confirmation hearing that he had never even discussed Roe v. Wade, much less formed an opinion on it. Shortly after he ascended to the Court, Justice Thomas made it clear that he wanted to repeal Roe.

Adding to testimony that clouded more than clarified is that we in the Senate have been denied the full record of Judge Roberts's writings despite our repeated requests. Combined, these two events have left a question mark on what Judge Roberts's views are and how he might rule on critical questions of the day. It is telling that President Bush has said the Justices he most admires are the two most conservative Justices, Justices Thomas and Scalia. It is not unreasonable to believe that the President has picked someone in Judge Roberts whom he believes holds a similarly conservative philosophy, and that voting as a bloc they could further limit the power of the Congress, expand the purview of the Executive, and overturn key rulings like Roe v. Wade.

Since I expect Judge Roberts to be confirmed, I hope that my concerns are unfounded and that he will be the kind of judge he said he would be during his confirmation hearing. If so, I will be the first to acknowledge it. However, because I think he is far more likely to vote the views he expressed in his legal writings, I cannot give my consent to his confirmation and will, therefore, vote against his confirmation. My desire to maintain the already fragile Supreme Court majority for civil rights, voting rights and women's rights outweigh the respect I have for Judge Roberts's intellect, character, and legal skills.

Mr. McCAIN. Mr. President, this Thursday the Senate will have the opportunity to vote on the nomination of Judge John Roberts to be Chief Justice of the United States. Few decisions made by this body are as consequential as this one. If Judge Roberts is confirmed by the Senate—and I believe he will be confirmed—he will be the youngest Chief Justice in more than 200 years. With the blessing of a long tenure on the Court, his influence as Chief Justice will not just affect us and our children but also several generations to come.

In nominating Judge Roberts, the President clearly was mindful of the serious and lasting nature of the vote before us. He respected the Senate's advice and consent role and engaged in a thorough, deliberate, and fair nomination process. The President and his staff consulted with more than 70 Members of the Senate, and the President reviewed the credentials of many well-qualified candidates. The President also met personally with a number of potential nominees. I believe that this is the process envisioned by the so-called Gang of 14, and that it resulted in an excellent nominee.

Judge Roberts has impeccable legal credentials and a strong reputation and record as a fair- and sharp-minded lawyer and jurist. The American Bar Association and many others of all political stripes agree that his distinguished career as a lawyer and a jurist makes him very well qualified for the position of Chief Justice. Indeed, some observers have pointed out that if one were to imagine the perfect training to be a Supreme Court Justice, Judge Roberts's career would be the model. I could not agree more.

As an appellate judge, Judge Roberts has built a record of measure, control, and fair-mindedness—all crucial characteristics for a member of our Nation's highest court.

Prior to his tenure as a Federal judge, John Roberts was a widely respected appellate lawyer. The Washington Post recently characterized him as "among the country's best-regarded appellate lawyers, both in private practice and as deputy solicitor general during the administration of George H.W. Bush."

The Senate Judiciary Committee has engaged in an extensive review of Judge Roberts' record. During his nomination hearings, the judge acquitted himself with dignity and honesty, answering directly questions that he believed he could address without hindering his ability to carry out his functions on the Supreme Court or in his current position on the DC Court of Appeals. The editorial board of the San Francisco Chronicle wrote some days ago that Judge Roberts "passed the key tests before the Senate Judiciary Committee. His command of the law is impressive. He carries no trace of ethical taint. His ability to stay calm and on point in the face of exhaustive questioning from a panel of highly inquisitive—and occasionally posturing—U.S. senators was indicative of judicial temperament."

The committee has voted to recommend that the full Senate confirm Judge Roberts as the Chief Justice of the United States. Several Democratic members of the committee joined in that recommendation, and rightly so—this nominee's exceptional credentials and temperament should place him well above the fray of partisanship.

I agree wholeheartedly with the nomination of the President and the recommendation of the Judiciary Committee. I will vote for John Roberts, a man who has proven to be an extraordinarily talented lawyer and judge who approaches the law with modesty and a deep respect for the Constitution and our Nation's laws.

EMERGENCY HEALTH CARE RELIEF ACT OF 2005

Mr. McCAIN. Mr. President, I am in the Senate to mention that there is ongoing discussions between the Senator from Iowa, Mr. GRASSLEY, the distinguished chairman of the Committee on Finance, and a number of Members who have been concerned about S. 1716, the Emergency Health Care Relief Act of 2005. I fully support the desire of the Senator and members of the Committee on Finance to provide health care relief for the victims of Hurricane Katrina. We have noted that it has about a $9 billion price tag, and we have been in ongoing discussions which I believe will bear fruit with the Senator from Iowa.

It is important to know that the administration also objects to S. 1716, and I ask unanimous consent the letter from Secretary Leavitt be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, September 27, 2005.

Hon. WILLIAM H. FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST: I am writing to express the views of the Department of Health and Human Services (HHS) with respect to S. 1716, the "Emergency Health Care Relief Act of 2005".

We understand and appreciate that the intent of S. 1716 is to help provide, in the most timely manner possible, emergency health care relief to the victims of Hurricane Katrina. The Department is strongly committed to this same objective, and we have engaged in our utmost efforts to furnish such relief directly to Katrina victims as well as to support State efforts to provide emergency health care and related services (see addendum below). We believe these ongoing efforts largely preclude the need for the activities proposed under S. 1716. Moreover, we have serious concerns with S. 1716, as enunciated below.

In addition, the bill spends significant amounts on adjustments to the Medicaid FMAP (Federal medical assistance percentage) for individuals who are not survivors of Hurricane Katrina. We think this is inadvisable and that resources should be targeted to services for these survivors.

TITLE I—EMERGENCY HEALTH CARE RELIEF

Title I of S. 1716 establishes a new Disaster Relief Medicaid (DRM) program for survivors of Hurricane Katrina. Survivors of the hurricane would be entitled to five months of Medicaid coverage, and the President is given the option to extend the program for another five months. Individuals who were previously receiving Medicaid before the hurricane are deemed eligible for this assistance. In addition DRM eligibility is also available to pregnant women and children with incomes up to 200% FPL, disabled individuals up to 300% SSI, and other individuals with incomes up to 100% FPL. As a result, a new eligibility category for childless adults is established. There are no resource or residency requirements for DRM. DRM recipients will receive the benefits package available to categorically needy beneficiaries under the Medicaid state plan. States may also provide extended mental health benefits and coordination benefits to DRM eligibles, which are not limited to conditions directly resulting from the hurricane.

The legislation requires a new Medicaid entitlement for Katrina survivors, regardless of whether that will work best for those survivors or the states. This new program is unnecessary. CMS is already acting to meet the health care needs of hurricane survivors through the establishment of a new Medicaid/State Children's Health Insurance Program (SCHIP) waiver program that builds upon existing Medicaid/SCRIP eligibility and other program rules to provide immediate, comprehensive relief without the need for congressional action. This waiver program allows individuals who otherwise would be eligible for Medicaid in their home states to receive 5 months of temporary eligibility without going through a complex and burdensome application process. Texas, Alabama, Florida, and Mississippi now have these programs in place, and more states with significant numbers of evacuees are very close to establishing similar programs. With this new waiver program, we are providing relief quickly, rather than waiting to implement an unprecedented new federal program as envisioned by S. 1716.

The bill (section 108) also establishes a massive new Federal program which would be administered by the Secretary of HHS, rather than states. The fund would provide $800 million for direct payments to Medicaid providers to offset their costs incurred as a result of Hurricane Katrina, and for payments to state insurance commissioners for health insurance premiums for individuals otherwise eligible for DRM. Again, S. 1716 is duplicating efforts which are well underway at CMS through the uncompensated care pools referenced in the new waiver program The Federal uncompensated care fund envisioned by S. 1716 would create uncertainty and delay progress being made right now. To make the system envisioned by the bill work, CMS would have to develop a brand new Federal system with new forms and applications, eligibility criteria, program requirements, criteria for reviewing applications and determining payment amounts, as well as other rules and procedures. Providers would need to learn this new system and provide new kinds of documentation. It is far more expeditious to use existing state systems.

We believe states are better equipped than the Federal Government to work directly with local providers to solve the problems of uncompensated care. The state-based uncompensated care pool in the CMS waiver will pay providers more quickly through the existing state payment systems without establishing a new bureaucratic process. It will also allow for care in settings and from providers that do not usually participate in Medicaid, enabling evacuees to get the best care and the providers in the state to deliver it as effectively as possible. The waiver program also allows for new interactions with expanded community-based health care centers, mobile units for providing basic care at convenient locations for evacuees, and new referral networks. The pool will permit states to pay for additional services needed by evacuees, such as additional mental health services, that are not generally covered by Medicaid.

While we prefer the state-based uncompensated care pool referenced in the CMS waiver, we look forward to working with the committee to ensure care to evacuees and solve the problems of uncompensated care.

We believe that S. 1716 does not appropriately target spending to the true victims of Hurricane Katrina. Section 103 spends $4 billion on a 100% FMAP rate for services (and related administrative activities) provided from August 28, 2005 through December 31, 2006 under the State Medicaid or SCHIP plan to any individual residing in a major disaster parish or county, regardless of whether the individual was affected by Hurricane Katrina. Section 108 spends almost $700 million for 29 states, most of which were not affected by the hurricane, by preventing a drop in the FMAP for Medicaid that otherwise would have occurred on October 1. We believe that these provisions are inadvisable and that federal resources should be targeted to meeting the needs of those harmed by Hurricane Katrina.

In addition, S. 1716 includes several provisions that affect the timely implementation of the new Medicare Part D program. We do not support any changes to the Medicare Part D program. We note that under S. 1716, DRM dual eligibles are excluded from the low-income subsidy program. We think it would be far more advantageous to ensure that dual eligibles are timely enrolled in a Part D plan so that they receive the low-cost drug coverage available to them under the new Medicare drug benefit.

TITLE II—TANF RELIEF

Under title II, S. 1716 would also make a number of adjustments to P.L. 109-68 the "TANF Emergency Response and Recovery Act of 2005," which was signed into law on September 21. For the most part, these adjustments would be unnecessary and would complicate State administration of Temporary Assistance for Needy Families (TANF) benefits in the wake of Hurricane Katrina.

HHS believes that the existing administrative authority under the TANF program under title IV-A of the Social Security Act (as extended through December 31, 2005 by P.L. 109-68 and several earlier temporary extensions), coupled with the special hurricane-related provisions of the new law, has given States the ability to be responsive to the most significant issues confronting them as a result of Hurricane Katrina. We provided early administrative guidance reminding States of their flexibility to amend their TANF plans to meet the special circumstances of the hurricane aftermath such as adjusting State plans, streamlining the eligibility process, making residency optional, and using in-kind and non-Federal cash expenditures to meet the maintenance of effort requirements.

In addition to this program flexibility, which continues under title IV-A (as so extended), P.L. 109-68 also provides special flexibility for TANF in areas such as the contingency fund, loan program, and penalty waivers.

We are especially concerned about the dual contingency fund provisions in S. 1716, under which a State may be reimbursed from the contingency fund if it qualifies as a "needy State" based on Hurricane Katrina-related criteria, while still remaining eligible to receive reimbursement from the fund if it meets the current law definition of a "needy State" (based on certain Food Stamp and unemployment-related criteria).

We are advised by the Office of Management and Budget that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

Sincerely,

MICHAEL O. LEAVITT.

Mr. McCAIN. I say again to my friend from Iowa, I think he does a tremendous job as chairman of our Committee on Finance. He continues to distinguish himself in that role. But I do believe—and we had, I think, a very productive meeting with the Senator from New Hampshire, Mr. SUNUNU, and Senator LOTT, who, obviously, has a very deep and abiding interest in this situation, as well as the Senator from Iowa. I hope we can work out the objections that the administration has, as well as the concerns that others of us have on this issue.

Again, I thank the Senator from Iowa for his diligent efforts in trying to get this legislation done and, at the same time, satisfy the concerns of many who are concerned about the scope of it, as well as his efforts to attempt to satisfy the concerns of the administration.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1716

Mr. BAUCUS. Mr. President, I come to the floor once again to insist that the Senate act on the emergency health care needs of Katrina victims. They need help. They need help now—not tomorrow, not the next day, now. The Senate must pass the Katrina health package that Chairman GRASSLEY and I put together. Why? Obviously, to help the victims of Katrina. That is why. They need the help now.

I might say, Senator GRASSLEY and I have worked for weeks on this legislation. It has been 4 weeks since Katrina hit—4 weeks.

Now, some suggest the administration was slow to respond, that FEMA was slow to respond, that FEMA was inadequate in responding. We have heard these complaints. A lot of them are accurate.

Where is the Senate? Where is the Congress? Where? I ask Senators, where is the Senate? Where is the Congress? I will tell you where. We are poised to pass legislation, but the same people and the same political party that were slow with respect to FEMA and the administration are now here today slowing down and stopping this legislation from passing. The same group. The same group. I cannot believe it. I cannot understand it.

This legislation has very broad support. It has the support of Senator GRASSLEY, the chairman of the Finance Committee, the Republican chairman of the Finance Committee, who, I might say, is a very good man. He is a good man. He cares. He puts people above politics. He puts the needs of the Katrina victims above politics. He wants to do the right thing. And I very heartily and soundly congratulate him. He has done such a wonderful job.

We have also consulted for weeks with the Senators from the States affected, working out the details of this legislation, crossing the T's, dotting the I's, making changes to make sure it works right. We have consulted with the Senators from the States affected, who are from both political parties. They want this legislation. They are from both political parties, and they want it.

We spent a lot of time working on this—a lot of time. We have done the right thing. We made changes, as Senators suggested. We are trying to make it balanced, trying to make it fair, trying to make it respond to the needs of the people in Louisiana, Alabama, Texas—the States affected. We have tried our very best to do this right.

I might repeat, not only the Senators of the States want this legislation, but the Governors of the States want this legislation. If we want to get to labels here, two of those Governors are Republicans. Today, publicly, I asked the question and Senator GRASSLEY, the chairman, asked the question: Governors, what do you think of this legislation? Yes, they want it, they want it now.

Ask Governor Blanco of Louisiana. They know the needs. They are there. They know the stakes. They are the Governors. They want this legislation passed now.

Governor Riley of Alabama, he wants it now. Governor Barbour of Mississippi, he wants this legislation passed now. Governor Blanco of Louisiana, she would certainly like it passed now.

I might say, too, this is a compromise. There are Senators here who would like to offer more sweeping legislation and try to get that legislation up for a vote. I daresay, if that legislation were up for a vote, it would pass by a very large margin.

But there are Senators here who do not want to vote. They do not want to vote on that legislation. They do not want to vote on it. They do not want to vote on it. What is my evidence of that? Many times I have asked unanimous consent to bring up this legislation. Many times the chairman of the committee has asked to bring up this legislation. And we get objections from the other side of the aisle. We get objections from the other side of the aisle. Oh, it costs too much, I heard. That is one complaint.

I do not know. This legislation is temporary. It is only for several months. It is only basically until the end of the year. It is basically to help people get health care under Medicaid, to get health care now.

There are countless examples of people who cannot get health care today, victims of Katrina who cannot get health care today. Why in the world is the Senate, controlled by the same party as the White House, saying no? Oh, we hear: We want a compromise. Let me tell you this. What is the compromise I heard? The compromise I heard is: Take it all out of the $65 billion appropriated for Katrina. Take it out of that. That is what I have heard.

Can you believe that? Can you believe that? They say some of that money has been misspent. So people who need health care shouldn't get the dollars? They shouldn't get support? They shouldn't get their health care because some of the FEMA dollars might have been misspent? Give me a break. Give me a break.

What is going on here? What, in fact, is going on here? I don't understand it. I thought we were Senators. I thought we were elected to do the right thing, to rise up and help people who need help, particularly immediately. Sure, we should scrub this stuff and look at it closely. And we have. We have. Senator GRASSLEY and I have. Our staffs have—very closely. We have tailored this down and cut it back down compared to what other Senators in the body want passed, some of the Senators in the committee wanted passed. We said: Oh, no, no, we are not going to go that far. We will take this a step at a time. We will pass limited legislation, only until the end of this year.

These provisions, the Medicaid provisions, the FMAP provisions, the eligibility requirements only apply for several months, to the end of this year. Then they stop.

Let me tell you, we met today, the Finance Committee, with experts—one was George Yin, head of the Joint Tax Committee staff—trying to learn some lessons from New York that might be applied in this case. He made a very interesting point to us. He said: You must know, Senators, it is very hard to know the effectiveness of tax breaks because we don't have a lot of evidence. He also said something else. He said: Because these are of a short duration, the ones proposed in this bill, they probably will not be utilized very much because people don't know about them. People don't know they are there. It is hard to get the word out.

So those Senators should not be too concerned this bill will be "too expensive." If they are concerned about fraud, FEMA fraud, if they are concerned about waste, if they are concerned about money not being properly spent under FEMA, and so forth, I suggest when the next appropriations bill comes up to spend more money at FEMA, to give more cash, that is the proper place to look at any potential waste, any problems, if any, that occur under FEMA. I don't know what occurs and does not occur, but the Senators I have heard don't want this bill passed because they say: Oh, it is wasteful. FEMA wasted money. If that is the case, don't take it out of the hides of poor people who need help. You take it out of the hide of FEMA. You take it out of the hide of additional appropriations.

I heard something else here tonight. I have heard the administration is opposed to this legislation. They quietly kind of are. I don't think they want to admit it. They sent this letter that the Senator from Arizona put in the RECORD. They say: Well, maybe we can do it with waivers. Maybe we can do it a little bit better. Come on. That is not going to work. Why isn't it going to work? It is not going to work because this waiver process is so vague, it is so amorphous. Nobody knows what it is. Nobody knows when it might go into effect.

Let me give you an example of that. Today at the Finance Committee hearing, I raised the question: Governor Barbour, Governor Riley, Governor Blanco, what about waivers?

Governor Barbour did not know anything about it. This is 4 weeks since Katrina. He said: I have to plead ignorance. I don't know. You would think if this waiver process is going into effect a little bit, if there has been discussion between the administration and some of these States, you would think the Governor of Mississippi, if this waiver program is worth anything, would know about it. No, he did not know anything about it. He wants this legislation passed.

Mr. President, I ask unanimous consent that the letter Senator GRASSLEY and I wrote back to Secretary Leavitt in response to that White House letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, September 27, 2005.

Hon. MICHAEL O. LEAVITT,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR MR. SECRETARY: The aftermath of Hurricane Katrina has left hundreds of thousands of Americans displaced and in need of assistance. We want to, first and foremost, thank you for your assistance with Katrina relief. We share the goal of addressing the immediate health care needs of people affected by this disaster.

We have, however, chosen different paths for achieving our shared goal. We have introduced and sought to pass the Emergency Health Care Relief Act, S. 1716, which would provide immediate coverage for a temporary period for Americans displaced by Hurricane Katrina, directly assist the states of Louisiana, Mississippi and Alabama, and provide a means for survivors to retain private health insurance coverage. We believe that this program can be very quickly and efficiently implemented by the Department. We have noted your opposition to our bill and are puzzled at how you expect to achieve our shared goal through the Department's waiver process. Specifically, we would raise the following questions:

1. After the September 11, 2001, attacks on New York City, the Department quickly approved a waiver to provide Medicaid coverage for New Yorkers, even those not normally eligible for Medicaid, for a temporary basis. While you refer to the coverage provided through the waiver program as "comprehensive relief," the waiver in Texas does not provide for the same eligibility for Katrina evacuees as was provided through the New York waiver. Could you please explain to us why the Katrina evacuees do not deserve the same assistance provided the people of New York.

2. Your waiver process appears to contemplate having those Katrina evacuees without health care coverage covered by an uncompromised care fund. Providers will provide charity care and then seek reimbursement from the uncompensated care fund. This raises numerous questions for us. First, how does the Department believe it has the statutory authority to provide funding for this uncompensated care fund when we believe it is fairly obvious the Department does not have statutory authority to do so? Second, it is unclear to us how much money will be needed for the uncompensated care fund for Texas and all other host states. How much money does the Department anticipate needing for the fund? Finally, the Medicaid program has known costs, payment rates and control systems, which is why we sought to use the Medicaid program for the temporary assistance program. How does the

Department plan to control expenditures for the uncompensated care fund to protect against fraud and abuse? What accountability measures will apply to these new funds?

3. The states of Louisiana, Mississippi and Alabama have suffered tremendous devastation that will drastically affect their ability to meet state obligations, including their share of Medicaid. The Department's waiver process simply bills claims for Katrina evacuees in Texas (and other host states) back to Louisiana, Mississippi and Alabama. When the bill comes due for those claims we would anticipate that the Department is going to expect payment since the Department does not have the statutory authority to waive those payments. Will the Department be seeking a statutory response or does the Department believe that the affected states do not need assistance? If the Department does support relieving Louisiana, Mississippi, and Alabama of some portion of the state share requirement, what is your projection for the cost of the assistance you might provide those states? New York provided disaster relief Medicaid after September 11, with the hope that their state match costs would be paid for through FEMA grants, but they are still appealing FEMA's denial of payment and have not received any funds. What assurances can you give states that they will not find themselves in similar circumstances?

4. We believe that allowing individuals to preserve their private insurance coverage is an important principle. The bill that you oppose, the Emergency Health Care Relief Act, provides for a Disaster Relief Fund so that people may keep private coverage. Your waiver process does not appear to provide for assistance to people wishing to keep private coverage except perhaps through the uncompensated care fund which we have already established has no money. Do you oppose preserving private coverage for Katrina survivors?

5. We believe that the welfare provisions of S. 1716 are very important. Though H.R. 3672 the TANF Emergency Response and Recovery Act of 2005 (Public Law 109-68) makes some modest progress towards getting states the help they need to provide vital support services to evacuees and those in the directly impacted states, we remain concerned that P.L. 109-68 falls short in several ways. Working in close conjunction with members from the directly affected states, the Senate bill makes a number of improvements to P.L. 109-68. P.L. 109-68 limits assistance to nonrecurrent short-term cash benefits S. 1716 allows funding to be available for any allowable TANF expenditure. We understand that states would like the flexibility to use these funds to provide non-cash services such as employment readiness and job training for a period of time that is not limited to four months. Do you agree that it is appropriate to give states the greatest amount of flexibility to serve the broad needs of these families? Additionally, the Senate bill lifts the "cap" on the Contingency Fund which would direct additional resources to states that are providing services to Katrina survivors. Do you agree that states should be confident that they will be reimbursed for the costs of helping these families?

6. We note that in your letter, you took special exception to the provision in Title II—TANF RELIEF that would allow states, such as Tennessee, that are currently drawing down Contingency Funds in order to meet the needs of their existing caseload to also qualify for the Contingency Fund in order to meet the needs of evacuees. Are we to infer from your letter that states like Tennessee should be prohibited from accessing the Contingency Fund to provide services to evacuees simply because of a dire state fiscal condition that made them eligible for the Contingency Fund under existing law?

We would also like to bring to your attention certain provisions of our bill that we would be surprised to find the Department opposes.

The bill provides the Secretary with the authority and funding to assist providers whose ability to stay in business has been jeopardized. We consider it critical that hospitals, physician practices and other providers get immediate assistance so that they may continue to function. If the doors close on a hospital, it makes rebuilding that community that much more difficult. We hope you would agree.

2. The bill provides additional assistance for people who have lost their job through extensions of unemployment insurance. We feel that it is appropriate and necessary.

3. The bill provides additional funding for the Office of the Inspector General to ensure that relief funds are appropriately spent. We certainly hope you approve of that provision.

4. The bill protects the taxpayer by reducing the micro-purchase threshold which limits purchases made outside of existing federal procurement laws. These purchases are commonly made through the use of government credit cards, a medium which has a history of fraud, waste and abuse of taxpayer dollars. The micro-purchase limits were capped by law at $2,500 with an emergency limit of $15,000 domestically and $25,000 abroad. These limits were drastically raised to $250,000. While we understand the need for increased credit limits to help deal with a disaster of Katrina's magnitude, any increase should address the problem at hand, not create new ones.

We truly believe that we have similar interests in assisting people displaced by this disaster. While we are troubled that you have chosen to oppose our effort, we will continue to work with you to meet our common goal. In that spirit, we respectfully request that you respond to the questions by this Friday, September 30, so that we may better understand how you intend to proceed.

Sincerely,

CHARLES E. GRASSLEY.
MAX BAUCUS.

Mr. BAUCUS. That letter points out the glaring defects of the waiver process the administration talks about.

First, the Government is amorphous, as I said. Second, the waiver kind of promises money to hospitals for uncompensated care. It does not say how it is going to happen. It is very unclear. It is very amorphous.

I might say, at that point, for 9/11 FEMA was billed for several items, and FEMA did not pay for it. In this case the administration, in the waiver process, says, well, there might be some money for hospitals for all the uncompensated care they have provided. It is a promise. Who knows if it is empty or not empty. There are no dollars behind it.

We have dollars in our legislation. It is $800 million. It goes for uncompensated care to hospitals. You talk to the administrators of the hospitals in these areas—Louisiana, New Orleans; other States, Arkansas, Texas—that are overwhelmed—and most of this is uncompensated care—they need help. We are providing it in this bill, $800 million.

We also provide help for people who need care, who do not have health insurance, who live up to 100 percent of poverty. They are not wealthy people: only up to 100 percent of poverty, and 200 percent of poverty for mothers who have children, pregnant women and children. That is not very much. But no, we cannot pass that. Senators say that is too much. That might be wasteful.

I don't get it. I don't get it. It reminds me of when I graduated from high school. This fellow sent me a congratulation card for graduating from high school. He said basically: Congratulations, and all this stuff. He said: Best of luck in those interstitial spaces when your brain runs against headlong perversity. This is one of those interstitial spaces in the sense that I don't get it. I can't fathom why people would not want to get this passed.

We can go to conference. We can modify this bill in conference if there are real problems. That is what we do around here. If something is not perfect—nothing is ever perfect—you don't let perfection be the enemy of the good around here. We go to conference. By that time, little wrinkles crop up, little problems. We take care of them in conference. No, we can't do that. We can't even pass the legislation. Some Senators say: No, we can't pass it. Wrong. Take it out of FEMA. It won't work. For the life of me, I don't understand why we are here.

One small example, not so small for Tina. Who is Tina? Tina Eagerton is a lady who fled Louisiana 7 months pregnant but could not find a Florida doctor who would accept her Louisiana Medicaid card, wouldn't do it. With this legislation, Tina can get some help.

I can talk about Rosalind Breaux, who has colon cancer and was scheduled for her third round of chemotherapy on August 31, the day after the flooding began. Her husband has lost his job. There is no health insurance. Rosalind is in a real bind.

I mentioned the letter the administration has sent. The Senator from Arizona has mentioned that letter. I also mentioned the letter we sent in response, the chairman of the committee, Senator GRASSLEY, and I. That letter from the administration says the administration claims it can provide relief without the need for congressional action. It can't. I must also say they do not have the authority. They do not have the authority to provide additional appropriations. That takes an act of Congress. They say, apparently, by implication, they do not need any dollars. That is the implication of that process. They don't appropriate dollars. It is against the law. We have to do that. They do not want us to do it.

The waivers, I might say, also limit eligibility for Medicaid coverage to only those groups of people traditionally eligible for Medicaid. Adults without children, no matter how poor they are, or how much they need health care, would not be covered under the administration's waiver policy suggested by the letter the Senator from Arizona mentioned.

The woman with diabetes would not be covered. She would not be covered. Diabetes is a very time-sensitive illness. Limiting access to benefits in the waiver would mean leaving tens of thousands of Katrina victims without aid.

After Katrina, Louisiana dispatched Medicaid eligibility workers to more than 200 shelters to enroll evacuees in Medicaid. Of the 4,000 potentially eligible families screened in these shelters, more than 1 in 5 were screened out as ineligible. They did not meet Louisiana's traditional eligibility rules—1 out of 5. No help there. One out of five: You do not meet the traditional screening test.

Our legislation would address that. One out of every three people who have applied for Medicaid in Louisiana following Katrina have been denied coverage. Let me repeat that. One out of every three people who applied for Medicaid in Louisiana following Katrina have been denied coverage. The waiver process is not going to help that out because the eligibility requirements are not raised. Most of these people are denied because they don't meet the eligibility criteria.

Adult Katrina survivors need access to health care. A recent study of Katrina evacuees in Houston shelters found that most of the adult evacuees without children were uninsured. Among those, more than 40 percent reported having a chronic condition. A third reported having trouble getting the prescription drugs they need. I can't believe it. What is going on here?

Differentiating among individuals during this time of need is not right. This isn't legislation that is usual; this is an emergency. People need health care right now. Katrina did not differentiate. Katrina hit all the residents of the gulf hard. We should not differentiate in our efforts to help those in need.

The second key difference between the administration's policy and what our bill does is the funds provided to defray the cost of uncompensated care that thousands of health care providers across our Nation are giving to Katrina survivors. I have already mentioned that. Let me repeat that point. The administration has said it will provide an uncompensated care fund. But the administration, in this waiver letter referred to on the floor a few minutes ago, has not given any further information about how much would be provided, not one iota, whether it be $1 or zero dollars. The administration has not even given information about how it will be spent.

By contrast, the Grassley-Baucus bill includes an uncompensated care fund of up to $800 million to be spent on compensating those health care providers—that is, hospitals—who have seen a dramatic increase or drop in their patient load as a result of Katrina. The administration promises, but under our bill, there would be no doubt. We would be there. It is not words but deeds. The administration is words. Our legislation is deeds. It is getting it done.

Third, our bill provides 100 percent Federal funding for all evacuees covered under Medicaid, wherever they are, and for the affected States. By contrast, the administration's waiver policy promises to make States whole. What does that mean? I have serious questions about how they can deliver on that without legislation, because it is unclear that the administration could, under its current statutory authority, provide these additional funds to States. I referred to that earlier. I don't think they have the legal authority to provide additional funds. I have no doubt they intend to do so. I am sure they do. Why wouldn't they? I just do not believe they have the legal authority to do so. So why should we get involved in this legal morass—do they have the authority; do they not have the authority? Are we going to sit down and argue about this, while the people need health care? I don't get it.

At the same time the administration has asked for the three most affected States to sign a memorandum of understanding making them financially responsible for paying the cost of evacuees' care in other States. Louisiana, Mississippi, Alabama need our help, not more bills to pay—not now. We could straighten that out later.

It is an outrage that a small number of willful Senators continue to stall this bill. Hurricane Katrina's health costs continue to spill in waves across the gulf coast region. Victims continue to suffer without proper medical care. Our bill will restore immediate access to basic health care. Our bill would relieve the financial burden health care providers have shouldered. We must act. Thus, at the appropriate time, I intend to join with my colleagues and ask unanimous consent for the Senate to pass our bill.

In fact, I do so now. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 214, S. 1716; that the Grassley-Baucus substitute amendment which is at the desk be considered and agreed to, that the bill as amended be read a third time, passed, and that the motion to reconsider be laid on the table, and that all of this occur with no intervening action or debate.

The PRESIDING OFFICER. In my capacity as a Senator from Oklahoma, I object.

Objection is heard. The unanimous consent request is not agreed to.

The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SECURITY LETTERS AND PATRIOT ACT REAUTHORIZATION

Mr. DURBIN. Mr. President, the USA PATRIOT Act greatly expanded the Government's authority to use national security letters, documents issued by FBI agents without judicial or grand jury approval that allow the Government to obtain sensitive information about innocent American citizens. The recipient of a national security letter is subject to a permanent automatic gag order.

The Justice Department claims that they are not interested in the library records of innocent Americans. However, they acknowledge that they do not know how often FBI agents have obtained library records since enactment of the PATRIOT Act. And just 3 weeks ago, the Justice Department again refused my request to make public the number of national security letters that FBI agents have issued since the PATRIOT Act became law. As a result, the American people have no idea how often the FBI is using this controversial power to obtain their sensitive personal records, including library records.

I commend our Nation's librarians for defending our Constitution and leading the fight to reform the PATRIOT Act. Unfortunately in the past this Justice Department has criticized librarians for exercising their first amendment rights. Now they have gone even further—preventing a librarian from speaking publicly about a legal challenge to the national security letter power.

In our democracy, the government is supposed to be open and accountable to the people and the people have a right to keep their personal lives private. This Justice Department seems to want to reverse this order, keeping their activity secret and prying into the private lives of innocent American citizens.

The President has asked Congress to reauthorize the PATRIOT Act. In order to have a fully informed public debate, the American people should know how often the national security letter authority has been used and they should be able to hear from librarians and others who are concerned about this power.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator Kennedy and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On June 1, 2004, a man was attacked and stabbed by three men in the downtown area of Seattle, WA. The apparent motivation for the attack was sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

U.S. GRAIN STANDARDS ACT

Mr. CHAMBLISS. Mr. President, I am pleased that the Senate passed S.1752, a bill to reauthorize the U.S. Grain Standards Act. I understand that the House of Representatives is scheduled to consider this legislation today and look forward to its swift approval, as the act expires September 30, 2005.

This reauthorization bill is identical to the administration's requested language provided to the committee earlier this year, a simple 10-year extension of current law.

The Agriculture, Nutrition, and Forestry Committee held a hearing to review the U.S. Grain Standards Act on May 25, 2005. Testimony provided on behalf of the National Grain and Feed Association and the North American Export Grain Association highlighted industry's desire to be cost-competitive and remain viable for bulk exports of U.S. grains and oilseeds in the future. Specifically, these organizations proposed the U.S. Department of Agriculture's, USDA, utilization of third-party entities to provide inspection and weighing activities at export facilities with 100-percent USDA oversight using USDA-approved standards and procedures. Support for this proposal in the hearing was provided by the American Farm Bureau Federation, American Soybean Association, National Association of Wheat Growers, National Corn Growers Association, National Grain Sorghum Producers, and the American Association of Grain Inspection and Weighing Agencies. Testimony provided by USDA stated that the "proposal of the industry establishes a framework for changing the delivery of services without compromising the integrity of the official system."

During the hearing, the Committee also learned of workforce challenges currently facing the U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration, GIPSA. The majority of official grain inspectors will be eligible for retirement over the next several years. Testimony presented explained that transitioning the delivery of services through attrition would minimize the impact on Federal employees.

Since the hearing, I have extensively reviewed legislative proposals and discussed the issue of improved competitiveness with various Senators, organizations, and USDA. Chairman Bob Goodlatte of the House Agriculture Committee and I wrote to USDA to determine if they had existing authority to use private entities at export port locations for grain inspection and weighing services, and if they did, how they would implement this authority.

Accompanying this statement is a copy of the letter we received from USDA responding to our questions. The letter clearly states that the U.S. Grain Standards Act "currently authorizes the Secretary of Agriculture to contract with private persons or entities for the performance of inspection and weighing services at export port locations." The letter further explains that GIPSA considers the use of this authority as an option to address future attrition within the Agency and to address expanded service demand. I fully expect USDA to use this authority in a manner that improves competitiveness of the U.S. grain industry, that maintains the integrity of the Federal grain inspection system, and that provides benefits to employees who may be impacted.

The committee greatly appreciates the work provided by GIPSA, and we are pleased to extend the authorization of current law for 10 years.

I ask unanimous consent that the letter to which I referred be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Secretary of Agriculture,
Washington, DC, September 21, 2005.

Hon. Saxby Chambliss,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This is in response to your letter of this date, also signed by Bob Goodlatte, Chairman of the U.S. House of Representatives Committee on Agriculture, posing two questions regarding legislation which is currently pending before the Congress. The legislation would reauthorize, for an additional period of years, the United States Grain Standards Act, 7 U.S.C. §§71 et seq. (Act), which is presently scheduled to expire on September 30, 2005. Your questions and our responses are as follows:

1. Would existing authority under the U.S. Grain Standards Act allow USDA to use private entities at export port locations for grain inspection and weighing services?

Response. The Act currently authorizes the Secretary of Agriculture to contract with private persons or entities for the performance of inspection and weighing services at export port locations. See 7 U.S.C. §§79(e)(I), 84(a)(3).

2. If so, how would USDA implement this authority?

Response. The Act currently authorizes the Secretary to contract with a person to provide export grain inspection and weighing services at export port locations. The Grain Inspection, Packers and Stockyards Administration (GIPSA) has reserved this authority to supplement the current Federal workforce if the workload demand exceeded the capability of current staffing. GIPSA has also considered use of this authority as one of several options to address future attrition within the Agency and to address expanded service demand as several delegated States have decided or are considering to cancel their Delegation of Authority with GIPSA.

In accordance with federal contracting requirements, GIPSA would contract with a person(s) (defined as any individual, partnership, corporation, association, or other business entity) to provide inspection and weighing services to the export grain industry. The person(s) awarded the contract would adhere to all applicable provisions of the Act to ensure the integrity of the official inspection system during the delivery of services to the export grain industry. The person(s) would charge a fee directly to the export grain customer to cover the cost of service delivery and the cost of GIPSA supervision. Contract terms would require reimbursement to GIPSA for the cost of supervising the contractor's delivery of official inspection and weighing services.

GIPSA would comply with OMB Circular No. A–76 for any contracting activity that may replace or displace federal employees. The Circular would not apply if the contract for outsourcing services intends to fill workforce gaps, not affect Federal employees, or supplement rather than replace the federal workforce. The A–76 process typically takes two years and involves an initial cost-benefits analysis, an open competitive process, and an implementation period.

I hope that the explanations provided above are fully responsive to the questions you have asked. A similar letter is being sent to Chairman Goodlatte.

Sincerely,

Mike Johanns,
Secretary.

THE 2005 BRAC PROCESS

Mr. GRASSLEY. Mr. President, I rise to speak on the Base Realignment and Closure, or BRAC, process that occurred this year. I have always voted to authorize base closure rounds in deference to the Department of Defense's stated need to restructure our military facilities to meet current and future needs. Nevertheless, the ceding of significant authority by Congress to an independent commission is an extraordinary step that should not be undertaken frequently or lightly. When Congress does lend its power to an independent commission, we retain the responsibility to closely monitor the commission's deliberations and actions. I have done so with respect to the 2005 BRAC Commission, naturally paying the closest attention to the issues before the Commission that affect Iowans.

My observation of the Commission's final deliberations raised some concerns about the information and reasoning used in making its decisions. I followed up with a letter to the Commission to clarify these concerns and have recently received a response that did nothing to allay my concerns. As a result, I have now concluded that I do not have full confidence that this was a thorough and fair process.

A joint resolution to disapprove the 2005 BRAC recommendations has been introduced in the House and has just been marked up by the House Armed Services Committee. It will now be considered under expedited procedures. I would urge my colleagues in the House to approve this resolution. Obviously, if this resolution is not approved by the House, Senate action will be meaningless. But, if the Senate does take up such a resolution, I will vote to disapprove the 2005 BRAC recommendations.

The BRAC Commission is charged with reviewing the recommendations of the Department of Defense and altering those recommendations if they are found to deviate substantially from the BRAC criteria. On that basis, the Quad Cities community in Iowa and Illinois challenged some recommendations for the Rock Island Arsenal and did not challenge others.

One issue on which I thought we had a clear-cut case of a substantial deviation of the BRAC criteria was the proposed move of the U.S. Army Tank-Automotive and Armaments Command, or TACOM, organization at the Rock Island Arsenal to the Detroit Arsenal. This proposal was essentially a footnote to a consolidation of what is called inventory control point functions from 11 separate organizations around the country that would now report to the Defense Logistics Agency. The consolidation of inventory control point functions would affect 52 people at TACOM Rock Island and was not challenged by the community. However, the DOD recommendation then, puzzlingly, proposed to move the rest of the approximately 1,000 employees of TACOM Rock Island to the TACOM Headquarters at the Detroit Arsenal in Michigan.

The facilities at the Detroit Arsenal are already strained to capacity. The base is encroached on all sides and has no room to grow. In fact, the Detroit Arsenal is rated far lower in military value than the Rock Island Arsenal. Moving in 1,000 new employees will require major military construction. That includes building two parking garages to replace the already limited parking space that would be used up. What's more, because of higher locality pay in the area, it will cost significantly more in the long term to pay those employees at the new location. You also lose some unique facilities currently used by TACOM Rock Island, like a machine shop and live fire range. In addition, there will be no space to house the outside contractors currently embedded with TACOM Rock Island, who would also need to move but aren't counted in the BRAC data.

The Quad Cities community challenged this proposed move on the basis of military value, and the enormous costs both up front and in the long run. In fact, the move would cost the taxpayers millions of dollars more out into the future. This point was made clear when Commissioner Skinner visited the Rock Island Arsenal. It featured prominently in my testimony before three BRAC Commissioners at the regional hearing in St. Louis. My colleagues, Senators DURBIN, OBAMA, and HARKIN and Representative EVANS also made this point at the regional hearing. This was followed by a detailed presentation by community representatives. Members of our bistate congressional delegation reinforced this point in follow-up phone calls to commissioners. Finally, community representatives and congressional staff met with the BRAC Commission staff to make sure they knew about the costs.

When it came time for the final deliberations, the Commission considered the TACOM move with the consolidation of inventory control point functions. I question this approach to start with since the TACOM move was completely unrelated to the other moves in the recommendation. It was obvious by Commissioner Skinner's questions to the BRAC staff that considering these unrelated moves in one recommendation confused the commissioners. Commissioner Skinner asked twice how the move being considered would affect another move from the Rock Island Arsenal to the Detroit Arsenal that he believed would be considered separately. He had to be corrected twice by staff who explained that it was all part of one recommendation.

Furthermore, despite all the briefings from the community, the BRAC staff presented a summary of the community's concerns that omitted the critical issue of the long-term costs of the move. The summary's only reference to cost was a relatively minor concern that the number of positions to move were underestimated. When Commissioner Skinner asked how increased estimates of the military construction costs at the Detroit Arsenal would affect the payback, the BRAC staff responded that "Payback with the new scenario, new MILCON, is $1.8 billion savings over 20 years, still a large savings." However, that figure refers to the entire recommendation package, not just the otherwise unrelated TACOM move. I believe that response by the BRAC staff was intellectually dishonest and misleading.

The disturbing fact is that the TACOM move will actually squander $128.23 in taxpayer money. I pointed out this problem in a message delivered to Commissioner Skinner before the Commission's final vote on the BRAC report, but no action was taken. Only after the final vote has the Commission admitted to me in a letter that the TACOM move, taken by itself, would cost $128.23 million over the 20 year time frame used in their estimate. The Commission's letter also confirmed that the Commissioners were never briefed about the cost of the TACOM move by itself.

In its response to me, the BRAC Commission continued to justify considering the cost of the TACOM move in terms of the net present value of the entire recommendation. However, in reference to another portion of the same recommendation regarding a cryptological unit at Lackland Air Force Base, the slide used by the BRAC staff for its presentation read, "The extent and timing of potential costs outweigh potential savings with no payback of investment." The same could have been said about the TACOM portion of the recommendation. The Commission then voted to overturn the portion of the recommendation to realign Lackland Air Force Base. In this case, the Commission did consider one portion of the larger recommendation separately, including a staff analysis of the payback for just that portion of the recommendation, and voted to overturn that component of the larger recommendation. The Commission's justification for its failure to do so with respect to the TACOM portion of that recommendation therefore falls flat.

In fact, there is evidence that the selective presentation of facts by the BRAC staff resulted in Commissioners misunderstanding the issue when voting. In justifying his decision on the TACOM move in an interview with the Rock Island Argus, Commissioner Skinner said of the BRAC staff's analysis, "They said there's still significant payback by doing that and that was the major objection that they (the community) had." Commissioner Skinner should have known the most about this proposed move from his site visits to both the Rock Island Arsenal and the Detroit Arsenal, but his statement is inaccurate. It seems clear from this quote that he was misled by relying on the faulty presentation by the BRAC staff.

Of course, while cost is a major consideration in BRAC, it is not the only consideration. Still, if a recommendation contains significant costs, like the TACOM move, there must be a very compelling case for an increase in military value to justify the costs. In this case, I think it is clear that more is lost in terms of military value than is gained. Moreover, the Commission never got to this point since the BRAC staff represented that the move was justified based on cost.

I don't believe that DOD made this recommendation based on a conclusion that consolidating TACOM in one location would increase military value in the first place. Several smaller components of TACOM in other locations were not proposed for consolidation. Still, if there was a compelling case for merging the two TACOM organizations together, then why wasn't the Rock Island Arsenal considered as a receiving site? The Rock Island Arsenal could accommodate all the personnel at Detroit Arsenal without major military construction, possibly even allowing Detroit Arsenal to be closed entirely. The Rock Island Arsenal was never considered as a receiving installation by DOD since it was assumed to be closing during much of DOD's internal BRAC process.

In fact, the preliminary assumption that the Rock Island Arsenal would close is why it was not considered as a receiving site for the consolidation of the Defense Finance and Accounting Service, Installation Management Agency, and Civilian Personnel Operations Center. In the case of the Civilian Personnel Operations Center, the BRAC staffer who presented this issue to the Commission pointed out that this was not fair and equal treatment, which is a violation of the BRAC rules. The Commission then voted to overturn the recommendation based on the fairness issue. I asked the BRAC Commission to answer why this same logic did not apply to their actions in each of these areas. The response stated that each recommendation was developed and briefed separately by DOD supporting different initiatives. This does not answer my question as to why the Commission did not overturn each of these recommendations on the basis of fairness as they did, rightly, with the Civilian Personnel Operations Center.

For instance, like the Civilian Personnel Operations Center at the Rock Island Arsenal, the Defense Finance and Accounting site was ranked No. 1 in military value of all such sites. Given the low labor costs and room to expand, it would be an ideal location to which to consolidate other sites if it were given fair and equal consideration. The Commission even questioned the sites chosen by DOD as receiving sites based on higher costs and lower value. Yet, in the end, the Commission chose to rearrange the sites to receive the consolidation and keep open two smaller sites with lower value than Rock Island. At a minimum, the Commission should have voted to keep open the Defense Finance and Accounting Service at the Rock Island Arsenal based on the same fairness consideration as the Civilian Personnel Operations Center. Ideally, it should have chosen the Rock Island Arsenal as a receiving site.

I knew going into this BRAC process that the Rock Island Arsenal could lose jobs. In fact, I am relieved that DOD did not recommend full closure as first contemplated. Moreover, as I testified before the BRAC Commission, if it was determined that an organization would be more efficient and less expensive somewhere else, then I could have lived with that. On this basis, I was even prepared for the BRAC Commission to disagree with my assessment about the proposals for the Rock Island Arsenal that I didn't think made any sense.

However, what I saw in the BRAC Commission's final deliberations took me by surprise. The Commission did not refute the concerns raised by the community. No evidence was produced that the TACOM move made economic sense or would be more efficient. Instead, the staff gave a misleading presentation that gave the impression that the move made economic sense when it did not, based on the data used by the Commission. That doesn't mean I absolve the Commissioners from responsibility in this either. Four of them had seen a presentation by the community and all of them had been contacted by Members of Congress. They had a responsibility to challenge the staff when the staff analysis didn't match what they had heard previously. In this respect, both the BRAC staff and the Commissioners failed in their responsibilities. In the end, what I have seen has caused me to lose confidence in the work of the BRAC Commission. As a result, I cannot endorse their final product.

I ask unanimous consent to have the Rock Island Argus article to which I referred printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SKINNER: ARSENAL DODGED A BULLET

(By Edward Felker)

WASHINGTON—BRAC Commissioner Samuel K. Skinner on Thursday said the Rock Island Arsenal "dodged a major bullet" in the base closing process by losing jobs but not closing completely.

During a brief interview, Mr. Skinner, who visited the Arsenal on behalf of the commission, defended the panel's vote to send 1,129 Quad-Cities jobs to the Detroit Arsenal. The panel approved the move despite protests that the transfer will cost too much and not further Army integration.

Mr. Skinner said that he looked into arguments that the Detroit Arsenal did not have the space for the incoming workers, but was satisfied that additional construction costs will not hamper expected savings to the taxpayers.

"They said there's still significant payback by doing that," he said of the BRAC staff's review of the move, "and that was the major objection that they had."

He said the commission felt it was only fair to keep open the Arsenal's 251-job Civilian Personnel Office and Civilian Human Resource Agency. It was originally slated to move to Fort Riley, Kan., as part of a sweeping consolidation of defense personnel offices.

But Mr. Skinner urged the panel to delete it because it was targeted as part of a complete closure of the Rock Island Arsenal, and the move was never re-examined after the Pentagon decided to keep the Arsenal open.

"They had no chance to be heard, it wasn't even considered, and on that basis it wasn't fair. So we got a little life," Mr. Skinner said.

He also defended the closure of the Arsenal's 301-job Defense Finance and Accounting Service office. The commission voted to keep other offices open that the Pentagon targeted for closure, but Mr. Skinner said they were on bases of higher military and had the worst economic closure impact among DFAS locations.

He said the overall result for the Arsenal was better than it could have been. "They dodged a major bullet. Not perfect, but it could have been a lot worse."

GOVERNMENT REORGANIZATION AND PROGRAM PERFORMANCE IMPROVEMENT ACT OF 2005

Mr. THOMAS. Mr. President, we are facing times of record spending. Whether it is in the form of relief to the hurricane ravaged gulf coast, financing the war on terrorism, or meeting our obligations to seniors with the Medicare prescription drug benefit, Federal spending is higher now than ever. We have committed ourselves to funding these priorities.

In doing so, I believe we must also look for ways to save in other areas to offset some of these costs. I would liken our current fiscal situation to that of any common American household. When emergencies or unforeseen obligations arise, such as an illness or a major repair, you find a way to pay the bill. But in doing so, you must also look at your household budget and find places to save.

So I come to the Senate floor today to speak a little bit about legislation I recently introduced to require regular review of Federal programs with the goal of identifying areas where savings can be made. S. 1399, the Government Reorganization and Program Performance Improvement Act, will create the necessary mechanisms to require Congress and the executive branch to regularly and formally examine whether Federal programs and agencies are achieving, or have achieved desired results for the American people, and make the necessary adjustments.

The bill would do this through the creation of a sunset commission and individual results commissions. The sunset commission would hold the Federal Government accountable for performance by reviewing and providing recommendations to retain, restructure, or end Federal agencies or programs. Congress and the President would enact a 10-year schedule for the administration to assess the performance of all Federal agencies and programs. Acting on those assessments, the seven-member bipartisan sunset commission, appointed by the President in consultation with Congress, will recommend ways to improve effectiveness and spend taxpayer dollars more wisely.

The commission will provide an important framework to facilitate the reform, restructuring, or possible elimination of those agencies or programs unable to demonstrate expected performance results during their scheduled review. It will also help to identify those programs that have achieved their intended purposes or outlived their usefulness.

A second key feature of this important measure is the creation of individual results commissions targeted at specific programs or policy areas where duplication and overlapping jurisdiction hinder reform. Again, these seven-member bipartisan commissions, appointed by the President in consultation with Congress, will consider administration proposals to improve the performance of various programs and agencies by restructuring and consolidation. This will reduce unnecessary costs and waste paid for by the American taxpayer.

We need to continue to evaluate the way the Federal Government operates and look for ways to make it more cost effective for the long term. I believe this legislation presents a good step toward dealing with the large number of Federal programs out there, many of which are, frankly, wasteful and unnecessary. Many also duplicate other Federal, State and private efforts. S. 1399 provides a commonsense framework for reorganization and review of Federal programs, and provides for a way to abolish them if determined unnecessary.

S. 1399 is a good government measure. It is about efficiency, accountability to the American taxpayer, and identifying potential savings. It is a fiscally responsible measure that will provide a way for the Federal Government to save even as it meets its spending obligations in the future. I invite my colleagues to take a serious look at this proposal and to join me in advancing this effort.

AUGUST 2005 CODEL TO LATIN AMERICA

Mr. SPECTER. Mr. President, from August 14 to the 22, I traveled to Latin America to investigate first hand important issues relating to national security, immigration and the war on drugs. I would like to share the details of this trip and some of the insights I gained with my colleagues.

On Sunday, August 14, we flew to Havana, Cuba. Upon our arrival we drove to the U.S. Mission where we met with James Cason, our chief of mission, and members of his staff. I started off the meeting by asking my hosts if Cuba could help the U.S. combat the smuggling of illegal drugs into our country. Mr. Rod Rojas of the U.S. Coast Guard, who currently serves as the U.S. Drug Interdiction Specialist based in Havana, noted that there is a good working relationship between the Coast Guard and the Cuban Border Guard on drug issues. It primarily takes the form of the Cubans sharing information with the United States as to suspicious ships passing through its territorial waters. The United States then interdicts these ships when they cross into U.S. waters. While the number of such reports has fallen in recent years, Mr. Rojas believes that this is a testament to the success of Cuban efforts: now that they know they will be reported, drug smugglers seem to be avoiding Cuban waters.

These reports confirm my long-held view that we should be working more closely with Cuba on drug interdiction efforts. This is why since 2001 I have sought to include language in the Foreign Operations appropriations bill to fund joint drug interdiction efforts between our two countries. This language is in the Senate version of the fiscal year 2006 bill, and I intend to press to secure its retention in the bill through conference.

From this positive report on the drug interdiction situation, our conversation turned to a troubling report on the current human rights situation in Cuba. Mr. Cason told us that there has been a deterioration of human rights in Cuba in recent years as Castro has cracked down on political dissidents. In 2003, Castro jailed 75 dissidents and has thus far released fewer than 20 from this group. These arrests were followed by others including the arrest of over 30 dissidents earlier this year. In addition to arrests, Castro has begun to employ other atrocious practices including having dissidents assaulted on the streets and generating demonstrations at the homes of dissidents to prevent them from stepping outside.

This repression has spread to the economic realm as well. In the late 1990s, Castro had opened a very limited window to free enterprise in Cuba by issuing licenses for private businesses. Had this trend continued, Cuba could have followed the path of China and Vietnam towards a limited market economy and higher living standards. Instead, Castro has abandoned this liberalization and cut back the number of licenses for private business. Both politically and economically, there are signs that Cuba is going backwards.

Finally, our conversation turned to the issue of immigration. In an effort to provide a legal outlet for immigration and avoid the massive boatlifts of the past, the United States allows 20,000 Cubans to legally immigrate every year. This number includes family reunifications, visas given out by lottery, and approximately 5,000 visas granted to individuals accorded refugee status because they are found to face persecution if they remain in Cuba. Yet this legal outlet is still overwhelmed by the desire to leave Castro's Cuba: every year thousands of Cubans who cannot secure these visas still come to the U.S. by sea and, increasingly, overland via Mexico.

On Monday, August 15, we returned to the airport in the morning and flew an hour and a half from Havana down to our military base at Guantanamo Bay. Upon arrival we were met by White House Counsel Harriet Miers, Department of Defense General Counsel Jim Haynes, and a contingent of my Judiciary Committee staff. The base commander, MG Jay Hood, greeted us all and loaded us into a boat for the trip across the inlet from the airstrip to the operational center of the base.

Our visit began with a briefing by General Hood and members of his staff about many of the individuals being held and interrogated at Guantanamo and what they were learning from them. The briefing also reviewed the many cases on record of individuals we released from Guantanamo who immediately returned to the ranks of the terrorists once free. This briefing was an important reminder of the difficult balance that must be struck in our handling of these detainees. While we must strive for fair processes, we must remember that the individuals we are dealing with are often our most vicious enemies.

After our briefing, we drove to a mess hall for lunch where I had the opportunity to meet a number of Pennsylvanians who are serving with distinction at the base. We then visited one of the buildings used for interrogation and met with a group of interrogators who have been assigned to work with the Saudi prisoners. The interrogators informed us that their progress was slow. I asked these interrogators about the tactics they used. They were adamant that they did not use coercive tactics. They added that such tactics do not work. On the contrary, they told us that they have found the most effective method of interrogation to be developing a relationship with a detainee, treating him with respect, and winning him over through positive reinforcement.

On August 1, the New York Times ran a front page story detailing the allegations of two senior prosecutors at Guantanamo that the trial system for detainees had "been secretly arranged to improve the chances of conviction and to deprive defendants of material that could prove their innocence." After our tour of the base, I questioned

General Hood. DoD General Counsel Jim Haynes, and Brigadier General Thomas Hemingway of the DoD Office of Military Commissions about these allegations and other complaints about the military justice system. White House Counsel Miers was present. Since our conversation was classified, I will not comment in this forum on what was said. After this meeting we returned to Havana.

On Tuesday, August 16, we returned to the U.S. Mission to meet with two brave Cuban dissidents: Vladimiro Roca and Martha Roque. Mr. Roca is the President of the Social Democratic Party of Cuba. Knowing that I would meet with President Castro later in my trip, I felt it important to meet with the dissidents so that I would hear from both sides. I learned after my visit that the Governor of Nebraska, who was in town at the same time I was, also met with Castro but declined to meet with the dissidents.

Since political parties are banned in Cuba, Mr. Roca's "party" has only 35 members. Mr. Roca was jailed by Castro for 5 years from 1997 to 2002 for criticizing his government. Yet Mr. Roca continues to speak out and to criticize the regime. Although free, Mr. Roca has been the subject of intimidation and demonstrations designed to keep him from leaving his home.

Like Mr. Roca, Ms. Roque has also been jailed for expressing her strong anti-Castro views. She spent 3 years in jail from 1997 to 2000. Upon her release from prison she immediately returned to her activism. In 2003, she was arrested for a second time while attending an anti-Castro demonstration and sentenced to twenty years in jail. One year and five months into her term, Ms. Roque suffered a heart attack and was released.

While both Mr. Roca and Ms. Roque had trials, neither process sounds as if it was worthy of the name. According to Mr. Roca, he was told prior to his trial what the verdict and sentence would be. Mr. Roca and Ms. Roque are not alone. They inform me that there are still 81 prisoners of conscience languishing in Cuban jails for doing nothing more than exercising a right to free speech that their government refuses to recognize.

Following this meeting we drove to a luncheon meeting with President Fidel Castro. I had met with Castro during two prior visits to Cuba in 1999 and 2002 and found the experience to be worthwhile. As before, I found Castro to be an engaging host. He has an easy wit and enjoys a good-natured exchange. Yet beneath the joking was a serious undercurrent. Having just come from a meeting with dissidents, I pressed Castro to release the political prisoners in his jails. Castro tried to shift the topic of conversation from his prisoners by bringing up the case of five Cubans convicted of spying in the U.S. whose convictions were recently overturned by the 11th Circuit. I suggested to Castro that far from being an example of American wrongdoing, this kind of fair process is exactly the type of justice he should be offering to his own people. I also pressed Castro to open his country to democracy and dissent. He listened, but my exhortations obviously had no effect.

Much of Castro's conversation focused on his efforts to provide health care to third world countries. Castro discussed this topic at length, and it quickly became clear that he believes this effort will be his central legacy. Cuba, a country of 11 million, has 70,000 doctors due to Castro's early emphasis on providing medical care to his own people. Castro has in recent years started sending thousands of these doctors abroad to help serve the underprivileged. Venezuela is the leading recipient of this medical largesse and hosts the majority of Cuba's overseas medical corps. According to Castro, Cuban doctors in Venezuela live and work in the slums and provide crucial medical care to those who would otherwise go without. For example, Castro told us that 6,000 Cuban eye doctors will perform 100,000 eye operations on poor Venezuelans this year. In addition to providing care, Castro told us that his doctors also provide an education, teaching Venezuelans to be doctors both in Venezuela and in Cuba. Castro then read off to us a list of the many countries in which Cuban doctors are living and serving from East Timor to Haiti and including many African and Latin American countries.

It must be noted that Castro's motives are not entirely altruistic. Our Embassy in Caracas informed me that in exchange for these medical services he is given a generous supply of free oil and his doctors are paid a subsidy which is remitted back to the state. Yet it is doubtful that Castro's arrangements with poorer countries such as Haiti bring similar financial rewards. While there is much to criticize about Castro and his regime, this humanitarian effort is to be respected. To underscore the personal importance of this effort to him, Castro ended his discourse by stating that "history will vindicate us."

When we left Castro we proceeded to the airport and flew to Caracas, Venezuela. On Wednesday, August 17, we had breakfast with our Ambassador in Caracas, William Brownfield. Mr. Brownfield is a career diplomat with an obvious passion for his work and a deep knowledge of his subject. Ambassador Brownfield sets forth a pragmatic approach to Venezuela. While fundamental differences exist between our two countries, he argues, we can and must cooperate on those issues where we share an agenda, namely oil and drugs.

On oil, Venezuela lacks the infrastructure to refine more than one-fourth of the oil it produces. Venezuelan oil is heavier than most and needs special refineries, and these refineries are located in the United States. In addition, Venezuela is relatively close to the United States when compared to other United States suppliers and other Venezuelan markets. Thus continued cooperation on oil is imperative for both nations.

Secondly, both nations share an interest in combating drugs. There have been some recent conflicts over the specifics of fighting drugs. Only a week before our trip, President Chavez announced that he was suspending all cooperation with our DEA. The United States, in turn, suspended the visas of three high ranking Venezuelan law enforcement officials. Yet beneath the conflict, the shared interests and goals remain and can serve as a motivation to overcome these differences and proceed with the important work of drug interdiction.

The Venezuelan President, Hugo Chavez, has been criticized for governing in an anti-democratic fashion. While in Caracas, I wanted to hear directly from those who held this view and arranged a meeting with an activist named Alejandro Plaz and one of his associates. Mr. Plaz is the President of Sumate, a Venezuelan non-governmental organization dedicated to electoral observation and what he calls "democratic observation"—i.e. monitoring the leading indicators of a healthy democracy such as human rights and freedom of speech. These activities have stirred the ire of President Chavez's regime. Mr. Plaz has been charged with conspiracy to destroy the Republican system in Venezuela and if convicted would face 8 to 16 years in prison. The core element of the allegation of "conspiracy" is that Mr. Plaz accepted a $31,000 grant from the National Endowment for Democracy. The Venezuelan Government argues that since teaching about democracy is a political activity, and since political activities cannot be funded from abroad, Mr. Plaz has violated the law. By all accounts, however, including an analysis conducted by the American Bar Association, this is a political trial aimed to intimidate a man perceived to be a political opponent.

Mr. Plaz also detailed how Chavez loyalists in the legislature used a simple majority vote to change the rule requiring a supermajority to amend certain basic laws of the nation. Having thus lowered the threshold, the legislature has used simple majorities to expand the number of seats on the Supreme Court and pack these seats with Chavez loyalist as well as to fill the election boards with Chavez loyalists.

We next drove to the Venezuelan foreign ministry where we met with Venezuelan Foreign Minister Ali Rodriguez Araque and the Venezuelan Minister of Interior and Justice Jesse Chacon. Foreign Minister Araque started things on a positive note by stating that despite the differences which the United States and Venezuela may have in the political sphere, our two nations have many shared interests in oil and drug interdiction and must emphasize our commonalities. Interior Minister Chacon picked up on the theme of drug interdiction and went on at some length about Venezuela's efforts to fight the use of its territory as a transit point for Columbian drugs. According to the Minister, Venezuelan authorities seized 57 tons of cocaine and heroin in 2004 and 42 tons in 2003. He then spent some time discussing the recent controversy between our DEA agents in Venezuela and the Venezuelan government. He set forth his government's side of the story, and focused on alleged inappropriate actions by our DEA agents including the use of "controlled deliveries" to ship illegal drugs out of Venezuela in contravention of Venezuelan law.

Immediately following this meeting, we drove to Miraflores Palace where I met with Venezuelan President Hugo Chavez. We were joined by the two Ministers with whom I had previously met as well as U.S. Ambassador Brownfield. President Chavez began the meeting with an extended discussion about the importance of drug interdiction to both of our countries. He noted that drugs are a destabilizing force in the countries victimized by them. He then spoke about the deteriorating relations between the United States and Venezuela. He expressed concern in particular about statements coming from the U.S. government that he is trying to destabilize Latin America. He also said he is concerned about his U.S. ambassador's lack of access to the White House and high ranking executive branch officials.

Chavez commented about having met President Clinton on three occasions, one of which was at the United Nations. President Chavez believed that his relations with President Clinton were good and would like to see similar relations with President Bush. President Chavez also spoke about Venezuela's oil resources and his plans for billions of dollars of investments to increase oil production.

After the President's extensive opening statement, I responded that good relations between the United States and Venezuela are very important to both countries. I told the President that we appreciate his help in stopping the flow of drugs from Columbia and South America. I also noted the importance of Venezuelan oil to the United States and the world. I expressed my view that United States. companies would be willing to invest substantial sums to improve Venezuelan oil production and help them produce oil for the world and help Venezuela generate revenue money to fight poverty. I then took up the dispute between Venezuelan narcotics officers and the DEA and suggested that all facts should be put on the table to determine exactly what occurred so that both parties are then in a position to decide what steps could be taken to resolve the dispute. President Chavez said that this was a good idea and that consideration ought to be given to having a new agreement on drug interdiction.

President Chavez later spoke at some length about President Castro and his efforts to provide extensive medical personnel to Venezuela. Chavez commented that Castro had discussed my meetings with Castro and thought that they were productive. Chavez then returned to the topic of oil and pointed out that a Venezuelan company, presumably Citgo, had 13,000 gas stations and 8 refineries in the United States. He then reiterated his concern about statements from the U.S. regarding Venezuela destabilizing Latin America. Chavez said that public opinion in Venezuela was running against the United States because of these statements.

At the conclusion of our meeting, President Chavez agreed that it would be useful for his Foreign Minister and Minister of the Interior to meet with our Ambassador the following week to try to resolve United States/Venezuela differences on drug enforcement. Previously, all of our Ambassador's efforts to arrange such a meeting had been rejected.

On Thursday, August 18 we flew to Liberia, Costa Rica. Our first meeting that afternoon focused on the drug issue. We sat down with Paul Knierim, our top DEA agent in Costa Rica, and his Costa Rican counterpart, Allen Solano, who is the Director of the Costa Rican Drug Control Police. Although no drugs are grown or processed in Costa Rica, the nation and the rest of Central America serve as a crucial transit route for smugglers bringing South American drugs to the markets in North America and Europe.

Drugs are transported overland on Costa Rica's roads, by sea through both its Pacific and Caribbean territorial waters, as well as over Costa Rica's airspace in private planes and on passenger jets. These operations are often sophisticated. In one smuggling ring that was uncovered, re-fueling ships met the smuggling boats at fixed points along the Costa Rican coast so that the boats would not have to risk detection by coming ashore.

The region faces its own set of issues. The Trans American Highway, an important overland route for drugs, passes through this region and has been the site of increased drug traffic in recent years. Also, the Daniel Oduber international airport outside of Liberia has seen growing passenger traffic in recent years, especially to and from the United States, as the local tourist industry and real estate markets have developed. This increased traffic provides an opportunity for smugglers to blend into the crowd. Thus authorities have found that drug traffickers are sending more smugglers on the planes to transport drugs northward. These "mules" typically transport the drugs by placing them in latex and swallowing them, a practice which can prove fatal if the latex bags break.

I was pleased to learn that in Costa Rica cooperation between our DEA and the local authorities is excellent. We have five of our agents stationed in country where they work with the Costa Ricans to investigate and interdict drug shipments. Success is difficult. Mr. Knierim of our DEA told me that they know they are having an impact, since their actions force the smugglers to change their tactics. But he also realizes that they have not been able to defeat the smugglers. The battle continues.

Later in my visit, I met with Dr. Rolando Herrero, a leading cancer researcher who has been a pioneer in the exploration of the connection between viral infections and cancer. In particular, in a series of studies conducted in the 1980s and early 1990s, Dr. Herrero demonstrated a connection between the Human Papiloma Virus, HPV, a sexually transmitted disease, and cervical cancer. Having proven this connection, Dr. Herrero is now conducting a trial of an HPV vaccine that could prevent the spread of the virus and thus significantly lower the incidence of cervical cancer. This vaccine trial received $5 million in NIH funding through the National Cancer Institute this year. Given the prevalence of the HPV virus among sexually active young Americans, and the enormous expense of pap smears and treatments, this trial has obvious importance for the protection of women's health in the U.S.

Dr. Herrero has conducted his studies, including the current vaccine trial, in the Guanacaste Province in northwest Costa Rica. He explained that because of the relative stability of the local female population aged 18–25, this region allows for the extensive yearly follow up that would not be possible in the more mobile societies of America and Europe. As a result of his extensive prior work in the region, Dr. Herrero also has an impressive infrastructure in place to allow for effective follow-up studies by a highly professional team of 150 scientists and health care workers who know the local population and its habits well.

Finally, we drove to the offices of Mr. Bernardo Rojas, the Director of Ecodesarollo, a private company which has been given a concession from the Costa Rican government to develop an area known as the Papagayo Peninsula on the Pacific Coast of northern Costa Rica. The work being done by Mr. Rojas and this innovate public/private partnership can serve as a model for other countries wishing to develop their tourism industry while preserving the environment and respecting local populations.

Specifically, the Ecodesarollo Company has been given the rights to develop and manage an 840 hectare peninsula for a period of 49 years, with a right to renew the concession for another 49 years. In return, however, the company must meet a series of significant requirements. First, it must build 9 hotels and 3 golf courses in this area within a 28-year period which began in 1999. To date, two hotels and one golf course have been built to very impressive standards and have begun attracting tourists from around the world.

While conducting extensive construction, the developers are required to preserve the environment. They must preserve 70 percent of the green areas and set aside two conservation zones. They have also put into place extensive water treatment and recycling and a project to repopulate the local forests with local species of plants. The developers have focused on the prevention of forest fires with great success. Before the project began, there were 18 consecutive years of forest fires during the dry season. Since development began, there have been six dry seasons without any fires.

Finally, they must assist the local population. The company is required to build 2,000 residential units in the region. It must also provide additional funding and programs to the local schools and colleges.

While in Costa Rica I learned that the day after my meeting with Venezuela's President Chavez, Secretary of Defense Donald Rumsfeld made some critical comments about the Venezuelan leader during a visit to Peru. I was concerned that Mr. Rumsfeld's rhetoric had the potential to erode the progress we had made with President Chavez during our visit. Accordingly, I wrote to Secretary Rumsfeld and informed him of my meeting with Chavez and my belief that a window of opportunity had been opened to resolve our disagreement with Venezuela over drug interdiction policy. I suggested that, at least for the time being, we should have a moratorium on adverse comments about Venezuela.

Our next and final destination was Mexico City, Mexico. Given our long common border, Mexico presents the greatest challenges and opportunities in the war on drugs and terror and on the immigration issue. Good relations with Mexico are crucial to both of our nations, and I was very glad for the opportunity to learn about these issues first hand.

On my first morning in Mexico we were met at our hotel by our Ambassador, Antonio Garza. Prior to his assignment to Mexico, Ambassador Garza was elected Railroad Commissioner of Texas and appointed by then Governor Bush to be Texas's Secretary of State. Ambassador Garza has a detailed knowledge of the issues facing our two countries, and I believe he is serving us very well in Mexico.

From the hotel we drove to the Mexican Foreign Ministry for a breakfast with a group of Mexican government officials to discuss the two most important issues before us: drugs and immigration. The group included Geronimo Gutierrez, Mexico's Under Secretary of Foreign Relations for North America, and Eduardo Medina Mora, the Director of Mexico's Center for National Security Investigations, Mexico's equivalent of the CIA.

I began our breakfast by asking my hosts about the problem of the drug cartels and the recent violence in Nuevo Laredo, a town just south of the border with Texas, where rival cartels have been fighting each other in the streets with machine gins and rocket launchers. Mr. Mora informed us that the Mexican authorities have successfully prosecuted the leaders of some of the country's largest drug cartels, including a major cartel in Baja, California and the Gulf Cartel operating south of Texas. I was also informed that the U.S. has been providing crucial assistance in this effort. We have helped to train, equip and fund a new, professional Federal police force to replace its corrupt and inefficient predecessor. The new force currently stands at 7,000 members. According to Mr. Mora, the next big challenge facing the Mexicans in the war on drugs is to replicate at the state and local level what they have accomplished at the Federal level by replacing ineffective and/or bribed police forces with professional police forces capable of winning the fight against the cartels. I was informed that the U.S. can be helpful in this effort much as we were in building the Federal police by providing money, equipment and training.

Extradition of drug lords to the U.S. is a key component in this fight against the drug cartels. Mexican prisons fail to deter the drug lords, and there are stories of many who, through bribes, have been able to get everything they need to manage their empires from behind bars. I have been told repeatedly, however, that Mexican drug lords are terrified by the prospect of being jailed in U.S. prisons where they serve hard time.

Unfortunately, the Mexican courts have created a serious impediment to extradition to the U.S. Like many European countries, Mexico is opposed to the death penalty and will not extradite an individual to the U.S. if that individual may face the death penalty upon conviction. Yet the Mexican courts have extended this policy in a unique way. Three years ago the Mexican Supreme Court held that life imprisonment without the possibility of parole is the equivalent of the death penalty since the prisoner will die in jail, and therefore a prisoner who would face a life sentence in the U.S. cannot be extradited. Other Mexican courts have gone so far as to declare that a 20-year sentence is the equivalent of the death penalty when imposed on a 60-year old convict, since someone of that age will likely die in prison.

My Mexican hosts expressed displeasure with these court decisions and tell me they will seek their review. Still, despite these setbacks, extraditions are at their highest level ever, exceeding thirty a year in recent years. I suggested to my Mexican counterparts that we in the Judiciary Committee can work with our Department of Justice and local prosecutors to encourage them to file charges in a way that will facilitate extradition. U.S. prosecutors have secured the extradition of murderers from Europe by taking the death penalty off the table, and we can take similar steps to alleviate the concerns of the Mexicans. For example, Mexican law allows for a sentence as long as sixty years in the case of “aggravated homicide.” Thus if U.S. prosecutors agree not to seek a penalty greater than 60-years imprisonment, or to seek life imprisonment but with the possibility of parole, it may well facilitate the extradition while still providing a serious sentence for the offenders.

On the immigration front my hosts assured me that Mexico is making a serious effort to reduce the traffic of illegal immigrants from Mexico into the United States. These efforts are largely focused on limiting the flow of illegals from third countries as opposed to the flow of Mexicans themselves. Before they seek to illegally enter the United States, hundreds of thousands of would-be immigrants from South and Central American must first illegally enter Mexico. But Mexico is cracking down on these illegals and is deporting them back to their home countries in large numbers. I was informed that last year the Mexicans deported over 200,000 such illegals. The Mexicans are also requiring visas for visitors from countries such as Brazil and Ecuador who did not previously need them.

The Mexicans have also agreed to permit the U.S. to implement an interior repatriation program. Typically, when we catch an illegal immigrant, we deposit them on the other side of our border with Mexico where they are tantalizingly close to the United States and likely to try again to enter. Under the interior repatriation program, we fly those illegals who wish it all the way back to their home towns and villages. Once home, far away from the border, they are far less likely to try again. So far, this program has returned 13,000 illegal immigrants to their homes in Mexico.

From the Mexican Foreign Ministry we drove to the United States Embassy, where I was greeted by over 30 representatives of the Embassy and other U.S. agencies for a briefing on our drug and counter-terror efforts. This briefing largely confirmed what I had learned earlier in the day from the Mexican officials. Larry Holifield, the regional director of the DEA for Mexico and Central America, described the great cooperation between our DEA and their Mexican counterparts, including permission to conduct wiretaps and joint operations where vetted Mexican police units act on U.S. intelligence tips to take down members of the drug cartels. He and others spoke about the help we have provided to the Mexicans in building their police force and how effective this has been.

Greg Stephens of the Department of Justice confirmed that the Mexicans are getting better on extradition. As of 6 years ago the Mexicans had never extradited a Mexican citizen to the United States Last year the Mexicans extradited 34 people to the United States and are on track to extradite a similar number this year. Renee Harris of U.S. Customs and Border Control spoke about the internal repatriation program and agreed that it was working, although she would like to see more help from the Mexican government in publicizing the program to its citizens. In response to my question about what more we can to stem the flow of illegal immigrants, Ms. Harris responded with a familiar refrain: we can provide more technology, equipment and training.

Following this meeting, we drove to the offices of the Mexican President, Vicente Fox. Before our meeting with the President began, I had the opportunity to sit down with Mexican Attorney General Daniel Francisco Cabeza de Vaca. I asked Attorney General Cabeza de Vaca about the extradition issue and if it would help if we agreed not to seek a sentence of longer than 60 years for anyone extradited to the United States from Mexico. The Attorney General thought this would help, and told me that he had discussed this topic directly with Attorney General Gonzales. He also believed that the problematic Supreme Court decision would be reviewed.

I asked the attorney General about the situation in Nuevo Laredo, and he expressed confidence that the situation was improving. He told me that the Federal Government had sent over 1,500 police to the city and that some important arrests were made just last week. He praised the sharing of intelligence with the United States which has helped them to identify and detain targets. He said there were two phases to combating the violence in Nuevo Laredo. The first phase was to ensure the permanent presence of the Federal police and the army in the City. This has already been accomplished. The second phase was to improve local law enforcement and create a new and professional local police force which was not owned by the cartels. He expected to see a reduction in the level of violence very soon. The Attorney General also asked for my assistance in the matter. He told me that the warring cartels were using very high powered weapons, including 50 caliber machine guns and rocket launchers, and that these weapons were coming from the United States. I agreed to contact the ATF to see what could be done to stem the flow of such illegal weapons to Mexico.

Next I was received by President Vicente Fox. Fox started off our meeting by telling me that it is vital for the United States, Canada and Mexico to work together on a variety of problems including immigration, counter narcotics, and terrorism. He noted that our three nations were losing jobs to Asia and needed to work jointly to bolster our economies.

On the issue of violence in Nuevo Laredo and elsewhere, the President told me that Mexico has both a short term and a long-term approach. In the short term, Mexico has jailed 40,000 members of the drug cartels in a 4-year period. Among those in prison are six of the country's major drug lords. The President complained, however, that even while in jail some drug lords have been able to continue to run their syndicates by bribing prison guards for access to telephones and other means of communication. Fox then spoke in more general terms about the problem of police corruption at the local level. He noted that police earn a salary of $600 a month but are offered bribes in the thousands. In Nuevo Laredo alone, 1,100 policemen were fired from their jobs last month for corruption. The Federal Government has moved 1,000 policemen into the area to stem the violence.

In the long term, President Fox told us that he is trying to foster greater cooperation between the Mexican Federal Government and the Mexican states. To do so would require passage of legislation that has long been pending in the Mexican Congress. President Fox's party controls neither house of Congress and so far this legislation has not been enacted. To emphasize the importance of better cooperation from local police, President Fox pointed out that there are approximately 400,000 local police and only 10,000 Federal police. He also noted that approximately 95 percent of all crime consists of violation of state and local laws, while only 5 percent is Federal.

On the issue of extradition, President Fox told me that he would like to extradite more criminals to the United States but is limited by what his Supreme Court has done. While he would like to see this opinion overruled, he is sensitive not to take any action which would be counter productive. But he is working hard in the fight against drugs. He told me that earlier that day he spent 2 hours with his counter narcotics experts. He plans to meet with the governors of Arizona and New Mexico to discuss the states of emergency that they have declared in response to the influx of illegal drugs and immigrants.

On the violence in Nuevo Laredo, President Fox stated that the cause was the fight between rival drug cartels for control of the city. He is using his military in Nuevo Laredo. I told President Fox that I was not optimistic that the war over the drug cartels could be won having observed the problems in Colombia since the early 1980s and having now seen the problems in Venezuela and Costa Rica. I asked the President if he felt that war was winnable. President Fox replied that it would be very difficult to win the war on drugs as long as the demand for drugs remains strong. But he believes that the fight must continue.

ADDITIONAL STATEMENTS

HONORING RALPH CURTIS

• Mr. ALLARD. Mr. President, I would like to take a moment to recognize one of my constituents, Mr. Ralph Curtis. Mr. Curtis has served as manager of the Rio Grande Water Conservation District for 25 years. He took over the managerial position when the organization was very small, consisting of just Ralph and one other employee. The time and energy that Ralph has given to the Rio Grande Water Conservation District has made this organization the well respected entity that it is within the San Luis Valley and Colorado.

Because he grew up on—and later managed—his family's ranch in Saguache, Ralph has long been aware of the importance of water to the San Luis Valley. Under his direction, the district took a leadership role in fighting against the American Water Development Inc. water grab, in water conservation education and in pro-active efforts on behalf of endangered species such as the Southwestern Willow Flycatcher.

Ralph's community contributions have not gone unmarked either. He has been honored with numerous awards such as: the Wayne Aspinall Water Leader of the Year, San Luis Valley Wetlands Stewardship Award, Friend of 4-H, Distinguished Service Award for Conservation of Natural Resources, Support of Colorado Association of Soil Conservations Districts, and he was inducted into the Honorable Order of the Water Buffalo.

Ralph has always looked ahead to the next challenge, has always looked forward to the next hill, in order to see where the road will lead him. I would like to wish Ralph and his wife Gloria the very best as they walk down that new road together looking for new challenges.•

CONGRATULATIONS TO JAY DAVIDSON

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Jay Davidson on his reception of an America Honors Recovery Award given to him by the Johnson Institute, a nationally recognized organization dedicated to helping people overcome alcohol and substance addiction.

Mr. Davidson has dedicated his life to the cause of fighting addiction. He does this by serving as the president and CEO of The Healing Place, based in Louisville, KY. Under Mr. Davidson, this center has achieved a success rate of 65 percent, which is five times the national average. The efforts of The Healing Place have been so successful that this year Governor Ernie Fletcher has announced that it will serve as a model to 10 other shelter and recovery centers throughout Kentucky. In fact, this model has been effective enough that other branches of The Healing Place have been opened in Lexington, KY, Raleigh, NC, and Richmond, VA.

The citizens of Kentucky are fortunate to have the leadership of Jay Davidson. His example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth.

He has my most sincere appreciation for this work and I look forward to his continued service to Kentucky.•

TRIBUTE TO PATRICIA M. DIXON

• Mr. GRAHAM. Mr. President, today I wish to recognize the outstanding service and dedication in the field of economic development of Mrs. Patricia M. Dixon, this on the occasion of her retirement from the Economic Development Administration, United States Department of Commerce effective today, September 28, 2005.

Mrs. Dixon has served honorably at the Economic Development Administration for 33 years, most recently and prominently as the Economic Development Representative to the State of South Carolina. Her contributions to economic development in South Carolina are numerous and have greatly contributed to the economic progress of the most distressed areas of the State. Her work has been widely recognized most notably by the South Carolina Association of Regional Councils, which awarded her their highest honor, the Outstanding Staff Award in 1991.

Mrs. Dixon has demonstrated her work in disaster recovery and base closures, saving jobs, solving solid waste problems, expanding job opportunities and rebuilding tax bases. Her innovative approaches to economic development problems and issues have been replicated in other communities. She also served as the first Federal cochair of the South Carolina Rural Development Council under the President's Initiative for Rural Development. Mrs. Dixon continues to serve on the executive committees of both the North and South Carolina rural development councils. In addition, she was instrumental in the original establishment of revolving loan funds for economic development districts in South Carolina.

Mrs. Dixon has garnered the personal and professional respect and admiration of her friends and colleagues at the Economic Development Administration and elsewhere. She represents the finest of qualities in a public servant and has been an incomparable asset to the greater effort of improving quality of life for the people of South Carolina. In conclusion, the retirement of Mrs. Patricia M. Dixon will be a great loss to the EDA and the State of South Carolina, but I wish her great success and happiness in her future.•

HONORING IOWA COMMUNITY LEADERS

• Mr. HARKIN. Mr. President, every year the Iowa Council for International Understanding honors immigrants and refugees in Iowa who have, in the words of the council, "achieved, belonged and contributed to our community in a significant way."

The ICIU began in 1938 when a group of volunteers joined forces to aid immigrants fleeing the war in Europe. Since their founding, the ICIU has continued to provide cultural services to both the immigrant community and to native-born Iowans. The United States has always been a beacon of hope for many around the world seeking refuge from oppressive regimes, and it is my belief that each generation of immigrants has enriched our Nation both culturally and economically. My mother was an immigrant from Slovenia, and I am proud to be a first generation American.

I take this opportunity to join in honoring the recipients of this year's ICIU awards and to thank and congratulate them for all they have achieved and contributed to Iowa's communities.

Joe Gonzalez was born in Mexico and immigrated to Des Moines in 1957. In 1971, he joined the Des Moines Police Department. He was one of the first Hispanic officers in the department and has garnered numerous awards, on both the State and national level, over his 33-year tenure. Among other things, Officer Gonzalez has been particularly active in aiding crime victims and victims of sexual and domestic abuse. After the September 11 attacks, he worked at Ground Zero.

Sonia Parras Konrad immigrated to the United States 9 years ago from Granada, Spain. She was trained as a lawyer and is most recently a graduate of Drake University Law School. Today she practices law in Iowa. Ms. Konrad is being honored today for her passionate dedication to helping victims of domestic and sexual violence, particularly within Spanish speaking communities. Among the programs she has founded is LUNA, Latinas Unidas por un Nuevo Amanecer—Latinas United for a New Dawn—designed to prevent and deal with the effects of domestic and sexual violence. This program has aided countless Iowans and has been used as a model in other states.

Juliet Cunningham emigrated from Kirkuk, Iraq, to the United States in 1979 to pursue advanced educational opportunities. She is actively involved with many Iowa institutions, including the Iowa State University Engineering and Research Complex, Des Moines Science Center, Society of Women Engineers and the West Des Moines United Methodist Church. In 1994 Mrs. Cunningham cofounded TEAM Services Inc., a soil, environmental, and construction materials consulting firm with her husband. Of particular note is her role in helping get a TEAM Services laboratory in central Iowa accredited for the testing of construction materials, making it the first laboratory in Iowa with these capabilities.

Dr. Liansuo Xie was born in 1958 and grew up in China's Hebei Province. He worked as a mechanic in a paper manufacturing plant there before studying to receive a B.S. from the Beijing Agricultural Engineering University in 1982. Shortly thereafter, he married and came to the U.S. to study further at Iowa State University where he eventually earned a Ph.D. and was honored with a Research Excellence award. He is widely considered to be one of the best engineers at the Townsend Engineering Company in Des Moines, where he has worked since 1990, for his work on project design and design productivity. Finally, Dr. Liansuo is a longstanding contributor to his community, serving as a founding member of the Iowa Chinese Language School, the Sister States of Iowa, Hebei Committee, and acting as a tour guide for Chinese delegations to Iowa and the United States.

B.J. Do arrived in Iowa in 1975 at the age of 13. He arrived wearing only shorts and speaking very limited English, having fled Vietnam at the end of the Vietnam War. Despite his humble beginning, he went on to earn both B.S. and M.S. degrees in electrical and computer engineering from the University of Iowa. From there the sky was the limit, as Mr. Do went on to work on, design for, and manage projects for major international companies all over the United States. He has since returned to Iowa where he is the co-founder and CEO of ABC Virtual Communications, a software product and services company based in west Des Moines. He has received recognitions for his accomplishments from myriad institutions, including the University of Iowa and the State of Iowa, along with receiving the Ernst and

Young Entrepreneur of the Year Award in 1999.

We are proud of their achievements and are pleased they are members of our communities. I am sure that ICIU would agree that for every story told here today, countless others remain untold.●

TRIBUTE TO THE SOUTHEAST MISSOURIAN

● Mr. TALENT. Mr. President, I wish to pay tribute to a historically significant anniversary for one of Southeast Missouri's most widely recognized and respected institutions. For the past year, the Southeast Missourian, located in Cape Girardeau, MO, has been celebrating its grand centennial.

Its first issue rolled off the presses on October 3, 1904, with George and Fred Naeter at the helm. The brothers had purchased the small business with hopes of one day transforming it into the thriving company thousands of faithful readers are familiar with today. After a number changes, the Southeast Missourian was formally dedicated on September 11, 1925, at 301 Broadway.

Over the past several decades, the Southeast Missourian has provided timely reporting of the important changes in the region. Much of the area surrounding Cape Girardeau is rural. The Southeast Missourian has been a primary source of information to those readers. They depend on the Southeast Missourian for local, statewide, national and world news.

From the reports on flooding along the banks of the Mississippi River, to the birth announcements in the Sunday edition, the Southeast Missourian has a unique appeal that is difficult to match. They have set a precedent for excellence in print journalism with the underlying theme of community and public service. It's been a personal privilege over the years to be covered by the paper's news department and to discuss ideas with its editorial board.

The Southeast Missourian has been instrumental in collaborating with its host city of Cape Girardeau to strengthen the community through local enterprise. And year after year the newspaper continues to give back countless chartable donations and sponsorships to the community.

I express my sincerest gratitude to the entire staff, past and present, for their contribution and dedication in making the Southeast Missourian the publication it is today. I extend warm congratulations to the Rust family, which has continued to raise the bar year after year in achieving excellence for fair and objective journalism. Joe Sullivan, the editor of the paper, in particular deserves credit for his hard work and professionalism. I hope for the next 100 years, the Southeast Missourian will continue to make a difference for the good in Southeast Missouri.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:34 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2385. An act to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

H.R. 3784. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 1:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2062. An act to designate the facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, as the "Randall D. Shughart Post Office Building".

H.R. 3703. An act to designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building".

H.R. 3863. An act to provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.

H.J. Res. 66. Joint resolution supporting the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 209. Concurrent resolution supporting the goals and ideals of Domestic Violence Awareness Month and expressing the sense of Congress that Congress should raise awareness of domestic violence in the United States and its devastating effects on families.

The message further announced that the House agree to the amendment of the Senate to the bill H.R. 3200, an act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes."

The message also announced that the House disagree to the amendment of the Senate to the bill H.R. 2360 making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House: Mr. ROGERS of Kentucky, Mr. WAMP, Mr. LATHAM, Mrs. EMERSON, Mr. SWEENEY, Mr. KOLBE, Mr. ISTOOK, Mr. LAHOOD, Mr. CRENSHAW, Mr. CARTER, Mr. LEWIS of California, Mr. SABO, Mr. PRICE of North Carolina, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. BISHOP, Mr. BERRY, Mr. EDWARDS, and Mr. OBEY.

At 3:13 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3667. An act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station".

H.R. 3767. An act to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the "Jacob L. Frazier Post Office Building".

MEASURES REFERRED

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2062. An act to designate the facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, as the "Randall D. Shughart Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3703. An act to provide assistance to families affected by Hurricane Katrina, through the program of block grants to States for temporary assistance for needy families. A bill to provide the Secretary of

Education with waiver authority for students who are eligible for Federal student grant assistance who are adversely affected by a major disaster. A bill to designate the facility of the United States Postal Service located at 8501 Philatelic Drive in Spring Hill, Florida, as the "Staff Sergeant Michael Schafer Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3736. An act to protect volunteers assisting the victims of Hurricane Katrina; to the Committee on the Judiciary.

H.J. Res. 66. Joint resolution supporting the goals and ideals of "Lights On Afterschool!", a national celebration of afterschool programs; to the Committee on Health, Education, Labor, and Pensions.

MEASURES DISCHARGED

The following bill was discharged from the Committee on Energy and Natural Resources by unanimous consent, and referred as indicated:

S. 1219. A bill to authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc; to the Committee on Indian Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

S. 1783. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4013. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees' Retirement System; Death Benefits and Employee Refunds" (RIN3206–AK57) received on September 18, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4014. A communication from the Secretary of Agriculture, transmitting, a report of draft legislation to authorize the Secretary of Agriculture, at the request of a participating State to convey to the State, by quitclaim deed, without consideration, any land or interests in land acquired within the State under the Forest Legacy Program; to the Committee on Agriculture, Nutrition and Forestry.

EC–4015. A communication from the Secretary of Energy and the Secretary of Agriculture, transmitting, pursuant to law, a report entitled "Biomass Research and Development Initiative for Fiscal Year 2004"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4016. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Preferred Stock" (RIN3052–AC21) received on September 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4017. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Investment, Liquidity and Divestiture" (RIN3052–AC22) received on September 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4018. A communication from the Chief, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Collection of State Commodity Assessments" (RIN0560–AH35) received on September 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4019. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Amicarbazone; Pesticide Tolerance" (FRL No. 7736–3) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4020. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillus Thuringiensis Cry34Ab1 and Cry35Ab1 Proteins and the Genetic Material Necessary for Their Production in Corn; Exemption from the Requirement of a Tolerance" (FRL No. 7735–4) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4021. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Boscalid; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7737–9) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4022. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Inert Ingredients; Revocation of 34 Pesticide Tolerance Exemptions for 31 Chemicals" (FRL No. 7737–3) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4023. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Iprovalicarb; Pesticide Tolerance" (FRL No. 7736–2) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4024. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lindane; Tolerance Actions" (FRL No. 7734–3) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4025. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Reynoutria Sachalinensis Extract; Exemption from the Requirement of a Tolerance" (FRL No. 7730–3) received on September 18, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4026. A communication from the Acting Associate Administrator, Office of Congressional and Intergovernmental Relations, Environmental Protection Agency, transmitting, pursuant to law, the Agency's National Environmental Education Advisory Council Report on the Status of Environmental Education in the United States; to the Committee on Environment and Public Works.

EC–4027. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, a report entitled "Interim Guidance on Control of Volatile Organic Compounds (VOC) in Ozone State Implementation Plans" (FRL No. 7965–4) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4028. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Redesignation of Phoenix to Attainment for the Carbon Monoxide Standard" (FRL No. 7960–8) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4029. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by Reference" (FRL No. 7953–9) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4030. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "American Samoa State Implementation Plan, Update to Materials Incorporated by Reference" (FRL No. 7955–6) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4031. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Iowa" (FRL No. 7967–5) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4032. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District" (FRL No. 7966–5) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4033. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "New York SIP, Onondaga County Carbon Monoxide Maintenance Plan" (FRL No. 7959–

1) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4034. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the Definition of Volatile Organic Compounds—Removal of VOC Exemptions for California's Aerosol Coatings Reactivity-based Regulation" (FRL No. 7966–2) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4035. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Maryland Control of Emissions from Commercial and Industrial Solid Waste Incineration (CISWI) Units" (FRL No. 7966–7) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4036. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District" (FRL No. 7966–4) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4037. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Dredged Material Disposal Site Designation" (FRL No. 7967–7) received on September 7, 2005; to the Committee on Environment and Public Works.

EC–4038. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Announcement of the Delegation of Partial Administrative Authority for Implementation of Federal Implementation Plan for the Nez Perce Reservation to the Nez Perce Tribe" (FRL No. 7970–2) received on September 18, 2005; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, with an amendment in the nature of a substitute:

H.R. 2863. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. LEVIN):

S. 1779. A bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM (for himself, Mr. LIEBERMAN, Mr. FRIST, Mr. HATCH, Mr. LUGAR, Mr. SMITH, Mr. INOUYE, Mr. COLEMAN, and Mr. BUNNING):

S. 1780. A bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 1781. A bill to amend the Internal Revenue Code of 1986 to allow full expensing for the cost of qualified refinery property in the year in which the property is placed in service, and to classify petroleum refining property as 5-year property for purposes of depreciation; to the Committee on Finance.

By Mr. BROWNBACK:

S. 1782. A bill to amend the Internal Revenue Code of 1986 to clarify that qualified personal service corporations may continue to use the cash method of accounting, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. ENZI, Mr. KENNEDY, and Mr. BAUCUS):

S. 1783. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; placed on the calendar.

By Mrs. CLINTON (for herself and Mr. OBAMA):

S. 1784. A bill to amend the Public Health Service Act to promote a culture of safety within the health care system through the establishment of a National Medical Error Disclosure and Compensation Program; to the Committee on Health, Education, Labor and Pensions.

By Mr. CORNYN (for himself, Mr. LEAHY, Mr. HATCH, and Mr. KOHL):

S. 1785. A bill to amend chapter 13 of title 17, United States Code (relating to the vessel hull design protection), to clarify the distinction between a hull and a deck, to provide factors for the determination of the protectability of a revised design, to provide guidance for assessments of substantial similarity, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. COCHRAN, Mr. VITTER, Ms. LANDRIEU, Mr. CORNYN, and Mr. BURNS):

S. 1786. A bill to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita; considered and passed.

By Mr. VITTER (for himself, Mr. GRASSLEY, Mr. CORNYN, and Mr. DEWINE):

S. 1787. A bill to provide bankruptcy relief for victims of natural disasters, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 1788. A bill to amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by any vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease; to the Committee on the Judiciary.

By Mrs. MURRAY:

S.J. Res. 27. A joint resolution authorizing special awards to World War I and World War II veterans of the United States Navy Armed Guard; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Res. 254. A resolution marking the dedication of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself and Mr. COCHRAN):

S. Res. 255. A resolution recognizing the achievements of the United States Fish and Wildlife Service and the Waterfowl Population Survey; to the Committee on Environment and Public Works.

By Mr. SCHUMER (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, and Mr. KENNEDY):

S. Res. 256. A resolution honoring the life of Sandra Feldman; considered and agreed to.

By Mr. BURR (for himself and Mr. SALAZAR):

S. Res. 257. A resolution recognizing the spirit of Jacob Mock Doub and many young people who have contributed to encouraging youth to be physically active and fit, and expressing support for "National Take a Kid Mountain Biking Day"; considered and agreed to.

By Mr. FRIST (for himself, Mr. REID, and Mr. BENNETT):

S. Res. 258. A resolution to commend Timothy Scott Wineman; considered and agreed to.

By Mr. CRAIG (for himself and Mr. AKAKA):

S. Res. 259. A resolution commending the efforts of the Department of Veterans Affairs in responding to Hurricane Katrina; to the Committee on Veterans' Affairs.

By Mr. SCHUMER:

S. Con. Res. 54. A concurrent resolution expressing the sense of Congress regarding a commemorative postage stamp honoring Jasper Francis Cropsey, the famous Staten Island-born 19th Century Hudson River Painter; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 258

At the request of Mr. DEWINE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 258, a bill to amend the Public Health Service Act to enhance research, training, and health information dissemination with respect to urologic diseases, and for other purposes.

S. 347

At the request of Mr. NELSON of Florida, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 440

At the request of Mr. BUNNING, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 537

At the request of Mr. BINGAMAN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 627

At the request of Mr. HATCH, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 663

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 663, a bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes.

S. 713

At the request of Mr. ROBERTS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 755

At the request of Mr. BUNNING, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 755, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to women needing such services, and for other purposes.

S. 911

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 911, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 1007

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1007, a bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006.

S. 1046

At the request of Mr. KYL, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1046, a bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1197

At the request of Mr. BIDEN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1217

At the request of Mr. BINGAMAN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1217, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 1309

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1309, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 1358

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policymaking.

S. 1402

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1402, a bill to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp.

S. 1405

At the request of Mr. NELSON of Nebraska, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Hawaii (Mr. AKAKA) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1479

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1489

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1489, a bill to amend the Public Health Service Act with regard to research on asthma, and for other purposes.

S. 1573

At the request of Mrs. DOLE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1573, a bill to amend the Internal Revenue Code of 1986 to encourage the funding of collectively bargained retiree health benefits.

S. 1575

At the request of Mr. BINGAMAN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1575, a bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally prepared nurse faculty.

S. 1589

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Mr. LEVIN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1589, a bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations.

S. 1631

At the request of Mr. DORGAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1631, a bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes.

S. 1700

At the request of Mr. COBURN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1735

At the request of Ms. CANTWELL, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1735, a bill to improve the Federal Trade Commission's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. 1761

At the request of Mr. THUNE, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1761, a bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

S. CON. RES. 25

At the request of Mr. TALENT, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

S. RES. 236

At the request of Mr. COLEMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. LEVIN):

S. 1779. A bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to introduce the Downed Animal Protection Act, legislation intended to protect people from the unnecessary spread of disease. This bill would prohibit the use of nonambulatory animals for human consumption.

Nonambulatory animals, also known as downed animals, are livestock such as cattle, sheep, swine, goats, horses, mules, or other equines that are too sick to stand or walk unassisted. Many of these animals are dying from infectious diseases and present a significant pathway for the spread of disease.

The safety of our Nation's food supply is of the utmost importance. With the presence of bovine spongiform encephalopathy (BSE), also known as mad-cow disease, and other strains of transmissible spongiform encephalopathies (TSE), which are related animal diseases found not only in nearby countries but also in the United States, it is important that we take all measures necessary to ensure that our food is safe.

Currently, before slaughter, the United States Department of Agriculture's (USDA) Food Safety Inspection Service (FSIS) diverts downer livestock only if they exhibit clinical signs associated with BSE. Routinely, BSE is not correctly distinguished from many other diseases and conditions that show similar symptoms. The ante-mortem inspection that is currently used in the United States is very similar to the inspection process in Europe, which has proved to be inadequate for detecting BSE. Consequently, if BSE were present in a U.S. downed animal, it could currently be offered for slaughter. If the animal showed no clinical signs of the disease, the animal would then pass an ante-mortem inspection, making the diseased animal available for human consumption. The BSE agent could then cross-contaminate the normally safe muscle tissue during slaughter and processing. The disposal of downer livestock would ensure that the BSE agent would not be recycled to contaminate otherwise safe meat.

There are other TSE diseases already known to us such as scrapie that affects sheep and goats, chronic wasting disease in deer and elk, and classic Creutzfeldt-Jakob Disease in humans, all of which are present in the United States. Because our knowledge of such diseases are limited, the inclusion of horses, mules, swine, and other equine in this act are a necessary precaution. This precautionary measure is needed in order to ensure that the human population is not affected by diseased livestock. The Food and Drug Administration (FDA) has already created regulations that prevent imports of all live cattle and other ruminants and certain ruminant products from countries where BSE is known to exist. In 1997, the FDA placed a prohibition on the use of all mammalian protein, with a few exceptions, in animal feeds given to cattle and other ruminants. These regulations are a good start in protecting us from the possible spread of BSE, however, they do not go far enough. Because they still allow the processing of downer cattle.

According to a study performed by the Harvard School of the Public Health in conjunction with the USDA and surveillance data from European countries, downer cattle are among the highest risk population for BSE. According to the Harvard Study, the removal of nonambulatory cattle from the population intended for slaughter would reduce the probability of spreading BSE by 82 percent. The USDA and the FDA have acknowledged that downed animals serve as a potential pathway for the spread of BSE. While both have entertained the idea of prohibiting the rendering of downed cattle, they have taken no formal action. It is imperative that we, Congress, ensure that downer livestock does not enter our food chain, and the best way to accomplish this task is to codify the prohibition of downer livestock from entering our food supply.

The Downed Animal Protection Act fills a gap in the current USDA and FDA regulations. The bill calls for the humane euthanization of nonambulatory livestock, both for interstate and foreign commerce. The euthanization of nonambulatory livestock would remove this high risk population from the portion of livestock reserved for our consumption. Due to the presence of other TSE diseases found throughout other species of livestock, all animals that fit under the definition of livestock will be included in this bill.

The benefits of my bill are numerous, for both the public and the industry. On the face of it, the bill will prevent needless suffering by humanely euthanizing nonambulatory animals. The removal of downed animals from our products will insure that they are safer and of better quality. The reduction in the likelihood of the spread of diseases would result in safer working conditions for persons handling livestock. This added protection against disease would help the flow of livestock and livestock products in interstate and foreign commerce, making commerce in livestock more easily attainable.

Some individuals fear that this bill would place an excessive financial burden on the livestock industry. I want to remind my colleagues that one single downed cow in Canada diagnosed with BSE in 2003 shut down the world's third largest beef exporter. It is estimated that the Canadian beef industry lost more than $1 billion when more than 30 countries banned Canadian cattle and beef upon the discovery of BSE. As the Canadian cattle industry continues to recover from its economic loss, it is prudent for the United States to be proactive in preventing BSE and other animal diseases from entering our food chain.

Today, the USDA has increased its efforts to test approximately ten percent of downed cattle per year for BSE. However, it is my understanding that the USDA is looking to revisit this issue. I do not believe that now is the time to lower our defenses. We must protect our livestock industry and human health from diseases such as BSE. This bill reduces the threat of passing diseases from downed livestock to our food supply. It ensures downed animals will not be used for human consumption. It also requires higher standards for food safety and protects the human population from diseases and the livestock industry from economic distress.

American consumers should be able to rely on the Federal Government to ensure that meat and meat by-products are safe for human consumption. I urge my colleagues to support this important bill. I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Downed Animal Protection Act".

SEC. 2. FINDING AND DECLARATION OF POLICY.

(a) FINDING.—Congress finds that the humane euthanization of nonambulatory livestock in interstate and foreign commerce—

(1) prevents needless suffering;

(2) results in safer and better working conditions for persons handling livestock;

(3) brings about improvement of products and reduces the likelihood of the spread of diseases that have a great and deleterious impact on interstate and foreign commerce in livestock; and

(4) produces other benefits for producers, processors, and consumers that tend to expedite an orderly flow of livestock and livestock products in interstate foreign commerce.

(b) DECLARATION OF POLICY.—It is the policy of the United States that all nonambulatory livestock in interstate and foreign commerce shall be immediately and humanely euthanized when such livestock become nonambulatory.

SEC. 3. UNLAWFUL SLAUGHTER PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.

(a) IN GENERAL.—Public Law 85–765 (commonly known as the "Humane Methods of Slaughter Act of 1958") (7 U.S.C. 1901 et seq.) is amended by inserting after section 2 (7 U.S.C. 1902) the following:

"SEC. 3. NONAMBULATORY LIVESTOCK.

"(a) DEFINITIONS.—In this section:

"(1) COVERED ENTITY.—The term 'covered entity' means—

"(A) a stockyard;

"(B) a market agency;

"(C) a dealer;

"(D) a packer;

"(E) a slaughter facility; or

"(F) an establishment.

"(2) ESTABLISHMENT.—The term 'establishment' means an establishment that is covered by the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

"(3) HUMANELY EUTHANIZE.—The term 'humanely euthanize' means to immediately render an animal unconscious by mechanical, chemical, or other means, with this state remaining until the death of the animal.

"(4) NONAMBULATORY LIVESTOCK.—The term 'nonambulatory livestock' means any cattle, sheep, swine, goats, or horses, mules, or other equines, that will not stand and walk unassisted.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(b) HUMANE TREATMENT, HANDLING, AND DISPOSITION.—The Secretary shall promulgate regulations to provide for the humane treatment, handling, and disposition of all nonambulatory livestock by covered entities, including a requirement that nonambulatory livestock be humanely euthanized.

"(c) HUMANE EUTHANASIA.—

"(1) IN GENERAL.—Subject to paragraph (2), when an animal becomes nonambulatory, a covered entity shall immediately humanely euthanize the nonambulatory livestock.

"(2) DISEASE TESTING.—Paragraph (1) shall not limit the ability of the Secretary to test nonambulatory livestock for a disease, such as Bovine Spongiform Encephalopathy.

"(d) MOVEMENT.—

"(1) IN GENERAL.—A covered entity shall not move nonambulatory livestock while the nonambulatory livestock are conscious.

"(2) UNCONSCIOUSNESS.—In the case of any nonambulatory livestock that are moved, the covered entity shall ensure that the nonambulatory livestock remain unconscious until death.

"(e) INSPECTIONS.—

"(1) IN GENERAL.—It shall be unlawful for an inspector at an establishment to pass through inspection any nonambulatory livestock or carcass (including parts of a carcass) of nonambulatory livestock.

"(2) LABELING.—An inspector or other employee of an establishment shall label, mark, stamp, or tag as 'inspected and condemned' any material described in paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) takes effect on the date that is 1 year after the date of enactment of this Act.

(2) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate final regulations to implement the amendment made by subsection (a).

Mr. SANTORUM (for himself, Mr. LIEBERMAN, Mr. FRIST, Mr. HATCH, Mr. LUGAR, Mr. SMITH, Mr. INOUYE, Mr. COLEMAN, and Mr. BUNNING):

S. 1780. A bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I rise to introduce the CARE Act of 2005 along with Senator LIEBERMAN, a bill we have been trying to push through Congress since 2000. However, at no point in the past five years has the passage of this bill been so timely.

At a time where America appears divided on a War on Terror, Supreme Court nominations, and the relief effort in the gulf region, Americans are unified in their support of charitable organizations. In a recent Zogby poll, 86 percent of those polled rated private charities' response to Hurricane Katrina as excellent or good. By contrast, 32 percent described the government's response as excellent or good, and 67 percent said fair or poor.

The work of charitable organizations and their volunteers have been inspirational at a time when many feel hopeless. I recently held a hearing in the Finance Subcommittee of Social Security and Family Policy to hear from charitable organizations about their efforts around the gulf coast. Though the hearing was scheduled before the events of Hurricane Katrina, the amazing work being done by these organizations highlighted the need for charitable incentives to continue and expand the generosity we are seeing.

In response to Hurricane Katrina, we have seen organizations such as America's Second Harvest and the Florida Boulevard Baptist Church feed the hungry. We have seen that within 48 hours of Katrina, the Nation's fraternal benefit societies were feeding, housing, and providing supplies, clothes, toiletries, cash and beds to those in need in shelters both in Houston and in New Orleans. During the first week of this effort, fraternals had already expended upwards of $14 million on hurricane relief, a sum which is expected to increase as these efforts broaden. We see community foundations, such as the Baton Rouge Area Foundation, literally saving people's lives by helping Louisiana State University open a field hospital for 1,000 people in an old Kmart. And we see national organizations such as the YMCA of the USA providing program services such as emergency child care, recreation, and grief counseling. The YMCA has provided showers and other physical comforts and opened up their facilities as staging areas for relief, recovery and clean-up efforts. And the list goes on and on and on—not even considering the response of these same organizations and many others to Hurricane Rita.

The CARE Act is a bipartisan bill that received strong bipartisan support as it passed the Senate in the 108th Congress by a vote of 95–5. The House of Representatives passed companion legislation, the Charitable Giving Act, by a vote of 408–13. Sadly, this bill was blocked this bill from going to conference despite overwhelming support from both Houses and the general public.

The CARE Act of 2005 provides commonsense provisions to induce charitable giving. Among these include the above-the-line deduction for non-itemizers. More than two-thirds of Americans do not itemize on their tax returns, yet this group is estimated to contribute $36 billion to charities. Research indicates that lower and moderate-income individuals are more likely not to itemize on their tax returns, and that they give a greater percentage of their incomes to charity than higher income individuals. It is only fair that they benefit for their generosity. As Major Hood from the Salvation Army so eloquently wrote in his testimony at my hearing, "[t]he provision allowing non-itemizers to deduct charitable contributions can only encourage those Americans with smaller incomes—including young professionals who might otherwise be inclined to begin a lifetime of annual giving—to contribute to worthy causes. We do not discriminate among those in need, and we ask Congress not to discriminate in providing tax incentives for charitable giving."

Additionally, the CARE Act calls for tax-free IRA charitable distributions for individuals aged 70½ and over. My home State of Pennsylvania has the second highest percentage of seniors in the country. Many of these older Americans want to experience the joy of making a difference by giving, and this provision provides them that opportunity. Certainly, these individuals should not be penalized for contributing portions of their life's savings to a worthy cause.

Organizations have been generous during this crisis by donating food to those who need it. The CARE Act provides expanded incentives that will yield an estimated $2 billion worth of food donations from farmers, restaurants, and corporations to help those in need. America's Second Harvest estimates that this is the equivalent of 878 million meals for hungry Americans over 10 years. Last year, the North American Mission Board of the Southern Baptist Convention helped provide 3 million meals to hungry people. At the time of my hearing they were feeding hurricane victims 250,000 meals each day. By allowing businesses to recoup production costs this provision will incentivize food donations and help our action fight hunger. For the first time, farmers, ranchers, small business and restaurant owners will benefit from the same tax incentives afforded major corporate donors for the donation of food to the needy.

The CARE Act also provides asset building initiatives for low-income individuals. Low-income Americans face a huge hurdle when trying to save. Individual Development Accounts, IDAs, provide them with a way to work toward building assets while instilling the practice of saving into their everyday lives. IDAs are one of the most promising tools that enable low-income and low-wealth American families to save, build assets, and enter the financial mainstream. Based on the idea that all Americans should have access, through the tax code or through direct expenditures, to the structures that subsidize homeownership and retirement savings of wealthier families, IDAs encourage savings efforts among the poor by offering them a one-to-one match for their own deposits. IDAs reward the monthly savings of working-poor families who are trying to buy their first home, pay for post-secondary education, or start a small business. These matched savings accounts are similar to 401(k) plans and other matched savings accounts, but can serve a broad range of purposes.

We have also seen the philanthropy of corporations such as Home Depot and Coca-Cola Company. The Home Depot Foundation has donated nearly $4 million to assist in the relief efforts. Coca-Cola Company donated $5 million and water and other beverages to the Federal Emergency Management Agency for its relief efforts. This is an appropriate time to gradually raise the caps on corporate contributions from 10 to 20 percent to encourage corporations to continue their social responsibility. We must also level the playing field for all corporate donations by expanding charitable incentives for S corporations to increase charitable giving.

In my home State of Pennsylvania, I have worked closely with the Pennsylvania Association of Nonprofit Organizations. I have heard from many of the nonprofits in my State about the pressing need for the charitable incentives we have in the CARE Act.

The time is now to expand charitable giving, both in my home State and throughout the Nation. One certainty we have seen is in every disaster that occurs in the United States and around the world is the desire of fellow Americans to help those that are in need. We should commend that generosity by passing this legislation.

By Mr. HATCH:

S. 1781. A bill to amend the Internal Revenue Code of 1986 to allow full expensing for the cost of qualified refinery property in the year in which the property is placed in service, and to classify petroleum refining property as 5-year property for purposes of depreciation; to the Committee on Finance.

Mr. HATCH. Mr. President, just this past May, I stood at a gas station in Salt Lake City and announced the introduction of S. 1039, the Gas Price Reduction Through Increased Refining Capacity Act of 2005.

By standing near a gas pump charging $2.25 per gallon, I thought I was making a strong statement about the high price of gas and the need for greater refining capacity in our country.

That was only a few months ago, but hurricanes Katrina and Rita have since exposed the vulnerability of our Nation's refining infrastructure, and the gas prices in May now seem like the good old days.

I am pleased that the energy bill signed by President Bush this summer included the principal concept of S. 1039—that of providing a strong tax incentive to expand refinery capacity by allowing the cost to be written off immediately. Unfortunately, because of budget restrictions, my legislation had to be cut.

I have long been concerned that our shrinking number of refineries and their proximity to our Nation's coasts pose an unacceptable risk to our economic and strategic security. I thought cutting S. 1039 was a mistake at the time, and now I am hoping Congress will remedy that mistake.

Today, I rise to reintroduce those portions of my refining capacity legislation that were left out of the energy bill and call upon my colleagues to help me finish what was begun with my original bill.

My new legislation, the Refinery Investment Tax Assistance Act, would enhance the incentives made in the energy bill by increasing the short-term incentive to add new and expanded refining facilities and by removing the obstacle of long tax depreciation schedules that refineries face.

For those refiners able to commit to installing new refining equipment before 2008 and to have that added capacity built by 2012, my original bill would have allowed a complete write-off for investments in new refining equipment in the first year. As passed by Congress, though, this provision was cut for budgetary reasons to allow for expensing of only 50 percent of the costs in the first year. The legislation I am introducing today would enhance that to allow for the full 100 percent expensing in the first year. Now, more than ever, we need to use every possible means to increase the security of our fuel supply.

This bill would also restore another very important provision of S. 1039 that was dropped out of the energy bill as a cost savings. This provision would help to remove some of the disparity the refining industry faces in our current tax system. Most manufacturers in our country are able to depreciate the cost of their new equipment over five years. Refineries, on the other hand, are strapped with a full 10-year depreciation period. This unfair treatment of our refining industry acts as a long-term obstacle to new investment in increased capacity. The current 10-year depreciation schedule for refiners is unwarranted, and it is past time that we level the playing field on depreciation for this critically important sector of our energy industry.

On September 6, in the aftermath of Katrina, Mr. Bob Slaughter of the National Petrochemical & Refiners Association testified before the Senate Energy and Natural Resources Committee. He said that an important solution to our energy crisis would be to "[e]xpand the refining tax incentive provision in the Energy Act. Reduce the depreciation period for refining investments from 10 to seven or five years in order to remove a current disincentive for refining investment. Allow expensing under the current language to take place as the investment is made rather than when the equipment is actually placed in service. Or the percentage expensed could be increased as per the original legislation introduced by Senator HATCH."

I think it is important to recognize that, over time, this legislation will not cost the U.S. Treasury one dime. It would allow refineries to change the timing of the depreciation of their equipment, but not the amount. And, we should keep in mind that when this bill leads to more refineries and increased capacity, we will have also increased the tax base.

I want to throw my full support behind the proposals recently announced by House Energy and Commerce Chairman BARTON and House Resource Committee Chairman POMBO, which would take other approaches to increase the number of refineries in our Nation. From both a national security and an energy security perspective, I especially endorse a proposal by Chairman POMBO to locate more refineries on public lands near oil resource deposits. Such a move will make our Nation more secure from attacks from terrorists and from Mother Nature. I understand that Senate Energy and Natural Resource Committee Chairman Pete Domenici is promoting similar proposals on the Senate side. And I applaud these men for their leadership.

We have learned that when it comes to our Nation's energy security, refining is where we are the most vulnerable. It is not the time for half measures, but bold immediate action to establish a secure and independent refining program in this country. I hope my colleagues will join me in my efforts to achieve this goal. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Refinery Investment Tax Assistance Act of 2005".

SEC. 2. FULL EXPENSING FOR QUALIFIED REFINERY PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 179C of the Internal Revenue Code of 1986, as added by section 1323 of the Energy Policy Act of 2005, is amended by striking "50 percent of".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 1323 of the Energy Policy Act of 2005.

SEC. 3. PETROLEUM REFINING PROPERTY TREATED AS 5-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 5-year property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and inserting ", and", and by adding at the end the following new clause:

"(vii) any petroleum refining property.".

(b) PETROLEUM REFINING PROPERTY.—Section 168(i) of such Code is amended by adding at the end the following new paragraph:

"(18) PETROLEUM REFINING PROPERTY.—

"(A) IN GENERAL.—The term 'petroleum refining property' means any asset for petroleum refining, including assets used for the distillation, fractionation, and catalytic cracking of crude petroleum into gasoline and its other components.

"(B) ASSET MUST MEET ENVIRONMENTAL LAWS.—Such term shall not include any property which does not meet all applicable environmental laws in effect on the date such property was placed in service. For purposes of the preceding sentence, a waiver under the Clean Air Act shall not be taken into account in determining whether the applicable environmental laws have been met.

"(C) SPECIAL RULE FOR MERGERS AND ACQUISITIONS.—Such term shall not include any property with respect to which a deduction was taken under subsection (e)(3)(B) by any other taxpayer in any preceding year.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer has entered into a binding contract for the construction thereof on or before the date of the enactment of this Act.

By Mrs. CLINTON (for herself and Mr. OBAMA):

S. 1784. A bill to amend the Public Health Service Act to promote a culture of safety within the health care system through the establishment of a National Medical Error Disclosure and Compensation Program; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I am pleased today to introduce legislation that will improve patient safety while helping to provide some relief to health care providers dealing with escalating medical liability costs.

We are dealing with a medical malpractice problem in this country that is jeopardizing patient safety and hurting our health care system. As I visit with doctors and hospitals in New York and around the Nation, I hear about the pressures and problems of escalating medical malpractice insurance premiums.

These high premiums are forcing many physicians to alter their practice of medicine and leaving some patients without access to necessary medical care. In my State of New York, an unacceptable 40 percent of our counties have less than 5 practicing obstetricians.

At the same time, we have all heard the terrifying statistic from the landmark 1999 IOM report stating that as many as 98,000 deaths every year are the result of medical errors. But, far fewer people know that the IOM suggests that 90 percent of medical errors are the result of failed systems and procedures, not the negligence of physicians.

We must do better. If properly designed, these systems and procedures could go a long way towards seriously reducing medical errors.

But, understanding the root causes of errors requires their disclosure and analysis. And that's the fundamental tension between the medical liability system and our common goal of providing high quality care and improving patient safety in the health care system.

Studies have consistently shown that health care providers are reticent to engage in patient safety activities and be open about errors because they believe they are being asked to do so without appropriate assurances of legal protection.

That's where this legislation comes in. We build on the patient safety bill that was signed into law earlier this summer by creating a voluntary program to encourage disclosure of errors, an opportunity to enter negotiations and early settlement, while, at the same time, protecting patients' rights and providing liability protection for health care providers who participate in the program.

Our bill is designed to bridge the gap between the medical liability and patient safety systems for the benefit of patients and providers.

The truly unfortunate result of the current congressional stalemate over caps is that patients and physicians are left waiting for someone to break the logjam and work to find bipartisan solutions that have an opportunity to mitigate this problem. I believe it's critical that we find a way around this stalemate and that Congress work in good faith to find solutions that can garner enough support to find their way to the President's desk.

I believe that this is an exciting and innovative program that will improve patient-physician communication, reduce the rates of preventable patient injury, reduce the liability insurance premiums that physicians are facing, and insure that patients have access to fair compensation for medical injury: Four fundamental goals that I believe are necessary components of any solution we consider.

There are a number of successful programs across the country that are consistent with the provisions of our legislation, including one at the University of Michigan, and even one initiated by a medical malpractice insurance provider in Colorado. I am excited about the results these programs are producing—fewer numbers of suits being filed, more patients being compensated for injuries, greater patient trust and satisfaction, and significantly reduced administrative and legal defense costs for providers, insurers, and hospitals where these programs are in place.

I am hopeful that our legislation will provide an opportunity for more hospitals and physicians to use this program and see for themselves the benefits they—and their patients—will reap.

Mr. OBAMA. Mr. President, it is my pleasure to join Senator CLINTON to introduce legislation that will help us all find common ground on the debate over patient safety and medical malpractice claims.

Today, medical error is the eighth leading cause of death in the United States. Every year, these tragic mistakes cost the lives of up to 98,000 Americans. This is unacceptable in America, and we must do more to ensure that every patient gets the right care, at the right time, in the right way.

The debate in Washington over this issue has been centered on caps and lawsuits. But across America, hospitals and medical providers are proving that there's a better way to protect patients and doctors, all while raising the quality of our care and lowering its cost.

From the Children's Hospitals and Clinics of Minnesota to the VA hospital in Lexington, Kentucky, doctors and administrators aren't trying to cover up medical errors—They're trying to admit them. Instead of closing ranks and keeping the patient in the dark, they're investigating potential errors, apologizing if mistakes have been made, and offering a reasonable settlement that keeps the case out of court.

This program is often known as "Sorry Works," and it's led to some amazing results. When patients are treated with respect and told the truth, they sue less. More are actually compensated for their injuries, but medical providers pay less because the reward is the result of a settlement, not an expensive lawsuit. Malpractice costs for doctors go down, and health care professionals actually learn from their mistakes so they're not repeated and lives are saved.

At the VA hospital in Lexington, Kentucky, this program has reduced the average settlement to $16,000, compared with $98,000 nationwide. This ranked in the lowest quartile of all VA facilities for malpractice payouts. At the University of Michigan's hospital system, this program helped them cut their lawsuits in half and save up to $2 million in defense litigation.

The bill we're introducing today builds on these hopeful results and incorporates them into a national program. The National Medical Error Disclosure and Compensation Act, or MEDiC Act, will help reduce medical error rates and medical malpractice costs by opening the lines of communication between doctors and patients—encouraging honesty and accountability in the process.

The bill will also set up a National Patient Safety Database, which will be used to determine best practices in preventing medical errors, improving patient safety, and increasing accountability in the healthcare system.

We expect participants to see a cost savings, and we will require them to reinvest a portion of these savings into patient quality measures that will reduce medical errors. This bill also requires that some of these savings are passed along to providers in the form of lower malpractice insurance premiums.

Certainly, these are lofty goals. But what Senator CLINTON and I hope to do with this legislation is promote the type of creative thinking that will be required if this country is going to overcome some of the gridlock in the healthcare debate. The MEDiC Act of 2005 brings together some of the best ideas currently out there, and I hope my colleagues in the Senate will work with Senator CLINTON and me to put these ideas in action.

By Mr. CORNYN (for himself, Mr. LEAHY, Mr. HATCH, and Mr. KOHL):

S. 1785. A bill to amend chapter 13 of title 17, United States Code (relating to the vessel hull design protection), to clarify the distinction between a hull and a deck, to provide factors for the determination of the protectability of a revised design, to provide guidance for assessments of substantial similarity, and for other purposes; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, I rise today along with the Senior Senator from Vermont in introducing the Vessel Hull Design Protection Act Amendments of 2005. This is the third recent piece of legislation on which I have teamed with Senator LEAHY—first working together on important reforms to the Freedom of Information Act and then joining to introduce significant counterfeiting prevention legislation. I am glad to continue our work by introducing this legislation which, though seemingly technical and minor, offers very important clarifications about the scope of protections available to boat designs.

Boat designs, like any technical designs, are complex and are the result of a great deal of hard work and contribution of intellectual property. Accordingly, Congress enacted the Vessel Hull Design Protection Act in 1998 to provide necessary protections that were not present among copyright statutes prior to that time. The Act has been instrumental for the continued development and protection of boat designs but unfortunately recently has encountered a few hurdles.

A recent court decision raised questions about the scope of protections available to various boat designs. Justifiably or not, this interpretation under the VHDPA unfortunately has led many in the boat manufacturing industry to conclude that the Act's provisions are not effective at protecting vessel designs. Intellectual property protection of those designs is critical to these manufacturers in order to encourage innovative design and clarification is needed.

The legislation we offer will clarify that the protections accorded to a vessel design can be used to separately protect a vessel's hull and/or deck as well as a plug or mold of either the hull or deck. The proposed amendments would make clear that it remains possible for boat designers to seek protection for both the hull and the deck, and plug or mold of both, of a single vessel, and many designers no doubt will continue to do so. However, these amendments are intended to clarify that protection under the VHDPA for these vessel elements may be analyzed separately.

This bipartisan legislation provides the necessary assurance to boat manufacturers that the Vessel Hull Design Protection Act will remain a vital intellectual property protection statute. The bill offers very important clarifications about the scope of protections available to boat designs and will be welcome news to boat makers across the Nation and in Texas. The thousands of miles of coastline in Texas, and all the lakes and rivers in between, provide significant opportunities for recreational and commercial boating throughout the State. This legislation will ensure that there will be continued innovation in the design and manufacture of boats for many years to come.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vessel Hull Design Protection Amendments of 2005".

SEC. 2. DESIGNS PROTECTED.

Section 1301(a) of title 17, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) VESSEL FEATURES.—The design of a vessel hull or deck, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).".

SEC. 3. DEFINITIONS.

Section 1301(b) of title 17, United States Code, is amended—

(1) in paragraph (2), by striking "vessel hull, including a plug or mold," and inserting "vessel hull or deck, including a plug or mold,";

(2) by striking paragraph (4) and inserting the following:

"(4) A 'hull' is the exterior frame or body of a vessel, exclusive of the deck, superstructure, masts, sails, yards, rigging, hardware, fixtures, and other attachments."; and

(3) by adding at the end the following:

"(7) A 'deck' is the horizontal surface of a vessel that covers the hull, including exterior cabin and cockpit surfaces, and exclusive of masts, sails, yards, rigging, hardware, fixtures, and other attachments.".

Mr. LEAHY. Mr. President, Senator CORNYN and I have already worked together on significant Freedom of Information Act legislation and on counterfeiting legislation during the first session of this Congress. Today, we are introducing another bill and taking our partnership to the high seas, or at least to our Nation's boat manufacturing industry, with the Vessel Hull Design Protection Act Amendments of 2005.

Designs of boat vessel hulls are often the result of a great deal of time, effort, and financial investment. They are afforded intellectual property protection under the Vessel Hull Design Protection Act that Congress passed in 1998. This law exists for the same reason that other works enjoy intellectual property rights: to encourage continued innovation, to protect the works that emerge from the creative process, and to reward the creators. Recent courtroom experience has made it clear that the protections Congress passed seven years ago need some statutory refinement to ensure they meet the purposes we envisioned. The Vessel Hull Design Protection Act Amendments shore up the law, making an important clarification about the scope of the protections available to boat designs.

We continue to be fascinated with, and in so many ways dependent on, bodies of water, both for recreation and commerce. More than fifty percent of Americans live on or near the coastline in this country. We seem always to be drawn to the water, whether it is the beautiful Lake Champlain in my home State of Vermont or the world's large oceans. And as anyone who has visited our seaports can attest, much of our commerce involves sea travel. I would like to thank Senators KOHL and HATCH for cosponsoring this legislation. Protecting boat designs and encouraging innovation in those designs are worthy aims, and I hope we can move quickly to pass this bipartisan legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 254—MARKING THE DEDICATION OF THE GAYLORD NELSON WILDERNESS WITHIN THE APOSTLE ISLANDS NATIONAL LAKESHORE

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 254

Whereas the Honorable Gaylord Nelson, a State Senator, Governor, and United States Senator from Wisconsin, devoted his life to protecting the environment by championing issues of land protection, wildlife habitat, environmental health, and increased environmental awareness, including founding Earth Day;

Whereas the Honorable Gaylord Nelson authored the Apostle Islands National Lakeshore Act, which led to the protection of one of the most beautiful areas in Wisconsin and recognized the rich assemblage of natural resources, cultural heritage, and scenic features on Wisconsin's north coast and 21 islands of the 22-island archipelago;

Whereas the Apostle Islands National Lakeshore was designated a National Park on September 26, 1970;

Whereas, on December 8, 2004, approximately 80 percent of the Apostle Islands National Lakeshore was designated the Gaylord Nelson Wilderness;

Whereas the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore provides a refuge for many species of birds, including threatened bald eagles and endangered piping plovers, herring-billed gulls, double-crested cormorants, and great blue herons, and is a safe haven for a variety of amphibians, such as blue-spotted salamanders, red-backed salamanders, gray treefrogs, and mink frogs, and is a sanctuary for several mammals, including river otters, black bears, snowshoe hares, and fishers;

Whereas the official dedication of the Gaylord Nelson Wilderness occurred on August 8, 2005, 36 days after the Honorable Gaylord Nelson's passing; and

Whereas the Honorable Gaylord Nelson changed the consciousness of our Nation and embodied the principle that 1 person can change the world, and the creation of the Gaylord Nelson Wilderness is a small, but fitting, recognition of his efforts: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the Honorable Gaylord Nelson's environmental legacy;

(2) celebrates the dedication of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore; and

(3) requests that the Secretary of the Senate transmit an enrolled copy of this resolution to the family of the Senator.

Mr. FEINGOLD. Mr. President, December 8, 2004, approximately 80 percent of the Apostle Islands National Lakeshore in Wisconsin was designated the Gaylord Nelson Wilderness. Although we did not formally celebrate the new wilderness area until August 8, 2005, we have been delighting in the designation ever since December of last year.

The designation of the Gaylord Nelson Wilderness within the Apostle Islands National Lakeshore on August 8, 2005 was a tremendous occasion for both Wisconsin and the country. I was deeply honored to participate in the ceremony marking the creation of the Gaylord Nelson Wilderness. I knew Gaylord, and am proud to occupy his Senate seat. Like all of those in attendance at the dedication ceremony, including Tia Nelson, Governor Doyle, Congressman OBEY, local officials, tribal chairs, and many others, I was deeply saddened that Gaylord wasn't able to be sitting among us, having passed away on July 3, 2005.

However, I do believe that, because the area, the magnificent Apostles, and the wilderness designation we were celebrating were such a part of Gaylord, he was in fact there with us that day, urging us to mark the achievement and to continue his life's work of building a national conservation ethic. As we all know, while his record of achievements is long and impressive, it is Senator Nelson's passion and commitment to protecting our environment that will remain the centerpiece of his legacy. For this reason, Senator KOHL and I have submitted a resolution to bring recognition to Gaylord's unwavering efforts on behalf of the environment and to celebrate the dedication of a wilderness area rightly named in his honor.

Gaylord so believed in his responsibility to the environment that he started a revolution that has inspired millions of people from across the globe. The day he created in 1970—Earth Day—has become a cause for celebration, education, and reflection for all. Simply stated, Gaylord Nelson changed the consciousness of a Nation, and quite possibly the world. He was a distinguished Governor and Senator, a recipient of the Presidential Medal of Freedom, and a personal hero of mine. Most importantly, he was the embodiment of the principle that one person can change the world.

August 8, 2005 marked the beginning of a new period for the Apostle Islands and I could not be more proud of this. In 1998, Representative OBEY and I asked for a wilderness survey. Seven years later, we finally gathered to salute the awe-inspiring resource as well as the man who dedicated himself to protecting our environment, particularly those places where we humans are but humble visitors—wilderness areas. Let us not forget, however, that before we could talk about having a wilderness area within the Apostle Islands National Lakeshore, we had to have a National Lakeshore. I am sure it will come as no surprise that Gaylord was essential in the effort to recognize the Apostle Islands as a national treasure.

The wild and primitive nature of the Apostles and now the Gaylord Nelson Wilderness has always been an attraction, not only for Wisconsin residents but for people from across the globe. At the Apostles you can find pristine old growth forests; wetlands that are home to an astounding ecological diversity; birds that travel long distances and use the islands for respite; and amphibians, which can act as indicators of the Park's environmental health.

It is a truly amazing place.

And people know it. In fact, just recently, the Apostles was rated the #1 National Park in the U.S. by National Geographic Traveler. The rating was based on a variety of factors, most notably environmental and ecological quality, social and cultural integrity, and the outlook for the future.

We have it all in the Park—ecological and cultural resources intertwined with one another. The history of the islands is a history of people living off, and very much in balance with, the land and water surrounding them. A visit to the Apostles and the Gaylord Nelson Wilderness can be, if we let go of the trappings of modern society, an enlightening voyage that challenges us to think about those who came before us, those who will follow us, and the connections between us and the natural resources we depend on for our survival.

The Ojibwae, who Wisconsinites know were the original inhabitants of the Apostles, had great respect for the resources. They believed in taking something only if they were giving something in return. The Ojibwae people understood their dependence on the environment long before many others began contemplating such a relationship. Unfortunately, as a society, we have not always heeded their example. We must be better stewards of our land, our air, and our water. Gaylord pushed us toward that goal every day of his life. And, what better way to mark the dedication of the Wilderness Area named in his honor than for each of us to dedicate ourselves to actively carrying his legacy forward. That is Gaylord's challenge for all of us.

So many people supported the creation of the Lakeshore and the Wilderness area. The support has taken many forms—all of which have added to the success of our Park and the wilderness designation. I am especially grateful for the families who have donated their properties, many of which are filled with childhood and other cherished family memories, for the betterment of the whole Apostle Islands and now the Gaylord Nelson Wilderness. Future generations whom none of us will ever know will benefit deeply from their commitment to one of Wisconsin's most treasured places.

Every time I visit the Apostles and pieces of what are now the Gaylord Nelson Wilderness, I depart with a sense of inner peace and clarity. A New York Times journalist wrote about the Apostle Islands National Lakeshore in 1972, saying he encountered a "silence so intense you can hear it." I believe that what all those who visit the Gaylord Nelson Wilderness are bound to hear through that "intense silence" is Gaylord himself calling them to action.

SENATE RESOLUTION 255—RECOGNIZING THE ACHIEVEMENTS OF THE UNITED STATES FISH AND WILDLIFE SERVICE AND THE WATERFOWL POPULATION SURVEY

Mrs. LINCOLN (for herself and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 255

Whereas every spring and summer teams of United States Fish and Wildlife Service pilot-biologists take to the skies to survey North America's waterfowl breeding grounds flying more than 80,000 miles a year, crisscrossing the country just above the treetops and open fields, they and observers on the ground record the number of ducks, geese, and swans and assess the quality and quantity of water-fowl breeding habitats.

Whereas the pilot biologists operate from the wide open bays and wetlands of the eastern shores of North America to some of the most remote regions of Canada and Alaska, and are documenting an important part of our wildlife heritage;

Whereas the Waterfowl Population Survey, operated by the United States Fish and Wildlife Service, is celebrating its 50th anniversary in 2005, is featured on the 2005-2006 Duck Stamp, and has been recognized by the Congressional Sportsmen's Foundation for its contribution to waterfowl hunting;

Whereas the Waterfowl Population Survey Program has evolved into the largest and most reliable wildlife survey effort in the world;

Whereas for more than 50 years cooperative waterfowl surveys have been performed by the United States Fish and Wildlife Service, the Canadian Wildlife Service, State and provincial biologists, and nongovernmental partners; and

Whereas survey results determine the status of North America's waterfowl populations, play an important role in setting annual waterfowl hunting regulations, and help guide the decisions of waterfowl managers throughout North America: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and contributions of the Waterfowl Population Survey Program;

(2) expresses strong support for the continued success of the Waterfowl Population Survey Program;

(3) encourages the United States Fish and Wildlife Service in its efforts to broaden understanding and public participation in the Waterfowl Population Survey Program by increasing partnerships to continue growth and development of the Survey; and

(4) reaffirms its commitment to the Waterfowl Population Survey Program and the conservation of the rich natural heritage of the United States.

SENATE RESOLUTION 256—HONORING THE LIFE OF SANDRA FELDMAN

Mr. SCHUMER (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, and Mr. KENNEDY) submitted the following resolution; which was considered and agreed to:

S. RES. 256

Whereas Sandra Feldman was born Sandra Abramowitz in October, 1939, to blue-collar parents living in a tenement in Coney Island, New York;

Whereas Sandra Feldman, while at James Madison High School, Brooklyn College, and New York University, began a life-long dedication to education both in the United States and abroad;

Whereas Sandra Feldman began her career by teaching fourth grade at Public School 34 on the Lower East Side of New York City;

Whereas during her service as union leader at Public School 34, Sandra Feldman became employed by the United Federation of Teachers in New York City, and was elected president in 1986, after 20 years of service;

Whereas Sandra Feldman's tenure as president of the United Federation of Teachers was distinguished by her devotion to better working conditions for the teachers she represented;

Whereas in 1997, the American Federation of Teachers elected Sandra Feldman to serve as their president, until she retired 7 years later;

Whereas Sandra Feldman effectively represented the educators, healthcare professionals, public employees, and retirees who made up the membership of the American Federation of Teachers;

Whereas Sandra Feldman was a tireless advocate for public education, working with President George W. Bush on the No Child Left Behind Act of 2001 to improve accountability standards and provide increased resources to schools to help increasing professional development to better equip teachers to instruct students, and using research-driven methods to redesign school programs;

Whereas Sandra Feldman was equally devoted to fighting against discrimination, raising the nursing shortage into national public awareness, advocating for smaller class sizes and patient-to-nurse ratios promoting increased benefits and compensation for workers, and spreading her message beyond her own membership by advocating for workers overseas as well;

Whereas Sandra Feldman lent her expertise to both the national and international labor movements in her capacities as a member of the AFL-CIO executive council and a vice president of Education International; and

Whereas Sandra Feldman succumbed on September 18, 2005, to a difficult struggle against breast cancer at the age of 65: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Sandra Feldman, a vibrant and dedicated public servant;

(2) recognizes the contributions of Sandra Feldman to public education;

(3) expresses its deepest condolences to those who knew and loved Sandra Feldman; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Sandra Feldman.

SENATE RESOLUTION 257—RECOGNIZING THE SPIRIT OF JACOB MOCK DOUB AND MANY YOUNG PEOPLE WHO HAVE CONTRIBUTED TO ENCOURAGING YOUTH TO BE PHYSICALLY ACTIVE AND FIT, AND EXPRESSING SUPPORT FOR "NATIONAL TAKE A KID MOUNTAIN BIKING DAY"

Mr. BURR (for himself and Mr. SALAZAR) submitted the following resolution; which was considered and agreed to:

S. RES. 257

Whereas according to the Centers for Disease Control and Prevention, obesity rates have nearly tripled in adolescents in the United States since 1980;

Whereas overweight adolescents have a 70 percent chance of becoming overweight or obese adults;

Whereas research conducted by the National Institutes of Health indicates that, while genetics do play a role in childhood obesity, the large increase in childhood obesity rates over the past few decades can be traced to overeating and lack of sufficient exercise;

Whereas the Surgeon General and the President's Council on Physical Fitness and Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity;

Whereas Jacob Mock "Jack" Doub, born July 11, 1985, was actively involved in encouraging others, especially children, to ride bicycles and was an active youth who was introduced to mountain biking at the age of 11 near Grandfather Mountain, North Carolina, and quickly became a talented cyclist;

Whereas Jack Doub died unexpectedly from complications related to a bicycling injury on October 21, 2002;

Whereas Jack Doub's family and friends have joined, in association with the International Mountain Bicycling Association, to honor Jack Doub's spirit and love of bicycling by establishing the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle;

Whereas the International Mountain Bicycling Association's worldwide network, which is based in Boulder, Colorado, includes 32,000 individual members, more than 450 bicycle clubs, 140 corporate partners, and 240 bicycle retailer members, who coordinate more than 1,000,000 volunteer trail work hours each year and have built more than 5,000 miles of new trails;

Whereas the International Mountain Bicycling Association has encouraged low-impact riding and volunteer trail work participation since 1988; and

Whereas "National Take a Kid Mountain Biking Day" was established in honor of Jack Doub in 2004 by the International Mountain Bicycling Association, and is celebrated on the first Saturday in October of each year: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) the health risks associated with childhood obesity;

(B) the spirit of Jacob Mock "Jack" Doub and so many others who have been actively promoting physical activity to combat childhood obesity; and

(C) Jack Doub's contribution to encouraging youth of all ages to be physically active and fit, especially through bicycling;

(2) supports the goals and ideals of "National Take a Kid Mountain Biking Day", which was established in honor of Jack Doub in 2004 by the International Mountain Bicycling Association, and is celebrated on the first Saturday in October of each year; and

(3) encourages parents, schools, civic organizations, and students to support the International Mountain Bicycling Association's "National Take a Kid Mountain Biking Day" to promote increased physical activity among youth in the United States.

SENATE RESOLUTION 258—TO COMMEND TIMOTHY SCOTT WINEMAN

Mr. FRIST (for himself, Mr. REID, and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 258

Whereas Timothy S. Wineman became an employee of the United States Senate on October 19, 1970, and since that date has ably and faithfully upheld the high standards and traditions of the staff of the United States Senate for a period that included 19 Congresses;

Whereas Timothy S. Wineman has served in the senior management of the Disbursing Office for more than 25 years, first as the Assistant Financial Clerk of the United States Senate from August 1, 1980 to April 30, 1998, and finally as Financial Clerk of the United States Senate from May 1, 1998 to October 14, 2005;

Whereas Timothy S. Wineman has faithfully discharged the difficult duties and responsibilities of his position as Financial Clerk of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;

Whereas Timothy S. Wineman has earned the respect, affection, and esteem of the United States Senate; and

Whereas Timothy S. Wineman will retire from the United States Senate on October 14, 2005, with 35 years of service with the United States Senate all with the Disbursing Office: Now, therefore, be it

Resolved, That the United States Senate commends Timothy S. Wineman for his exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Timothy S. Wineman.

SENATE RESOLUTION 259—COMMENDING THE EFFORTS OF THE DEPARTMENT OF VETERANS AFFAIRS IN RESPONDING TO HURRICANE KATRINA

Mr. CRAIG (for himself and Mr. AKAKA) submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 259

Whereas Hurricane Katrina physically devastated many areas in the States of Alabama, Mississippi, and Louisiana;

Whereas the Department of Veterans Affairs operates 11 medical centers, 18 community-based outpatient clinics, 3 regional offices, and 8 national cemeteries in the States of Alabama, Mississippi, and Louisiana;

Whereas the Department of Veterans Affairs evacuated over 1,000 patients, employees, and their families from facilities in the affected areas without any loss of life due to the evacuations;

Whereas over 1,000 employees of the Department of Veterans Affairs are volunteering to assist veterans and their families affected by Hurricane Katrina throughout the United States;

Whereas the Department of Veterans Affairs is providing shelter to over 550 staff and their families who have been displaced as a result of Hurricane Katrina;

Whereas patients and employees of the Department of Veterans Affairs in Texas provided extraordinary support and medical assistance to veterans, staff, and families affected by Hurricane Katrina and coordinated numerous medical efforts as part of the overall Federal Government response and recovery efforts in the Gulf Region; and

Whereas heroic actions and efforts on the part of numerous employees and volunteers of the Department of Veterans Affairs saved countless lives and provided immeasurable comfort to the victims of Hurricane Katrina: Now, therefore, be it

Resolved, That the Senate commends the employees and volunteers of the Department of Veterans Affairs, who risked life and limb to assist veterans, staff, and their respective families who were affected by Hurricane Katrina.

Mr. CRAIG. Mr. President, I rise today to submit a resolution that honors the extraordinary heroics exhibited by employees of the Department of Veterans Affairs in the response to the catastrophic conditions caused by Hurricane Katrina.

The Department of Veterans Affairs operates 11 medical centers, 18 community-based outpatient clinics, three regional offices, and eight national cemeteries in the States of Alabama, Mississippi, and Louisiana. Throughout this tragedy, VA moved employees, their families, equipment, and even patients from many of these places. Incredibly with over 1,000 people evacuated in total, not one life was lost.

While it is impossible for me to recognize every act of bravery and courage exhibited, I would be remiss if I did not highlight the incredible story of two VA nurses and their efforts to ensure continued patient care during the aftermath of Katrina. These two nurses not only braved the danger of the storm, but they risked their own lives to ensure that their patients could survive. These two women fed their own water supply to their patients, and, even more incredibly, they then administered intravenous fluids to one another to stay hydrated so that they could continue to deliver care. Clearly, this was going far above and beyond the call of duty. The example set by these two courageous women must be recognized.

I also want to note that VA's success in responding to this storm was largely due to the extensive preparation by VA workers before Katrina hit the Gulf Region. This preparation ensured the successful administration of continued medical care to veterans upon relocation as well as the safe evacuation of all staff and their families.

Before the storm hit, VA workers oversaw the evacuation of 166 patients in Mississippi and Louisiana. In addition, VA workers had the foresight to transfer copies of electronic medical records from the New Orleans VA Medical Center to the VA facility in Houston so that those records would be available on a national level. The bottom line is that this careful preparation before the storm hit saved lives.

The examples of sacrifice and heroics are countless. But, I don't want to forget those who simply stayed put in the right place and did their job—sometimes for days on end. I am speaking most specifically of the valiant efforts of the employees in the VA facilities throughout Texas. These dedicated doctors, nurses, and supporting staff worked countless hours providing medical assistance, shelter and comfort to the evacuated VA patients, employees, and their families.

As Chairman of the Senate Committee on Veterans' Affairs, it is my distinct honor to commend the heroic efforts of VA workers throughout the country in this resolution. I am also pleased to note that Ranking Member AKAKA has joined with me in expressing our sincere appreciation. The devastation of Hurricane Katrina is something with which we are all familiar. It gives me great pleasure to highlight the dedication, sacrifice, and courage of VA workers in light of the terrible devastation caused by what many have called the worst natural disaster in our Nation's history.

SENATE CONCURRENT RESOLUTION 54—EXPRESSING THE SENSE OF CONGRESS REGARDING A COMMEMORATIVE POSTAGE STAMP HONORING JASPER FRANCIS CROPSEY, THE FAMOUS STATEN ISLAND-BORN 19TH CENTURY HUDSON RIVER PAINTER

Mr. SCHUMER submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. CON. RES. 54

Whereas Jasper Francis Cropsey was born on February 18, 1823, in Rossville, Staten Island, New York to Jacob Cropsey and Elizabeth Hilyer Cortelyou;

Whereas Jasper Francis Cropsey was a famous second generation 19th Century Hudson River Valley Painter, and became known as America's "Painter of Autumn" after his vibrant depiction of Autumn on the Hudson River was unveiled in London in 1860;

Whereas Jasper Francis Cropsey contributed greatly to the Hudson River Valley, Staten Island, and the United States through his artistic and architectural talent by producing, throughout his lifetime, more than 1,300 oil paintings, 400 water colors, and numerous architectural drawings; and

Whereas Jasper Francis Cropsey admired the work of Thomas Cole and other American landscape painters and he believed in the natural unspoiled beauty of the United States, depicting serene landscapes of man's peaceful coexistence with nature and harmonious American naturalism: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service honoring Jasper Francis Cropsey, the famous Staten Island-born 19th Century Hudson River Painter; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1875. Mr. GRAHAM (for Mrs. HUTCHISON (for herself and Mr. NELSON, of Florida)) proposed an amendment to the bill S. 1281, to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010.

SA 1876. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1877. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1878. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1879. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1880. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 147, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; which was ordered to lie on the table.

SA 1881. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1875. Mr. GRAHAM (for Mrs. HUTCHISON (for herself and Mr. NELSON of Florida)) proposed an amendment to the bill S. 1281, to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010; as follows:

On page 2, after line 8, beginning with the item relating to section 137 strike through the item relating to section 152 on page 3 and insert the following:

Sec. 137. Lessons learned and best practices.
Sec. 138. Safety management.
Sec. 139. Creation of a budget structure that aids effective oversight and management.
Sec. 140. Earth observing system.
Sec. 141. NASA healthcare program.
Sec. 142. Assessment of extension of data collection from Ulysses and Voyager spacecraft.
Sec. 143. Program to expand distance learning in rural underserved areas.
Sec. 144. Institutions in NASA'S minority institutions program.
Sec. 145. Aviation safety program.
Sec. 146. Atmospheric, geophysical, and rocket research authorization.
Sec. 147. Orbital debris.
Sec. 148. Continuation of certain educational programs.
Sec. 149. Establishment of the Charles "Pete" Conrad Astronomy Awards Program.
Sec. 150. GAO assessment of feasibility of Moon and Mars exploration missions.
Sec. 151. Workforce.
Sec. 152. Major research equipment and facilities.
Sec. 153. Data on specific fields of study.

On page 3, before line 1, strike the second item relating to section 161 and insert the following:

Sec. 162. Facilities management.

On page 3, before line 1, after the item relating to section 304 insert the following:

Sec. 305. Power and propulsion reporting.
Sec. 306. Utilization of NASA field centers and workforce.

On page 3, before line 1, beginning with the item relating to section 402 strike through the item relating to section 507 and insert the following:

Sec. 402. Commercial technology transfer program.
Sec. 403. Authority for competitive prize program to encourage development of advanced space and aeronautical technologies.
Sec. 404. Commercial goods and services.

TITLE V—AERONAUTICS RESEARCH AND DEVELOPMENT

Sec. 501. Governmental interest in aeronautics.
Sec. 502. National policy for aeronautics research and development.
Sec. 503. High priority aeronautics research and development programs.
Sec. 504. Test facilities.
Sec. 505. Miscellaneous provisions.

TITLE VI—MISCELLANEOUS ADMINISTRATIVE IMPROVEMENTS.

Sec. 601. Extension of indemnification authority.
Sec. 602. Intellectual property provisions.
Sec. 603. Retrocession of jurisdiction.
Sec. 604. Recovery and disposition authority.
Sec. 605. Requirement for independent cost analysis.
Sec. 606. Electronic access to business opportunities.
Sec. 607. Reports elimination.
Sec. 608. Small business contracting.
Sec. 609. Government accountability office review and report.

On page 4, strike lines 16 through 22, and insert the following:

(4) The exploration, development, and permanent habitation of the Moon will inspire the Nation, spur commerce, imagination, and excitement around the world, and open the possibility of further exploration of Mars. NASA should return to the Moon within the next decade.

On page 10, line 7, strike "schedules;" and insert "schedules, and may place a greater emphasis on science, including the programs described in this paragraph, throughout the fiscal years for which funds are authorized by this Act (and for this purpose, of the funds authorized by section 101(1) of this Act, no less than $5,341,200,000 shall be for science, and of the funds authorized by section 102(1) of this Act, no less than $5,960,300,000 shall be for science);".

On page 14, line 12, strike "and".

On page 14, line 17, strike "orbit." and insert "orbit;".

On page 14, between lines 17 and 18, insert the following:

(5) conduct a program to assure the health and safety of astronauts during extended space exploration missions which include more effective countermeasures to mitigate deleterious effects of such missions, and the means to provide in-space exploration medical care delivery to crews with little or no real-time support from Earth, relevant issues such as radiation exposure, exercise countermeasures, cardiac health, diagnostic and monitoring devices, and medical imaging;

(6) utilize advanced power and propulsion technologies, including nuclear and electric technologies, to enable or enhance robotic and human exploration missions when feasible; and

(7) develop a robust technology development program to provide surface power for use on the Moon and other locations relevant to NASA space exploration goals which, to the extent feasible, address needs for modular, scalable power sources for a range of applications on the Moon including human and vehicular uses.

On page 16, beginning with line 8, strike through line 12 on page 18.

On page 18, line 13, strike "**SEC 139.**" and insert "**SEC. 137.**".

On page 19, line 9, strike "**SEC. 140.**" and insert "**SEC. 138.**".

On page 20, line 20, strike "**SEC. 141.**" and insert "**SEC. 139.**".

On page 21, line 17, strike "**SEC. 142.**" and insert "**SEC. 140.**".

On page 23, line 9, strike "**SEC. 143.**" and insert "**SEC. 141.**".

On page 23, line 17, strike "**SEC. 144.**" and insert "**SEC. 142.**".

On page 24, line 8, strike "**SEC. 145.**" and insert "**SEC. 143.**".

On page 25, line 4, strike "**SEC. 146.**" and insert "**SEC. 144.**".

On page 25, line 23, strike "**SEC. 147.**" and insert "**SEC. 145.**".

On page 26, line 6, strike "**SEC. 148.**" and insert "**SEC. 146.**".

On page 26, line 13, strike "**SEC. 149.**" and insert "**SEC. 147.**".

On page 26, line 18, strike "**SEC. 150.**" and insert "**SEC. 148.**".

On page 27, line 1, strike "**SEC. 151.**" and insert "**SEC. 149.**".

On page 28, line 3, strike "**SEC. 152.**" and insert "**SEC. 150.**".

On page 28, line 12, after "schedules." insert "The Comptroller General shall include in this assessment the short- and long-term impact of the exploration program on other NASA program areas, including aeronautics, space science, earth science and NASA's overall research and technology development budget.".

On page 28, between lines 12 and 13, insert the following:

SEC. 151. WORKFORCE.

(a) IN GENERAL.—The Administrator shall develop a human capital strategy to ensure that NASA has a workforce of the appropriate size and with the appropriate skills to carry out the programs of NASA, consistent with the policies and plans developed pursuant to this section. The strategy shall ensure that current personnel are utilized, to the maximum extent feasible, in implementing the vision for space exploration and NASA's other programs. The strategy shall cover the period through fiscal year 2011.

(b) CONTENT.—The strategy shall describe, at a minimum—

(1) any categories of employees NASA intends to reduce, the expected size and timing of those reductions, the methods NASA intends to use to make the reductions, and the reasons NASA no longer needs those employees;

(2) any categories of employees NASA intends to increase, the expected size and timing of those increases, the methods NASA intends to use to recruit the additional employees, and the reasons NASA needs those employees;

(3) the steps NASA will use to retain needed employees; and

(4) the budget assumptions of the strategy, which for fiscal years 2006 and 2007 shall be consistent with the authorizations provided in subtitle A, and any expected additional costs or savings from the strategy by fiscal year.

(c) SCHEDULE.—The Administrator shall transmit the strategy developed under this section to the Senate Committee on Commerce, Science, and Transportation and House of Representatives Committee on Science not later than the date on which the President submits the proposed budget for the Federal Government for fiscal year 2007 to the Congress. At least 60 days before transmitting the strategy, NASA shall provide a draft of the strategy to its Federal Employee Unions for a 30-day consultation period after which NASA shall respond in writing to any written concerns provided by the Unions.

(d) LIMITATION.—

(1) IN GENERAL.—NASA may not initiate any buyout offer after the date of enactment of this Act until 60 days after the strategy required by this subsection has been transmitted to the Senate Committee on Commerce, Science, and Transportation and House of Representatives Committee on Science in accordance with subsection (c). NASA may not implement any reduction-in-force or other involuntary separations (except for cause) prior to June 1, 2007, except as provided in paragraph (2).

(2) EXCEPTIONS.—

(A) SPECIFIC BUY-OUTS.—Notwithstanding paragraph (1), NASA may make exceptions can be made for specific buy-outs on a case-by-case basis, if NASA provides information to the Committees that justifies those specific buy-outs, including why the relevant employees could not be utilized to fulfill other NASA missions.

(B) EMERGENCY REDUCTIONS-IN-FORCE.—NASA may also request an exception for an emergency reduction-in-force of management personnel by transmitting to the Committees—

(i) a detailed rationale for the proposed reduction-in-force;

(ii) an explanation of why the proposed reduction-in-force cannot wait until after the workforce strategy has been transmitted to the Committees in accordance with the requirements of this section; and

(iii) an explanation of why the relevant employees could not be utilized to fulfill other NASA missions.

SEC. 152. MAJOR RESEARCH EQUIPMENT AND FACILITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the National Science Foundation may use funds in the major research equipment and facilities construction account for the design and development of projects that—

(1) have been given a very high rating by relevant scientific peer review panels in the relevant discipline;

(2) have substantial cost-sharing with non-Foundation entities; and

(3) have passed a critical design review.

(b) NATIONAL SCIENCE BOARD APPROVAL.—Nothing in subsection (a) shall be construed to eliminate the need for approval by the National Science Board before such equipment and facilities are eligible for acquisition, construction, commissioning, or upgrading.

SEC. 153. DATA ON SPECIFIC FIELDS OF STUDY.

(a) IN GENERAL.—The National Science Foundation shall collect statistically reliable data through the American Community Survey on the field of degree of college-educated individuals.

(b) ADDITIONAL CENSUS QUESTION.—In order to facilitate the implementation of subsection (a), the Secretary of Commerce shall expand the American Community Survey to include a question to elicit information concerning the field of study in which college-educated individuals received their degrees. The Director of the Bureau of the Census shall consult with the Director of the National Science Foundation concerning the wording of the question or questions to be added to the Survey.

On page 28, beginning with line 21, strike through line 5 on page 30 and insert the following:

NASA shall develop a facilities investment plan through fiscal year 2015 that takes into account uniqueness, mission dependency, and other studies required by this Act.

On page 33, line 2, strike "and".

On page 33, between lines 2 and 3, insert the following:

(4) consider the need for a life sciences centrifuge and any associated holding facilities; and

On page 33, line 3, strike "(4)" and insert "(5)".

On page 38, beginning with line 24, strike through line 9 on page 39 and insert the following:

(a) POLICY STATEMENT.—It is the policy of the United States to possess the capability for assured human access to space. The Administrator shall act to ensure that the United States retains that capacity on a continuous basis. The Administrator shall conduct the transition from the Space Shuttle orbiter to a replacement capacity in a manner that efficiently uses the personnel, capabilities, and infrastructure that are currently available to the extent feasible.

(b) PROGRESS REPORT.—Within 180 days after the date of enactment of this Act and annually thereafter, the Administrator shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the progress and the estimated amount of time before the next generation human-rated NASA spacecraft will demonstrate crewed, orbital spaceflight.

(c) POLICY COMPLIANCE REPORT.—If, 1 year before the final flight of the Space Shuttle orbiter, the United States has not demonstrated a replacement human space flight system, the Administrator shall certify that the United States cannot uphold the policy outlined in subsection (a) and shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science describing—

(1) United States strategic risks associated with the hiatus or gap;

(2) the estimated length of time during which the United States will not have independent human access to space;

(3) what steps will be taken to shorten that length of time; and

(4) what other means will be used to allow human access to space during that time.

On page 39, line 10, strike "(b) REPORT.—" and insert "(d) TRANSITION PLAN REPORT.—".

On page 39, line 19, strike "(c)" and insert "(e)".

On page 40, line 7, strike "In" and insert "(a) IN GENERAL.—In".

On page 40, between lines 12 and 13, insert the following:

(b) FEASIBILITY STUDY.—The Administrator shall initiate a feasibility study for establishing a National Free Flyer Launch Center as a means of consolidating and integrating secondary launch capabilities, launch opportunities, and payloads.

(c) ASSESSMENT.—The feasibility study required in this section shall include an assessment of the potential utilization of existing launch and launch support facilities and capabilities in the states of Montana and New Mexico and their respective contiguous states, and the state of Alaska, and shall include an assessment of the feasibility of integrating the potential National Free Flyer Launch Center within the operations and facilities of an existing non-profit organization such as the Inland Northwest Space Alliance in Missoula, Montana, or similar entity.

SEC. 305. POWER AND PROPULSION REPORTING.

The Administrator shall, within 180 days after the date of enactment of this Act, provide to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science, a full description of plans to develop and utilize nuclear power and nuclear propulsion capabilities to achieve agency goals and any requirements in this Act, and address how those plans meet the intent of the Vision for Space Exploration and the President's Space Transportation Policy Directive.

SEC. 306. UTILIZATION OF NASA FIELD CENTERS AND WORKFORCE.

(a) IN GENERAL.—In budgeting for and carrying out elements of this title, the Administrator shall make the most effective use of existing research, development, testing, and space exploration expertise and facilities resident within NASA field centers.

(b) RESPONSIBILITIES OF FIELD CENTERS.—The Administrator shall take appropriate action to balance responsibilities between the field centers for leading the development of systems relevant to the Vision for Space Exploration, including systems identified in this title or any architecture studies performed by NASA.

On page 41, between lines 15 and 16, insert the following:

SEC. 402. COMMERCIAL TECHNOLOGY TRANSFER PROGRAM.

(a) IN GENERAL.—The Administrator shall execute a commercial technology transfer program with the goal of facilitating the exchange services, products, and intellectual property between NASA and the private sector. This program shall be maintained in a manner that provides measurable benefits for the agency, the domestic economy, and research communities.

(b) PROGRAM STRUCTURE.—In carrying out the program described in paragraph (a), the Administrator shall maintain the funding and program structure of NASA's existing technology transfer and commercialization organizations through the end of fiscal year 2006.

On page 41, line 16, strike "**SEC. 402.**" and insert "**SEC. 403.**".

On page 45, line 1, strike "**SEC. 403.**" and insert "**SEC. 404.**".

On page 45, between lines 7 and 8, insert the following:

TITLE V—AERONAUTICS RESEARCH AND DEVELOPMENT

SEC. 501. GOVERNMENTAL INTEREST IN AERONAUTICS.

Congress reaffirms the national commitment to aeronautics research made in the National Aeronautics and Space Act of 1958. Aeronautical research and development remains a core mission of NASA. NASA is the lead agency for civil aeronautics research. NASA shall conduct a robust program of aeronautics research that includes fundamental basic research as well as research in the fields of vehicle systems and of safety and security.

SEC. 502. NATIONAL POLICY FOR AERONAUTICS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The President shall develop through NASA and other relevant entities, a national aeronautics policy to guide the aeronautics programs of the United States through the year 2020. The development of this policy shall utilize external studies that have been conducted on the state of United States aeronautics and aviation research and have suggested policies to ensure continued competitiveness.

(b) CONTENT.—At a minimum the national aeronautics policy shall describe—

(1) national goals for aeronautics research;

(2) the priority areas of research for aeronautics through fiscal year 2011;

(3) the basis of which and the process by which priorities for ensuing fiscal years will be selected; and

(4) respective roles and responsibilities of various Federal agencies in aeronautics research.

(c) NASA INPUT.—In providing input to and executing the National Aeronautics Policy, the Administrator, shall consider the following issues:

(1) The established governmental interest in conducting research and development programs for improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and vehicles, as described in section 102(c)(2) of the National Aeronautics and Space Act of 1958 and reaffirmed in section 501.

(2) The established governmental interest in conducting research and development programs that contribute to preservation of the role of the United States as a global leader in aeronautical technologies and in the application thereof in section 102(c)(5) of the National Aeronautics and Space Act of 1958 and reaffirmed in section 501.

(3) The appropriate balance between long-term, high risk research and shorter, more incremental research, and the expected impact on the United States economy and public good.

(4) The appropriate balance between in-house research and procurement with industry and academia.

(5) The extent to which NASA should address military and commercial aviation needs.

(6) How NASA will coordinate its aeronautics program with other Federal agencies.

(7) Opportunities for partnerships with the private sector.

(d) SCHEDULE.—

(1) No later than 1 year after the date of enactment of this Act, the President shall submit the national aeronautics policy to the Appropriations Committees of the House of Representatives and the Senate, the House Committee on Science, and the Senate Committee on Commerce, Science, and Transportation.

(2) No later than 60 days after the transmittal of the policy, the Administrator shall submit NASA's response to the policy, to the Appropriations Committees of the House of Representatives and the Senate, the House Committee on Science, and the Senate Committee on Commerce, Science and Transportation.

SEC. 503. HIGH PRIORITY AERONAUTICS RESEARCH AND DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—In its role as lead agency for civil aeronautics research and development, NASA shall develop programs and projects in accordance with the National Aeronautics Policy described in section 502, as well program areas listed in subsection (b). These programs must be driven by scientific merit.

(b) RESEARCH AND DEVELOPMENT.—In executing an aeronautics research and development program, the Administrator shall, at a minimum, within the budgetary and programmatic resources provided, conduct programs in the following areas:

(1) FUNDAMENTAL RESEARCH.—The Administrator shall establish a program of long-term fundamental research in aeronautical sciences and technologies that is not tied to specific development projects. The Administrator shall set aside no less than 5 percent of the aeronautics budget for this program. As part of this program, the Administrator is encouraged to make merit-reviewed grants to institutions of higher learning, including such institutions located in states that participate in the Experimental Program to Stimulate Competitive Research.

(2) VEHICLE SYSTEMS RESEARCH AND TECHNOLOGY.—In order to maintain United States economic competitiveness and protect the environment, the Administrator shall establish programs in each of the following technology areas:

(A) ENVIRONMENTAL AIRCRAFT RESEARCH AND DEVELOPMENT.—The Administrator shall establish an initiative with the objective of developing and demonstrating in a relevant environment, technologies to enable the following commercial aircraft performance characteristics:

(i) NOISE.—Noise levels on takeoff and on airport approach and landing that do not exceed ambient noise levels in the absence of flight operations in the vicinity of airports from which such commercial aircraft would normally operate;

(ii) ENERGY CONSUMPTION.—Twenty-five percent reduction in the energy required for medium to long range flights, compared to aircraft in commercial service as of the date of enactment of this Act; and

(iii) EMISSIONS.—Nitrogen oxides on takeoff and landing that are significantly reduced, without adversely affecting hydrocarbons and smoke, relative to aircraft in commercial service as of the date of enactment of this Act.

(B) SUPERSONIC TRANSPORT RESEARCH AND DEVELOPMENT.—The Administrator shall establish an initiative with the objective of developing and demonstrating in a relevant environment within airframe and propulsion technologies to enable efficient, economical overland flight of supersonic civil transport aircraft with no significant impact on the environment.

(C) ROTORCRAFT AND OTHER RUNWAY-INDEPENDENT AIR VEHICLES.—The Administrator shall establish a rotorcraft and other runway-independent air vehicles initiative with the objective of developing and demonstrating improved safety, noise, and environmental impact in a relevant environment.

(D) HYPERSONICS RESEARCH.—The Administrator shall establish a hypersonics research program whose objective shall be to explore the science and technology of hypersonic flight using air-breathing propulsion concepts, through a mix of theoretical work, basic and applied research, and development of flight research demonstration vehicles. Emphasis in the program shall be given to advancing and demonstrating turbine engine technology in the transition to hypersonic range Mach 3 to Mach 5.

(E) REVOLUTIONARY AERONAUTICAL CONCEPTS.—The Administrator shall establish a research program which covers a unique range of subsonic, fixed wing vehicles and propulsion concepts. This research is intended to push technology barriers beyond current subsonic technology. Propulsion concepts include advanced materials, morphing engines, hybrid engines, and fuel cells.

(F) MORE ELECTRIC AIRCRAFT INITIATIVE.—The Administrator shall establish a program for innovative and focused research and development such as fuel cell technologies.

(3) AIRSPACE SYSTEMS RESEARCH.—The Airspace Systems Research program shall pursue research and development to enable revolutionary improvements to and modernization of the National Airspace system, as well as to enable the introduction of new systems for vehicles that can take advantage of an improved, modern air transportation system. In pursuing research and development in this area, the Administrator shall align the projects of the Airspace Systems Research program so that they directly support the objectives of the Joint Planning and Development Office's Next Generation air Transportation System Integrated Plan.

(4) AVIATION SAFETY AND SECURITY RESEARCH.—The Aviation Safety and Security Research program shall pursue research and development activities that directly address the safety and security needs of the National Airspace System and the aircraft that fly in it.

SEC. 504. TEST FACILITIES.

(a) Prior to completion of the National Aeronautics Policy described in section 502 and transmittal of such policy pursuant to subsection (d) of that section, the Administrator may not close, suspend, or terminate contracts for the operation of major aeronautical test facilities, including wind tunnels, unless the Administrator—

(1) certifies in writing that such closure will not have an adverse impact on NASA's ability to execute the National Policy and achieve the goals described in that Policy; and

(2) provides notification to and receives concurrence from the Appropriations Committees of the House of Representatives and the Senate, the House Committee on Science, and the Senate Committee on Commerce, Science and Transportation 60 days in advance of such action.

SEC. 505. MISCELLANEOUS PROVISIONS.

(a) WORKFORCE DEVELOPMENT.—The Administrator shall encourage the development of a skilled and diverse aeronautics research workforce using appropriate available tools such as grants, scholarships for service, and fellowships.

(b) ALIGNMENT OF PROGRAMS.—Notwithstanding any other provision of this title, the Administrator shall align NASA's aeronautics program with priorities established by the Joint Planning and Development Office and by the National Aeronautics Policy described in section 502 of this Act.

On page 45, line 8, strike "**TITLE V**" and insert "**TITLE VI**".

On page 45, line 11, strike "**SEC. 501**" and insert "**SEC. 601.**".

On page 45, line 17, strike "**SEC. 502**" and insert "**SEC. 602.**".

On page 49, line 1, strike "**SEC. 503**" and insert "**SEC. 603.**".

On page 49, line 3, strike "502" and insert "602".

On page 49, line 16, strike "**SEC. 504**" and insert "**SEC. 604.**".

On page 51, line 1, strike "**SEC. 505**" and insert "**SEC. 605.**".

On page 52, line 1, strike "**SEC. 506**" and insert "**SEC. 606.**".

On page 57, line 7, strike "**SEC. 507**" and insert "**SEC. 607.**".

On page 57, strike line 17 through line 19.

On page 58, after line 5, add the following:

(3) Section 323 of the National Aeronautics and Space Administration Authorization Act of 2000 is amended by striking subsection (a).

SEC. 608. SMALL BUSINESS CONTRACTING.

(a) PLAN.—In consultation with the Small Business Administration, the Administrator shall develop a plan to maximize the number and amount of contracts awarded to small business concerns (within the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632) and to meet established contracting goals for such concerns.

(b) PRIORITY.—The Administrator shall establish, as a priority, meeting the contracting goals developed in conjunction with the Small Business Administration to maximize the amount of prime contracts, as measured in dollars, awarded in each fiscal year by NASA to small business concerns (within the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)).

SEC. 609. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW AND REPORT.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of NASA's policies, processes, and procedures in the planning and management of applications research and development implemented in calendar years 2001 to 2005 within the Applied Sciences Directorate and former Earth Science Applications Program. A formal and transparent peer review process that instills public and stakeholder confidence in NASA's sponsored applications research and development programs is important and the process by which this program defines requirements, scopes programs, selects peer reviewers, manages the research competition, and selects proposals is of concern. The review shall include—

(1) the program planning and analysis process used to formulate applied science research and development requirements, priorities, and solicitation schedules, including changes to the process within the period under review, and the effects of such planning on the quality and clarity of applied sciences research announcements;

(2) the peer review process including—

(A) membership selection, determination of qualifications and use of NASA and non-NASA reviewers;

(B) management of conflicts of interest, including reviewers funded by the program with a significant consulting or contractual relationship with NASA, and individuals who both review proposals and participate in the submission of proposals under the same solicitation announcement;

(C) compensation of non-NASA proposal reviewers;

(3) the process for assigning or allocating applied research to NASA researchers and to non-NASA researchers; and

(4) alternative models for NASA planning and management of applied science and applications research, including an evaluation of—

(A) the National Institutes of Health's intramural and extramural research program structure, peer review process, management of conflicts of interests, compensation of reviewers, and the effects of compensation on reviewer efficiency and quality;

(B) the Department of Agriculture's research programs and structure, peer review process, management of conflicts of interest, compensation of reviewers, and the effects of compensation on reviewer efficiency and quality; and

(C) the "best practices" of both in the planning, selection, and management of applied sciences research and development.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science describing the results of the review conducted under subsection (a), including recommendations for NASA best practices.

(c) IMPLEMENTATION.—Not later than 90 days after receipt of the report, NASA shall provide the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science a plan describing the implementation of those recommendations.

SA 1876. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TRANSFER TO REDEVELOPMENT AUTHORITIES WITHOUT CONSIDERATION OF PROPERTY LOCATED AT MILITARY INSTALLATIONS CLOSED OR REALIGNED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

Section 2905(b)(4)(B) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by striking "shall seek" and all that follows through "with respect to the installation" and inserting the following: "may not obtain consideration in connection with any transfer under this paragraph of property located at the installation. The redevelopment authority to which such property is transferred shall";

(2) in clause (i), by striking "agrees" and inserting "agree"; and

(3) in clause (ii)—

(A) by striking "executes" and inserting "execute"; and

(B) by striking "accepts" and inserting "accept".

SA 1877. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. ENVIRONMENTAL REMEDIATION AT MILITARY INSTALLATIONS CLOSED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by inserting after subsection (e) the following new subsection:

"(f) SCOPE OF ENVIRONMENTAL REMEDIATION AT MILITARY INSTALLATIONS CLOSED UNDER 2005 ROUND OF BASE CLOSURE AND REALIGNMENT.—

"(1) AGREEMENT REQUIRED.—With respect to each military installation approved for closure under this part after January 1, 2005, the Secretary of Defense shall enter into an agreement with the chief executive officer of the State in which such military installation is located regarding the environmental remediation of property and facilities at such installation.

"(2) CONTENT OF AGREEMENT.—Each agreement entered into under paragraph (1) shall include—

"(A) a description of the remediation to be performed by the Department of Defense, including the level of remediation necessary for the redevelopment of such property and facilities; and

"(B) a schedule for such remediation.".

SA 1878. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. LIMITATION ON TRANSFER OF UNITS UNDER THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT PENDING READINESS OF RECEIVING LOCATIONS.

The Secretary of Defense may not transfer any unit from a military installation closed or realigned as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) until the Secretary certifies that all facilities and infrastructure necessary to support such unit at the military installation to which the unit will be transferred are ready for use by such unit.

SA 1879. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 may be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1880. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 147, to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; which was ordered to lie on the table; as follows:

On page 73, between lines 12 and 13, insert the following:

SEC. . RESOLUTION OF APOLOGY TO THE NATIVE PEOPLES OF THE UNITED STATES.

(a) FINDINGS.—Congress finds that—

(1) the ancestors of today's Native Peoples inhabited the land of the present-day United States since time immemorial and for thousands of years before the arrival of people of European descent;

(2) the Native Peoples have for millennia honored, protected, and stewarded this land we cherish;

(3) the Native Peoples are spiritual peoples with a deep and abiding belief in the Creator, and for millennia their people have maintained a powerful spiritual connection to this land, as is evidenced by their customs and legends;

(4) the arrival of Europeans in North America opened a new chapter in the histories of the Native Peoples;

(5) while establishment of permanent European settlements in North America did stir conflict with nearby Indian tribes, peaceful and mutually beneficial interactions also took place;

(6) the foundational English settlements in Jamestown, Virginia, and Plymouth, Massachusetts, owed their survival in large measure to the compassion and aid of the Native Peoples in their vicinities;

(7) in the infancy of the United States, the founders of the Republic expressed their desire for a just relationship with the Indian tribes, as evidenced by the Northwest Ordinance enacted by Congress in 1787, which begins with the phrase, "The utmost good faith shall always be observed toward the Indians";

(8) Indian tribes provided great assistance to the fledgling Republic as it strengthened and grew, including invaluable help to Meriwether Lewis and William Clark on their epic journey from St. Louis, Missouri, to the Pacific Coast;

(9) Native Peoples and non-Native settlers engaged in numerous armed conflicts;

(10) the United States Government violated many of the treaties ratified by Congress and other diplomatic agreements with Indian tribes;

(11) this Nation should address the broken treaties and many of the more ill-conceived Federal policies that followed, such as extermination, termination, forced removal and relocation, the outlawing of traditional religions, and the destruction of sacred places;

(12) the United States forced Indian tribes and their citizens to move away from their traditional homelands and onto federally established and controlled reservations, in accordance with such Acts as the Act of May 28, 1830 (4 Stat. 411, chapter 148) (commonly known as the "Indian Removal Act");

(13) many Native Peoples suffered and perished—

(A) during the execution of the official United States Government policy of forced removal, including the infamous Trail of Tears and Long Walk;

(B) during bloody armed confrontations and massacres, such as the Sand Creek Massacre in 1864 and the Wounded Knee Massacre in 1890; and

(C) on numerous Indian reservations;

(14) the United States Government condemned the traditions, beliefs, and customs of the Native Peoples and endeavored to assimilate them by such policies as the redistribution of land under the Act of February 8, 1887 (25 U.S.C. 331; 24 Stat. 388, chapter 119) (also known as the "General Allotment Act"), and the forcible removal of Native children from their families to faraway boarding schools where their Native practices and languages were degraded and forbidden;

(15) officials of the United States Government and private United States citizens harmed Native Peoples by the unlawful acquisition of recognized tribal land and the theft of tribal resources and assets from recognized tribal land;

(16) the policies of the United States Government toward Indian tribes and the breaking of covenants with Indian tribes have contributed to the severe social ills and economic troubles in many Native communities today;

(17) despite the wrongs committed against Native Peoples by the United States, the Native Peoples have remained committed to the protection of this great land, as evidenced by the fact that, on a per capita basis, more Native people have served in the United States Armed Forces and placed themselves in harm's way in defense of the United States in every major military conflict than any other ethnic group;

(18) Indian tribes have actively influenced the public life of the United States by continued cooperation with Congress and the Department of the Interior, through the involvement of Native individuals in official United States Government positions, and by leadership of their own sovereign Indian tribes;

(19) Indian tribes are resilient and determined to preserve, develop, and transmit to future generations their unique cultural identities;

(20) the National Museum of the American Indian was established in the Smithsonian Institution as a living memorial to the Native Peoples and their traditions; and

(21) Native People are endowed by their Creator with certain unalienable rights, and

that among those are life, liberty, and the pursuit of happiness.

(b) ACKNOWLEDGMENT AND APOLOGY.—The United States, acting through Congress—

(1) recognizes the special legal and political relationship the Indian tribes have with the United States and the solemn covenant with the land we share;

(2) commends and honors the Native Peoples for the thousands of years that they have stewarded and protected this land;

(3) recognizes that there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the United States Government regarding Indian tribes;

(4) apologizes on behalf of the people of the United States to all Native Peoples for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States;

(5) expresses its regret for the ramifications of former wrongs and its commitment to build on the positive relationships of the past and present to move toward a brighter future where all the people of this land live reconciled as brothers and sisters, and harmoniously steward and protect this land together;

(6) urges the President to acknowledge the wrongs of the United States against Indian tribes in the history of the United States in order to bring healing to this land by providing a proper foundation for reconciliation between the United States and Indian tribes; and

(7) commends the State governments that have begun reconciliation efforts with recognized Indian tribes located in their boundaries and encourages all State governments similarly to work toward reconciling relationships with Indian tribes within their boundaries.

(c) DISCLAIMER.—Nothing in this section—

(1) authorizes or supports any claim against the United States; or

(2) serves as a settlement of any claim against the United States.

SA 1881. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. SMALL AND RENEWABLE POWER CONTRACTS.

Section 501(b)(1) of title 40, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) PUBLIC UTILITY CONTRACTS.—

"(i) TERM.—A contract for public utility services may be made for a period of not more than 20 years.

"(ii) DEFINITION OF PUBLIC UTILITY ELECTRIC SERVICES.—In this subparagraph, the term 'public utility services', with respect to electricity services, includes electricity supplies and services, including transmission, generation, distribution, and other services directly used in providing electricity.".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, September 28, 2005, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Indian Housing.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 6, 2005 at 3 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1025, to amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" to authorize the Equus Beds Division of the Wichita Project; S. 1498, to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; S. 1529, to provide for the conveyance of certain Federal land in the city of Yuma, Arizona; S. 1578, to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs; and S. 1760, to authorize early repayment of obligations to the Bureau of Reclamation within the Rogue River Valley Irrigation District or within the Medford Irrigation District, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Kellie Donnelly 202–224–9360 or Shannon Ewan at 202–224–7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 6, 2005 at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive an update on Hurricanes Katrina and Rita's effects on energy infrastructure and the status of recovery efforts in the Gulf Coast region.

Because of the limited time available for the hearing, witnesses may testify invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

I would also like to announce that the hearing to evaluate and receive a status report on the Environmental Management programs of the Department of Energy which was previously scheduled before the Committee for this date and time has been postponed and will be rescheduled at a later date.

For further information, please contact Lisa Epifani 202–224–5269 or Shannon Ewan at 202–224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, September 28, 2005, at 10 a.m., on S. 1114—Professional Athletes Drug Testing bill and S. 1334—Professional Sports Integrity and Accountability Act, in Hart 216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BURR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, September 28, at 11:30 a.m., to consider pending calendar business.

Agenda

Agenda Item 3: S. 166—To amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, and for other purposes.

Agenda Item 4: S. 206—To designate the Ice Age Floods National Geologic Trail, and for other purposes.

Agenda Item 5: S. 213—To direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, NM.

Agenda Item 6: S. 242—To establish four memorials to the Space Shuttle *Columbia* in the State of Texas.

Agenda Item 7: S. 251—To authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Sub-basins in Oregon.

Agenda Item 8: S. 592—To extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming.

Agenda Item 9: S. 652—To provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, PA, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

Agenda Item 11: S. 761—To rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes.

Agenda Item 12: S. 777—To designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area," and for other purposes.

Agenda Item 13: S. 819—To authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, SD, to reflect increased demands for municipal, industrial, and fish and wildlife purposes.

Agenda Item 14: S. 891—To extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, NE.

Agenda Item 15: S. 895—To direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

Agenda Item 16: S. 955—To direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, TN, relating to the Battle of Franklin.

Agenda Item 17: S. 958—To amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail.

Agenda Item 18: S. 1154—To extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes.

Agenda Item 19: S. 1170—To establish the Fort Stanton-Snowy River National Cave Conservation Area.

Agenda Item 20: S. 1238—To amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

Agenda Item 21: S. 1338—To require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes.

Agenda Item 23: H.R. 126—To amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

Agenda Item 24: H.R. 409—To provide for the exchange of land within the Sierra National Forest, CA, and for other purposes.

Agenda Item 26: H.R. 539—To designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.

Agenda Item 27: H.R. 584—To authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

Agenda Item 28: H.R. 606—To authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

Agenda Item 29: H.R. 1101—To revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, CA.

Agenda Item 30: H.R. 2362—To reauthorize and amend the National Geologic Mapping Act of 1992.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURR. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet Wednesday, September 28, 2005, at 9:30 a.m. to conduct a hearing to discuss the role of science in environmental policy making.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BURR. Mr. President I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, September 28, 2005, at 10 a.m., to hear testimony on "Hurricane Katrina: Community Rebuilding Needs and Effectiveness of Past Proposals."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BURR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, 2005, at 9:30 a.m. to hold a hearing on Darfur Revisited: The International Response.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BURR. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 28, 2005, at 9:30 a.m. for a hearing titled, "Recovering from Hurricane Katrina: Responding to the Immediate Needs of Its Victims."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BURR. Mr. President, I ask unanimous consent that the Committee Indian Affairs be authorized to meet on Wednesday, September 28, 2005, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Indian Housing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BURR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Protecting Copyright and Innovation in a Post-Grokster World" on Wednesday, September 28, 2005 at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Mary Beth Peters, U.S. Register of Copyrights, Copyright Office, Washington, DC; and the Honorable Debra Wong Yang, U.S. Attorney for the Central District of California and Chair of the Attorney General's Advisory Committee on Cyber/Intellectual Property Subcommittee, Los Angeles, CA.

Panel II: Marty Roe, Lead Singer, Diamond Rio, Nashville, TN; Cary Sherman, President, Recording Industry Association of America, Washington, DC; Gary Shapiro, President and Chief Executive Officer, Consumer Electronics Association, Arlington, VA; Mark Lemley, William H. Neukom, Professor of Law, Stanford University Law School and Director Stanford Program in Law, Science and Technology Stanford, CA; Ali Aydar, Chief Operating Officer, SNOCAP, San Francisco, CA; and Sam Yagan, President, MetaMachine, Inc. (developer of eDonkey and Overnet) New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BURR. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, September 28, at 2:30 p.m.

The purpose of the hearings is to review the Grazing programs of the Bureau of Land Management and the Forest Service, including proposed changes to grazing regulations, and the status of grazing regulations, and the status of grazing permit renewals, monitoring programs and allotment restocking plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Johanna Mihok, a legal intern on my Judiciary

Committee staff, be granted floor privileges for the duration of the consideration of Judge John Roberts to be Chief Justice of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I ask unanimous consent Elizabeth Leef of my staff be granted the privilege of the floor for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that Valerie Frias and Katherine Hutchinson, two Judiciary Committee staffers, be granted floor privileges for the duration of the debate on the nomination of John G. Roberts to be Chief Justice of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. First, I ask unanimous consent that Matt Reisetter of my staff be granted the privilege of the floor for the remainder of the debate on the nomination of Judge Roberts.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 2005

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 174, S. 1281.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1281) to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science and Transportation with amendments.

(Strike the parts shown in black brackets and insert the parts shown in italic.)

S. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as "National Aeronautics and Space Administration Authorization Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SUBTITLE A—AUTHORIZATIONS

Sec. 101. Fiscal year 2006.
Sec. 102. Fiscal year 2007.
Sec. 103. Fiscal year 2008.
Sec. 104. Fiscal year 2009.
Sec. 105. Fiscal year 2010.
Sec. 106. Evaluation criteria for budget request.

SUBTITLE B—GENERAL PROVISIONS

Sec. 131. Implementation of a science program that extends human knowledge and understanding of the Earth, sun, solar system, and the universe.
Sec. 132. Biennial reports to Congress on science programs.
Sec. 133. Status report on Hubble Space Telescope servicing mission.
Sec. 134. Develop expanded permanent human presence beyond low-Earth orbit.
Sec. 135. Ground-based analog capabilities.
Sec. 136. Space launch and transportation transition, capabilities, and development.
Sec. 137. National policy for aeronautics research and development.
Sec. 138. Identification of unique NASA core aeronautics research.
Sec. 139. Lessons learned and best practices.
Sec. 140. Safety management.
Sec. 141. Creation of a budget structure that aids effective oversight and management.
Sec. 142. Earth observing system.
Sec. 143. NASA healthcare program.
Sec. 144. Assessment of extension of data collection from Ulysses and Voyager spacecraft.
Sec. 145. Program to expand distance learning in rural underserved areas.
Sec. 146. Institutions in NASA'S minority institutions program.
Sec. 147. Aviation safety program.
Sec. 148. Atmospheric, geophysical, and rocket research authorization.
Sec. 149. Orbital debris.
Sec. 150. Continuation of certain educational programs.
Sec. 151. Establishment of the Charles "Pete" Conrad Astronomy Awards Program.
Sec. 152. GAO assessment of feasibility of Moon and Mars exploration missions.

SUBTITLE C—LIMITATIONS AND SPECIAL AUTHORITY

Sec. 161. Official representational fund.
Sec. 161. Facilities management.

TITLE II—INTERNATIONAL SPACE STATION

Sec. 201. International Space Station completion.
Sec. 202. Research and support capabilities on international Space Station.
Sec. 20d. National laboratory status for International Space Station.
Sec. 204. Commercial support of International Space Station operations and utilization.
Sec. 205. Use of the International Space Station and annual report.

TITLE III—NATIONAL SPACE TRANSPORTATION POLICY

Sec. 301. United States human-rated launch capacity assessment.
Sec. 302. Space Shuttle transition.
Sec. 303. Commercial launch vehicles.
Sec. 304. Secondary payload capability.

TITLE IV—ENABLING COMMERCIAL ACTIVITY

Sec. 401. Commercialization plan.
Sec. 402. Authority for competitive prize program to encourage development of advanced space and aeronautical technologies.
Sec. 403. Commercial goods and services.

TITLE V—MISCELLANEOUS ADMINISTRATIVE IMPROVEMENTS

Sec. 501. Extension of indemnification authority.
Sec. 502. Intellectual property provisions.
Sec. 503. Retrocession of jurisdiction.
Sec. 504. Recovery and disposition authority.
Sec. 505. Requirement for independent cost analysis.
Sec. 506. Electronic access to business opportunities.
Sec. 507. Reports elimination.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) It is the policy of the United States to advance United States scientific, security, and economic interests through a healthy and active space exploration program.

(2) Basic and applied research in space science, Earth science, and aeronautics remain a significant part of the Nation's goals for the use and development of space. Basic research and development is an important component of NASA's program of exploration and discovery.

(3) Maintaining the capability to safely send humans into space is essential to United States national and economic security, United States preeminence in space, and inspiring the next generation of explorers. Thus, a gap in United States human space flight capability is harmful to the national interest.

(4) The exploration, development, and permanent habitation of the Moon will—

(A) inspire the Nation;

(B) spur commerce, imagination, and excitement around the world; and

(C) open the possibility of further exploration of Mars.

(5) The establishment of the capability for consistent access to and stewardship of the region between the Moon and Earth is in the national security and commercial interests of the United States.

(6) Commercial development of space, including exploration and other lawful uses, is in the interest of the United States and the international community at large.

(7) Research and access to capabilities to support a national laboratory facility within the United States segment of the ISS in low-Earth orbit are in the national policy interests of the United States, including maintenance and development of an active and healthy stream of research from ground to space in areas that can uniquely benefit from access to this facility.

(8) NASA should develop vehicles to replace the Shuttle orbiter's capabilities for transporting crew and heavy cargo while utilizing the current program's resources, including human capital, capabilities, and infrastructure. Using these resources can ease the transition to a new space transportation system, maintain an essential industrial base, and minimize technology and safety risks.

[(9) The United States should remain the world leader in aeronautics and aviation. NASA should align its aerospace research to ensure United States leadership. A national effort is needed to assess NASA's aeronautics programs and infrastructure to allow a consolidated national approach that ensures efficiency and national preeminence in aeronautics and aviation.]

(9) The United States must remain the leader in aeronautics and aviation. Any erosion of this preeminence is not in the Nation's economic or security interest. NASA should align its aerospace leadership to ensure United States leadership. A national effort is needed to ensure that NASA's aeronautics programs are leading contributors to the Nation's civil and military aviation needs, as well as to its exploration capabilities.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) ISS.—The term "ISS" means the International Space Station.

(3) NASA.—The term "NASA" means the National Aeronautics and Space Administration.

(4) SHUTTLE-DERIVED VEHICLE.—The term "shuttle-derived vehicle" means any new space transportation vehicle, piloted or unpiloted, that—

(A) is capable of supporting crew or cargo missions; and

(B) uses a major component of NASA's Space Transportation System, such as the solid rocket booster, external tank, engine, and orbiter.

(5) IN-SITU RESOURCE UTILIZATION.—The term "in-situ resource utilization" means the technology or systems that can convert indigenous or locally-situated substances into useful materials and products.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Subtitle A—Authorizations

SEC. 101. FISCAL YEAR 2006.

There are authorized to be appropriated to the National Aeronautics and Space Administration, for fiscal year 2006, $16,556,400,000, as follows:

(1) For science, aeronautics and exploration, $9,661,000,000 for the following programs (including amounts for construction of facilities).

(2) For exploration capabilities, $6,863,000,000, (including amounts for construction of facilities), which shall be used for space operations, and out of which $100,000,000 shall be used for the purposes of section 202 of this Act.

(3) For the Office of Inspector General, $32,400,000.

SEC. 102. FISCAL YEAR 2007.

There are authorized to be appropriated to the National Aeronautics and Space Administration, for fiscal year 2007, $17,052,900,000, as follows:

(1) $10,549,800,000 for science, aeronautics and exploration (including amounts for construction of facilities).

(2) For exploration capabilities, $6,469,600,000, for the following programs (including amounts for construction of facilities), of which $6,469,600,000 shall be for space operations.

(3) For the Office of Inspector General, $33,500,000.

SEC. 103. FISCAL YEAR 2008.

There are authorized to be appropriated to the National Aeronautics and Space Administration, for fiscal year 2008, $17,470,900,000.

SEC. 104. FISCAL YEAR 2009.

There are authorized to be appropriated to the National Aeronautics and Space Administration, for fiscal year 2009, $17,995,000,000.

SEC. 105. FISCAL YEAR 2010.

There are authorized to be appropriated to the National Aeronautics and Space Administration, for fiscal year 2010, $18,534,900,000.

SEC. 106. EVALUATION CRITERIA FOR BUDGET REQUEST.

It is the sense of the Congress that each budget of the United States submitted to the Congress after the date of enactment of this Act should be evaluated for compliance with the findings and priorities established by this Act and the amendments made by this Act.

Subtitle B—General Provisions

SEC. 131. IMPLEMENTATION OF A SCIENCE PROGRAM THAT EXTENDS HUMAN KNOWLEDGE AND UNDERSTANDING OF THE EARTH, SUN, SOLAR SYSTEM, AND THE UNIVERSE.

The Administrator shall—

(1) conduct a rich and vigorous set of science activities aimed at better comprehension of the universe, solar system, and Earth, and ensure that the various areas within NASA's science portfolio are developed and maintained in a balanced and healthy [manner;] *manner, and, as part of this balanced science research program, provide, to the maximum extent feasible, continued support and funding for the Magnetospheric Multiscale Mission, SIM-Planet Quest, and Future Explorers programs, including determining whether these delayed missions and planned missions can be expedited to meet previous schedules;*

(2) plan projected Mars exploration activities in the context of planned lunar robotic precursor missions, ensuring the ability to conduct a broad set of scientific investigations and research around and on the Moon's surface;

(3) upon successful completion of the planned return-to-flight schedule of the Space Shuttle, determine the schedule for a Shuttle servicing mission to the Hubble Space Telescope, unless such a mission would compromise astronaut or safety or the integrity of NASA's other missions;

(4) ensure that, in implementing the provisions of this section, appropriate inter-agency and commercial collaboration opportunities are sought and utilized to the maximum feasible extent;

(5) seek opportunities to diversify the flight opportunities for scientific Earth science instruments and seek innovation in the development of instruments that would enable greater flight opportunities;

(6) develop a long term sustainable relationship with the United States commercial remote sensing industry, and, consistent with applicable policies and law, to the maximum practical extent, rely on their services;

(7) in conjunction with United States industry and universities, develop Earth science applications to enhance Federal, State, [local, regional, and tribal agencies] *local, and tribal governments* that use government and commercial remote sensing capabilities and other sources of geospatial information to address their needs; [and]

(8) plan, develop, and implement a near-Earth object survey program to detect, track, catalogue, and characterize the physical characteristics of near-Earth asteroids and comets in order to assess the threat of such near-Earth objects in impacting the [Earth.] *Earth; and*

(9) ensure that, of the amount expended for aeronautics, a significant portion is directed toward the Vehicle System Program, as much of the basic, long-term, high-risk, and innovative research in aeronautical disciplines is performed within that program.

SEC. 132. BIENNIAL REPORTS TO CONGRESS ON SCIENCE PROGRAMS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act and every 2 years thereafter, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science setting forth in detail—

(1) the findings and actions taken on NASA's assessment of the balance within its science portfolio and any efforts to adjust that balance among the major program areas, including the areas referred to in section 131;

(2) any activities undertaken by the Administration to conform with the Sun-Earth science and applications direction provided in section 131; and

(3) efforts to enhance near-Earth object detection and observation.

(b) EXTERNAL REVIEW FINDINGS.—The Administrator shall include in each report submitted under this section a summary of findings and recommendations from any external reviews of the Administration's science mission priorities and programs.

SEC. 133. STATUS REPORT ON HUBBLE SPACE TELESCOPE SERVICING MISSION.

Within 60 days after the landing of the second Space Shuttle mission for return-to-flight certification, the Administrator shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science a one-time status report on a Hubble Space Telescope servicing mission.

SEC. 134. DEVELOP EXPANDED PERMANENT HUMAN PRESENCE BEYOND LOW-EARTH ORBIT.

(a) IN GENERAL.—As part of the programs authorized under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.), the Administrator shall establish a program to develop a permanently sustained human presence on the Moon, in tandem with an extensive precursor program, to support security, commerce, and scientific pursuits, and as a stepping-stone to future exploration of Mars. The Administrator is further authorized to develop and conduct international collaborations in pursuit of these goals, as appropriate.

(b) REQUIREMENTS.—In carrying out this section, the Administrator shall—

(1) implement an effective exploration technology program that is focused around the key needs to support lunar human and robotic operations;

(2) as part of NASA's annual budget submission, submit to the Congress the detailed mission, schedule, and budget for key lunar mission-enabling technology areas, including areas for possible innovative governmental and commercial activities and partnerships;

(3) as part of NASA's annual budget submission, submit to the Congress a plan for NASA's lunar robotic precursor and technology programs, including current and planned technology investments and scientific research that support the lunar program; and

(4) conduct an intensive in-situ resource utilization technology program in order to develop the capability to use space resources to increase independence from Earth, and sustain exploration beyond low-Earth orbit.

SEC. 135. GROUND-BASED ANALOG CAPABILITIES.

(a) IN GENERAL.—The Administrator shall establish a ground-based analog capability in remote United States locations in order to assist in the development of lunar operations, life support, and in-situ resource utilization experience and capabilities.

(b) LOCATIONS.—The Administrator shall select locations for subsection (a) in places that—

(1) are regularly accessible;

(2) have significant temperature extremes and range; and

(3) have access to energy and natural resources (including geothermal, permafrost, volcanic, and other potential resources).

(c) INVOLVEMENT OF LOCAL POPULATIONS; PRIVATE SECTOR PARTNERS.—In carrying out this section, the Administrator shall involve local populations, academia, and industrial partners as much as possible to ensure that ground-based benefits and applications are encouraged and developed.

SEC. 136. SPACE LAUNCH AND TRANSPORTATION TRANSITION, CAPABILITIES, AND DEVELOPMENT.

(a) Post-Orbiter Transition.—The Administrator shall develop an implementation plan for the transition to a new crew exploration vehicle and heavy-lift launch vehicle that uses the personnel, capabilities, assets, and infrastructure of the Space Shuttle to the fullest extent possible and addresses how NASA will accommodate the docking of the crew exploration vehicle to the ISS.

(b) Automated Rendezvous and Docking.—The Administrator is directed to pursue aggressively automated rendezvous and docking capabilities that can support ISS and other mission requirements and include these activities, progress reports, and plans in the implementation plan.

(c) Congressional Submission.—Within 120 days after the date of enactment of this Act the Administrator shall submit a copy of the implementation plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science.

SEC. 137. NATIONAL POLICY FOR AERONAUTICS RESEARCH AND DEVELOPMENT.

(a) In General.—The President, through the Director of the Office of Science and Technology Policy, shall develop, in consultation with NASA and other relevant Federal agencies, a national aeronautics policy to guide the aeronautics programs of the United States through the year 2020. *The development of this policy shall utilize external studies that have been conducted on the state of United States aeronautics and aviation research and have suggested policies to ensure continued competitiveness.*

(b) Content.—At a minimum the national aeronautics policy shall describe—

(1) national goals for aeronautics research;

(2) the priority areas of research for aeronautics through fiscal year 2011;

(3) the basis of which and the process by which priorities for ensuing fiscal years will be selected; and

(4) respective roles and responsibilities of various Federal agencies in aeronautics research.

[(c) National Assessment of Aeronautics Infrastructure and Capabilities.—In developing the national aeronautics policy, the President, through the Director of the Office of Science and Technology Policy, shall conduct a national study of government-owned aeronautics research infrastructure to assess—

[(1) uniqueness, mission dependency, and industry need; and

[(2) the development or initiation of a consolidated national aviation research, development, and support organization.

[(d)] *(c)* Schedule.—No later than 1 year after the date of enactment of this Act, the President's Science Advisor and the Administrator shall submit the national aeronautics policy to the Appropriations Committees of the House of Representatives and the Senate, the House Committee on Science, and the Senate Committee on Commerce, Science, and Transportation.

SEC. 138. IDENTIFICATION OF UNIQUE NASA CORE AERONAUTICS RESEARCH.

Within 180 days after the date of enactment of this Act, the Administrator shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science that assesses the aeronautics research program for its current and potential application to new aeronautic and space vehicles and the unique aeronautical research and associated capabilities that must be retained and supported by NASA to further space exploration and support United States economic competitiveness.

SEC 139. LESSONS LEARNED AND BEST PRACTICES

(a) In General.—The Administrator shall provide an implementation plan describing NASA's approach for obtaining, implementing, and sharing lessons learned and best practices for its major programs and projects within 180 days after the date of enactment of this Act. The implementation plan shall be updated and maintained to assure that it is current and consistent with the burgeoning culture of learning and safety that is emerging at NASA.

(b) Required Content.—The implementation plan shall contain as a minimum the lessons learned and best practices requirements for NASA, the organizations or positions responsible for enforcement of the requirements, the reporting structure, and the objective performance measures indicating the effectiveness of the activity.

(c) Incentives.—The Administrator shall provide incentives to encourage sharing and implementation of lessons learned and best practices by employees, projects, and programs; as well as penalties for programs and projects that are determined not to have demonstrated use of those resources.

SEC. 140. SAFETY MANAGEMENT.

Section 6 of the National Aeronautics and Space Administration Authorization Act, 1968 (42 U.S.C. 2477) is amended—

(1) by inserting "(a) In General.—" before "There";

(2) by striking "to it" and inserting "to it, including evaluating NASA's compliance with the return-to-flight and continue-to-fly recommendations of the Columbia Accident Investigation Board.";

(3) by inserting "and the Congress" after "advise the Administrator";

(4) by striking "and with respect to the adequacy of proposed or existing safety standards and shall" and inserting "with respect to the adequacy of proposed or existing safety standards, and with respect to management and culture. The Panel shall also"; and

(5) by adding at the end the following:

"(b) Annual Report.—The Panel shall submit an annual report to the Administrator and to the Congress. In the first annual report submitted after the date of enactment of the National Aeronautics and Space Administration Authorization Act of 2005, the Panel shall include an evaluation of NASA's safety management culture.

"(c) Sense of the Congress.—It is the sense of the Congress that the Administrator should—

"(1) ensure that NASA employees can raise safety concerns without fear of reprisal;

"(2) continue to follow the recommendations of the Columbia Accident Investigation Board for safely returning and continuing to fly; and

"(3) continue to inform the Congress from time to time of NASA's progress in meeting those recommendations.".

SEC. 141. CREATION OF A BUDGET STRUCTURE THAT AIDS EFFECTIVE OVERSIGHT AND MANAGEMENT.

In developing NASA's budget request for inclusion in the Budget of the United States for fiscal year 2007 and thereafter, the Administrator shall—

(1) include line items for—

(A) science, aeronautics, and exploration;

(B) exploration capabilities; and

(C) the Office of the Inspector General;

(2) enumerate separately, within the science, aeronautics, and exploration account, the requests for—

(A) space science;

(B) Earth science; and

(C) aeronautics;

(3) include, within the exploration capabilities account, the requests for—

(A) the Space Shuttle; and

(B) the ISS; and

(4) enumerate separately the specific request for the independent technical authority within the appropriate account.

SEC. 142. EARTH OBSERVING SYSTEM.

(a) In General.—Within 6 months after the date of enactment of this Act, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Director of the United States Geological Survey, shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science to ensure the long-term vitality of the earth observing system at NASA.

(b) Plan Requirements.—The plan shall—

(1) address such issues as—

(A) out-year budgetary projections;

(B) technical requirements for the system; and

(C) integration into the Global Earth Observing System of Systems; and

(2) evaluate—

(A) the need to proceed with any NASA missions that have been delayed or canceled;

(B) plans for transferring needed capabilities from some canceled or de-scoped missions to the National Polar-orbiting Environmental Satellite System;

(C) the technical base for exploratory earth observing [systems;] *systems, including new satellite architectures and instruments that enable global coverage, all-weather, day and night imaging of the Earth's surface features;*

(D) the need to strengthen research and analysis programs; and

(E) the need to strengthen the approach to obtaining important climate observations and data records.

(c) Earth Observing System Defined.—In this section, the term "earth observing system" means the series of satellites, a science component, and a data system for long-term global observations of the land surface, biosphere, solid Earth, atmosphere, and oceans.

SEC. 143. NASA HEALTHCARE PROGRAM.

The Administrator shall develop policies, procedures, and plans necessary for—

(1) the establishment of a lifetime healthcare program for NASA astronauts and their families; and

(2) the study and analysis of the healthcare data obtained in order to understand the longitudinal health effects of space flight on humans better.

SEC. 144. ASSESSMENT OF EXTENSION OF DATA COLLECTION FROM ULYSSES AND VOYAGER SPACECRAFT.

(a) Assessment.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall carry out an assessment of the costs and benefits of extending, to such date as the Administrator considers appropriate for purposes of the assessment, the date of the termination of data collection from the Ulysses spacecraft and the Voyager spacecraft.

(b) Report.—Not later than 30 days after completing the assessment required by subsection (a), the Administrator shall submit a report on the assessment to the Senate Committee

on Commerce, Science, and Transportation and the House of Representatives Committee on Science.

SEC. 145. PROGRAM TO EXPAND DISTANCE LEARNING IN RURAL UNDERSERVED AREAS.

(a) IN GENERAL.—The Administrator shall develop or expand programs to extend science and space educational outreach to rural communities and schools through video conferencing, interpretive exhibits, teacher education, classroom presentations, and student field trips.

(b) PRIORITIES.—In carrying out subsection (a), the Administrator shall give priority to existing programs, includng Challenger Learning Centers—

(1) that utilize community-based partnerships in the field;

(2) that build and maintain video conference and exhibit capacity;

(3) that travel directly to rural communities and serve low-income populations; and

(4) with a special emphasis on increasing the number of women and minorities in the science and engineering professions.

SEC. 146. INSTITUTIONS IN NASA'S MINORITY INSTITUTIONS PROGRAM.

The matter appearing under the heading "SMALL AND DISADVANTAGED BUSINESS" in title III of the Departments of Veterans Affairs and House and Urban Development, and Independent Agencies Appropriations Act, 1990 (42 U.S.C. 2473b; 103 Stat. 863) is amended by striking "Historically Black Colleges and Universities and" and inserting "Historically Black Colleges and Universities that are part B institutions (as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2))), Hispanic-serving institutions (as defined in section 502(a)(5) of that Act (20 U.S.C. 1101a(a)(5))), Tribal Colleges or Universities (as defined in section 316(b)(3) of that Act (20 U.S.C. 1059c(b)(3))), Alaskan Native-serving institutions (as defined in section 317(b)(2) of that Act (20 U.S.C. 1059d)(b)(2)), Native Hawaiian-serving institutions (as defined in section 317(b)(4) of that Act (20 U.S.C. 1059d(b)(4)), and".

SEC. 147. AVIATION SAFETY PROGRAM.

The Administrator shall make available upon request satellite imagery of remote terrain to the Administrator of the Federal Aviation Administration, or the Director of the Five Star Medallion Program, for aviation safety and aerial photography programs to assist and train pilots in navigating challenging topographical features of such terrain.

SEC. 148. ATMOSPHERIC, GEOPHYSICAL, AND ROCKET RESEARCH AUTHORIZATION.

There are authorized to be appropriated to the Administrator for atmospheric, geophysical, or rocket research at the Poker Flat Research Range and the Kodiak Launch Complex, not more than $1,000,000 for each of fiscal years 2006 through 2010.

SEC. 149. ORBITAL DEBRIS.

The Administrator, in conjunction with the heads of other Federal agencies, shall take steps to develop or acquire technologies that will enable NASA to decrease the risks associated with orbital debris.

SEC. 150. CONTINUATION OF CERTAIN EDUCATIONAL PROGRAMS.

From amounts appropriated to NASA for educational programs, the Administrator shall ensure continuation of the Space Grant Program, the Experimental Program to Stimulate Competitive Research, and the NASA Explorer School to motivate and develop the next generation of explorers.

SEC. 151. ESTABLISHMENT OF THE CHARLES "PETE" CONRAD ASTRONOMY AWARDS PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a program to be known as the Charles "Pete" Conrad Astronomy Awards Program.

(b) AWARDS.—The Administrator shall make an annual award under the program of—

(1) $3,000 to the amateur astronomer or group of amateur astronomers who in the preceding calendar year discovered the intrinsically brightest near-Earth asteroid among the near-Earth asteroids that were discovered during that year by amateur astronomers or groups of amateur astronomers; and

(2) $3,000 to the amateur astronomer or group of amateur astronomers who made the greatest contribution to the Minor Planet Center's mission of cataloging near-Earth asteroids during the preceding year.

(c) QUALIFICATION FOR AWARD.—

(1) RECOMMENDATION.—These awards shall be made based on the recommendation of the Minor Planet Center of the Smithsonian Astrophysical Observatory.

(2) LIMITATION.—No individual who is not a citizen or permanent resident of the United States at the time of that individual's discovery or contribution may receive an award under this program.

SEC. 152. GAO ASSESSMENT OF FEASIBILITY OF MOON AND MARS EXPLORATION MISSIONS.

Within 9 months after the date of enactment of this Act, the Comptroller General shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science an assessment of the feasibility of NASA's planning for exploration of the Moon and Mars, giving special consideration to the long-term cost implications of program architecture and schedules.

Subtitle C—Limitations and Special Authority

SEC. 161. OFFICIAL REPRESENTATIONAL FUND.

Amounts appropriated pursuant to paragraphs (1) and (2) of section 101 may be used, but not to exceed $70,000, for official reception and representation expenses.

SEC. 162. FACILITIES MANAGEMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator may convey, by sale, lease, exchange, or otherwise, including through leaseback arrangements, real and related personal property under the custody and control of the Administration, or interests therein, and retain the net proceeds of such dispositions in an account within NASA's working capital fund to be used for NASA's real property capital needs. All net proceeds realized under this section shall be obligated or expended only as authorized by appropriations Acts. To aid in the use of this authority, NASA shall develop a facilities investment plan that takes into account uniqueness, mission dependency, and other studies required by this Act.

(b) APPLICATION OF OTHER LAW.—Sales transactions under this section are subject to section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(c) NOTICE OF REPROGRAMMING.—If any funds authorized by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the House of Representatives Committee on Science and the Senate Committee on Commerce, Science, and Transportation.

(d) DEFINITIONS.—In this section:

(1) NET PROCEEDS.—The term "net proceeds" means the rental and other sums received less the costs of the disposition.

(2) REAL PROPERTY CAPITAL NEEDS.—The term "real property capital needs" means any expenses necessary and incident to the agency's real property capital acquisitions, improvements, and dispositions.

TITLE II—INTERNATIONAL SPACE STATION

SEC. 201. INTERNATIONAL SPACE STATION COMPLETION.

(a) ELEMENTS, CAPABILITIES, AND CONFIGURATION CRITERIA.—The Administrator shall ensure that the ISS will be able to—

(1) fulfill international partner agreements and provide a diverse range of research capacity, including a high rate of human biomedical research protocols, countermeasures, applied bio-technologies, technology and exploration research, and other priority areas;

(2) have an ability to support crew size of at least 6 persons;

(3) support crew exploration vehicle docking and automated docking of cargo vehicles or modules launched by either heavy-lift or commercially-developed launch vehicles; and

(4) be operated at an appropriate risk level.

(b) CONTINGENCY PLAN.—The transportation plan to support ISS shall include contingency options to ensure sufficient logistics and on-orbit capabilities to support any potential hiatus between Space Shuttle availability and follow-on crew and cargo systems, and provide sufficient pre-positioning of spares and other supplies needed to accommodate any such hiatus.

(c) CERTIFICATION.—Within **[**180**]** *60* days after the date of enactment of this Act, and before making any change in the ISS assembly sequence in effect on the date of enactment of this Act, the Administrator shall certify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science NASA's plan to meet the requirements of subsections (a) and (b).

(d) COST LIMITATION FOR THE ISS.—Within 6 months after the date of enactment of this Act, the Administrator shall submit to the Congress information pertaining to the impact of the Columbia accident and the implementation of full cost accounting on the development costs of the International Space Station. The Administrator shall also identify any statutory changes needed to section 202 of the NASA Authorization Act of 2000 to address those impacts.

SEC. 202. RESEARCH AND SUPPORT CAPABILITIES ON INTERNATIONAL SPACE STATION.

(a) IN GENERAL.—The Administrator shall—

(1) within 60 days after the date of enactment of this Act, provide an assessment of biomedical and life science research planned for implementation aboard the ISS that includes the identification of research which can be performed in ground-based facilities and then, if appropriate, validated in space to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science;

(2) ensure the capacity to support ground-based research leading to spaceflight of scientific research in a variety of disciplines with potential direct national benefits and applications that can advance significantly from the uniqueness of micro-gravity;

(3) restore and protect such potential ISS research activities as molecular crystal growth, animal research, basic fluid physics, combustion research, cellular biotechnology, low temperature physics, and cellular research at a level which will sustain the existing scientific expertise and research capabilities until such time as additional funding

or resources from sources other than NASA can be identified to support these activities within the framework of the National Laboratory provided for in section 203 of this Act; and

(4) within 1 year after the date of enactment of this Act, develop a research plan that will demonstrate the process by which NASA will evolve the ISS research portfolio in a manner consistent with the planned growth and evolution of ISS on-orbit and transportation capabilities.

(b) MAINTENANCE OF ON-ORBIT ANALYTICAL CAPABILITIES.—The Administrator shall ensure that on-orbit analytical capabilities to support diagnostic human research, as well as on-orbit characterization of molecular crystal growth, cellular research, and other research products and results are developed and maintained, as an alternative to Earth-based analysis requiring the capability of returning research products to Earth.

(c) ASSESSMENT OF POTENTIAL SCIENTIFIC USES.—The Administrator shall assess further potential possible scientific uses of the ISS for other applications, such as technology development, development of manufacturing processes, Earth observation and characterization, and astronomical observations.

(d) TRANSITION TO PUBLIC-PRIVATE RESEARCH OPERATIONS.—By no later than the date on which the assembly of the ISS is complete (as determined by the Administrator), the Administrator shall initiate steps to transition research operations on the ISS to a greater private-public operating relationship pursuant to section 203 of this Act.

SEC. 203. NATIONAL LABORATORY STATUS FOR INTERNATIONAL SPACE STATION.

(a) IN GENERAL.—In order to accomplish the objectives listed in section 202, the United States segment of the ISS is hereby designated a national laboratory facility. The Administrator, after consultation with the Director of the Office of Science and Technology Policy, shall develop the national laboratory facility to oversee scientific utilization of an ISS national laboratory within the organizational structure of NASA.

(b) NATIONAL LABORATORY FUNCTIONS.—The Administrator shall seek to use the national laboratory to increase the utilization of the ISS by other national and commercial users and to maximize available NASA funding for research through partnerships, cost-sharing agreements, and arrangements with non-NASA entities.

(c) IMPLEMENTATION PLAN.—Within 1 year after the date of enactment of this Act, the Administrator shall provide an implementation plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science for establishment of the ISS national laboratory facility which, at a minimum, shall include—

(1) proposed on-orbit laboratory functions;

(2) proposed ground-based laboratory facilities;

(3) detailed laboratory management structure, concept of operations, and operational feasibility;

(4) detailed plans for integration and conduct of ground and space-based research operations;

(5) description of funding and workforce resource requirements necessary to establish and operate the laboratory;

(6) plans for accommodation of existing international partner research obligations and commitments; and

(7) detailed outline of actions and timeline necessary to implement and initiate operations of the laboratory.

(d) U.S. SEGMENT DEFINED.—In this section the term "United States Segment of the ISS" means those elements of the ISS manufactured—

(1) by the United States; or

(2) for the United States by other nations in exchange for funds or launch services.

SEC. 204. COMMERCIAL SUPPORT OF INTERNATIONAL SPACE STATION OPERATIONS AND UTILIZATION.

The Administrator shall purchase commercial services for support of the ISS for cargo and other **[**needs**]** *needs, and for enhancement of the capabilities of the ISS,* to the maximum extent possible, in accordance with Federal procurement law.

SEC. 205. USE OF THE INTERNATIONAL SPACE STATION AND ANNUAL REPORT.

(a) POLICY.—It is the policy of the United States—

(1) to ensure diverse and growing utilization of benefits from the ISS; and

(2) to increase commercial operations in low-Earth orbit and beyond that are supported by national and commercial space transportation capabilities.

(b) USE OF INTERNATIONAL SPACE STATION.—The Administrator shall conduct broadly focused scientific and exploration research and development activities using the ISS in a manner consistent with the provisions of this title, and advance the Nation's exploration of the Moon and beyond, using the ISS as a test-bed and outpost for operations, engineering, and scientific research.

(c) REPORTS.—No later than March 31 of each year the Administrator shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the use of the ISS for these purposes, with implementation milestones and associated results.

TITLE III—NATIONAL SPACE TRANSPORTATION POLICY

SEC. 301. UNITED STATES HUMAN-RATED LAUNCH CAPACITY ASSESSMENT.

Notwithstanding any other provision of law, the Administrator shall, within 60 days after the date of enactment of this Act, provide to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science, a full description of the transportation requirements needed to support the space launch and transportation transition implementation plan required by section 136 of this Act, as well as for the ISS, including—

(1) the manner in which the capabilities of any proposed human-rated crew and launch vehicles meet the requirements of the implementation plan under section 136 of this Act;

(2) a retention plan of skilled personnel from the legacy Shuttle program which will sustain the level of safety for that program through the final flight and transition plan that will ensure that any NASA programs can utilize the human capital resources of the Shuttle program, to the maximum extent practicable;

(3) the implications for and impact on the Nation's aerospace industrial base;

(4) the manner in which the proposed vehicles contribute to a national mixed fleet launch and flight capacity;

(5) the nature and timing of the transition from the Space Shuttle to the workforce, the proposed vehicles, and any related infrastructure;

(6) support for ISS crew transportation, ISS utilization, and lunar exploration architecture;

(7) for any human rated vehicle, a crew escape system, as well as substantial protection against orbital debris strikes that offers a high level of safety;

(8) development risk areas;

(9) the schedule and cost;

(10) the relationship between crew and cargo capabilities; and

(11) the ability to reduce risk through the use of currently qualified hardware.

SEC. 302. SPACE SHUTTLE TRANSITION.

(a) IN GENERAL.—In order to ensure continuous human access to space, the Administrator may not retire the Space Shuttle orbiter until a replacement human-rated spacecraft system has demonstrated that it can take humans into Earth orbit and return them safely, except as may be provided by law enacted after the date of enactment of this Act. The Administrator shall conduct the transition from the Space Shuttle orbiter to a replacement capability in a manner that uses the personnel, capabilities, assets, and infrastructure of the current Space Shuttle program to the maximum extent feasible.

(b) REPORT.—After providing the information required by section 301 to the Committees, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science containing a detailed and comprehensive Space Shuttle transition plan that includes any necessary recertification, including requirements, assumptions, and milestones, in order to utilize the Space Shuttle orbiter beyond calendar year 2010.

(c) CONTRACT TERMINATIONS; VENDOR REPLACEMENTS.—The Administrator may not terminate any contracts nor replace any vendors associated with the Space Shuttle until the Administrator transmits the report required by subsection (b) to the Committees.

SEC. 303. COMMERCIAL LAUNCH VEHICLES.

It is the sense of Congress that the Administrator should use current and emerging commercial launch vehicles to fulfill appropriate mission needs, including the support of low-Earth orbit and lunar exploration operations.

SEC. 304. SECONDARY PAYLOAD CAPABILITY.

In order to help develop a cadre of experienced engineers and to provide more routine and affordable access to space, the Administrator shall provide the capabilities to support secondary payloads on United States launch vehicles, including free flyers, for satellites or scientific payloads weighing less than 500 kilograms.

TITLE IV—ENABLING COMMERCIAL ACTIVITY

SEC. 401. COMMERCIALIZATION PLAN.

(a) IN GENERAL.—The Administrator, in consultation with the Associate Administrator for Space Transportation of the Federal Aviation Administration, the Director of the Office of Space Commercialization of the Department of Commerce, and any other relevant agencies, shall develop a commercialization plan to support the human missions to the Moon and Mars, to support Low-Earth Orbit activities and Earth science mission and applications, and to transfer science research and technology to society. The plan shall identify opportunities for the private sector to participate in the future missions and activities, including opportunities for partnership between NASA and the private sector in the development of technologies and **[**services.**]** *services, shall emphasize the utilization by NASA of advancements made by* *the private sector in space launch and orbital hardware, and shall include opportunities for innovative collaborations between NASA and the private sector under existing authorities of NASA for reimbursable and non-reimbursable agreements under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.).*

(b) REPORT.—Within 180 days after the date of enactment of this Act, the Administrator shall submit a copy of the plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science.

SEC. 402. AUTHORITY FOR COMPETITIVE PRIZE PROGRAM TO ENCOURAGE DEVELOPMENT OF ADVANCED SPACE AND AERONAUTICAL TECHNOLOGIES.

Title III of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"SEC. 316. PROGRAM ON COMPETITIVE AWARD OF PRIZES TO ENCOURAGE DEVELOPMENT OF ADVANCED SPACE AND AERONAUTICAL TECHNOLOGIES.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Administrator may carry out a program to award prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the performance of the space and aeronautical activities of the Administration.

"(2) USE OF PRIZE AUTHORITY.—In carrying out the program, the Administrator shall seek to develop and support technologies and areas identified in section 134 of this Act or other areas that the Administrator determines to be providing impetus to NASA's overall exploration and science architecture and plans, such as private efforts to detect near Earth objects and, where practicable, utilize the prize winner's technologies in fulfilling NASA's missions. The Administrator shall widely advertise any competitions conducted under the program and must include advertising to research universities.

"(3) COORDINATION.—The program shall be implemented in compliance with section 138 of the National Aeronautics and Space Administration Authorization Act of 2005.

"(b) PROGRAM REQUIREMENTS.—

"(1) COMPETITIVE PROCESS.—Recipients of prizes under the program under this section shall be selected through one or more competitions conducted by the Administrator.

"(2) ADVERTISING.—The Administrator shall widely advertise any competitions conducted under the program.

"(c) REGISTRATION; ASSUMPTION OF RISK.—

"(1) REGISTRATION.—Each potential recipient of a prize in a competition under the program under this section shall register for the competition.

"(2) ASSUMPTION OF RISK.—In registering for a competition under paragraph (1), a potential recipient of a prize shall assume any and all risks, and waive claims against the United States Government and its related entities, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in the competition, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of willful misconduct.

"(3) RELATED ENTITY DEFINED.—In this subsection, the term 'related entity' includes a contractor or subcontractor at any tier, a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

"(d) LIMITATIONS.—

"(1) TOTAL AMOUNT.—The total amount of cash prizes available for award in competitions under the program under this section in any fiscal year may not exceed $50,000,000

"(2) APPROVAL REQUIRED FOR LARGE PRIZES.—No competition under the program may result in the award of more than $1,000,000 in cash prizes without the approval of the Administrator or a designee of the Administrator.

"(e) RELATIONSHIP TO OTHER AUTHORITY.—The Administrator may utilize the authority in this section in conjunction with or in addition to the utilization of any other authority of the Administrator to acquire, support, or stimulate basic and applied research, technology development, or prototype demonstration projects.

"(f) AVAILABILITY OF FUNDS.—Funds appropriated for the program authorized by this section shall remain available until expended.".

SEC. 403. COMMERCIAL GOODS AND SERVICES.

It is the sense of the Congress that NASA should purchase commercially available space goods and services to the fullest extent feasible in support of the human missions beyond Earth and should encourage commercial use and development of space to the greatest extent practicable.

TITLE V—MISCELLANEOUS ADMINISTRATIVE IMPROVEMENTS

SEC. 501. EXTENSION OF INDEMNIFICATION AUTHORITY.

Section 309 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458c) is amended by striking "December 31, 2002" and inserting "December 31, 2007", and by striking "September 30, 2005" and inserting "December 31, 2009".

SEC. 502. INTELLECTUAL PROPERTY PROVISIONS.

Section 305 of the National Aeronautics and Space Act of **[**1958, as amended (42 U.S.C. 2457 et seq.),**]** *1958 (42 U.S.C. 2457)* is amended by inserting after subsection (f) the following:

"(g) ASSIGNMENT OF PATENT RIGHTS, ETC.—

"(1) IN GENERAL.—Under agreements entered into pursuant to paragraph (5) or (6) of section 203(c) of this Act (42 U.S.C. 2473(c)(5) or (6)), the Administrator may—

"(A) grant or agree to grant in advance to a participating party, patent licenses or assignments, or options thereto, in any invention made in whole or in part by an Administration employee under the agreement; or

"(B) subject to section 209 of title 35, grant a license to an invention which is Federally owned, for which a patent application was filed before the signing of the agreement, and directly within the scope of the work under the agreement, for reasonable compensation when appropriate.

"(2) EXCLUSIVITY.—The Administrator shall ensure, through such agreement, that the participating party has the option to choose an exclusive license for a pre-negotiated field of use for any such invention under the agreement or, if there is more than 1 participating party, that the participating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party.

"(3) CONDITIONS.—In consideration for the Government's contribution under the agreement, grants under this subsection shall be subject to the following explicit conditions:

"(A) A nonexclusive, nontransferable, irrevocable, paid-up license from the participating party to the Administration to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552 (b)(4) of title 5, United States Code, or which would be considered as such if it had been obtained from a non-Federal party.

"(B) If the Administration assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

"(i) to require the participating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

"(ii) if the participating party fails to grant such a license, to grant the license itself.

"(C) The Government may exercise its right retained under subparagraph (B) only in exceptional circumstances and only if the Government determines that—

"(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the participating party;

"(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the participating party; or

"(iii) the action is necessary to comply with an agreement containing provisions described in section 12(c)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4)(B)).

"(4) APPEAL AND REVIEW OF DETERMINATION.—A determination under paragraph (3)(C) is subject to administrative appeal and judicial review under section 203(b) of title 35, United States Code.".

SEC. 503. RETROCESSION OF JURISDICTION.

Title III of the National Aeronautics and Space Act of 1958, as amended by section 502 of this Act, is further amended by adding at the end the following:

"SEC. 317. RETROCESSION OF JURISDICTION.

"Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under the Administrator's control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide.".

SEC. 504. RECOVERY AND DISPOSITION AUTHORITY.

Title III of the National Aeronautics and Space Act of 1958, as amended by section 603 of this Act, is further amended by adding at the end the following:

"SEC. 318. RECOVERY AND DISPOSITION AUTHORITY.

"(a) IN GENERAL.—

"(1) CONTROL OF REMAINS.—Subject to paragraph (2), when there is an accident or mishap resulting in the death of a crewmember of a NASA human space flight vehicle, the Administrator may take control over the remains of the crewmember and order autopsies and other scientific or medical tests.

"(2) TREATMENT.—Each crewmember shall provide the Administrator with his or her preferences regarding the treatment accorded to his or her remains and the Administrator shall, to the extent possible, respect those stated preferences.

"(b) DEFINITIONS.—In this section:

"(1) CREWMEMBER.—The term 'crewmember' means an astronaut or other person assigned to a NASA human space flight vehicle.

"(2) NASA HUMAN SPACE FLIGHT VEHICLE.—The term 'NASA human space flight vehicle' means a space vehicle, as defined in section 308(f)(1), that—

"(A) is intended to transport 1 or more persons;

"(B) designed to operate in outer space; and

"(C) is either owned by NASA, or owned by a NASA contractor or cooperating party and operated as part of a NASA mission or a joint mission with NASA.".

SEC. 505. REQUIREMENT FOR INDEPENDENT COST ANALYSIS.

Section 301 of the National Aeronautics and Space Administration Authorization Act of 2000 (42 U.S.C. 2459g) amended—

(1) by striking "Phase B" in subsection (a) and inserting "implementation";

[(2) by striking "$150,000,000" in subsection (a) and inserting "$250,,000,000";]

[(3)] *(2)* by striking "Chief Financial Officer" each place it appears in subsection (a) and inserting "Administrator";

[(4)] *(3)* by inserting "and consider" in subsection (a) after "shall conduct"; and

[(5)] *(4)* by striking subsection (b) and inserting the following:

"(b) IMPLEMENTATION DEFINED.—In this section, the term 'implementation' means all activity in the life cycle of a program or project after preliminary design, independent assessment of the preliminary design, and approval to proceed into implementation, including critical design, development, certification, launch, operations, disposal of assets, and, for technology programs,, development, testing, analysis and communication of the results to the customers.".

SEC. 506. ELECTRONIC ACCESS TO BUSINESS OPPORTUNITIES.

Title III of the National Aeronautics and Space Act of 1958, as amended by section 604 of this Act, is further amended by adding at the end the following:

"SEC. 319. ELECTRONIC ACCESS TO BUSINESS OPPORTUNITIES.

"(a) IN GENERAL.—The Administrator may implement a pilot program providing for reduction in the waiting period between publication of notice of a proposed contract action and release of the solicitation for procurements conducted by the National Aeronautics and Space Administration.

"(b) APPLICABILITY.—The program implemented under subsection (a) shall apply to non-commercial acquisitions—

"(1) with a total value in excess of $100,000 but not more than $5,000,000, including options;

"(2) that do not involve bundling of contract requirements as defined in section 3(o) of the Small Business Act (15 U.S.C. 632(o)); and

"(3) for which a notice is required by section 8(e) of the Small Business Act (15 U.S.C. 637(e)) and section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)).

"(c) NOTICE.—

"(1) Notice of acquisitions subject to the program authorized by this section shall be made accessible through the single Government-wide point of entry designated in the Federal Acquisition Regulation, consistent with section 30(c)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 426(c)(4)).

"(2) Providing access to notice in accordance with paragraph (1) satisfies the publication requirements of section 8(e) of the Small Business Act (15 U.S.C. 637(e)) and section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)).

"(d) SOLICITATION.—Solicitations subject to the program authorized by this section shall be made accessible through the Government-wide point of entry, consistent with requirements set forth in the Federal Acquisition Regulation, except for adjustments to the wait periods as provided in subsection (e).

"(e) WAIT PERIOD.—

"(1) Whenever a notice required by section 8(e)(1)(A) of the Small Business Act (15 U.S.C. 637(e)(1)(A)) and section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is made accessible in accordance with subsection (c) of this section, the wait period set forth in section 8(e)(3)(A) of the Small Business Act (15 U.S.C. 637(e)(3)(A)) and section 18(a)(3)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(3)(A)), shall be reduced by 5 days. If the solicitation applying to that notice is accessible electronically in accordance with subsection (d) simultaneously with issuance of the notice, the wait period set forth in section 8(e)(3)(A) of the Small Business Act (15 U.S.C. 637(e)(3)(A)) and section 18(a)(3)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(3)(A)) shall not apply and the period specified in section 8(e)(3)(B) of the Small Business Act and section 18(a)(3)(B) of the Office of Federal Procurement Policy Act for submission of bids or proposals shall begin to run from the date the solicitation is electronically accessible.

"(2) When a notice and solicitation are made accessible simultaneously and the wait period is waived pursuant to paragraph (1), the deadline for the submission of bids or proposals shall be not less than 5 days greater than the minimum deadline set forth in section 8(e)(3)(B) of the Small Business Act (15 U.S.C. 637(e)(3)(B)) and section 18(a)(3)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(3)(B)).

"(f) IMPLEMENTATION.—

"(1) Nothing in this section shall be construed as modifying regulatory requirements set forth in the Federal Acquisition Regulation, except with respect to—

"(A) the applicable wait period between publication of notice of a proposed contract action and release of the solicitation; and

"(B) the deadline for submission of bids or proposals for procurements conducted in accordance with the terms of this pilot program.

"(2) This section shall not apply to the extent the President determines it is inconsistent with any international agreement to which the United States is a party.

"(g) STUDY.—Within 18 months after the effective date of the program, NASA, in coordination with the Small Business Administration, the General Services Administration, and the Office of Management and Budget, shall evaluate the impact of the pilot program and submit to Congress a report that—

"(1) sets forth in detail the results of the test, including the impact on competition and small business participation; and

"(2) addresses whether the pilot program should be made permanent, continued as a test program, or allowed to expire.

"(h) REGULATIONS.—The Administrator shall publish proposed revisions to the NASA Federal Acquisition Regulation Supplement necessary to implement this section in the Federal Register not later than 120 days after the date of enactment of the National Aeronautics and Space Administration Authorization Act of 2005. The Administrator shall—

"(1) make the proposed regulations available for public comment for a period of not less than 60 days; and

"(2) publish final regulations in the Federal Register not later than 240 days after the date of enactment of that Act.

"(i) EFFECTIVE DATE.—

"(1) IN GENERAL.—The pilot program authorized by this section shall take effect on the date specified in the final regulations promulgated pursuant to subsection (h)(2).

"(2) LIMITATION.—The date so specified shall be no less than 30 days after the date on which the final regulation is published.

"(j) EXPIRATION OF AUTHORITY.—The authority to conduct the pilot program under subsection (a) and to award contracts under such program shall expire 2 years after the effective date established in the final regulations published in the Federal Register under subsection (h)(2).".

SEC. 507. REPORTS ELIMINATION.

(a) REPEALS.—The following provisions of law are repealed:

(1) Section 201 of the National Aeronautics and Space Administration Authorization Act of 2000 (42 U.S.C. 2451 note).

(2) Section 304(d) of the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992 (49 U.S.C. 47508 note).

(3) Section 323 of the National Aeronautics and Space Administration Authorization Act of 2000.

(b) AMENDMENTS.—

(1) Section 315 of the National Aeronautics and Space Administration Act of 1958 (42 U.S.C. 2459j) is amended by striking subsection (a) and redesignating subsections (b) through (f) as subsections (a) through (e).

(2) Section 315(a) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (42 U.S.C. 2487a(c)) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

Mrs. HUTCHISON. Mr. President, I am delighted to join my friend and colleague, the distinguished Senator from Florida, in bringing before the Senate today, S. 1281, the NASA Authorization Bill of 2005. Our subcommittee and the full Commerce Committee have worked hard to prepare legislation that we believe is important and timely, because it comes at a watershed moment in this Nation's civil space program.

That moment has come at no small cost. It grew out of a terrible tragedy that took place in the skies over Texas 2½ years ago, when the space shuttle *Columbia* and her brave crew were lost as they were returning home from an important and successful research mission.

In the aftermath of that accident, we were forced, as a nation, to once again confront the question of the value of space exploration in the face of the risks involved in sending our best and brightest—and those of other nations who are our partners in space exploration—into the hostile realm of space. The overwhelming and resounding answer, from the families of those who were lost to men, women and children across the country, and our elected leadership, was "yes." They gave the same answer that Lewis and Clark gave to Thomas Jefferson 200 years ago, when he charged them with the task of exploring what was then a great, largely unknown expanse.

Just as that difficult but inspiring voyage of discovery opened the way for this Nation to spread its wings from sea to sea, the voyages of discovery into the far reaches of space have begun—and will continue—to open vast opportunities for our Nation, and for the world.

While the vision that drove Lewis and Clark—the discovery of a northwest passage to the Pacific Ocean—was not the result they achieved, the understanding of the raw richness of our continent, and the insights into themselves and their fellow human beings provided a wealth of discovery more diverse and more valuable than any specific goal they had in mind as they began.

Among the many important findings of the investigation into the *Columbia* accident was the need for a renewed guiding vision for our human space exploration programs. On January 14, 2004, President George W. Bush provided the essence of that bold new vision for exploration, not only for NASA, but for the Nation. It extends far beyond his tenure in office—beyond the tenure of most of us serving in the Senate today. It reaches beyond many years and ultimately millions of miles into the solar system in which we live. It will require a long-standing commitment by this Nation, and it will not be an easy vision to accomplish. We will find unexpected obstacles and challenges along the way. If we didn't, it would not really be exploration. Our task as a nation, and in the company of international partners who will join us on this journey, will be to meet those challenges and turn them into opportunities.

The essential first step in the new Vision for Exploration was to return the space shuttle to flight. As we all know, the space shuttle *Discovery* launched into orbit and began this Nation's return to space flight on July 26th. Commander Eileen Collins and her crew, the crew aboard the International Space Station, and the entire NASA team conducted an extremely successful first test flight to assess the progress made in the space shuttle program since the tragic *Columbia* accident. While the shedding of foam debris during liftoff—the direct cause of the damage to *Columbia*—was reduced to a level far below that previously experienced, it has not been eliminated and more work remains to understand and address that problem. Fortunately, among the major improvements in the Shuttle program is the vast increase in the ability to monitor and collect visual information on the health of the Orbiter both during launch and in orbit. That unprecedented level of information was combined with new on-orbit repair techniques to further enhance our confidence in the shuttle program's flight readiness. All of us, I'm sure, were thrilled to watch astronaut Steve Robinson deftly pluck the small gap fillers from *Discovery*'s underside, and the amazing never before seen images of the orbiter's thermal protection system. Our subcommittee will continue to monitor the application of the findings of this first test flight to the preparations for the launch of the second test flight next year, which continues this first step in the Vision for Exploration.

The legislation we bring before the Senate today supports the Vision of Exploration outlined by the President. It provides an opportunity for the Congress to fulfill its responsibility to help set the stage for the commencement of our new national journey of exploration. It has been 5 years since the Congress has enacted authorization legislation for NASA and its programs. Those 5 years have seen a great deal of change in the realm of space exploration. First and foremost, for nearly all of that time, humans have been living and working continuously on orbit 240 miles above the earth aboard the International Space Station. Despite the interruption of its assembly by the *Columbia* accident, the space station has already provided a great deal of important scientific information resulting from the research the expedition crews aboard the ISS have been able to accomplish. And most of its laboratory facilities are not yet on orbit. The space station represents an immensely valuable asset for this Nation and our international and scientific partners, and the legislation before the Senate today will serve to ensure it realizes the vast potential it has long promised.

The past 5 years have seen other changes.

As we have undergone the recovery from the *Columbia* accident, we have witnessed the most comprehensive review of the hardware, systems and processing for the space shuttle program since it began operational flights 24 years ago. While we may never be able to completely eliminate the risks of human spaceflight, the space shuttle system is safer today than it has ever been, and we have learned valuable lessons that can be applied to the next generation of human space flight vehicle.

Last year we witnessed dramatic evidence of yet another major change in space exploration when pilot Mike Melville flew *SpaceShipOne*, built by the Scaled Deposits Corporation, over 100 kilometers high, to become the first person to fly a privately-built vehicle into the reaches of space on September 29, 2004. Five days later, on October 4 Brian Binnie at the controls, *SpaceShipOne* became the first private manned spacecraft to exceed an altitude of 328,000 feet twice within the span of a 14-day period. With that accomplishment, Scaled Deposits Corporation won the $10 million Ansari X-Prize, funded entirely by private funds. A new era in private, commercial development of manned and unmanned spacecraft has begun, which offers exciting opportunities for the future.

For example, two space entrepreneurs are planning to join together in the launch early next year of the Falcon V launch vehicle, built by Elon Musk's Space-X Corporation, which will carry aloft a prototype one-third scale space module built by Robert Bigelow's Bigelow Aerospace Corporation. Other companies are developing designs and building prototype hardware that could be the precursors of commercially developed space station modules and the means of supplying and maintaining them with cargo and crews that could complement and expand the research opportunities provided by the International Space Station. S. 1281 includes language which both encourages and enables increased commercial involvement in space activities, including servicing the International Space Station, developing and conducting free-flying space research vehicles, and providing for increased use of competitive prizes and incentives to spur private investment and development. We would expect to see that private sector interest and involvement eventually extend beyond earth orbit to become an integral part of the nation's broader commitment to exploration of the Moon, Mars and destinations beyond.

I would like now to discuss some of the key provisions of the NASA reauthorization bill which I believe are especially important to the new beginning we are making as a nation within the Vision for Exploration.

There is an old saying that a journey of a thousand miles begins with a single step. It is also true that we must begin from where we find ourselves today. As I said earlier, the first step of the Vision was initiated this past summer with the launch of Discovery, and will continue with the subsequent flights of the space shuttle to complete the assembly of the International Space Station and fulfill our commitments to our international partners and—I must add—our commitments to our scientific partners.

Over the past 17 years, this Chamber has been the scene of vigorous discussion and debate on the International Space Station, long before the first module was launched in November of 1998. Through all that discussion, the central theme of those of us who supported the space station—and two-thirds of us consistently supported it in the votes following those debates—was that the ISS represents a unique laboratory in space, which holds the promise for scientific findings that can directly benefit us on Earth. I find it interesting to hear statements that the space station has not fulfilled that promise. Those who suggest that seem to have forgotten that it is not yet completed. In fact, only one of the three planned laboratories is on orbit now—the US Destiny laboratory—and it is not yet fully equipped. The remaining modules are completed, and are at the Kennedy Space Center, awaiting their launch and outfitting so that the long-standing plans for ISS research can finally begin. We and our international partners have invested far too much in building and preparing those facilities, and the on-orbit structure that will provide their home and supporting power and crew accommodations, to back away from that investment now. To do so would not only represent a wasteful, irresponsible and inexcusable breach of faith with the American taxpayers, but an unconscionable betrayal of scientists and researchers in a wide range of disciplines who have invested years of effort and resources preparing to conduct research that can only be done in the microgravity of space.

This bill acknowledges and reaffirms our commitment to fulfill the promise of the ISS. We recognize that NASA has limited total resources and has been given an enormous task to lead the Vision for Exploration. The demands of many valuable and important existing programs have forced NASA to make difficult choices in focusing those scarce resources in ways which support the goals of the Vision. We understand that reality, and have attempted in this 5-year reauthorization bill to provide a stable, consistent and moderately increasing level of funding to enable NASA to address those challenges.

At the same time, we have encouraged, as I noted earlier, the increased participation and involvement of commercial interests and capabilities, in a way that can relieve NASA of some of the basic burdens of space operations. With respect to space station research, we believe additional steps must be taken to enable NASA to conduct the research it must to support long-duration human spaceflight, and to return to the Moon, and move onward to Mars, while not sacrificing or undermining the investment we have made in the ISS.

To accomplish this, the legislation designates the U.S. segment of the International Space Station as national laboratory facility. It further directs the NASA Administrator to develop a plan, within one year after enactment of the bill, to establish a ground-based national laboratory structure that will be responsible for maintaining and operating the research capabilities in the on-orbit laboratory facilities. The ISS national laboratory will be empowered to establish scientific—and funding—relationships with other governmental and non-governmental entities and to include international participation as well. The infusion of new participants and non-NASA resources will free NASA of much of the financial burden it would require to sustain broad-based research aboard ISS, and would thus enable it to focus its ISS research, as planned, on those disciplines and experiments which directly support the needs of the Vision for Exploration.

We believe this represents a creative and responsible approach to meeting our international commitments and fulfilling the long-standing research promise of the ISS, while not inhibiting NASA's pursuit of its exploration objectives.

In order to continue the Nation's exploration activities, both in continuing essential activities in low-Earth orbit and moving outward, back to the Moon, Mars, and beyond, we must have a new generation of launch and flight vehicles. The Vision for Exploration calls for the development of a new crew exploration vehicle and associated launch systems, to meet that objective.

As I have stated, this legislation supports the goals and objectives of Vision for Exploration. As the saying goes, however, sometimes "the devil is in the details." As those details have been revealed in the planning to implement the vision, I have expressed concerns about some of the early transitional steps to redirect NASA's emphasis from low-Earth orbit to exploration of the Moon and Mars. I have already addressed the question of ensuring the maximum use of the International Space Station. My other primary concern has to do with the transition from the Space Shuttle to the new crew exploration vehicle. The initial announcement of the Vision for Exploration called for the termination of Shuttle flights in 2010, and the first flight of the crew exploration vehicle in 2014. The resulting 4-year hiatus in this Nation's ability to launch humans into space was simply unacceptable to me. It would represent a serious degradation of our national and economic security, as the community of spacefaring nations expands with the advent of Chinese human spaceflight capability and the potential of even more nations developing such capability, potentially challenging U.S. leadership in this important strategic area and major engine of technological advancement.

S. 1281, as introduced, stated that uninterrupted U.S. spaceflight capability is essential to our Nation, and required, in Section 202 of the bill, that the Space Shuttle Orbiter not be retired until a replacement crew-capable space vehicle be made operational. NASA's new Administrator, Dr. Michael Griffin, stated, in his confirmation hearing before the Commerce Committee, and again in a subsequent subcommittee hearing on the space shuttle, that he shared our concern about a lengthy hiatus period in U.S. spaceflight capability. Since assuming leadership of NASA, he has undertaken an effort to approach the development of the replacement vehicle in such a way as to close that gap as much as possible. In anticipation of the success of those efforts, Senator NELSON and I agreed to a modification of the language in the bill—included in the manager's amendment to the bill—which provides some flexibility in meeting the goal of uninterrupted U.S. spaceflight capability, but continues to state it as a policy objective. The Exploration Systems Architecture Study was recently completed and I am very pleased to say that the results track very closely to the provisions of S. 1281. The CEV development would be accelerated to 2012, with the possibility of moving its operational date to 2011. The key to CEV acceleration is largely a question of resources, and sufficient funding could enable an even earlier operational date, possibly closing the potential gap in spaceflight capability altogether.

In Dr. Griffin's appearance before the Science and Space Subcommittee during our hearing on the space shuttle program, he pointed out that the plan for space shuttle retirement involves the retirement of the Orbiters, not necessarily the additional components that make up what we call the space shuttle. Those additional components are the solid rocket boosters and the external fuel tank.

I remind my colleagues that the Orbiter is a vehicle that has two major spaceflight functions combined in a single vehicle: the delivery of crew to and from orbit, and the delivery of cargo, or payloads, to and from orbit. The future developments of U.S. human spaceflight capability are intended to separate those functions. That will enable the development of much more simplified—and arguably much safer, more efficient, and less costly—vehicles to serve each separate function. The provisions of S. 1281—coupled with the revised plans for vehicle development recently announced, will fulfill those objectives using major elements of our existing systems and adapting them to meet the requirements of both manned and unmanned launch systems.

Launch vehicles and spaceflight vehicles do not prepare and launch themselves into orbit or maintain themselves entirely independently while in space. They require ground-based support facilities, institutions and skilled personnel. The maintenance of those capabilities are, in fact, the most labor and resource-intensive elements of a spaceflight program, over time. They must be maintained even when the vehicles themselves are not flying, and must be kept in a high state of readiness. For human spaceflight systems, especially, that expertise and readiness are fundamental elements of flight safety.

The non-orbiter elements of the space shuttle program, both in flight hardware and ground support, represent an enormous national asset and, with modifications and reengineering, can potentially be adapted to meet—in separate configurations—the requirements for human spaceflight and for the launch of large, heavy payloads. Those large payloads are beyond the reach of either evolved expendable launch vehicles or privately-developed launch vehicles—or the current or planned launch vehicles of any other nation, for that matter. For these reasons, and others, this legislation directs and encourages NASA to make the maximum possible utilization of the personnel, assets and capabilities of the space shuttle program in developing the next generation of crew and cargo vehicles. Again, the new NASA plans will do just that, as envisioned by this legislation.

Another important and historical NASA research activity is aeronautical research, a fundamental part of NASA's activities since its inception. Indeed, not only is "aeronautics" the first "a" in NASA, but NASA came into being as an expansion of the National Advisory Committee on Aeronautics, which was established in 1915. That heritage is an important NASA legacy and the continued health of the Nation's aerospace industry in a very competitive global market-place makes it essential that our Nation have solid aeronautical research capabilities. Equally important, in an environment of limited resources, is that decisions about priorities for funding and programs be guided by a clear statement of policy, based on a thorough understanding of both available assets and essential requirements. This legislation directs the development of a national policy to guide the Nation's aeronautical research—including that conducted by NASA. The policy is to be developed within one year after enactment of the legislation, in order to provide time for a thorough and complete assessment of every aspect of aeronautics research, and yet provide the earliest possible guidance for both the administration and the Congress in determining the appropriate funding levels for U.S. aeronautics research. We have chosen not to establish a specific level of funding for that research in the legislation, in order to provide the flexibility for the NASA Administrator to establish those levels using the national policy guidance we have required to be developed.

Finally, let me say something about the broad range of science activities for which NASA has always been known. The remarkable feat of the Deep Impact asteroid interception mission and the extraordinary success of the Spirit and Opportunity Mars Rovers are, of course, only the most recent and dramatic examples of NASA Space Science expertise. Less spectacular, but equally significant, are the earth observation and earth sciences programs which help us understand—and better care for—the spaceship of which all of as are crew members—spaceship Earth. As with aeronautics research, we have not spelled out specific funding authorization levels for the full 5 years authorized among the various science disciplines, providing flexibility for the NASA Administrator to make the best judgments about resource allocations. However, we express clearly in this bill the need for maintaining a balanced science portfolio throughout all NASA programs. In addition, we require accountability and will maintain careful oversight over the plans and decisions made to implement that balance.

This legislation provides a comprehensive, forward-looking and responsible approach to the transition of our Nation's space exploration programs into a new era of discovery. I believe that, together with our colleagues in the other body, we will be able to craft a congressional consensus that will help ensure this Nation's leadership in space exploration and provide benefits beyond measure and beyond imagination to this Nation and the world.

I want to thank my friend and colleague from Florida, Senator NELSON, for the spirit of cooperation he and his staff have brought to the development and refinement of this legislation. It represents a truly bi-partisan—really a non-partisan—result, as is appropriate for the Nation's space exploration programs. I also want to express my appreciation to the staff of my Subcommittee staff and the full Commerce Committee staff who have worked to bring this measure before the Senate. And, of course, I want to acknowledge the leadership of Senators STEVENS and INOUYE, who have supported our efforts to provide authorization and a strong policy foundation to our Nation's space exploration efforts.

I urge my colleagues to support S. 1281.

Mr. NELSON of Florida. Mr. President, I am pleased to join Senators HUTCHISON, STEVENS, INOUYE, and LOTT today in sponsoring an amended NASA Authorization Act and managers package that provides policy guidance for keeping NASA on track to achieve their objectives; and to ensure that there is a good balance between the different activities that NASA performs.

Just a few days ago, NASA released their Exploration Systems Architecture Study. The study describes how NASA plans to implement the President's Vision for Space Exploration by returning to the Moon and preparing to go beyond.

Through this NASA bill, Congress can provide constructive support to the good work being done by Administrator Michael Griffin, as they begin to implement the President's vision and prepare NASA for the challenges of the future.

This is a 5-year bill, authorizing NASA from 2006 through 2010. It authorizes NASA appropriations in excess of the President's budget request.

For fiscal year 2006, the President requested $16.456 billion, which is a 2.4 percent increase over the fiscal year 2005 NASA operating budget. Recently the Commerce, Justice, and Science Appropriations Subcommittee approved $16.4 billion for NASA. This bill authorizes $16.556 billion for fiscal year 2006, which is a 3 percent increase over the fiscal year 2005 NASA operating budget. This bill authorizes increases at a level of about 3 percent each year, consistently providing more funding than the President's budget projection.

Like many of our colleagues, Senator HUTCHISON and I believe that recent NASA budget requests have been below the levels required for NASA to perform its various missions effectively. Once this bill is enacted, we intend to work with the Appropriations Committee to ensure that adequate funds are provided for NASA to succeed.

This legislation authorizes NASA to return humans to the Moon, to explore it, and to maintain a human presence on the Moon. Consistent with the President's vision, it also requires using what we learn and develop on the Moon as a stepping stone to future exploration of Mars.

To carry out these missions, our bill requires NASA to develop an implementation plan for the transition from shuttle to crew exploration vehicle, CEV. The plan will help NASA to make a smooth transition from retirement of the space shuttle orbiters to the replacement spacecraft systems. The implementation plan will help make sure that we can keep the skills and the focus that are needed to assure that each space shuttle flight is safe through retirement of the orbiters, and to retain those personnel needed for the CEV and heavy-lift cargo spacecraft.

It is essential to our national security that we prevent any hiatus or gap in which the United States cannot send astronauts to space without relying on a foreign country. The Russians have been good partners in construction of the International Space Station, and the Soyuz spacecraft has been a reliable vehicle for our astronauts. But with all of the uncertainties in our relationship with Russia, we simply cannot allow ourselves the vulnerability of being totally dependent on the Soyuz. We need to maintain assured access to space by U.S. astronauts on a continuous basis. We therefore require in this legislation, that there not be a hiatus between the retirement of the space shuttle orbiters and the availability of the next generation U.S. human-rated spacecraft.

We have worked with NASA to address their concerns regarding the hiatus, and have crafted language that expresses our desire not to have a gap, and that NASA feels is suitable. We are aware of Dr. Griffin's efforts to reduce the potential for a gap and we appreciate the work that he is doing to accelerate the crew exploration vehicle.

Our bill directs NASA to plan for and consider a Hubble servicing mission after the two Space Shuttle Return to Flight missions have been completed.

Americans are inspired by the images that Hubble produces. The new instruments to be added during the SM-4 Hubble servicing mission will produce higher quality images; enable us to see further into space; and give scientists a better understanding of our universe's past, and perhaps of our future. The replacement gyroscopes and batteries that are planned for the mission will extend Hubble's life by 5 or more years.

This NASA authorization bill calls for utilization of the International Space Station for basic science as well as exploration science. It is important that we reap the benefits of our multibillion dollar investment in the Space Station. The promise of some basic science research requires a micro-gravity or a space environment for us to better understand the problem that we are trying to solve. This bill ensures that NASA will maintain a focus on the importance of basic science.

In order to assure that we can meet our obligations with respect to the Space Station, the administration has requested that Congress modify the Iran Nonproliferation Act to ensure that we can continue to cooperate with the Russian Federation in this area. There may be periods when our only access to the Space Station will be on the Russian Soyuz spacecraft. But Russia's failure to cease all proliferation activities with respect to Iran has resulted in sanctions against Russia that would preclude such cooperation.

This bill directs NASA to improve its safety culture. According to the Columbia Accident Investigation Board, CAIB, report, the safety culture at NASA was as much a cause of the *Columbia* tragedy as the physical cause. Low- and mid-level personnel felt that you could not elevate safety concerns without reprisals, or being ignored. NASA has already taken significant steps to address these problems, but we need to assure that the safety culture improves as quickly as possible and that it continues to improve.

This legislation proposes that the Aerospace Safety Advisory Panel monitor and measure NASA's improvements to their safety culture, including employees' fear of reprisals for voicing concerns about safety.

It also contains policy regarding NASA's need to consider and implement lessons learned, in order to avoid another preventable tragedy like the *Challenger* and *Columbia* disasters.

This authorization bill addresses NASA aeronautics and America's preeminence in aviation. The Europeans have stated their intent to dominate the airplane market by 2020. It is not in our national interest to let that occur.

We are calling on NASA to develop and demonstrate aviation technologies for reducing commercial aircraft noise levels at airports, making aircraft more fuel efficient, improving aircraft safety and security, and continuing the pursuit of revolutionary concepts such as hypersonic flight. Aeronautics is a very important function of NASA and needs to be continued and further developed. This bill calls on NASA to assure that at least 5 percent of the aeronautics budget is allocated for fundamental aeronautical research.

NASA has a new direction, and they have outstanding leadership in Dr. Michael Griffin.

We have an opportunity to authorize NASA for: implementing the Vision for Space Exploration; renewing our commitment to U.S. aviation and NASA aeronautics research; retaining or resurrecting very important science activities at NASA; and assuring that America has continuous human access to space.

By passing this legislation, we will continue to advance our national security, strengthen our economy, inspire the next generation of explorers, and fulfill our destiny as explorers.

Mr. STEVENS. Mr. President, passage of S. 1281, the NASA Authorization Act of 2005, is a milestone in our country's continued efforts to open and develop new frontiers.

One year after the Columbia space shuttle tragedy, President Bush gave us a bold, new vision for the future of space exploration. This legislation provides the framework we need to implement the President's vision.

The Moon is the strategic gateway to the rest of the solar system. It will ultimately be a critical point for many human endeavors. It will support economic growth, cutting-edge research and technology, and innovative partnerships.

This legislation also provides NASA with important guidance for its other missions. It outlines a national aeronautics policy, which will be developed by the administration. This policy will enable us to take into account emerging challenges in aeronautics research as we plan our investments going forward.

S. 1281 also calls for the implementation of a balanced space science program and highlights the need for better access to data which can meet local and national challenges.

This is a bipartisan bill which provides a solid foundation for our current and future space activities. I am pleased we are sustaining our longstanding commitment to space exploration.

Mr. GRAHAM. I ask unanimous consent that the Hutchison amendment at the desk be agreed to; the committee-reported amendments, as amended, if amended, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1875) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendments were agreed to.

The bill (S. 1281), as amended, was read the third time and passed.

VETERANS' BENEFITS IMPROVEMENT ACT OF 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 218, S. 1235.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1235) to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers' life insurance and veterans' group life insurance programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Veterans' Benefits Improvement Act of 2005".

[SEC. 2. GROUP LIFE INSURANCE.

[(a) SERVICEMEMBERS' GROUP LIFE INSURANCE.—Section 1967 of title 38, United States Code, as in effect on October 1, 2005, is amended—

[(1) in subsection (a)—

[(A) in paragraph (2), by adding at the end the following:

["(C) With respect to a policy of insurance covering an insured member, the Secretary of Defense shall make a good-faith effort to notify the spouse of a member if the member elects, at any time, to—

["(i) reduce amounts of insurance coverage of an insured member; or

["(ii) name a beneficiary other than the insured member's spouse.

["(D) The failure of the Secretary of Defense to provide timely notification under subparagraph (C) shall not affect the validity of an election by the member.

[“(E) If a servicemember marries or remarries after making an election under subparagraph (C), the Secretary of Defense is not required to notify the spouse of such election. Elections made after marriage or remarriage are subject to the notice requirement under subparagraph (C).”; and

[(B) in paragraph (3)—

[(i) in subparagraph (A), by striking clause (i) and inserting the following:

[“(i) In the case of a member, $400,000.”; and

[(ii) in subparagraph (B), by striking “member or spouse” and inserting “member, be evenly divisible by $50,000 and, in the case of a member's spouse”; and

[(2) in subsection (d), by striking “$250,000” and inserting “$400,000”.

[(b) DURATION OF COVERAGE.—Section 1968(a) of title 38, United States Code, is amended—

[(1) in paragraph (1)(A), by striking “one year” and inserting “2 years”; and

[(2) in paragraph (4), by striking “one year” and inserting “2 years”.

[(c) VETERANS' GROUP LIFE INSURANCE.—Section 1977(a) of title 38, United States Code, as in effect on October 1, 2005, is amended by striking “$250,000” each place it appears and inserting “$400,000”.

[SEC. 3. ADJUSTABLE RATE MORTGAGES.

[Section 3707(c)(4) of title 38, United States Code, is amended by striking “1 percentage point” and inserting “such percentage as the Secretary may prescribe”.

[SEC. 4. EFFECTIVE DATE.

[The amendments made by this Act shall take effect on October 1, 2005, immediately after the execution of section 1012(i) of Public Law 109–13.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Veterans Benefits Improvement Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INSURANCE MATTERS

Sec. 101. Group Life Insurance.
Sec. 102. Treatment of stillborn children as insurable dependents under Servicemembers' Group Life Insurance program.

TITLE II—HOUSING MATTERS

Sec. 201. Adjustable rate mortgages.
Sec. 202. Technical corrections to Veterans Benefits Improvement Act of 2004.
Sec. 203. Permanent authority for housing loans for Native American veterans.

TITLE III—OTHER MATTERS

Sec. 301. Annual plan on outreach activities.
Sec. 302. Extension of reporting requirements on equitable relief cases.
Sec. 303. Inclusion of additional diseases and conditions in diseases and disabilities presumed to be associated with prisoner of war status.
Sec. 304. Post traumatic stress disorder claims.

TITLE I—INSURANCE MATTERS

SEC. 101. GROUP LIFE INSURANCE.

(a) SERVICEMEMBERS' GROUP LIFE INSURANCE.—Section 1967 of title 38, United States Code, as in effect on October 1, 2005, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by adding at the end the following:

“(C) With respect to a policy of insurance covering an insured member, the Secretary concerned shall make a good-faith effort to notify the spouse of the member, at the last address of the spouse in the records of the Secretary concerned, if the member elects, prior to discharge from the military, naval, or air service, to—

“(i) reduce amounts of insurance coverage of the member; or

“(ii) name a beneficiary other than the member's spouse or child.

“(D) The failure of the Secretary concerned to provide timely notification under subparagraph (C) shall not affect the validity of an election by a member.

“(E) If an unmarried member marries after having made one or more elections to reduce or decline insurance coverage or to name beneficiaries, the Secretary concerned is not required to notify the spouse of such marriage of such elections. Elections made after such marriage are subject to the notice requirements under subparagraph (C).”; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

“(i) In the case of a member, $400,000.”; and

(ii) in subparagraph (B), by striking “member or spouse” and inserting “member, be evenly divisible by $50,000 and, in the case of a member's spouse”; and

(2) in subsection (d), by striking “$250,000” and inserting “$400,000”.

(b) DURATION OF COVERAGE.—Section 1968(a) of title 38, United States Code, is amended—

(1) in paragraph (1)(A), by striking “one year” and inserting “2 years”; and

(2) in paragraph (4), by striking “one year” and inserting “2 years”.

(c) VETERANS' GROUP LIFE INSURANCE.—Section 1977(a) of title 38, United States Code, is amended by striking “$250,000” each place it appears and inserting “$400,000”.

(d) CONSTRUCTION OF CERTAIN OTHER AMENDMENTS.—Notwithstanding subsection (h) of section 1012 of Public Law 109–13, the amendments made by subsections (a)(1), (c), (d), (e)(2), (f), and (g) of such section shall not go into effect on September 1, 2005, as otherwise provided by such subsection (h), and shall not be treated for any purposes as having gone into effect on that date.

(e) EFFECTIVE DATE.—(1) The amendments made by subsection (a) of this section shall take effect on September 1, 2005.

(2) The amendments made by subsections (b) and (c) of this section shall take effect on October 1, 2005, immediately after the execution of section 1012(i) of Public Law 109–13.

(3) If the date of the enactment of this Act occurs after September 1, 2005, and before October 1, 2005, the provisions of paragraph (2) of section 1967(a) of title 38, United States Code, shall, for purposes of the execution of the amendments made by subsection (a) of this section, be such provisions as in effect on May 10, 2005, the day before the date of the enactment of Public Law 109–13.

SEC. 102. TREATMENT OF STILLBORN CHILDREN AS INSURABLE DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

(a) TREATMENT.—Section 1965(10) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

“(C) The member's stillborn child.”.

(b) CONFORMING AMENDMENT.—Section 101(4)(A) of such title is amended by striking “section 1965(10)(B)” in the matter preceding clause (i) and inserting “subparagraph (B) or (C) of section 1965(10)”.

TITLE II—HOUSING MATTERS

SEC. 201. ADJUSTABLE RATE MORTGAGES.

Section 3707A(c)(4) of title 38, United States Code, is amended by striking “1 percentage point” and inserting “such percentage as the Secretary may prescribe”.

SEC. 202. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.

(a) IN GENERAL.—Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454), is further amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) by inserting after “(c)” the following: “ASSISTANCE TO MEMBERS OF THE ARMED FORCES.—”;

(B) in paragraph (1)—

(i) in the first sentence, by striking “paragraph (1), (2), or (3)” and inserting “subparagraph (A), (B), (C), or (D) of paragraph (2)”; and

(ii) in the second sentence, by striking “the second sentence” and inserting “paragraph (3)”; and

(C) in paragraph (2)—

(i) in the first sentence, by striking “paragraph (1)” and inserting “paragraph (2)”; and

(ii) in the second sentence, by striking “paragraph (2)” and inserting “paragraph (3)”; and

(3) in subsection (a)(3), by striking “subsection (c)” in the matter preceding subparagraph (A) and inserting “subsection (d)”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect immediately after the enactment of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454).

SEC. 203. PERMANENT AUTHORITY FOR HOUSING LOANS FOR NATIVE AMERICAN VETERANS.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended to read as follows:

“§3761. Authority for housing loans for Native American veterans

“(a) The Secretary shall make direct housing loans to Native American veterans in accordance with the provisions of this subchapter.

“(b) The purpose of loans under this subchapter is to permit Native American veterans to purchase, construct, or improve dwellings on trust land.”.

(b) CONFORMING AMENDMENTS.—Section 3762 of such title is amended—

(1) in subsection (a), by inserting “under this subchapter” after “Native American veteran” in the matter preceding paragraph (1);

(2) in subsection (b)(1)(E), by striking “in order to ensure” and all that follows and inserting a period;

(3) in subsection (c)(1)(B), by striking “shall be the amount” and all that follows in the second sentence and inserting “shall be such amount as the Secretary considers appropriate for the purpose of this subchapter.”;

(4) in subsection (d)(1), by striking the second sentence;

(5) in subsection (i)—

(A) in paragraph (1), by striking “of the pilot program” and all that follows and inserting “of the availability of direct housing loans for Native American veterans under this subchapter.”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “under the pilot program” and all that follows and inserting “under this subchapter”; and

(ii) in subparagraph (E), by striking “in participating in the pilot program” and inserting “in participating in the making of direct loans under this subchapter”; and

(6) by striking subsection (j).

(c) CLERICAL AMENDMENTS.—(1) The heading of subchapter V of chapter 37 of such title is amended to read as follows:

"Subchapter V—Housing Loans for Native American Veterans".

(2) The table of contents for such chapter is amended—

(A) by striking the matter relating to the subchapter heading of subchapter V and inserting the following new item:

"SUBCHAPTER V—HOUSING LOANS FOR NATIVE AMERICAN VETERANS";

and

(B) by striking the item relating to section 3761 and inserting the following new item:

"3761. Authority for housing loans for Native American veterans.".

TITLE III—OTHER MATTERS

SEC. 301. ANNUAL PLAN ON OUTREACH ACTIVITIES.

(a) ANNUAL PLAN REQUIRED.—Subchapter II of chapter 5 of title 38, United States Code, is amended by inserting after section 523 the following new section:

"§523A. Annual plan on outreach activities

"(a) ANNUAL PLAN REQUIRED.—The Secretary shall prepare each year a plan for the outreach activities of the Department for the following year.

"(b) ELEMENTS.—Each annual plan under subsection (a) shall include the following:

"(1) Plans for efforts to identify veterans who are not enrolled or registered with the Department for benefits or services under the programs administered by the Secretary.

"(2) Plans for informing veterans and their dependents of modifications of the benefits and services under the programs administered by the Secretary, including eligibility for medical and nursing care and services.

"(c) COORDINATION IN DEVELOPMENT.—In developing an annual plan under subsection (a), the Secretary shall consult with the following:

"(1) Directors or other appropriate officials of organizations approved by the Secretary under section 5902 of this title.

"(2) Directors or other appropriate officials of State and local education and training programs.

"(3) Representatives of non-governmental organizations that carry out veterans outreach programs.

"(4) Representatives of State and local veterans employment organizations.

"(5) Businesses and professional organizations.

"(6) Other individuals and organizations that assist veterans in adjusting to civilian life.

"(d) INCORPORATION OF ASSESSMENT OF PREVIOUS ANNUAL PLANS.—In developing an annual plan under subsection (a), the Secretary shall take into account the lessons learned from the implementation of previous annual plans under such subsection.

"(e) INCORPORATION OF RECOMMENDATIONS TO IMPROVE OUTREACH AND AWARENESS.—in developing an annual plan under subsection (a), the Secretary shall incorporate the recommendations for the improvement of veterans outreach and awareness activities included in the report submitted to Congress by the Secretary pursuant to section 805 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 523 the following new item:

"523A. Annual plan on outreach activities.".

SEC. 302. EXTENSION OF REPORTING REQUIREMENTS ON EQUITABLE RELIEF CASES.

Section 503(c) of title 38, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2009".

SEC. 303. INCLUSION OF ADDITIONAL DISEASES AND CONDITIONS IN DISEASES AND DISABILITIES PRESUMED TO BE ASSOCIATED WITH PRISONER OF WAR STATUS.

Section 1112(b)(3) of title 38, United States Code, is amended by adding at the end the following new subparagraphs:

"(L) Atherosclerotic heart disease or hypertensive vascular disease (including hypertensive heart disease) and their complications (including myocardial infarction, congestive heart failure and arrhythmia).

"(M) Stroke and its complications.".

SEC. 304. POST TRAUMATIC STRESS DISORDER CLAIMS.

The Secretary shall develop and implement policy and training initiatives to standardize the assessment of post traumatic stress disorder disability compensation claims.

Amend the title so as to read: "To amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemembers and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs.".

Mr. GRASSLEY. I ask unanimous consent that the committee-reported substitute be agreed to, the bill, as amended, be read a third time and passed, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1235), as amended, was read the third time and passed.

The title amendment was agreed to.

ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES AFFECTED BY HURRICANES KATRINA AND RITA ACT OF 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3864 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3864) to assist individuals with disabilities affected by Hurricanes Katrina or Rita through vocational rehabilitation services.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3864) was read the third time and passed.

HONORING THE LIFE OF SANDRA FELDMAN

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 256, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 256) honoring the life of Sandra Feldman.

There being no objection, the Senate proceeded to consider the resolution.

Mr. KERRY. Mr. President, I extend my deepest sympathies to the family and friends of Sandy Feldman at her untimely passing. We have lost a dedicated educator, a proud labor leader, a committed reformer, and someone my wife Teresa, and I were so proud to have as a friend in our lives.

From her early days as a civil rights advocate, Sandy had an unshakeable sense of justice and fairness. Sandy did not just talk about helping teachers and their students—she actually did it. While her career spanned more than four decades, Sandy's commitment grew out of her early work in the civil rights movement. An advocate for civil rights and social justice, she was an activist in the Freedom Rides and the 1963 March on Washington for Jobs and Freedom. It was her firsthand knowledge of the power of an excellent teacher that led Sandy to a lifetime of activism. Sandy understood the importance of quality public education and the wealth of opportunities it can unleash for every student, regardless of who they are or where they're from.

"Created my future," that is what Sandy always said about growing up in Brooklyn and the public schools and libraries she spent her childhood in. Sandy's commitment to education was fueled by her childhood experiences and her dedication to bettering the lives of students and teachers. Beginning as a second grade teacher, Sandy quickly became a union activist when she led the teachers at her elementary school to organize. In 1986, Sandy became president of AFT's largest affiliate, New York City's United Federation of Teachers, UFT. During her years as UFT president and then since 1997 when she became president of the AFT, Sandy earned the respect of Presidents, of her colleagues, and of many of us in Congress.

Calling early childhood education "getting it right from the start," Sandy consistently called for greater investment in public education and a greater emphasis on high standards and increased accountability. Sandy's focus on early childhood education led her to introduce a program that would provide extended learning opportunities for disadvantaged students before and after the normal kindergarten school year. Within a few years, Sandy's program, Kindergarten-Plus, had been introduced as Federal legislation, passed or considered in several State legislatures, and passed into law in at least one State.

My hope is that her tragic passing after a courageous battle with cancer will inspire all of us to do just what Sandy fought her entire life for—to make sure we are getting it right from the start and to stand by our children and our teachers. Sandy was an amazing American. I will miss her wisdom and her counsel very much. Our hearts go out to her husband Arthur and their family in this difficult time.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 256) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 256

Whereas Sandra Feldman was born Sandra Abramowitz in October, 1939, to blue-collar parents living in a tenement in Coney Island, New York;

Whereas Sandra Feldman, while at James Madison High School, Brooklyn College, and New York University, began a life-long dedication to education, both in the United States and abroad;

Whereas Sandra Feldman began her career by teaching fourth grade at Public School 34 on the Lower East Side of New York City;

Whereas during her service as union leader at Public School 34, Sandra Feldman became employed by the United Federation of Teachers in New York City, and was elected president in 1986, after 20 years of service;

Whereas Sandra Feldman's tenure as president of the United Federation of Teachers was distinguished by her devotion to better working conditions for the teachers she represented;

Whereas in 1997, the American Federation of Teachers elected Sandra Feldman to serve as their president, until she retired 7 years later;

Whereas Sandra Feldman effectively represented the educators, healthcare professionals, public employees, and retirees who made up the membership of the American Federation of Teachers;

Whereas Sandra Feldman was a tireless advocate for public education, working with President George W. Bush on the No Child Left Behind Act of 2001 to improve accountability standards and provide increased resources to schools to help increasing professional development to better equip teachers to instruct students, and using research-driven methods to redesign school programs;

Whereas Sandra Feldman was equally devoted to promoting the rights of public servants, fighting against discrimination, raising the nursing shortage into national public awareness, advocating for smaller class sizes and patient-to-nurse ratios promoting increased benefits and compensation for workers, and spreading her message beyond her own membership by advocating for workers overseas as well;

Whereas Sandra Feldman lent her expertise to both the national and international labor movements in her capacities as a member of the AFL–CIO executive council and a vice president of Education International; and

Whereas Sandra Feldman succumbed on September 18, 2005, to a difficult struggle against breast cancer at the age of 65: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Sandra Feldman, a vibrant and dedicated public servant;

(2) recognizes the contributions of Sandra Feldman to public education;

(3) expresses its deepest condolences to those who knew and loved Sandra Feldman; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Sandra Feldman.

RECOGNIZING THE SPIRIT OF JACOB MOCK DOUB

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 257, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 257) recognizing the spirit of Jacob Mock Doub and many young people who have contributed to encouraging youth to be physically active and fit, and expressing support for "National Take a Kid Mountain Biking Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 257) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 257

Whereas according to the Centers for Disease Control and Prevention, obesity rates have nearly tripled in adolescents in the United States since 1980;

Whereas overweight adolescents have a 70 percent chance of becoming overweight or obese adults;

Whereas research conducted by the National Institutes of Health indicates that, while genetics do play a role in childhood obesity, the large increase in childhood obesity rates over the past few decades can be traced to overeating and lack of sufficient exercise;

Whereas the Surgeon General and the President's Council on Physical Fitness and Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity;

Whereas Jacob Mock "Jack" Doub, born July 11, 1985, was actively involved in encouraging others, especially children, to ride bicycles and was an active youth who was introduced to mountain biking at the age of 11 near Grandfather Mountain, North Carolina, and quickly became a talented cyclist;

Whereas Jack Doub died unexpectedly from complications related to a bicycling injury on October 21, 2002;

Whereas Jack Doub's family and friends have joined, in association with the International Mountain Bicycling Association, to honor Jack Doub's spirit and love of bicycling by establishing the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle;

Whereas the International Mountain Bicycling Association's worldwide network, which is based in Boulder, Colorado, includes 32,000 individual members, more than 450 bicycle clubs, 140 corporate partners, and 240 bicycle retailer members, who coordinate more than 1,000,000 volunteer trail work hours each year and have built more than 5,000 miles of new trails;

Whereas the International Mountain Bicycling Association has encouraged low-impact riding and volunteer trail work participation since 1988; and

Whereas "National Take a Kid Mountain Biking Day" was established in honor of Jack Doub in 2004 by the International Mountain Bicycling Association, and is celebrated on the first Saturday in October of each year: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) the health risks associated with childhood obesity;

(B) the spirit of Jacob Mock "Jack" Doub and so many others who have been actively promoting physical activity to combat childhood obesity; and

(C) Jack Doub's contribution to encouraging youth of all ages to be physically active and fit, especially through bicycling;

(2) supports the goals and ideals of "National Take a Kid Mountain Biking Day", which was established in honor of Jack Doub in 2004 by the International Mountain Bicycling Association, and is celebrated on the first Saturday in October of each year; and

(3) encourages parents, schools, civic organizations, and students to support the International Mountain Bicycling Association's "National Take a Kid Mountain Biking Day" to promote increased physical activity among youth in the United States.

COMMENDING TIMOTHY SCOTT WINEMAN

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 258, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 258) to commend Timothy Scott Wineman.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 258) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 258

Whereas Timothy S. Wineman became an employee of the United States Senate on October 19, 1970, and since that date has ably and faithfully upheld the high standards and traditions of the staff of the United States Senate for a period that included 19 Congresses;

Whereas Timothy S. Wineman has served in the senior management of the Disbursing Office for more than 25 years, first as the Assistant Financial Clerk of the United States Senate from August 1, 1980 to April 30, 1998, and finally as Financial Clerk of the United States Senate from May 1, 1998 to October 14, 2005;

Whereas Timothy S. Wineman has faithfully discharged the difficult duties and responsibilities of his position as Financial Clerk of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;

Whereas Timothy S. Wineman has earned the respect, affection, and esteem of the United States Senate; and

Whereas Timothy S. Wineman will retire from the United States Senate on October 14, 2005, with 35 years of service with the United States Senate all with the Disbursing Office: Now, therefore, be it

Resolved, That the United States Senate commends Timothy S. Wineman for his exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Timothy S. Wineman.

REMOVAL OF INJUNCTION OF SECRECY, PROTOCOL AMENDING THE TAX CONVENTION WITH FRANCE—TREATY DOCUMENT NO. 109-4

Mr. GRASSLEY. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on September 28, 2005, by the President of the United States: Protocol Amending the Tax Convention with France (Treaty Document No. 109-4). I further ask unanimous consent that the treaty be considered as having been read the first time, that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a Protocol Amending the Convention Between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Paris on August 31, 1994 (the "Convention"), signed at Washington on December 8, 2004 (the "Protocol"). Also transmitted for the information of the Senate is the report of the Department of State with respect to the Protocol.

The Protocol was negotiated to address certain technical issues that have arisen since the Convention entered into force. The Protocol was concluded in recognition of the importance of U.S. economic relations with France.

The Protocol clarifies the treatment of investments made in France by U.S. investors through partnerships located in the United States, France, or third countries. It also modifies the provisions of the treaty dealing with pensions and pension contributions in order to achieve parity given the two countries' fundamentally different pension systems. The Protocol makes other changes to the Convention to reflect more closely current U.S. tax treaty policy.

I recommend that the Senate give early and favorable consideration to this Protocol and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 28, 2005*.

REFERRAL OF S. 1219

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill S. 1219 be discharged from the Committee on Energy and Natural Resources and that it be referred to the Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY AIRPORT IMPROVEMENT PROJECT GRANTS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1786, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1786) to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1786) was read the third time and passed, as follows:

S. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMERGENCY USE OF GRANTS-IN-AID FOR AIRPORT IMPROVEMENTS FOR FISCAL YEARS 2005 AND 2006.

(a) IN GENERAL.—The Secretary of Transportation may make project grants under part B, subtitle VII, of title 49, United States Code, from amounts that remain unobligated after the date of enactment of this Act for fiscal years 2005 and 2006—

(1) from apportioned funds under section 47114 of that title apportioned to an airport described in subsection (b)(1) or to a State in which such airport is located; or

(2) from funds available for discretionary grants to such an airport under section 47115 of such title.

(b) ELIGIBLE AIRPORTS AND USES.—The Secretary may make grants under subsection (a) for—

(1) emergency capital costs incurred by a public use airport in Louisiana, Mississippi, Alabama, or Texas that is listed in the Federal Aviation Administration's National Plan of Integrated Airport Systems of repairing or replacing public use facilities that have been damaged as a result of Hurricane Katrina or Hurricane Rita; and

(2) emergency operating costs incurred by an airport described in paragraph (1) as a result of Hurricane Katrina or Hurricane Rita.

(c) PRIORITIES.—In making grants authorized by subsection (a), the Secretary shall give priority to—

(1) airport development within the meaning of section 47102 of title 49, United States Code;

(2) terminal development within the meaning of section 47110 of that title;

(3) repair or replacement of other public use airport facilities; and

(4) emergency operating costs incurred at public use airports in Louisiana, Mississippi, Alabama, and Texas.

(d) MODIFICATION OF CERTAIN OTHERWISE APPLICABLE REQUIREMENTS.—For purposes of any grant authorized by subsection (a)—

(1) the Secretary may waive any otherwise applicable limitation on, or requirement for, grants under section 47102, 47107(a)(17), 47110, or 47119 of title 49, United States Code, if the Secretary determines that the waiver is necessary to respond, in as timely and efficient a manner as possible, to the urgent needs of the region damaged by Hurricane Katrina or Hurricane Rita;

(2) the United States Government's share of allowable project costs shall be 100 percent, notwithstanding the provisions of section 47109 of that title;

(3) any project funded by such a grant shall be deemed to be an airport development project (within the meaning of section 47102 of that title), except for the purpose of establishing priorities under subsection (b) of this section among projects to be funded by such grants; and

(4) no project funded by such a grant may be considered, for the purpose of any other provision of law, to be a major Federal action significantly affecting the quality of the human environment.

MEASURE PLACED ON THE CALENDAR—S. 1783

Mr. GRASSLEY. Mr. President, I ask unanimous consent that S. 1783 be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, SEPTEMBER 29, 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, September 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time of the two leaders be reserved, and the Senate proceed to executive session and continue consideration of Calendar No. 317, John Roberts to be Chief Justice of the United States; provided further that the time until 10:30 be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, we will resume the Roberts nomination tomorrow for a short period of debate. The debate from 10:30 to 11:30 has previously been allocated to the two managers and the two leaders. At 11:30 tomorrow, the Senate will vote on the nomination of Judge Roberts to be Chief Justice of the Supreme Court. I remind all Senators that the majority leader has asked all Senators to be in the Chamber by 11:20 and seated at their desks for this historic vote.

Following that vote, the Senate is expected to begin consideration of the Defense appropriations bill. Additional votes will occur on Thursday and Friday this week.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the time controlled by the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

EMERGENCY HEALTHCARE RELIEF FOR THE SURVIVORS OF HURRICANE KATRINA

Ms. LANDRIEU. Mr. President, before the chairman leaves the floor—he has put in a long day today and has some more things probably to do this evening—I wish to thank him for his extraordinary leadership at this time and also the Senator from Montana who was here earlier. They have been working on this bill now for weeks because they are aware of the great need, the extraordinary need of the people from the State I represent, Louisiana, but also our neighbors now in Texas and in Mississippi and in Alabama.

As the Senator from Iowa knows, and the Senator from Montana, this is the largest natural disaster in the history of the United States. We had one hurricane and major levee failings in a region with over 2 million people. Then on the heels of it, we have had another hurricane, not quite as large but equally as damaging to some rural areas, Mr. President, that you are very familiar with, not big cities but small cities that are gone. They are just gone. There is no more city. There is no more community.

All along the gulf coast—you can ask the Senators from Mississippi—Waveland and Biloxi and Cameron Parish, 10,000 people lived there 5 days ago. No one lives there today.

I flew over the other day. There is one building, the courthouse building, that stood in the Audrey hurricane, it stood in the Rita hurricane. When we rebuilt the Cameron Parish, I told them: Go find the architect who built that courthouse because we are going need to have everything built that way if we are going to live here.

This was not a coast of people sunbathing at resorts or second homes. These were people running our pipelines, our gas lines, our fishing industry. These were people running the refineries, the infrastructure that is on that coast. They didn't just go there in the last decade to retire. Their families have been there for generations, all along this gulf coast. When they went there, there was more land and more protection. But because they are not super rich and because they did not have a lot of extra money and because over a lot of decades the Federal Government did not do what it should—maybe we all missed a little bit here or there—the land is washed away. They find themselves more vulnerable.

But they are not sunbathing down there. They are working on the ports, on the oil and gas industry, and they desperately need our help. These people need immediate medical attention and care. As a doctor, you can understand the anxiety of people who do not know where to go for health care. They are in strange places. They need to be qualified.

This has been well researched by the staffs. We have had input, of course, Senator VITTER and myself, but this comes straight from the Finance Committee, to extend what is already in the law for people to help them get coverage for 5 months, just 5 months until people can catch their breath, get up on their feet, try to find their families, make decisions. They lost their homes. They lost their business.

It also helps private employers. I have had private employers, little ones, medium ones, and big ones pouring into my office. And this is what they say: Senator, we are not leaving. We want to stay. We are going to exhaust the money in our bank accounts to keep our employees whole. But could you please ask the Federal Government to give us a little help here? We want to keep their coverage. We want to keep our employees. We want them to come back. We don't want our companies to leave. But a lot of them had to leave. They had no choice. They are going to Oklahoma, they are going to Houston but at a lot of cost.

I talked to a gas pipeline company. They are having their employees come back this weekend right in Cameron Parish. But they need our help.

One of the things this bill does is it helps them—if they were giving insurance to their people—continue to give private insurance. If some companies had to leave temporarily, their employees can still get private coverage through a program that already exists.

The chairman and the ranking member put their heads together and said, Let us do this for 5 months.

I know there is an objection, because some have expressed a few objections, that said let us not extend it to all States, let us keep it targeted to Louisiana, Mississippi, Alabama, and Texas.

We thought about that. But the reason there is one provision that allows the other States to keep their Medicaid, 100-percent reimbursement, is because they have taken a lot of our people. Arkansas didn't have a hurricane, but they took our people. They had 75,000 people.

So if we cut the State of Arkansas' health care benefits which may go into effect soon, that is what we were anticipating. It puts so much strain on Arkansas for the 75,000 people.

We think it is reasonable to ask for a 5-month waiver for all of the States just to help us through this difficult period.

We are not trying to expand a Government program. We are trying to use what is available now in the law and extend it to millions of people who need help immediately.

It is not everything we need in health care. We still have problems with losses because companies are out of business. Doctors who want to stay have no place to work. Even if they showed up to the hospital to work, the city of New Orleans is still virtually empty. It is a large city. One-half our population has been impacted. Almost half, 4.5 million people, live in the southern part of our State.

Everyone has been impacted by these two disasters. A large population in Texas, a large population in Mississippi, and a medium-sized population in Alabama have been affected, but not to the level that, of course, Louisiana has taken. It has taken a hit to its major metropolitan area, as well as then being followed up by another major hit to the rural area to the western side of our State.

I say "rural"—there are good-sized cities, such as Lake Charles and other cities that are in that area.

We have large cities, medium-sized cities, and small villages and communities—such as Cameron—that have been very hard hit.

It is very important that we try to work through whatever the difficulties might be. We don't have that much time.

If we can move on this package in the next day or two, and work out whatever objections there are, I think it would be a great signal to send from this Congress.

I know we have to get it past the House. I know we have to get it signed by the President. But the President has been to our State many times. I have been with him on almost every trip. He has assured me that he understands that people are in desperate need, and he wants to see the Federal Government use the resources that we have to meet that need. I know we can't do everything. But this is minimal. This is basic coverage for people who have nothing right now.

While churches are helping and while the private employers are doing a good job, private employers cannot take on more risk than is their fiduciary responsibility. They have a responsibility to their stakeholders, to their shareholders, and to their board of directors. They cannot run charities.

That is why we have the role of Government. That is why we have to step up and meet them halfway.

I am proud of our employers, but they need our help. The business community needs us to be a partner, and part of this bill would do that.

I see the Senator from Illinois.

Mr. DURBIN. Mr. President, will the Senator yield for a question through the Chair?

I came on the floor late. I heard Senator BAUCUS and Senator GRASSLEY talk about this bill. I want to try to bring it down to the most basic information, so if someone misses the debate, they will understand what we are talking about.

This is generally what we are trying to do. We are taking people who are displaced out of their homes, out of their jobs, out of their communities because of the hurricanes—people who, frankly, are going through a lot of personal and family hardship at this moment—and saying that one thing we are going to help you with immediately is to make sure that you have health care. If you qualify, you would have Medicaid—that is for people in the lower income categories—or if you had private health insurance where you used to work in a business that has gone away, we are going to step in here for 5 months and say, We are going to give you this peace of mind. You will know that you have health insurance.

Is that what this bill does?

Ms. LANDRIEU. That is what this bill does.

Mr. DURBIN. I understand that this is a bipartisan bill that Senator GRASSLEY, Republican of Iowa, Senator BAUCUS, a Democrat of Montana, have written to make sure that the millions of people who have been displaced will have basic health care.

Is that is what this bill does?

Ms. LANDRIEU. The Senator is correct. That is what this bill does. Senator VITTER from Louisiana and Senator LANDRIEU—and I am almost certain that every Senator of the affected States—have signed off on this, asked for it and said "yes." We desperately need it.

Mr. DURBIN. I would like to ask the Senator how many times she has brought this bill to the floor. How many times have we tried to provide this basic health care, basic protection to these victims of Hurricane Katrina and Hurricane Rita so far?

Ms. LANDRIEU. I believe the Senator from Iowa and the Senator from Montana have been working on this for 2 weeks. We are into our fourth week of Katrina and the first week of Rita.

But again, it is the largest natural disaster that has hit the Continental United States. We are getting ready to rebuild, after we work out our differences, a major American city for the first time since the Civil War and the region that surrounds it. We are learning as we go. There is not a textbook to follow. So we have to use our common sense. We have to trust each other on some of these things.

The Senator from Iowa and the Senator from Montana have run this committee, and their members have put a great bill together that is modest but so needed.

I am hoping the Senator from Illinois can help us figure out how to move this legislation quickly.

Mr. DURBIN. If the Senator would further yield for a question through the Chair. I thought our biggest complaint about the Federal Government's response to Katrina was that, even when we were warned, we weren't ready. Many of us are calling for a nonpartisan, independent commission to answer some basic questions. Why weren't we ready? But when it comes to this issue about health care for the victims of Hurricane Katrina and Hurricane Rita, we know what the need is. And apparently, because of objections heard on the floor of the Senate, we are delaying, postponing, this basic health care for these victims of this hurricane.

Ms. LANDRIEU. That is what it seems to be. It is unfortunate.

I am hoping, through the Chair to the Senator from Illinois—and I see that our minority leader from Nevada is here with us—that we could do our best in the next 24 hours, either through action on this floor or meetings, to answer questions that a few Senators may have. I have heard objections, such as too much corruption. We have problems with Mississippi spending money and corruption, but we shouldn't blame these people. All they want is health care benefits. We can fix that issue. We can work on that issue.

But let us not hold up health care to people until we get the system perfect. If that is the case, we should stop working tonight. The system is never going to be perfect. It can be better.

Let us not take it out on these people. They have already been victimized outside of any of their control.

The Senator should know that one of the objections was that we shouldn't expand a Government program.

But again, I just want to reiterate to the Senator that this is not an expansion. It is in the law. It is 5 months of special help to people who need it and to people who have private insurance that have lost it and can't have it, if we don't meet their employers halfway.

The only expansion for the country is to say in the next 5 months the Federal Government will not cut any State's Medicaid Program because so many of our States are helping our people. Again, in Arkansas, 75,000. It would not be fair to Arkansas, even though they didn't get hit by the hurricane, to cut their State program when they are absorbing some many extra people from Louisiana, Texas, and Mississippi.

I think that makes common sense.

I see the Senator from Nevada. Maybe he can shed some light on this.

I will yield the floor. I have spent the time and more than I was asked for.

I thank the Senators who are here who are trying to get this important bill passed by the end of the week.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Nevada.

Mr. REID. Mr. President, I want the RECORD to be spread with my appreciation for the statements made today by Senator BAUCUS, Senator LANDRIEU, and Senator DURBIN regarding this most important issue. We saw with Katrina that we have in America a safety net that has some holes in it. We saw in graphic description some of the people fell through that safety net.

That is what this is all about—helping medically. The poorest of the poor in our country are helped by Medicaid. That is what this is all about.

For those people who are watching this, who are listening, this is an instance where there is a bipartisan measure that is now before the Senate that should pass. The Finance Committee, under the direction of Senators GRASSLEY and BAUCUS—Republican and Democrat—came up with this most important piece of legislation. They did it. They worked it out. No one can challenge the conservative credentials of either of these Senators. They are both fiscally sound. They do good work for their Finance Committee.

There are a few people on the Republican side of the aisle who are holding this up. It is not right. No one wants to waste money for Katrina. No one wants to waste money with the billions of dollars that will be spent with Katrina.

I would be happy if Congress selected someone to be a czar to make sure the money was spent properly.

But here we have people who are waiting. This is going for 5 months. They will be waiting for the most simple medical measures that would help them—and help the States that are taking care of them.

The State of Arkansas alone has 60,000 evacuees, most of whom, in some way or another, their family member, would qualify for some part of this.

It is the right thing to do to help States such as Arkansas.

PANDEMIC INFLUENZA

Mr. REID. Mr. President, in 1918, the Spanish flu pandemic swept the world for a number of reasons—not the least of which we had soldiers coming from all over the world going places and coming home. As a result, this pandemic that swept our world claimed the lives of about 50 million people, and 500,000 people in the United States alone before it completed its deadly run.

Today, many public health experts are warning us that another flu pandemic is not a matter of if, but when. They tell us that this next pandemic has the potential to be every bit as devastating as what the world witnessed nearly 100 years ago.

A flu pandemic occurs when a new strain of flu emerges in the human population and causes serious illness and death and can easily spread between humans.

The avian flu, referred to as H5-N1 flu strain by scientists, already meets the first step: Roughly half of the 115 people who have been diagnosed with this virus to date have died. At present, all that stands between avian flu and pandemic status is the fact that scientists do not believe the avian flu can easily be transmitted between humans.

Scientists fear it is only a matter of time before the avian flu virus mutates into a form that can spread easily from human to human.

According to the Centers for Disease Control Director Julie Gerberding:

> . . . many influenza experts, including those at CDC, consider the threat of a serious influenza epidemic to the United States to be high. Although the timing and impact of an influenza pandemic is unpredictable, the occurrence is inevitable and potentially devastating.

That was her word, "inevitable."

You do not have to be an expert to understand the dramatic toll a flu pandemic could have on our Nation and on the world. Given our capacity for rapid travel around the globe compared to 1918 and the interdependence of our economic markets compared to 1918, both of which have increased dramatically since the last flu pandemic, the potential human and economic costs of the next pandemic are unimaginable.

A respected U.S. health expert has concluded that almost 2 million Americans would die in the first year alone of an outbreak. Pandemic flu outbreak in the United States could cost our economy hundreds of billions of dollars due to death, lost productivity and disruption in commerce, and to our society generally.

Maybe the only thing more troubling than contemplating the possible consequences of the avian flu pandemic is recognizing that neither this Nation nor the world are prepared to deal with it. Administration documents say it will take months to develop an effective vaccine against the avian flu—some say as much as 9 months—once we have been able to identify the particular flu strain in circulation. Administration officials say one of the best opportunities to limit the scope and consequence of any outbreak is to rapidly detect the emergence of a new strain that is capable of sustained human-to-human contact. Yet we are not devoting enough resources to effective surveillance abroad.

The administration has acknowledged we need a detailed pandemic plan outlining our national strategy to address this pandemic. Among other matters, such a plan needs to address those who will spearhead our response to pandemic.

How will our response be coordinated across all levels of Government? And how will we rapidly distribute limited medical resources? Yet our national preparedness plan is still in draft form.

We all know State and local health departments will be on the front lines of a pandemic. They will need to conduct surveillance, coordinate local responses, and help distribute the vaccines and antivirals. Yet we are posed to approve a $130 million cut for State and local preparedness funding at the Centers for Disease Control. At this time, that is unconscionable.

We also know that once a flu strain has been identified, we will need to develop an effective vaccine, as I have talked about, and produce enough to eventually inoculate the entire 300 million people in America. Yet our existing stockpile of vaccines, assuming they are effective against the yet unidentified strain, may protect less than 1 percent of all Americans, and we have only one domestic flu vaccine manufacturer located in the United States. It is estimated if our capacity to produce vaccines is not improved, it could take 15 months to vaccinate first responders, medical personnel, and other high-risk groups.

Given it will take months to develop, produce, and distribute a vaccine once we have one that is effective, we know that antiviral medication will be a crucial stopgap defense against a pandemic. The World Health Organization recommended that countries stockpile enough antiviral medication to cover 25 percent of their populations. Other nations, including Great Britain, France, Norway, Portugal, Switzerland, Finland, and New Zealand, have ordered enough Tamiflu, an antiviral pill to cover between 20 and 40 percent of their populations.

We should have learned. It was only last year that we did not have enough vaccine to take care of the people in America. We did not have enough vaccine to take care of the flu strain last time, and everyone knew what that was.

As important as this Tamiflu is, we now have only 2.3 million courses of this pill. Given country, national, and international production capacity, even if we were to increase our order of Tamiflu today, we have been told the United States would have to wait until the end of 2007 before we could secure enough Tamiflu to cover 25 percent of our population. The consequences of pandemic could be far reaching, impacting virtually every sector of our society and our economy.

We also know our medical community needs to be trained to distinguish between the annual flu and avian flu so that an outbreak could be recorded immediately. Doctors, hospitals, and other medical providers must develop surge capacity plans so they can respond to a pandemic. Businesses, also, need to be prepared. They should be encouraged to develop their own plans, establish or expand telecommunicating and network access plans, update medical needs policies, and provide suggestions on how to promote employee health to lessen the likelihood of exposure. The American public also needs to be educated about the importance of annual flu vaccines and steps they can take to prepare for and respond to an avian flu outbreak.

Yet this administration has failed to take appropriate action to prepare the medical community, business community, and the American public. We can do better. We need to do better. Most importantly, we cannot afford to wait to do better. America can do better.

The Federal Government's poor response to Katrina has only served to exacerbate concerns about the toll such an outbreak would have on our Nation and the world. Given the very real possibility of an outbreak, its potentially severe consequences, and our relative lack of preparedness, we need to take action on several fronts to prepare our Nation and the American people for a potential outbreak and reduce its impact, should it occur.

What are some of the steps necessary? We need to improve surveillance and international partnerships so we may detect new flu strains and do it early. We need to prepare for a pandemic by finalizing, implementing, and funding pandemic preparedness response plans. Remember, the director of the Centers for Disease Control has told us this is going to happen. It is inevitable. We need to protect Americans with the development, production, and distribution of an effective vaccine. We need to plan ahead for pandemic by stockpiling antiviral medications, medical, and other supplies. We need to strengthen our public health infrastructure. We need to educate Americans by increasing awareness of and education about this flu. Finally, we need to commit to protecting Americans by devoting adequate resources to pandemic preparedness.

Experts have warned that an avian flu pandemic is inevitable. But the devastating consequences that can ensue from an outbreak are not—provided this Nation and the world heed the science community warnings and take action immediately.

I propose to start by committing the resources necessary to protect Americans. We need to start today. We know today that funding certain programs can make dramatic reductions for the consequences of a future avian flu outbreak. We also know many of these programs are either unfunded or massively underfunded.

Tomorrow, when we take up the Defense appropriations bill after we finish the Roberts vote, Senators HARKIN, KENNEDY, OBAMA, and many others, including myself and Senator DURBIN, the two Democrat leaders here who have been elected by our colleagues, will join in this.

This is important. We are going to offer an amendment that will ensure that we begin making the investments necessary to make sure this Nation and the world do everything possible to ensure that history does not repeat itself and we do not have to relive the terror of 1918.

The PRESIDING OFFICER. Under the previous order, the Senate is scheduled to adjourn at this time.

Mr. REID. I ask unanimous consent that the Senator from Illinois have an opportunity to speak. I am happy to relieve the Chair if that is necessary. We have two Senators on the floor to finish their statements. I ask consent that the two Senators from Illinois be recognized to speak.

The PRESIDING OFFICER. Could I ask if there is a time limit?

Mr. REID. How long does the senior Senator from Illinois wish to speak?

Mr. DURBIN. No more than 10 minutes.

Mr. REID. The junior Senator from Illinois?

Mr. OBAMA. I was not aware my senior colleague from Illinois was going to speak so I don't want to unnecessarily hold up the entire Chamber.

Mr. REID. The Senator should know I did use your name.

Mr. OBAMA. I am aware of that.

Mr. REID. You have the only comprehensive bill filed regarding the avian flu and I commend you in that regard.

Mr. DURBIN. I will be glad to take 5 minutes and yield to my colleague 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I appreciate that. I know I have presided over a few of the late nights.

Mr. DURBIN. Mr. President, I preface my remarks by saying that the first person who brought the avian flu epidemic to my attention was my colleague Senator OBAMA, who identified this issue before most other Senators. I commend the Senator for his leadership on this issue. I am glad he is here this evening to speak to it.

I have had two public health briefings in my time as a Congressman and Senator which stopped me cold. The first one was about 20 years ago. It was on the global AIDS epidemic. I knew it was a problem, but I didn't know what kind of a problem. I left that briefing in the House Committee on the Budget and went home to speak in very sincere terms to my family about what I considered to be a real threat to all of us. It was in the earliest stages.

Today, I had the second public health briefing which stopped me cold again. We were briefed by Secretary Leavitt from the Department of Health and Human Services, Dr. Gerberding from the Centers for Disease Control, and Dr. Fauci, well-known doctor at the National Institutes Of Health. They talked about the possibility of this avian flu epidemic. Senator REID has gone into detail.

Mr. President, the images from Katrina are still with us—children, senior citizens, people with disabilities and chronic medical problems, waiting for days for care and medicine. These are not images we hope to see again anytime soon, and yet, we are told that these scenes will be repeated, in larger numbers, in more cities, and for far longer when the avian flu breaks out in this country.

Scientists and government officials alike, worldwide, agree that the outbreak of avian flu is virtually inevitable and that, like we were for Katrina, this country is woefully underprepared.

A few weeks ago at the U.N., the World Health Organization warned the Assembly of a pending global pandemic. President Bush acknowledged, "If left unchallenged, this virus could become the first pandemic of the 21st century." Department of Health and Human Services Secretary Leavitt and Senator FRIST are as worried as I am. There is a general sense that we are not prepared.

The only antiviral drug that appears to be effective in minimizing the flu's effect is in short supply. The U.S. has enough doses in its stockpile to treat just 2.3 million people. The only vaccine we have in the pipeline is experimental. It may or may not be effective against the mutation that breaks out in humans in this country. And supplies of that vaccine are limited.

Right now, the avian flu primarily infects birds, but we are aware of 115 cases in which people have been infected by the flu. Fifty-nine of them have died. If that pattern were to hold, 55 percent of the people infected with this flu could die.

In many ways, we are better off than we were in 1918 when a flu pandemic struck this country and took 675,000 lives. We know how germs are spread and how to minimize that spread. In other ways we are far more susceptible to this threat. The Wilderness Society believes the avian flu could spread from China to Japan to New York to San Francisco within the first week.

The Council on Foreign Relations dedicated its last volume of Foreign Affairs to the impact of a global pandemic—the prospect of battling an epidemic of flu in several countries at the same time. ABC News reports that officials in London are quietly looking for additional morgue space.

The Bush administration is preparing a plan for responding to an outbreak of avian flu. I think there is more that we can do and that we must do—now. If you listen to the leaders in infectious disease and public health around the world, we may not have the luxury of time on this one.

We need to step up surveillance of infectious disease here in the U.S. and internationally, so that we can track this thing and begin to contain it immediately. We need to invest in research and development to pursue all possibilities for effective vaccines and antiviral drugs. If the avian flu hits with a 55 percent mortality rate within days of infection, as it appears to be doing, we could lose hundreds of thousands of Americans in the first few months. We need to aggressively pursue vaccines now—not after the outbreak has begun.

We need to help states develop their own preparedness plans so that our response is coordinated and organized and will save lives. Where is the medicine stored? How do we make decisions about who gets treatment when there is too little to go around? How will the distribution systems work? This is work we must help states and localities complete now—not during a time of crisis.

Last flu season, we lost about half of our expected supply of flu vaccine at the same time the Centers for Disease Control and Prevention began encouraging everyone to go and get one. It was a mess. We had senior citizens waiting for hours for a vaccine, often to learn that they were too late. We saw people waiting for a flu vaccine standing in lines that snaked through K-Mart parking lots.

I hope we don't have to learn these lessons again the hard way. It is our responsibility to ensure that states and localities are prepared. We need to aggressively pursue effective treatments now—not when flu victims are overwhelming our hospitals before our eyes. And we have to invest now—not later—in the capability to track this flu so we can stop its spread as quickly and effectively as possible.

If we don't—if we simply wring our hands and hope for the best—when the avian flu hits this country, it will make the scenes of Katrina pale in comparison.

Before I turn it over to my colleague, I will not repeat the remarks of Senator REID, but I will say if you believe you can survive this flu epidemic because you are not an infant or sickly or elderly, that is not the situation. It turns out we have no resistance to this flu strain, and as a consequence we are all in the same situation in terms of vulnerability. That is why this is so serious.

We had a briefing today, and I am sure Senator OBAMA will go into detail on it, but it raises questions as Senator REID raised.

I will yield the rest of my time to my colleague and thank him for his leadership.

I close by saying, we left the Defense appropriations bill, brought it out of committee today. It contains $50 billion for our continuing efforts in Iraq. I will provide and vote for every penny our service men and women need, but I also believe we have an obligation to Americans here. A stronger America starts at home. That means being prepared for the next challenge we face, and this avian flu pandemic could easily be that challenge.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Illinois.

Mr. OBAMA. Thank you very much, Mr. President. I will be brief. I know we have gone way over the time here today.

Mr. President, in the midst of so much difficulty that our Nation is facing—Katrina and Rita, the ongoing challenges in Iraq and Afghanistan—I recognize it is hard to get the public, the leadership in Congress, and senior administration officials to focus on yet one more challenge.

But as has already been stated by the Democratic leader, HARRY REID, and my senior colleague, the minority whip, Senator DICK DURBIN, this is a crisis to which the entire country simply must awaken itself.

When I started talking about this 7 months ago, not too many folks paid attention. Perhaps because the shorthand for this looming crisis is the "bird flu," people assume it is just going to get birds and animals sick.

In reality, however, what is at stake here is the potential of a pandemic that we have not seen in the United States since 1918, 1919. As has already been stated here tonight, our top scientists and medical personnel, including the heads of the NIH, CDC, and the Department of Health and Human Services, all agree that it is almost inevitable that an avian flu pandemic will strike.

The key question is the extent of the damage, especially in terms of lives lost. The answer to this question will, in large measure, depend on our level of preparedness and the amount of resources we are willing to immediately commit to deal with this looming crisis.

Over the last few months, we have seen alarming reports from countries all over Asia—Indonesia, China, Vietnam, Thailand, and Russia, just to name a few—about deaths that have resulted from the avian flu.

The situation has turned so ominous that Dr. Julie Gerberding, the Director of the CDC, said that an avian flu outbreak is "the most important threat that we are facing [today]."

International health experts say that two of the three conditions for an avian flu pandemic in Southeast Asia already exist.

First, a new strain of the virus, called H5N1, has emerged, and humans have little or no immunity to it. Second, this strain has demonstrated the ability to jump between species.

The only thing preventing a full blown pandemic is a lack of efficient transmission of this strain from human to human. Once that happens, as a consequence of international travel and commerce, there is not going to be any way to effectively contain this pandemic.

Moreover, the news on this last point is not good. In recent months, the virus has been detected in mammals that have never previously been infected, including tigers, leopards and domestic cats. This suggests that the virus is mutating and could eventually emerge in a form that is readily transmittable among humans.

Mr. President, Senator REID and Senator DURBIN both outlined some of the measures that have to be put in place here domestically to protect our population. We have to drastically ramp up our stockpiles of Tamiflu, which, if taken properly, could act as a treatment from the avian flu once a person is infected. Right now, we only have a couple of million doses. We need 80 million to 100 million doses in order to be adequately prepared. That is going to cost us significant amounts of money, as the cost of Tamiflu is approximately $20 per dose.

In addition, we are going to have to develop flu vaccines of a sort we have not seen in the past. In order to create sufficient quantities, we are going to have to go push the boundaries of existing technologies and science—going beyond the agricultural mechanisms of developing vaccines that we have used in the past.

Third, we are going to make sure that local and State governments understand how urgent this is. We have to ensure there are clear plans, coordination mechanisms, and lines of authority—that will stand up in a time of crisis. Right now, we do not have sufficient plans in place to make sure local and State agencies are able to generate the kinds of rapid responses that are going to be necessary in the case of a flu outbreak.

After Katrina, I hope that local and State governments understand they have to work with the Federal agencies more effectively to deal with these kinds of emergencies.

Another issue I would mention is that we are going to have to establish international protocols to ensure we can alert ourselves rapidly if we have confirmed cases of human-to-human transmission of the avian flu anywhere in the world. Why do I mention this? If we detect efficient human-to-human transmission, it is likely that we are going to have only weeks before we are going to see those first cases in the United States.

This means placing effective trigger mechanisms in all these countries to make sure everyone is cooperating and providing rapid information, which could mean the difference in terms of tens or hundreds of thousands of lives.

Now I don't want to suggest that nothing is being done. For example, months ago, Congress, on a bipartisan basis including myself, Senator LUGAR, Senator MCCONNELL, and Senator LEAHY—included $25 million as part of the Iraq supplemental to make contribute to an urgent WHO appeal on this issue. Today, this money is making a difference in the field trying to set up some of the international measures I just described.

I, along with Senators LUGAR, DURBIN and others, introduced legislation, S. 969, to enhance our ability to deal with this potential crisis. But that was months ago, and we need to broaden the number of people involved in this effort.

Moreover, these is are modest first steps. Going forward, we are going to need significantly more resources. I am eager to work with leaders on health issues, including Senator HARKIN and Senator REID, as well as others across the aisle.

I hope we can work not only to make sure we have an effective international regime to deal with this problem overseas but that we also invest the time, the energy, and the resources needed to put in place effective measures well before we have a full blown crisis on our hands.

An outbreak of the avian flu could occur in a year, 5 years, 10 years, or if we were incredibly lucky not happen at all. But the one good thing about investing in measures to deal with this looming crisis is—and I will end on this point—if we spend the money now, it will pay dividends, even if this particular strain of the avian flu outbreak does not occur.

Why is this the case? The risk of some sort of pandemic, and the mutations of flus for which we have no immunity, is almost inevitable. The H5N1 strain may not be the strain that leads to a full blown pandemic. But, another strain could easily come along a cause serious damage in the future.

Presently, we simply do not have the public health infrastructure to deal adequately with this contingency.

My point is this: undertaking these measures is going to be a wise investment that will help protect the lives of millions of people here in the United States and across the globe.

Mr. President, I appreciate your patience very much and look forward to working with you on this issue.

The PRESIDING OFFICER. I thank the Senator.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:37 p.m., adjourned until Thursday, September 29, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 2005:

AFRICAN DEVELOPMENT FOUNDATION

JENDAYI ELIZABETH FRAZER, ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 27, 2009, VICE CONSTANCE BERRY NEWMAN.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

HORACE A. THOMPSON, OF MISSISSIPPI, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2011, VICE JAMES M. STEPHENS, TERM EXPIRED.

DEPARTMENT OF EDUCATION

KENT D. TALBERT, OF VIRGINIA, TO BE GENERAL COUNSEL, DEPARTMENT OF EDUCATION, VICE BRIAN JONES, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

CAROL E. DINKINS, OF TEXAS, TO BE CHAIRMAN OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD. (NEW POSITION)

ALAN CHARLES RAUL, OF THE DISTRICT OF COLUMBIA, TO BE VICE CHAIRMAN OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD. (NEW POSITION)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be lieutenant junior grade

MELISSA M. FORD

To be ensign

MADELEINE M. ADLER
CAROL N. ARSENAULT
JAMES L. BRINKLEY
JOHN E. CHRISTENSEN
SEAN M. FINNEY
LAUREL K. JENNINGS
GUINEVERE R. LEWIS
ALLISON R. MARTIN
JASON R. SAXE
PAUL M. SMIDANSKY
DAVID A. STRAUSZ
REBECCA J. WADDINGTON
JAMIE S. WASSER

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATE FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be assistant surgeon

LEAH HILL

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

GREGORY A. ABBOTT

To be senior surgeon

WANDA DENISE BARFIELD
RUTHANN M. GIUSTI
SONJA S. HUTCHINS
SUSAN A. MALONEY
PATRICIA M. SIMONE
PAMELA STRATTON

To be surgeon

MARTA-LOUISE ACKERS
PAUL MATTHEW ARGUIN
ULANA R. BODNAR
WILLIAM ALFRED BOWER
JOSEPH S. BRESEE
DAVID BOSWELL CALLAHAN
JOHN R. MACARTHUR
JEFFREY W. MCFARLAND
KATHERINE G. MULLIGAN
ROBERT DAVID NEWMAN
KEVIN ANDREW PROHASKA
WILLIAM RESTO-RIVERA
THERESA LOUISE SMITH
JEREMY SOBEL
KAY M. TOMASHEK
MICHELLE S. WEINBERG

To be senior assistant surgeon

MEI LIN CASTOR
EILEEN F. DUNNE
SCOTT ALLEN HARPER
MATTHEW ROBERT MOORE
THOMAS M. WEISER
SARA JEANNE WHITEHEAD
HUI HSING WONG

To be senior dental surgeon

STEVEN D. FLORER
JOHN W. KING
STEPHEN P. TORNA

To be dental surgeon

WILLIAM DENZELL CAVANAUGH
RENEE JOSKOW
HSIAO P. PENG
DARLA DIANNE WHITFIELD

To be senior assistant dental surgeon

MAYRA ARROYO-ORTIZ
RAYMOND A. DAILEY
KIM NANCY HORT
MARY BETH JOHNSON
ROBERT C. LLOYD, JR.
WILLIAM B. PARRISH
TANYA M. ROBINSON
CURTIS D. SPANN
VANESSA F. THOMAS
EARLENA R. WILSON

To be senior nurse officer

KATHERINE A. COINER
SHEILA F. MAHONEY

To be nurse officer

HELGA C. BACA
NANCY F. BARTOLINI
KATHERINE MARIE BERKHOUSEN
SUSAN KATHRYN BROWN
JUANITA M. FOX
MARGARET K. GRISMER
LISA M. HOGAN
EDECIA ALEXANDRIA RICHARDS
KONSTANTINE K. WELD
ADOLFO ZORRILLA

To be senior assistant nurse officer

AMY FRANCES ANDERSON
LISA A. BARNHART
ELIZABETH ANNE BOOT
ALICIA ANNE BRADFORD
REGINA D. BRADLEY
NICHOLE J. CHAMBERLAIN
ALAN RICHARD CONDON
DAVID ALLEN CROSS
JOHN W. DAVID, JR.
SUSIE PAPAZIAN DILL
KIMBERLY JILL ELENBERG
BRADLEY JOHN ESPESETH
JOHN S. GARY, JR.
CHERYL LYNN GARZA
PATRICIA NOTTINGHAM GARZONE
GEORGE ROBERT GENTILE
WAYNE KEITH GRANT
NANCY M. HALONEN
LORI A. HUNTER
CYNTHIA RENEE JAMES
NATALIE A. KEATING
NICOLE ANTOINETTE KNIGHT
AKUA O. KWATEMAA
YVONNE TERESA LACOUR
YVETTE MARIA LACOUR-DAVIS
CAROL S. LINCOLN
SHERRY LEE LULF
JOHN THOMAS MALLOS
ROSALIE A. MASHTALIER
CHRISTINE M. MATTSON
MAUREEN JANE MCARTHUR
TAMI LEE MCBRIDE
ALBERTA M. MCCABE
BRIAN M. MCDONOUGH
QUENTIN E. MOORE
VICTORIA LYNN OBOCZKY
DEAN B. PEDERSEN
ALBERT PERRINE, JR.
ALOIS P. PROVOST
JOSIE C. RICCI
KELLY DUANE RICHARDS
ABELARDO F. ROMAN
TIARA ROSE RUFF
ARTHUR S. TAICH
VINCENT M. THRUTCHLEY
HYOSIM S. TRAPP
AMY BETH WEBB
KELLIE LYNN WESTERBUHR
ANGEL L. WILSON
MARC E. WINOKUR

To be assistant nurse officer

DAVID ANDREW CAMPBELL
DARRELL LYONS
CHRISTINE MARIE MERENDA
GLORIA M. RODRIGUES

To be engineer officer

DAVID WILLIAM AUSDEMORE
DEREK W. CHAMBERS
SUSAN KAYE NEURATH
KENNETH TOM SUN

To be senior assistant engineer officer

MARK T. BADER
LORETTA B. BARRANGER
STEVEN J. DYKSTRA
DENNIS I. HAAG
KATHERINE ELIZABETH JACOBITZ
STEPHEN B. MARTIN, JR.
JOHN PAUL NICHOLS
JOHN B. PULSIPHER
MICHAEL B. REA
NICHOLAS R. VIZZONE
SHARI L. WINDT

To be senior scientist

JOSEPH L. DESPINS

To be scientist

JON RUSSELL DAUGHERTY
JOHN MOSELY HAYES
MELANIE FAITH MYERS
BENNIE D. WHEAT

To be senior assistant scientist

RACHEL NONKIN AVCHEN
ARTENSIE RENEE FLOWERS
PETER DAMIAN MCELROY
DIANA LOUISE SCHNEIDER
MARK JOSEPH SEATON

To be environmental health officer

JEAN ANN GAUNCE
DANIEL J. HEWETT
JOSELITO SANCHEZ IGNACIO
TIMOTHY M. RADTKE

To be senior assistant environmental health

DONALD STEWART ACKERMAN
CHARLES M. BLUE
MICHAEL GEORGE BOX
WILLIAM C. CRUMP
RONALD MATTHEW HALL
JAMES R. HOWELL
BOBBY T. VILLINES

To be senior veterinary officer

WALTER R. DALEY

To be veterinary officer

TRACEE A. TREADWELL

To be senior assistant veterinary officer

MARIANNE PHELAN ROSS

REGINA LORAINE TAN
VENITA B. THORNTON
ALLISON M. WILLIAMS

To be senior pharmacist

M. CARLENE MCINTYRE

To be pharmacist

THOMAS RAYMOND BERRY
BARBARA J. FINNEGAN
BETH FABIAN FRITSCH
STEVEN DAVID MAZZELLA
ANGELA MADDREY PAYNE
ROBERT CHARLES STEYERT
JULIENNE M. VAILLANCOURT
PRESTON L. VANCUREN

To be senior assistant pharmacist

CHRISTOPHER KEITH ALLEN
DEMITRIA J. ARGIROPOULOS
WILLIAM H. BENDER
MARY A. BICKEL
KEVIN D. BROOKS
TAMMY L. BUNTJER
MARY CATHERINE BYRNE
BRIAN NEIL CAMPBELL
JASON FOSTER CHANCEY
JAMES MICHAEL CHAPPLE
KAI L. CHIU
CHAE UN CHONG
WILBERT DARWIN, JR.
CORNELIUS DIAL
DAVID TERWASE DIWA
RICHARD E. ERICKSON II
KRISTA SUE EVANS
JAMES B. GIBBON
STEVEN JOE GRAY
ANDREW STEPHEN HAFFER
JACQUELINE W. LEA
KAREN ELIZABETH MCNABB-NOON
GLENNA LOUISE MEADE
ANDREW KEVIN MEAGHER
JEFFREY GLENN NEWMAN
CUTHBERT T. PALAT III
KRISTA MARIE SCARDINA
RANDY LEE SEYS
MARTIN H. SHIMER II
STEVEN C. SMALLEY
JACQUELINE KAREN THOMAS
KELLY ERIN VALENTE
SAMUEL YU-SHU WU
CHI-ANN YU WU
SHERRI A. YODER
CHARLA M. YOUNG
BRIAN KEITH JOHNSTON
RYAN LYNN STEVENS
ALICE SZE-MAN TSAO

To be dietitian

JEAN R. MAKIE
VANGIE R. TATE

To be senior assistant dietitian

SUZAN ELIZABETH DUNAWAY

To be senior therapist

SUSAN F. MILLER

To be therapist

MERCEDES J. BENITEZ-MCCRARY
LIZA M. FIGUEROA
KATHLEEN M. MANRIQUE

To be senior assistant therapist

DENISE M. BRASSEAUX
ALEXEI A. DESATOFF
JEFFREY JOSEPH LAWRENCE
HENRY PAUL MCMILLAN
LORRIE LEA MURDOCH
SUE N. NEWMAN
ROBERT E. ROE, JR.
STEPHEN SHUMWAY SPAULDING
JULIE MARGARET VAN LEUVEN

To be health services director

DAVID C. KVAMME

To be senior health services officer

RICHARD A. MARCH

To be health services officer

CHRISTOPHER JOHN BERSANI
LINDA KAY BRANDT
KELLIE J. CLELLAND
GREGORY DALE CLIFT
PHILIP SIMMONS MCRAE
JUDY B. PYANT
RAFAEL ANGEL SALAS
JEANEAN DENISE WILLIS
ELISE SIU YOUNG

To be senior assistant health services officer

NOREEN K. ADAY
CLAYTON M. BELGARDE
DAVID J. BELLWARE
JEFFREY S. BUCKSER
GEORGE L. CARTER
KEITH WILLIAM CESPON
DIMITRUS CULBREATH
MICHAEL WILLIAM DAVIS
STEPHEN M. DEARWENT, JR.
LYNETTE R. DZIUK
NIMA N. FELDMAN
PATRICK M. FITZWATER
CELIA SYDONNE GABREL
STACEY R. GOODING
ROBERT T. HARRIS
DANIEL H. HESSELGESSER
ROBIN ANN JACKSON
TOBEY CANDICE MANNS
JACK F. MARTINEZ
JOHN D. MAYNARD
FRANCES PAULA PLACIDE
PRISCILLA RODRIGUEZ
CLAUDINE MICHELE SAMANIC
ANGEL GUSTAVO SEINOS
FELICIA BINION WILLIAMS
JAMES F. ZINK

To be assistant health services officer

SHAWN DAVID BLACKSHEAR
SEAN RANDALL BYRD
WILLIAM LEVI COOPER
TORREY BETH DARKENWALD
DEBORAH ANN DOODY
CARL A. HUFFMAN III

THE JUDICIARY

TIMOTHY C. BATTEN, SR., OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE WILLIS B. HUNT, JR., RETIRED.

KRISTI DUBOSE, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ALABAMA, VICE CHARLES R. BUTLER, RETIRED.

THOMAS E. JOHNSTON, OF WEST VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA, VICE CHARLES H. HADEN, II, DECEASED.

VIRGINIA MARY KENDALL, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE SUSANNE B. CONLON, RETIRED.

W. KEITH WATKINS, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA, VICE WILLIAM HAROLD ALBRITTON, III, RETIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, September 28, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHAW).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 28, 2005.

I hereby appoint the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Thomas Johns, Pastor, St. John Vianney Parish, Mentor, OH, offered the following prayer:

Gracious God, we are mindful of the blessings You bestow upon our Nation. Thank You for the farmers who provide food for our tables. Help us to be grateful for all we receive, and may we share our gifts with the poor.

Bless the men and women of Congress and grant them wisdom and fortitude so that they know what is right and good and pursue it diligently. Guide them to make good decisions, and may our actions as a Nation be pleasing in Your sight. Touch the hearts of our citizens, especially our young people, and inspire them to live lives of service.

Be with our brothers and sisters in the Gulf States as they rebuild their lives and communities. Please also bless the men and women in the military and keep them out of harm's way. May Your peace reign in our hearts, homes, neighborhoods, Nation, and world. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) come forward and lead the House in the Pledge of Allegiance.

Ms. LINDA T. SÁNCHEZ of California led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING FATHER THOMAS JOHNS

(Mr. LATOURETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to welcome this morning Father Tom Johns of St. John Vianney Catholic Church in Mentor, OH, as the guest chaplain today. I am honored to have Father Johns here today.

I want to welcome him, his sister and brother-in-law, Trish and Denny, and their two children, Kyle and Kayla, to the House of Representatives.

Father Johns has been with St. John Vianney since 1993 and became pastor in January of 1998. He is a treasured member of our community, and he also has a special Washington connection. Several years ago, Father Johns presided over the wedding of Kirsti Talikka Garlock, counsel for the House Committee on International Relations, and her husband, Vince. I know it is a thrill for them to have Father Johns here this morning as the guest chaplain.

I first met Father Johns at the home of Jim and Ruthie Jackson a number of years ago, and they referred to him as Father Tom. Even though I am a Methodist and he is a Roman Catholic, I have to tell you that it is probably a good duty when you are marrying somebody like Kirsti and Vince. I have also had the sad occasion of being with him when he was the presiding official at the funeral of not only Jim Jackson but also Mike Brown. And Father Johns's ability to help friends and family get through those occasions really makes him a special person in my mind. It is a pleasure to have Father Thomas Johns with us today, and I thank him for being here.

IMPRISONED IN THEIR OWN HOMES

(Mr. POE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE. Mr. Speaker, every day in this land of the free there are some women who live lives of quiet desperation. These women are not free, but are imprisoned in their own homes. Their crime? Being with the wrong person. Their warden is their spouse or their boyfriend. Their sentence? A lifetime of abuse, sexual assault, intimidation, mental turmoil, and even death.

As a judge in Texas, I saw these victims appear in court to tell their compelling, sad stories of their incarceration in their own homes.

This is a family issue. This is a national health issue. This is a public safety issue. And this is a criminal issue. This is an issue that must not go unnoticed by this House. We need to stand beside these victims that are battered, beaten, and bruised. The criminals will be held accountable for their actions. The protections in the Violence Against Women Act need to be reauthorized so women can truly enjoy living in the land of the free.

Mr. Speaker, love should not hurt.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, today the House will vote on H.R. 3402, the Department of Justice Appropriations Authorization Act.

I rise today to thank the gentleman from Michigan (Mr. CONYERS) and the gentleman from Wisconsin (Mr. SENSENBRENNER) for their leadership on this bill and to urge my colleagues to support it.

H.R. 3402 contains language from my bill, H.R. 283, the Bullying and Gang Prevention For School Safety and Crime Reduction Act of 2005. By adding this important provision, schools will be able to use Federal dollars to establish gang and bullying prevention programs in their schools and to teach kids not to use e-mail, instant messaging, or cell phones to make threats and insults, a disturbing new behavior known as "cyberbullying."

Studies show that 31 percent of junior high and high school students in urban areas and 21 percent of all students reported that street gangs were present at their schools and more than 3.2 million children are the victims of repeated bullying every year. That is one in every six students.

Bullying and gangs can be eliminated from our schools and H.R. 3402 is a tremendous step in the right direction. I urge all of my colleagues to vote for the bill.

COMMENDING THE BARRETT FAMILY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I rise today to recognize a very special family in my district. Billy Jack and Anne Barrett and their six children recently experienced a life-changing event. They were chosen to receive a brand new home from the television show "Extreme Makeover: Home Edition."

I was amazed at the amount of work that went into replacing the Barretts' small family 101-year-old farmhouse with a 4,000-square foot two-story home, complete with red school house that Anne Barrett will use to continue home schooling the children.

The Barretts were selected for opening not only their hearts but their home to troubled children. In addition to their own two biological daughters, they adopted four high-risk teens who had been deemed unadoptable. They had seen the potential in these children and decided they would not give up on them as so many had.

The Barretts may not have the financial means or space to undertake their new responsibility: but with Christian values, love and horses, they have produced a wonderful family. I would like to thank Keller Homes, Extreme Makeover, and the more than 6,000 people who volunteered to make this daunting challenge a reality. I would like to commend the Barrett family for the example that they set for all of us.

ENDANGERED SPECIES ACT REWRITE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, much of the gulf coast lies in ruins. Iraq is on the verge of a civil war. Government spending has spiraled out of control, leaving structural deficits as far as the eye can see; and we are in the midst of an energy crisis. With these and other challenges mounting, how does the Republican Congress respond? Of course, by gutting the Endangered Species Act.

They are using this time of mounting crises as a way to smuggle their long-held ideological goods through customs, the policies they can never enact because of the public's opposition to them.

This Congress sees an opportunity to reward their special interests by eliminating the backbone of our environmental laws. The Endangered Species Act needs reform and needs to be updated, but we should not throw the baby out with the bath water.

To add insult to injury, while it guts the very successful environmental policies, the bill will actually cost more than the current Endangered Species Act. CBO estimates that the administration costs will more than double. So much for smaller government.

Mr. Speaker, the American people want leadership, they want solutions to challenges confronting this Nation, not wholesale auction of everything we hold dear to the special interests.

When the Speaker's gavel comes down, it is intended to open the people's House, not the auction house.

SIMPLE SCIENCE

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the simple, easy answer to any problem or solution is almost always wrong.

Today the simplistic, politically correct explanation for hurricanes Katrina and Rita is global warming. Yet simple, easy science is almost always wrong.

CNN reported a couple of days ago that the biggest, worst decade for hurricanes was the 1940s, long before there was any thought or theory or even mention of global warming. In addition, Max Mayfield, director of the National Hurricane Center, said in news stories and television reports that hurricanes are cyclical in nature. He said it was wrong to invoke our alleged global warming without valid science or any hard science to back it up. Mr. Mayfield also noted the terrible hurricanes of the 1940s and the hurricane cycles.

The overly simple political science of global warming is just not accurate here, and people should not use the tragedy of these hurricanes to advance or promote political theories.

AMERICANS DESERVE REAL ANSWERS

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, Americans were shocked by our government's response to Hurricane Katrina. They watched as days passed before the people of New Orleans were rescued from rooftops and attics or before those at the Superdome actually received food and water.

Americans rightly asked, if this is the way our government responds to a natural disaster it knew about days in advance, how would it respond to a surprise terrorist attack? How would it respond to an earthquake?

Americans now deserve and demand answers from an independent commission, not a partisan committee with a political agenda.

Creating this commission is not about a blame game. The purpose of this commission is not really about the past; it is about the future. It is about learning from our mistakes so that we assure that these mistakes are never repeated in this country.

The American people respected the 9/11 Commission because of its independence, and that is exactly what we need now.

A BRAVE VICTORY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, sometimes you just have to celebrate. Our Nation has seen remarkable challenges placed before it over the last few weeks; but our spirit is strong, our enthusiasm undaunted, and our optimism unwavering, and America's team has done it again.

From their beginnings in Boston in 1876 to their brief tenure in Milwaukee from 1953 to 1965 and now in their rightful home in Atlanta, they are the personification of the American spirit, demonstrating the glory of diligence, persistence, loyalty and unity.

Last evening the Atlanta Braves extended a record unparalleled in all of sports, capturing their 14th straight division championship. Think of the greatest accomplishments of any sports team in history and none of them compare to the length of success by these heroes of America's pastime.

Congratulations to general manager John Schuerholz and to manager Bobby Cox for their remarkable leadership through thick and thin. Congratulations to the players, from seasoned veterans to rookie contributors. All of them have given Atlanta, Georgia, and America, the thrill and privilege of witnessing their wondrous exploits.

You have blessed us all with your skill and passion. Congratulations to the Atlanta Braves.

EXIT STRATEGY

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, whether or not Iraq soon votes for a constitution, whether or not the Sunnis and the Shiites soon achieve peace, we in this Congress must soon take action for our Nation, for our troops, for our national interests to plan an exit strategy from Iraq and to commence it by October of 2006.

That is the purpose of House Joint Resolution 55, a bipartisan resolution which requires the administration to create an exit strategy so we are not going to be in Iraq forever, so we do not put our sons' and daughters' lives on the line forever, so we have a defined strategy to get out.

☐ 1015

It is time for us to take whatever bipartisan energy there is in this Chamber and direct it towards a new direction in Iraq, to bring our troops home, to involve the world community, to put an end to this sorry chapter of U.S. occupation.

ACROSS-THE-BOARD SPENDING REDUCTIONS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, last week I received a call from a constituent, and she said, As you are looking at Hurricane Katrina, I want you to remember something. My grandmother used to say, Mind your pennies and your dollars will take care of themselves.

How very true, and in that regard, I filed three bills yesterday, one I think every Member of the House can decide they can support, H.R. 3903, H.R. 3904 and H.R. 3906. Each calls for across-the-board spending reductions in non-defense, non-homeland security discretionary spending.

H.R. 3903 is a 1 percent reduction which would be a $4 billion savings for the year. Two percent is the H.R. 3904 bill. That is an $8 billion savings. $21.5 billion could be saved with H.R. 3906, which is a 5 percent reduction.

One of the things we know, Mr. Speaker, is that across-the-board reductions work. The bureaucrats in buildings are called upon to be responsive to the taxpayers to account for how they are spending every single penny that they are being appropriated.

So I encourage all the Members of the body to join me in cosponsoring H.R. 3903, H.R. 3904 and H.R. 3906 and reduce our Federal outlays.

VAWA REAUTHORIZATION

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, as we celebrate Domestic Violence Awareness Month in October, I rise today to highlight the issue as it affects minority communities.

Although domestic violence is blind to race and ethnicity, racial and ethnic minority women, immigrant women, face unique challenges to reporting and getting help for domestic violence.

Just this morning, I learned that the manager's amendment to today's VAWA reauthorization bill strikes the language "racial and ethnic minorities" from the definition of underserved communities.

After all the bipartisan work that we have been conducting for the past year on this particular reauthorization, I am outraged that at the last minute, Republican leadership is shortchanging women of color who are victims of domestic violence.

We must acknowledge the devastating effect that domestic violence has on all communities, community of colors. That means African Americans, Latinos and Asians and all other ethnic groups.

Our efforts to educate the public about domestic violence must directly address factors like cultural differences, linguistic differences and immigration status. By removing this language, we are exacerbating the problem of domestic violence in communities of color.

My hope is that the reauthorization of the Violence Against Women Act is comprehensive and meets all the needs of all women in our country.

BUSINESS ACTIVITY TAX SIMPLIFICATION ACT

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Mr. Speaker, Mr. Bo Horne lives with his wife in Seneca, South Carolina, where they operate a small business from their home. It is their piece of the American dream.

In 1997, they sold a computer software license to a customer in New Jersey for $695, and even though Mr. Horne has no employees or no real property in New Jersey, this one-time sale triggers a New Jersey State law requiring Mr. Horne to pay $600 in taxes and fees every year on the software as long as it remains in use. This tax is stifling to small business investments and entrepreneurs across the country.

Mr. Horne stated yesterday in his testimony before the House Committee on the Judiciary that he is speaking up because of thousands of small businesses that are totally unaware of the risks. Mr. Horne also highlighted a commonsense bill that I am a proud cosponsor of, H.R. 1956, the Business Activity Tax Simplification Act, as introduced by the gentleman from Virginia (Mr. GOODLATTE). It protects small businesses by requiring them to be physically present in the State before they are subject to taxes by the State.

I urge my colleagues to stand up for small businesses by supporting this important legislation, and I thank Mr. Horne for his hard work.

POLITICAL HACKS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. The Bush-Rove administration has delivered cronyism, incompetence and corruption in spades. Mike "you're-doing-a-heck-of-a-job-Brownie" Brown is the poster child for the hundreds of unqualified, often incompetent, political hacks chosen to head, to demean, demoralize and dismantle critical Federal agencies like FEMA.

Then there is the corruption side. Mr. Brown, as he was resigning, at the same time one of his buddies, David Safarian, the head of Federal procurement for the entire government of the United States, $300 billion a year, is being led out of the White House in handcuffs for perjury, influence peddling and bribery, but he did his job till the end as a Bush political appointee. Before they drug him out in handcuffs, he let billions of dollars in no-bid contracts, awarded to Halliburton and other favorites of this administration.

Good job, Mr. Safarian. I hope prison is a good reward for you.

U.S. TROOPS DELIVER VICTORY AGAINST AL QAEDA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Iraqi security forces and coalition soldiers this week delivered a striking blow to al Qaeda terrorists in Iraq. By killing Abu Azzam, a top aide to Abu al-Zarqawi, our troops have achieved yet another critical victory in the war on terrorism.

Azzam led the largest group of al Qaeda in Iraq fighters in Fallujah during autumn 2004 and directed current terrorist activity and operations in Baghdad. As a leader of the Iraq terrorist network, he served as the brains behind numerous attacks on our troops and Iraqi citizens. Not anymore.

The recent victory demonstrates that American soldiers are skilled, focused and dedicated to finding the cowards who continue to attack democracy and take the lives of innocent civilians. As co-chair of the Victory in Iraq Caucus, I am extremely proud of their success. By capturing and killing terrorists in Iraq, our troops are protecting American families from terrorists who threaten our freedoms and our way of life.

In conclusion, God bless our troops, and we will never forget September 11.

VIOLENCE AGAINST WOMEN ACT

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, the Violence Against Women Act has made a great difference for countless women and their families when confronting violence, and VAWA has made a significant difference in the health and happiness of hundreds of thousands of women, children and families.

With one in four women in this country experiencing domestic violence, clearly much more remains to be done. So we cannot abandon our commitment to them and to the women around the world.

Women have every right to feel safe in their own homes. They also deserve to know that law enforcement and health officials are equipped to deal with their special needs in these tragic situations, and we must include teaching young people that bullying and violence must be avoided. We must teach them how to handle situations of conflict and anger in other ways besides bullying and violence.

Mr. Speaker, I urge my colleagues to support the reauthorization of VAWA to ensure these protections and make sure that resources are available.

HONORING DR. DAVID BUSHMAN

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, September 30, 2005, is a significant day in American higher education. This day marks Dr. David W. Bushman's inauguration as the 13th president of Lees-McRae College in Banner Elk, North Carolina.

Lees-McRae College is an institution of which the entire Nation can be proud. For 105 years, it has prepared young men and women to take their places as productive citizens. Committed to leadership and service, Lees-McRae is an integral part of the larger community, putting into practice its historic motto, "In the mountains, of the mountains, for the mountains."

David W. Bushman is an outstanding scholar, educator and administrator. Under his leadership, Lees-McRae College reaffirms its commitment to academic excellence in the liberal arts tradition and to the moral and civic education of its students.

As David Bushman assumes the presidency of Lees-McRae College, I extend sincere congratulations to him and to the college. As President Bushman and Lees-McRae College begin this new chapter in their history, they do so with my best wishes for continued success.

REPUBLICANS FAKING THEIR WAY THROUGH INQUIRY

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, yesterday House Republicans convened their partisan investigation into what went wrong in the aftermath of Hurricane Katrina. It is clear Republicans want to fix all blame on the back of former FEMA director Michael Brown.

Republicans were willing to ask tough questions yesterday, but that is simply not enough. For 5 years now, House Republicans have ignored their oversight responsibilities of the Bush administration. Are we now supposed to believe that House Republicans will conduct an investigation that will not only determine what exactly went wrong but also how we can prevent such a slow response from ever happening again?

The New York Times said that Washington is faking a Katrina inquiry. The paper determined that a government dominated by one party should be disqualified from investigating itself. Democrats here in the House strongly agree.

We simply will not be a part of a sham investigation. The American people want real answers, not a cover-up. An overwhelming 87 percent of Americans are demanding an independent commission similar to the 9/11 Commission.

MEDICARE D

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today in praise of a new Medicare part D prescription drug benefit that is available to all seniors beginning January 1, 2006.

This week, the Centers for Medicare and Medicaid released information on organizations offering prescription drug plans in each of our 50 States, and the opportunity for sign-up begins November 15.

This announcement holds great news for seniors across America. In every State, seniors will have a choice among plan providers. In my home State of Georgia, for example, seniors will be able to choose from 18 different plans, ensuring they can find one that best suits their individual needs.

Mr. Speaker, there is more good news for our seniors. Not only will they be eligible for prescription drug coverage from a range of organizations, but they will receive this benefit for less money than previously expected, in some cases, for a premium as low as $20 a month. This is the power of competition, and our seniors will benefit from it. We do not need government price controls. The free market works.

Mr. Speaker, for years, our seniors have struggled with the rising cost of prescription drugs, in some cases going without medicine they need to stay healthy. With Medicare part D, seniors will be able to reap the benefits of preventive care and live longer, healthier lives.

RECOVERY FROM HURRICANES

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask my colleagues this morning to begin to look at the recovery of Hurricane Katrina, and support thereof to include Hurricane Rita. Just spending 4 days in the region, a number of them at the Transtar Hurricane Emergency Center day and night, I can tell my colleagues that the frustration that is reflected in the Houston Chronicle, FEMA faulted yet again, and of course, that in The Washington Post, evacuees urged to stay away, is only a limited story of what we have faced in that region.

Going into the region directly hit just yesterday, I can tell my colleagues, as the local officials wanted me to say, there is no food, there is no water, there is no ice. They need help—they need leadership from the Federal Government. There are trucks parked on hotel parking lots that cannot be opened to share food because the military has not yet been directed to arrive to unload the trucks.

This is not a finger pointed in the direction of local officials. It is a finger pointed with a singular question: Who is in charge? When you are ordered to evacuate and there is no order, who is in charge?

An independent inquiry, a widespread understanding of how we can secure the homeland is absolutely imperative.

OPERATION OFFSET

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, Katrina breaks my heart. When I consider the tragic aftermath of this extraordinary storm, now 1 month hence, I cannot help but think of that person in the Bible who speaks of how the rains came down, the winds blew and beat against the house, the floodwaters rose, and the house fell with a great crash.

Congress is now involved in a critical debate about relief and rebuilding and how we will pay for what could be hundreds of billions of dollars in recovery and reconstruction of the gulf coast.

Last week, House conservatives offered their own plan, a series of budget cuts simply known as Operation Offset. It contained many good ideas, and it seems to have engendered, Mr. Speaker, an important debate here in Washington, DC, and all around the country.

It seems that Members of Congress know and the American people know that raising taxes or raising the national debt is no way for this national government to respond to the extraordinary costs of Katrina. We must ensure that a catastrophe of nature does not become a catastrophe of debt for our children and grandchildren through introducing tough budget cuts like Operation Offset.

☐ 1030

CALLING FOR EXTENSION OF MILC PROGRAM

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, last year in the conference on the disaster supplemental, Senate conferees passed a provision extending the MILC program for 2 years, and the gentleman from Pennsylvania (Mr. SHERWOOD) and I had lined up enough votes on the House side to accept that amendment. To prevent that from happening, the Republican chairman of the conference gaveled the meeting to a close, and we never met again on the subject. Despite the fact that the President had said in my hometown on that same day that he favored the extension of the MILC program, when my office called the White House asking him to intervene in order to get that conference reopened so that the MILC program could be extended, the White House declined.

That program is now scheduled to expire at the end of this week. If that happens, we will have lost an important safety net for Wisconsin's family dairy farmers. I urge the House agriculture authorizing committee to immediately report out to this floor an action extending the MILC program so that we do not lose that vital program, and I urge the Republican leadership of the House to see to it that the committee does just that.

CALLING FOR INDEPENDENT COMMISSION REGARDING HURRICANE KATRINA

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, I watched the testimony of former FEMA Director Michael Brown yesterday. By any measure, it was a shameful and disgraceful performance. More disgraceful is the revelation that after being appointed to a position for which he was completely unqualified, after doing a horrific disservice to his fellow citizens in Louisiana and Mississippi, after embarrassing our country in the eyes of the world, he is still on the payroll of FEMA.

But after hearing Michael Brown's hearing yesterday, the need for an independent commission is even more glaringly obvious. The American people are demanding it. And why are they demanding it? Because we have seen that the Department of Homeland Security is fundamentally flawed. It is not working, and we need to know why and we need to know what to do to fix it. Just the scale of the disaster alone, it is important to never repeat that again in our country. The amount of money alone justifies that we do an independent investigation. $200 billion of our taxpayers' money is going down South, and we have no idea what it is being used for or how it is being spent. And the issue of cronyism needs to be explored. Eighty percent of the contracts for Katrina and Rita are nonbid contracts for no reason. Let us not be shamed as we were to the 9/11 Commission. Let us make this independent commission a reality now.

FINDING A WAY TO PAY FOR HURRICANE DAMAGE

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of New York. Mr. Speaker, yesterday the chairman of the Council of Economic Advisers, Ben Bernanke said: "Every effort needs to be made to try and offset the cost of Katrina and Rita by reductions in other government programs." He suggested following through with eliminating or severely cutting 154 health care, education, and infrastructure priorities as proposed in the President's budget in order to meet his goal of cutting the deficit in half in 5 years.

What would these cuts entail? A $4.3 billion cut from the Education Department's budget and $2 billion from the Health and Human Services budget, just to name a few.

But what did Mr. Bernanke not suggest might help this President reach his deficit reduction goals? Any hint of rolling back tax cuts for the wealthiest Americans who earn over $400,000 or scaling back the estate tax cut which has no impact on 98 percent of American families?

Mr. Speaker, it is imperative that we find ways to pay for the hurricane damage, but we cannot afford to hold sacred the tax cuts for the wealthiest Americans at the expense of the values, priorities, or needs of middle-class Americans. They deserve better.

MOTION TO GO TO CONFERENCE ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. ROGERS of Kentucky. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentleman from Kentucky (Mr. ROGERS).

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

MOTION TO INSTRUCT HOUSE CONFEREES H.R. 2360, FY2006 HOMELAND SECURITY APPROPRIATIONS BILL OFFERED BY MR. SABO

Mr. Sabo moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2360, be instructed to insist on the headings and appropriation accounts in Title III of the House-passed bill.

The SPEAKER pro tempore. Under rule XXII, the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) each will control 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Hurricane Katrina shined a bright spotlight on troubling gaps in our Nation's homeland security. We all saw what it means to be unprepared: people die and suffer needlessly.

Americans are patiently waiting for competence and accountability from the Congress and the President. Our capacity to deal with catastrophe may actually have gotten worse since the Department of Homeland Security was created in 2003. The people demand that we fix what is broken.

Last week, Secretary Chertoff told me about his vision for improving national preparedness and response. What he said scares the living daylights out of me. In the Department's sixth reorganization plan in 2½ years, the Secretary proposes to sever the last ties between Federal disaster preparedness and response. He unveiled this proposal in July, before Katrina: and he is still determined to implement it on October 1.

With all due respect, the Secretary is dead wrong about what is most needed at the Federal level to coordinate and lead local, State, and Federal agencies in preparing for and responding to a major disaster, whether it is natural or man-made. If we have learned one thing in the past month, it should be that disaster preparedness and response must go hand in hand. Not long ago, FEMA did that well. The agency was robust, proactive and proved how good planning and coordination are critical to effective response. Congress should demand a pause before Secretary Chertoff implements more organizational changes that will further weaken FEMA. It is the first step toward fixing our broken emergency management system.

This motion to instruct would do just that. It directs conferees to insist that the preparedness title of the conference agreement be in the same form as the

House bill. The effect is to put a hold on the Secretary's reorganization plan for preparedness. Let me add that it lets other parts of his reorganization proceed. If he wants to take the air marshals from ICE and put them back in TSA where they were originally, fine. But this puts a hold on his preparedness plans.

The House should take this stand. Otherwise, DHS will simply shuffle organizational boxes again instead of tackling head-on the problems that Hurricane Katrina laid bare. At the very least, we should take time to think through the Department's preparedness plans in light of Katrina. We need to analyze what went wrong so we know how to fix things before the next catastrophe. It should be clear to everyone that we have not yet learned those hard lessons.

I see two keys to addressing the problems that Hurricane Katrina exposed: first, we need a unified, Federal "all-hazards" emergency management agency. It must have the stature, the resources and the clout to lead, coordinate, and demand the very best of local and State governments and other Federal agencies in planning for and responding to major disasters. Equally important, the President needs to appoint and empower well-qualified and respected emergency management professionals to lead this agency. There is no substitute for competent and accountable leadership.

Mr. Speaker, before FEMA was merged with DHS, it was a robust and experienced FEMA. We can rebuild it. We still have the blueprints. If you want to take us another step in weakening FEMA, vote "no" on this motion to instruct. If you think we should maybe take some time to think, then vote "yes," because it is the right thing to do.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the real question here is, if you are happy with the way the planning went to prepare for Katrina, vote for this motion to instruct conferees. But if you think that we can plan better for disasters in this country, including hurricanes like Katrina, then reject this motion and allow the Department, the government to bring together all of the agencies that might be involved in planning for a disaster into the same room. Not just FEMA. Bring the Coast Guard, bring the military, bring the border patrol, bring the Secret Service.

Bring all of the agencies that deal with disasters or have a part of that into the same place, the same directorate, if you will, in the Department of Homeland Security so that we can properly plan and bring the resources to bear of the government in a timely way, at the outset, by properly preparing. FEMA is a FEMA-centric organization. It stays within its boundary and does a good job basically in responding, but not planning, not preparedness.

The gentleman from Minnesota says early on in his statement, Katrina shined a bright spotlight on troubling gaps in our ability to deal with catastrophes. I could not agree more. That is why I think we need to allow the government to create a directorate for preparedness that is the broadest in its scope it can be, encompassing all of the agencies of the government, not just FEMA.

The gentleman from Minnesota also said in his opening remarks, people demand that we fix what is broken. I agree with that as well. Ironically, however, his motion to instruct conferees would prevent our capability of being able to fix what is broken. To fix what is broken, which is preparedness, we need to be able to build a much broader-scoped organization, looking just at preparedness for these disasters. A single preparedness directorate will be able to work not just with the Federal agencies but State and local governments as well to build a comprehensive preparedness strategy, focused not just on terrorist activities but certainly an all-hazards strategy.

Consolidating all preparedness functions will assist the Department in successfully deploying this strategy throughout all levels of government where it is needed the most.

The responsibility for preparedness exists in various agencies and levels of the government outside of FEMA. For example, the Coast Guard is not a part of FEMA. Do you want to prevent the Coast Guard from being able to help plan for rescuing people in case of a flood or disaster like Katrina?

□ 1045

I do not want to exclude the Coast Guard from that process. Do Members want to exclude the military and the National Guard from that process? This motion would keep things just as it is. I am not happy with things just as they are. Hurricane Katrina proved that it is not getting the job done.

Do Members want to exclude the Corps of Engineers? They are not a part of the FEMA, they are part of the Army. Do Members want to prevent the Coast Guard, the National Guard, the military and all other agencies from helping plan to prepare for these disasters? I want them included, not excluded. Creating a directorate in the Department whose sole focus is preparedness will bring together all of these agencies and build a preparedness capability in DHS that does not currently exist.

Also, keep in mind that FEMA will continue to be responsible for their portion of preparedness planning within this much-larger construct. They will continue to administer the Emergency Management Institute, which serves as the national focal point for the development and delivery of emergency management training and enhances the capabilities of Federal, State and local governments in order to minimize the impact of disasters. They will still be involved, deeply, in preparedness planning. But I think we need to add these other agencies into the mix so we know from the outset, from the git-go who is going to do what, when, where and why. What is wrong with that?

The bottom line is that this reorganization will allow for better coordination among the various preparedness components within the much larger Department of Homeland Security and encourage learning and building off of each other. If FEMA were to be solely responsible for preparedness, the result will be a FEMA-centric approach, just within the small world of FEMA. DHS must develop a broader, all-hazards focus when it comes to preparedness, one that includes natural disasters and terrorist incidents.

We know that somewhere in response to Hurricane Katrina, the system broke. To vote for this motion will perpetuate the status quo. If Members like things just as they are, then vote for the Sabo motion. But if Members want a much broader context of preparing for these disasters with all of the agencies of the government that could be involved in disaster relief and planning, if Members want all of them involved, then reject this motion and let the Department reorganize the preparedness part of getting ready for these terrible storms using all of the assets of the government, not just a small part.

I urge Members to reject this motion and to allow the conferees to go about the business of conferring with the other body and bringing back a bill responsibly to this body.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I would hope that Congress would not repeat the mistakes that it has already made with respect to the Department of Homeland Security and FEMA. We all remember what happened after 9/11. The Congress, in knee-jerk fashion, passed the proposal to create a new Department of Homeland Security, a gargantuan agency. Up until that time there were 133 agencies that had something to do with homeland security.

So what happened is that the Congress and the White House, in its infinite wisdom, took 22 of those 133 agencies, lumped them together in a huge bureaucracy. They did not include the FBI, they did not include the CIA, the two agencies most connected with dealing with terrorism. They took 22 agencies, lumped them together in a huge bureaucracy, set up many layers of bureaucracy within that organization, and dumped FEMA into that organization.

Up until that time, FEMA had been one of the stars of the previous administration under James Lee Witt when, for a change, that agency had been professionalized and depoliticized. But now what has happened is that since FEMA has been buried in homeland security, we have seen six separate reorganization plans for the Department of Homeland Security. We have had a number of directors, and now we have Mr. Chertoff sending us a letter raising two points that I find almost laughable.

In his letter opposing this motion, Mr. Chertoff says that his proposal was formed after intensive consultations with preparedness professionals. The problem is we do not know who those professionals were and what they recommended because it all happened behind closed doors. It was an inside job. People who thought they knew better than anybody else got together with a proposed plan. I think that plan needs to have some critiquing from the outside, from professional people, before it goes into effect.

Secondly, Mr. Chertoff says in his letter, "No structural changes were made to FEMA prior to Hurricane Katrina." Does he not consider dumping FEMA into a huge bureaucracy where there are many layers that you have to go through before you can reach the President's phone, does he not think that is a major reorganization? Does he not think that taking away the grant program from FEMA is a major reorganization? He may not think so; I think they are.

What I would simply suggest is that instead of, in a knee-jerk fashion, approving the reorganization plans of the gang that has demonstrated they cannot shoot straight, instead what we ought to do is get Chertoff down here in hearings before the committee. We ought to have Chertoff testify about his view about what happened, why we had the failures, what happened within FEMA, what are the faults within the agency, and let us have a detailed discussion of the problem. I would submit while I am sure this subcommittee can do a reasonable job of that, I think the country would feel far better off if we had an independent commission looking at the entire problem.

The distinguished subcommittee chairman says if Members like the status quo, then vote for the Sabo motion. Quite the contrary. The purpose of the Sabo motion is to make certain that the people who are the status quo on this issue have somebody else looking over their shoulders before they make yet another unaccountable decision. This is too important to leave to the people who screwed it up the first time.

Before we buy any more reorganizations on this level, we ought to bring those people down here, talk to them nose to nose. Mr. Brown was the President's appointment to FEMA. Mr. Brown testified yesterday that he inherited a robust organization when he was appointed FEMA director and that the Department of Homeland Security had stripped the agency of authority, positions, and dollars.

We ought to bring them both down here, facing each other face to face, so they can have it out on the outside—not behind closed doors, but on the outside so we can get to the bottom of what the problem is. For Congress to just, in a knee-jerk fashion, pass whatever reorganization program the Homeland Security director sends down to us is patently irresponsible. It is once again neglecting our oversight duties. The problem is we do not pay the price when a mistake is made, the public does, and the best way to avoid that is to pass the Sabo motion.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LATHAM), a very hard-working member of the subcommittee.

Mr. LATHAM. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me just say, if Members like the response to Hurricane Katrina and Rita, they are going to love this motion to instruct.

The plan that is being proposed was thought of long before the hurricanes struck. It is a plan that recognizes exactly the problems that we have seen in our response to the hurricanes: The fact that there is not a coordinated plan, a preparation in place to respond to these types of disasters, whether they be man-made or natural disasters. This plan was thought out, and again, I want to emphasize before this disaster struck, and it recognizes the problems that we have in the bureaucracy.

I think we should also remember that this is a motion to instruct conferees on the Committee on Appropriations, and Members are totally avoiding the authorizing committee of jurisdiction. There will be hearings. The Secretary will be brought before the committee to discuss this plan, to finally air out the differences.

The gentleman is quite right in that sometimes we move in haste around here, such as to respond to 9/11. There is a big debate about FEMA being in Homeland Security. That was one of the recommendations of the 9/11 Commission, to basically dilute FEMA by putting it in an agency like that. That is why we have a committee of jurisdiction, the authorizers. This is not the way to do business around here. To just have a somewhat knee-jerk reaction to make a political point is not what we should be doing in this Congress.

We need to represent the people. We need to represent the idea that we have to be prepared. We have seen by these disasters that what the Secretary is proposing is exactly right, that we need to have coordination between different agencies in this government to prepare. FEMA is an agency to respond to disasters. To have an agency to prepare that can actually talk to everyone involved in the preparation or should be involved is right.

I also want to make a point that currently the Secretary has jurisdiction to make these changes, or has the authority under current law. So no matter what this motion to instruct says, the Secretary can go forward. But this idea of trying to make some kind of a political point and beating up on someone who is trying to put forth a plan to prepare this Nation for man-made or natural disasters is simply wrong.

Mr. Speaker, I would again simply say if Members liked the response we had to these natural disasters, they will love this motion to instruct.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me quickly respond to my friend from Iowa. FEMA, we have spent the last year dismantling FEMA. What was FEMA? FEMA was not an operational agency, it was a coordinating agency. I do not understand all of this talk I am hearing today.

It was working with State and local communities and making plans. It was to work with a wide variety of Federal agencies that go way beyond those that are included in the Department of Homeland Security. It existed with cabinet-level status. If the director of FEMA called a department head and they knew that the director of FEMA had the President's ear, they listened.

Today I do not know that. Somebody that is three levels down in a new department that is floundering, is not working, calls some other agency and there is a slow response, surprise.

Mr. Speaker, we had a system, we should have built on it. Instead, we destroyed it. We are saying okay, let us have Congress look at it a little bit. Mr. Chertoff is going to implement this on October 1.

☐ 1100

There have been hearings in Congress, three. Four questions on FEMA; one on preparedness. And that was it. That is Congress' involvement in looking at the major restructuring of this program. Any outside witnesses? No.

It is about time we do our work. Before we let somebody who has not done anything in his new office except draw a plan for restructuring have unbridled authority to do it, let us have Congress do some work.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time and for a very impassioned statement. Rarely have I seen my colleague so intense on something as he has been here, which shows the depth of his conviction and the seriousness of this issue.

Mr. Speaker, 20 years ago there was another reorganization plan for FEMA proposed by the Reagan administration. It would have drastically altered the way FEMA conducts its business. It would have dramatically reduced the Federal share of covering the cost of disaster assistance. It elicited an outpouring of anger and animosity from local preparedness agencies and from Members of Congress.

I chaired the investigations and Oversight Subcommittee of our Committee on Public Works and Transportation at the time. My colleague from Pennsylvania, Bill Clinger, the ranking Republican, and I launched a series of hearings on those proposals. Principal among the opponents of the plan was another Republican Member from Pennsylvania, Tom Ridge, who vigorously opposed the administration's plan. Together, we developed legislation to correct the administration's proposal, reshape FEMA, and insert in its mission preparedness.

That has been a constant. That has been a fundamental role of FEMA. And as the gentleman from Minnesota said, to coordinate, we envisioned that 20 years ago.

This is the national response plan developed in December of 2004. In its mission statement by then-Congressman Tom Ridge, the mission states: "The approach is unique and far reaching. It eliminates critical seams, ties together a complete spectrum of incident management activities to include the prevention of, preparedness for, response to, and recovery from terrorism, natural disasters, and other major emergencies." This is the Secretary, who, as a Member of Congress, understood the important role of FEMA in coordinating, in preparing for, responding to disasters.

The motion of the gentleman from Minnesota would require FEMA and the Department to link disaster preparedness and response. The Chertoff plan would sever what is a vital link between disaster preparedness and response. It would move disaster preparedness out of FEMA. It would strip FEMA of that responsibility and leave it only with the ability to respond.

That is not what local agencies want. That is not what they need in the gulf States, out on the west coast when there is an earthquake, in the Midwest when there are tornadoes. I will not say blizzards because we do pretty well handling blizzards in the upper Midwest. But to cut this critical linkage between preparedness and response is madness, in my view, from having had a very long experience, well over 20 years, looking over this critical agency, which I said, when we created the Department of Homeland Security, do not put FEMA in it.

All they need is a link to Homeland Security to be a part of the team in response to whatever, weapons of mass destruction or other terrorist actions; but leave FEMA in its role to provide funding for predisaster mitigation, for preparedness, for coordination, and for response to disasters. That is its role, and that is the role that would be restored, protected, enhanced by the motion of the gentleman from Minnesota.

We saw that tragedy of failure to coordinate, failure to prepare. The lessons of September 11 simply were not learned and applied in advance of Hurricane Katrina. On September 11 we knew that there were failures of communication between fire and police, among police units, among fire departments; and it was a recommendation of the September 11 Commission that FEMA reorganize itself and fix those problems of communication so that we have an interoperability of communication systems among all the responders. We take this plan that Secretary Chertoff is going to go forward with and we will disintegrate that recommendation for interoperability, coordination, and preparedness and effective response.

When I opposed the inclusion of FEMA in the Department of Homeland Security, I said imagine the situation the Department of Homeland Security has created. The floodwaters are rising up to the eaves of our house, we are sitting on the rooftop with a cell phone and a white handkerchief calling for FEMA's help, and we get an answer that they are out looking for terrorists. How many people have the Members seen sitting on the rooftops of their homes in the tragedy of Katrina?

I said that in July, 2002. I said it on this floor on July 25, 2002. Do not put FEMA in this Department. Do not emasculate this agency. Five hundred people have been transferred out of this agency, $250 million cut from its budget; and the result was evident on our screens, television screens, all across America. Do not make that mistake again. Support the motion of the gentleman from Minnesota.

Mr. Speaker, I rise in support of the motion to instruct conferees to H.R. 2360, the Department of Homeland Security Appropriations bill, to stop DHS from implementing one element of its pending reorganization plan because it will further weaken Federal Emergency Management Agency preparedness programs.

The Administration's proposal is the sixth reorganization of DHS in two and a half years. This summer, as part of his new reorganization plan of the Department of Homeland Security (DHS), Secretary Chertoff proposed a new Preparedness Directorate—further stripping FEMA of duties and resources and severing the critical linkage between disaster preparedness and response.

This plan was proposed by Secretary Chertoff before Hurricane Katrina struck and yet, in light of all of the problems, questions, and concerns with FEMA's and DHS' preparation for and response to Hurricane Katrina, the Administration seems determined to go forward with the plan, disregarding any lesson that can be learned from the Katrina response.

In his request, Secretary Chertoff ignores FEMA's critical "all-hazards" approach to preparedness and response. He states: ". . . Federal preparedness efforts need to be targeted toward addressing gaps in our terrorism and homeland security capabilities."

I have long believed that Federal preparedness must also address the critical gaps in our natural disaster preparedness capabilities. Hurricane Katrina tragically illustrated those critical gaps.

Since the creation of the DHS, FEMA has been systematically weakened, programs and personnel transferred from one Directorate to another. This new plan would take away two more preparedness programs from FEMA—shifting them to the new Preparedness Directorate.

It is critical that disaster preparedness and response be linked. Secretary Chertoff's plan calls for severing the vital link between disaster preparedness and response—moving disaster preparedness out of FEMA and leaving FEMA with only disaster response.

This would be a mistake. The first responder community has told us that disaster preparedness and response go hand-in-hand. By joint planning and training, we best learn how to respond in a real crisis. Our response in a disaster is based on all of the preparedness that has been done in advance.

Finally, this is not the time to be further weakening FEMA—we must take the time to learn from the mistakes of the response to Katrina.

I urge my colleagues to support the motion to instruct conferees.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, the proposal to create within the Department a directorate dealing just with preparedness and bringing into that agency all of the other agencies of the government, Federal, State, and local, to help plan so that we will not have another Katrina episode makes altogether good sense. This was not developed overnight, the idea. In fact, it has been studied by the Secretary and the Department for many months.

I want to quote briefly from a letter that I received just this morning from the Department, from Secretary Chertoff, which says as follows: "Our proposal was formed after intensive consultations with preparedness professionals, first responders, law enforcement officials, the former leadership of" the Department, "and State and local stakeholders." All of these people were involved in the construction of this idea of creating a massive government-wide directorate for preparedness planning.

"Our objective is to create a stronger capability to do preparedness planning across the full spectrum of all hazards, both natural disasters and terrorist attacks."

Continuing to read: "Critically, no structural changes were made to FEMA prior to Hurricane Katrina." Katrina was under the old scheme. "Going forward, our plan will significantly strengthen the planning and preparedness actions of FEMA and the entire Department by ensuring that a dedicated team will focus on these actions on a full-time, urgent basis. Our preparedness directorate," the Secretary says, "will integrate and leverage the capabilities of FEMA with those of Coast Guard; TSA," Transportation Security Administration; the customs agents, both on the border and internal, "and Secret Service," among others.

"FEMA is and should be a surge organization." We have forgotten that. FEMA develops with the surges of the moment. "When incidents occur, every asset of the organization and its entire leadership team surges into the incident. "Our proposal," the Secretary says, "for a preparedness organization supports FEMA's capacity to surge while maintaining a systematic planning and exercise regime in support of FEMA's mission and that of other DHS components. The directorate will aggressively support FEMA's training and exercising needs."

Continuing to read from the Secretary's letter: "It aligns our grant-making programs and our crucial training and exercising work in support of the Department's all-hazards mission. The directorate will include increased focus on issues broader than FEMA, including infrastructure protection, cybersecurity, and a new chief medical officer." Those are not considered today in the present FEMA. We have got to take a look at the broader picture. So those are the comments of the Secretary.

Now, who supports the Secretary in bringing a broader perspective to preparedness planning? Groups like the International Association of Fire Chiefs. If there is a first responder organization that typifies what they do, it is the fire departments and the fire chiefs, the people who know best about preparing for disasters. They say this is a critical change that is necessary, and I am quoting from their letter to that effect: "This preparedness directorate must be a new function and must be separate and distinct from operational functions, although it must coordinate with those operational functions."

Quoting further from the International Association of Fire Chiefs: "Currently, the U.S. Fire Administration is located within the Emergency Preparedness and Response directorate. Unfortunately, the preparedness functions of the USFA are diminished because EP&R is frequently focused on the operational response to disasters." That makes sense.

They go on to say: "It is critical that fire chiefs or other senior fire service leaders be included in this directorate, along with other State, local, and tribal first responders, so that they may provide essential perspective in the creation of policy for DHS and not only in the review or enactment of policy." This puts the fire chiefs in the middle of the planning process, not at the other end. They are not being told what to do. They are being asked what to do with this proposal.

If Members vote for the Sabo motion, they are saying to the fire chiefs. We do not care about you. We will tell you what to do. We do not want you to tell us how we should do it before we do it.

We want to bring them into the planning process, not tell them what to do at the end of the process.

In bringing about this directorate, the Department of the Secretary over months went out and talked to all sorts of people and organizations. I will give some examples, and I have got three pages here of the listing of some of the people they have talked to.

Lee Baca, the Sheriff of L.A. County; Matt Bettenhausen, director of the California Office of Homeland Security; Roger Vanderpool, director, Arizona Department of Public Safety; Art Faulkner, liaison for assistant director for Emergency Preparedness and Response, Alabama Department of Homeland Security; Jim Timmony, police chief, City of Miami; Mike Sherberger, director of the Office of Homeland Security, Georgia; Illinois, Jonathan Schachter, City of Chicago; Art Cleaves, director of Maine Emergency Management; John Cohen, Massachusetts Homeland Security;

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Also Colonel Tom Robbins, Massachusetts State Police; Sid Casperson, the Director of the New Jersey Office of Counterterrorism; Jim McMahon, Director of New York State Office of Homeland Security; Brian Beatty, Secretary of Public Safety in North Carolina; Doug Friez in North Dakota; Ken Morckel, Director of Public Safety for Ohio; people from Pennsylvania, Texas and Virginia; the Federal Order of Police; the International Associations of Chiefs of Police; and I could go on.

So, here is a list, a brief list, of some of the people contacted by the Department as they came up with this idea to consolidate preparedness planning in a single place, encompassing all of the agencies of the Federal, State and local governments, people like the fire chiefs and chiefs of police.

From the Major Cities Chiefs Association, a letter saying "law enforcement across the Nation supports the President's position that the best way to prepare for a terrorist attack is to stop it from happening. We feel that the Department should unify the components that share this common mission. At present, the Prevention and Protection Grants plans and intelligence are each in separate agencies. Long overdue, the Nation would be well served by DHS directorate committed solely to protecting the American people. For the first time, the chiefs of police say, "local law enforcement could work with a single DHS directorate focused on our common goal to protect the American people from another terrorist attack."

Chiefs of police, fire chiefs, first responders, State and local directors of homeland security all say the same thing: We have got to consolidate and bring in one place the preparedness planning practice within Homeland.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it amazes me that Secretary Chertoff thinks there has been no structural change to FEMA. I think everyone in the world knows there has been a structural change to FEMA. It was an independent, free-standing agency; now it is a weak part of a weak department. Where are the records of all these people that the Secretary has talked to? Maybe Congress, before we approve some fundamental restructuring, should hear from one, two, three, maybe five outside witnesses, maybe from some who ran FEMA when it was a good functioning agency even.

There has been no outside testimony that I know of. There was not in our committee. There was not in the authorizing committee that I know of. Maybe there was someplace. But let us have some people come and testify to us so we can ask questions. That has not happened.

Mr. Speaker, I yield 4 minutes to my friend, the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in favor of the motion to instruct conferees to reject Secretary Chertoff's plan to further weaken and gut FEMA.

I and many of my colleagues have been raising these concerns about the systematic deconstruction of FEMA and about reduced funding for our first responders for many years now. Current and former FEMA officials told me months ago that FEMA had become a hollowed-out agency and that it was one major disaster short of collapse. Unfortunately, Katrina was the disaster that substantiated that claim.

We should not be satisfied in laying the blame solely on the former FEMA director. Two years ago, FEMA put out a warning that two-thirds of our fire departments operate with staffing levels that do not meet the minimum safe levels required by OSHA and the National Fire Protection Association. What was the administration's response to that? It proposed zeroing out the SAFER hiring program for firefighters and proposed massive cuts to fire equipment grants. FEMA officials had publicly called these grants one of the "best bangs for the buck the taxpayer gets."

Overall, we are providing less funding for our first responders now through FEMA and the Department of Justice than we did prior to 9/11. When I asked Secretary Ridge 2 years ago why this administration was cutting funding for police and other first responders, his response was that supporting local law enforcement was not the Federal Government's responsibility, no matter that they were the linchpin in all of the Department of Homeland Security's planning.

Time and again, we have also warned of the dangers of moving away from an "all-hazards" approach to preparedness and response, to a terrorism-only approach.

FEMA used to be one of the leanest and most effective agencies in the Federal Government. But then its cabinet level position was taken away by the Bush administration. It was buried under tons of homeland security bureaucracy. Its top posts were stripped of experts and filled with campaign workers and friends of people in power. Some of its best programs were taken away and stuffed into other offices in Homeland Security.

As former Director Mike Brown testified yesterday, FEMA was deprioritized in Homeland Security and lost its political power, access and funding. Its failure after Katrina was the result of a series of decisions to under-fund key agency functions, to cut key personnel, and to de-emphasize preparation for natural disasters. That failure had dire consequences.

I am not saying this to play the political blame game. I am saying it because we have to understand that this was the consequence of years of neglect of FEMA and of our first responders by this administration and this Congress. We need to understand this so we do not repeat these same mistakes.

Instead of learning from the mistakes of FEMA, the Department of Homeland Security appears intent on plowing ahead with plans to further bury FEMA in the departmental bureaucracy and now to strip it of its planning and preparedness responsibility. Republican leaders of this House seem inclined to go along with that. But our vote today will show whether politics and partisanship will trump sound policy.

Mr. Speaker, we exist as an institution to do more than just stay in power. We ought to do what is right for the American people. Further dismantling and burying FEMA is wrong. Further cutting funding and support for our first responders is wrong.

When we make decisions that are based on a refusal to admit a mistake, rather than a determination to learn from our mistakes, Americans suffer and we lose some of our greatness. So I ask my colleagues to support this motion to instruct.

Things are bad enough. Let us not make them worse.

Mr. ROGERS of Kentucky. Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. HASTINGS), the ranking member of the Committee on Rules.

Mr. HASTINGS of Florida. Mr. Speaker, the gentleman from Minnesota (Mr. SABO) began this discussion by saying we need smart, experienced and independent people to take a hard look at the problems Katrina exposed and identify solutions before we move organizational boxes again. I cannot agree more. This motion to instruct is timely, and I urge Members to support it.

The truth of the matter is, what Congress needs to do is what we were taught as children, and that is to count to 10 and take a deep breath when there is a problem.

Listen, we are not playing pin the tail on the elephant or the donkey. We are dealing with tragic consequences of our fellow Americans. Before shuffling boxes, we need a clear, unambiguous plan for disaster preparedness, not something prepared in a back room.

We are 4 years out from 9/11, and obviously are woefully unprepared for disaster. The majority is going forward with a 5-month, $500,000 investigation into what went wrong in Katrina, and that should complement an independent investigation into what went right and what went wrong.

How do we do what the gentleman from Kentucky (Mr. ROGERS) says? How do you integrate the military, how do you integrate the faith-based institutions, how do you integrate the volunteers? Where is the national registry for physicians?

We have not settled the issues from last year's storms and we continue to use the term "Katrina," but there was an Ophelia and there is a Rita, and America's problems are continuing. Pass this motion to instruct.

Mr. SABO. I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am on the authorizing committee of the Committee on Homeland Security of this Congress, but I am also someone who has just recently returned from the area of Rita, and I hope that our vernacular will now be Hurricane Katrina and Hurricane Rita.

Mr. Speaker, I rise to support this motion to instruct. I respect my colleagues on the other side of the aisle and I would hope that we would break the firewall of partisanship and establish a bipartisan but a forward-thinking mode to deal with the haplessness and helplessness of Americans.

Many Americans will face tragedy in their life, either by fire, volcano, earthquake, inland flooding or what we experienced, the devastation of Hurricane Katrina and Hurricane Rita. So the question is not to accept what Secretary Chertoff has offered, a man who may be in many ways qualified, but himself having no experience in understanding how to address the devastation of an ongoing hurricane.

The reason I know this is because I was on the ground yesterday in the damaged areas, listening to local officials, hearing their pain, crying out for the simplest of items. "Where are my generators? Where is my ice? Where is my water? Where are the airplanes to take my evacuees who are bedridden and nursing home patients out of this region?" And the only answer they had was deadening silence, or the silence of generators sitting in buildings because there was no one to give a single order.

That is what is the problem, there is no one in charge, and moving boxes, Secretary Chertoff, is not the answer.

Support this motion to instruct, so that we can address the lives that are lost and those who are surviving in Hurricane Katrina and Hurricane Rita. We are sick and tired of being sick and tired of being ignored.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would admonish Members to address their remarks to the Chair, and not to others in the second person.

Mr. SABO. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, on this motion, there is lots of rhetoric here, but we are simply saying, let us take the time to think. Shortly after the flood with Katrina, somebody asked me what I thought we should do. I said we should do something unusual in this place, take the time to think before we jump to a conclusion.

Here we have plans by an agency developed some time ago that we really have not looked at in Congress. Maybe everything that the Secretary says is true. Maybe I am wrong and he is right; we should not have an enhanced FEMA, we should have a weakened FEMA. But let us look at it before we rush to say to do it.

I do not think you can separate preparedness from people with the responsibility to carry it through. Henry Ford once said he did not want a "planned society," but he wanted a "planning society." The two are very fundamentally different. One is that you have a process of thinking what you are going to do, and I think ultimately it has to be tied in to those folks who were involved in implementing whatever plans you are developing, which are constantly evolving.

Here we come with somebody who, it may look good to a lawyer who likes a good, concise brief, but has not been involved in the day-to-day responding to emergencies.

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The people I hear him talk to who respond to emergencies tell me that it is just a very fundamental mistake to separate preparedness from the people who implement those preparedness plans.

So, Mr. Speaker, if you want us to take a pause, think before we act, to think before we let the Department act, vote "yes" on the Sabo motion if we think there is a better chance we might do it right in the end.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, when Secretary Chertoff became the Secretary of the new Department, he declared sort of a moratorium; and he went off with his staff, and they began to discuss and think and plan about how to improve the Department's capability to respond and prevent attacks either by nature or by man; homeland security.

And one of the biggest things they found was that in the different Departments of the government, there were agencies that had something to do with responding to an emergency and being prepared for that, but separate and apart from each other.

For example, the Coast Guard had their own preparedness group that plans what they should do in an emergency. Of course, States have their own plans, as they should. And local officials, mayors and the like, have their own plans for response and preparedness. The military has obviously planned for disasters. They have been prepared. And, of course, the National Guard, the same way. The Corps of Engineers have their own unit that deals with preparedness for disasters, and we could go on. All across this government there are agencies within all of these, or many of these Departments that are preparing for disasters.

The Secretary said we need an agency within Homeland Security where all of these groups can come together under one roof and participate and plan as one unit, not just the agencies of the Federal Government, but States and localities as well. He went out, his people went out and they talked to hundreds, literally hundreds of directors of State homeland security groups, of fire chiefs and police and the first responders all over the country, and there came back from all of those people the unanimous idea: we need a single place where we can all go, and know to go, both to plan and to inquire.

So that now, in this plan that the Secretary has, the police and the firemen and the State emergency directors, as well as the Federal agencies, all of them from the Coast Guard to the Secret Service, all can come together in one place and do nothing but planning. They are not concerned about doing the operational part of responding to an emergency, that is FEMA and the various agencies. But for the planning purposes, they want to be together.

So the Secretary says, okay, that is the way it shall be. And in his reorganization plan, he agreed with all of the police chiefs and the fire chiefs, the State planning directors, the emergency planners in each State, the homeland security people in the States, and mayors, he agreed with them and gave them what they wanted: a single place.

Let us not have another Katrina. Let us work together so that we each know what we are supposed to do in the event that a disaster occurs.

So I urge my colleagues to reject this motion to instruct conferees. Let these experts do their work. I am no expert on how to respond to a fire or a disaster. The gentleman from Minnesota (Mr. SABO) may know more than I, but I doubt he is an expert either. We have experts who do nothing but this. Let us put the experts in charge, and let them tell us what we need to do, and let us then follow along and do what has to be done to save lives.

The bottom line: if you are happy with the way FEMA planned for Katrina, vote Sabo. If you think we can improve and we can do better in planning for the next disaster, reject Sabo. Vote "no."

The SPEAKER pro tempore (Mr. GUTKNECHT). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. SABO).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SABO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without an amendment a bill of the House of the following title:

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

The message also announced that the Senate has passed a bill of the following title in which concurrence of the House is requested:

S. 37. An act to extend the special postage stamp for breast cancer research for 2 years.

PROVIDING FOR CONSIDERATION OF H.R. 3402, DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 462 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 462

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 462 is a structured rule. It provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary and now printed in the bill shall be considered as an original bill for the purpose of amendment.

This rule waives all points of order against the amendment in the nature of a substitute recommended by the Committee on the Judiciary. It makes in order only those amendments printed in the Committee on Rules report accompanying the resolution, and it provides that the amendments printed in the report may be considered only in the order printed in the report and may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

It waives all points of order against the amendments printed in the report, and provides for one motion to recommit, with or without instructions.

Mr. Speaker, I rise today to speak on behalf of House Resolution 462 and the underlying bill, H.R. 3402, the Department of Justice Appropriations Authorization Act for Fiscal Years 2006 to 2009.

First, I would like to take this opportunity to commend the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS). Additionally, I want to commend the full committee for all their hard work and time involved in the completion of this important authorizing legislation.

Mr. Speaker, the American people expect, and they demand, that Congress uphold its obligation to ensure that their money is spent both wisely and effectively, and some of the most important expenditures made on behalf of the American people are included in this legislation we are considering today. Without question, the Department of Justice is charged with the responsibility to enforce and to uphold the Constitution and statutes of this great country. All Americans benefit from an effective and a fully funded law enforcement apparatus at the Federal level, at the State level, and especially at the local level.

Mr. Speaker, H.R. 3402 would authorize appropriations to fund the agencies under the Department of Justice, including the FBI; the DEA, Drug Enforcement Administration; the United States Attorneys; and the Bureau of Prisons. This bill authorizes $59 billion for these four agencies through 2010. Additionally, this legislation will reauthorize, strengthen, and implement new programs in the Violence Against Women Act, many of which are slated to expire September 30 of this year.

Mr. Speaker, H.R. 3402 also would build upon many of the reforms instituted by the administration to improve the Department of Justice's Office of Justice Programs, OJP, and Community-Oriented Policing Services, the COPS program. This bill would merge the current Byrne grant program with the local law enforcement block grant programs into one new Edward Byrne Memorial Justice Assistance Grant program. By merging these two programs, States and local law enforcement will be able to more easily apply for and access vital funding.

Mr. Speaker, this streamlined process will improve flexibility for our State and our local governments. A one-size-fits-all mentality is not an acceptable solution for funding individual communities and law enforcement entities that have specialized and diverse needs. A certain degree of deference must be given to State and local law enforcement as they work to combat individual threats to and problems in their own communities.

However, H.R. 3402 also ratifies our need for continuing oversight of Federal dollars by creating an Office of Audit, Assessment, and Management that will ensure that the Office of Justice program runs efficiently and applies the money responsibly and effectively. This oversight office will be focused on results, and it will follow the trail of these funds so they can reach their intended target and achieve their full potential.

Mr. Speaker, this authorization would also permanently authorize an Office of Weed and Seed Strategies. This office would replace the current Executive Office of Weed and Seed created by the first Bush administration in 1991 as a community-based, multiagency approach to blend law enforcement, crime prevention, and neighborhood restoration strategies to strengthen our communities.

□ 1145

With respect to the programs created by the Violence Against Women Act, H.R. 3402 will reauthorize and strengthen various court programs, including the STOP grant program which brings police and prosecutors into a collaborative process with victim services that aims to prevent and punish violence committed against women.

As the proud parent of three daughters and the proud grandparent of two granddaughters, I fully recognize the need to give law enforcement every tool available to prevent domestic violence and to protect America's wives, mothers, daughters and granddaughters.

Mr. Speaker, H.R. 3402 makes significant improvements to these programs. For instance, this legislation assures gender equality by requiring gender neutrality in any grant or activities that assist victims of domestic violence, dating violence, stalking, sexual assault or human trafficking. Additionally, H.R. 3402 includes provisions to strengthen the privacy rights of victims, to allow for a more vigorous prosecution of cyberstalking and to double, let me repeat, double the penalty for repeat Federal domestic violence offenders.

The bill not only strengthens the ability of law enforcement but it also provides victims with additional tools in the fight against domestic violence, including access to trained attorneys and to lay advocacy services.

H.R. 3402 would also create two new programs focused on children and youth who are victims of or witnesses to domestic violence. Clearly our children do not have to be physically abused to become victims of domestic violence. Exposure to these types of heinous acts can be enough to scar the life of a child forever, and this reality must be, and it is, addressed by this bill.

So, Mr. Speaker, today as this House considers the rule and the underlying legislation and a number of amendments, I would like to encourage my colleagues to keep this thoughtful debate focused on the topic at hand. Funding the Department of Justice and protecting victims of domestic violence are commonsense priorities on both sides of the aisle.

Again, Mr. Speaker, I look forward to the consideration of this rule. I ask my colleagues to support it and, of course, the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for the time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, rarely in the last decade has the Committee on the Judiciary's majority been interested in working in a bipartisan fashion. So I am pleasantly surprised that cooperation and consultation won out over partisanship and ideology during the drafting of the underlying legislation. At the same time, however, as the underlying legislation comes to the floor under the blanket of inclusiveness, it is disappointing that the rule providing for its consideration is again restrictive.

Under this rule, all but a few select amendments are blocked from being presented to the body. All but a select few are blocked from offering amendments that would strengthen and improve the Violence Against Women Act. All but a select few are blocked from offering amendments that would place more law enforcement on the street and help reduce crime. All but a select few are blocked from making a good bill even better.

Forty-six amendments were submitted to the Committee on Rules yesterday evening, Mr. Speaker: 15 by Republicans, 23 by Democrats, and eight bipartisan. Nevertheless, under this rule the House will have the opportunity to consider only 12 of them, that is, of the 46 amendments offered in the Committee on Rules yesterday, barely one out of every four is actually made in order under this rule. That is not democracy. It is autocracy. And it is just not right, no matter how noncontroversial a bill may be.

Mr. Speaker, the underlying legislation is supported on both sides of the aisle. It is largely similar to legislation which passed overwhelmingly in the 108th Congress, and I plan to support it. I am pleased that the bill increases funding for the Department of Justice Inspector General and the COPS program well beyond the President's short-sighted budget request. The bill merges the Byrne Grant program with the Local Law Enforcement Block Grant program authorizing $1.1 billion for the program in fiscal year 2006 and an unspecified amount through 2009. It also extends the Bullet Proof Vest Partnership Grant program to assist State and local law enforcement to upgrade and purchase new life-saving vests.

I am equally pleased that the Committee on the Judiciary included in the bill a provision authored by the gentleman from California (Mr. SCHIFF). This provision requires the Department of Justice to report to Congress annually on the number of detainees suspected of terrorism in the United States and those that the United States is holding and whether they will be treated as enemy combatants or criminal defendants.

Mr. Speaker, as a beacon of freedom, the United States has a responsibility to maintain a justice system that is transparent, fair, and respected throughout the world. The Schiff provision goes a long way towards restoring the respect that America once commanded regarding the treatment of prisoners of war. It is my hope and expectation that this provision will be included in the conference report that is ultimately sent to the President for his signature.

Finally, the underlying legislation reauthorizes the Violence Against Women Act, which is set to expire in a few days. First signed into law in 1994 by President Clinton, the Violence Against Women Act provides significant protections to women, children, and families who are victims of sexual assault, domestic violence and abuse, stalking, and sex trafficking.

Under the act, women and children who are victims of these heinous crimes are provided with access to legal aid, social services, counseling, and most importantly, protection under Federal law. The underlying legislation reauthorizes and expands critical programs already in existence under current law while also creating new programs that improve our efforts to protect women and children from the sick and twisted.

Mr. Speaker, as I briefly mentioned, the underlying legislation is a good bill, and I will support it. Nevertheless, it is disappointing that Members of this body are being blocked from making this good bill even better.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, regarding the amendments that were made in order, in fact, there are 12. Many of the amendments that were authored were non-germane; but in any regard, 12 amendments under this structured rule were made in order. And certainly in the interest of being fair and balanced, six Democratic amendments and six Republican amendments are those we will consider later on this morning.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman for yielding me time. It is great to be speaking on a rule once again.

Mr. Speaker, the Violence Against Women Act is one of the great legislative success stories of the last 10 years, and today the House of Representatives has the opportunity and the duty to strengthen and improve current law to further protect women across the country from exploitation and abuse.

Since 1994, VAWA, as we affectionately refer to it, has been an invaluable tool in the law enforcement arsenal as well as a crucial resource for victims. I know, Mr. Speaker, because I was on the bench before its passage. So whether it is obtaining a protection order, talking to an advocate or prosecutor, or just making our streets safer for women, we have seen monumental changes in how we protect the vulnerable from violence.

Since 1995, States have passed more than 600 laws to combat domestic violence, sexual assault, and stalking. All States have passed laws making stalking a crime. And since 1996, the National Domestic Violence Hotline has answered over 1 million calls for help. But even though tremendous progress has been made in addressing the dark and devastating issues of sexual assault, incest, rape, and other forms of violence against women and children, crime continues.

Let us never forget, Mr. Speaker, that children in homes where domestic violence is present are more apt to grow up to be abusers themselves or more likely to remain in a relationship when they are abused. It is a cyclical problem, and it needs to be intercepted, and it needs to be stopped.

Today's reauthorization measure extends core programs and makes improvements to enhance our ability to combat domestic violence, dating violence, sexual assault, and stalking. It also seeks to combat the problem of violence against our youth on campuses by allowing funds to be used for innovative antiviolence programs on college campuses all across America. And for the first time we have a law that addresses cyberstalking and the horrid abuses of the Internet.

By persevering in this fight, we will see justice not only by stopping those who prey on the defenseless but also by assisting and empowering those in need.

Mr. Speaker, I urge my colleagues on both sides of the aisle to support this rule and the bipartisan legislation underlying it so that women and children across America can live in a safer and more secure world.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership.

I rise in strong support for the underlying bill. The Violence Against Women Act, enacted in 1994, was a milestone in this country. It moved violence, the unspoken crime against women, out of the closets, out of the back doors and into the national agenda of this country with protections, with grants, with information to the police, the prosecutors; and it has helped women, children, and families in this country.

Yet, I rise in strong opposition to this rule; and while I support the bill, this restrictive rule has blocked debate on a number of very important amendments that would have made the Violence Against Women Act an even stronger and better piece of legislation, including two that I offered to help rape victims merely get information that they could use to prevent the need for an abortion and to prevent an unwanted pregnancy.

The first of my amendments would have required the Department of Justice's first ever medical guidelines for treating sexual assault victims, those women that have been raped, the National Protocol For Sexual Assault Medical Examinations. It merely asked them to include a recommendation that those women that have been victimized be offered information about emergency contraception in order to prevent pregnancy. EC is not an abortion; it is pregnancy prevention. And where this woman has been victimized, depriving her of this information victimizes her twice.

□ 1200

The second would simply ask the Attorney General to explain in a report to Congress and to the American people why emergency contraception was not included in the protocol.

Last year, after the Justice Department issued the protocol, reports indicated that information on the option of EC, or emergency contraception, to prevent pregnancy had been included, was supported in early drafts, but it was removed, without explanation, from the final version. By removing references to EC from the national protocol, the administration makes it clear that they would rather make rape victims decide between having an abortion or carrying their rapist's baby to term than offering women important knowledge and information to decide if emergency contraception is right for them. I find it unconscionable that they will not allow this information to be included.

The Justice Department's inclusion of EC in a national protocol absolutely runs counter, not only to the consensus in this country, but the consensus of most of the Nation's and the world's top organizations and scientists. The American College of Emergency Physicians includes it. The American College of Gynecology explicitly recommends it, and I must say that at least 101 countries around the world make EC available, and 39 of those even offer it over the counter.

So let me say that 101 nations cannot be wrong. This country is counter to world opinion. This is information that would help women that have been victims of rape, and I regret to say that they denied even a discussion of it on this floor with the amendments.

I urge a "no" vote on the rule because of these two amendments that are common sense, would help women, were excluded and many others that the gentleman from Florida (Mr. HASTINGS) mentioned.

So, again, I urge my colleagues to defeat this rule.

Mr. GINGREY. Madam Speaker, I yield myself such time as I may consume.

In regard to the amendment the gentlewoman from New York is referencing, in the jurisdiction of the Committee on the Judiciary, it was ruled nongermane to this bill. There are other committees certainly that would have jurisdiction over that and need an opportunity to look at that very closely.

Mrs. MALONEY. Madam Speaker, will the gentleman yield?

Mr. GINGREY. I yield to the gentlewoman from New York.

Mrs. MALONEY. Madam Speaker, I thank the gentleman for saying that this important issue should be looked at. I point out that this is information that 101 countries offer and is not part of our protocol.

My office and I talked to the appropriate people and to the parliamentarians, and it was germane. It was germane to the bill. It was germane to the bill.

Mr. GINGREY. Madam Speaker, reclaiming my time, I appreciate the gentlewoman's comments.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I am very pleased to yield 2 minutes to the distinguished gentlewoman from California (Ms. WATSON), a leader in this field and for a number of years in the California legislature and ambassadorial ranks.

Ms. WATSON. Madam Speaker, I am dismayed that the amendment I wished to offer to this bill has been ruled out of order by the Committee on Rules. By refusing to permit this amendment to even be debated, the House Republican leadership is dismissing the concerns of Americans, not only in my hometown, but in hometowns across America who believe that we should put all options on the table to fight violent gangs.

Gang violence and gang activities are just not limited to inner city areas. Today, we will find some of the most violent and well-organized youth gangs in our Nation's richest suburbs and areas right around here in Arlington and Fairfax County, two of the most affluent counties in the U.S. Local law enforcement officials are dealing with a host of gangs, and according to the FBI, northern Virginia is one of the hottest regions in the Nation for gang activities.

Despite the growing threat of organized gang violence to our national welfare, I know of no Federal Government report that contains a comprehensive listing and description of gangs, as well as an assessment of the demographic characteristics of those gangs that is prepared on an annual basis.

Madam Speaker, I believe that the report my legislation would have mandated could have been widely used by local, State and Federal law enforcement officials. It would be the first Federal report prepared on an annual basis to provide a comprehensive overview of gang activity in the United States. The report will also make available important information on gang activities in schools. It would have been an annual benchmark used by policy-makers, as well as Members of Congress to assess the success or failure of anti-gang activities.

I urge my colleagues to oppose the rule.

Mr. GINGREY. Madam Speaker, I yield myself such time as I may consume.

Regarding the gentlewoman from California, I want to point out to her that this very issue was addressed in the gang bill that was passed earlier this year. In fact, H.R. 1279, the comprehensive gang violence prevention bill, authorized $20 million to provide assistance to State and local prosecutors to fund technology and other equipment to track gang members and maintain information about their crimes. In fact, if I recall correctly, it was the gentlewoman from California's amendment on the floor on that very bill that was accepted and included in H.R. 1279.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, as I said at the outset, this is a good bill and I plan to support it, but a good bill could have been made better had amendments of Members in this body on both sides been made in order.

We are not the workaholic Congress around here, and we have the time to undertake to do things that are critical for the American public. I am absolutely convinced that we could have allowed most, if not all, of the amendments that were included.

I have said on other occasions that my colleagues in the majority were championed by some of the best skilled legislators in 1992 and 1994. One of them, a deceased Member, former chairman of the Committee on Rules, a good friend of mine that I traveled actively with and dearly miss him, was Gerald Solomon. Others of course, former Speaker Gingrich and the distinguished Robert Walker. I saw them on this floor repeatedly saying that the big problem that existed with Democrats at that time was that they were operating on closed and restrictive rules.

I guess what changed here is the majority, and there are some who still have not got it, and that is, that people in this body represent all of the people in America. Until such time as we open all of the rules to Members who are desirous of offering germane amendments, we will be having restrictive and closed rules and shutting out, blocking out a part of the individuals who represent upwards of 600,000 to 800,000 people each.

I find that anathema, particularly in light of the instruction that came from those in the majority. I remember so vividly hearing on the radio people talking about closed rules and open rules, and people did not even know what a closed rule and an open rule was, but the mantra was that the rules were closed. Open them up, so that the American public can have a transparent Congress that allows for the flow of legislation to be debated on this floor and that the will of the House then should prevail.

Madam Speaker, I yield back the balance of my time.

Mr. GINGREY. Madam Speaker, I just wanted to say, I had an opportunity to speak with the gentlewoman from California (Ms. WATSON) regarding her concerns and her amendment, and what we have committed to her and the Committee on the Judiciary has made a commitment that they will work with her in regard to the language of her amendment as the gang bill goes to conference which really is a more appropriate vehicle to modify that language, and we do make that commitment to the gentlewoman from California.

Madam Speaker, I would like to close by expressing my gratitude to my colleagues for a productive discussion on this rule.

H. Res. 462 is a good rule. It balances very well the laborious work of the Committee on the Judiciary with the amendment process on the floor. Multiple Members will have an opportunity to discuss their amendments and receive a vote, and I look forward to the further consideration of this legislation.

From the FBI to the DEA, to the United States attorneys to the Bureau of Prisons, H.R. 3402 authorizes critical funding for the Department of Justice, allowing it to continue its fight to uphold the laws of our land and to keep our citizens safe.

Additionally, this bill will strengthen many of the programs already available under the office of justice programs that aid State and local law enforcement on the ground as they work to protect their individual communities.

This Act streamlines many of the request processes and, thereby, facilitates local officials and law enforcement in accessing the funds made available by these programs.

Mr. Speaker, through the reauthorization of the provisions of the Violence Against Women Act, H.R. 3402 creates stiffer penalty for abusers, and it gives more rights to the victims of domestic violence.

For the sake of law enforcement and victims across this great country, I urge my colleagues to support this rule and the underlying bill.

Ms. ROYBAL-ALLARD. Madam Speaker, thanks to the passage of the Violence Against Woman Act in 1994, domestic violence is recognized as a crime committed by the abuser, and not the fault of the victim.

However, neither our federal laws nor the laws of many of our states offer victims of domestic violence some of the protections they need to leave their abuser.

Congressman POE and I had three amendments to address these critical issues.

The Violence Against Women Act made it possible for victims of domestic violence to get protective orders and move to safe shelters.

Yet victims who take time off from work to attend to such matters are often fired or demoted.

One of our amendments would have allowed a victim of domestic violence to take time off from work, without pay, and without penalty, to make necessary court appearances, seek legal assistance, and get help with safety planning.

Our second amendment would have allowed states to provide unemployment benefits to victims who are fired due to circumstances stemming from domestic violence.

This would help victims who find themselves with the unconscionable choice of returning to an abusive home or becoming homeless.

Finally, victims of domestic violence report rampant insurance discrimination based on their status as a victim of domestic assault.

Insurance providers frequently use information about the abuse history of an applicant—including medical, police, and court records—to deny health coverage.

And our third amendment would prohibit insurance providers from basing coverage decisions on a victim's history of abuse.

Unfortunately, because the Republican leadership has decided on a restrictive approach to reauthorizing VAWA Congressman POE and I have been prevented from presenting these amendments.

For that reason, I oppose the rule, and will work with Congressman POE to include these amendments in the final version of the House bill in order to help victims of domestic abuse successfully and safely escape their abuser.

Mr. GINGREY. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Madam Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

motion to instruct on H.R. 2360, by the yeas and nays;

H. Res. 462, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second vote in this series.

MOTION TO GO TO CONFERENCE ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

MOTION TO INSTRUCT OFFERED BY MR. SABO

The SPEAKER pro tempore. The pending business is the vote on the motion to instruct on H.R. 2360 offered by the gentleman from Minnesota (Mr. SABO) on which the yeas and nays are ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

The vote was taken by electronic device, and there were—yeas 196, nays 227, not voting 10, as follows:

[Roll No. 497]

YEAS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boren
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny

Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Blumenauer
Boswell
Culberson
Davis (FL)
Davis, Jo Ann
Gutierrez
Harman
Hunter
Melancon
Shays

☐ 1238

Messrs. DEAL of Georgia, FOLEY, PETERSON of Pennsylvania, TAYLOR of Mississippi, LINDER, MORAN of Kansas, and KING of New York changed their vote from "yea" to "nay."

Messrs. BERMAN, COOPER, and RUSH changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3402, DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

The SPEAKER pro tempore (Mrs. EMERSON). The pending business is the vote on adoption of House Resolution 462 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 330, nays 89, not voting 14, as follows:

[Roll No. 498]

YEAS—330

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
McNulty
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanders
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—89

Ackerman
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Bishop (NY)
Capps
Carson
Clyburn
Conyers
Costello
Crowley
Cummings
DeFazio
Doggett
Evans
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Grijalva
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hoyer
Inslee
Israel
Jefferson
Johnson, E. B.
Kaptur
Kucinich
Langevin
Lantos
Lee
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McDermott
McGovern
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller, George
Nadler
Neal (MA)
Olver
Pallone
Pastor
Payne
Roybal-Allard
Rush
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Schwartz (PA)
Serrano
Sherman
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Woolsey

NOT VOTING—14

Blumenauer
Boswell
Culberson
Davis (FL)
Davis, Jo Ann
Gutierrez
Harman
Hunter
Lucas
McCollum (MN)
Melancon
Pelosi
Renzi
Shays

☐ 1248

Mr. MEEHAN changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore (Mrs. EMERSON). Without objection, the Chair appoints the following conferees on H.R. 2360: Messrs. ROGERS of Kentucky, WAMP, LATHAM, Mrs. EMERSON, Messrs. SWEENEY, KOLBE, ISTOOK, LAHOOD, CRENSHAW, CARTER, LEWIS of California, SABO, PRICE of North Carolina, SERRANO, Ms. ROYBAL-ALLARD, Messrs. BISHOP of Georgia, BERRY, EDWARDS, and OBEY.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES AFFECTED BY HURRICANE KATRINA OR RITA ACT OF 2005

Mr. BOUSTANY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3864) to provide vocational rehabilitation services to individuals with disabilities affected by Hurricane Katrina or Hurricane Rita, as amended.

The Clerk read as follows:

H.R. 3864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assistance for Individuals with Disabilities Affected by Hurricane Katrina or Rita Act of 2005".

SEC. 2. ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term "affected State" means a State that contains an area, or that received a significant number of individuals who resided in an area, in which the President has declared that a major disaster exists.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Rehabilitation Services Administration.

(3) INDIVIDUAL WITH A DISABILITY.—The term "individual with a disability" has the meaning given the term in section 7(20)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 705(20)(A)).

(4) INDIVIDUAL WITH A DISABILITY AFFECTED BY HURRICANE KATRINA.—The term "individual with a disability affected by Hurricane Katrina" means an individual with a disability who resided on August 22, 2005, in an area in which the President has declared that a major disaster related to Hurricane Katrina exists.

(5) INDIVIDUAL WITH A DISABILITY AFFECTED BY HURRICANE RITA.—The term "individual with a disability affected by Hurricane Rita" means an individual with a disability who resided in an area on the date that was 7 days before the date on which the President declared that a major disaster related to Hurricane Rita exists in such area.

(6) MAJOR DISASTER.—The term "major disaster" means a major disaster declared by the President in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), related to Hurricane Katrina or Rita.

(b) REALLOTMENTS OF AMOUNTS.—

(1) IN GENERAL.—In realloting amounts to States under section 110(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 730(b)(2)) for fiscal year 2005, the Commissioner shall give preference to affected States.

(2) WAIVERS.—If the Commissioner reallots amounts under section 110(b)(2) of the Rehabilitation Act of 1973 to an affected State for fiscal year 2005, or returns to the State of Louisiana for fiscal year 2005 the funds that Louisiana had previously relinquished pursuant to section 110(b)(1) of that Act (29 U.S.C. 730(b)(1)) due to an inability to meet the non-Federal share requirements requiring Louisiana to contribute $3,942,821 for fiscal year 2005, the Commissioner may grant a waiver of non-Federal share requirements for fiscal year 2005 for the affected State or Louisiana, respectively.

(3) DEFINITION.—In this subsection, the term "non-Federal share requirements" means non-Federal share requirements applicable to programs under title I of such Act (29 U.S.C. 720 et seq.).

(c) USE OF AMOUNTS REALLOTTED UNDER TITLE I OF THE REHABILITATION ACT OF 1973.—An affected State that receives amounts reallotted under section 110(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 730(b)(2)) for fiscal year 2005 (as described in subsection (b)) or returned under subsection (b) may use the amounts—

(1) to pay for vocational rehabilitation services described in section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) (which may include training, mentoring, or job shadowing opportunities), for individuals with disabilities affected by Hurricane Katrina or individuals with disabilities affected by Hurricane Rita, that contribute to the economic growth and development of communities;

(2) to enable—

(A) individuals with disabilities affected by Hurricane Katrina to participate in reconstruction or other major disaster assistance activities in the areas in which the individuals resided on August 22, 2005; and

(B) individuals with disabilities affected by Hurricane Rita to participate in reconstruction or other major disaster assistance activities in the areas in which the individuals resided on the date that was 7 days before the date on which the President declared that a major disaster related to Hurricane Rita exists in such areas;

(3) to pay for vocational rehabilitation services described in section 103 of the Rehabilitation Act of 1973 for individuals with disabilities affected by Hurricane Katrina, or individuals with disabilities affected by Hurricane Rita, who do not meet the affected State's order of selection criteria for the affected State's order of selection under section 101(a)(5) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(5)); or

(4) to carry out other activities in accordance with title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BOUSTANY) and the gentleman from Michigan (Mr. KILDEE) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BOUSTANY).

GENERAL LEAVE

Mr. BOUSTANY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3864.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BOUSTANY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 3864. H.R. 3864, the Assistance for Individuals with Disabilities Affected by Hurricane Katrina or Rita Act of 2005, is a bill that I introduced to provide immediate and critical assistance to individuals with disabilities affected by Hurricanes Katrina and Rita.

Since I introduced H.R. 3864 last week, I have worked with my colleagues in the Senate to revise the language to create an even better bill, and the amendment I am introducing today reflects the agreement we were able to reach.

I urge my colleagues to adopt this commonsense legislation that will allow individuals with disabilities greater access to vocational rehabilitation services so they may return to work in the aftermath of these devastating hurricanes.

The measure that we are considering today deals with the Rehabilitation Act of 1973, a law that provides job training and other services designed to increase employment options for individuals with disabilities. The bill will provide greater flexibility to the United States Department of Education and the Rehabilitation Services Administration so sufficient funds are made available to States impacted by these hurricanes.

Specifically, this legislation requires the commissioner of the Rehabilitation Services Administration to give preference to States like Louisiana, Alabama, Mississippi, Texas, and others that have taken in large numbers of evacuees when unused vocational rehabilitation services funds are reallocated at the end of this fiscal year under the Rehabilitation Act.

It also assists impacted States by providing a one-time waiver of the requirement that those States match the reallocated funds they receive with non-Federal sources. This will provide the impacted States the necessary flexibility to maximize the use of both State and Federal funds to serve the citizens of those States during the critical months ahead.

The bill also ensures that States like Louisiana will continue to have access to funds under the Rehabilitation Act that had been relinquished to the Department of Education prior to the hurricane. Finally, the measure encourages affected States that receive a reallocation of vocational rehabilitation funds to use those funds to provide services to individuals with disabilities affected by the hurricanes. This will give these residents an opportunity to contribute to the economic development of their communities and participate in the reconstruction efforts.

As everyone knows, my State of Louisiana has suffered through two major hurricanes this last month. I spent this past weekend in my district as we prepared for and dealt directly with the aftermath of Hurricane Rita. Those affected by this hurricane and Hurricane Katrina continue to display tremendous courage, and I appreciate all that the American people and this Congress have done to assist our region.

This bill represents yet another step we will take to provide needed resources to the people of the gulf coast, and I urge my colleagues to support this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KILDEE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would like to thank also the gentleman from Louisiana (Mr. BOUSTANY), my colleague and friend, for introducing this commonsense hurricane relief bill that will offer relief to his constituents and many other Americans with disabilities in the gulf region.

This bill offers additional funds to gulf region vocational rehabilitation programs and offers the flexibility needed to continue services.

Madam Speaker, Louisiana is in a difficult position of not having met their Federal share for funds already allotted. Under H.R. 3864, Louisiana can apply for a waiver of that requirement. I commend the gentleman from Louisiana (Mr. BOUSTANY) for introducing this legislation to take care of that.

In the reallotment of unused funds from the previous fiscal year, this bill will give priority to those affected by hurricanes Katrina and Rita. Impacted States can then apply for waivers in meeting their non-Federal share of the reallotted funds as well.

Madam Speaker, impacted gulf coast States can use these funds to pay for vocational rehabilitation services that allow individuals with disabilities to contribute to the rebuilding of their local communities. I am pleased to support this bill, which not only offers relief from previous obligations but also provides additional resources necessary to continue services. Moreover, it reinforces the value of having community members participate in the revitalization of their neighborhoods.

Again, I thank the gentleman from Louisiana (Mr. BOUSTANY) for introducing this very much-needed legislation, and I encourage my colleagues to support its swift passage.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUSTANY. Madam Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Michigan (Mr. KILDEE). He has been quite an ally in this process.

This is a very important piece of legislation, a small piece of legislation, but important, that will help us get back on our feet; and I urge passage of H.R. 3864.

Mr. DAVIS of Illinois. Madam Speaker, I rise in support of H.R. 3864, which provides needed assistance to individuals with disabilities who are affected by the recent hurricanes. The bill requires the Commissioner of the Rehabilitation Services Administration to give preference to States affected by Hurricanes Katrina and/or Rita with respect to the re-allotment of funds for vocational rehabilitation services. This provision is a necessary step in channeling monies to enable individuals with disabilities affected by either hurricane to participate in reconstruction or other major disaster assistance activities.

A strength of this legislation is that it permits affected States to use these re-alloted funds to pay for vital vocational rehabilitation services. This includes important activities such as training, mentoring, or job shadowing that contribute to the economic growth and development of communities. H.R. 3864 also grants needed flexibility to the States in providing the vocational services to individuals with disabilities by allowing the Commissioner to waive a state's matching requirement for funds from non-Federal sources.

These proposals will help the affected States as well as individuals with disabilities. The affected States will not have to draw upon their already depleted funds to pay for these critical services, and individuals with disabilities will be able to participate in the rebuilding of their towns and cities, which in turn will gain from the valuable services that individuals with disabilities can provide.

In my district I have seen the amazing work that disabled individuals are capable of. The Chicago Lighthouse for the Blind employs blind individuals to build clocks for the Federal Government. I am glad to support a bill that recognizes and encourages the contributions of this population.

Mr. BOEHNER. Madam Speaker, I rise in strong support of this bill to ensure that individuals with disabilities may gain access to the vocational rehabilitation services they need in the wake of Hurricanes Katrina and Rita. I thank my colleague on the Education and the Workforce Committee, Mr. BOUSTANY, for his work on this bill and other legislation to bring additional flexibility and resources to the Gulf Coast region. He and another of my Committee colleagues, Mr. JINDAL, continue to work tirelessly on behalf of their constituents and all Gulf Coast residents to ensure that we act where necessary to assist in the recovery efforts.

This bill is critical for individuals with disabilities who are seeking to re-enter the workforce in the aftermath of the two hurricanes. Under the Rehabilitation Act, States must return unused vocational rehabilitation funds at the end of each fiscal year to the Rehabilitation Services Administration, RSA. The RSA then reallocates those funds to States based on the needs of their respective residents. H.R. 3864 directs the Commissioner of the RSA to give consideration to States affected by the hurricanes in this year's reallocation of those unused funds.

This bill also provides significant flexibility for States impacted by the hurricanes. Under the Rehabilitation Act, States that receive a reallocation are required to match those funds with non-federal sources. This bill provides a reasonable, one-time waiver of that requirement for States affected by Hurricane Katrina or Hurricane Rita. This recognizes the unique circumstances faced by these States and ensures that State officials will not have their hands tied as they seek to take advantage of these additional resources.

Madam Speaker, in the month since Hurricane Katrina, the House has approved a variety of legislation to cut through bureaucratic red tape and enhance flexibility in the affected regions. We've addressed the needs of college students, workers, and their families. With this bill, we turn our attention to the needs of individuals with disabilities as well. As many of these individuals seek to return to work in and around the Gulf Coast region, I urge my colleagues to join me in support of this measure to ensure they may do just that.

Mr. BOUSTANY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BOUSTANY) that the House suspend the rules and pass the bill, H.R. 3864, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.".

A motion to reconsider was laid on the table.

□ 1300

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES REGARDING JULY 2005 MEASURES OF EXTREME REPRESSION ON PART OF CUBAN GOVERNMENT

Mr. BOOZMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 388) expressing the sense of the House of Representatives regarding the July, 2005, measures of extreme repression on the part of the Cuban Government against members of Cuba's prodemocracy movement, calling for the immediate release of all political prisoners, the legalization of political parties and free elections in Cuba, urging the European Union to reexamine its policy toward Cuba, and calling on the representative of the United States to the 62d session of the United Nations Commission on Human Rights to ensure a resolution calling upon the Cuban regime to end its human rights violations, and for other purposes.

The Clerk read as follows:

H. RES. 388

Whereas the European Union instituted measures on the Cuban Government after the Cuban Government exercised extreme repression on peaceful prodemocracy activists in 2003, but in January 2005 the European Union suspended its measures;

Whereas on July 13, 2005, the Cuban Government detained 24 human rights activists who were participating in a solemn event in remembrance of the victims of the tugboat massacre of innocent civilians by the Cuban government of July 13, 1994;

Whereas human rights activists Rene Montes de Oca, Emilio Leiva Perez, Camilo Cairo Falcon, Manuel Perez Soira, Roberto Guerra Perez, and Lazaro Alonso Roman remain incarcerated from the July 13, 2005, event and face trumped up charges of "disorderly conduct";

Whereas on July 14, 2005, the Government of France invited the Cuban regime's Foreign Minister to the French Embassy in Havana for a "Bastille Day" celebration;

Whereas members of the prodemocracy opposition in Cuba sought, on July 22, 2005, in Havana, to demonstrate in front of the French Embassy in a peaceful and orderly manner, on behalf of the liberation of all Cuban political prisoners, and to protest the current policy of the European Union toward the Cuban Government;

Whereas the Cuban regime mobilized its repressive state security apparatus to intimidate and harass the peaceful demonstrators in order to prevent prodemocracy activists from reaching the French Embassy;

Whereas the Cuban regime arrested and detained many who were planning on attending the peaceful protest of July 22 in front of the French Embassy, including Martha Beatriz Roque Cabello, Félix Antonio Bonne Carcassés, Rene Gómez Manzano, Jose Javier Baeza Dis, María de los Ángeles Borrego, Ernesto Colás García, Emma Maria Alonso Del Monte, Jose Escuredo Marrero, Uldarico Garcia, Yusimi Gil Portel, Oscar Mario González Pérez, Humberto Guerra, Luis Cesar Guerra, Julio Cesar López Rodríguez, Miguel López Santos, Jacqueline Montes de Oca, Raul Martínez Prieto, Ricardo Medina Salabarría, Francisco Moure Saladrigas, Georgina Noa Montes, Niurka Maria Peña Rodríguez, Luis Manuel Peñalver, Pastor Pérez Sánchez, Jesús Adolfo Reyes Sánchez, Gloria Cristina Rodríguez González, Juan Mario Rodríguez Guillen, Miguel Valdés Tamayo, Santiago Valdeolla Pérez, and Jesús Alejandro Victore Molina;

Whereas Rene Gómez Manzano, a distinguished leader of the struggle for freedom in Cuba, and other prodemocracy activists, continue to be detained without cause;

Whereas hundreds of political prisoners and prisoners of conscience languish in the Cuban regime's prisons for the crime of seeking democracy for Cuba;

Whereas thousands of others languish in Cuba's totalitarian prisons accused of "common crimes", such as illegally attempting to leave the country and violating the norms of the totalitarian economic system, who should be recognized as prisoners of conscience because they are being jailed for attempting to exercise personal freedoms;

Whereas the Cuban regime has arrested more than 400 young Cubans, from late 2004 through June of 2005, and according to the Cuban regime, the arrests were carried out as a "measure of pre-delinquent security";

Whereas the Cuban regime has continued to repress attempts by the Cuban people to bring democratic change to the island and denies universally recognized liberties, including freedom of speech, association, movement, and the press;

Whereas the Cuban Government remains designated as one of 6 state sponsors of terrorism by the United States Department of State;

Whereas the Cuban Government continues to provide safe harbor to fugitives from United States law enforcement agencies and to international terrorists;

Whereas the Universal Declaration of Human Rights, which establishes global human rights standards, asserts that all human beings are born free and equal in dignity and rights, and that no one shall be subjected to arbitrary arrest or detention;

Whereas the Cuban regime engages in torture and other cruel, inhumane, and degrading treatment, including extended periods of solitary confinement and denial of nutritional and medical attention, according to the Department of State's Country Report on Human Rights 2004;

Whereas the personal representative of the United Nations Human Rights Commissioner has not been allowed by the Cuban regime to enter the island to carry out the mandate assigned by the United Nations Human Right Commission in its resolution of 2002/18 of 19 April 2002, and reaffirmed in resolutions 2003/13 of 17 April 2003, 2004/11 of 15 April 2004, and 2005/12 of 14 April 2005; and

Whereas the Cuban regime continues to violate the rights enshrined in the Universal Declaration of Human Rights, the Inter-American Convention on Human Rights, and other international and regional human rights agreements, and has violated the noted Resolutions of the United Nations Commission on Human Rights: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the gross human rights violations committed by the Cuban regime;

(2) calls on the Secretary of State to initiate an international solidarity campaign on behalf of the immediate release of all Cuban political prisoners;

(3) supports the right of the Cuban people to exercise fundamental political and civil liberties, including freedom of expression, assembly, association, movement, the press, and the right to multiparty elections;

(4) calls on the European Union to reexamine its current policy toward the Cuban regime, before June of 2006; and

(5) calls on the United States Permanent Representative to the United Nations, and other international organizations, to work with the member countries of the United Nations Commission on Human Rights (UNCHR) throughout the 62d session of the UNCHR in Geneva, Switzerland, to ensure a resolution that includes the strongest possible condemnation of the July 2005 measures of extreme repression on opposition activists and of all the human rights violations committed by the Cuban regime.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from Arkansas (Mr. BOOZMAN) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BOOZMAN).

GENERAL LEAVE

Mr. BOOZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 388.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the Subcommittee on the Western Hemisphere, the gentleman from Indiana (Mr. BURTON) would normally be here. The gentleman is very, very concerned about this resolution and is very, very supportive of it, but he currently has a markup, a committee vote that he is in the process of doing, so, again, I have the opportunity and honor of going ahead with this in his stead.

H. Res. 388 is a resolution which condemns the gross human rights violations committed by the Cuban regime and expresses support for the right of the Cuban people to exercise fundamental political and civil liberties.

As a member of the Committee on International Relations, I would like to thank my colleague the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) for introducing this resolution, which highlights the atrocious human rights violations the Cuban people continue to suffer at the hands of Castro's oppressive regime.

Mr. Castro continues to hone his craft, that is to say, his systematic reign of fear and intimidation of his own population. This past July, the Castro regime renewed its efforts to stamp out the pro-democracy movement.

This resolution sends a strong message to the Cuban Government that the world will not forget those people who are languishing in Cuban prisons for the so-called crime of speaking out against the injustices perpetrated by the Castro regime. Many of the dissidents arrested July remain in custody, and several of them face long sentences in prison for threatening to undermine Cuba's Communist government, according to Amnesty International and other organizations.

As U.S. service men and women put their lives on the line to bring freedom and democracy to areas of the world that have long suffered in the shadow of tyranny, Cuba represents a prime example in our own hemispheres of what can happen if any nation shuns democracy and subjugates itself to the whims of dictatorship.

As it stands now, Cuba is the only nation in the hemisphere that is a complete dictatorship, and since the earliest days of the regime, Castro has not only stifled efforts to promote freedom and democracy in Cuba, but he has also actively been involved in promoting communism and dictatorships around the world, most especially in Central and South America. The fall of Castro's principal benefactor, the Soviet Union, may have caused a shift in Castro's tactics, but he has never abandoned his ambition to export communism.

I am very concerned about the state of affairs in the Western Hemisphere, and I am convinced that there will never be true, lasting peace and freedom in the region until we solve the Cuba problem once and for all. The only acceptable solution is a free and democratic Cuba. I have hope there will be a day when the light of democracy shines in Havana, a day when free expression and free elections replace the current hopeless status quo.

I urge my colleagues to support this resolution. We owe it to the thousands of Cubans who risk their lives every year to flee the Communist regime by any means necessary, even attempting to brave the hazardous 90-mile crossing between the United States and Cuba on makeshift rafts, as well as those languishing in Cuban jails, to further open the eyes of the world community to the true evils of the Castro regime. We must never forget them.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. LANTOS) will control the 20 minutes.

There was no objection.

Mr. LANTOS. Mr. Speaker, I rise in strong support of this resolution, and I yield myself such time as I may consume.

Mr. Speaker, I want to commend my good friend and colleague, the distinguished chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), for facilitating this body's consideration of the resolution. I also want to thank the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) for offering this very important resolution and for his tireless battle to promote human rights in Cuba.

Mr. Speaker, the manipulative tyranny of Fidel Castro continues unabated. Two months ago, Havana's security apparatus arrested over 50 human rights activists and political dissidents in two separate roundups as these individuals peacefully exercised their fundamental rights of association and expression. Many of these brave men and women remain incarcerated in rat-infested cells because of their conviction to seek freedom and democracy in Cuba. They join the hundreds of other political prisoners who have been languishing behind bars for such so-called crimes as sharing books with neighbors, reporting the news outside of government-controlled media outlets and attempting to organize independent free labor unions in Communist Cuba.

Other individuals who dare to practice their professions outside of state-sanctioned avenues feel the wrath of Castro's henchmen in other sordid forms. According to international human rights groups, political repression in Cuba is manifested through the use of police warnings and constant surveillance, short-term detentions, house arrests, travel restrictions, criminal prosecutions and politically motivated dismissals from jobs.

We in this House have repeatedly and forcefully denounced this oppression, calling for the immediate release of all political prisoners, and we have advocated for political liberalization on the island. This year, the United Nations Human Rights Commission in Geneva joined in the chorus of voices calling attention to the injustices which continue to be inflicted upon those who toil in Castro's island prison, or, should I say, prison island.

The U.N. Commission on Human Rights can and should do more. The Human Rights Commission should call upon the Castro regime to release immediately all prisoners who are incarcerated in violation of their fundamental human rights. The Human Rights Commission should demand that the Cuban Government respect the freedom of association, expression and other international human rights norms. And the Human Rights Commission should press the Castro regime to hold free and fair elections and otherwise not suppress the ability of Cuban citizens to exercise their fundamental political rights.

Although the commission is not scheduled to meet again until early next year, much of the preparatory work that is necessary to secure a strong resolution on Cuba should be occurring now. Cuban emissaries reportedly have colluded with their like-minded brethren from Venezuela, Burma, Turkmenistan, Syria and other countries with very questionable human rights records to block proposed reforms to the commission that would give it the credibility and the institutional capability that it sorely lacks.

Mr. Speaker, I am hopeful that the community of real democracies will no longer allow those countries which flagrantly break the rules to sit in judgment of their own abhorrent practices. I strongly urge all of my colleagues to support this resolution, and, therefore, send a signal to our friends in New York and Havana that we are with them in their struggle against tyranny and oppression.

Mr. Speaker, I reserve the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), the original sponsor of the resolution.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I want to thank, first of all, the gentleman from Arkansas (Mr. BOOZMAN), who has been so kind to bring forth this resolution today as a distinguished member of the Committee on International Relations and as a great friend and supporter of human rights throughout the world, including in that oppressed island just 90 miles from our shores.

The gentleman from California (Mr. LANTOS), when I first arrived in this Congress in January 1993, that same month I was able to witness firsthand the man who has devoted his entire life to defending those who cannot defend themselves, and since that very month, my admiration that I already had for him has grown ceaselessly. I thank him for, once again, coming forth here in this hall and speaking on behalf of those who cannot speak for themselves.

The resolution before us today, Mr. Speaker, calls for the liberation of each and every one of the thousands, really, unknown is the number, of political prisoners in Cuba. There are hundreds recognized, identified and called "prisoners of conscience" by international organizations such as Amnesty International. There are thousands of others who commit so-called crimes that are not crimes anywhere else, certainly in any democratic societies, crimes like trying to feed their families, crimes like trying to leave the country, something guaranteed by the Universal Declaration of Human Rights. So there are countless political prisoners.

The resolution before us calls for the liberation of each and every one of them, immediately; it calls for the legalization of political parties, labor unions and the press by that tyranny; and it calls for free elections, because ultimately the right of self-determination is the only right that guarantees all other human rights, and without the right of self-determination, all other human rights, when they are granted by tyrants, they are but gifts from the tyrants to people, to his people, gifts that can be withdrawn at any time.

In addition, as the gentleman from Arkansas (Mr. BOOZMAN) and the gentleman from California (Mr. LANTOS) stated, this resolution remembers those who, as we speak today, as we speak, are languishing in dungeons for the so-called crime of seeking and supporting the rights that we cherish and take really for granted, and have for over 200 years in this country, and much of the world certainly takes for granted, the right to speak and the right to elect leaders in periodic elections.

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The right to organize political parties and labor unions, and the right to free expression and to freedom of the press, the right of association, for trying to seek those inalienable rights, people are languishing and suffering, and we remember them today.

Now, just a few weeks ago, in July, when this latest round-up occurred of opposition leaders inside of Cuba, perhaps the most well-known was the very prestigious jurist Rene Gomez Manzano, as well as the other leaders of the Assembly to Promote Civil Society. A few were subsequently released at the whim of the dictator; they may be picked up at any time. Mr. Gomez Manzano remains in a cell at this time and has engaged and is engaging in a hunger strike. And there are others whose health has already deteriorated to the point where, for example, Mr. Victor Rolando Arroyo, his wife informs us today that she fears his imminent death because he is engaged in a hunger strike protesting the conditions that all political prisoners suffer each day in that oppressed island. Mr. Arnaldo Ramos Lauzurique is also engaging in a hunger strike.

He received a month ago, approximately a month ago, such a brutal beating inside the prison that when he protested for receiving that beating, he was put in what they call a punishment cell, as others in that prison, like Adolfo Fernandez Sainz, and others in hunger strikes like Jose Gabriel Ramon Castillo, like Normando Hernandez, and I will, Mr. Speaker, with your authorization, submit for the RECORD a list that I mentioned before is recognized by international organizations, such as Amnesty International, of hundreds of prisoners of conscience.

Now, what we are also doing in this resolution is asking the European Union, because they, in response to this series of crackdowns that the dictatorship has engaged in against the pro-democracy movement, the European Union has, in its wisdom, Mr. Speaker, following the advice and consent of Mr. Zapatero, the Prime Minister of Spain, has decided to appease the dictatorship even more. And the few sanctions that the European Union had, political sanctions they called them, for example, inviting the dissidents to receptions in embassies and allowing them entry into embassies to have discourse, dialogue with members of the diplomatic corps in the embassies of the European Union, those so-called sanctions were ended by the European Union under the premise and theory that they would encourage the ending of the sanctions, the dictator to be more benevolent. Well, we have seen how the dictator has responded.

We are asking in this resolution for the European Union to reconsider its policy of appeasement, and we are asking also that the United Nations, in its Human Rights Commission, pass a resolution asking for the cessation of human rights violations in Cuba.

So it is a very appropriate resolution. I commend, again, my colleagues who have been supportive. It is in the tradition, it stamds in the tradition of this House of Representatives, this Congress that, in April of 1898, passed the resolution that is well-known in Cuban history, saying that Cuba is and, of right, ought to be free and independent, and it is in that tradition that we bring forth this resolution today, and I urge its adoption overwhelmingly by colleagues on both sides of the aisle on this day in which so many continue to suffer on that oppressed island.

Brief Examples—All Information From Amnesty International

Mijail Barzaga Lugo, 36; Independent Journalist; Sentence: 15 years; Date of arrest: 20 March 2003.

Oscar Elías Biscet González, 43; Human Rights Leader; Sentence: 25 years; Date of arrest: 6 December 2002.

Marcelo Cano Rodríguez, 38; Medical Doctor, Human Rights Activist; Sentence: 18 years; Date of arrest: 25 March 2003.

Eduardo Díaz Fleitas, 51; Farmer, Opposition Activist; Sentence: 21 years; Date of arrest: 18 March 2003.

Antonio Ramón Díaz Sánchez, 41; Electrician, member of the Christian Liberation Movement; Sentence: 20 years; Date of arrest: 18 March 2003.

Alfredo Felipe Fuentes, 55; Member of the United Cuban Workers Council; Sentence: 26 years; Date of arrest: 18 March 2003.

"Antunez" Jorge Luis Garcia Perez—18 years (sentenced in 1990).

Partial list of political prisoners in Cuba, provided by Plantados Hasta La Libertad De Cuba.

Adolfo Fernandez Sainz, Adrian Alvarez Arencibia, Agustin Cervantes Garcia, Alejandro Cabrera Cruz, Alejandro Gonzalez Raga, Alexei Solorzano Chacon, Alexis Rodriguez Fernandez, Alexis Triana Montecino, Alfredo Felipe Fuentes, Alfredo M. Pulido Lopez, Alfredo Rodolfo Dominguez Batista, Alilas Saes Romero, Alquimidez Luis Martinez, Andres Frometa Cuenca, Antonio Augusto Villareal Acosta, Antonio Ramon Diaz Sanchez, Antonio Vladimir Rosello Gomez, Ariel Aguilera Hernandez, Ariel Sigler Amaya, Armando Sosa Fortuny, Arnalda Ramos Lauzerique, Arturo Perez de Alejo Rodriguez, Arturo Suarez Ramos, Arturo Suarez Ramos, Benito Ortega Suarez, Bernardo Espinosa Hernandez, Bias Giraldo Reyes Rodriguez, Carlos Luis Diaz Fernandez, Carlos Martin Gomez, Cecilio Reinoso Sanchez, Charles Valdez Suarez, Claro Fernando Alonzo Hernandez, Claro Sanchez Altarriba, Daniel Candelario Santovenia Fernandez, Daniel Escalona Martinez, David Aguila Montero, Delvis Cespedes Reyes, Digzan Ramirez Ballester, Diosdado Gonzalez Marrero, Dr. Jose Luis Garcia Paneque, Dr. Oscar Elias Biscet Gonzalez, Duilliam Ramirez Ballester, Eduardo Diaz Castellanos.

Eduardo Diaz Fleitas, Efrain Roberto Rivas Hernandez, Efren Fernandez Fernandez, Egberto Angel Escobedo Morales, Elio Enrique Chavez Ramon, Elio Terrero Gomez, Elizardo Calbo Hernandez, Enrique Santos Gomez, Ernesto Borges Perez, Ernesto Duran Rodriguez, Ezequiel Morales Carmenate, Fabio Prieto Llorente, Felix Geraldo Vega Ruiz, Felix Navarro Rodriguez, Fidel Garcia Roldan, Fidel Suarez Cruz, Francisco Herodes Diaz Echemendia, Francisco Pacheco Espinosa, Francisco Pastor Chaviano Gonzalez, Guido Sigler Amaya, Hector Larroque Rego, Hector Maceda Gutierrez, Hector Palacio Ruiz, Hector Raul Valle Hernandez, Hiran Gonzalez Torna, Horacia Julio Piña Borrego, Humberto Eladio Real Suarez, Ignacio Ramos Valdez, Ivan Hernandez Carrillo, Jesus Manuel Rojas Pineda, Jesus Mustafa Felipe, Joel Cano Diaz, Joel Perez Ozorio, Jorge Alvarez Sanchez, Jorge Gonzalez Velazquez, Jorge Luis Gonzalez Riveron, Jorge Luis Gonzalez Tanquero, Jorge Luis Martinez Roja, Jorge Luis Suarez Varona, Jorge Ozorio Vazquez, Jorge Pelegrin Ruiz, Jorge Rafael Benitez Chui, Jose Agramonte Leiva.

Jose Antonio Mola Porro, Jose Benito Menendez del Valle, Jose Carlos Montero Ocampo, Jose Daniel Ferrer Garcia, Jose Enrique Santana Carreiras, Jose Diaz Silva, Jose Gabriel Ramon Castillo, Jose Joaquin Palma Salas, Jose Miguel Martinez Hernandez, Jose Ramon Falcon Gomez, Jose Rodriguez Herrada, Jose Ubaldo Izquierdo Hernandez, Juan Alfredo Valle Perez, Juan Carlos Herrera Acosta, Juan Carlos Vazquez Garcia, Juan Ochoa Leyva, Julian Enrique Martinez Baez, Julian Hernandez Lopez, Julio Cesar Alvarez Lopez, Julio Cesar Galvez Rodriguez, Lazaro Alejandro Garcia Farah, Lazaro Gonzalez Adan, Lazaro Gonzalez Caraballo, Leandro Suarez Sabot, Lenin Efren Cordova, Leoncio Rodriguez Ponce, Leonel Grave de Peralta Almenares, Lester Gonzalez Penton, Librado Ricardo Linares Garcia, Luis Cabrera Ballester, Luis Elio de la Paz Ramon, Luis Enrique Ferrer Garcia, Luis Milan Fernandez, Manuel Ubals Gonzalez, Manuel Ubals Gonzalez, Marcelino Rodriguez Vazquez, Marcelo Cano Rodriguez, Marco Antonio Soto Morell, Marino Antomachit Rivero, Mario Enrique Mayo Hernandez, Maximo Omar Ruiz Matoses, Maximo Robaina Pradera, Miguel Diaz Bauza, Miguel Galvan Gutierrez, Mijail Barzaga Lugo, Nelson Aguiar Ramirez, Nelson Molinet Espino.

Norberto Chavez Diaz, Normando Hernandez Gonzalez, Omar Moises Hernandez Ruiz, Omar Pernet Hernandez, Omar Rodriguez Saludes, Orlando Zapata Tamayo, Pablo Javier Sanchez Quintero, Pablo Pacheco Avila, Pedro Arguelles Moran, Pedro de la Caridad Alvarez Pedroso, Pedro Genaro Barrera Rodriguez, Pedro Lizado Peña, Pedro Pablo Alvarez Ramos, Pedro Pablo Pulido Ortega, Prospero Gainza Aguero, Rafael Corrales Alonso, Rafael Gonzalez Ruiz, Rafael Ibarra Roque, Rafael Jorrin Garcia, Rafael Millet Leyva, Ramon Fidel Basulto Garcia, Randy Cabrera Mayor, Raul Alejandro Delgado Arias, Raumel Vinagera Stevens, Regis Iglesia Ramirez, Reinaldo Calzadilla Paz, Reinaldo Galvez Contrera, Reinaldo Miguel Labrada Peña, Ricardo Enrique Silva Gual, Ricardo Gonzalez Alfonso, Ricardo Gonzalez Alfonso, Ricardo Pupo Cierra, Ridel Ruiz Cabrera, Roberto Alejandro Lopez Rodriguez, Rolando Jimenez Posada, Santiago Adrian Simon Palomo, Saul Lista Placeres, Tomas Ramos Rodriguez, Vicente Coll Campaniony, Victor Rolando Arroyo Carmona, Virgilio Mantilla Arango, Yosbel Gonzalez Plaza, Felipe Alberto Laronte Mirabal, Rene Montes de Oca Martija, Adolfo Lazaro Bosq Hinojosa, Alberto Martinez Fernandez, Alexander Roberto Fernandez Rico.

Amado Idelfonso Ruiz Moreno, Andres Sabon Lituanes, Angel R. Eireo Rodriguez, Ariel Fleitas Gonzalez, Ariel Ramos Acosta (Hijo), Arnaldo Nicot Roche, Augusto Cesar San Martin Albistur, Anita la de Chaviano, Augusto Guerra Marquez, Candido Terry Carbonell, Carlos Alberto Dominguez, Carlos

Alberto Dominguez. Carlos Brizuela Yera. Carlos Brizuela Yera. Carlos Israel Anaya Velazquez, Carlos Miguel Lopez Santos, Carmelo Diaz Fernandez. Carmelo Diaz Fernandez, Dania Rojas Gongora, Delio Laureano Requejo Rodriguez. Edel Jose Garcia Diaz, Edel Jose Garcia Diaz, Emilio Leyva Perez, Enrique Dieguez Rivera. Enrique Garcia Morejon. Antonio Marcelino Garcia Morejon, Ernesto Duran Rodriguez, Francisco Godar Mariño. Froilan Menas Albrisas. Guillermo Fariñas Hernandez, Guillermo Renato Rojas Sanchez. Humberto Acosta Yorka, Humberto Eladio Real Suarez, Idelfonso Batista Cruz. Inocente Martinez Rodriguez, Jesus Adolfo Reyes Sanchez, Alejandro Mustafa Reyes. Joaquin Barriga San Emeterio. Jorge Hanoi Alcala Gorrita. Jorge Luis Garcia Perez, Jorge Olivera Castillo. Jorge Olivera Castillo, Jose Alberto Castro Aguilar, Jose Arosmin Diaz Kolb, Jose Lorenzo Perez Fidalgo. Jose Miguel Martinez Hernandez, Jose Patricio Armas Garcia.

Juan Carlos Fonseca Fonseca. Juan Carlos Gonzalez Leyva, Juan Luis Corrales Perez, Juan Pedoso Esquivel, Juan Ramirez Gonzalez, Juan Rodriguez Leon, Julio A. Valdes Guevara. Lazaro Iglesias Estrada. Lazaro Miguel Rodriguez Capote, Leobanis Manresa Osoria. Leonardo Corria Amaya, Leonardo M. Bruzon Avila. Lexter Tellez Castro. Luis Alberto Martinez Rodriguez, Luis Campos Corrales. Manuel Vazquez Portal. Manuel Vazquez Portal, Marcelo Lopez Bañobre, Margarito Broche Espinosa. Martha Beatriz Roque Cabello, Migdalia Hernandez Enamorado, Migdalis Ponce Casanova. Miguel Angel Gata Perez, Miguel Sigler Amaya, Miguel Sigler Amaya, Miguel Valdes Tamayo, Noel Ramos Rojas. Normando Perez Alvarez, Ociel Olivares Tito, Reinaldo Hernandez 02/05/05. Omar Wilson Estevez Real. Orlando Fundora Alvarez, Oscar Mario Gonzalez Perez, Oscar Espinosa Chepe. Osvaldo Alfonso Valdes, Pedro Pablo Alvarez Ramos, Rafael Perera Gomez. Ramon Herrera Corcho. Raul Rivero Castaneda, Raydel Ramirez Valdes, Raul Arencivia Fajardo, Ricardo Ramos Pereira. Ricardo Rodriguez Borrego, Roberto de Miranda Hernandez, Roberto Esquijerosa Chirino. Roberto Montero Tamayo, Rodolfo Barthelemy Coba.

Rogelio Ramos Prado. Rolando Corrales Martinez. Ulises Manresa Osoria. Victor Bresler Cisneros, Victor Campa Almarales, Virgilio Marante Guelmes. Yoel Vazquez Perez, Rolando Ferrer Espinosa, Nestor Rodriguez Lobaina, Julio Cesar Morales Gonzalez, Roberto Bruno Fonseca Guevara, Abelardo Cesar Cordero Perez. Adolfo Fernandez Sainz, Alejandro Gonzalez Raga, Alfredo Felipe Fuentes, Alfredo M. Pulido Lopez, Dr. Jose Luis Garcia Paneque. Fabio Prieto Llorente, Hector Maceda Gutierrez, Ivan Hernandez Carrillo, Jose Ubaldo Izquierdo Hernandez, Juan Carlos Herrera Acosta, Julio Cesar Galvez Rodriguez, Lexter Tellez Castro, Mario Enrique Mayo Hernandez, Miguel Galvan Gutierrez, Mijail Barzaga Lugo, Normando Hernandez Gonzalez, Omar Moises Hernandez Ruiz, Omar Rodriguez Saludes, Pablo Pacheco Avila, Pedro Arguelles Moran, Ricardo Gonzalez Alfonso, Victor Rolando Arroyo Carmona.

Mr. BOOZMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I, too. want to just first commend the two individuals who have brought this resolution forward. two individuals who have a history of fighting for human rights around the world. I thank the gentleman from Arkansas (Mr. BOOZMAN) for his leadership. Once again, those who are oppressed can always count on the gentleman from Arkansas, and the gentleman from California (Mr. LANTOS), a person who is, again, a hero to so many around the world, particularly to those who cannot speak up, cannot speak out, like we are able to do here. I thank him for his leadership. It is a privilege to serve with him.

A lot has been said about why this resolution is needed. My colleague from Florida just mentioned the response that the European Union has had to this latest crackdown. A deplorable response, a response which is the definition of appeasement, if there ever was one.

It is wonderful to see, though, Mr. Speaker, that this Congress, once again, stands up with those who are seeking freedom, but who do not have it. This Congress once again is saying, no, we are not going to stay silent, we are going to speak up for those who cannot speak up, we are going to speak up for those who are in prison.

We do not forget that just 90 miles away from the shores of the United States there is a dictatorship, a tyranny that is not only corrupt, that is not only on the list of terrorist nations, those nations that sponsor terrorism, that is not only a dictatorship who sponsors narco trafficking, which also is a dictatorship who practices apartheid against its own people, and who murders not only its own people, but also has over the years murdered numerous Americans. We recall, we recall as one of the many examples that I can talk about today, when that dictatorship shot down two American airplanes.

So how appropriate then that this Congress, this symbol of freedom around the world is, once again, speaking out for those who cannot, is once again remembering those who are being tortured in prison and, I think, also shows that once again, yes, this is the beacon of freedom. We understand that others are suffering. We do not forget. And, we know that one day the Cuban people will be able to speak up, though they are not able to do it right now, they will be able to speak for themselves, because they will not be imprisoned forever.

Mr. BOOZMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. DAVIS).

Mr. DAVIS of Kentucky. Mr. Speaker, Cuba is a country that has a people with a diverse culture, a rich heritage, a people who came as pioneers, people who came and sought their freedom and built a future. This rich and diverse history was suppressed 46 years ago under a dark veil of Communist rejection of all freedom, of rights, of dignity and liberty of the individual.

I think it is important that this resolution pass, and I rise today in its support. I cannot stress enough how important it is that human rights and human dignity be afforded to the citizens of Cuba who live in oppression under a brutal, tyrannical dictator who cares more for his own power and the advancement of his family and his cronies than his citizens who are starving and are neglected of the basic rights and privileges and necessities that we take for granted in this country.

He stands against those things that we represent, and my family has seen that firsthand. My wife Pat has helped many Cuban families who have made literally the pilgrimage to freedom, in a heartbreaking decision to leave their home country, to leave all that they love, lose all of their worldly possessions, except for their dignity, their self respect, their faith and, ultimately, maintaining cohesiveness in their family, to come seek a new life here, awaiting that day when they may return to their land and live in freedom.

Unfortunately, some in the international community see fit to recognize Fidel Castro as a power with whom to negotiate and placate. We must remember one thing. Still, today, even in old age, he is a dangerous man. He is an enemy of freedom and has sought on many continents to suppress that throughout his entire career of leadership of his tyrannical government. He is a suppresser of faith. the ability of his people and peoples elsewhere to express their faith in God, to practice their religion and, ultimately, he is an enemy of the future, an enemy of freedom in this hemisphere of no greater value than anyone else.

On July 14, the government of France invited Castro to the French Embassy in Havana to celebrate Bastille Day. but courageous members of Cuba's democratic opposition were not invited, so they chose to peacefully protest the French decision. On the morning of the protest, Cuban security forces stormed the homes of those planning to demonstrate and arrested at least 20. This type of dictatorial behavior cannot be tolerated for any length of time whatsoever. Think about it: a dictator invited to a celebration of liberation of people and. at the same time, suppressing his own people from peacefully expressing their views. It is illogical and it is illogical for the French to accept this.

For too long, the international community has danced around Castro and his Communist state, while the people live in oppression or risk their lives attempting to escape. It is not just the 20 individuals who were simply planning to protest who were arrested. Protestant Christians in Cuba are facing new regulations on house churches that can restrict religious freedom.

In order to suppress one house church, I know personally of a case where a pastor was arrested on the pretext of practicing medicine without a license simply because he prayed for one of his parishioners in the house church.

Imagine for a moment a place where the government supervises church services, and if an agent of the government arbitrarily decides that the church is breaking government regulations, it can shut it down. Imagine also a place where the government say that two house churches of the same denomination cannot exist within a mile and a half of each other, and imagine a place where human rights activists are taken into custody for simply commemorating the tragic deaths of 35 people who were killed when the boat they were fleeing in was rammed by authorities. Imagine all of that, and you will be imagining Castro's Cuba.

Mr. Speaker, I urge my colleagues to join me in supporting this critical and important resolution for the message that it sends.

Mr. LANTOS. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I would like to thank Ranking Member LANTOS and Chairman HYDE for their leadership and such a bipartisan effort for these human rights issues. Again, we truly appreciate their leadership.

Mr. FARR. Mr. Speaker, the Justice Department is entrusted with one of the most sacred rights of American citizenship—protecting the right to privacy.

The privacy rights of my constituents at Moss Landing Harbor on the central coast of California were recently violated under the guise of "homeland security."

At 10:30 at night, Coast Guard members armed with M–16 rifles approached docked boats, woke my constituents up, and boarded and searched their boats.

When asked why they were subject to these searches, the officers cited safety, "homeland security" and allegedly the PATRIOT Act.

The PATRIOT Act does not give the Coast Guard the right to violate the privacy of law-abiding citizens. It is exactly these kinds of abuses that prove why we should not be making PATRIOT Act provisions permanent.

As we reauthorize the Department of Justice today, we must be mindful of our obligation to uphold the Constitution and the Bill of Rights.

The U.S. cherishes the rule of Law and the protection of civil liberties.

Unlawful search and seizure in the name of Homeland Security is Homeland insecurity.

[From the Monterey Herald, Sept. 18, 2005]

COAST GUARD OVERBOARD WITH SEARCHES

Coast Guard officers apparently were on firm ground legally when they randomly boarded and inspected nearly 30 boats docked in Monterey Bay during the Labor Day weekend, but that doesn't make it right.

An officer with the Coast Guard's Monterey division said the operation, carried out with the Monterey County Sheriff's Office, U.S. Immigration and Customs Enforcement and the National Oceanic and Atmospheric Administration, was directed at ensuring boating safety during the busiest boating weekend of the year. And officers found problems worthy of citation, including lack of flotation and fire-extinguishing devices.

But some boaters who were subject to the inspections had legitimate complaints. Two who contacted the Herald said their boats were boarded after 10:30 p.m. and that officers arrived carrying M-16 rifles. Some of the boats were live-aboards, making the inspections comparable to having law enforcement officers show up at homes on dry land for a random search with no probable cause—something banned under the Constitution.

Officials said U.S. Code and maritime law give them authority for inspections and searches on Federal waters and the waterways that lead to them. But surprised area harbormasters and boating enthusiasts said they've never before seen random, door-to-door inspections. One called it "pretty preposterous." Another described it as "a little scary."

The Coast Guard said the officers weren't responding to any particular law enforcement report or threat. So why start this intrusive practice now? Because they can isn't a good enough answer. Maybe it's time, instead, to shore up maritime law and bring it more in line with the protections we enjoy on land.

Andy Turpin, senior editor of Latitude 38, a popular sailing magazine in Marin County, said the gaps are significant.

"All the things we take for granted when we're living ashore go out the window with maritime law," Turpin said. "It's all based on a big-vessel context. There's very little legislation," that has to do with smaller vessels and live-aboard boats.

Lt. Mark Warren of the Monterey Coast Guard Station said in light of some of the criticisms, his agency may rethink future, similar actions.

"We take lessons and learn from these types of operations. If the public is genuinely distasteful of it, we might not do it," he said.

Part of the Coast Guard's aim was to increase public awareness of its role as a law enforcement agency. Mission accomplished—but in an unnecessarily intrusive way. We depend on the Coast Guard for law enforcement on open seas. We're grateful for the role it plays in search-and-rescue operations. And we appreciate its efforts to make sure the boats on the bay are in safe condition.

But random, dockside boardings are going overboard and should be discontinued.

Mr. STARK. Mr. Speaker, I rise in opposition to H. Res. 388, Condemn Cuban Repression.

It is ironic that Congress is busy condemning Cuban President Fidel Castro for violating human rights when President George W. Bush, Vice President DICK CHENEY, Secretary of Defense Donald Rumsfeld, Attorney General Alberto Gonzales and other members of the administration have endorsed the perpetual detention and torture of over 500 detainees held by the United States military in Guantanamo Bay, Cuba.

Until the United States' foreign policy matches its rhetoric, no country should take these resolutions seriously.

I also oppose this resolution because it singles out and criticizes the European Union for its policies towards Cuba. Again, the United States hypocrisy is on show for the world. As Congress complains about foreign governments having commercial relations with the communist Cuban government, this same Congress has the audacity to pass free trade agreements and expand commercial relations with the communist government of China. Recent history shows that the Chinese government has consistently repressed its citizens. However, I have not seen one recent resolution condemning the Chinese government for its human rights abuses.

Further, the embargo of Cuba has been a failed policy that has only strengthened Fidel Castro's authority. For Congress to encourage other countries to implement a policy that has not worked for 40 years is as misguided as hiring a horse lawyer to run the Federal Emergency Management Agency, FEMA.

I urge my colleagues to vote against this resolution. If this Congress wants to be respected for its opposition against human rights abuses, then the government it should be condemning first for its practices is our own.

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of this legislation and I want to thank my good friend, Representative LINCOLN DIAZ-BALART, for introducing it.

I wish I could say I was surprised when the Castro regime again arrested members of the Cuban opposition this July. But I wasn't.

In Cuba, every opposition member, human rights activist, or citizen who takes any step towards democracy is deemed a threat to the Cuban regime. These opposition members must live under a constant threat of arrest and persecution for themselves, and their families.

In Cuba, we see a persistent, long-term, calculated, and strategic abuse of human rights aimed at keeping any opposition from succeeding in Cuba.

Cuba remains the only dictatorship in our Hemisphere, and Castro must repress the opposition to stay in power.

In July 2005, Castro arrested 24 human rights activists for simply remembering those who had been killed by the regime in 1994. And he arrested many more later that month who were simply planning on attending a peaceful protest—they hadn't even actually attended the event yet.

But this is not the only recent example of Castro's brutal repression. In March 2003, the Cuban regime conducted one of the most repressive and violent actions against dissidents in recent history. We all remember how, with no provocation, 75 political dissidents were subjected to a farcical judicial process and imprisoned for nothing more than expressing a point of view not sanctioned by the Castro regime.

In May of this year, Cuban opposition leaders organized an historic Assembly on the 103rd Anniversary of Cuban independence. When we had the opportunity to recognize that Assembly here in this committee, I specifically said that we opposed any attempt by the Castro regime to repress or punish the organizers and participants of the Assembly, as Castro has done with so many others who have spoken out against repression.

I also made it clear to the Cuban opposition witnesses in our hearing in the subcommittee in March that we expected no retaliation against them for their work on behalf of freedom or for their participation in our hearing.

Unfortunately, it is my understanding that all three of those witnesses were then arrested during the July crackdown. While Martha

Beatriz Roque and Felix Bonne were subsequently released, I believe that Rene Gomez Manzano remains in prison.

Given the recent arrests, I am still deeply concerned for the safety of all those who participated in the May Assembly and those who testified before this Committee.

Hundreds of political prisoners remain in Castro's jails today, and the world has recognized these injustices.

In March 2005, Amnesty International released a report on Cuba called Prisoners of Conscience: 71 Longing for Freedom. In this report, Amnesty states that they believe that, "the charges are politically motivated and disproportionate to the alleged offenses" and specifically note reports of ill-treatment and harsh conditions suffered by the prisoners of conscience.

Unfortunately, my friends in the European Union appear to have been deceived by Castro's conditional release of a few prisoners last year. I cannot understand why else they would think there was a reason to soften their diplomatic approach towards Cuba.

Instead of rewarding Cuba for pretending to take steps towards upholding fundamental civil rights, we should call for the unconditional release of all political prisoners in Cuba. I certainly hope that the European Union will review its policy towards Cuba, as is called for in this resolution.

And I hope that other multinational organizations, such as the UN Commission on Human Rights, join the rest of the world in strongly condemning the most recent crackdown in July by passing a strongly worded resolution against these violations of human and civil liberties, as is also called for in this resolution.

I know Members do not always agree with one another on issues relating to Cuba. And I know that this is, for many of us, a very personal issue.

But I also know that every one of my colleagues should be willing—and proud—to vote for this resolution, which simply states that the gross human rights violations committed by the Cuban regime are abhorrent.

Every one of my colleagues should be willing, and proud, to vote for the right of the Cuban people to exercise fundamental political and civil liberties that we enjoy here in the United States.

To my brothers and sisters who suffer in Castro's jails, to their families and friends both here in the United States and Cuba, and to the Cuban people, I say that Castro will not succeed in his vain attempt to suppress the spirit of the Cuban people. I look forward to the day, which is coming soon, when we will all celebrate a free and democratic Cuba. It is the spirit of the Cuban human rights activists and their courage that will ultimately be Castro's downfall.

So I ask each of you to join me in voting yes for this resolution.

Mr. BOOZMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and agree to the resolution, H. Res. 388.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENT ACT OF 2005

Mr. MILLER of Florida. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3200) to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicemembers' Group Life Insurance Enhancement Act of 2005".

SEC. 2. REPEALER.

Effective as of August 31, 2005, section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 244), including the amendments made by that section, are repealed, and sections 1967, 1969, 1970, and 1977 of title 38, United States Code, shall be applied as if that section had not been enacted.

SEC. 3. INCREASE FROM $250,000 TO $400,000 IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE.

(a) MAXIMUM UNDER SGLI.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A)(i), by striking "$250,000" and inserting "$400,000"; and

(2) in subsection (d), by striking "of $250,000" and inserting "in effect under paragraph (3)(A)(i) of that subsection".

(b) MAXIMUM UNDER VGLI.—Section 1977(a) of such title is amended—

(1) in paragraph (1), by striking "in excess of $250,000 at any one time" and inserting "at any one time in excess of the maximum amount for Servicemembers' Group Life Insurance in effect under section 1967(a)(3)(A)(i) of this title"; and

(2) in paragraph (2)—

(A) by striking "for less than $250,000 under Servicemembers' Group Life Insurance" and inserting "under Servicemembers' Group Life Insurance for less than the maximum amount for such insurance in effect under section 1967(a)(3)(A)(i) of this title"; and

(B) by striking "does not exceed $250,000" and inserting "does not exceed such maximum amount in effect under such section".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 1, 2005, and shall apply with respect to deaths occurring on or after that date.

SEC. 4. SPOUSAL NOTIFICATIONS RELATING TO SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

Effective as of September 1, 2005, section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) If a member who is married and who is eligible for insurance under this section makes an election under subsection (a)(2)(A) not to be insured under this subchapter, the Secretary concerned shall notify the member's spouse, in writing, of that election.

"(2) In the case of a member who is married and who is insured under this section and whose spouse is designated as a beneficiary of the member under this subchapter, whenever the member makes an election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i), the Secretary concerned shall notify the member's spouse, in writing, of that election—

"(A) in the case of the first such election; and

"(B) in the case of any subsequent such election if the effect of such election is to reduce the amount of insurance coverage of the member from that in effect immediately before such election.

"(3) In the case of a member who is married and who is insured under this section, if the member makes a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter, the Secretary concerned shall notify the member's spouse, in writing, that such a beneficiary designation has been made by the member, except that such a notification is not required if the spouse has previously received such a notification under this paragraph and if immediately before the new designation by the member under section 1970(a) of this title the spouse is not a designated beneficiary of the member for any amount of insurance under this subchapter.

"(4) A notification required by this subsection is satisfied by a good faith effort to provide the required information to the spouse at the last address of the spouse in the records of the Secretary concerned. Failure to provide a notification required under this subsection in a timely manner does not affect the validity of any election specified in paragraph (1) or (2) or beneficiary designation specified in paragraph (3).".

SEC. 5. INCREMENTS OF INSURANCE THAT MAY BE ELECTED.

(a) INCREASE IN INCREMENT AMOUNT.—Subsection (a)(3)(B) of section 1967 of title 38, United States Code, is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 1, 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MILLER) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 14 of this year, the Committee on Veterans' Affairs reported H.R. 3200, the Servicemembers' Group Life Insurance Enhancement Act of 2005. On July 26 of this year, the House passed the bill by a vote of 424–0.

Among other things, this bill would provide a permanent authorization for increases in maximum life insurance covered under the Servicemembers' Group Life Insurance Program and the

Veterans Group Life Insurance Program from $250,000 to $400,000.

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Public Law 109–13, the Emergency Supplemental Appropriations Act For Defense, the Global War on Terror, and the Tsunami Relief, 2005, increased the maximum coverage to $400,000 under these programs; however, the authorization expires in just 2 days, that is, September 30.

It is my understanding that during negotiations on the supplemental that the Senate included the termination date which was approved in the conference report to afford the legislative committees of jurisdiction the opportunity to hold hearings and further consider the specifics of the emergency authorization before it was made permanent.

The increased level of coverage was requested by the President because of concerns that death benefits for survivors of servicemembers were inadequate as our Nation fights the global war on terrorism. Further, Public Law 109–13 mandated spousal consent even in cases where the couple is estranged, as long as they are still legally married. The committee does not believe providing the spouse such a "veto" authority over life insurance elections is good public policy. The spousal consent requirement could also result, for example, in a servicemember's spouse excluding stepchildren as beneficiaries. The government should not interfere legally in a servicemember's highly personal choices about such family matters as this.

H.R. 3200, as amended, which the Senate passed yesterday, would instead require the military service secretary concerned to provide written notification to the spouse.

In an effort to expedite the passage of this bill as amended, we concur with the Senate's decision to drop the provisions stating that in cases of an unmarried servicemember, or a servicemember who marries while on active duty, notification be made to the next of kin or new spouse as to their insurance election.

The Committee believes notification is the preferable way of ensuring that the spouse is informed about this important financial decision while preserving the individual right of the servicemember to make decisions about life insurance coverage themselves.

Finally, Public Law 109–13 also provided for a new Traumatic Injury Protection program which goes into effect on the 1st of December this year. The committee has agreed to review this proposal in the coming year after having an opportunity to monitor the existing program. As amended, H.R. 3200 does not include this provision.

Mr. Speaker, I reserve the balance of my time.

Ms. BERKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank Chairman BUYER, ranking member EVANS, and subcommittee chairman MILLER as well as Senator CRAIG and Senator AKAKA on the Senate side for moving forward on this bill.

As a result of our mutual cooperation, the men and women currently serving in the military will be able to retain insurance coverage of $400,000 on October 1 of 2005.

H.R. 3200, as amended, would make permanent the increase in maximum Servicemembers' Group Life Insurance, SGLI, to $400,000 passed earlier this year. That increase was provided as the gentleman from Florida has stated by Public Law 109–13, but is set to expire on September 30, 2005. Immediate passage of this legislation is necessary in order to prevent any gaps in coverage under the SGLI program.

I truly appreciate the cooperation of the gentleman from Florida as well as that of the Senate Committee on Veterans' Affairs in addressing my concerns that spousal consent not be a part of this SGLI program.

We have heard time and time again from estranged spouses throughout the country that they were upset that under current law they must seek to obtain the consent of an estranged spouse before selecting less than the maximum amount of life insurance. I am also pleased that the compromise bill recognizes the importance of allowing service men and women to name a child as a beneficiary of their SGLI policy without notification of a present spouse. I believe we need to allow service men and women to make such decisions without any pressure to ignore the financial responsibility to their children of prior marriages.

The bill under consideration today strikes the right balance, in my opinion, for notification to spouses who would potentially be affected by the servicemembers' coverage and beneficiary decisions. This bill is urgently needed to provide continuous coverage to our service men and women. It will benefit the Nevadans that I represent as well as all Americans who are currently serving in the Armed Forces and their families.

I urge all Members to support H.R. 3200.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the wonderful ranking Democratic member on the committee.

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 3200, as amended by the Senate.

Earlier this year, Congress increased the amount of insurance available to servicemembers to $400,000. That provision is scheduled to expire September 30, 2005. We need to make the increase permanent now.

Under this bill, men and women currently serving will receive $400,000 in life insurance unless they choose to receive the lower amount.

H.R. 3200, as amended, will receive my full support. It deserves the support of every Member of this body.

Ms. BERKLEY. Mr. Speaker, I thank the gentleman from Florida (Mr. MILLER) for his extraordinary cooperation on this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, like my colleague, I would like to say thank you to the gentleman from Indiana (Mr. BUYER), the chairman of the committee, and the gentleman from Illinois (Mr. EVANS), the ranking member, for their cooperation in this legislation. I also commend the gentlewoman from Nevada (Ms. BERKLEY), the ranking member on our subcommittee, as well as the gentleman from New Hampshire (Mr. BRADLEY), for working with me and drafting this compromise agreement.

I particularly want to thank those on the Senate side, Senator CRAIG and Senator AKAKA, for ensuring that this important legislation was considered in the Senate and returned to the House to allow for final passage.

Congress has to act promptly to ensure permanent SGLI authorization is enacted before September 30, or else insurance coverage levels will revert to $250,000 on the 1st of October of this year. I do not think any Member of this body wants to see this happen.

Mr. Speaker, I strongly urge my colleagues to support H.R. 3200, as amended.

For the benefit of my colleagues, the following is a joint explanatory statement describing the compromise agreement which we have reached with the other body.

JOINT EXPLANATORY STATEMENT ON SENATE AMENDMENTS TO H.R. 3200

H.R. 3200, as amended, the Servicemembers' Group Life Insurance Enhancement Act of 2005, reflects a Compromise Agreement reached by the House and Senate Committees on Veterans' Affairs (the Committees) on the following bills considered in the House and Senate during the 109th Congress: H.R. 2046, as amended; H.R. 3200 (House Bills); and S. 1235, as amended (Senate Bill). H.R. 2046, as amended, passed the House on May 23, 2005; H.R. 3200 passed the House on July 26, 2005; and S. 1235, as amended, reported to the Senate on September 21, 2005.

The Committees have prepared the following explanation of H.R. 3200, as amended (Compromise Agreement). Differences between the provisions contained in the Compromise Agreement and the related provisions of H.R. 2046, as amended; H.R. 3200; and S. 1235, as amended, are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

REPEALER

Current law

Section 1012 of division A of the Emergency Supplemental Appropriations Act for

Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), amended sections 1967, 1969, 1970, and 1977 of title 38, United States Code. The provisions in section 1012 of Public Law 109–13 expire on September 30, 2005.

House bills

Section 2 of H.R. 3200 would repeal, effective August 31, 2005, section 1012 of Public Law 109–13 as if that section had not been enacted.

Senate bill

Section 101(d) of S. 1235, as amended, stipulates that those elements of the Supplemental Appropriations Act that will not be extended, in whole, beyond the September 30, 2005, termination date would not be treated for any purpose as having gone into effect.

Compromise agreement

Section 2 of the Compromise Agreement follows the House language.

INCREASE FROM $250,000 TO $400,000 IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

Current law

Sections 1967 and 1977(a) of title 38, United States Code, provide up to $400,000 in maximum coverage allowable under Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI). The maximum coverage of $400,000 is automatically provided unless the service member or veteran, as the case may be, declines coverage or elects coverage at a reduced amount. Declinations or elections of less than the maximum amount must be in writing. As of October 1,2005, the maximum coverage under both SGLI and VGLI will be reduced to $250,000 (section 1012 of Public Law 109–13).

House bills

Section 3 of H.R. 3200 would make permanent the maximum coverage allowable under sections 1967 and 1977(a) of title 38, United States Code, effective September I, 2005.

Senate bill

Sections 101(a)(I)(B)(i) and 101(c) of S. 1235, as amended, contain similar provisions.

Compromise agreement

Section 3 of the Compromise Agreement follows the House language with minor technical changes.

NOTIFICATION TO MEMBER'S SPOUSE OR NEXT OF KIN OF CERTAIN ELECTIONS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM

Current law

Section 1967 of title 38, United States Code, requires a married servicemember to receive written spousal consent prior to making a SGLI election for less than the maximum coverage amount. Similarly, the Secretary concerned is required to notify an unmarried servicemember's beneficiary or next of kin if the servicemember elects less than the maximum coverage amount.

Section 1970 of title 38, United States Code, prohibits a married servicemember from modifying a beneficiary designation without providing written notification to the spouse.

The consent and notification requirements of sections 1967 and 1970 of title 38, United States Code, expire on September 30,2005 (section 1012 of Public Law 109–13).

House bills

Section 5 of H.R. 2046, as amended, and section 4 of H.R. 3200, would require the uniformed services Secretary concerned to notify, in writing, a married servicemember's spouse, or an unmarried servicemember's next of kin, of an insurance election (1) not to be insured, (2) to be insured for an amount less than the maximum, or (3) to be insured if not insured or to change the amount of insurance coverage. The House bills would also require the Secretary concerned to notify, in writing, the spouse of a married servicemember if the servicemember designated anyone other than the spouse or child of the member as the beneficiary. When a servicemember marries, the Secretary concerned would be required to notify the new spouse whether the servicemember is insured under SGLI and when applicable, that the servicemember has elected less than the maximum amount of coverage or that the servicemember has designated someone other than the member's spouse or child as the policy beneficiary. Finally, section 4 of H.R. 3200 would provide that written notification shall consist of a good faith effort by the Secretary concerned to provide the required information to the servicemember's spouse or other person at the last known address of the spouse or next of kin in the records of the Secretary. Failure to provide such notification would not invalidate a servicemembers' election.

Senate bill

Section 101(a)(1)(A) of S. 1235, as amended, would require the Secretary concerned to make a good faith effort to notify the spouse of a servicemember if the servicemember elects to reduce amounts of insurance coverage or name a beneficiary other than the servicemember's spouse or child.

Compromise agreement

Section 4 of the Compromise Agreement generally follows the Senate language. The spouse of a married servicemember would be notified if the servicemember elects not to be insured under SGLI or if the beneficiary named by the servicemember is someone other than the spouse or child of the servicemember. The spouse of a servicemember would receive an initial notification if the servicemember elected less than the amount of maximum coverage available. Notice to a spouse concerning a subsequent decrease in the amount of life insurance or a change of beneficiary would be required only if the servicemember had previously designated the spouse as the beneficiary. When the spouse of a servicemember is not named as the beneficiary of the policy, the Committees find that no notice of additional changes is required.

INCREMENTS OF INSURANCE THAT MAY BE ELECTED

Current law

Section 1967 of title 38, United States Code, requires that a servicemember's SGLI election be evenly divisible by $50,000. On October 1, 2005, coverage will be divisible by $10,000 (section 1012 of Public Law 109-13).

House bills

Section 5 of H.R. 3200 would make permanent the requirement that SGLI for servicemembers be provided in increments of $50,000.

Senate bill

Section 101(a)(1)(B) of S. 1235, as amended, contains similar language.

Compromise agreement

Section 5 of the Compromise Agreement contains this provision.

LEGISLATIVE PROVISION NOT ADOPTED

AUTHORITY TO ELECT NEW TRAUMATIC INJURY PROTECTION

Current law

Section 1032 of Public Law 109-13 added a new section 1980A (Traumatic Injury Protection) to chapter 19 of title 38, United States Code. Section 1980A becomes effective on December 1, 2005. Servicemembers insured under SGLI will be automatically enrolled in the Traumatic Injury Protection program and are required to participate in the program.

House bills

Section 6 of H.R. 3200 would permit a servicemember to elect in writing not to be covered under the Traumatic Injury Protection program. A servicemember who declines coverage would be able to elect coverage at a later date upon written application, proof of good health, and in compliances with terms or conditions as may be prescribed by the Secretary, but coverage would apply only with respect to injuries occurring after a subsequent election. In any case, a servicemember would be required to be insured under SGLI to participate in Traumatic Injury Protection.

Senate bill

The Senate bill contains no comparable provision.

Compromise agreement

The Committees agree to further explore this provision during the course of their oversight responsibilities of the Traumatic Injury Protection program.

Mr. BUYER. Mr. Speaker, I am pleased we are considering this bill today. As my colleagues are aware, Public Law 109–13, the Emergency Supplemental, included provisions which made changes to VA's insurance program for active duty servicemembers and veterans. However, these changes expire on September 30, 2005.

H.R. 3200, as amended, would: Repeal section 1012 of the Supplemental, the section dealing with the insurance changes, and replace it with the text of H.R. 3200, as amended; make permanent the increase from $250,000 to $400,000 in maximum Servicemembers' Group and Veterans' Group Life Insurance coverage; make permanent the increments of SGLI coverage from $10,000 to $50,000; and require the military service Secretary concerned to notify a servicemember's spouse, in writing, if the servicemember declines SGLI or chooses an amount less than the maximum, as well as notify the spouse if someone other than the spouse or child is designated as the policyholders' beneficiary.

Similar language was included in H.R. 2046, which passed the House on May 23rd of this year.

The spousal notification language does not apply to the Veterans' Group Life Insurance program.

There were no public hearings prior to House and Senate passage of the defense emergency supplemental. In June, the Subcommittee on Disability Assistance and Memorial Affairs, chaired by JEFF MILLER of Florida, held a hearing on the provisions included in today's bill, and it is supported by the Administration and veterans groups.

H.R. 3200, as amended, will ensure the current $400,000 maximum level of insurance coverage is available to millions of active duty servicemembers, Reservists, and veterans, as well as commissioned members of the National Oceanic and Atmospheric Administration and the Public Health Service. I cannot underestimate the impact of this legislation.

Mr. Speaker, I applaud Chairman MILLER and Ms. BERKLEY, the ranking member of the

Subcommittee on Disability Assistance and Memorial Affairs, for their hard work and active participation in crafting this bill, as well as the subcommittee vice chairman, JEB BRADLEY. This has indeed been a team effort.

I also want to thank the subcommittee staffs on both sides of the aisle—Paige McManus, Chris McNamee, and Mary Ellen McCarthy.

Mr. Speaker, as the original increase in SGLI and VGLI expire at midnight this Friday, I urge my colleagues to support the Servicemembers' Group Life Insurance Enhancement Act.

Mr. FILNER. Mr. Speaker, I rise today to urge support for the bill that is before us, H.R. 3200, the "Servicemembers' Group Life Insurance Enhancement Act" of 2005, a bill that I have cosponsored.

This bill will increase federally subsidized life insurance for military personnel to $400,000, and that increase will be permanent.

If one of our Nation's finest men and women is killed in the line of duty, it is our Nation's obligation to provide an insurance policy that can assist the family in meeting expenses. These changes make the insurance more in line with today's economy, and I support the passage of H.R. 3200.

There are a few other insurance changes, beyond H.R. 3200, that I believe are also the right steps to take. These changes would, first of all, affect the Service-Disabled Veterans Insurance, SDVI.

When this insurance began in 1951, the premiums were based on the 1940 mortality rate. Current standard life insurance policies have premiums based on the 2001 mortality rate—except for the SDVI, which still charges premiums based on a table that is 60 years out of date. This results in higher premiums, premiums that can be as much as 3 times what veterans should be paying.

The Independent Budget, prepared and endorsed by many Veterans' Service Organizations, has recommended that the mortality table be updated. I have introduced a bill, H.R. 2747, the "Disabled Veterans Life Insurance Enhancement Act", that would make this important change and decrease this premium payment for disabled veterans.

A second part of H.R. 2747 affects the mortgage life insurance for severely service-disabled veterans (VMLI). Currently, this insurance covers only about 55 percent of the outstanding mortgage balance. We know how the cost of houses has skyrocketed in many areas of our country. In May, 2001, an evaluation by the Department of Veterans Affairs recommended increased coverage. H.R. 2747 implements those recommendations by increasing the maximum which would be expected to cover 94 percent of mortgage balances.

Let us begin to update and fix the insurance for our service members and our veterans by passing H.R. 3200. And I also encourage my colleagues to cosponsor my insurance bill, H.R. 2747, which expands what we are doing here today to additional insurance provisions and programs.

Mr. MILLER of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Florida (Mr. MILLER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3200.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

UNITED STATES GRAIN STANDARDS ACT REAUTHORIZATION

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1752) to amend the United States Grain Standards Act to reauthorize that Act.

The Clerk read as follows:

S. 1752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF ACT.

(a) IN GENERAL.—Sections 7(j)(4), 7A(*l*)(3), 7D, 19, and 21(e) of the United States Grains Standards Act (7 U.S.C. 79(j)(4), 79a(*l*)(3), 79d, 87h, 87j(e)) are amended by striking "2005" each place it appears and inserting "2015".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on September 30, 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Minnesota (Mr. PETERSON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support S. 1752, a bill to reauthorize the U.S. Grain Standards Act. The other body passed this bill by unanimous consent last week, and I look forward to its swift approval today as the act expires September 30, 2005.

This bill is identical to the language that the administration provided Congress earlier this year. The bill is a simple 10-year extension of current law. It will reauthorize the Secretary's authority to charge and collect fees to cover costs of inspection and weighing services and to receive appropriated dollars for standardization and compliance activities.

The House Subcommittee on General Farm Commodities and Risk Management of the Committee on Agriculture held a hearing on May 24, 2005, to review the U.S. Grain Standards Act. Testimony provided on behalf of the National Grain and Feed Association and the North American Export Grain Association highlighted the need for the U.S. grain industry to remain cost-competitive for bulk exports of U.S. grains and oilseeds in the future.

The American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers, the National Corn Growers Association, the National Grain Sorghum Producers, and the American Association of Grain Inspection and Weighing Agencies all voiced support for this legislation.

The U.S. Grain Standards Act first became law in 1916. In the intervening 89 years, Congress has reauthorized and amended the U.S. Grain Standards Act so that the law could adapt to changes in grain production, grain marketing, crop diversity, competitive pressure, and fiscal constraints.

The U.S. Grain Standards Act has served agriculture and our Nation well. For nearly a century, it has provided for standard marketing terms, grades and weights and facilitated domestic and international marketing of our farmers' production. Among its many responsibilities, the Federal Grain Inspection Service establishes and maintains official grades for our Nation's crop production, promotes the uniform application of official grades, provides for the official weighing and grading at export locations, provides Federal oversight of weighing and grading done by States, and investigates complaints or discrepancies reported by importers. Passage of this bill ensures the continuity of these standards and the opportunity for our farmers to remain competitive in the world marketplace.

I urge my colleagues to support this legislation.

I thank the gentleman from Minnesota (Mr. PETERSON), the ranking member of the committee, for his cooperation in working with us to bring this legislation to the floor.

Mr. Speaker, S. 1752 is a bill to reauthorize the U.S. Grain Standards Act. The other body passed this bill by unanimous consent last week. Timely approval of this bill is important because the current law expires September 30, 2005.

This bill is identical to the language the Administration provided Congress earlier this year. This bill is a simple 10-year extension of current law.

The House Agriculture Subcommittee on General Farm Commodities and Risk Management held a hearing on May 24, 2005 to review the U.S. Grain Standards Act. Testimony provided on behalf of the National Grain and Feed Association and the North American Export Grain Association highlighted the need for the U.S. grain industry to remain cost-competitive for bulk exports of U.S. grains and oilseeds in the future. Specifically, these organizations proposed that U.S. Department of Agriculture (USDA) utilize third party entities to provide inspection and weighing activities at export facilities with 100 percent USDA oversight using USDA-approved standards and procedures. The American Farm Bureau Federation, American Soybean Association, National Association of Wheat Growers, National Corn Growers Association, National Grain Sorghum Producers, and the American Association of Grain Inspection and Weighing Agencies all voice support for this proposal. USDA testified that the "proposal of the industry establishes a framework for changing the delivery of services without compromising the integrity of the official system."

During the hearing, the Committee also learned of workforce challenges currently facing the U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration (GIPSA). The majority of official grain inspectors will be eligible for retirement over the next several years. Testimony presented explained that transitioning the delivery of services through attrition would minimize the impact on Federal employees.

Since the hearing, I have reviewed legislative proposals and discussed the issue of improved competitiveness with my colleagues, farm and industry organizations, and USDA. Chairman SAXBY CHAMBLISS of the Senate Agriculture Committee and I asked USDA to determine if they had the authority under the existing law to use private entities at export port locations for grain inspection and weighing services, and if they did, how would they implement this authority.

Accompanying this statement is a copy of USDA's response to our questions. The letter states that the U.S. Grain Standards Act "currently authorizes the Secretary of Agriculture to contract with private persons or entities for the performance of inspection and weighing services at export port locations." The letter further explains that GIPSA considers the use of this authority as an option to address future attrition within the Agency and to address expanded service demand. I fully expect USDA to use this authority in a manner that improves competitiveness of the U.S. grain industry, that maintains the integrity of the Federal grain inspection system, and that provides benefits to employees who may be impacted.

The Committee greatly appreciates the work that has gone into the reauthorization of this law and we are pleased to extend the authorization for 10 years.

THE SECRETARY OF AGRICULTURE,
Washington, DC, September 21, 2005.

Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of this date, also signed by Saxby Chambliss, Chairman of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, posing two questions regarding legislation which is currently pending before the Congress. The legislation would reauthorize, for an additional period of years, the United States Grain Standards Act, 7 U.S.C. §§71 et seq. (Act), which is presently scheduled to expire on September 30, 2005. Your questions and our responses are as follows:

1. Would existing authority under the U.S. Grain Standards Act allow USDA to use private entities at export port locations for grain inspection and weighing services?

Response. The Act currently authorizes the Secretary of Agriculture to contract with private persons or entities for the perfonnance of inspection and weighing services at export port locations. See 7 U.S.C. §§79(e)(I), 84(a)(3).

2. If so, how would USDA implement this authority?

Response. The Act currently authorizes the Secretary to contract with a person to provide export grain inspection and weighing services at export port locations. The Grain Inspection, Packers and Stockyards Administration (GIPSA) has reserved this authority to supplement the current Federal workforce if the workload demand exceeded the capability of current staffing. GIPSA has also considered use of this authority as one of several options to address future attrition within the Agency and to address expanded service demand as several delegated States have decided or are considering to cancel their Delegation of Authority with GIPSA.

In accordance with Federal contracting requirements, GIPSA would contract with a person(s) (defined as any individual, partnership, corporation, association, or other business entity) to provide inspection and weighing services to the export grain industry. The person(s) awarded the contract would adhere to all applicable provisions of the Act to ensure the integrity of the official inspection system during the delivery of services to the export grain industry. The person(s) would charge a fee directly to the export grain customer to cover the cost of service delivery and the cost of GIPSA supervision. Contract terms would require reimbursement to GIPSA for the cost of supervising the contractor's delivery of official inspection and weighing services.

GIPSA would comply with OMB Circular No. A–76 for any contracting activity that may replace or displace Federal employees. The Circular would not apply if the contract for outsourcing services intends to fill workforce gaps, not affect Federal employees, or supplement rather than replace the Federal workforce. The A–76 process typically takes two years and involves an initial cost-benefits analysis, an open competitive process, and an implementation period.

I hope that the explanations provided above are fully responsive to the questions you have asked. A similar letter is being sent to Chairman Chambliss.

Sincerely,

MIKE JOHANNS,
Secretary.

Mr. Speaker, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am glad that we are moving this reauthorization before various authorities in the Grain Standards Act expire on September 30. I want to thank Subcommittee Chairman MORAN, Ranking Member ETHERIDGE, as well as Chairman GOODLATTE for their work on moving this reauthorization.

The legislation we are considering today would simply reauthorize the existing Grain Standards Act for 10 years. While I would prefer that the reauthorization be for 5 years to allow for reexamination of the state of the inspection service and industry at that time, I support the bill before us today.

As we saw with the recent experiences in the aftermath of Hurricane Katrina, the Federal Grain Inspection Service's Federal workforce is a dedicated group of individuals with many years of experience and a great deal of pride in the work that they do. The folks that work in the Port of New Orleans, for example, have continued to provide valuable public services even as the disaster affects their own families, homes, and neighborhoods.

The quality of the grain produced on American farms is among the best in the world, and our export inspection system helps ensure that the integrity of those crops is maintained as it is exported to our foreign customers.

I support the passage of this reauthorization, and I again want to thank my colleagues for their work on this issue.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH), who has worked on this issue.

Mr. KUCINICH. Mr. Speaker, I want to thank the gentleman from Minnesota (Mr. PETERSON) for the work he has done on this bill. I rise in support of S. 1752, the Reauthorization of the Grain Standards Act.

Two weeks ago, I was opposed to the bill because it needlessly privatized grain inspectors, which could harm our agricultural export market. In the mid-1970s, the inspection service was federalized following several scandals involving some growers who tried to cheat foreign buyers by, for example, substituting saw dust for grain. Overall, there were indictments of 52 individuals and four corporations.

Today, with Federal inspectors on the job, our foreign customers are confident in the quality of U.S. grain. But many of these buyers, international buyers, have spoken publicly about their reservations of a private inspection system. Such a scheme may harm U.S. exports of grains, something our farmers cannot afford.

Worse yet, the benefits from privatization are almost nil. According to testimony from the National Grain and Feed Association, privatizing the inspector force will save 8 cents per ton of grain per export in the unlikely scenarios that the entire cost savings were passed along to farmers by way of better commodity prices. The average 500-acre soybean farm would gain a measly $46 a year in extra income. For nothing more than pocket change, that kind of privatization could undermine the 30 years of confidence in the quality of U.S. grain. That was an enormous risk for pocket change.

Thankfully, because of the gentleman from Minnesota (Mr. PETERSON) and others, this bill before us today does not include the risky privatization scheme that was contemplated.

I once again want to thank the gentleman from Minnesota and his staff for the opportunity to work with them on this legislation.

Mr. ETHERIDGE. Mr. Speaker, today the House is considering S. 1752, Senate-passed legislation to reauthorize the U.S. Grain Standards Act.

The Grain Standards Act helps farmers maintain a high standard of quality in crop production through a national system for inspecting, weighing and grading grain, both for domestic and foreign shipments.

S. 1752 reauthorizes the U.S. Grain Standards Act for 10 years. This bill will reauthorize the Secretary's authority to charge and collect fees to cover costs of inspection and weighing services and to receive appropriated dollars for standardization and compliance activities.

I support reauthorization of these important components of the Grains Standards Act in order to ensure the United States remains a large producer of quality agricultural products.

I urge my colleagues to support S. 1752 so we can send it to the President for signature.

□ 1345

Mr. PETERSON of Minnesota. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the Senate bill, S. 1752.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1752, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

EXPRESSING SENSE OF CONGRESS THAT UNITED STATES SUPREME COURT SHOULD SPEEDILY FIND USE OF PLEDGE OF ALLEGIANCE IN SCHOOLS TO BE CONSISTENT WITH CONSTITUTION

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 245) expressing the sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States.

The Clerk read as follows:

H. CON. RES. 245

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) judicial rulings by the United States Court of Appeals for the 4th and 9th circuits have split on the issue of whether the Constitution allows the recitation of the Pledge of Allegiance in schools;

(2) the ruling by the United States Court of Appeals for the 4th circuit correctly finds the Constitution does allow such a recitation; and

(3) the United States Supreme Court should at the earliest opportunity resolve this conflict among the circuits in a manner which recognizes the importance and Constitutional propriety of the recitation of the Pledge of Allegiance by school children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 245.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Concurrent Resolution 245, expressing the sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States.

As Justice Stevens noted, writing for the Court last year in Elk Grove Unified School District v. Newdow, "The Pledge of Allegiance evolved as a common public acknowledgement of the ideals that our flag symbolizes. Its recitation is a patriotic exercise designed to foster national unity and pride in those principles."

However, going far beyond the requirements of the Establishment Clause and the Supreme Court's interpretation of that clause, the Ninth Circuit struck down a school policy of voluntary, teacher-led recitation of the Pledge of Allegiance, citing that the policy impermissibly coerces a religious act.

Last summer, the Supreme Court reversed the Ninth Circuit's decision on standing grounds. Though the Court did not address the merits of the case, the late Chief Justice Rehnquist stated in his concurring opinion: "I do not believe that the phrase 'under God' in the Pledge converts its recital into a 'religious exercise.' Instead, it is a declaration of belief in allegiance and loyalty to the United States flag and the Republic that it represents. The phrase 'under God' is in no sense a phraser, nor an endorsement of any religion, but a simple recognition of the fact that from the time of our earliest history, our peoples and our institutions have reflected the traditional concept that our Nation was founded on a fundamental belief in God."

Just 2 weeks ago, in Newdow v. U.S. Congress, the Eastern District of California relied on the Ninth Circuit's decision and held that school district policies of voluntary, teacher-led recitations of the Pledge violate the Establishment Clause.

But, as former Chief Justice Rehnquist stated: "The Constitution only requires that schoolchildren be entitled to abstain from the ceremony if they choose to do so. To give the parent of such a child a sort of 'heckler's veto' over a patriotic ceremony willingly participated in by other students, simply because the Pledge of Allegiance contains the descriptive phrase 'under God' is an unwarranted extension of the Establishment Clause, an extension would have the unfortunate effect of prohibiting a commendable patriotic observance."

The Pledge of Allegiance is simply a patriotic exercise in which one expresses support for the United States of America, that was founded by a generation of framers who saw a belief in God as fundamental to sustaining the moral fabric of a free society. Those who did not share the beliefs of our founding generation as reflected in the Pledge are free to refrain from its recitation. However, those who wish to voluntarily recognize the special role of providence in America's identity and heritage must also continue to be free to do so.

This body affirms its support for the Pledge of Allegiance by starting each session of the House with its recitation. When the Pledge of Allegiance has come under legal and political assault, this body has consistently and overwhelmingly defended it by passing resolutions that expressed support for its voluntary recitation. Most recently, in 2003, the House passed H. Res. 132 affirming support for the Pledge by a margin of 400 to 7.

I urge my colleagues to continue to affirm their support for the Pledge of Allegiance by supporting the passage of this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I come from a State that has a long tradition in supporting religious freedom. In fact, it was Thomas Jefferson of Virginia who wrote the Virginia Statute for Religious Freedom which predates the amendment to the Constitution.

Unfortunately, H. Con. Res. 245 is not about supporting religious freedom. In fact, this resolution is totally gratuitous, as it will do nothing to change the underlying law. This is because we are dealing with constitutional issues that cannot be altered by resolution. If the judicial branch ultimately finds the Pledge, or the national motto to be constitutional, then nothing needs to be done. On the other hand, if the Court ultimately finds it to be unconstitutional, no law that we pass will change that.

Although I tend to agree with the dissent in the 2002 Ninth Circuit decision in Newdow v. U.S. Congress, which found that the words "under God" in the Pledge are permissible under the Constitution, I believe it is important to review the reasoning of the majority decision in that case which held that the words "under God" are impermissible on constitutional grounds.

The majority in the Newdow case applied each of the three Supreme Court tests that have been used over the last 50 years in evaluating Establishment Clause cases. That review is essential, because if we support the Pledge, we need to make sure that we support it based on appropriate constitutional principles.

One test the Ninth Circuit cited was whether the phrase "under God" in the Pledge constitutes an endorsement of religion. The majority opinion said it was an endorsement of one view of religion, monotheism, and, therefore, was an unconstitutional endorsement.

Another test was whether the individuals were coerced into being exposed to the religious message, and the majority opinion concluded that the Pledge was unconstitutional because young children are compelled to attend school and "may not be placed in the dilemma of either participating in a religious ceremony or protesting."

Finally, the Court applied the Lemon test, named after the 1971 Supreme Court case Lemon v. Kurtzman. Part of that test holds that a law violates the Establishment Clause if there is no secular or nonreligious purpose. Mr. Speaker, the Pledge was amended in 1954 to add the words "under God" to the existing Pledge, and so the Ninth Circuit concluded that the 1954 law had no secular purpose and was, therefore, unconstitutional.

Mr. Speaker, while I believe that the majority's reasoning was sound, I indicated that I tend to agree with the dissent in the 2002 Newdow case. The operative language in the dissent which persuaded me was as follows:

"Legal world abstractions and ruminations aside, when all is said and done, the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress someone's belief is so minuscule as to be de minimis. The danger that phrase represents to our first amendment's freedoms is picayune at best.

"Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries."

Mr. Speaker, I agree with the dissent and support the Pledge of Allegiance as is under the theory that the words "under God" are de minimis. Because the language fails other traditional Establishment Clause tests, the principle that the words "under God" are de minimis is the only principle that supports the Pledge as it is. If we suggest that the words are not de minimis, then what do we have to rely on? We would have to overturn one of the existing Supreme Court tests. What will we base that decision on? Would we permit, for example, the government endorsement of one religious view and open the door to other endorsements? Will we permit proscribed coercion of young and impressionable schoolchildren and open the door to other government proscribed religious messages? Should we repeal the Lemon law test and permit the enactment of legislation that only has a religious purpose?

Moreover, if we elect to maintain the Pledge with the words "under God" simply because it represents a page in our history as the Fourth Circuit appears to allow, then are we establishing a new Supreme Court test, a historical setting test, or is that the same de minimis standard that the Ninth Circuit cited?

Again, the only principle which upholds the constitutionality of the Pledge is that the words "under God" are de minimis, as explained by the dissent in the 2002 Newdow case in the Ninth Circuit. The problem with relying on that principle and enacting H. Con. Res. 245 is that our actions do more harm than good. The de minimis principle is precarious at best.

It is easily undermined by the emphasis we place on the language. If the courts look at the importance that we apparently affix to the words "under God" by passing this legislation and increasing the magnitude of the attention we give the issue, we subvert the argument that the phrase has de minimis meaning and, in fact, increase the constitutional vulnerability of that phrase in the pledge.

Mr. Speaker, when we were sworn in, we promised to uphold the Constitution. It is important to acknowledge that any court ruling based on constitutional rights will be unpopular. If the issue was popular, the complainant would be able to vindicate his rights using the normal democratic legislative process. Obviously, the fact that he had to rely on constitutional rights and go through the courts means that he was in the minority.

This will always be the case with constitutional rights. You do not need the Constitution to protect the freedom of speech to say something that is popular. You only need it when the majority tries to use the democratic legislative process or police power to stop you from expressing your views, and stopping the majority from exercising that power will always be unpopular.

Mr. Speaker, whatever we think of the recent California district court or the previous Ninth Circuit decisions, the only thing worse than those decisions is a spectacle of Members of Congress putting aside efforts to address the tragedies caused by Hurricanes Katrina and Rita, considering the appointments to the Supreme Court, completion of the appropriations process for the fiscal year that begins 3 days from now, and the need to address a budget deficit that jeopardizes the next generation in order to take time to pass this resolution. Such a spectacle only emphasizes the importance of the words "under God" and, simultaneously, undermines the only constitutional argument that supports the Pledge as it is, and that is, that the words are not important.

Mr. Speaker, in that light, the majority of the Members of Congress will always disagree with the constitutional decision of the judicial branch, and so, Mr. Speaker, because this resolution actually makes it less likely that a court can find the Pledge unconstitutional and because what we think about the decision is actually irrelevant and because we have other important business to do, I would hope that this resolution is defeated.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ISSA), the author of the resolution.

Mr. ISSA. Mr. Speaker, this is not a de minimis issue, and those who would say that a constitutional question is ever inappropriate I am afraid do not understand the importance of millions of American children not knowing, depending upon where they live, how they should recite the Pledge of Allegiance. More importantly, it is not about religion. It is about from where our power comes.

Our Founding Fathers rightfully said that our power came from the laws of nature and of nature's God in the Declaration of Independence. I do not know what Thomas Jefferson exactly meant; I was not there. What I do know is that our Founding Fathers believed that the power of the Almighty came to the American people and they loaned to government the right to govern them, rather than the sovereign that they had served in England, the sovereign who said that the powers of God came to him or her and that they then doled it out to the people they chose to.

□ 1400

That difference is profound. It is the difference in American government that we are not the governed of our government but, in fact, the owners of our government.

More importantly, I want the Members on both sides of the aisle to understand that this is not about raising or lowering the importance, it is not about deciding what is appropriate in the Pledge of Allegiance. What it is about is having the indecision between the Ninth and the Fourth Circuit appropriately decided by the U.S. Supreme Court. Once decided by the Supreme Court, it would then be up to the people of the United States to decide if they wanted to change the Constitution, because the Supreme Court is in fact the final decision point.

It is inappropriate, it is always inappropriate for the Supreme Court to allow an important issue to remain undecided and different in different parts of the United States. Therefore, appropriately, my bill asks the U.S. Supreme Court on behalf of the House and the Senate to take up this important issue, an appropriate issue, and to decide it. We do not determine how it is to be decided by the vote. Those who vote for this are simply asking the Supreme Court to decide an important issue to end the undecided issue between the Ninth and the Fourth and, for that matter, all the other circuits.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. NADLER), the ranking member of the Subcommittee on the Constitution.

Mr. NADLER. Mr. Speaker, it seems that many Members of this House must really be dissatisfied with their jobs. Instead of being legislators, they seem to want to be Federal judges. Every Member, like every citizen, is entitled to express an opinion on any ruling by any court. That is what our system of government is about. What concerns me is that too many people here seem to think it is the job of Congress to order courts to decide cases certain ways or to consider issues that we want them to consider.

The gentleman from California (Mr. ISSA) should read his own resolution. His resolution does not ask the Supreme Court to decide between the Ninth and Fourth Circuit views. It asks them to decide that the Fourth Circuit is right and the Ninth Circuit is wrong. It asks for a certain specific direction.

We have considered bills here to take away certain Federal court jurisdiction because some Members do not like certain court decisions. We have heard threats against judges, against the courts, even statements by some who have said that they understand the murder of judges. This resolution is not binding, and it is probably as innocuous as they come; but it is part of a greater campaign of delegitimizing the independent judiciary, by implication our system of checks and balances and our system of government.

Courts are supposed to rule on cases that come before them; to call them as they see them; to decide what the Constitution means as the court sees it, as Judge Roberts recently told the Senate regardless of popular opinion. That is their job. It is not our job to pressure the court to decide the case a specific way. If we do not like a court decision, we can amend the law. We can start a constitutional amendment if we disagree with a court decision.

I am more than a bit concerned that Members seem to want to decide this case for themselves, but I am more concerned by the constant assertions by Members and some courts that the phrase "One Nation Under God" is not a form of religious expression. As the gentleman from Virginia (Mr. SCOTT) mentioned, constitutionally the only way, since it is clear that we cannot have an establishment of religion, since the jurisprudence of the Supreme Court for the last 40 years says that we cannot mandate a prayer, that we cannot mandate that children in school should say a prayer, we cannot lead an organized prayer in a public school, as I have said repeatedly on this floor, there will always be prayer in the public schools as long as there are math tests, but we cannot have organized prayer where an agent of the State, namely the teacher, says this is the prayer you shall say. That is an establishment of religion, and it is against the first amendment.

The only way around that is by saying that the phrase "under God" in the Pledge of Allegiance does not mean anything. It is a mere patriotic expression. It is not religious. It does not mean anything. I think that is sacrilegious. Frankly, it violates the Second Commandment: "Thou shall not take the name of the Lord thy God in vain." Maybe we should have the Ten Commandments here, so people can take a look at it every so often.

Frankly, references to God are inherently religious, and it is a sin to use the Lord's name for any other purpose. It is a religious expression with which not all people, including people of different religions, might agree. It is not out of the question that a court could reasonably conclude that this sentence is a religious expression, that it is inherently coercive when the government makes it part of every school day. That is what the Ninth Circuit did conclude.

It is not the job of Congress to tell the court what to decide, and certainly not the job of Congress to tell the court that God is not religious. If God is not religious, then nothing is religious.

I know most people will look at this vote and think it is a vote on whether or not you support the Pledge of Allegiance; whether or not you are loyal, in fact, to this government; or whether or not you are a person of faith or whether you support God. It is unfortunate that we have to politicize this issue in this way, and that is the real reason for this resolution, since it is totally innocuous, is not binding and has no effect.

But it is even more unfortunate that there is so little respect for our system of government and such enthusiasm for delegitimizing the judiciary every time someone disagrees with a court ruling. That is very dangerous. The future of our Nation depends on the preservation of our system of government, the preservation of the independence of the courts, and not on the text of the Pledge that children are asked to recite in school.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking Democrat on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time and for managing the bill so ably.

Well, here we are again, as we take this issue up for a fourth time; and I am again disappointed to say that we are not here for a love of this country or the time-honored Pledge that celebrates it, but to take yet another stab at our independent judiciary. Because the Ninth Circuit did not bend to the resolve of Congress and because the Supreme Court skirted the first amendment claims in the Newdow I decision, Members of this House have introduced this resolution in an attempt to strong-arm judges and manipulate the Supreme Court appointment process. How sad.

So I respectfully take issue with this resolution. While my reverence for the Pledge of Allegiance is unending, my patience with this sort of political maneuvering has long run out. This resolution is a vehicle simply for a conservative litmus test for new judges, particularly Supreme Court Judges, as we currently face both a vacancy and a confirmation of a new Justice.

This resolution was introduced the day after Newdow II, September 14 it was reported; and opponents immediately put it to use in the confirmation process. One conservative group used the case as a vehicle to endorse the confirmation of Judge John Roberts as Chief Justice and to bash Carter-appointed District Court Judge Lawrence Karlton as a judicial activist, even though he was bound by a prior ruling of the Ninth Circuit on the merits. Moreover, the gentleman from South Carolina, Senator LINDSEY GRAHAM, deliberately invoked the Pledge ruling at the Roberts confirmation hearings.

All of this comes on the heels of our prior Pledge resolution in 2003 that directed the President to appoint and the Senate to confirm circuit judges who would supposedly "interpret the Constitution consistent with the Constitution's text."

Today is the next step. We urge the Supreme Court to accept an appeal to resolve the conflict between the circuit courts over the constitutionality of the Pledge. While drafters have tried to use the most subtle phrase possible in this series of resolutions, their intent is clear: the resolutions demand the promotion of judges who fall in line with a specific series of conservative ideals and a specific result on the merits.

Our judiciary was meant to be independent. Our Founding Fathers created three distinct branches of government to ensure that no single body could write, interpret, and enforce the laws all at the same time. Today's resolution is part of a series that overreaches the bounds between the legislature and the judiciary and attempts to make puppets of our judges. Our judges should be impartial arbiters, which they cannot be if they are manipulated by the Congress.

Further, the Model Code of Judicial Conduct reveals that no candidate for a judgeship "make pledges or promises or conduct in office other than the faithful and impartial performance of the duties of the office," nor "make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court." So not only do these resolutions make a mockery of our judicial system, they also, my colleagues, subject our judges to potential ethical violations.

While I may disagree with the Newdow decisions, I disagree even more with attempts to influence the constitutional interpretation by politicizing judicial appointments. I respect the Pledge of Allegiance so much that I resent that it is being used as a tool for political jockeying and partisanship. Our Pledge simply deserves better.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume and point out that out of respect for the judicial branch and because the passage of this resolution will actually make it less likely that the Pledge will be found constitutional by the judicial branch, we should defeat this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, in closing, in the past, over 300, sometimes over 400, Members of Congress have affirmed the Pledge as it is. I do not think this is a question about whether or not God is appropriate to be used at times. I think that has been decided within this body. Certainly "In God We Trust" above the Speaker's head says a great deal about the role of God in our deliberation.

This resolution is about asking, albeit with a bent in favor of past votes, asking the Supreme Court to decide an issue. Ultimately, when we ask the Supreme Court to decide an issue, we are not deciding it. We are not binding them to some decision. Just the opposite. This is a free and independent judiciary that will decide the issue as it sees fit. But it is appropriate both for us to ask them to do it and, when appropriate as an amicus, enter into the debate at the Supreme Court. I expect we will do that if and when the Supreme Court takes this issue up.

Mr. Speaker, I move strongly that the Members support the opportunity and the insistence to the extent of our authority that the Supreme Court take this unreconciled difference between two circuits up and decide one way or the other, one time, for the youth of America.

Mr. Speaker, I rise today in support of H. Con. Res. 245. It is time to settle the constitutionality of the Pledge of Allegiance. America's circuit courts are currently split on the issue, and I introduced this resolution to encourage the Supreme Court to resolve this conflict on the side of patriotism.

We come to this juncture because of an attempt by a very few to scour the public space of religious symbols and expression. They have targeted federal, state and local governments in a determined effort to erase every single reference to the existence of a higher power from public life. While they claim to be fighting the establishment of religion, what they are really doing is eliminating the freedom of religious expression. They have forgotten that the inclusion of "under God" in the Pledge is no more egregious than Thomas Jefferson including the phrase "Laws of Nature and of Nature's God" in the Declaration of Independence.

In 2002, the 9th Circuit Court of Appeals ruled that recitation of the Pledge of Allegiance in classrooms is unconstitutional. Far be it for we in Congress to criticize the wisdom of the 9th Circuit. I would rather compliment the 4th Circuit's ruling last month that the Pledge is constitutional. The 4th Circuit noted that the primary reason for the Establishment Clause within the First Amendment was to combat the practice of European nations compelling individuals to support government favored churches. The 4th Circuit stated that the inclusion of the words "under God" in the Pledge of Allegiance does not pose a threat to freedom of religion.

We are left with two divergent interpretations of the constitutionality of the Pledge of Allegiance. Two weeks ago, a U.S. District Court within the 9th Circuit judge stated that he was bound by precedent of the 9th Circuit and held that the Pledge is unconstitutional in another school district.

The Supreme Court must decide the issue to ensure that our children have the right to express their patriotism through recitation of the Pledge of Allegiance. The Court had the opportunity to resolve this issue last year but failed to do so. It is time for the Supreme Court to step in and support the Pledge.

I encourage all of my colleagues to vote in favor of H. Con. Res. 245.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H. Con. Res. 245, affirming the words of the Pledge of Allegiance.

Religion has always been an important part of America. Our country was created on a religious foundation. Since the first Pilgrim stepped on Plymouth Rock, people came to our shores in pursuit of religious liberty. They left nations of intolerance and established a country built on concepts of diversity and religious freedom. Our Founders endowed successive generations of Americans with a Constitution that has held us together and healed major fractures within our society.

Included in the Constitution is the protected right of freedom of religion. But freedom of religion is not freedom from religion—certainly not in something as universally unifying as the Pledge of Allegiance. It is an allegiance to the United States of America—and its simple words acknowledge that we are "one Nation, under God."

On July 4, 1776, our Founding Fathers, after appealing to the "Laws of Nature, and of Nature's God" justified their separation from Great Britain by declaring, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."

In 1781, Thomas Jefferson wrote in his "Notes on the State of Virginia," "God who gave us life gave us liberty. And the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the Gift of God."

In his Farewell Address in 1796, President George Washington called religion "a necessary spring of popular government." President Adams claimed that statesmen "may plan and speculate for Liberty, but it is Religion and Morality alone, which can establish the Principles upon which Freedom can securely stand."

Likewise, the words "under God" were used by President Abraham Lincoln in the Gettysburg Address in 1863. After paying tribute to the soldiers who had died in an effort to end slavery, Lincoln turned to the responsibilities of those who would benefit from their sacrifices.

He said, "It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion; that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom; and that government of the people, by the people, for the people, shall not perish from the earth."

There are many other examples of how religion and God have been woven into the fabric of our Nation's history.

By pledging allegiance to this Nation and acknowledging that we are under God, that our Nation is indivisible, and that we enjoy liberty and justice for all, Americans simply recognize the historical fact that we have a religious heritage, that the country cannot be divided, and that everyone will be free and treated fairly.

The words "under God" are not in violation of the Establishment Clause because they do not sponsor or support a specific national religion.

Our country, and the freedoms we cherish, continue to be fought for each day. Just as President Lincoln said during the Gettysburg Address, it is our duty to resolve that those who have given the ultimate sacrifice for our freedom do not die in vain; that this Nation, under God, will continue to protect and honor those hard-fought freedoms.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H. Con. Res. 245, which tells the Supreme Court to uphold the constitutionality of the Pledge of Allegiance. I oppose this resolution on two grounds. First, Congress shouldn't be telling the Supreme Court how to do their job. Second, the Pledge of Allegiance is unconstitutional and the 9th Circuit decision should stand.

That being said, I shouldn't be surprised that those who claim to speak for God also think they have the right to tell our independent judiciary what to do. The Republican Majority has railed against activist judges legislating from the bench throughout the Supreme Court nomination hearings, but they apparently see nothing wrong with telling those judges how to rule from the legislature. If judges shouldn't legislate, Congress shouldn't adjudicate.

Beyond the hypocrisy and improper meddling of this resolution, I oppose it because the Pledge of Allegiance is unconstitutional. The Constitution bars Congress from passing any law that recognizes religion. The 1954 law, passed at the height of anti-Communism, that specifically added the phrase "under God" to the Pledge, could not be more clearly unconstitutional.

The feeble argument of proponents of this resolution that "under God" is not overtly religious is only undermined by their holy crusade to make darn sure that the phrase stays in the Pledge. This will be the sixth time this House has voted on this issue—hardly a sign of the phrase's unimportance to religious conservatives.

Mr. Speaker, I don't want my children or any child to have a compulsory, religious recitation in this supposedly free society, and seeing the vehemence of those who think otherwise only strengthens my opposition to the Pledge.

Mr. SENSENBRENNER. Mr. Speaker. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the concurrent resolution. H. Con. Res. 245.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair. two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3402, the bill to be considered shortly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

The SPEAKER pro tempore (Mr. ISSA). Pursuant to House Resolution 462 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3402.

□ 1414

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

□ 1415

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 3402, the Department of Justice Appropriations Authorization Act for Fiscal Years 2006 through 2009. The authorization of executive agencies fulfills Congress' fundamental constitutional obligation to maintain an active and continuing role in organizing the priorities and overseeing the operation of the executive branch. With an annual budget of over $20 billion and 100,000 employees, the Department of Justice is one of the most important agencies of the Federal Government and the world's premier law enforcement organization. Like other legislation reauthorizing the Department of Justice approved by the House in both the 107th and 108th Congresses, I am proud that this bill is the product of extensive bipartisan deliberation.

In addition to serving as a broad statement by the House of Representatives regarding the priorities of the DOJ over the next several years, this bill addresses the administration of grant programs by the Office of Justice Programs and the Office on Violence Against Women.

By providing grants to State and local governments to focus on current crime issues affecting cities and towns across the country, these grant programs can serve an important role in the fight against crime in America. However, given the finite Federal resources available, it is the responsibility of this body, both through the authorizing process and continuous oversight, to review and evaluate these programs to ensure that the taxpayers' money is used effectively.

This legislation contains a number of important provisions that will strengthen congressional oversight of the Department's law enforcement activities and financial management. Among the new provisions included are: The creation of an office of audit, assessment and management within OJP to monitor grants; a privacy officer to protect personally identifiable information; a directive to the Assistant Attorney General of the Office of Justice Programs to establish a single financial management system and a single procurement system.

In addition to the important oversight tools provided in the bill, there are a number of commonsense provisions designed to improve the administration of programs within the department. H.R. 3402 eliminates duplication by consolidating the Local Law Enforcement Block Grant program and the Byrne grant program into one program with the same purposes and simplified administration. The bill also preserves the COPS program, but modifies it to allow grantees greater flexibility to seek grants for a number of purposes, including but not limited to hiring.

Other provisions contained in this legislation authorize programs to combat domestic violence, dating violence, sexual assault and stalking. Titles 4 through 10 of the bill focus on reauthorizing, expanding and improving programs that were established in the Violence Against Women Act of 1994, or VAWA, and reauthorized in 2000. The bill reauthorizes some important core programs, such as "STOP" grants and grants to reduce campus violence. These programs have been successful in combating family and domestic violence.

The reauthorization of VAWA will continue the tradition of changing attitudes towards domestic violence, and will expand its focus to change attitude toward other violent crimes, including dating violence, sexual assault and stalking. Because these crimes affect both men and women, it is important to note that this legislation specifies that programs addressing these programs should serve both male and female victims.

Furthermore, the legislation specifies that the same rules apply to these funds as to other Federal grant programs. The funds devoted to these programs are not to be used for political activities or lobbying. This money is and always was intended to be used to provide services to victims and to train personnel who deal with these violent crimes. The Department of Justice is expected to enforce that provision for all its grants and to monitor grant activities to ensure compliance not only with this condition but all conditions of the grants.

Mr. Chairman, prior to the enactment of the "21st Century Department of Justice Authorization of Appropriations Act" in 2002, Congress had not formally authorized the operations of the Department of Justice in nearly a quarter of a century.

During floor consideration of that legislation, I expressed my desire that its passage would lead to a regular authorization process that permits Congress to more rigorously oversee the organization, structure, and priorities of DOJ. While the House unanimously passed legislation reauthorizing the Department last Congress, the legislation was not taken up by the other body.

H.R. 3402 contains important bipartisan provisions to ensure that the Department of Justice is better equipped to promote the purposes for which it was established. The legislation also reauthorizes critical programs necessary to help protect the safety and security of Americans while enabling Congress to properly exercise the vigorous oversight that the Constitution requires. I urge my colleagues to support this important and bipartisan legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the legislation beginning by commending the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary who has worked very hard with me on the bill. In the past few years, we have dealt with the Department of Justice, which has oftentimes become increasingly resistant to congressional oversight, either refusing to answer questions or answering them so vaguely that we are not sure what the answer really is. Fortunately, together we worked to address our concerns with the Department of Justice and arrived at the bill before us today.

The bill provides funding for the various offices within the department. In this regard, I would like to note that it gives the Office of the Inspector General over $70 million for its responsibilities. Why is that important? Because in the past few years, the Office of Inspector General has been particularly diligent in overseeing the Department's war on terrorism, issuing reports on the 9/11 detainees and pushing the Department to change how its procedures are used for handling terrorism suspects.

In addition, the bill reauthorizes the COPS office. That is the Community Oriented Policing Services. Now, we all know that this Clinton administration program has been increasingly vital in crime prevention and crime solving, and that is why COPS has received the praise of the Fraternal Order of the Police, the largest law enforcement organization in the country. Local policing is the backbone in our war on terrorism as community offices are more likely to know the witnesses and more likely to be trusted by the community residents who have information about potential attacks. This bill provides them over $1 billion per year for this program.

An important piece of legislation before us is the reauthorization of the Violence Against Women Act of 1994. I am particularly proud of it for this is the third time we have worked on this bill and each time we make dramatic improvements by using new vehicles to tackle the issue. Building on the work from previous years, the Act reauthorizes some of the most current programs that have been enormously effective, including the "STOP" program, which provides State formula grants that help fund collaboration efforts between police and prosecutors and victims services providers, including legal assistance for victims.

However, there is a grave concern about this measure before us that I must speak to. We worked very hard during negotiations on this bill to recognize the obstacles that some racial and ethnic minorities and their organizations face in the mainstream system. We specifically included language that allows programs to target communities of color. This language does not give any preferences to minorities nor does it impose any quotas. And we have all been there on quotas. It does not do that. It simply requires the Department of Justice to describe how they will address the needs of racial and ethnic minorities and other underserved populations, and to recognize and meaningfully respond to the needs of these racial and ethnic minorities and other underserved populations. That is all, and to ensure each gets their fair share.

The bill that passed the Committee on the Judiciary had this language included. However, late last night I was informed that the majority had decided to strike this important language in a manager's amendment. I am very sorry to learn of this news. For while I support the underlying bill and stress the importance of reauthorizing the Department of Justice programs contained in it, I seriously regret this advance that was included in the language that has been stricken. I think it is a tragedy. I think it is a serious misunderstanding of what the law is now. Everybody on the Committee on the Judiciary knows how to avoid quotas and certainly not to give preferences to minorities. This measure was included in our bill because it was important that they begin to get a fair share of proceeds that were being allotted under the bill. It was not to secure anything like a quota, and the bill to me deserves our support. I stress the importance of reauthorizing the Department of Justice programs contained in it. I have a very serious problem with the manager's amendment, and will not support that effort.

I rise in support of this legislation. I first would like to commend Chairman SENSENBRENNER for reasserting the Judiciary Committee's jurisdiction over the Department of Justice with this bill. In the past few years, the Department has become increasingly resistant to congressional oversight, either refusing to answer questions or answering them vaguely at best. Fortunately, we worked together to address our concerns with the Department and arrived at the bill before us today.

In general, the bill provides funding for the various offices within the Department. In this regard, I would like to note that it gives the Office of the Inspector General over $70 million for its responsibilities. In the past few years, the OIG has been diligent in overseeing the Department's war on terrorism, issuing reports on 9/11 detainees and pushing the Department to change how its procedures for handling terrorism suspects.

The bill reauthorizes the Community Oriented Policing Services, COPS, office. We all know that this Clinton Administration program has been increasingly vital in crime prevention and crime solving. That is why COPS has received the praise of the Fraternal Order of Police, the largest law enforcement organization in the country. Local policing also is the backbone in our war on terrorism, as community officers are more likely to know the witnesses and more likely to be trusted by community residents who have information about potential attacks. This bill provides over $1 billion per year for this program.

An important piece of the bill is the reauthorization of the Violence Against Women Act of 1994. This is the third time we have worked on this bill, and each time we make dramatic improvements by using new vehicles to tackle the issue. Building on work from previous years, the Act reauthorizes some of the current programs that have proven enormously effective, including the STOP program—which provides State formula grants that help fund collaboration efforts between police and prosecutors and victim services providers—and legal assistance for victims.

I do have one grave concern about this bill that must be addressed. We worked very hard during negotiations on this bill to recognize the obstacles that some racial and ethnic minorities face in the mainstream system. We specifically included language that allows programs to target communities of color. This language does not give any preferences to minorities, nor does it impose any quotas. It simply requires the Department of Justice to "describe how they will address the needs of racial and ethnic minorities and other underserved populations" and "to recognize and meaningfully respond the needs of racial and ethnic minorities and other underserved populations" and to ensure that each gets their fair share.

The bill passed the Judiciary Committee with this language included. However, late last night I was informed that the majority had decided to strike this important language in a Managers' Amendment. While I support the underlying bill and stress the importance of reauthorizing the Department of Justice programs contained in it, I have serious problems with the Managers' Amendment and will not support that effort.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I regret to hear what the gentleman from Michigan (Mr. CONYERS) has just said. Let me reassure the gentleman that the language to have grants go to underserved racial and ethnic populations is still in the manager's amendment. The reason the language had to be changed was to avoid a potential court challenge because language in grant programs have strict scrutiny by the courts.

Let me just quote what is contained on page 8 in the manager's amendment which provides an amendment to lines 1 and 2 of page 126 of the bill. The new language says, "Populations underserved because of geographic locations, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alien age status, or age) and any other population determined to be underserved by the Attorney General." This new language, which is proposed in the manager's amendment I believe will do what the gentleman from Michigan wishes to accomplish, and that is to make sure that underserved racial and ethnic populations are on the radar screen when the attorney general makes up his mind on who will be able to get grants to provide services to deal with this subject.

What it does do is it prevents this money from being tied up in a court challenge that will probably last through most of the life of this authorization bill, which is through September 30, 2009, or just a few days more than 4 years from now.

I would encourage the gentleman from Michigan to be sensitive to the fact that the language in the original bill would have been subject to a court challenge, and in the manager's amendment we attempt to get rid of that.

Mr. Chairman, I yield such time as he may consume to the gentleman from Nevada (Mr. PORTER).

□ 1430

Mr. PORTER. Mr. Chairman, I rise to engage the chairman of the Committee on the Judiciary in a colloquy.

Mr. Chairman, it is my understanding that included in the Department of Justice reauthorization are measures that will ease the administrative burdens that exist for State and local governments and provide them greater flexibility to spend the money they have been awarded from the various grant programs. Is that correct?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the gentleman is correct.

Mr. PORTER. Mr. Chairman, reclaiming my time, there are many areas throughout the country that have extremely high tourism rates. The local law enforcement agencies of these areas have the difficult task of providing services to these tourists on top of their responsibility to the base population. For example, the city of Las Vegas has a population of over 534,000 people; however, over 40 million tourists a year visit Las Vegas. Local law enforcement is responsible for the safety of these visitors, which places a huge financial strain on the various police departments.

With that in mind, would the chairman agree that one factor in awarding grant money should be the disproportionate amount of tourists an area has related to that area's base population?

Mr. SENSENBRENNER. Mr. Chairman, if the gentleman will continue to yield, I would agree and would work with the gentleman from Nevada to address this problem as the bill moves to conference.

Mr. PORTER. Mr. Chairman, reclaiming my time, I thank the chairman for his offer and look forward to working with him.

Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to thank him for yielding to me because the position that we have adopted that we are being set back by the manager's amendment is agreed to by the women against violence organizations, the civil rights organizations. And we have numerous letters, one from the chair of the National Task Force to End Sexual and Domestic Violence Against Women, which plainly go into the details of the fact that in no way are we trying to establish quotas or favoritism to any one particular group whatsoever.

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. McDERMOTT. Mr. Chairman, reclaiming my time, it has been said that society's humanity is judged by the way it handles the problems and the protection of those who are least able to take care of themselves. And having watched television for the last few weeks about the issues around Katrina, one clearly understands that sometimes people on the bottom do not get handled very well. Somehow, the things do not happen that should happen for them. That gave us an ugly glimpse at that part of our society.

And then as the country began to come out of that, the President walked out of the White House and said, we are not going to give prevailing wage to the people who work on the reconstruction of their own houses and their own countryside, that we were going to put them down at the minimum. We are going to take away the set-asides for minority and small business. Now, it is no wonder that these organizations would be concerned when they see this kind of manager's amendment.

I am not a lawyer. We could stand out here and argue about all the lawyer technicalities inside and outside. And I will enter into the RECORD a letter dated September 28, 2005, from Hilary Shelton. When the NAACP and all the women's organizations come out and say we oppose this manager's amendment, it is understandable why they might be a little concerned, because every time we turn around, the safety net is being ripped.

The language that is being taken out here that has been in the bill before is requiring the States to "describe how they will address the needs of racial and ethnic minorities and other underserved populations" and "to recognize and meaningfully respond to the needs of racial and ethnic minorities and other underserved populations."

Now, for us not to be able to put that in the law because somebody says on the fringe that this is some kind of affirmative action or anything else, we have to take care of people who are not served in this society. If they happen to be in underserved areas, they do not necessarily have to be black or brown or red or yellow. They could be white. The question is, how are we going to deal with the underserved people in this country no matter who they are? And this amendment does not need to be made so that those groups can say, well, we are going to take you to court and fight you for 3 years.

That is what the chairman just said. He said if we put that in there, they are going to go into court and say this is a quota and we want to fight it, and they will stretch it out for 3 years or 5 years or however long, a typical tactic of the right to do unto those who are least able to do for themselves.

I urge the rejection of the manager's amendment.

The material previously referred to is as follows:

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, September 28, 2005.

Re NAACP opposition to the Managers amendment to H.R. 3402, Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009.

MEMBERS,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: On behalf of the National Association for the Advancement of Colored People (NAACP), our nation's oldest, largest and most widely-recognized grassroots civil rights organization, I am writing to express our strong opposition to the Manager's amendment to H.R. 3402, the Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009. The Manager's amendment, which is meant to be non-controversial, strips out a key provision that is currently in the bill that ensures that racial and ethnic minorities who are victims of domestic violence would receive adequate services.

Specifically, the bill that was passed out of the Judiciary Committee requires states to ["describe how they will address the needs of racial and ethnic minorities and other underserved populations" and "to recognize and meaningfully respond to the needs of racial and ethnic minorities and other underserved population"] and to ensure that each gets their fair share. Unfortunately, this provision is sorely needed as domestic violence is still a serious—and largely untreated—problem in too many of our communities.

I urge you again, in the strongest terms possible, to oppose the Manager's amendment and to retain the language that is in the bill. Please help to address the problem of domestic violence in racial and ethnic minority communities as well as those areas that are currently underserved. Thank you in advance for your attention to the concerns of the NAACP; should you have any questions or comments, please feel free to contact me at (202) 463–2940.

Sincerely,

HILARY O. SHELTON,
Director.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I rise in support of the Department of Justice Reauthorization Act. Mr. Chairman, this is a good bill. It has many great programs. But there is one I would like to focus on today, one that I authored and worked on extensively as a separate bill, the Violence Against Women Reauthorization Act. I am proud to say it is part of the bill before us, and I want to thank the gentleman from Wisconsin and the gentleman from Michigan for their support to make this happen. I am pleased, and I think it is an important day for all of us.

As the Members know, VAWA was originally passed 10 years ago; and since that time, it has helped us make remarkable gains in fighting domestic and sexual violence. During that decade, VAWA, quite simply, has saved lives. It has helped millions of women and children find safety, security, and self-sufficiency.

Because of the Violence Against Women Act, victims have found help to escape violence and get treatment. Law enforcement and the judicial system have learned how to better help these victims through what can be a very daunting and difficult legal process, and more people recognize the signs of abuse because of our public awareness campaigns.

Every step we take in fighting domestic violence helps not only save the immediate victim but it can help break the cycle of abuse that lasts, sadly, all too often generation after generation after generation. In this bill we are building on the successes of the Violence Against Women Act not only by reauthorizing effective programs but also by including innovative, cost-effective new programs that will continue the great work of those who have come before me and others, work that will help the criminal justice and legal systems better help and protect victims.

This law was first created 10 years ago. When it was reauthorized 5 years ago, it was improved; and I am hoping that we are doing the same thing here today.

We are doing this improvement through training grants; providing direct services for victims; providing services to children, teens, and young adults who have experienced violence in their lives, and educating young people about domestic violence and sexual assault.

By strengthening the health care system's response to violence against women and investing in broad remedies and services for victims, we will continue to make progress in preventing these crimes and ensuring that future generations are safe from domestic and sexual violence.

We have made great strides, but I think everyone here would be quick to admit that we have a long way to go. Any law enforcement agency will tell us that a huge portion of the violent crime they encounter is, sadly, domestic violence. If we give law enforcement better tools and training, if we go further to raise public awareness through campaigns, then we can break the cycle of violence and abuse that does seem to slide too easily from generation to generation.

I recently had the opportunity to visit the courts in Milwaukee and saw some of the groundbreaking work that they are doing. What we need to do as Members of Congress is stand shoulder to shoulder with our domestic violence leaders and organizations all around this country, make sure that they have the tools and the resources they need to be effective, that they need to be compassionate. I think this legislation does just that.

Again, I want to thank Members of both sides of the aisle who have worked so hard to make this legislation come forward today. It is a good day, and I am proud to be involved.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the Violence Against Women Act has rescued countless women from the vicious cycle of family violence, and it remains the cornerstone of our country's efforts to put an end to domestic abuse and sexual assault. Now is not the time to abandon our commitment to women around the world. It is time to strengthen our resolve and to protect these women.

We must also teach our youngest citizens, our children, that bullying, intimidation, and physical abuse are unacceptable behavior. That is why I fully support strengthening VAWA.

The Sensenbrenner amendment, on the other hand, offered today would weaken the very core of this legislation. If racial and ethnic minority language is struck from the STOP grants, which specifically target women of color and immigrant women who have experienced domestic violence, these populations will continue to be underserved.

Mr. Chairman, I urge my colleagues to support the reauthorization of VAWA in the Department of Justice bill and oppose the Sensenbrenner amendment so we can ensure these protections and resources remain available to all women.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. LARSEN).

Mr. LARSEN of Washington. Mr. Chairman, I would like to express my support for the Department of Justice Appropriations Authorization Act, and specifically title IV, the VAWA reauthorization.

I want to thank and recognize the gentleman from Wisconsin and the gentleman from Michigan for their efforts drafting this bill and for including legislative provisions from my bill, the International Marriage Broker Regulation Act.

This bill would protect the thousands of so-called "mail-order brides" who come to the U.S. each year through international marriage brokers. And although it is not a practice I particularly endorse, it is a practice that is largely unregulated.

In December 2000, this issue hit close to home when Anastasia King, a mail-order bride in Washington State, was murdered and buried in a shallow grave by her husband. It was later discovered that her husband had abused a former wife whom he had also met through a marriage broker.

Each year hundreds of Internet bride services recruit thousands of women, mostly from Eastern Europe, Southeast Asia, and other economically depressed parts of the globe, to marry their American clients. These marriage broker Web sites play off old stereotypes of foreign women as subservient wives.

A 1999 report by the INS estimated that there were at least 200 marriage broker companies operating in the United States and that each year as many as 4,000 to 6,000 individuals in U.S., almost all male, found foreign spouses through for-profit international marriage brokers.

My International Marriage Broker Regulation Act, and this DOJ authorization bill, will give these foreign women knowledge to protect themselves. They will know if their American fiance has a history of violence, and they will know their rights should they find themselves in an abusive relationship.

This bill will also stop what I call the "wife lottery," where men apply for several fiancee visas at the same time and marry the woman whose visa is approved first.

This legislation is a giant step towards protecting women who use the services of marriage brokers. I want to thank the chairman and ranking member for including it in this bill, and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I rise today in strong support of the language contained in the Justice Department Authorization Act that reauthorizes the Violence Against Women Act.

Scratch the surface of any of our Nation's most challenging social problems, from crime in schools to gang violence and homelessness, and we are likely to find the root cause is domestic violence, which disproportionately affects women and girls.

Law enforcement officers report that domestic violence calls are among their most frequent. Judges find that children first seen in their courts as victims of domestic violence return later as adult criminal defendants. Schools report that children with emotional problems often come from environments where violence is the norm.

This is why, while it is extremely important to combat violence against women, it is just as important to combat domestic violence involving the youngest of victims. This year's VAWA reauthorization bill takes that necessary step by clarifying that programs contained in VAWA can serve youth as well. It also adds programs that specifically target children and youth and their unique needs. Among these are the authorization of grants for services designed for young people who are victims of domestic and dating violence, sexual assault and stalking, and prevention programs that work with children and teens to stop the cycle of violence.

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Helping the young victims of domestic violence has always been an important issue to me. In the 107th Congress, I introduced the Legal Assistance for Victims of Dating Violence Act, which amended VAWA to allow legal assistance grants to be used to help the victims of dating violence. I am pleased to say that this language was included in VAWA when it was reauthorized in 2000, and is maintained in the VAWA language included in the DOJ Authorization Act today.

I commend the Committee on the Judiciary for providing additional services to victims of dating violence through this legislation. Violence begets violence, and it is incumbent on us to try to break the cycle. This is done by helping victims of domestic violence, especially our youngest victims before they become perpetrators of domestic violence later in life.

Mr. CONYERS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise today in support of provisions of my bill, H.R. 3188, the Immigrant Victims of Violence Protection Act, which are included in the Violence Against Women Act reauthorization. These immigrant provisions reflect hard, bipartisan work of many Members of Congress, and I thank the gentleman from Michigan (Mr. CONYERS) for his leadership on this issue.

This bill is a good start. It would help immigrant women who need to leave their abusive spouses by preventing their deportation while their application is being considered. It would provide them access to work permits, so that they can get a job on their own and gain economic security independent of their abusers. In addition to spouses, this bill would also protect battered children, as well as parents, from abusive family members.

However, we can do more. For example, this bill does not include provisions which would allow battered victims access to health insurance, food and other benefits required to escape their abuser. I will work hard to include these provisions in the final bill enacted.

As a first generation American and someone who represents an immigrant rich community in Chicago, I understand the unique challenges immigrant women face. "My neighbor called the police, but I did not sign the report out of fear," said a Mexican immigrant and mother of four at a press conference I held in Chicago. She said she stayed with her abusive husband for 13 years to be with her children.

This is the voice of women across the country that need our help to get out of the cycle of abuse. This Congress must remain vigilant in its fight to protect one of the most vulnerable populations in this country. I challenge my colleagues to make the fight against domestic violence a top priority.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding me time.

It has been my intent today to join with my colleagues from Washington State to offer two amendments to this bill. Two years ago, a terrible murder-homicide was committed in a parking lot in my district. This crime was particularly unusual in that it was committed by the chief of the Tacoma Police Department who murdered his wife, Crystal Judson Brame, while their two children sat in another car just a few yards away.

The investigation that ensued found serious problems with the Tacoma Police Department, which had led to the hiring and continued promotion of an individual with a history of domestic violence. Upon promotion to chief, violence committed by Chief Brame against his wife was not addressed by the department, even when police units had responded to a call.

The bottom line in this case is that the Tacoma Police Department did not have a strong and enforceable policy to address domestic violence committed by a member of the police force, and this was not a deficiency exclusive to Tacoma. Because of this, the Washington State legislature passed a law establishing strong standards for law enforcement agencies within the State to prevent and punish future incidents of domestic violence committed by law enforcement officers.

Our law enforcement officers work very hard to protect us and to keep our streets safe. All too often, our law enforcement officers are called upon to put their lives on the line to protect us and keep us safe. The strain this puts on individual officers is enormous, and I am deeply concerned by the anecdotal evidence indicating the possibility of a higher incidence of domestic violence among law enforcement officers than among the public.

To this end, I and my colleagues, the gentleman from Washington (Mr. INSLEE), the gentleman from Washington (Mr. SMITH) and the gentleman from Washington (Mr. REICHERT), sought to offer an amendment to establish a Federal study to determine if there is a direct link between the nature of the job and domestic violence.

I understand the majority had concerns with this proposal, and I look forward to working with the majority to try and devise a solution that can answer these questions. I understand, Mr. Chairman, that there may be a possibility of it being included in a GAO study that the committee is going to ask for, and this may be one way to find out the information.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, it is my intention to have the GAO do a study on this issue. I am hopeful that we will be able to speed it up so that we can get it in a timely manner.

Mr. DICKS. Mr. Chairman, reclaiming my time, I just want to point out the STOP Grants Program is available, and we believe that police departments and local governments can apply today for grants, and I would urge all of them to do so.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of the Subcommittee on Crime.

Mr. SCOTT of Virginia. Mr. Chairman, the bill as passed by the Committee on the Judiciary makes important improvements on the Department of Justice authorization. It was approved on a bipartisan basis. It deals with the Violence Against Women Act, especially as it applies to immigrants, the COPS authorization, fighting drug abuse. It adds administrative efficiencies, and, as I indicated, it came out of committee on a bipartisan basis. Unfortunately, the manager's amendment will ruin this bipartisan cooperation.

Reference has been made to the letter we have received from the NAACP that points out that the bill as passed out by the Committee on the Judiciary was much better than the manager's amendment.

Mr. Chairman, there were no hearings on this amendment, there is no public comment, it is just a manager's amendment which is supposed to be uncontroversial. It would have been helpful if we could have had committee consideration and agreed on bipartisan language.

I am sensitive to the concerns of the chairman that the Constitution may jeopardize the language that is in the bill, but I think we should have worked it out, and, in the absence of an agreement, I would hope that we would defeat the manager's amendment. If we are expected to appropriately address and relieve racial tensions in our communities, the only way I think we can do this appropriately at this point would be to defeat the manager's amendment and come back and try to work out language that everyone can agree on.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I wish there were time to have committee consideration of this. However, there are certain legislature provisions in the Violence against Women Act that expire on September 30, and, if we keep on talking and talking and talking, you are going to see a good part of the VAWA end up disappearing. That is why we have to deal with this issue today.

I would urge adoption of the manager's amendment to remove the cloud of the constitutional challenge over the money that is to be sent to underserved racial and ethnic minorities.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I thank the gentleman for yielding me this time and giving me this opportunity to be heard.

I would like to say specifically to the gentleman from Wisconsin, time sometimes is of the essence, but the reality is that minority women and immigrant women, for them time is of the essence, and it is important that we have programming that focuses in on issues that involve cultural sensitivities.

In many of the ethnic and minority communities, it is taboo to bring a lawsuit or to bring a charge against your husband, and we, therefore, need to give States the opportunity to have the ability to craft programs that would allow them and encourage them to come forward, and that was the sense of the legislation as it came out of the committee.

I would encourage the gentleman to consider removing his manager's amendment in the interest of the racial and ethnic minority women who are out here suffering daily from domestic violence charges. It is so important that we understand that domestic violence cases continue to be on the rise. It is important that we understand in fact that racial and ethnic minority women are often not willing to come forward and bring charges.

I don't know about the gentleman from Wisconsin (Mr. SENSENBRENNER), but I was a prosecutor for 8 years, heading the Cuyahoga County prosecutor's office, and that was always one of the challenges we had dealing with racial and ethnic minorities. I think it is such a wonderful opportunity for us to say to them, just as we are talking about what is happening with Hurricane Katrina, have we not thought about racial and ethnic issues, that we ought to pay attention to that, right now, today in this legislation.

I would encourage the gentleman, as he has encouraged us, to reconsider his decision to remove that important provision from the manager's amendment, and we could continue to have some bipartisan support.

As the House considers H.R. 3402, the DOJ/Violence against Women Reauthorization Act, VAWA, today, I rise to express my disappointment and strong opposition to a manager's amendment submitted late last night, by the majority staff of the Judiciary Committee. This amendment seeks to strike "racial and ethnic minorities" from the definition of underserved populations in the STOP grants section of VAWA. Mr. Chairman, my initial reaction to hearing about this proposed amendment was give me a break! Why? What is the majority looking to accomplish by striking this language from the legislation. What is the goal! Somebody help me understand this!

STOP grants are the heart of VAWA funding. By striking this language from the legislation, domestic violence prevention and treatment services specifically targeting women of color and immigrant victims of domestic violence will continue to be compromised.

Mr. Chairman, many racial and ethnic minority women and immigrant women are less likely to report instances of domestic violence than Caucasian women because they face institutional barriers to reporting abuse or seeking help for domestic violence. These women often face restrictions on public assistance, limited access to immigration relief, lack of translators or bilingual professionals, little educational material in the woman's native language, treatment programs that do not take into account ethnic and cultural differences, and prohibitive fee structures. The VAWA Reauthorization provisions in H.R. 3402 establish grants that will provide these women with information to get the assistance they need.

Violence against women and children is a serious, widespread problem in America. Each year, close to 1 million incidents of violence are reported against a current or former spouse, boyfriend, or girlfriend. On average, more than 3 women are murdered by their husbands or boyfriends in this country every day, and approximately 1 in 5 female high school students reports being physically and/or sexually abused by a dating partner. Last year, in the State of Ohio, 129 fatalities occurred as a result of domestic violence. In addition, there were over 100,000 domestic calls and arrests as well as over 17,000 new civil protection orders issued. It is important to understand that violence against women and children not only devastates families but it devastates entire communities. Reauthorization of VAWA '05 is integral to providing practical solutions to improving the response of the criminal justice and legal systems by expanding funding for local groups working with underserved communities, strengthening the criminal justice response to sexual assault, providing services for children and youth, and advocating for effective prevention programs.

The manager's amendment seeking to strike this language from the legislation would be a slap in the face to minority women across the country. I urge my colleagues to oppose the manager's amendment.

Mr. CONYERS. Mr. Chairman, I am happy to yield 2½ minutes to the gentlewoman from California (Ms. ZOE LOFGREN), a very vital participant in crafting this legislation.

Ms. ZOE LOFGREN of California. Mr. Chairman, I have been on the Committee on the Judiciary for 11 years, and I have concerns that the committee is not fulfilling completely its responsibility. There have been no oversight hearings in the full committee of either the FBI or the Bureau of Prisons in the whole 11 years I served. The last general oversight hearing on the FBI was at the subcommittee level in 1997.

The lack of committee oversight has created real problems in the way the FBI fails to conduct its business properly. Last February, in an appropriations subcommittee, we found out that the FBI had invested about $170 million on its Virtual Case File computer system and they admitted that $104 million of that spending was a loss to taxpayers. Then in March, the whole projects was scrapped and we learned from news reports that the new Sentinel system will cost an additional $792 million.

Meanwhile, the U.S. Department of Justice's Office of Inspector General tells us in the July report that the FBI's backlog of untranslated FISA material continues to grow. This means that material that is vital to our national defense is not getting looked at in a timely manner. It often gets discarded before it is looked at, and that is unacceptable.

Earlier this year, I worked with many of my colleagues to introduce the Violence Against Women Act, which is in this bill. My bill would have included provisions that established grant programs to protect child victims of domestic violence, grant programs for housing needs, to protect immigrants who are victims of domestic violence and to protect victims of domestic violence on tribal lands. Not all of these measures made it into the bill, and I am hopeful in conference those provisions that were left out can be added in.

I want to mention one issue which has recently come to my attention, which is the issue of tribal victims of domestic violence who are not receiving VAWA's protections. I was going to offer an amendment today to allow the Attorney General to appoint prosecutors designated by tribal governments as special assistant U.S. Attorneys to bring VAWA prosecutions in Federal Court. However, when I looked into it, it turns out the Attorney General already has this authority through his general authority to appoint special prosecutors. So I would like to urge the Attorney General to address this issue and to use his authority to make sure that perpetrators of domestic violence on tribal lands do not escape prosecution.

We do not always need to change the law, we just need accomplishment and accountability in the administration, and I hope we can use our oversight authority to make sure we have the kind of accomplishment and accountability in the FBI that we are currently lacking.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) the ranking member of the Subcommittee on Immigration of the Committee on the Judiciary.

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Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time; and let me thank the chairman, first of all, for his willingness to include, or to continue to include, an important amendment dealing with early release for Federal prisoners.

That is why I rise, because I believe we can work this issue out. I would ask the chairman and the ranking member, as we move toward this legislative finality of the authorization bill that we take a second look at this language that was included that has to do with racial ethnic minorities.

Let me join my colleague, or allow me to join my colleague, the gentlewoman from California (Ms. ZOE LOFGREN) in the work that she has done on the Violence Against Women Act. I have also included language in the omnibus immigration bill dealing with racial ethnic minorities, and this language is key to be reincluded. Why? Because too often, racial and ethnic minorities have lacked access to services and their safety has been compromised.

I want to compromise, frankly, Mr. Chairman, with all of those individuals who, for some reason or another, believe that this is a preference, a quota. It is not. It is an outreach mechanism to ensure that States who receive Federal monies, and we have done this often before, we have done this with the issue dealing with procurement. We have insisted on it not being quotas. This is only to say that ethnic and racial minorities many times are not able to access the questions of dealing with domestic violence. We know that that is not an occurring incident in high numbers in these communities, language barriers that do not allow individuals to access resources.

This is where the Congress can intervene, because VAWA intended for all underserved communities to have a fair chance of addressing these crimes in holding perpetrators accountable. Even when these women will go to court, we need culturally sensitive individuals, whether it is individuals from Southeast Asia, whether it is individuals from Africa or the Caribbean, whether it is individuals from the poor areas of America.

This is a viable amendment, language that should be reincluded; and I ask my colleagues, let us work together. Let us not misinterpret and make this a racial issue when it is not. It is an outreach issue. It is an aspiration issue. It is a goal issue. And I would ask my colleagues to support the language being reinstated at this time.

Mr. Chairman, I rise in support of the underlying legislation that has been introduced by my colleague on the Committee, Ranking Member JOHN CONYERS, Jr. The spirit of bipartisanship that went into crafting H.R. 3402, the "Department of Justice Appropriations Authorization Act for Fiscal Years 2006 through 2009" is to be commended.

H.R. 3402 will reauthorize the Justice Department and its various offices and components. While the Appropriations Committee is responsible for issuing funds to government bodies, it is the purview of authorizing committees to permit the agencies to spend those funds. Congress last authorized the Justice Department in 2002, through the 21st Century Department of Justice Appropriations Authorization Act. While the House passed authorization legislation in the 108th Congress, the Senate failed to act before adjournment.

I am particularly pleased that this bill contains provisions from my bill entitled "Save Our Children: Stop the Violent Predators Against Children DNA Act of 2005 (H.R. 244)" and the "Enhanced Protections for Trafficked Persons Act of 2005."

Furthermore, I would like to highlight the fact that the Violence Against Women Act of 2005 that is part of the legislation we are considering today, contains important provisions that will enhance protections to immigrant victims of domestic violence, sexual assault and trafficking. I am happy that these provisions resulted from bipartisan efforts of members of this committee. They will significantly improve safety for immigrant victims. I thank Congresswomen LOFGREN and SOLIS for their leadership.

While VAWA 1994 and 2000 made significant progress in reducing violence against immigrant women, there are still many women and children whose lives are in danger today. Many VAWA eligible victims of domestic violence, sexual assault, child abuse or trafficking are still being deported. This bill will implement VAWA's original intent by stopping the deportation of immigrant victims of domestic violence, sexual assault, and trafficking who qualify for VAWA immigration benefits. Very importantly the bill contains provisions designed to deter Immigration and Customs Enforcement officers from arresting immigrant victims seeking help from domestic violence shelters, rape crisis centers and protection orders. It also removes obstacles in immigration law that cut victims off from VAWA cancellation of removal and adjustment of status including improved rules for VAWA motions to reopen. VAWA 2005 will extend immigration relief to all victims of family violence by preventing victims of incest and child abuse perpetrated by a U.S. citizen or permanent resident parent from being cut off from VAWA's immigration protections when they turn 21; by protecting non-citizen parents abused by their adult U.S. citizen sons or daughters; by protecting adopted and abused children; and by securing protection for children of immigrant victims of domestic violence, sexual assault, and trafficking. Very importantly this bill contains provisions that will guarantee economic security for immigrant victims and their children by granting employment authorization to adult victims who have filed valid immigration cases. Yet I am very opposed to the Manager's amendment that eliminates the outreach to racial and ethnic women who are victims of domestic abuse. We must add that language back into the underlying bill and I will vigorously oppose the Manager's amendment.

The trafficking provisions in this bill are of particular importance to me and I am very pleased that additional protections for trafficking victims and tools to help prosecute traffickers have been included in the bill. These VAWA 2005 provisions will extend the statute of limitations on bringing charges for trafficking, slavery, and involuntary servitude to 10 years. This legislation will protect family members of trafficking victims from retaliation by traffickers abroad by helping family members reunite with trafficking victims in the United States, including the use of parole. It will also allow for extension of duration of T visas when needed to facilitate prosecution of traffickers. We will also require reports to Congress on the number of law enforcement officers trained on identifying trafficking victims and on the T and U visa protections and law enforcement certification process. Finally the bill will shorten the time T visa victims have to wait before filing for lawful permanent residency, particularly in cases in which the prosecution against the traffickers has been completed.

In addition, I thank the chairman and ranking member for their cooperation in incorporating the language of an amendment that I offered that expresses a commitment of Congress to continue exploring the benefits of granting "good time release" to non-violent Federal incarcerated persons. This is an initiative that I have pursued for a long time and will continue until we make real progress. The language of my amendment to this effect was passed in the 108th Congress as part of H.R. 1829 and in the Subcommittee on Crime this Congress as H.R. 2965.

Mr. Chairman, I hope that this legislation will pass into law retaining all of the beneficial provisions that I have enumerated above.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I appreciate the ranking member's work and his yielding me this time, and the work of the chairman. I much appreciate that the gentlemen have come forward, both of them, before the deadline on their portions of the bill. I am particularly appreciative of the dating violence, because since the last bill, we have infected young people down to the high school age, so the way in which we enlarge that section is very important.

I do want everybody to know that all you could do was the sections falling under your jurisdictions. Before this is all done, we have to deal with the other sections of the bill, like the housing sections of the bill, for example. That, of course, is not with you; you are just trying to get the part that is with you so that the deadline would be reached.

But my city is typical. Twenty to 40 women come to court every year, we have 48 emergency beds, a thousand women in motels. The major reason that these women say, no, I love him, that is why I am staying with him, is that they do not have anyplace to go. In fact, what you have is women facing homelessness or staying with an abuser. So before this process is all over, I hope we will bear in mind that the other sections of this bill that cannot be before us now are part and parcel of all we are trying to do here.

I salute the Committee on the Judiciary, the chairman and the ranking member, for doing all they could at this point; and let us get to work on the rest of the bill.

Mr. CONYERS. Mr. Chairman, I am pleased to yield the balance of my time to the gentlewoman from California (Ms. SOLIS), the head of the Women's Caucus.

Ms. SOLIS. Mr. Chairman, I rise today to address the reauthorization of the Violence Against Women Act.

While I am supportive of the underlying bill, the manager's amendment that we will soon consider creates a serious problem for women of color who are victims of domestic violence. The manager's amendment will weaken the definition of "underserved communities," so that groups that work specifically to help women of color who are victims of domestic violence would continue to be ignored by the grants process through the Department of Justice.

After all the bipartisan work that we have done throughout the years to work on this to reach a balanced approach, just this morning we heard that the Republican leadership was shortchanging the women of color and were taking out this very key language.

When considering VAWA, we must recognize the conflicts and problems facing women of color, particularly immigrant women, who are victims of domestic violence. Women of color are less likely to report incidents of domestic violence, which means that studies of domestic violence among communities of color do not reflect the reality of these women's lives. Women of color who are victims of violence are at even greater risk when their spouses control their immigration status.

Women of color also face institutional barriers to reporting abuse and seeking help, partly because they do not have access to individuals who understand their language. It is important to have translators available. It is important to have outreach literature available to them in their native language.

By addressing domestic violence in these communities in a way that understands their culture and honors their values, we greatly increase the chances of making a difference for women of color who are being abused. It is my hope that the reauthorization of the Violence Against Women Act is comprehensive and meets the needs of all women.

Mr. Chairman, I urge my colleagues to oppose the manager's amendment and to join those national domestic violence groups in opposing the manager's amendment: the National Network to End Domestic Violence, Family Violence Prevention Fund, National Coalition to End Domestic Violence, Sisters of Color Ending Sexual Assault, Legal Momentum, and lastly, the NAACP.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I deeply regret a minor change that was made to ensure that the money for underserved communities is not tied up in litigation is being turned into a partisan issue. There is no malevolent thought on the part of the majority to do so.

Now, let me say that the language in the base bill presumes that racial and ethnic minorities are underserved. That was the presumption for which there are no congressional findings. And because grant language is construed with strict scrutiny by the courts, setting up a preference based on racial and ethnic minorities is going to end up at minimum tying up the money that the people on the other side of the aisle who are complaining about the manager's amendment want to get into society to help solve these problems.

Now, the manager's amendment ensures that attention is paid to whatever community is underserved, not simply assuming that a community is underserved, even though there is no evidence on the table to back up that assumption.

Now, the manager's amendment uses the words "underserved racial and ethnic populations," together with other types of underserved populations. So the words "underserved," "racial," and "ethnic populations" is contained in the manager's amendment. I think this is a small price to pay to prevent the money that is to be sent out in grants under this section of the Violence Against Women Act to be tied up for weeks and months and years.

Mr. Chairman, the time has come to recognize that there is a legal problem in this, rather than making political points.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of the reauthorization of the Violence Against Women Act. The Violence Against Women Act has been instrumental in protecting women from domestic violence, sexual assault, dating violence, and stalking. Domestic violence often has devastating consequences for women, their families and society as a whole.

The Violence Against Women Act Reauthorization provides essential grants including educational programs for the prevention of domestic violence in schools, battered women's shelters, a national domestic violence hotline, grants to improve law enforcement and prosecution of violent crimes against women, among others. It also provides much needed services for the protection of children from maltreatment, sexual assault, and domestic violence.

I believe it is important to provide preventative domestic violence programs as well as help those who have been affected by domestic violence with programs that can help them recover and protect them in the future. Many of the domestic violence programs that we have today would not be able to continue without the reauthorization of the Violence Against Women Act. I urge all my colleagues to support this important piece of legislation and allow these much needed programs and services to continue so that we may continue to work to stop domestic violence.

Mrs. MALONEY. Mr. Chairman, earlier today, during debate on the rule for this bill, the gentleman from Georgia who was managing the floor for the majority stated that my amendments to this bill were not germane.

I would like the RECORD to show that the Parliamentarian has advised me that both amendments are in fact germane.

Just to be clear, the rules committee did not reject this amendment because it was not germane—it certainly is— They rejected it, I believe, because they were simply trying to shield Members of Congress from having to go on the record against offering information to rape victims that could help prevent pregnancy or abortion.

Again, please let the RECORD show that my amendments were germane.

Mr. RUPPERSBERGER. Mr. Chairman, I stand in support of H.R. 3402, the reauthorization of the Department of Justice. I applaud the authors of the Violence Against Women Act for addressing the far reaching problems associated with domestic abuse. I urge my colleagues to join with me in support of this legislation.

Domestic violence is a tragedy. It affects far too many women all over America.

Earlier this year, a body was found in my district in Cherry Hill that was thought to be the body of a woman who had been reported missing. She had left for her job in Towson that morning but never arrived at work. She had not made contact with friends or relatives, and after her boyfriend led police to the body it was decided to keep him in custody. This kind of tragedy needs to stop.

There is no profile for being a battered woman. Any woman is at risk of being abused. The highest risk factor is simply being born a woman.

Victims may experience many different forms of abuse. They include physical harm as well as mental dangers that are just as damaging. Both physical and mental abuse destroy self-esteem and independence and cause damage which cannot be undone. Many women lack the courage or ability to leave abusive relationships and even more frightening is that abuses nearly always escalate in frequency and degree over time.

Children witnessing domestic abuse also suffer. Children who live in an abusive home may become withdrawn, anxious, depressed, confused and angry. They also are at risk for learning dangerous behavior and continuing in an abusive cycle.

The Violence Against Women Act was originally passed in 1994. It made huge progress in the way domestic violence was viewed. Since 1994 the VAWA has provided resources and protections for victims of domestic violence and sexual assault. The VAWA has saved lives and helped millions of victims find safety, security and self-sufficiency.

The VAWA was reauthorized in 2000. Since that time over $14 billion dollars in social costs, prevented medical and mental health care and enforcement costs have been saved.

The VAWA provides practical solutions for criminal justice and legal systems. It develops standards for protecting the confidentiality of victims, and allows for the enforcement of protective orders across state lines.

We must take this critical step in preventing and addressing abuse. We must solve the problem of domestic violence. I fully support the reauthorization of the Violence Against Women Act.

Ms. BORDALLO. Mr. Chairman, I rise today in support of H.R. 3402 which reauthorizes the Violence Against Women Act. Domestic violence is an issue throughout our Nation and in my district. Federal funding of the Violence Against Women Act has helped decrease domestic violence on Guam, and the reauthorization of these programs will ensure that the progress we have achieved in reducing domestic violence will continue. In reauthorizing this Act, Congress sends the message that domestic violence will not be tolerated and we stand with women on this issue.

Statistics show that in 2001 alone, more than half a million women were victims of nonfatal violence by a partner. But these women were more than statistics—they were someone's mother, daughter, sister, or friend. Their voices have been heard and that is why I support H.R. 3402 and the reauthorization of the Violence Against Women Act.

Mr. GOODLATTE. Mr. Chairman, I rise in support of H.R. 3402, the Department of Justice Appropriations Authorization Act, which contains an amendment that I proposed during the consideration of the bill by the House Judiciary Committee to address the rising threat of Organized Retail Theft, ORT.

ORT poses a serious threat to our Nation's consumers and businesses. It is estimated that professional organized retail theft rings are responsible for pilfering up to $30 billion in merchandise from retail stores annually.

Organized retail theft groups typically target everyday household commodities and consumer items that can be easily sold through fencing operations, flea markets, swap meets and shady store-front operations. Items that are routinely stolen include over-the-counter drug products, such as analgesics and cold medications, razor blades, camera film, batteries, videos, DVDs, CDs, smoking cessation products, infant formula and computer software items. Thieves often travel from retail store to retail store, and from state to state, stealing relatively small amounts of goods from each store, but cumulatively stealing significant amounts of goods. Once stolen, these products can be sold back to fencing operations, which can dilute, alter and repackage the goods and then resell them, sometimes back to the same stores from which the products were originally stolen.

When a product does not travel through the authorized channels of distribution, there is an increased risk that the product has been altered, diluted, reproduced and/or repackaged. These so-called "diverted products" pose significant health risks to the public, especially the diverted medications and food products. Diverted products also cause considerable financial losses for legitimate manufacturers and retailers. Ultimately, the consumers bear the brunt of these losses as retail establishments are forced to raise prices to cover the additional costs of security and theft prevention measures.

At the State level, organized retail theft crimes are normally prosecuted under state shoplifting statutes as mere misdemeanors. As a result, the thieves that participate in organized retail theft rings typically receive the same punishment as common shoplifters. The thieves who are convicted usually see very limited jail time or are placed on probation. I believe that the punishment does not fit the crime in these situations. Mere slaps on the wrists of these criminals has practically no deterrent effect. In addition, criminals who are involved in organized retail theft rings pose greater risks to the public because their intent is for the goods to be resold. Because the routes of these diverted products are extremely difficult to trace, there is a greater risk that these goods will be faulty, outdated and dangerous for consumer use. The punishment for these interstate crimes should be greater than that for common shoplifters.

In December 2003, in response to growth of ORT crimes, the FBI established an organized retail theft initiative. While this is a good start, much work needs to be done to combat this problem.

The amendment incorporated into H.R. 3402 will earmark resources for DOJ to address ORT crimes to ensure that these crimes receive the appropriate attention. Specifically, this amendment creates a Federal definition of organized retail theft crimes, and authorizes $5 million for each of the next three fiscal years for educating and training Federal law enforcement regarding these crimes, as well as for investigating, apprehending and prosecuting individuals engaged in these crimes. In addition, this amendment directs the FBI to consult with the private sector in order to construct a database, housed in the private sector, where retail establishments, as well as Federal, State, and local law enforcement can compile evidence on specific organized retail theft crimes to aid investigations and prosecutions. Often, a lack of information about the interstate nature of these crimes prevents federal law enforcement from getting involved in these cases. This database will help put the pieces together to show the organized and multi-state nature of these crimes, as well as provide important evidence for prosecutions.

I want to thank Chairman SENSENBRENNER for his willingness to address organized retail theft crimes in this important authorizing legislation, and I look forward to continuing to work to combat these serious crimes.

Mr. SHAYS. Mr. Chairman, I rise it support of H.R. 3402, the Department of Justice Appropriations Authorization Act for Fiscal Years 2006 through 2009, particularly the sections which re-authorizes portions of the Violence Against Women Act that are under the jurisdiction of the House Judiciary Committee.

I am a long-time supporter of programs authorized by the Violence Against Women Act. I believe Congress must proactively work to combat crimes against women including domestic violence, rape and other sex crimes.

In 1994, I voted for the Violent Crime Control and Law Enforcement Act, which incorporated VAWA. This legislation established a number of grant programs designed to aid law enforcement officers and prosecutors, encourage arrest policies, stem domestic violence and child abuse, and establish training programs for victim advocates and counselors.

I am deeply concerned about the scourge of domestic violence and other crimes against women, and recognize the need for support services and tough prosecution guidelines. Each year, approximately 2 million women are physically or sexually assaulted or stalked by an intimate partner in the United States. Perpetrators of these reprehensible crimes must be punished, and victims must have the services available to help transition to a normal life.

Passing H.R. 3402 will ensure the development and continuation of programs that work to prevent violence and assist survivors and their families regain their safety and self-sufficiency. I strongly support these programs and encourage my colleagues to support the bill.

Mr. WEINER. Mr. Chairman, I rise today to thank the bipartisan leadership of the Judiciary Committee for its hard work shepherding through this powerful reauthorization of Department of Justice activities, a bill that I strongly support. The bill authorizes a total of $95 billion, including $24.4 billion for the FBI, $7.25 billion for the Drug Enforcement Administration, and $6.85 billion for U.S. Attorneys. It is a true victory that the committee leadership included reauthorization of the landmark Violence Against Women Act in this bill. It is essential that Congress stands strong and protects victims of domestic violence and other crimes against women. The bill's new $15 million a year grant program will help colleges and universities prevent dating violence, sexual assault and stalking on campuses.

Mr. Chairman, as this bill moves to conference, I want to highlight two provisions that was included in the original text of H.R. 3402 at my request. Section 321 will close loopholes that have allowed those impersonating police officers to evade conviction, while section 253 reauthorizes the Community Oriented Policing Services grant program, and makes it easier for local police departments to apply for and win grants by consolidating it into a single grant program. Whereas cities used to submit different application for hiring, and one for overtime and one for technology and one for training—this language allows them to only have to submit one application.

Section 321, language inserted in the original bill at my request and based upon the Badge Security Enhancement Act of 2003, amends criminal prohibitions on the use of a false badge to close loopholes used by many to evade prosecution and conviction. No longer will criminals be able to claim that they badges the use to impersonate police officers are just souvenirs or collectors items. Instead, my language amends the criminal code so that the only acceptable defense for possessing a counterfeit police badge is for use in a dramatic production or for a legitimate law enforcement purpose. There are countless website where one can purchase a very convincing NYPD police badge and then use it to commit a crime. It is common sense that we close these loopholes in order to protect the public and our law enforcement personnel. Also, language offered by Mrs. SLAUGHTER expands the criminal ban on counterfeit police badges to also include the misuse of uniforms, identification, and all other insignia of all public officials, but maintains my language that limits acceptable defenses in the case of counterfeit badges.

Mr. Chairman, I consider reauthorization of the COPS program to be a singular triumph of this bill. By reauthorizing the program at $1.05 billion a year for 4 years, we are providing a valuable resource to local law enforcement as they fight crime and protect the homeland from terrorist threats. Throughout its history, the COPS program has put more than 118,000 cops on the beat in more than 12,000 communities, and added 7,407 officers to the force in New York City. This is the ultimate democratic program, with a small "d," as it benefits small towns and big cities alike throughout our country. The reauthorization amount in the bill will pay for an estimated 13,000 new cops on the beat nationally each year, and 3,640 NYFD officers over the length of this authorization.

The reauthorization will also allow Federal funds for the first time to flow to hiring officers to perform intelligence, anti-terror and homeland security duties. These are federal responsibilities and this language will help special terrorism units throughout the country, such as those at the NYFD and the LAPD.

I have also worked with Mr. ROTHMAN to ensure that $30 million a year of the COPS reauthorization goes to the Secure our Schools Program to make grants for school security, including installing metal detectors, personnel and student training, and coordination with local law enforcement.

Authorities across the country agree that COPS works. A GAG report issued this summer that found a 13 percent drop in violent crime because of COPS. Former Attorney General Ashcroft once said of COPS in June 2003 that, "Let me just say that I think the COPS program has been successful. The purpose of the COPS program was to demonstrate to local police departments that if you put additional people, feet on the street, that crime could be affected and that people would be safer and more secure. We believe that the COPS program demonstrated that conclusively."

I would like to thank advocates both in this House and in the law enforcement community who have stood with me and fought for COPS reauthorization. The COPS program is endorsed by the Fraternal Order of Police, International Association of Chiefs of Police, International Brotherhood of Police Officers, National Association of Police Organizations, National Sheriffs' Association, U.S. Conference of Mayors. The PROTECTION Act, offered to reauthorize COPS for 6 years in 2004 had 224 cosponsors. I would like to thank Ms. LINDA SÁNCHEZ and Mr. KELLER for their support, and commend our committee's leaders, Mr. CONYERS and Chairman SENSENBRENNER for agreeing to include COPS reauthorization in this very important piece of legislation.

In particular, I would like to thank both the Democratic and Republican staff of the Judiciary Committee, both of whom worked tirelessly on this piece of legislation, and who deserve the entire House's thanks. I would like to extend my gratitude to Sampak Garg, Perry Apelbaum and Ted Kalo of Mr. CONYERS' staff and Beth Sokul, Katy Crooks, Sean McLaughlin and Michael Volkov of Mr. SENSENBRENNER's staff, who all worked with me on these important provisions in the bill.

Mr. SMITH of Washington. Mr. Chairman, I rise in support of the reauthorization of the Violence Against Women Act (VAWA) that is a part of today's Department of Justice Authorization Act. Enacted in 1994, this law provides access to programs and services for many victims of domestic violence, sexual assault, dating violence, and stalking. Since VAWA was first passed, domestic violence has decreased by almost 50 percent and incidents of rape have decreased by 60 percent More than one million women have used the judicial system to obtain domestic violence protective orders.

During my time as a former King County Prosecutor I saw how VAWA successfully helped many people. The criminal justice system was improved by training police and prosecutors to respond more effectively to incidences of domestic violence or sexual assaults. The Act also provided legal aid so victims may seek justice to their crimes. It provided the tools in order to protect the victims and provide them with the services they need to escape this horrible situation.

But there is still more work to be done. Each year, 960,000 incidents of violence are reported in which the offender has acted against a current or former spouse, boyfriend or girlfriend. It is unacceptable that women are still being abused. It is unacceptable that high school students are sexually harassed. It is unacceptable that these victims face the fear and embarrassment of telling others about their situation.

Unfortunately, some victims are faced with the situation where their abuser is a law enforcement officer. I recognize that law enforcement officers are faced with many complex situations and a great deal of work-related stress. I recognize that law enforcement officers are faced with complex situations on a day to day basis while trying to make our communities safer. However, these situations can push many to their limits and cause hardships in their jobs and personal lives.

I would like to bring to your attention the case of Crystal Judson. On April 26, 2003, Tacoma Police Chief David Brame shot his wife, Crystal Judson Brame, before he killed himself in a parking lot in Gig Harbor, a community near my district. Their two young children, ages 8 and 5, sat nearby in their father's car. Crystal had been the victim of abuse for many years prior to this incident, but she was unable to obtain help for herself and her children in part because she lacked the tools and resources she needed.

Unfortunately, there was no policy in place for the City of Tacoma or the Tacoma Police to address this issue.

In response to this incident, the Washington State Legislature passed a law in 2004 establishing standards for law enforcement agencies within the state to prevent and punish future incidents of domestic violence committed by law enforcement officers. I am pleased to see law enforcement agencies taking this matter seriously and implementing policies that help them address these situations.

I am disappointed that I—along with several of my colleagues from Washington State—were not able to offer two amendments that sought to address this issue. The first amendment would have simply clarified that Services, Training, Officers, and Prosecution (STOP) program grants were available to law enforcement agencies to develop policies to address law enforcement officer domestic abuse. STOP grants promotes a coordinated, multidisciplinary approach to improving the criminal justice system's response to violent crimes against women by encouraging the development and strengthening of effective law enforcement and prosecution strategies to address violent crimes against women and the development and strengthening of victim services in cases involving violent crimes against women.

The second amendment would initiate a study conducted by the Department of Justice to investigate the incidence of domestic violence involving law enforcement officers. Little research has been done on this specific issue in over a decade. A study conducted by the Justice Department could provide policymakers with critical facts and information as we seek to undertake a federal effort to address the issue. While I am pleased that Chairman SENSENBRENNER agreed to conduct a GAO Report on law enforcement-officer-involved domestic violence, I hope this study will be conducted in a speedy manner to ensure other victims like Crystal Brame are not left without a voice.

I am committed to working with my colleagues to ensure ample funding for VAWA and STOP grants. I look forward to supporting the Chairman in his request and look forward to the results so we can do more to assist victims of domestic abuse.

Mr. MORAN of Virginia. Mr. Chairman, I rise in strong support of the provisions contained in the Justice Department authorization bill that relate to the Violence Against Women Act. It is fitting that we are considering this measure today, as yesterday this body passed H. Con. Res. 209, which will designate October as National Domestic Violence Awareness Month.

The Violence Against Women Act was first authorized in 1994. Since that time, the rate of family violence has dropped from 5.4 to 2.1 victims per 1,000 U.S. residents over the age of 12. These provisions expand upon the many successes of the Violence Against Women Act since its inception. They will enhance the civil and criminal response to violence against women, will improve services and outreach to victims, and will provide additional resources for sexual assault victims through rape crisis centers and State coalitions.

I am also pleased that provisions in this Act will address the needs of victims from communities of color, and which aid immigrant and tribal victims have been strengthened. However, I am concerned that the manager's amendment will strike the phrase "ethnic and racial" from several sections in the bill, which will have the effect of specific racial and ethnic communities not having their specific concerns addressed.

This amendment should be rejected, thereby helping to ensure that racial and ethnic minority women will have their safety needs met through culturally-appropriate services.

By leaving the language as it stands, the Violence Against Women Act will ensure that racial and ethnic minority women will have their safety needs met through culturally appropriate services.

Rejecting the amendment also will ensure that culturally specific, community-based organizations will have the opportunity to access Federal funds that address domestic violence, sexual violence and other social ills.

Two years ago, I was pleased to support a Federal earmark for Communities Against Domestic Violence, a worthwhile organization in Northern Virginia which provides public awareness and education programs designed to discourage domestic violence in the Hispanic, Vietnamese and Korean communities.

Finally, I would like to pay tribute to my constituents from the local offices on Women in the city of Alexandria and Fairfax County, Arlington County's Domestic Violence Services and Violence Intervention Program and the numerous non-profit organizations which work to address domestic violence issues and break this devastating and destructive cycle of violence.

I urge all my colleagues to oppose the manager's amendment, and to support the reauthorization of the Violence Against Women Act.

Mr. NADLER. Mr. Chairman, this is a good bill. Particularly, I am a strong supporter of the section renewing the Violence Against Women Act, and a new program I've worked on, the Jessica Gonzales Victim Assistance Program, to better enforce protective orders. Today, together, we are making a big leap forward in protecting women who are victims.

For many years domestic violence has been viewed as a woman's problem, but that is not the case. Domestic violence is a woman's problem, a man's problem, the community's problem. The time is long overdue for men to take a stand and say that domestic violence is unacceptable.

On June 27, in Castle Rock v. Gonzales, the Supreme Court held that the police did not have a mandatory duty to make an arrest under a court-issued protective order to protect a woman from a violent husband. The ruling ended a lawsuit by a Colorado woman who claimed the police did not do enough to prevent her violent husband from killing their 3 young daughters. The ruling said Jessica Gonzales did not have a constitutional right to police enforcement of the protective court order against her husband.

The heartbreaking details of this case show the desperate need for legislation. That's why I have drafted the Jessica Gonzales Victim Assistance Program, which will restore some of the effectiveness of protective orders.

The Jessica Gonzales Victim Assistance Program would place special victim assistants in local law enforcement agencies to serve as liaisons between the agencies and victims of domestic violence, dating violence, sexual assault, and stalking in order to improve the enforcement of protection orders.

I support the underlying bill and the renewal of the Violence Against Women Act.

Mr. HONDA. Mr. Chairman, I rise today in support of H.R. 3402, a measure that reauthorizes most Justice Department programs through FY 2009, with some extended through FY 2010. I support this measure because it provides crucial funding for Justice Department programs. The bill authorizes $95 billion through FY 2010, including $5.8 billion for the FBI in FY 2006, and $5 billion for Federal prisons.

I am especially glad to see that this bill reauthorizes programs funded under the Violence Against Women Act (VAWA) which is designed to combat crimes often targeted toward women, such as stalking, domestic violence, and sexual assault. During the past decade, VAWA of 1994 and 2000 have provided tremendous protections and support for victims of domestic violence, stalking, and sexual assault. VAWA funding has provided law enforcement agencies, the judicial system, rape crisis centers, and domestic violence shelters with the expertise and services they need to do the work of prevention and protection of those affected by violence. The reauthorization of VAWA will allow us to continue to fund crucial and successful programs and expand on 10 years of progress to further provide safety and stability for survivors of gender-based violence.

I am disappointed that late last night, Judiciary Majority staff submitted a manager's amendment which strikes "racial and ethnic minorities" from the definition of underserved populations in the STOP grants section of VAWA. STOP grants are the heart of VAWA funding. Without this language, domestic violence prevention and treatment services specifically targeting women of color and immigrant victims of domestic violence will continue to be shortchanged. This language change is a major flaw in the Manager's Amendment and I oppose the amendment.

H.R. 3402 also merges the Byrne Grant Program and the Local Law Enforcement Block Grant program, and renames it the Edward Byrne Memorial Justice Assistance Grant Program. It authorizes $1.1 billion for this program in FY 2006 and such sums as are necessary for fiscal years 2007 through 2009. Finally, the bill re-organizes the Community Oriented Policing Services (COPS) program by consolidating all the different grant programs into a single block grant program. The bill authorizes $1 billion in each of fiscal years 2006 through 2009 for this important crime fighting program.

Mr. Chairman, this is a very good bill overall and I am glad to see Republicans working with Democrats on such an important measure.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise today in support of several important programs that will be reauthorized in H.R. 3402, The Department of Justice Authorization Act. The two programs that I'd like to highlight are the Community Oriented Policing Services (COPS) program and the State Criminal Alien Assistance Program (SCAAP). Both COPS and SCAAP provide critical resources that help local law enforcement do their job.

The COPS program consists of Federal grants to provide assistance to eligible police departments to help improve community policing efforts and law enforcement support activities including: hiring or rehiring police officers, purchasing equipment; paying overtime; and building support systems.

The COPS program has long had bipartisan support in Congress, even in the face of repeated proposed budget cuts from this Administration. Despite these budget proposals Congress worked in a bipartisan way to appropriate funding for the COPS program and ensure that our local law enforcement agencies continued to receive these valuable grants. I hope that the formal reauthorization of the COPS program through H.R. 3402 clarifies the Congressional recognition of the significance of the COPS programs to local law enforcement, and the importance of the COPS program now and in the future.

The SCAAP reimburses states and localities for the cost of detaining criminal aliens. These funds are critical for local law enforcement agencies; especially those in border states like California, that routinely cover the cost of incarcerating undocumented criminal aliens. Between FY2001 and FY2005, SCAAP funding decreased by $265 million. This is unacceptable and places a significant burden on cash-strapped States that desperately need reimbursement.

I supported the Kolbe/Dreier/Lewis amendment to increase the authorized funding for SCAAP to $750 million for FY06, $850 million for FY07, and $950 million for FY08–11. I am pleased that this amendment was accepted as it will provide much needed funds to the states and improve their ability to work with the Federal government on border security and immigration issues.

Ms. PELOSI. Mr. Chairman, for 10 years, the Violence Against Women Act (VAWA) has strengthened communities and provided critical, life-saving support to victims of violence. VAWA has meant that no victim of violence has to suffer in silence. This legislation has been a tremendous success in addressing an appalling problem: since VAWA was enacted in 1994, states have passed more than 660 laws to combat domestic violence, dating violence, sexual assault and stalking. The National Domestic Violence Hotline has answered more than 1 million calls. VAWA has strengthened communities across the country and saved countless lives. But we can and must do more.

Women should feel safe whether in public or private: In their workplace, in their homes, and walking on the street. Yet many women continue to live in fear. One in three American women report being physically or sexually abused by a partner at some point in their lives, and more than three women are murdered by their husbands or boyfriends in this country every day. We cannot tolerate the violence, abuse, and sexual assault that pervade our communities. As a nation, we must fight this epidemic in every way possible.

Today, the House reauthorized VAWA, making dramatic improvements to the existing law by establishing new rape crisis centers and increasing grants for community organizations that work to prevent and eliminate domestic violence. The reauthorization of VAWA is a critical step and a national commitment to keep future generations of women and children safe.

Unfortunately, the spirit of VAWA came under attack today by the House Republicans. Judiciary Committee Chairman SENSENBRENNER offered an amendment that eliminated carefully crafted provisions of the bipartisan bill that recognized that racial and ethnic minorities face unique challenges in reporting and getting help for domestic violence, sexual assault, trafficking and stalking. With this change, domestic violence prevention and treatment services specifically targeting women of color and immigrant victims of domestic violence and sexual assault will continue to be shortchanged.

VAWA is one of the crowning achievements of the Congressional Caucus on Women's Issues and a truly bipartisan success. I urge the Senate to reject the Sensenbrenner amendment and return the bill to its original, bipartisan version.

Ms. HART. Mr. Chairman, in 1994, Congress took a significant step forward in the fight against domestic violence by enacting the Violence Against Women Act (VAWA). Today, as part of the DOJ reauthorization, we are considering the reauthorization of VAWA (VAWA 2005), making it a stronger and more effective tool in the struggle to end domestic violence.

I have met with many of the domestic violence shelters and advocates in my district who tell me that VAWA is working. Victim Outreach Intervention Center provides services to survivors of domestic violence, sexual assault and other violent crimes. On an average year, VOICE provides services to over 3,000 people in Butler County.

The VAWA funding they receive has made a tremendous improvement in both the types of services they provide and also to the scale on which they are able to serve. Their counseling and advocacy services are substantially funded by VAWA. Without this money, VOICE would be unable to serve survivors at current levels; a waiting list for direct services, which could contain 20–25 survivors at a time, would have to be established.

In order to provide that basic level of service, VOICE would have to substantially decrease or eliminate programs, such as their Prevention/Education programming. Without the re-authorization of VAWA, the past 28 years of progress they have made in service to survivors would be set back tenfold.

Nearly one in four women experiences at least one physical assault by a partner during adulthood. As resources become stronger, more victims gain the courage to seek help. Now is not the time to retreat. The work at the state and local level has become more, not less, complex.

The programs and provisions of VAWA will continue the progress made over the past 10 years in three ways.

First, VAWA 2005 reinforces existing core programs like the STOP grants which have brought communities together to solve the problem of domestic violence. VAWA programs have provided training for hundreds of law enforcement officers on the dynamics of domestic violence and VAWA 2005 will attempt to solve the problem attrition among domestic violence professionals.

Second, with VAWA 2005 we ensure that the needs of uniquely vulnerable communities are met. One of the lessons we have learned over the past 10 years is that many victims face unique obstacles.

VAWA has helped fund specialized services to improve victim safety in rural areas, such as paying for "attorneys on wheels" to help rural women get to court or effective outreach programs in remote communities.

VAWA 2005 also addresses the unique challenges faced by persons with disabilities and elder victims of abuse, by offering services tailored to their circumstances and by educating their communities on how to best provide services.

Third, VAWA 2005 provides greater opportunities for victims to rebuild their lives. While domestic violence, dating violence, sexual assault, and stalking are fundamentally criminal justice problems, the solutions are not to be found in the criminal justice system alone.

VAWA 2005 will help victims rebuild their lives and create long term security for themselves and their children. It works to educate domestic violence prevention professionals, child welfare workers, and home visitors on how to identify and serve victims of domestic violence. Further, it provides guidance on preventing violence, rather than reacting to it.

We've come a long way since 1994, but people from my district tell me that our shelters are full and our hotlines are ringing off the hook. We need to continue with our mission to end violence against women and children. VAWA 2005 is an important step in that mission.

Mrs. KELLY. Mr. Chairman, prior to my election to Congress, I was a patient advocate and rape crisis counselor in New York's hospitals. I saw first-hand the debilitating effects domestic violence, dating violence, and sexual assault can have on a woman. It was there, as I counseled thousands of victims of rape and assault, that I recognized that more resources need to be provided to prevent these types of attacks, to assist victims in receiving justice, and to help these women put their shattered lives back together. That is why I feel so strongly about the Violence Against Women Act.

VAWA literally transformed the way our society deals with these types of attacks. Over the past ten years, it has provided vital resources and protections for victims. It has provided increased training for police, prosecutors, and court officials, and overhauled how the criminal justice system responds to victims of violence.

I ask all of my colleagues to support H.R. 3402, which reauthorizes the Violence Against Women Act, because it works. It is an effective tool in reducing the number of women living with violence.

H.R. 3402 develops new programs that meet the needs of battered women and creates a comprehensive approach to ending domestic violence, dating violence, sexual assault, and stalking.

Congress must reauthorize these historic women protections, and I ask that all of my colleagues support it later today.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Mr. SENSENBRENNER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KING of Iowa) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1604

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOEHNER) at 4 o'clock and 4 minutes p.m.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

The SPEAKER pro tempore. Pursuant to House Resolution 462 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3402.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations for fiscal year 2006.
Sec. 102. Authorization of appropriations for fiscal year 2007.
Sec. 103. Authorization of appropriations for fiscal year 2008.
Sec. 104. Authorization of appropriations for fiscal year 2009.
Sec. 105. Organized retail theft.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

Sec. 201. Merger of Byrne grant program and Local Law Enforcement Block Grant program.
Sec. 202. Clarification of number of recipients who may be selected in a given year to receive Public Safety Officer Medal of Valor.
Sec. 203. Clarification of official to be consulted by Attorney General in considering application for emergency Federal law enforcement assistance.
Sec. 204. Clarification of uses for regional information sharing system grants.
Sec. 205. Integrity and enhancement of national criminal record databases.
Sec. 206. Extension of matching grant program for law enforcement armor vests.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

Sec. 211. Office of Weed and Seed Strategies.

Subtitle C—Assisting Victims of Crime

Sec. 221. Grants to local nonprofit organizations to improve outreach services to victims of crime.
Sec. 222. Clarification and enhancement of certain authorities relating to Crime Victims Fund.
Sec. 223. Amounts received under crime victim grants may be used by State for training purposes.
Sec. 224. Clarification of authorities relating to Violence Against Women formula and discretionary grant programs.
Sec. 225. Change of certain reports from annual to biennial.

Subtitle D—Preventing Crime

Sec. 231. Clarification of definition of violent offender for purposes of juvenile drug courts.
Sec. 232. Changes to distribution and allocation of grants for drug courts.
Sec. 233. Eligibility for grants under drug court grants program extended to courts that supervise non-offenders with substance abuse problems.
Sec. 234. Term of Residential Substance Abuse Treatment program for local facilities.

Subtitle E—Other Matters

Sec. 241. Changes to certain financial authorities.
Sec. 242. Coordination duties of Assistant Attorney General.
Sec. 243. Simplification of compliance deadlines under sex-offender registration laws.
Sec. 244. Repeal of certain programs.
Sec. 245. Elimination of certain notice and hearing requirements.
Sec. 246. Amended definitions for purposes of Omnibus Crime Control and Safe Streets Act of 1968.
Sec. 247. Clarification of authority to pay subsistence payments to prisoners for health care items and services.
Sec. 248. Office of Audit, Assessment, and Management.
Sec. 249. Community Capacity Development Office.
Sec. 250. Office of Applied Law Enforcement Technology.
Sec. 251. Availability of funds for grants.
Sec. 252. Consolidation of financial management systems of Office of Justice Programs.
Sec. 253. Authorization and change of COPS program to single grant program.
Sec. 254. Clarification of persons eligible for benefits under Public Safety Officers' Death Benefits programs.
Sec. 255. Pre-release and post-release programs for juvenile offenders.
Sec. 256. Reauthorization of juvenile accountability block grants.
Sec. 257. Sex offender management.
Sec. 258. Evidence-based approaches.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Technical amendments relating to Public Law 107–56.
Sec. 302. Miscellaneous technical amendments.
Sec. 303. Use of Federal training facilities.
Sec. 304. Privacy officer.
Sec. 305. Bankruptcy crimes.
Sec. 306. Report to Congress on status of United States persons or residents detained on suspicion of terrorism.
Sec. 307. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.
Sec. 308. Expanded jurisdiction for contraband offenses in correctional facilities.
Sec. 309. Magistrate judge's authority to continue preliminary hearing.
Sec. 310. Technical corrections relating to steroids.
Sec. 311. Prison Rape Commission extension.
Sec. 312. Longer statute of limitation for human trafficking-related offenses.
Sec. 313. Use of Center for Criminal Justice Technology.
Sec. 314. SEARCH grants.
Sec. 315. Reauthorization of Law Enforcement Tribute Act.
Sec. 316. Amendment regarding bullying and gangs.
Sec. 317. Transfer of provisions relating to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Sec. 318. Reauthorize the gang resistance education and training projects program.
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TITLE IV—VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005

Sec. 401. Short title.
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Sec. 509. Preventing cyberstalking.
Sec. 510. Repeat offender provision.
Sec. 511. Prohibiting dating violence.
Sec. 512. GAO study and report.

TITLE VI—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 601. Technical amendment to Violence Against Women Act.
Sec. 602. Sexual assault services program.
Sec. 603. Amendments to the rural domestic violence and child abuse enforcement assistance program.
Sec. 604. Assistance for victims of abuse.
Sec. 605. GAO study of National Domestic Violence Hotline.
Sec. 606. Grants for outreach to underserved populations.

TITLE VII—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

Sec. 701. Services and justice for young victims of violence.
Sec. 702. Grants to combat violent crimes on campuses.
Sec. 703. Safe havens.
Sec. 704. Grants to combat domestic violence, dating violence, sexual assault, and stalking in middle and high schools.

TITLE VIII—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE IN THE HOME

Sec. 801. Preventing violence in the home.

TITLE IX—PROTECTION FOR IMMIGRANT VICTIMS OF VIOLENCE

Sec. 900. Short title; references to VAWA–2000; regulations.

Subtitle A—Victims of Crime

Sec. 901. Conditions applicable to U and T visas.
Sec. 902. Clarification of basis for relief under hardship waivers for conditional permanent residence.
Sec. 903. Adjustment of status for victims of trafficking.

Subtitle B—VAWA Petitioners

Sec. 911. Definition of VAWA petitioner.
Sec. 912. Self-petitioning for children.
Sec. 913. Self-petitioning parents.
Sec. 914. Promoting consistency in VAWA adjudications.
Sec. 915. Relief for certain victims pending actions on petitions and applications for relief.
Sec. 916. Access to VAWA protection regardless of manner of entry.
Sec. 917. Eliminating abusers' control over applications for adjustments of status.
Sec. 918. Parole for VAWA petitioners and for derivatives of trafficking victims.
Sec. 919. Exemption of victims of domestic violence, sexual assault and trafficking from sanctions for failure to depart voluntarily.
Sec. 920. Clarification of access to naturalization for victims of domestic violence.
Sec. 921. Prohibition of adverse determinations of admissibility or deportability based on protected information.
Sec. 922. Information for K nonimmigrants about legal rights and resources for immigrant victims of domestic violence.
Sec. 923. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

Sec. 931. Removing 2 year custody and residency requirement for battered adopted children.
Sec. 932. Waiver of certain grounds of inadmissibility for VAWA petitioners.
Sec. 933. Employment authorization for battered spouses of certain nonimmigrants.
Sec. 934. Grounds for hardship waiver for conditional permanent residence for intended spouses.
Sec. 935. Cancellation of removal.
Sec. 936, Motions to reopen.
Sec. 937. Removal proceedings.
Sec. 938. Conforming relief in suspension of deportation parallel to the relief available in VAWA–2000 cancellation for bigamy.
Sec. 939. Correction of cross-reference to credible evidence provisions.
Sec. 940. Technical corrections.

TITLE X—SAFETY ON TRIBAL LANDS

Sec. 1001. Purposes.
Sec. 1002. Consultation.
Sec. 1003. Analysis and research on violence on tribal lands.
Sec. 1004. Tracking of violence on tribal lands.
Sec. 1005. Tribal Division of the Office on Violence Against Women.
Sec. 1006. GAO report to Congress on status of prosecution of sexual assault and domestic violence on tribal lands.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

There are authorized to be appropriated for fiscal year 2006, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $161,407,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $216,286,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $72,828,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $679,661,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $15,000,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $144,451,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,626,146,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,761,237,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $800,255,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,065,761,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,716,173,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $923,613,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $181,137,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $661,940,000 for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,270,000.

(15) COMMUNITY RELATIONS SERVICE.— For the Community Relations Service: $9,759,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $21,468,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,300,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,222,000,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $181,490,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $128,701,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and Office of Community Oriented Policing Services:

(A) $121,105,000 for the Office of Justice Programs.

(B) $14,172,000 for the Office on Violence Against Women.

(C) $31,343,000 for the Office of Community Oriented Policing Services.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007.

There are authorized to be appropriated for fiscal year 2007, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $167,863,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $224,937,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $75,741,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $706,847,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $15,600,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $150,229,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,691,192,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,991,686,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $832,265,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,268,391,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,784,820,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $960,558,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $188,382,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $688,418,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,321,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,149,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,752,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,405,300,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $188,750,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $133,849,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) $125,949,000 for the Office of Justice Programs.

(B) $15,600,000 for the Office on Violence Against Women.

(C) $32,597,000 for the Office of Community Oriented Policing Services.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2008.

There are authorized to be appropriated for fiscal year 2008, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $174,578,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $233,934,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $78,771,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $735,121,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $16,224,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $156,238,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,758,840,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $6,231,354,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $865,556,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,479,127,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,856,213,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $998,980,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $195,918,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $715,955,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,374,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,555,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $12,222,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,616,095,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $196,300,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $139,203,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) $130,987,000 for the Office of Justice Programs.

(B) $16,224,000 for the Office on Violence Against Women.

(C) $33,901,000 for the Office of Community Oriented Policing Services.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009.

There are authorized to be appropriated for fiscal year 2009, to carry out the activities of the Department of Justice (including any bureau, office; board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $181,561,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $243,291,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $81,922,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $764,526,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $16,872,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $162,488,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,829,194,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $6,480,608,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $900,178,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,698,292,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,930,462,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $1,038,939,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $203,755,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $744,593,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this

paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,429,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,977,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $12,711,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,858,509,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $204,152,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $144,771,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) $132,226,000 for the Office of Justice Programs.

(B) $16,837,000 for the Office on Violence Against Women.

(C) $35,257,000 for the Office of Community Oriented Policing Services.

SEC. 105. ORGANIZED RETAIL THEFT.

(a) NATIONAL DATA.—(1) The Attorney General and the Federal Bureau of Investigation shall establish a task force to combat organized retail theft and provide expertise to the retail community for the establishment of a national database or clearinghouse housed and maintained in the private sector to track and identify where organized retail theft type crimes are being committed in the United Sates. The national database shall allow Federal, State, and local law enforcement officials as well as authorized retail companies (and authorized associated retail databases) to transmit information into the database electronically and to review information that has been submitted electronically.

(2) The Attorney General shall make available funds to provide for the ongoing administrative and technological costs to federal law enforcement agencies participating in the database project.

(3) The Attorney General through the Bureau of Justice Assistance in the Office of Justice may make grants to help provide for the administrative and technological costs to State and local law enforcement agencies participating in the data base project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2009, $5,000,000 for educating and training federal law enforcement regarding organized retail theft, for investigating, apprehending and prosecuting individuals engaged in organized retail theft, and for working with the private sector to establish and utilize the database described in subsection (a).

(c) DEFINITION OF ORGANIZED RETAIL THEFT.—For purposes of this section, "organized retail theft" means—

(1) the violation of a State prohibition on retail merchandise theft or shoplifting, if the violation consists of the theft of quantities of items that would not normally be purchased for personal use or consumption and for the purpose of reselling the items or for reentering the items into commerce;

(2) the receipt, possession, concealment, bartering, sale, transport, or disposal of any property that is know or should be known to have been taken in violation of paragraph (1); or

(3) the coordination, organization, or recruitment of persons to undertake the conduct described in paragraph (1) or (2).

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

SEC. 201. MERGER OF BYRNE GRANT PROGRAM AND LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) Subpart 1 of such part (42 U.S.C. 3751–3759) is repealed.

(2) Such part is further amended—

(A) by inserting before section 500 (42 U.S.C. 3750) the following new heading:

"Subpart 1—Edward Byrne Memorial Justice Assistance Grant Program";

(B) by amending section 500 to read as follows:

"SEC. 500. NAME OF PROGRAM.

"(a) IN GENERAL.—The grant program established under this subpart shall be known as the 'Edward Byrne Memorial Justice Assistance Grant Program'.

"(b) REFERENCES TO FORMER PROGRAMS.—Any reference in a law, regulation, document, paper, or other record of the United States to the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, or to the Local Government Law Enforcement Block Grants program, shall be deemed to be a reference to the grant program referred to in subsection (a)."; and

(C) by inserting after section 500 the following new sections:

"SEC. 501. DESCRIPTION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available to carry out this subpart, the Attorney General may, in accordance with the formula established under section 505, make grants to States and units of local government, for use by the State or unit of local government to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following programs:

"(A) Law enforcement programs.

"(B) Prosecution and court programs.

"(C) Prevention and education programs.

"(D) Corrections and community corrections programs.

"(E) Drug treatment and enforcement programs.

"(F) Planning, evaluation, and technology improvement programs.

"(G) Crime victim and witness programs (other than compensation).

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall be construed to ensure that a grant under that paragraph may be used for any purpose for which a grant was authorized to be used under either or both of the programs specified in section 500(b), as those programs were in effect immediately before the enactment of this paragraph.

"(b) CONTRACTS AND SUBAWARDS.—A State or unit of local government may, in using a grant under this subpart for purposes authorized by subsection (a), use all or a portion of that grant to contract with or make one or more subawards to one or more—

"(1) neighborhood or community-based organizations that are private and nonprofit;

"(2) units of local government; or

"(3) tribal governments.

"(c) PROGRAM ASSESSMENT COMPONENT; WAIVER.—

"(1) Each program funded under this subpart shall contain a program assessment component, developed pursuant to guidelines established by the Attorney General, in coordination with the National Institute of Justice.

"(2) The Attorney General may waive the requirement of paragraph (1) with respect to a program if, in the opinion of the Attorney General, the program is not of sufficient size to justify a full program assessment.

"(d) PROHIBITED USES.—Notwithstanding any other provision of this Act, no funds provided under this subpart may be used, directly or indirectly, to provide any of the following matters:

"(1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

"(2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—

"(A) vehicles, vessels, or aircraft;

"(B) luxury items;

"(C) real estate;

"(D) construction projects (other than penal or correctional institutions); or

"(E) any similar matters.

"(e) ADMINISTRATIVE COSTS.—Not more than 10 percent of a grant made under this subpart may be used for costs incurred to administer such grant.

"(f) PERIOD.—The period of a grant made under this subpart shall be four years, except that renewals and extensions beyond that period may be granted at the discretion of the Attorney General.

"(g) RULE OF CONSTRUCTION.—Subparagraph (d)(1) shall not be construed to prohibit the use, directly or indirectly, of funds provided under this subpart to provide security at a public event, such as a political convention or major sports event, so long as such security is provided under applicable laws and procedures.

"SEC. 502. APPLICATIONS.

"To request a grant under this subpart, the chief executive officer of a State or unit of local government shall submit an application to the Attorney General within 90 days after the date on which funds to carry out this subpart are appropriated for a fiscal year, in such form as the Attorney General may require. Such application shall include the following:

"(1) A certification that Federal funds made available under this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

"(2) An assurance that, not fewer than 30 days before the application (or any amendment to the application) was submitted to the Attorney General, the application (or amendment) was submitted for review to the governing body of the State or unit of local government (or to an organization designated by that governing body).

"(3) An assurance that, before the application (or any amendment to the application) was submitted to the Attorney General—

"(A) the application (or amendment) was made public; and

"(B) an opportunity to comment on the application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure makes such an opportunity available.

"(4) An assurance that, for each fiscal year covered by an application, the applicant shall maintain and report such data, records, and information (programmatic and financial) as the Attorney General may reasonably require.

“(5) A certification, made in a form acceptable to the Attorney General and executed by the chief executive officer of the applicant (or by another officer of the applicant, if qualified under regulations promulgated by the Attorney General), that—

“(A) the programs to be funded by the grant meet all the requirements of this subpart;

“(B) all the information contained in the application is correct;

“(C) there has been appropriate coordination with affected agencies; and

“(D) the applicant will comply with all provisions of this subpart and all other applicable Federal laws.

“SEC. 503. REVIEW OF APPLICATIONS.

“The Attorney General shall not finally disapprove any application (or any amendment to that application) submitted under this subpart without first affording the applicant reasonable notice of any deficiencies in the application and opportunity for correction and reconsideration.

“SEC. 504. RULES.

“The Attorney General shall issue rules to carry out this subpart. The first such rules shall be issued not later than one year after the date on which amounts are first made available to carry out this subpart.

“SEC. 505. FORMULA.

“(a) ALLOCATION AMONG STATES.—

“(1) IN GENERAL.—Of the total amount appropriated for this subpart, the Attorney General shall, except as provided in paragraph (2), allocate—

“(A) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

“(i) the total population of a State to—

“(ii) the total population of the United States; and

“(B) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

“(i) the average annual number of part 1 violent crimes of the Uniform Crime Reports of the Federal Bureau of Investigation reported by such State for the three most recent years reported by such State to—

“(ii) the average annual number of such crimes reported by all States for such years.

“(2) MINIMUM ALLOCATION.—If carrying out paragraph (1) would result in any State receiving an allocation less than 0.25 percent of the total amount (in this paragraph referred to as a ‘minimum allocation State’), then paragraph (1), as so carried out, shall not apply, and the Attorney General shall instead—

“(A) allocate 0.25 percent of the total amount to each State; and

“(B) using the amount remaining after carrying out subparagraph (A), carry out paragraph (1) in a manner that excludes each minimum allocation State, including the population of and the crimes reported by such State.

“(b) ALLOCATION BETWEEN STATES AND UNITS OF LOCAL GOVERNMENT.—Of the amounts allocated under subsection (a)—

“(1) 60 percent shall be for direct grants to States, to be allocated under subsection (c); and

“(2) 40 percent shall be for grants to be allocated under subsection (d).

“(c) ALLOCATION FOR STATE GOVERNMENTS.—

“(1) IN GENERAL.—Of the amounts allocated under subsection (b)(1), each State may retain for the purposes described in section 501 an amount that bears the same ratio of—

“(A) total expenditures on criminal justice by the State government in the most recently completed fiscal year to—

“(B) the total expenditure on criminal justice by the State government and units of local government within the State in such year.

“(2) REMAINING AMOUNTS.—Except as provided in subsection (e)(1), any amounts remaining after the allocation required by paragraph (1) shall be made available to units of local government by the State for the purposes described in section 501.

“(d) ALLOCATIONS TO LOCAL GOVERNMENTS.—

“(1) IN GENERAL.—Of the amounts allocated under subsection (b)(2), grants for the purposes described in section 501 shall be made directly to units of local government within each State in accordance with this subsection, subject to subsection (e).

“(2) ALLOCATION.—

“(A) IN GENERAL.—From the amounts referred to in paragraph (1) with respect to a State (in this subsection referred to as the ‘local amount’), the Attorney General shall allocate to each unit of local government an amount which bears the same ratio to such share as the average annual number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available bears to the number of part 1 violent crimes reported by all units of local government in the State in which the unit is located to the Federal Bureau of Investigation for such years.

“(B) TRANSITIONAL RULE.—Notwithstanding subparagraph (A), for fiscal years 2006, 2007, and 2008, the Attorney General shall allocate the local amount to units of local government in the same manner that, under the Local Government Law Enforcement Block Grants program in effect immediately before the date of the enactment of this section, the reserved amount was allocated among reporting and nonreporting units of local government.

“(3) ANNEXED UNITS.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

“(4) RESOLUTION OF DISPARATE ALLOCATIONS.—(A) Notwithstanding any other provision of this subpart, if—

“(i) the Attorney General certifies that a unit of local government bears more than 50 percent of the costs of prosecution or incarceration that arise with respect to part 1 violent crimes reported by a specified geographically constituent unit of local government; and

“(ii) but for this paragraph, the amount of funds allocated under this section to—

“(I) any one such specified geographically constituent unit of local government exceeds 150 percent of the amount allocated to the unit of local government certified pursuant to clause (i); or

“(II) more than one such specified geographically constituent unit of local government exceeds 400 percent of the amount allocated to the unit of local government certified pursuant to clause (i),

then in order to qualify for payment under this subsection, the unit of local government certified pursuant to clause (i), together with any such specified geographically constituent units of local government described in clause (ii), shall submit to the Attorney General a joint application for the aggregate of funds allocated to such units of local government. Such application shall specify the amount of such funds that are to be distributed to each of the units of local government and the purposes for which such funds are to be used. The units of local government involved may establish a joint local advisory board for the purposes of carrying out this paragraph.

“(B) In this paragraph, the term ‘geographically constituent unit of local government’ means a unit of local government that has jurisdiction over areas located within the boundaries of an area over which a unit of local government certified pursuant to clause (i) has jurisdiction.

“(e) LIMITATION ON ALLOCATIONS TO UNITS OF LOCAL GOVERNMENT.—

“(1) MAXIMUM ALLOCATION.—No unit of local government shall receive a total allocation under this section that exceeds such unit's total expenditures on criminal justice services for the most recently completed fiscal year for which data are available. Any amount in excess of such total expenditures shall be allocated proportionally among units of local government whose allocations under this section do not exceed their total expenditures on such services.

“(2) ALLOCATIONS UNDER $10,000.—If the allocation under this section to a unit of local government is less than $10,000 for any fiscal year, the direct grant to the State under subsection (c) shall be increased by the amount of such allocation, to be distributed (for the purposes described in section 501) among State police departments that provide criminal justice services to units of local government and units of local government whose allocation under this section is less than $10,000.

“(3) NON-REPORTING UNITS.—No allocation under this section shall be made to a unit of local government that has not reported at least three years of data on part 1 violent crimes of the Uniform Crime Reports to the Federal Bureau of Investigation within the immediately preceding 10 years.

“(f) FUNDS NOT USED BY THE STATE.—If the Attorney General determines, on the basis of information available during any grant period, that any allocation (or portion thereof) under this section to a State for such grant period will not be required, or that a State will be unable to qualify or receive funds under this subpart, or that a State chooses not to participate in the program established under this subpart, then such State's allocation (or portion thereof) shall be awarded by the Attorney General to units of local government, or combinations thereof, within such State, giving priority to those jurisdictions with the highest annual number of part 1 violent crimes of the Uniform Crime Reports reported by the unit of local government to the Federal Bureau of Investigation for the three most recent calendar years for which such data are available.

“(g) SPECIAL RULES FOR PUERTO RICO.—

“(1) ALL FUNDS SET ASIDE FOR COMMONWEALTH GOVERNMENT.—Notwithstanding any other provision of this subpart, the amounts allocated under subsection (a) to Puerto Rico, 100 percent shall be for direct grants to the Commonwealth government of Puerto Rico.

“(2) NO LOCAL ALLOCATIONS.—Subsections (c) and (d) shall not apply to Puerto Rico.

“(h) UNITS OF LOCAL GOVERNMENT IN LOUISIANA.—In carrying out this section with respect to the State of Louisiana, the term ‘unit of local government’ means a district attorney or a parish sheriff.

“SEC. 506. RESERVED FUNDS.

“Of the total amount made available to carry out this subpart for a fiscal year, the Attorney General shall reserve not more than—

“(1) $20,000,000, for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement, of which $1,000,000 shall be for use by the Bureau of Justice Statistics to collect data necessary for carrying out this subpart; and

“(2) $20,000,000, to be granted by the Attorney General to States and units of local government to develop and implement antiterrorism training programs.

“SEC. 507. INTEREST-BEARING TRUST FUNDS.

“(a) TRUST FUND REQUIRED.—A State or unit of local government shall establish a trust fund

in which to deposit amounts received under this subpart.

"(b) EXPENDITURES.—

"(1) IN GENERAL.—Each amount received under this subpart (including interest on such amount) shall be expended before the date on which the grant period expires.

"(2) REPAYMENT.—A State or unit of local government that fails to expend an entire amount (including interest on such amount) as required by paragraph (1) shall repay the unexpended portion to the Attorney General not later than 3 months after the date on which the grant period expires.

"(3) REDUCTION OF FUTURE AMOUNTS.—If a State or unit of local government fails to comply with paragraphs (1) and (2), the Attorney General shall reduce amounts to be provided to that State or unit of local government accordingly.

"(c) REPAID AMOUNTS.—Amounts received as repayments under this section shall be subject to section 108 of this title as if such amounts had not been granted and repaid. Such amounts shall be deposited in the Treasury in a dedicated fund for use by the Attorney General to carry out this subpart. Such funds are hereby made available to carry out this subpart.

"SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subpart $1,095,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2009.".

(b) REPEALS OF CERTAIN AUTHORITIES RELATING TO BYRNE GRANTS.—

(1) DISCRETIONARY GRANTS TO PUBLIC AND PRIVATE ENTITIES.—Chapter A of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760–3762) is repealed.

(2) TARGETED GRANTS TO CURB MOTOR VEHICLE THEFT.—Subtitle B of title I of the Anti Car Theft Act of 1992 (42 U.S.C. 3750a–3750d) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CRIME IDENTIFICATION TECHNOLOGY ACT.—Subsection (c)(2)(G) of section 102 of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601) is amended by striking "such as" and all that follows through "the M.O.R.E. program" and inserting "such as the Edward Byrne Justice Assistance Grant Program and the M.O.R.E. program".

(2) SAFE STREETS ACT.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in section 517 (42 U.S.C. 3763), in subsection (a)(1), by striking "pursuant to section 511 or 515" and inserting "pursuant to section 515";

(B) in section 520 (42 U.S.C. 3766)—

(i) in subsection (a)(1), by striking "the program evaluations as required by section 501(c) of this part" and inserting "program evaluations";

(ii) in subsection (a)(2), by striking "evaluations of programs funded under section 506 (formula grants) and sections 511 and 515 (discretionary grants) of this part" and inserting "evaluations of programs funded under section 505 (formula grants) and section 515 (discretionary grants) of this part"; and

(iii) in subsection (b)(2), by striking "programs funded under section 506 (formula grants) and section 511 (discretionary grants)" and inserting "programs funded under section 505 (formula grants)";

(C) in section 522 (42 U.S.C. 3766b)—

(i) in subsection (a), in the matter preceding paragraph (1), by striking "section 506" and inserting "section 505"; and

(ii) in subsection (a)(1), by striking "an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503" and inserting "an assessment of the impact of such activities on meeting the purposes of subpart 1";

(D) in section 801(b) (42 U.S.C. 3782(b)), in the matter following paragraph (5)—

(i) by striking "the purposes of section 501 of this title" and inserting "the purposes of such subpart 1"; and

(ii) by striking "the application submitted pursuant to section 503 of this title" and inserting "the application submitted pursuant to section 502 of this title";

(E) in section 808 (42 U.S.C. 3789), by striking "the State office described in section 507 or 1408" and inserting "the State office responsible for the trust fund required by section 507, or the State office described in section 1408,";

(F) in section 901 (42 U.S.C. 3791), in subsection (a)(2), by striking "for the purposes of section 506(a)" and inserting "for the purposes of section 505(a)";

(G) in section 1502 (42 U.S.C. 3796bb-1)—

(i) jn paragraph (1), by striking "section 506(a)" and inserting "section 505(a)";

(ii) in paragraph (2)—

(I) by striking "section 503(a)" and inserting "section 502"; and

(II) by striking "section 506" and inserting "section 505";

(H) in section 1602 (42 U.S.C. 3796cc–1), in subsection (b), by striking "The office designated under section 507 of title I" and inserting "The office responsible for the trust fund required by section 507";

(I) in section 1702 (42 U.S.C. 3796dd-1), in subsection (c)(1), by striking "and reflects consideration of the statewide strategy under section 503(a)(1)"; and

(J) in section 1902 (42 U.S.C. 3796ff-1), in subsection (e), by striking "The Office designated under section 507" and inserting "The office responsible for the trust fund required by section 507".

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to the first fiscal year beginning after the date of the enactment of this Act and each fiscal year thereafter.

SEC. 202. CLARIFICATION OF NUMBER OF RECIPIENTS WHO MAY BE SELECTED IN A GIVEN YEAR TO RECEIVE PUBLIC SAFETY OFFICER MEDAL OF VALOR.

Section 3(c) of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15202(c)) is amended by striking "more than 5 recipients" and inserting "more than 5 individuals, or groups of individuals, as recipients".

SEC. 203. CLARIFICATION OF OFFICIAL TO BE CONSULTED BY ATTORNEY GENERAL IN CONSIDERING APPLICATION FOR EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE.

Section 609M(b) of the Justice Assistance Act of 1984 (42 U.S.C. 10501(b)) is amended by striking "the Director of the Office of Justice Assistance" and inserting "the Assistant Attorney General for the Office of Justice Programs".

SEC. 204. CLARIFICATION OF USES FOR REGIONAL INFORMATION SHARING SYSTEM GRANTS.

Section 1301(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h(b)), as most recently amended by section 701 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 374), is amended—

(1) in paragraph (1), by inserting "regional" before "information sharing systems";

(2) by amending paragraph (3) to read as follows:

"(3) establishing and maintaining a secure telecommunications system for regional information sharing between Federal, State, and local law enforcement agencies;"; and

(3) by striking "(5)" at the end of paragraph (4).

SEC. 205. INTEGRITY AND ENHANCEMENT OF NATIONAL CRIMINAL RECORD DATABASES.

(a) DUTIES OF DIRECTOR.—Section 302 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (b), by inserting after the third sentence the following new sentence: "The Director shall be responsible for the integrity of data and statistics and shall protect against improper or illegal use or disclosure.";

(2) by amending paragraph (19) of subsection (c) to read as follows:

"(19) provide for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of State criminal history and related records, support the development and enhancement of national systems of criminal history and related records including the National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center, facilitate State participation in national records and information systems, and support statistical research for critical analysis of the improvement and utilization of criminal history records;"; and

(3) in subsection (d)—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following:

"(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this part, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.".

(b) USE OF DATA.—Section 304 of such Act (42 U.S.C. 3735) is amended by striking "particular individual" and inserting "private person or public agency".

(c) CONFIDENTIALITY OF INFORMATION.—Section 812(a) of such Act (42 U.S.C. 3789g(a)) is amended by striking "Except as provided by Federal law other than this title, no" and inserting "No".

SEC. 206. EXTENSION OF MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking "2007" and inserting "2009".

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

SEC. 211. OFFICE OF WEED AND SEED STRATEGIES.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after section 102 (42 U.S.C. 3712) the following new sections:

"SEC. 103. OFFICE OF WEED AND SEED STRATEGIES.

"(a) ESTABLISHMENT.—There is established within the Office an Office of Weed and Seed Strategies, headed by a Director appointed by the Attorney General.

"(b) ASSISTANCE.—The Director may assist States, units of local government, and neighborhood and community-based organizations in developing Weed and Seed strategies, as provided in section 104.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007, 2008, and 2009, to remain available until expended.

"SEC. 104. WEED AND SEED STRATEGIES.

"(a) IN GENERAL.—From amounts made available under section 103(c), the Director of the Office of Weed and Seed Strategies may implement strategies, to be known as Weed and Seed strategies, to prevent, control, and reduce violent crime, criminal drug-related activity, and gang activity in designated Weed-and-Seed communities. Each such strategy shall involve both of the following activities:

"(1) WEEDING.—Activities, to be known as Weeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (especially those of law enforcement agencies and prosecutors) to arrest, and to sanction or incarcerate, persons in that community who participate or engage in violent crime, criminal drug-related activity, and other crimes that threaten the quality of life in that community.

"(2) SEEDING.—Activities, to be known as Seeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (such as drug abuse education, mentoring, and employment counseling) to provide—

"(A) human services, relating to prevention, intervention, or treatment, for at-risk individuals and families; and

"(B) community revitalization efforts, including enforcement of building codes and development of the economy.

"(b) GUIDELINES.—The Director shall issue guidelines for the development and implementation of Weed and Seed strategies under this section. The guidelines shall ensure that the Weed and Seed strategy for a community referred to in subsection (a) shall—

"(1) be planned and implemented through and under the auspices of a steering committee, properly established in the community, comprised of—

"(A) in a voting capacity, representatives of—

"(i) appropriate law enforcement agencies; and

"(ii) other public and private agencies, and neighborhood and community-based organizations, interested in criminal justice and community-based development and revitalization in the community; and

"(B) in a voting capacity, both—

"(i) the Drug Enforcement Administration's special agent in charge for the jurisdiction encompassing the community; and

"(ii) the United States Attorney for the District encompassing the community;

"(2) describe how law enforcement agencies, other public and private agencies, neighborhood and community-based organizations, and interested citizens are to cooperate in implementing the strategy; and

"(3) incorporate a community-policing component that shall serve as a bridge between the Weeding activities under subsection (a)(1) and the Seeding activities under subsection (a)(2).

"(c) DESIGNATION.—For a community to be designated as a Weed-and-Seed community for purposes of subsection (a)—

"(1) the United States Attorney for the District encompassing the community must certify to the Director that—

"(A) the community suffers from consistently high levels of crime or otherwise is appropriate for such designation;

"(B) the Weed and Seed strategy proposed, adopted, or implemented by the steering committee has a high probability of improving the criminal justice system within the community and contains all the elements required by the Director; and

"(C) the steering committee is capable of implementing the strategy appropriately; and

"(2) the community must agree to formulate a timely and effective plan to independently sustain the strategy (or, at a minimum, a majority of the best practices of the strategy) when assistance under this section is no longer available.

"(d) APPLICATION.—An application for designation as a Weed-and-Seed community for purposes of subsection (a) shall be submitted to the Director by the steering committee of the community in such form, and containing such information and assurances, as the Director may require. The application shall propose—

"(1) a sustainable Weed and Seed strategy that includes—

"(A) the active involvement of the United States Attorney for the District encompassing the community, the Drug Enforcement Administration's special agent in charge for the jurisdiction encompassing the community, and other Federal law enforcement agencies operating in the vicinity;

"(B) a significant community-oriented policing component; and

"(C) demonstrated coordination with complementary neighborhood and community-based programs and initiatives; and

"(2) a methodology with outcome measures and specific objective indicia of performance to be used to evaluate the effectiveness of the strategy.

"(e) GRANTS.—

"(1) IN GENERAL.—In implementing a strategy for a community under subsection (a), the Director may make grants to that community.

"(2) USES.—For each grant under this subsection, the community receiving that grant—

"(A) shall use not less than 40 percent of the grant amounts for Seeding activities under subsection (a)(2); and

"(B) may not use any of the grant amounts for construction, except that the Assistant Attorney General may authorize use of grant amounts for incidental or minor construction, renovation, or remodeling.

"(3) LIMITATIONS.—A community may not receive grants under this subsection (or fall within such a community)—

"(A) for a period of more than 10 fiscal years;

"(B) for more than 5 separate fiscal years, except that the Assistant Attorney General may, in single increments and only upon a showing of extraordinary circumstances, authorize grants for not more than 3 additional separate fiscal years; or

"(C) in an aggregate amount of more than $1,000,000, except that the Assistant Attorney General may, upon a showing of extraordinary circumstances, authorize grants for not more than an additional $500,000.

"(4) DISTRIBUTION.—In making grants under this subsection, the Director shall ensure that—

"(A) to the extent practicable, the distribution of such grants is geographically equitable and includes both urban and rural areas of varying population and area; and

"(B) priority is given to communities that clearly and effectively coordinate crime prevention programs with other Federal programs in a manner that addresses the overall needs of such communities.

"(5) FEDERAL SHARE.—(A) Subject to subparagraph (B), the Federal share of a grant under this subsection may not exceed 75 percent of the total costs of the projects described in the application for which the grant was made.

"(B) The requirement of subparagraph (A)—

"(i) may be satisfied in cash or in kind; and

"(ii) may be waived by the Assistant Attorney General upon a determination that the financial circumstances affecting the applicant warrant a finding that such a waiver is equitable.

"(6) SUPPLEMENT, NOT SUPPLANT.—To receive a grant under this subsection, the applicant must provide assurances that the amounts received under the grant shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs or services provided in the community.".

(b) ABOLISHMENT OF EXECUTIVE OFFICE OF WEED AND SEED; TRANSFERS OF FUNCTIONS.—

(1) ABOLISHMENT.—The Executive Office of Weed and Seed is abolished.

(2) TRANSFER.—There are hereby transferred to the Office of Weed and Seed Strategies all functions and activities performed immediately before the date of the enactment of this Act by the Executive Office of Weed and Seed Strategies.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect 90 days after the date of the enactment of this Act.

Subtitle C—Assisting Victims of Crime

SEC. 221. GRANTS TO LOCAL NONPROFIT ORGANIZATIONS TO IMPROVE OUTREACH SERVICES TO VICTIMS OF CRIME.

Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)), as most recently amended by section 623 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 372), is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking the comma after "Director";

(B) in subparagraph (A), by striking "and" at the end;

(C) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(C) for nonprofit neighborhood and community-based victim service organizations and coalitions to improve outreach and services to victims of crime.";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "paragraph (1)(A)" and inserting "paragraphs (1)(A) and (1)(C)"; and

(ii) by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) not more than $10,000 shall be used for any single grant under paragraph (1)(C).".

SEC. 222. CLARIFICATION AND ENHANCEMENT OF CERTAIN AUTHORITIES RELATING TO CRIME VICTIMS FUND.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended as follows:

(1) AUTHORITY TO ACCEPT GIFTS.—Subsection (b)(5) of such section is amended by striking the period at the end and inserting the following: ", which the Director is hereby authorized to accept for deposit into the Fund, except that the Director is not hereby authorized to accept any such gift, bequest, or donation that—

"(A) attaches conditions inconsistent with applicable laws or regulations; or

"(B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Office for Victims of Crime.".

(2) AUTHORITY TO REPLENISH ANTITERRORISM EMERGENCY RESERVE.—Subsection (d)(5)(A) of such section is amended by striking "expended" and inserting "obligated".

(3) AUTHORITY TO MAKE GRANTS TO INDIAN TRIBES FOR VICTIM ASSISTANCE PROGRAMS.—Subsection (g) of such section is amended—

(A) in paragraph (1), by striking ", acting through the Director,";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) The Attorney General may use 5 percent of the funds available under subsection (d)(2) (prior to distribution) for grants to Indian tribes to establish child victim assistance programs, as appropriate.".

SEC. 223. AMOUNTS RECEIVED UNDER CRIME VICTIM GRANTS MAY BE USED BY STATE FOR TRAINING PURPOSES.

(a) CRIME VICTIM COMPENSATION.—Section 1403(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(3)) is amended by inserting after "may be used for" the following: "training purposes and".

(b) CRIME VICTIM ASSISTANCE.—Section 1404(b)(3) of such Act (42 U.S.C. 10603(b)(3)) is amended by inserting after "may be used for" the following: "training purposes and".

SEC. 224. CLARIFICATION OF AUTHORITIES RELATING TO VIOLENCE AGAINST WOMEN FORMULA AND DISCRETIONARY GRANT PROGRAMS.

(a) CLARIFICATION OF SPECIFIC PURPOSES.—Section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended in the matter preceding paragraph (1) by inserting after "violent crimes against women" the following: "to develop and strengthen victim services in cases involving violent crimes against women".

(b) CLARIFICATION OF STATE GRANTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (a), by striking "to States" and all that follows through "tribal governments";

(2) in subsection (c)(3)(A), by striking "police" and inserting "law enforcement"; and

(3) in subsection (d)—

(A) in the second sentence, by inserting after "each application" the following: "submitted by a State"; and

(B) in the third sentence, by striking "An application" and inserting "In addition, each application submitted by a State or tribal government".

(c) CHANGE FROM ANNUAL TO BIENNIAL REPORTING.—Section 2009(b) of such Act (42 U.S.C. 3796gg–3) is amended by striking "Not later than" and all that follows through "the Attorney General shall submit" and inserting the following: "Not later than one month after the end of each even-numbered fiscal year, the Attorney General shall submit".

SEC. 225. CHANGE OF CERTAIN REPORTS FROM ANNUAL TO BIENNIAL.

(a) STALKING AND DOMESTIC VIOLENCE.—Section 40610 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 14039) is amended by striking "The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides" and inserting "Each even-numbered fiscal year, the Attorney General shall submit to the Congress a biennial report that provides".

(b) SAFE HAVENS FOR CHILDREN.—Section 1301(d)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420(d)(1)) is amended in the matter preceding subparagraph (A) by striking "Not later than 1 year after the last day of the first fiscal year commencing on or after the date of the enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter," and inserting "Not later than one month after the end of each even-numbered fiscal year,".

Subtitle D—Preventing Crime

SEC. 231. CLARIFICATION OF DEFINITION OF VIOLENT OFFENDER FOR PURPOSES OF JUVENILE DRUG COURTS.

Section 2953(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–2(b)) is amended in the matter preceding paragraph (1) by striking "an offense that" and inserting "a felony-level offense that".

SEC. 232. CHANGES TO DISTRIBUTION AND ALLOCATION OF GRANTS FOR DRUG COURTS.

(a) MINIMUM ALLOCATION REPEALED.—Section 2957 of such Act (42 U.S.C. 3797u–6) is amended by striking subsection (b).

(b) TECHNICAL ASSISTANCE AND TRAINING.—Such section is further amended by adding at the end the following new subsection:

"(b) TECHNICAL ASSISTANCE AND TRAINING.—Unless one or more applications submitted by any State or unit of local government within such State (other than an Indian tribe) for a grant under this part has been funded in any fiscal year, such State, together with eligible applicants within such State, shall be provided targeted technical assistance and training by the Community Capacity Development Office to assist such State and such eligible applicants to successfully compete for future funding under this part.".

SEC. 233. ELIGIBILITY FOR GRANTS UNDER DRUG COURT GRANTS PROGRAM EXTENDED TO COURTS THAT SUPERVISE NON-OFFENDERS WITH SUBSTANCE ABUSE PROBLEMS.

Section 2951(a)(1) of such Act (42 U.S.C. 3797u(a)(1)) is amended by striking "offenders with substance abuse problems" and inserting "offenders, and other individuals under the jurisdiction of the court, with substance abuse problems".

SEC. 234. TERM OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR LOCAL FACILITIES.

Section 1904 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–3) is amended by adding at the end the following new subsection:

"(d) DEFINITION.—In this section, the term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility set apart from the general population of the correctional facility, if those activities are—

"(1) directed at the substance abuse problems of the prisoners; and

"(2) intended to develop the cognitive, behavioral, and other skills of prisoners in order to address the substance abuse and related problems of prisoners.".

Subtitle E—Other Matters

SEC. 241. CHANGES TO CERTAIN FINANCIAL AUTHORITIES.

(a) CERTAIN PROGRAMS THAT ARE EXEMPT FROM PAYING STATES INTEREST ON LATE DISBURSEMENTS ALSO EXEMPTED FROM PAYING CHARGE TO TREASURY FOR UNTIMELY DISBURSEMENTS.—Section 204(f) of Public Law 107–273 (116 Stat. 1776; 31 U.S.C. 6503 note) is amended—

(1) by striking "section 6503(d)" and inserting "sections 3335(b) or 6503(d)"; and

(2) by striking "section 6503" and inserting "sections 3335(b) or 6503".

(b) SOUTHWEST BORDER PROSECUTOR INITIATIVE INCLUDED AMONG SUCH EXEMPTED PROGRAMS.—Section 204(f) of such Act is further amended by striking "pursuant to section 501(a)" and inserting "pursuant to the Southwest Border Prosecutor Initiative (as carried out pursuant to paragraph (3) (117 Stat. 64) under the heading relating to Community Oriented Policing Services of the Department of Justice Appropriations Act, 2003 (title I of division B of Public Law 108–7), or as carried out pursuant to any subsequent authority) or section 501(a)".

(c) FUNDS AVAILABLE FOR ATFE MAY BE USED FOR AIRCRAFT, BOATS, AMMUNITION, FIREARMS, FIREARMS COMPETITIONS, AND ANY AUTHORIZED ACTIVITY.—Section 530C(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(8) BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.—Funds available to the Attorney General for the Bureau of Alcohol, Tobacco, Firearms, and Explosives may be used for the conduct of all its authorized activities.".

(d) AUDITS AND REPORTS ON ATFE UNDERCOVER INVESTIGATIVE OPERATIONS.—Section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (28 U.S.C. 533 note), as in effect pursuant to section 815(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 533 note) shall apply with respect to the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the undercover investigative operations of the Bureau on the same basis as such section applies with respect to any other agency and the undercover investigative operations of such agency.

SEC. 242. COORDINATION DUTIES OF ASSISTANT ATTORNEY GENERAL.

(a) COORDINATE AND SUPPORT OFFICE FOR VICTIMS OF CRIME.—Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting after "the Bureau of Justice Statistics," the following: "the Office for Victims of Crime,".

(b) SETTING GRANT CONDITIONS AND PRIORITIES.—Such section is further amended in subsection (a)(6) by inserting ", including placing special conditions on all grants, and determining priority purposes for formula grants" before the period at the end.

SEC. 243. SIMPLIFICATION OF COMPLIANCE DEADLINES UNDER SEX-OFFENDER REGISTRATION LAWS.

(a) COMPLIANCE PERIOD.—A State shall not be treated, for purposes of any provision of law, as having failed to comply with section 170101 (42 U.S.C. 14071) or 170102 (42 U.S.C. 14072) of the Violent Crime Control and Law Enforcement Act of 1994 until 36 months after the date of the enactment of this Act, except that the Attorney General may grant an additional 24 months to a State that is making good faith efforts to comply with such sections.

(b) TIME FOR REGISTRATION OF CURRENT ADDRESS.—Subsection (a)(1)(B) of such section 170101 is amended by striking "unless such requirement is terminated under" and inserting "for the time period specified in".

SEC. 244. REPEAL OF CERTAIN PROGRAMS.

(a) SAFE STREETS ACT PROGRAMS.—The following provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968 are repealed:

(1) CRIMINAL JUSTICE FACILITY CONSTRUCTION PILOT PROGRAM.—Part F (42 U.S.C. 3769–3769d).

(2) MATCHING GRANT PROGRAM FOR SCHOOL SECURITY.—Part AA (42 U.S.C. 3797a–3797e).

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT PROGRAMS.—The following provisions of the Violent Crime Control and Law Enforcement Act of 1994 are repealed:

(1) LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM.—Subtitle B of title III (42 U.S.C. 13751–13758).

(2) ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH.—Subtitle G of title III (42 U.S.C. 13801–13802).

(3) IMPROVED TRAINING AND TECHNICAL AUTOMATION.—Subtitle E of title XXI (42 U.S.C. 14151).

(4) OTHER STATE AND LOCAL AID.—Subtitle F of title XXI (42 U.S.C. 14161).

SEC. 245. ELIMINATION OF CERTAIN NOTICE AND HEARING REQUIREMENTS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT.—Section 802 (42 U.S.C. 3783) of such part is amended—

(A) by striking subsections (b) and (c); and

(B) by striking "(a)" before "Whenever,".

(2) FINALITY OF DETERMINATIONS.—Section 803 (42 U.S.C. 3784) of such part is amended—

(A) by striking ", after reasonable notice and opportunity for a hearing,"; and

(B) by striking ", except as otherwise provided herein".

(3) REPEAL OF APPELLATE COURT REVIEW.—Section 804 (42 U.S.C. 3785) of such part is repealed.

SEC. 246. AMENDED DEFINITIONS FOR PURPOSES OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended as follows:

(1) INDIAN TRIBE.—Subsection (a)(3)(C) of such section is amended by striking "(as that term is defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603))".

(2) COMBINATION.—Subsection (a)(5) of such section is amended by striking "program or project" and inserting "program, plan, or project".

(3) NEIGHBORHOOD OR COMMUNITY-BASED ORGANIZATIONS.—Subsection (a)(11) of such section is amended by striking "which" and inserting ", including faith-based, that".

(4) INDIAN TRIBE; PRIVATE PERSON.—Subsection (a) of such section is further amended—

(A) in paragraph (24) by striking "and" at the end;

(B) in paragraph (25) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(26) the term 'Indian Tribe' has the meaning given the term 'Indian tribe' in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

"(27) the term 'private person' means any individual (including an individual acting in his official capacity) and any private partnership, corporation, association, organization, or entity (or any combination thereof).".

SEC. 247. CLARIFICATION OF AUTHORITY TO PAY SUBSISTENCE PAYMENTS TO PRISONERS FOR HEALTH CARE ITEMS AND SERVICES.

Section 4006 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after "The Attorney General" the following: "or the Secretary of Homeland Security, as applicable,"; and

(2) in subsection (b)(1)—

(A) by striking "the Immigfation and Naturalization Service" and inserting "the Department of Homeland Security";

(B) by striking "shall not exceed the lesser of the amount" and inserting "shall be the amount billed, not to exceed the amount";

(C) by striking "items and services" and all that follows through "the Medicare program" and inserting "items and services under the Medicare program"; and

(D) by striking "; or" and all that follows through the period at the end and inserting a period.

SEC. 248. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 104, as added by section 211 of this Act, the following new section:

"SEC. 105. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the Office an Office of Audit, Assessment, and Management, headed by a Director appointed by the Attorney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

"(2) PURPOSE.—The purpose of the Office shall be to carry out and coordinate performance audits of, take actions to ensure compliance with the terms of, and manage information with respect to, grants under programs covered by subsection (b). The Director shall take special conditions of the grant into account and consult with the office that issued those conditions to ensure appropriate compliance.

"(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice, other than the Inspector General, performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities, other than functions and activities of the Inspector General, for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department.

"(b) COVERED PROGRAMS.—The programs referred to in subsection (a) are the following:

"(1) The program under part Q of this title.

"(2) Any grant program carried out by the Office of Justice Programs.

"(3) Any other grant program carried out by the Department of Justice that the Attorney General considers appropriate.

"(c) PERFORMANCE AUDITS REQUIRED.—

"(1) IN GENERAL.—The Director shall select grants awarded under the programs covered by subsection (b) and carry out performance audits on such grants. In selecting such grants, the Director shall ensure that the aggregate amount awarded under the grants so selected represent not less than 10 percent of the aggregate amount of money awarded under all such grant programs.

"(2) RELATIONSHIP TO NIJ EVALUATIONS.—This subsection does not affect the authority or duty of the Director of the National Institute of Justice to carry out overall evaluations of programs covered by subsection (b), except that such Director shall consult with the Director of the Office in carrying out such evaluations.

"(3) TIMING OF PERFORMANCE AUDITS.—The performance audit required by paragraph (1) of a grant selected under paragraph (1) shall be carried out—

"(A) not later than the end of the grant period, if the grant period is not more than 1 year; and

"(B) at the end of each year of the grant period, if the grant period is more than 1 year.

"(d) COMPLIANCE ACTIONS REQUIRED.—The Director shall take such actions to ensure compliance with the terms of a grant as the Director considers appropriate with respect to each grant that the Director determines (in consultation with the head of the element of the Department of Justice concerned), through a performance audit under subsection (a) or other means, is not in compliance with such terms. In the case of a misuse of more than 1 percent of the grant amount concerned, the Director shall, in addition to any other action to ensure compliance that the Director considers appropriate, ensure that the entity responsible for such misuse ceases to receive any funds under any program covered by subsection (b) until such entity repays to the Attorney General an amount equal to the amounts misused. The Director may, in unusual circumstances, grant relief from this requirement to ensure that an innocent party is not punished.

"(e) GRANT MANAGEMENT SYSTEM.—The Director shall establish and maintain, in consultation with the chief information officer of the Office, a modern, automated system for managing all information relating to the grants made under the programs covered by subsection (b).

"(f) AVAILABILITY OF FUNDS.—Not to exceed 5 percent of all funding made available for a fiscal year for the programs covered by subsection (b) shall be reserved for the activities of the Office of Audit, Assessment, and Management as authorized by this section.".

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 249. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 105, as added by section 248 of this Act, the following new section:

"SEC. 106. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the Office a Community Capacity Development Office, headed by a Director appointed by the Attorney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

"(2) PURPOSE.—The purpose of the Office shall be to provide training to actual and prospective participants under programs covered by section 105(b) to assist such participants in understanding the substantive and procedural requirements for participating in such programs.

"(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department. This does not preclude a grant-making office from providing specialized training and technical assistance in its area of expertise.

"(b) MEANS.—The Director shall, in coordination with the heads of the other elements of the Department, carry out the purpose of the Office through the following means:

"(1) Promoting coordination of public and private efforts and resources within or available to States, units of local government, and neighborhood and community-based organizations.

"(2) Providing information, training, and technical assistance.

"(3) Providing support for inter- and intraagency task forces and other agreements and for assessment of the effectiveness of programs, projects, approaches, or practices.

"(4) Providing in the assessment of the effectiveness of neighborhood and community-based law enforcement and crime prevention strategies and techniques, in coordination with the National Institute of Justice.

"(5) Any other similar means.

"(c) LOCATIONS.—Training referred to in subsection (a) shall be provided on a regional basis to groups of such participants. In a case in which remedial training is appropriate, as recommended by the Director or the head of any element of the Department, such training may be provided on a local basis to a single such participant.

"(d) BEST PRACTICES.—The Director shall—

"(1) identify grants under which clearly beneficial outcomes were obtained, and the characteristics of those grants that were responsible for obtaining those outcomes; and

"(2) incorporate those characteristics into the training provided under this section.

"(e) AVAILABILITY OF FUNDS.—Not to exceed 5 percent of all funding made available for a fiscal year for the programs covered by section 105(b) shall be reserved for the activities of the Community Capacity Development Office as authorized by this section.".

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 250. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968

is amended by adding after section 106, as added by section 249 of this Act, the following new section:

"SEC. 107. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

"(a) Establishment.—There is established within the Office an Office of Applied Law Enforcement Technology, headed by a Director appointed by the Attorney General. The purpose of the Office shall be to provide leadership and focus to those grants of the Department of Justice that are made for the purpose of using or improving law enforcement computer systems.

"(b) Duties.—In carrying out the purpose of the Office, the Director shall—

"(1) establish clear minimum standards for computer systems that can be purchased using amounts awarded under such grants; and

"(2) ensure that recipients of such grants use such systems to participate in crime reporting programs administered by the Department.".

(b) Effective Date.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 251. AVAILABILITY OF FUNDS FOR GRANTS.

(a) In General.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 107, as added by section 250 of this Act, the following new section:

"SEC. 108. AVAILABILITY OF FUNDS.

"(a) Period for Awarding Grant Funds.—

"(1) In general.—Unless otherwise specifically provided in an authorization, DOJ grant funds for a fiscal year shall remain available to be awarded and distributed to a grantee only in that fiscal year and the three succeeding fiscal years, subject to paragraphs (2) and (3). DOJ grant funds not so awarded and distributed shall revert to the Treasury.

"(2) Treatment of reprogrammed funds.—DOJ grant funds for a fiscal year that are reprogrammed in a later fiscal year shall be treated for purposes of paragraph (1) as DOJ grant funds for such later fiscal year.

"(3) Treatment of deobligated funds.—If DOJ grant funds were obligated and then deobligated, the period of availability that applies to those grant funds under paragraph (1) shall be extended by a number of days equal to the number of days from the date on which those grant funds were obligated to the date on which those grant funds were deobligated.

"(b) Period for Expending Grant Funds.—DOJ grant funds for a fiscal year that have been awarded and distributed to a grantee may be expended by that grantee only in the period permitted under the terms of the grant. DOJ grant funds not so expended shall revert to the Treasury.

"(c) Definition.—In this section, the term 'DOJ grant funds' means, for a fiscal year, amounts appropriated for activities of the Department of Justice in carrying out grant programs for that fiscal year.

"(d) Applicability.—This section applies to DOJ grant funds for fiscal years beginning with fiscal year 2006.".

(b) Effective Date.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 252. CONSOLIDATION OF FINANCIAL MANAGEMENT SYSTEMS OF OFFICE OF JUSTICE PROGRAMS.

(a) Consolidation of Accounting Activities and Procurement Activities.—The Assistant Attorney General of the Office of Justice Programs shall ensure that—

(1) all accounting activities for all elements of the Office of Justice Programs are carried out under the direct management of the Office of the Comptroller; and

(2) all procurement activities for all elements of the Office are carried out under the direct management of the Office of Administration.

(b) Further Consolidation of Procurement Activities.—The Assistant Attorney General shall ensure that, on and after September 30, 2008—

(1) all procurement activities for all elements of the Office are carried out through a single management office; and

(2) all contracts and purchase orders used in carrying out those activities are processed through a single procurement system.

(c) Consolidation of Financial Management Systems.—The Assistant Attorney General shall ensure that, on and after September 30, 2010, all financial management activities (including human resources, payroll, and accounting activities, as well as procurement activities) of all elements of the Office are carried out through a single financial management system.

(d) Achieving Compliance.—

(1) Schedule.—The Assistant Attorney General shall undertake a scheduled consolidation of operations to achieve compliance with the requirements of this section.

(2) Specific requirements.—With respect to achieving compliance with the requirements of—

(A) subsection (a), the consolidation of operations shall be initiated not later than 90 days after the date of the enactment of this Act; and

(B) subsections (b) and (c), the consolidation of operations shall be initiated not later than September 30, 2005, and shall be carried out by the Office of Administration, in consultation with the Chief Information Officer and the Office of Audit, Assessment, and Management.

SEC. 253. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) In General.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Grant Authorization.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).";

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking "Additional Grant Projects.—Grants made under subsection (a) may include programs, projects, and other activities to—" and inserting "Uses of Grant Amounts.—The purposes for which grants made under subsection (a) may be made are—";

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (6) (as so redesignated) the following new paragraphs:

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

"(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

"(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

"(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

"(B) security assessments;

"(C) security training of personnel and students;

"(D) coordination with local law enforcement; and

"(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;

"(5) award grants to pay for offices hired to perform intelligence, anti-terror, or homeland security duties;"; and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

"(9) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;";

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

(5) in subsection (c) (as so redesignated) by striking "subsection (i)" and inserting "subsection (g)"; and

(6) by adding at the end the following new subsection:

"(j) Matching Funds for School Security Grants.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

"(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

"(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

"(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.".

(b) Conforming Amendment.—Section 1702 of title I of such Act (42 U.S.C. 3796dd–1) is amended in subsection (d)(2) by striking "section 1701(d)" and inserting "section 1701(b)".

(c) Authorization of Appropriations.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking "expended—" and all that follows through "2000" and inserting "expended $1,047,119,000 for each of fiscal years 2006 through 2009"; and

(2) in subparagraph (B)—

(A) by striking "section 1701(f)" and inserting "section 1701(d)"; and

(B) by striking the third sentence.

SEC. 254. CLARIFICATION OF PERSONS ELIGIBLE FOR BENEFITS UNDER PUBLIC SAFETY OFFICERS' DEATH BENEFITS PROGRAMS.

(a) Persons Eligible for Death Benefits.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), as most recently amended by section 2(a) of the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 (Public Law 107–196; 116 Stat. 719), is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

"(7) 'member of a rescue squad or ambulance crew' means an officially recognized or designated public employee member of a rescue squad or ambulance crew;"; and

(3) in paragraph (4) by striking "and" and all that follows through the end and inserting a semicolon.

(b) Clarification of Limitation on Payments in Non-Civilian Cases.—Section 1202(5) of such Act (42 U.S.C. 3796a(5)) is amended by inserting "with respect" before "to any individual".

(c) Waiver of Collection in Certain Cases.—Section 1201 of such Act (42 U.S.C. 3796) is amended by adding at the end the following:

"(m) In any case in which the Bureau paid, before the date of the enactment of Public Law 107–196, any benefit under this part to an individual who—

"(1) before the enactment of that law was entitled to receive that benefit; and

"(2) by reason of the retroactive effective date of that law is no longer entitled to receive that benefit,

the Bureau may suspend or end activities to collect that benefit if the Bureau determines that collecting that benefit is impractical or would cause undue hardship to that individual.".

(d) Designation of Beneficiary.—Section 1201(a)(4) of such Act (42 U.S.C. 3796(a)(4)) is amended to read as follows:

"(4) if there is no surviving spouse or surviving child—

"(A) in the case of a claim made on or after the date that is 90 days after the date of the enactment of this subparagraph, to the individual designated by such officer as beneficiary under this section in such officer's most recently executed designation of beneficiary on file at the time of death with such officer's public safety agency, organization, or unit, provided that such individual survived such officer; or

"(B) if there is no individual qualifying under subparagraph (A), to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy, provided that such individual survived such officer; or".

SEC. 255. PRE-RELEASE AND POST-RELEASE PROGRAMS FOR JUVENILE OFFENDERS.

Section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended—

(1) in paragraph (15) by striking "or" at the end;

(2) in paragraph (16) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(17) establishing, improving, and coordinating pre-release and post-release systems and programs to facilitate the successful reentry of juvenile offenders from State or local custody in the community.".

SEC. 256. REAUTHORIZATION OF JUVENILE ACCOUNTABILITY BLOCK GRANTS.

Section 1810(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10(a)) is amended by striking "2002 through 2005" and inserting "2006 through 2009".

SEC. 257. SEX OFFENDER MANAGEMENT.

Section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941) is amended by striking subsection (c) and inserting the following:

"(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.".

SEC. 258. EVIDENCE-BASED APPROACHES.

Section 1802 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in subsection (a)(1)(B) by inserting ", including the extent to which evidence-based approaches are utilized" after "part"; and

(2) in subsection (b)(1)(A)(ii) by inserting ", including the extent to which evidence-based approaches are utilized" after "part".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. TECHNICAL AMENDMENTS RELATING TO PUBLIC LAW 107–56.

(a) Striking Surplus Words.—

(1) Section 2703(c)(1) of title 18, United States Code, is amended by striking "or" at the end of subparagraph (C).

(2) Section 1960(b)(1)(C) of title 18, United States Code, is amended by striking "to be used to be used" and inserting "to be used".

(b) Punctuation and Grammar Corrections.—Section 2516(1)(q) of title 18, United States Code, is amended—

(1) by striking the semicolon after the first close parenthesis; and

(2) by striking "sections" and inserting "section".

(c) Cross Reference Correction.—Section 322 of Public Law 107–56 is amended, effective on the date of the enactment of that section, by striking "title 18" and inserting "title 28".

(d) Capitalization Correction.—Subsections (a) and (b) of section 2703 of title 18, United States Code, are each amended by striking "Contents of wire or electronic" and inserting "Contents of Wire or Electronic".

SEC. 302. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) Table of Sections Omission.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3050 the following new item:

"3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.".

(b) Repeal of Duplicative Program.—Section 316 of Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d), as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922), is repealed.

SEC. 303. USE OF FEDERAL TRAINING FACILITIES.

(a) Federal Training Facilities.—Unless specifically authorized in writing by the Attorney General, the Department of Justice (and each entity within it) shall use for any predominately internal training or conference meeting only a facility that does not require a payment to a private entity for use of the facility.

(b) Annual Report.—The Attorney General shall prepare an annual report to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives that details each training and conference meeting that requires specific authorization under subsection (a). The report shall include an explanation of why the facility was chosen, and a breakdown of any expenditures incurred in excess of the cost of conducting the training or meeting at a facility that did not require such authorization.

SEC. 304. PRIVACY OFFICER.

(a) In General.—The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) Responsibilities.—The responsibilities of such official shall include—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personally identifiable information;

(2) assuring that personally identifiable information contained in systems of records is handled in full compliance with fair information practices as set out in section 552a of title 5, United States Code;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personally identifiable information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department on the privacy of personally identifiable information, including the type of personally identifiable information collected and the number of people affected;

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of section 552a of title 5, United States Code, internal controls, and other relevant matters;

(6) ensuring that the Department protects personally identifiable information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentially, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

(C) availability, which means ensuring timely and reliable access to and use of that information; and

(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access; and

(7) advising the Attorney General and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems.

(c) Review.—The Department of Justice shall review its policies to assure that the Department treats personally identifiable information in its databases in a manner that complies with applicable Federal law on privacy.

SEC. 305. BANKRUPTCY CRIMES.

The Director of the Executive Office for United States Trustees shall prepare an annual report to the Congress detailing—

(1) the number and types of criminal referrals made by the United States Trustee Program;

(2) the outcomes of each criminal referral;

(3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and

(4) the United States Trustee Program's efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets.

SEC. 306. REPORT TO CONGRESS ON STATUS OF UNITED STATES PERSONS OR RESIDENTS DETAINED ON SUSPICION OF TERRORISM.

Not less often than once every 12 months, the Attorney General shall submit to Congress a report on the status of United States persons or residents detained, as of the date of the report, on suspicion of terrorism. The report shall—

(1) specify the number of persons or residents so detained; and

(2) specify the standards developed by the Department of Justice for recommending or determining that a person should be tried as a criminal defendant or should be designated as an enemy combatant.

SEC. 307. INCREASED PENALTIES AND EXPANDED JURISDICTION FOR SEXUAL ABUSE OFFENSES IN CORRECTIONAL FACILITIES.

(a) Expanded Jurisdiction.—The following provisions of title 18, United States Code, are each amended by inserting "or in the custody of the Attorney General or the Bureau of Prisons or any institution or facility in which the person is confined by direction of the Attorney General," after "in a Federal prison,":

(1) Subsections (a) and (b) of section 2241.

(2) The first sentence of subsection (c) of section 2241.

(3) Section 2242.

(4) Subsections (a) and (b) of section 2243.

(5) Subsections (a) and (b) of section 2244.

(b) Increased Penalties.—

(1) Sexual abuse of a ward.—Section 2243(b) of such title is amended by striking "one year" and inserting "five years".

(2) Abusive sexual contact.—Section 2244 of such title is amended by striking "six months" and inserting "two years" in each of subsections (a)(4) and (b).

SEC. 308. EXPANDED JURISDICTION FOR CONTRABAND OFFENSES IN CORRECTIONAL FACILITIES.

Section 1791(a) of title 18, United States Code, is amended in each of paragraphs (1) and (2) by inserting "or an individual in the custody of the Attorney General or the Bureau of Prisons or any institution or facility in which the person is confined by direction of the Attorney General" after "an inmate of a prison".

SEC. 309. MAGISTRATE JUDGE'S AUTHORITY TO CONTINUE PRELIMINARY HEARING.

The second sentence of section 3060(c) of title 18, United States Code, is amended to read as follows: "In the absence of such consent of the accused, the judge or magistrate judge may extend the time limits only on a showing that extraordinary circumstances exist and justice requires the delay.".

SEC. 310. TECHNICAL CORRECTIONS RELATING TO STEROIDS.

Section 102(41)(A) of the Controlled Substances Act (21 U.S.C. 802(41)(A)), as amended by the Anabolic Steroid Control Act of 2004 (Public law 108–358), is amended by—

(1) striking clause (xvii) and inserting the following:

"(xvii) 13β-ethyl-17β-hydroxygon-4-en-3-one;"; and

(2) striking clause (xliv) and inserting the following:

"(xliv) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);".

SEC. 311. PRISON RAPE COMMISSION EXTENSION.

Section 7 of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606) is amended in subsection (d)(3)(A) by striking "2 years" and inserting "3 years".

SEC. 312. LONGER STATUTE OF LIMITATION FOR HUMAN TRAFFICKING-RELATED OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3298. Trafficking-related offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense or conspiracy to commit a non-capital offense under section 1581 (Peonage; Obstructing Enforcement), 1583 (Enticement into Slavery), 1584 (Sale into Involuntary Servitude), 1589 (Forced Labor), 1590 (Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor), or 1592 (Unlawful Conduct with Respect to Documents in furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor) of this title or under section 274(a) of the Immigration and Nationality Act unless the indictment is found or the information is instituted not later than 10 years after the commission of the offense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3298. Trafficking-related offenses.".

(c) MODIFICATION OF STATUTE APPLICABLE TO OFFENSE AGAINST CHILDREN.—Section 3283 of title 18, United States Code, is amended by inserting ", or for ten years after the offense, whichever is longer" after "of the child".

SEC. 313. USE OF CENTER FOR CRIMINAL JUSTICE TECHNOLOGY.

(a) IN GENERAL.—The Attorney General may use the services of the Center for Criminal Justice Technology, a nonprofit "center of excellence" that provides technology assistance and expertise to the criminal justice community.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

(1) $7,500,000 for fiscal year 2006;

(2) $7,500,000 for fiscal year 2007; and

(3) $10,000,000 for fiscal year 2008.

SEC. 314. SEARCH GRANTS.

(a) IN GENERAL.—Pursuant to subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets' Act of 1968, the Attorney General may make grants to SEARCH, the National Consortium for Justice Information and Statistics, to carry out the operations of the National Technical Assistance and Training Program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $2,000,000 for each of fiscal years 2006 through 2009.

SEC. 315. REAUTHORIZATION OF LAW ENFORCEMENT TRIBUTE ACT.

Section 11001 of Public Law 107–273 (42 U.S.C. 15208; 116 Stat. 1816) is amended in subsection (i) by striking "2006" and inserting "2009".

SEC. 316. AMENDMENT REGARDING BULLYING AND GANGS.

Paragraph (13) of section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended to read as follows:

"(13) establishing and maintaining accountability-based programs that are designed to enhance school safety, which programs may include reseach-based bullying and gang prevention programs;".

SEC. 317. TRANSFER OF PROVISIONS RELATING TO THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ORGANIZATIONAL PROVISION.—Part II of title 28, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 40A—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

"Sec.
"599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives.
"599B. Personnel management demonstration project.".

(b) TRANSFER OF PROVISIONS.—The section heading for, and subsections (a), (b), (c)(1), and (c)(3) of, section 1111, and section 1115, of the Homeland Security Act of 2002 (6 U.S.C. 531(a), (b), (c)(1), and (c)(3), and 533) are hereby transferred to, and added at the end of chapter 40A of such title, as added by subsection (a) of this section.

(c) CONFORMING AMENDMENTS.—

(1) Such section 1111 is amended—

(A) by striking the section heading and inserting the following:

"§ 599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives";

and

(B) in subsection (b)(2), by inserting "of section 1111 of the Homeland Security Act of 2002 (as enacted on the date of the enactment of such Act)" after "subsection (c)",

and such section heading and such subsections (as so amended) shall constitute section 599A of such title.

(2) Such section 1115 is amended by striking the section heading and inserting the following:

"§ 599B. Personnel management demonstration project",

and such section (as so amended) shall constitute section 599B of such title.

(d) CLERICAL AMENDMENT.—The chapter analysis for such part is amended by adding at the end the following new item:

"40A. Bureau of Alcohol, Tobacco, Firearms, and Explosives .... 599A".

SEC. 318. REAUTHORIZE THE GANG RESISTANCE EDUCATION AND TRAINING PROJECTS PROGRAM.

Section 32401(b) of the Violent Crime Control Act of 1994 (42 U.S.C. 13921(b)) is amended by striking paragraphs (1) through (6) and inserting the following:

"(1) $20,000,000 for fiscal year 2006;

"(2) $20,000,000 for fiscal year 2007;

"(3) $20,000,000 for fiscal year 2008;

"(4) $20,000,000 for fiscal year 2009; and

"(5) $20,000,000 for fiscal year 2010.".

SEC. 319. NATIONAL TRAINING CENTER.

(a) IN GENERAL.—The Attorney General may use the services of the National Training Center in Sioux City, Iowa, to utilize a national approach to bring communities and criminal justice agencies together to receive training to control the growing national problem of methamphetamine, poly drugs and their associated crimes. The National Training Center in Sioux City, Iowa, seeks a comprehensive approach to control and reduce methamphetamine trafficking, production and usage through training.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

(1) $2,500,000 for fiscal year 2006.

(2) $3,000,000 for fiscal year 2007.

(3) $3,000,000 for fiscal year 2008.

(4) $3,000,000 for fiscal year 2009.

SEC. 320. SENSE OF CONGRESS RELATING TO "GOOD TIME" RELEASE.

It is the sense of Congress that it is important to study the concept of implementing a "good time" release program for non-violent criminals in the Federal prison system.

SEC. 321. POLICE BADGES.

Section 716 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting "is a genuine police badge and" after "that the badge"; and

(2) by adding at the end the following:

"(d) It is a defense to a prosecution under this section that the badge is a counterfeit police badge and is used or is intended to be used exclusively—

"(1) for a dramatic presentation, such as a theatrical, film, or television production; or

"(2) for legitimate law enforcement purposes.".

SEC. 322. OFFICIALLY APPROVED POSTAGE.

Section 475 of title 18, United States Code, is amended by adding at the end the following: "Nothing in this section applies to evidence of postage payment approved by the United States Postal Service.".

TITLE IV—VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005

SEC. 401. SHORT TITLE.

Titles IV through X of this Act may be cited as the "Violence Against Women Reauthorization Act of 2005".

SEC. 402. DEFINITIONS AND REQUIREMENTS FOR PROGRAMS RELATING TO VIOLENCE AGAINST WOMEN.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before section 2001 (42 U.S.C. 3796gg) the following new sections:

"SEC. 2000A. CLARIFICATION THAT PROGRAMS RELATING TO VIOLENCE AGAINST WOMEN ARE GENDER-NEUTRAL.

"In this part, and in any other Act of Congress, unless the context unequivocally requires otherwise, a provision authorizing or requiring the Department of Justice to make grants, or to carry out other activities, for assistance to victims of domestic violence, dating violence, stalking, sexual assault, or trafficking in persons, shall be construed to cover grants that provide assistance to female victims, male victims, or both.

“SEC. 2000B. DEFINITIONS THAT APPLY TO ANY PROVISION CARRIED OUT BY VIOLENCE AGAINST WOMEN OFFICE.

“(a) IN GENERAL.—In this part, and in any violence against women provision, unless the context unequivocally requires otherwise, the following definitions apply:

“(1) COURTS.—The term ‘courts’ means any civil or criminal, tribal, and Alaskan Village, Federal, State, local or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other person with decisionmaking authority.

“(2) CHILD MALTREATMENT.—The term ‘child maltreatment’ means the physical or psychological abuse or neglect of a child or youth, including sexual assault and abuse.

“(3) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means an organization that—

“(A) focuses primarily on domestic violence, dating violence, sexual assault, or stalking;

“(B) has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;

“(C) has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence; sexual assault, or stalking; or

“(D) obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration.

“(4) COURT-BASED AND COURT-RELATED PERSONNEL.—The term ‘court-based’ and ‘court-related personnel’ mean persons working in the court, whether paid or volunteer, including—

“(A) clerks, special masters, domestic relations officers, administrators, mediators, custody evaluators, guardians ad litem, lawyers, negotiators, probation, parole, interpreters, victim assistants, victim advocates, and judicial, administrative, or any other professionals or personnel similarly involved in the legal process;

“(B) court security personnel;

“(C) personnel working in related, supplementary offices or programs (such as child support enforcement); and

“(D) any other court-based or community-based personnel having responsibilities or authority to address domestic violence, dating violence, sexual assault, or stalking in the court system.

“(5) DOMESTIC VIOLENCE.—The term ‘domestic violence’ includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult, youth, or minor victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

“(6) DATING PARTNER.—The term ‘dating partner’ refers to a person who is or has been in an ongoing social relationship of a romantic or intimate nature with the abuser, and existence of such a relationship based on a consideration of—

“(A) the length of the relationship;

“(B) the type of relationship; and

“(C) the frequency of interaction between the persons involved in the relationship.

“(7) DATING VIOLENCE.—The term ‘dating violence’ means violence committed by a person—

“(A) who is or has been in an ongoing social relationship of a romantic or intimate nature with the victim; and

“(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

“(i) The length of the relationship.

“(ii) The type of relationship.

“(iii) The frequency of interaction between the persons involved in the relationship.

“(8) ELDER ABUSE.—The term ‘elder abuse’ means any action against a person who is 60 years of age or older that constitutes the willful—

“(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

“(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

“(9) INDIAN.—The term ‘Indian’ means a member of an Indian tribe.

“(10) INDIAN HOUSING.—The term ‘Indian housing’ means housing assistance described in the Native American Assistance and Self-Determination Act of (25 U.S.C. 4101 et seq., as amended).

“(11) INDIAN TRIBE.—The term ‘Indian tribe’ means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(12) INDIAN LAW ENFORCEMENT.—The term ‘Indian law enforcement’ means the departments or individuals under the direction of the Indian tribe that maintain public order.

“(13) LAW ENFORCEMENT.—The term ‘law enforcement’ means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs), including those referred to in section 3 of the Indian Enforcement Reform Act (25 U.S.C. 2802).

“(14) LEGAL ASSISTANCE.—The term ‘legal assistance’—

“(A) includes assistance to adult, youth, and minor victims of domestic violence, dating violence; sexual assault, and stalking in—

“(i) family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay away order proceedings, and other similar matters; and

“(ii) criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy, subject to subparagraph (B); and

“(B) does not include representation of a defendant in a criminal or juvenile proceeding.

“(15) LINGUISTICALLY AND CULTURALLY SPECIFIC SERVICES.—The term ‘linguistically and culturally specific services’ means community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward racial and ethnic populations and other underserved communities.

“(16) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term ‘personally identifying information’ or ‘personal information’ means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

“(A) a first and last name;

“(B) a home or other physical address;

“(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

“(D) a social security number; and

“(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.

“(17) PROSECUTION.—The term ‘prosecution’ means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs).

“(18) PROTECTION ORDER OR RESTRAINING ORDER.—The term ‘protection order’ or ‘restraining order’ includes—

“(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

“(B) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

“(19) RURAL AREA AND RURAL COMMUNITY.—The terms ‘rural area’ and ‘rural community’ mean—

“(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

“(B) any area or community, respectively, that is—

“(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

“(ii) located in a rural census tract.

“(20) RURAL STATE.—The term ‘rural State’ means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people, based on the most recent decennial census.

“(21) SEXUAL ASSAULT.—The term ‘sexual assault’ means any conduct prescribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

“(22) STALKING.—The term ‘stalking’ means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

“(A) fear for his or her safety or the safety of others; or

“(B) suffer substantial emotional distress.

“(23) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and except as otherwise provided, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

“(24) STATE DOMESTIC VIOLENCE COALITION.—The term ‘State domestic violence coalition’ means a program determined by the Administration for Children and Families under the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)).

"(25) STATE SEXUAL ASSAULT COALITION.—The term 'State sexual assault coalition' means a program determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

"(26) TERRITORIAL DOMESTIC VIOLENCE OR SEXUAL ASSAULT COALITION.—The term 'territorial domestic violence or sexual assault coalition' means a program addressing domestic violence that is—

"(A) an established nonprofit, nongovernmental territorial coalition addressing domestic violence or sexual assault within the territory; or

"(B) a nongovernmental organization with a demonstrated history of addressing domestic violence or sexual assault within the territory that proposes to incorporate as a nonprofit, nongovernmental territorial coalition.

"(27) TRIBAL COALITION.—The term 'tribal coalition' means—

"(A) an established nonprofit, nongovernmental tribal coalition addressing domestic violence and sexual assault against American Indian and Alaskan Native women; or

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaskan Native women.

"(28) TRIBAL GOVERNMENT.—The term 'tribal government' means—

"(A) the governing body of an Indian tribe; or

"(B) a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(29) TRIBAL ORGANIZATION.—The term 'tribal organization' means—

"(A) the governing body of any Indian tribe;

"(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body of a tribe or tribes to be served, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; or

"(C) any tribal nonprofit organization.

"(30) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General.

"(31) VICTIM ADVOCATE.—The term 'victim advocate' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a victim services program.

"(32) VICTIM ASSISTANT.—The term 'victim assistant' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

"(33) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term 'victim services' or 'victim service provider' means a nonprofit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work, or a demonstrated capacity to work effectively in collaboration with an organization with a documented history of effective work, concerning domestic violence, dating violence, sexual assault, or stalking.

"(34) YOUTH.—The term 'youth' means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

"(b) VIOLENCE AGAINST WOMEN PROVISION.—In this section, the term 'violence against women provision' means any provision required by law to be carried out by or through the Violence Against Women Office.

"SEC. 2000C. REQUIREMENTS THAT APPLY TO ANY GRANT PROGRAM CARRIED OUT BY VIOLENCE AGAINST WOMEN OFFICE.

"(a) IN GENERAL.—In carrying out grants under this part, and in carrying out grants under any other violence against women grant program, the Director of the Violence Against Women Office shall ensure each of the following:

"(1) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

"(A) IN GENERAL.—In order to ensure the safety of adult, youth, and minor victims of domestic violence, dating violence, sexual assault, or stalking, and their families, each grantee and subgrantee shall reasonably protect the confidentiality and privacy of persons receiving services.

"(B) NONDISCLOSURE.—Subject to subparagraph (C), grantees and subgrantees shall not—

"(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

"(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program.

"(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate or is requested by a Member of Congress—

"(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

"(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

"(D) INFORMATION SHARING.—Grantees and subgrantees may share—

"(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; and

"(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for investigation, prosecution, and enforcement purposes.

"(2) APPROVED ACTIVITIES.—In carrying out activities under the grant program, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

"(3) NON-SUPPLANTATION.—Any Federal funds received under the grant program shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities carried out under the grant.

"(4) USE OF FUNDS.—Funds authorized and appropriated under the grant program may be used only for the specific purposes described in the grant program and shall remain available until expended.

"(5) EVALUATION.—Grantees must collect data for use to evaluate the effectiveness of the program (or for use to carry out related research), pursuant to the requirements described in paragraph (1)(D).

"(6) PROHIBITION ON LOBBYING.—Any funds appropriated for the grant program shall be subject to the prohibition in section 1913 of title 18, United States Code, relating to lobbying with appropriated moneys.

"(7) PROHIBITION ON TORT LITIGATION.—Funds appropriated for the grant program may not be used to fund civil representation in a lawsuit based on a tort claim. This paragraph shall not be construed as a prohibition on providing assistance to obtain restitution in a protection order or criminal case.

"(b) VIOLENCE AGAINST WOMEN GRANT PROGRAM.—In this section, the term 'violence against women grant program' means any grant program required by law to be carried out by or through the Violence Against Women Office.".

TITLE V—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE

SEC. 501. STOP GRANTS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(18) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(8)) is amended by striking "$185,000,000 for each of fiscal years 2001 through 2005" and inserting "$215,000,000 for each of fiscal years 2006 through 2010".

(b) PURPOSE AREA ENHANCEMENTS.—Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) by striking ", and specifically, for the purposes of—" and inserting ", including collaborating with and informing public officials and agencies in order to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking, and specifically only for the purposes of—";

(2) in paragraph (5), by inserting after "protection orders are granted," the following: "supporting nonprofit nongovernmental victim services programs and tribal organizations in working with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking,";

(3) in paragraph (10), by striking "and" after the semicolon; and

(4) by adding at the end the following:

"(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families; and

"(13) supporting the placement of special victim assistants (to be known as 'Jessica Gonzales Victim Assistants') in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities—

"(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized;

"(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

"(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

"(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order.".

(c) CLARIFICATION OF ACTIVITIES REGARDING UNDERSERVED POPULATIONS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (c)(2), by inserting before the semicolon the following: "and describe how the State will address the needs of racial and ethnic minorities and other underserved populations"; and

(2) in subsection (e)(2), by striking subparagraph (D) and inserting the following:

"(D) recognize and meaningfully respond to the needs of racial and ethnic and other underserved populations and ensure that monies set aside to fund services and activities for racial and ethnic and other underserved populations are distributed equitably among those populations.".

(d) TRIBAL AND TERRITORIAL SETASIDES.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1), as amended by subsection (c), is further amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "5 percent" and inserting "10 percent";

(B) in paragraph (2), by striking "1/54" and inserting "1/56";

(C) in paragraph (3), by striking "and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54" and inserting "Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56";

(D) in paragraph (4), by striking "1/54" and inserting "1/56";

(E) in paragraph (5), by striking "and" after the semicolon;

(F) in paragraph (6), by striking the period and inserting "; and"; and

(G) by adding at the end:

"(7) such funds shall remain available until expended.";

(2) in subsection (c)(3)(B), by inserting after "victim services" the following: ", of which at least 10 percent shall be distributed to culturally specific community-based organizations"; and

(3) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) a memorandum of understanding showing that tribal, territorial, State, or local prosecution, law enforcement, and court and victim service provider subgrantees have consulted with tribal, territorial, State, or local victim services programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.".

(e) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1), as amended by this section, is further amended by adding at the end the following:

"(i) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—

"(1) IN GENERAL.—Of the total amounts appropriated under this part, not less than 3 percent and up to 8 percent shall be available for providing training, technical assistance, and data collection relating to the purpose areas of this part to improve the capacity of grantees, subgrantees, and other entities to offer services and assistance to victims of domestic violence, sexual assault, stalking, and dating violence.

"(2) INDIAN TRAINING.—The Director of the Violence Against Women Office shall ensure that training, technical assistance, and data collection regarding violence against Indian women will be developed and provided by entities having expertise in tribal law and culture.

"(j) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.—As a condition of receiving grant amounts under this part, the recipient shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal, or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated law enforcement generated information contained in secure, governmental registries for protection order enforcement purposes.".

(f) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—Section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) is amended by adding at the end the following:

"(c) USE OF FUNDS.—A State or Indian tribal government may use Federal grant funds under this part to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State or Indian tribal government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit a State to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.".

(g) POLYGRAPH TESTING PROHIBITION.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following new section:

"SEC. 2012. POLYGRAPH TESTING PROHIBITION.

"In order to be eligible for grants under this part, a State, Indian tribal government, or unit of local government must certify within three years of enactment of the Violence Against Women Reauthorization Act of 2005 that their laws, policies, or practices ensure that no law enforcement officer, prosecuting officer, or other government official shall ask or require an adult, youth, or minor victim of a sex offense as defined under Federal, tribal, State, territorial or local law to submit to a polygraph examination or similar truth-telling device or method as a condition for proceeding with the investigation, charging or prosecution of such an offense. A victim's refusal to submit to the aforementioned shall not prevent the investigation, charging or prosecution of the pending case.".

(h) NO MATCHING REQUIREMENT.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is further amended by adding at the end the following new section:

"SEC. 2013. NO MATCHING REQUIREMENT FOR CERTAIN GRANTEES.

"No matching funds shall be required for a grant or subgrant made under this part, if made—

"(1) to a law enforcement agency having fewer than 20 officers;

"(2) to a victim service provider having an annual operating budget of less than $5,000,000; or

"(3) to any entity that the Attorney General determines has adequately demonstrated financial need.".

SEC. 502. GRANTS TO ENCOURAGE ARREST AND ENFORCE PROTECTION ORDERS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(19) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(19)) is amended by striking "$65,000,000 for each of fiscal years 2001 through 2005." and inserting "$65,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this paragraph shall remain available until expended.".

(b) GRANTEE REQUIREMENTS.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (a), by striking "to treat domestic violence as a serious violation" and inserting "to treat domestic violence, dating violence, sexual assault, and stalking as serious violations";

(2) in subsection (b)—

(A) in the matter before paragraph (1), by inserting after "State" the following: ", tribal, territorial,";

(B) in paragraph (1), by striking "mandatory arrest or";

(C) in paragraph (2), by—

(i) inserting after "educational programs," the following: "protection order registries,"; and

(ii) striking "domestic violence and dating violence." and inserting "domestic violence, dating violence, sexual assault, and stalking. Such policies, educational programs, registries, and training shall incorporate confidentiality and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking.";

(D) in paragraph (3), by—

(i) striking "domestic violence cases" and inserting "domestic violence, dating violence, sexual assault, and stalking cases"; and

(ii) striking "groups" and inserting "teams";

(E) in paragraph (5), by striking "domestic violence and dating violence" and inserting "domestic violence, dating violence, sexual assault, and stalking";

(F) in paragraph (6), by—

(i) striking "other" and inserting "civil"; and

(ii) inserting after "domestic violence" the following: ", dating violence, sexual assault, and stalking"; and

(G) by adding at the end the following:

"(9) To enhance and support the capacity of victims services programs to collaborate with and inform efforts by State and local jurisdictions and public officials and agencies to develop best practices and policies regarding arrest of domestic violence, dating violence, sexual assault, and stalking offenders and to strengthen protection order enforcement and to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

"(10) To develop State, tribal, territorial, or local policies, procedures, and protocols for preventing dual arrests and prosecutions in cases of domestic violence, dating violence, sexual assault, and stalking and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

"(11) To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from non-profit, non-governmental victim services organizations, law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to improve safety, access to services, and confidentiality for victims and families.

"(12) To develop and implement policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.";

(3) in subsection (c)—

(A) in paragraph (3), by striking "and" after the semicolon;

(B) in paragraph (4), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(5) certify within three years of enactment of the Violence Against Women Reauthorization Act of 2005 that their laws, policies, or practices ensure that—

"(A) no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or minor victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation, charging or prosecution of such an offense; and

"(B) the refusal of a victim to submit to an examination described in subparagraph (A) shall not prevent the investigation, charging or prosecution of the offense."; and

(4) by striking subsections (d) and (e) and inserting the following:

"(d) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.".

(c) APPLICATIONS.—Section 2102(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh–1(b)) is amended in each of paragraphs (1) and (2) by inserting after "involving domestic violence" the following: ", dating violence, sexual assault, or stalking".

(d) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

"SEC. 2106. TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.

"Of the total amounts appropriated under this part, not less than 5 percent and up to 8 percent shall be available for providing training, technical assistance, and data collection relating to the purpose areas of this part to improve the capacity of grantees, subgrantees, and other entities to offer services and assistance to victims of domestic violence and dating violence.".

SEC. 503. LEGAL ASSISTANCE FOR VICTIMS IMPROVEMENTS.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by—

(A) inserting before "legal assistance" the following: "civil and criminal";

(B) inserting after "effective aid to" the following: "adult, youth, and minor"; and

(C) striking "domestic violence, dating violence, stalking, or sexual assault" and inserting "domestic violence, dating violence, sexual assault, or stalking";

(2) in subsection (c), by striking "private nonprofit entities, Indian tribal governments," and inserting "nonprofit, nongovernmental organizations, Indian tribal governments and tribal organizations, territorial organizations,";

(3) in each of paragraphs (1), (2), and (3) of subsection (c), by striking "victims of domestic violence, stalking, and sexual assault" and inserting "victims of domestic violence, dating violence, sexual assault, and stalking";

(4) in subsection (d)—

(A) in paragraph (1), by striking "domestic violence, dating violence, or sexual assault" and inserting "domestic violence, dating violence, sexual assault, or stalking"; and

(B) by striking paragraphs (2) and (3) and inserting the following:

"(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organization or coalition, as well as appropriate tribal, State, territorial, and local law enforcement officials;

"(3) any person or organization providing legal assistance through a program funded under subsection (c) has informed and will continue to inform tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organizations and coalitions, as well as appropriate tribal, State, territorial, and local law enforcement officials of their work; and"; and

(5) in subsection (f)—

(A) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $55,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended and may be used only for the specific programs and activities described in this section. Funds appropriated under this section may not be used for advocacy."; and

(B) in paragraph (2)—

(i) in subparagraph (A), by—

(I) striking "5 percent" and inserting "10 percent";

(II) striking "programs" and inserting "tribal governments or tribal organizations";

(III) inserting "adult, youth, and minor" after "that assist"; and

(IV) striking "domestic violence, dating violence, stalking, and sexual assault" and inserting "domestic violence, dating violence, sexual assault, and stalking"; and

(ii) in subparagraph (B), by striking "technical assistance to support projects focused solely or primarily on providing legal assistance to victims of sexual assault" and inserting "technical assistance in civil and crime victim matters to adult, youth, and minor victims of sexual assault".

SEC. 504. COURT TRAINING AND IMPROVEMENTS.

The Violence Against Women Act of 1994 is amended by adding after subtitle I (42 U.S.C. 14042) the following:

"Subtitle J—Violence Against Women Act Court Training and Improvements

"SEC. 41001. SHORT TITLE.

"This subtitle may be cited as the 'Violence Against Women Act Court Training and Improvements Act of 2005'.

"SEC. 41002. GRANTS FOR COURT TRAINING AND IMPROVEMENTS.

"(a) PURPOSE.—The purpose of this section is to enable the Attorney General, though the Director of the Office on Violence Against Women, to award grants to improve court responses to adult, youth, and minor domestic violence, dating violence, sexual assault, and stalking to be used for the following purposes—

"(1) improved internal civil and criminal court functions, responses, practices, and procedures;

"(2) education for court-based and court-related personnel on issues relating to victims' needs, including safety, security, privacy, confidentiality and economic independence, as well as information about perpetrator behavior and best practices for holding perpetrators accountable;

"(3) collaboration and training with Federal, State, and local public agencies and officials and nonprofit, non-governmental organizations to improve implementation and enforcement of relevant Federal, State, tribal, territorial and local law;

"(4) to enable courts or court-based or court-related programs to develop new or enhance current—

"(A) court infrastructure (such as specialized courts, dockets, intake centers, or interpreter services and linguistically and culturally specific services, or a court system dedicated to the adjudication of domestic violence cases);

"(B) community-based initiatives within the court system (such as court watch programs, victim advocates, or community-based supplementary services);

"(C) offender management, monitoring, and accountability programs;

"(D) safe and confidential information-storage and -sharing databases within and between court systems;

"(E) education and outreach programs (such as interpreters) to improve community access, including enhanced access for racial and ethnic communities and racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968); and

"(F) other projects likely to improve court responses to domestic violence, dating violence, sexual assault, and stalking;

"(5) to provide training, technical assistance, and data collection to tribal, Federal, State, territorial or local courts wishing to improve their practices and procedures or to develop new programs; and

"(6) to provide training for specialized service providers, such as interpreters.

"(b) GRANT REQUIREMENTS.—Grants awarded under this section shall be subject to the following conditions:

"(1) ELIGIBLE GRANTEES.—Eligible grantees may include—

"(A) tribal, Federal, State, territorial or local courts or court-based programs, provided that the court's internal organizational policies, procedures, or rules do not require mediation or counseling between offenders and victims physically together in cases where domestic violence, dating violence, sexual assault, or stalking is an issue; and

"(B) national, tribal, State, or local private, nonprofit organizations with demonstrated expertise in developing and providing judicial education about domestic violence, dating violence, sexual assault, or stalking.

"(2) CONDITIONS OF ELIGIBILITY FOR CERTAIN GRANTS.—

"(A) COURT PROGRAMS.—To be eligible for a grant under subsection (a)(4), applicants shall certify in writing that any courts or court-based personnel working directly with or making decisions about adult, youth, or minor parties experiencing domestic violence, dating violence, sexual assault, and stalking have completed or will complete education about domestic violence, dating violence, sexual assault, and stalking.

"(B) EDUCATION PROGRAMS.—To be eligible for a grant under subsection (a)(2), applicants shall certify in writing that any education program developed under subsection (a)(2) has been or will be developed with significant input from and in collaboration with a national, tribal, State, territorial, or local victim services provider or coalition.

"(c) EVALUATION.—

"(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, may evaluate the grants funded under this section.

"(2) TRIBAL GRANTEES.—Evaluation of tribal grantees under this section shall be conducted by entities with expertise in Federal Indian law and tribal court practice.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2006 to 2010.

"(2) SET ASIDE.—Of the amounts made available under this section in each fiscal year, not less than 10 percent shall be used for grants to tribes.

"SEC. 41003. NATIONAL AND TRIBAL EDUCATIONAL CURRICULA.

"(a) NATIONAL CURRICULA.—

"(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, shall fund efforts to develop a national education curriculum for use by State and national judicial educators to ensure that all courts and court personnel have access to information about relevant Federal, State, territorial, or local law, promising practices, procedures, and policies regarding court responses to adult, youth, and minor domestic violence, dating violence, sexual assault, and stalking.

"(2) ELIGIBLE ENTITIES.—Any curricula developed under this subsection—

"(A) shall be developed by an entity or entities having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; or

"(B) if the primary grantee does not have demonstrated expertise such issues, the curricula shall be developed by the primary grantee in partnership with an organization having such expertise.

"(b) TRIBAL CURRICULA.—

"(1) IN GENERAL.—The Attorney General, through the Office on Violence Against Women, shall fund efforts to develop education curricula for tribal court judges to ensure that all tribal courts have relevant information about promising practices, procedures, policies, and law regarding tribal court responses to adult, youth, and minor domestic violence, dating violence, sexual assault, and stalking.

"(2) ELIGIBLE ENTITIES.—Any curricula developed under this subsection—

"(A) shall be developed by a tribal organization having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; and

"(B) if the primary grantee does not have such expertise, the curricula shall be developed by the primary grantee through partnership with organizations having such expertise.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 to 2010.

"(2) AVAILABILITY.—Funds appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this section.

"(3) SET ASIDE.—Of the amounts made available under this section in each fiscal year, not less than 10 percent shall be used for grants to tribes.

"SEC. 41004. ACCESS TO JUSTICE FOR TEENS.

"(a) PURPOSE.—It is the purpose of this section to encourage cross training and collaboration between the courts, domestic violence and sexual assault service providers, youth organizations and service providers, violence prevention programs, and law enforcement agencies, so that communities can establish and implement policies, procedures, and practices to protect and more comprehensively and effectively serve youth victims of dating violence, domestic violence, sexual assault, and stalking between the ages of 12 and 24, and to engage, where necessary, other entities addressing the safety, health, mental health, social service, housing, and economic needs of youth victims of domestic violence, dating violence, sexual assault, and stalking.

"(b) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women (in this section referred to as the 'Director'), shall make grants to eligible entities to enable entities to jointly carry out cross training and other collaborative initiatives that seek to carry out the purposes of this section. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

"(2) GRANT PERIODS.—Grants shall be awarded under this section for a period of 3 fiscal years.

"(3) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, a grant applicant shall establish a collaboration that shall include—

"(A) a Tribal, State, Territorial or local juvenile, family, civil, criminal or other trial court with jurisdiction over domestic violence, dating violence, sexual assault or stalking cases (hereinafter referred to as 'courts'); and

"(B) a victim service provider that has experience in working on domestic violence, dating violence, sexual assault, or stalking and the effect that those forms of abuse have on young people.

"(c) USES OF FUNDS.—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts to—

"(1) assess and analyze currently available services for youth victims of domestic violence, dating violence, sexual assault, and stalking, determine relevant barriers to such services in a particular locality;

"(2) establish and enhance linkages and collaboration between courts, domestic violence or sexual assault service providers, and, where applicable, law enforcement agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of youth victims of domestic violence, dating violence, sexual assault or stalking, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions to identify, assess, and respond appropriately to the varying needs of youth victims of dating violence, domestic violence, sexual assault or stalking;

"(3) educate the staff of courts, domestic violence and sexual assault service providers, and, as applicable, the staff of law enforcement agencies, youth organizations, schools, healthcare providers and other community prevention and intervention programs to responsibly address youth victims and perpetrators of domestic violence, dating violence, sexual assault and stalking, and to understand relevant laws, court procedures and policies; and

"(4) provide appropriate resources in juvenile court matters to respond to dating violence, domestic violence, sexual assault and stalking and assure necessary services dealing with the health and mental health of youth victims are available.

"(d) GRANT APPLICATIONS.—To be eligible for a grant under this section, the entities that are members of the applicant collaboration described in subsection (b)(3) shall jointly submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(e) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with law enforcement agencies and religious and community organizations and service providers that work primarily with youth, especially teens, and who have demonstrated a commitment to coalition building and cooperative problem solving in dealing with problems of dating violence, domestic violence, sexual assault, and stalking in teen populations.

"(f) DISTRIBUTION.—In awarding grants under this section—

"(1) not less than 10 percent of funds appropriated under this section in any year shall be available for grants to collaborations involving tribal courts, tribal coalitions, tribal organizations, or domestic violence or sexual assault service providers the primary purpose of which is to provide culturally relevant services to American Indian or Alaska Native women or youth;

"(2) the Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for monitoring and evaluation of grants made available under this section;

"(3) the Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for administration of grants made available under this section; and

"(4) up to 8 percent of funds appropriated under this section in any year shall be available to provide training, technical assistance, and data collection for programs funded under this section.

"(g) REPORTS.—

"(1) REPORTS.—Each of the entities that are members of the applicant collaboration described in subsection (b)(3) and that receive a grant under this section shall jointly prepare and submit a report to the Attorney General every 18 months detailing the activities that the entities have undertaken under the grant and such additional information as the Attorney General may require. Each such report shall contain information on—

"(A) the activities implemented by the recipients of the grants awarded under this section; and

"(B) related initiatives undertaken by the Director to promote attention to dating violence, domestic violence, sexual assault, and stalking and their impact on young victims by—

"(i) the staffs of courts;

"(ii) domestic violence, dating violence, sexual assault, and stalking service providers; and

"(iii) law enforcement agencies and community organizations.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2006 through 2010.".

SEC. 505. FULL FAITH AND CREDIT IMPROVEMENTS.

(a) ENFORCEMENT OF PROTECTION ORDERS ISSUED BY TERRITORIES.—Section 2265 of title 18, United States Code, is amended—

(1) by striking "State or Indian tribe" each place it appears and inserting "State, Indian tribe, or territory";

(2) by striking "State or tribal" each place it appears and inserting "State, tribal, or territorial"; and

(3) in subsection (a) by striking "State or tribe" and inserting "State, Indian tribe, or territory".

(b) CLARIFICATION OF ENTITIES HAVING ENFORCEMENT AUTHORITY AND RESPONSIBILITIES.—Section 2265(a) of title 18, United States Code, is amended by striking "and enforced as if it were" and inserting "and enforced by the court and law enforcement personnel of the other State, Indian tribal government, or Territory as if it were".

(c) PROTECTION ORDERS.—Sections 2265 and 2266 of title 18, United States Code, are both amended by striking "protection order" each place it appears and inserting "protection order, restraining order, or injunction".

(d) DEFINITIONS.—Section 2266 of title 18, United States Code, is amended by striking paragraph (5) and inserting the following:

"(5) PROTECTION ORDER, RESTRAINING ORDER, OR INJUNCTION.—The term 'protection order, restraining order, or injunction' includes—

"(A) any injunction or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

"(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.".

SEC. 506. PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING.

The Violence Against Women Act of 1994, as amended by this Act, is further amended by adding after subtitle J (as added by section 504) the following:

"Subtitle K—Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking

"SEC. 41101. TASK FORCE.

"The Attorney General shall establish a task force to review and report on policies, procedures, and technological issues that may affect the privacy and confidentiality of victims of domestic violence, dating violence, stalking and sexual assault. The Attorney General shall include representatives from States, tribes, territories, law enforcement, court personnel, and private nonprofit organizations whose mission is to help develop a best practices model to prevent personally identifying information of adult, youth, and minor victims of domestic violence, dating violence, stalking and sexual assault from being released to the detriment of such victimized persons. The Attorney General shall designate one staff member to work with the task force. The Attorney General is authorized to make grants to develop a demonstration project to implement the best practices identified by the Task Force.

"SEC. 41102. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There is authorized to be appropriated to carry out this subtitle $1,000,000 for each of fiscal years 2006 through 2010.

"(b) Availability.—Amounts appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this subtitle.".

SEC. 507. STALKER DATABASE.

Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended—

(1) by striking "2001" and inserting "2006"; and

(2) by striking "2005" and inserting "2010".

SEC. 508. VICTIM ASSISTANTS FOR DISTRICT OF COLUMBIA.

Section 40114 of the Violence Against Women Act of 1994 is amended to read as follows:

"SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM ASSISTANTS.

"There are authorized to be appropriated to the Attorney General for the purpose of appointing victim assistants for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia), $1,000,000 for each of fiscal years 2006 through 2010.".

SEC. 509. PREVENTING CYBERSTALKING.

Section 2261A of title 18, United States Code, is amended—

(1) in paragaph (1)—

(A) by inserting after "intimidate" the following: ", or places under surveillance with the intent to kill, injure, haras, or intimidate,"; and

(B) by inserting after "or serious bodily injury to," the following: "or causes substantial emotional harm to,";

(2) in paragraph (2)(A), by striking "to kill or injure" and inserting "to kill, injure, harass, or intimidate, or places under surveillance with the intent to kill, injure, harass, or intimidate, or to cause substantial emtional harm to,"; and

(3) in paragraph (2), in the matter following clause (iii) of subparagraph (B)—

(A) by inserting after "uses the mail" the following: ", any interactive computer service,"; and

(B) by inserting after "course of conduct that" the following: "causes substantial emotional harm to that person or".

SEC. 510. REPEAT OFFENDER PROVISION.

Chapter 110A of title 18, United States Code, is amended by adding after section 2265 the following:

"§ 2265A. Repeat offender provision

"The maximum term of imprisonment for a violation of this chapter after a prior interstate domestic violence offense (as defined in section 2261) or interstate violation of protection order (as defined in section 2262) or interstate stalking (as defined in sections 2261A(a) and 2261A(b)) shall be twice the term otherwise provided for the violation.".

SEC. 511. PROHIBITING DATING VIOLENCE.

Section 2261(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "or intimate partner" both places such term appears and inserting ", intimate partner, or dating partner"; and

(2) in paragraph (2), by striking "or intimate partner" both places such term appears and inserting ", intimate partner, or dating partner".

SEC. 512. GAO STUDY AND REPORT.

(a) Study Required.—The Comptroller General shall conduct a study to establish the extent to which men, women, youth, and children are victims of domestic violence, dating violence, sexual assault, and stalking and the availability to all victims of shelter, counseling, legal representation, and other services commonly provided to victims of domestic violence.

(b) Activities Under Study.—In conducting the study, the following shall apply:

(1) Crime statistics.—The Comptroller General shall not rely only on crime statistics, but may also use existing research available, including public health studies and academic studies.

(2) Survey.—The Comptroller General shall survey the Department of Justice, as well as any recipients of Federal funding for any purpose or an appropriate sampling of recipients, to determine—

(A) what services are provided to victims of domestic violence, dating violence, sexual assault, and stalking;

(B) whether those services are made available to youth, child, female, and male victims; and

(C) the number, age, and gender of victims receiving each available service.

(c) Report.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the activities carried out under this section.

TITLE VI—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SEC. 601. TECHNICAL AMENDMENT TO VIOLENCE AGAINST WOMEN ACT.

Section 2001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(e) Use of Funds.—Funds appropriated for grants under this part may be used only for the specific programs and activities expressly described in this part.".

SEC. 602. SEXUAL ASSAULT SERVICES PROGRAM.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding after section 2013 (as added by section 501 of this Act) the following:

"SEC. 2014. SEXUAL ASSAULT SERVICES PROGRAM.

"(a) Purpose.—The purposes of this section are—

"(1) to assist States, Indian tribes, and territories in providing intervention, advocacy, accompaniment, support services, and related assistance for—

"(A) adult, youth, and minor victims of sexual assault;

"(B) family and household members of such victims; and

"(C) those collaterally affected by the victimization except for the perpetrator of such victimization; and

"(2) to provide training and technical assistance to, and to support data collection relating to sexual assault by—

"(A) Federal, State, tribal, territorial, and local governments, law enforcement agencies, and courts;

"(B) professionals working in legal, social service, and health care settings;

"(C) nonprofit organizations;

"(D) faith-based organizations; and

"(E) other individuals and organizations seeking such assistance.

"(b) Grants to States, Territories and Tribal Entities.—

"(1) Grants authorized.—The Attorney General shall award grants to States, territories and Indian tribes, tribal organizations, and nonprofit tribal organizations within Indian country and Alaskan native villages for the establishment, maintenance and expansion of rape crisis centers or other programs and projects to assist those victimized by sexual assault.

"(2) Special emphasis.—States, territories and tribal entities will give special emphasis to the support of community-based organizations with a demonstrated history of providing intervention and related assistance to victims of sexual assault.

"(c) Grants for Culturally Specific Programs Addressing Sexual Assault.—

"(1) Grants authorized.—The Attorney General shall award grants to any culturally specific community-based organization that—

"(A) is a private, nonprofit organization that focuses primarily on racial and ethnic communities;

"(B) must have documented organizational experience in the area of sexual assault intervention or have entered into partnership with an organization having such expertise;

"(C) has expertise in the development of community-based, linguistically and culturally specific outreach and intervention services relevant for the specific racial and ethnic communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of racial and ethnic populations; and

"(D) has an advisory board or steering committee and staffing which is reflective of the targeted racial and ethnic community.

"(2) AWARD BASIS.—The Attorney General shall award grants under this subsection on a competitive basis for a period of no less than 3 fiscal years.

"(d) SERVICES AUTHORIZED.—For grants under subsection (b) and (c) the following services and activities may include—

"(1) 24 hour hotline services providing crisis intervention services and referrals;

"(2) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

"(3) crisis intervention, short-term individual and group support services, and comprehensive service coordination, and supervision to assist sexual assault victims and family or household members;

"(4) support mechanisms that are culturally relevant to the community;

"(5) information and referral to assist the sexual assault victim and family or household members;

"(6) community-based, linguistically and culturally-specific services including outreach activities for racial and ethnic and other underserved populations and linkages to existing services in these populations;

"(7) collaborating with and informing public officials and agencies in order to develop and implement policies to reduce or eliminate sexual assault; and

"(8) the development and distribution of educational materials on issues related to sexual assault and the services described in clauses (A) through (G).

"(e) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

"(1).GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Attorney General shall award grants to State, territorial and tribal sexual assault coalitions to assist in supporting the establishment, maintenance and expansion of such coalitions as determined by the National Center for Injury Prevention and Control Office in collaboration with the Violence Against Women Office of the Department of Justice.

"(B) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection because such entity has not previously applied or received funding under this subsection.

"(f) COALITION ACTIVITIES AUTHORIZED.—Grant funds received under subsection (e) may be used to—

"(1) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or Indian tribe,

"(2) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

"(3) work with courts, child protective services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

"(4) design and conduct public education campaigns;

"(5) plan and monitor the distribution and use of grants and grant funds to their State, territory, or Indian tribe; and

"(6) collaborate with and inform Federal, State, Tribal, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

"(g) APPLICATION.—

"(1) Each eligible entity desiring a grant under subsections (c) and (e) shall submit an application to the Attorney General at such time, in such manner and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

"(2) Each eligible entity desiring a grant under subsection (b) shall include—

"(A) demonstration of meaningful involvement of the State or territorial coalitions, or Tribal coalition, where applicable, in the development of the application and implementation of the plans;

"(B) a plan for an equitable distribution of grants and grant funds within the State, territory or tribal area and between urban and rural areas within such State or territory;

"(C) the State, territorial or Tribal entity that is responsible for the administration of grants; and

"(D) any other information the Attorney General reasonably determines to be necessary to carry out the purposes and provisions of this section.

"(h) REPORTING.—

"(1) Each entity receiving a grant under subsection (b), (c) and (e) shall submit a report to the Attorney General that describes the activities carried out with such grant funds.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated $55,000,000 for each of the fiscal years 2006 through 2010 to carry out this section. Any amounts so appropriated shall remain available until expended.

"(2) ALLOCATIONS.—Of the total amount appropriated for each fiscal year to carry out this section—

"(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring and administrative costs under this section;

"(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and subgrantees under this section, except that in subsection (c) up to 5 percent of funds appropriated under that subsection may be available for technical assistance to be provided by a national organization or organizations whose primary purpose and expertise is in sexual assault within racial and ethnic communities;

"(C) not less than 75 percent shall be used for making grants to states and territories and tribal entities under subsection (b) of which not less than 10 percent of this amount shall be allocated for grants to tribal entities. State, territorial and tribal governmental agencies shall use no more than 5 percent for administrative costs;

"(D) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c); and

"(E) not less than 10 percent shall be used for making grants to state, territorial and tribal coalitions under subsection (e) of which not less than 10 percent shall be allocated for grants to tribal coalitions.

The remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to 1/56 of the amounts so appropriated to each of the several States, the District of Columbia, and the territories.

"(3) MINIMUM AMOUNT.—Of the amount appropriated under section (i)(2)(C), the Attorney General, not including the set aside for tribal entities, shall allocate not less than 1.50 percent to each State and not less than 0.125 percent to each of the territories. The remaining funds shall be allotted to each State and each territory in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of the combined States, or for territories, the population of the combined territories.".

SEC. 603. AMENDMENTS TO THE RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

Section 40295 of the Violence Against Women Act of 1994 (42 U.S.C. 13971) is amended to read as follows:

"SEC. 40295. RURAL DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

"(a) PURPOSES.—The purposes of this section are—

"(1) to identify, assess, and appropriately respond to adult, youth, and minor domestic violence, sexual assault, dating violence, and stalking in rural communities, by encouraging collaboration between—

"(A) domestic violence, dating violence, sexual assault, and stalking victim service providers;

"(B) law enforcement agencies;

"(C) prosecutors;

"(D) courts;

"(E) other criminal justice service providers;

"(F) human and community service providers;

"(G) educational institutions; and

"(H) health care providers;

"(2) to establish and expand nonprofit, nongovernmental, State, tribal, and local government services in rural communities to adult, youth, and minor victims; and

"(3) to increase the safety and well-being of women and children in rural communities, by—

"(A) dealing directly and immediately with domestic violence, sexual assault, dating violence, and stalking occurring in rural communities; and

"(B) creating and implementing strategies to increase awareness and prevent domestic violence, sexual assault, dating violence, and stalking.

"(b) GRANTS AUTHORIZED.—The Attorney General, acting through the Director of the Office on Violence Against Women (referred to in this section as the 'Director'), may award 3-year grants, with a possible extension for an additional 3 years, to States, Indian tribes, local governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities that address domestic violence, dating violence, sexual assault, and stalking by—

"(1) implementing, expanding, and establishing cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, and stalking;

"(2) providing treatment, counseling, and other long- and short-term assistance to adult, youth, and minor victims of domestic violence, dating violence, sexual assault, and stalking in rural communities; and

"(3) working in cooperation with the community to develop education and prevention strategies directed toward such issues.

"(c) USE OF FUNDS.—Funds appropriated pursuant to this section shall be used only for specific programs and activities expressly described in subsection (a).

"(d) ALLOTMENTS AND PRIORITIES.—

"(1) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants to Indian tribes or tribal organizations.

"(2) ALLOTMENT FOR SEXUAL ASSAULT SERVICES.—

"(A) IN GENERAL.—Not less than 25 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants that meaningfully address sexual assault in rural communities, except as provided in subparagraph (B).

"(B) ESCALATION.—The percentage required by subparagraph (A) shall be—

"(i) 30 percent, for any fiscal year for which $45,000,000 or more is made available to carry out this section;

"(ii) 35 percent, for any fiscal year for which $50,000,000 or more is made available to carry out this section; or

"(iii) 40 percent, for any fiscal year for which $55,000,000 or more is made available to carry out this section.

"(C) SAVINGS CLAUSE.—Nothing in this paragraph shall prohibit an applicant from applying for funding to address domestic violence, dating violence, sexual assault, or stalking, separately or in combination, in the same application.

"(D) REPORT TO CONGRESS.—The Attorney General shall, on an annual basis, submit to Congress a report on the effectiveness of the set-aside for sexual assault services. The report shall include any recommendations of the Attorney General with respect to the rural grant program.

"(3) ALLOTMENT FOR TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Of the amounts appropriated for each fiscal year to carry out this section, not more than 8 percent may be used by the Director for training, technical assistance, and data collection costs. Of the amounts so used, not less than 25 percent shall be available to nonprofit, nongovernmental organizations whose focus and expertise is in addressing sexual assault to provide training, technical assistance, and data collection with respect to sexual assault grantees.

"(4) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall give priority to the needs of racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968).

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

"(2) ADDITIONAL FUNDING.—In addition to funds received through a grant under subsection (b), a law enforcement agency may use funds received through a grant under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) to accomplish the objectives of this section.".

SEC. 604. ASSISTANCE FOR VICTIMS OF ABUSE.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding after section 2014 (as added by section 602 of this Act) the following:

"SEC. 2015. ASSISTANCE FOR VICTIMS OF ABUSE.

"(a) GRANTS AUTHORIZED.—The Attorney General may award grants to appropriate entities—

"(1) to provide services for victims of domestic violence, abuse by caregivers, and sexual assault who are 50 years of age or older;

"(2) to improve the physical accessibility of existing buildings in which services are or will be rendered for victims of domestic violence and sexual assault who are 50 years of age or older;

"(3) to provide training, consultation, and information on abuse by caregivers, domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), and to enhance direct services to such individuals;

"(4) for training programs to assist law enforcement officers, prosecutors, governmental agencies, victim assistants, and relevant officers of Federal, State, tribal, territorial, and local courts in recognizing, addressing, investigating, and prosecuting instances of adult, youth, or minor domestic violence, dating violence, sexual assault, stalking, elder abuse, and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals; and

"(5) for multidisciplinary collaborative community responses to victims.

"(b) USE OF FUNDS.—Grant funds under this section may be used—

"(1) to implement or expand programs or services to respond to the needs of persons 50 years of age or older who are victims of domestic violence, dating violence, sexual assault, stalking, or elder abuse;

"(2) to provide personnel, training, technical assistance, data collection, advocacy, intervention, risk reduction and prevention of domestic violence, dating violence, stalking, and sexual assault against disabled individuals;

"(3) to conduct outreach activities to ensure that disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault receive appropriate assistance;

"(4) to conduct cross-training for victim service organizations, governmental agencies, and nonprofit, nongovernmental organizations serving individuals with disabilities; about risk reduction, intervention, prevention and the nature of dynamic of domestic violence, dating violence, stalking, and sexual assault for disabled individuals;

"(5) to provide training, technical assistance, and data collection to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities of victim service organizations for disabled individuals;

"(6) to provide training, technical assistance, and data collection on the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including—

"(A) the Americans with Disabilities Act of 1990; and

"(B) section 504 of the Rehabilitation Act of 1973;

"(7) to purchase equipment, and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled individuals;

"(8) to provide advocacy and intervention services for disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault through collaborative partnerships between—

"(A) nonprofit, nongovernmental agencies;

"(B) governmental agencies serving individuals with disabilities; and

"(C) victim service organizations; or

"(9) to develop model programs providing advocacy and intervention services within organizations serving disabled individuals who are victims of domestic violence, dating violence, sexual assault, or stalking.

"(c) ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—An entity shall be eligible to receive a grant under this section if the entity is—

"(A) a State;

"(B) a unit of local government;

"(C) a nonprofit, nongovernmental organization such as a victim services organization, an organization serving individuals with disabilities or a community-based organization; and

"(D) a religious organization.

"(2) LIMITATION.—A grant awarded for the purposes described in subsection (b)(9) shall be awarded only to an eligible agency (as defined in section 410 of the Rehabilitation Act of 1973 (29 U.S.C. 796f–5)).

"(d) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

"(e) REPORTING.—Not later than 1 year after the last day of the first fiscal year commencing on or after the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter, the Attorney General shall submit to Congress a report evaluating the effectiveness of programs administered and operated pursuant to this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,500,000 for each of the fiscal years 2006 through 2010 to carry out this section.".

SEC. 605. GAO STUDY OF NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) STUDY REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall conduct a study of the National Domestic Violence Hotline to determine the effectiveness of the Hotline in assisting victims of domestic violence.

(b) ISSUES TO BE STUDIED.—In conducting the study under subsection (a), the Comptroller General shall—

(1) compile statistical and substantive information about calls received by the Hotline since its inception, or a representative sample of such calls, while maintaining the confidentiality of Hotline callers;

(2) interpret the data compiled under paragraph (1)—

(A) to determine the trends, gaps in services, and geographical areas of need; and

(B) to assess the trends and gaps in services to underserved populations and the military community; and

(3) gather other important information about domestic violence.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

SEC. 606. GRANTS FOR OUTREACH TO UNDERSERVED POPULATIONS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General, acting through the Director of the Office on Violence Against Women, shall award grants to eligible entities described in subsection (b) to carry out local, regional, or national public information campaigns focused on addressing adult, youth, or minor domestic violence, dating violence, sexual assault, stalking, or trafficking within tribal, racial, and ethnic populations and immigrant communities, including information on services available to victims and ways to prevent or reduce domestic violence, dating violence, sexual assault, and stalking.

(2) TERM.—The Attorney General shall award grants under this section for a period of 1 fiscal year.

(b) ELIGIBLE ENTITIES.—Eligible entities under this section are—

(1) nonprofit, nongovernmental organizations or coalitions that represent the targeted tribal, racial, and ethnic populations or immigrant community that—

(A) have a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

(B) work in partnership with an organization that has a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

(2) a governmental entity that demonstrates a partnership with organizations described in paragraph (1).

(c) ALLOCATION OF FUNDS.—Of the amounts appropriated for grants under this section—

(1) not more than 20 percent shall be used for national model campaign materials targeted to specific tribal, racial, or ethnic populations or immigrant community, including American Indian tribes and Alaskan native villages for the

purposes of research, testing, message development, and preparation of materials; and

(2) the balance shall be used for not less than 10 State, regional, territorial, tribal, or local campaigns targeting specific communities with information and materials developed through the national campaign or, if appropriate, new materials to reach an underserved population or a particularly isolated community.

(d) USE OF FUNDS.—Funds appropriated under this section shall be used to conduct a public information campaign and build the capacity and develop leadership of racial, ethnic populations, or immigrant community members to address domestic violence, dating violence, sexual assault, and stalking.

(e) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Director of the Office on Violence Against Women at such time, in such form, and in such manner as the Director may prescribe.

(f) CRITERIA.—In awarding grants under this section, the Attorney General shall ensure—

(1) reasonable distribution among eligible grantees representing various racial, ethnic, and immigrant communities;

(2) reasonable distribution among State, regional, territorial, tribal, and local campaigns; and

(3) that not more than 8 percent of the total amount appropriated under this section for each fiscal year is set aside for training, technical assistance, and data collection.

(g) REPORTS.—Each eligible entity receiving a grant under this section shall submit to the Director of the Office of Violence Against Women, every 18 months, a report that describes the activities carried out with grant funds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2006 through 2010.

TITLE VII—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

SEC. 701. SERVICES AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE.

The Violence Against Women Act of 1994 is amended by adding after subtitle K (as added by section 506) the following:

"Subtitle L—Services, Education, Protection and Justice for Young Victims of Violence

"SEC. 41201. GRANTS FOR TRAINING AND COLLABORATION ON THE INTERSECTION BETWEEN DOMESTIC VIOLENCE AND CHILD MALTREATMENT.

"(a) PURPOSE.—The purpose of this section is to support efforts by domestic violence or dating violence victim services providers, courts, law enforcement, child welfare agencies, and other related professionals and community organizations to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence.

"(b) GRANTS AUTHORIZED.—The Attorney General, through the Violence Against Women Office, shall award grants on a competitive basis to eligible entities for the purposes and in the manner described in this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $8,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended. Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

"(1) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section;

"(2) set aside not more than 10 percent for grants to programs addressing child maltreatment and domestic violence or dating violence that are operated by, or in partnership with, a tribal organization; and

"(3) set aside up to 8 percent for training and technical assistance, to be provided—

"(A) to organizations that are establishing or have established collaborative responses and services; and

"(B) by organizations having demonstrated expertise in developing collaborative community and system responses to families in which there is both child maltreatment and domestic violence or dating violence, whether or not they are receiving funds under this section.

"(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Attorney General shall consider the needs of racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968).

"(e) GRANT AWARDS.—The Attorney General shall award grants under this section for periods of not more than 3 fiscal years.

"(f) USES OF FUNDS.—Entities receiving grants under this section shall use amounts provided to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence or dating violence. Amounts distributed under this section may only be used for programs and activities described in subsection (g).

"(g) PROGRAMS AND ACTIVITIES.—The programs and activities developed under this section shall—

"(1) encourage cross training, education, service development, and collaboration among child welfare agencies, domestic violence victim service providers, and courts, law enforcement agencies, community-based programs, and other entities, in order to ensure that such entities have the capacity to and will identify, assess, and respond appropriately to—

"(A) domestic violence or dating violence in homes where children are present and may be exposed to the violence;

"(B) domestic violence or dating violence in child protection cases; and

"(C) the needs of both the child and non-abusing parent;

"(2) establish and implement policies, procedures, programs, and practices for child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities, that are consistent with the principles of protecting and increasing the immediate and long-term safety and well being of children and non-abusing parents and caretakers by—

"(A) increasing the safety, autonomy, capacity, and financial security of non-abusing parents or caretakers, including developing service plans and utilizing community-based services that provide resources and support to non-abusing parents;

"(B) protecting the safety, security, and well-being of children by preventing their unnecessary removal from a non-abusing parent, or, in cases where removal of the child is necessary to protect the child's safety, taking the necessary steps to provide appropriate and community-based services to the child and the non-abusing parent to promote the safe and appropriately prompt reunification of the child with the non-abusing parent;

"(C) recognizing the relationship between child maltreatment and domestic violence or dating violence in a family, as well as the impact of and danger posed by the perpetrators' behavior on adult, youth, and minor victims; and

"(D) holding adult, youth, and minor perpetrators of domestic violence or dating violence, not adult, youth, and minor victims of abuse or neglect, accountable for stopping the perpetrators' abusive behaviors, including the development of separate service plans, court filings, or community-based interventions where appropriate;

"(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence victim service providers, courts (including family, criminal, juvenile courts, or tribal courts), law enforcement agencies, and other entities to provide more comprehensive community-based services (including health, mental health, social service, housing, and neighborhood resources) to protect and to serve adult, youth, and minor victims;

"(4) identify, assess, and respond appropriately to domestic violence or dating violence in child protection cases and to child maltreatment when it co-occurs with domestic violence or dating violence;

"(5) analyze and change policies, procedures, and protocols that contribute to overrepresentation of racial and ethnic minorities in the court and child welfare system; and

"(6) provide appropriate referrals to community-based programs and resources, such as health and mental health services, shelter and housing assistance for adult, youth, and minor victims and their children, legal assistance and advocacy for adult, youth, and minor victims, assistance for parents to help their children cope with the impact of exposure to domestic violence or dating violence and child maltreatment, appropriate intervention and treatment for adult perpetrators of domestic violence or dating violence whose children are the subjects of child protection cases, programs providing support and assistance to racial and ethnic populations, and other necessary supportive services.

"(h) GRANTEE REQUIREMENTS.—

"(1) APPLICATIONS.—Under this section, an entity shall prepare and submit to the Attorney General an application at such time, in such manner, and containing such information as the Attorney General may require, consistent with the requirements described herein. The application shall—

"(A) ensure that communities impacted by these systems or organizations are adequately represented in the development of the application, the programs and activities to be undertaken, and that they have a significant role in evaluating the success of the project;

"(B) describe how the training and collaboration activities will enhance or ensure the safety and economic security of families where both child maltreatment and domestic violence or dating violence occurs by providing appropriate resources, protection, and support to the victimized parents of such children and to the children themselves; and

"(C) outline methods and means participating entities will use to ensure that all services are provided in a developmentally, linguistically and culturally competent manner and will utilize community-based supports and resources.

"(2) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, an entity shall be a collaboration that—

"(A) shall include a State or local child welfare agency or Indian Tribe;

"(B) shall include a domestic violence or dating violence victim service provider;

"(C) may include a court;

"(D) may include a law enforcement agency, or Bureau of Indian Affairs providing tribal law enforcement; and

"(E) may include any other such agencies or private nonprofit organizations, including community-based organizations, with the capacity to provide effective help to the adult, youth, and minor victims served by the collaboration.

"(3) REPORTS.—Each entity receiving a grant under this section shall report to the Attorney

General every 18 months, detailing how the funds have been used.

"SEC. 41202. SERVICES TO ADVOCATE FOR AND RESPOND TO TEENS.

"(a) GRANTS AUTHORIZED.—The Attorney General shall award grants to eligible entities to conduct programs to serve youth between the ages of 12 and 24 of domestic violence, dating violence, sexual assault, and stalking. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

"(b) ELIGIBLE GRANTEES.—To be eligible to receive a grant under this section, an entity shall be—

"(1) a nonprofit, nongovernmental entity, the primary purpose of which is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking;

"(2) a religious or community-based organization that specializes in working with youth victims of domestic violence, dating violence, sexual assault, or stalking;

"(3) an Indian Tribe or tribal organization providing services primarily to tribal youth or tribal victims of domestic violence, dating violence, sexual assault or stalking; or

"(4) a nonprofit, nongovernmental entity providing services for runaway or homeless youth.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services, using domestic violence, dating violence, sexual assault, and stalking intervention models to respond to the needs of youth who are victims of domestic violence, dating violence, sexual assault or stalking.

"(2) TYPES OF PROGRAMS.—Such a program—

"(A) shall provide direct counseling and advocacy for teens and young adults, who have experienced domestic violence, dating violence, sexual assault or stalking;

"(B) shall include linguistically, culturally, and community relevant services for racial and ethnic and other underserved populations or linkages to existing services in the community tailored to the needs of racial and ethnic and other underserved populations;

"(C) may include mental health services;

"(D) may include legal advocacy efforts on behalf of minors and young adults with respect to domestic violence, dating violence, sexual assault or stalking;

"(E) may work with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking against youth and young adults; and

"(F) may use not more than 25 percent of the grant funds to provide additional services and resources for youth, including childcare, transportation, educational support, and respite care.

"(d) AWARDS BASIS.—

"(1) GRANTS TO INDIAN TRIBES.—Not less than 10 percent of funds appropriated under this section in any year shall be available for grants to Indian Tribes or tribal organizations.

"(2) ADMINISTRATION.—The Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for administration, monitoring, and evaluation of grants made available under this section.

"(3) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Not less than 5 percent of funds appropriated under this section in any year shall be available to provide training, technical assistance, and data collection for programs funded under this section.

"(e) TERM.—The Attorney General shall make the grants under this section for a period of 3 fiscal years.

"(f) REPORTS.—An entity receiving a grant under this section shall submit to the Attorney General every 18 months a report of how grant funds have been used.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2006 through 2010.".

SEC. 702. GRANTS TO COMBAT VIOLENT CRIMES ON CAMPUSES.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat domestic violence, dating violence, sexual assault, and stalking on campuses, and to develop and strengthen victim services in cases involving such crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis for a period of 3 years. The Attorney General, through the Director of the Office on Violence Against Women, shall award the grants in amounts of not more than $500,000 for individual institutions of higher education and not more than $1,000,000 for consortia of such institutions.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section;

(B) the equitable geographic distribution of grants under this section among the various regions of the United States; and

(C) the equitable distribution of grants under this section to tribal colleges and universities and traditionally black colleges and universities.

(b) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing domestic violence, dating violence, sexual assault, and stalking on campus.

(2) To train campus administrators, campus security personnel, and personnel serving on campus disciplinary or judicial boards to develop and implement campus policies, protocols, and services that more effectively identify and respond to the crimes domestic violence, dating violence, sexual assault, and stalking. Within 90 days after the date of enactment of this Act, the Attorney General shall issue and make available minimum standards of training relating to domestic violence, dating violence, sexual assault, and stalking on campus, for all campus security personnel and personnel serving on campus disciplinary or judicial boards.

(3) To implement and operate education programs for the prevention of domestic violence, dating violence, sexual assault and stalking.

(4) To develop, enlarge, or strengthen victim services programs on the campuses of the institutions involved, including programs providing legal, medical, or psychological counseling, for victims of domestic violence, dating violence, sexual assault, and stalking, and to improve delivery of victim assistance on campus. To the extent practicable, such an institution shall collaborate with any entities carrying out nonprofit and other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located. If appropriate victim services programs are not available in the community or are not accessible to students, the institution shall, to the extent practicable, provide a victim services program on campus or create a victim services program in collaboration with a community-based organization. The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph.

(5) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action, including assistance to victims in immigration matters.

(6) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to the crimes of domestic violence, dating violence, sexual assault, and stalking on campus.

(7) To provide capital improvements (including improved lighting and communications facilities but not including the construction of buildings) on campuses to address the crimes of domestic violence, dating violence, sexual assault, and stalking.

(8) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce domestic violence, dating violence, sexual assault, and stalking on campus.

(c) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time and in such manner as the Attorney General shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) include proof that the institution of higher education collaborated with any non-profit, nongovernmental entities carrying out other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grant funds;

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(3) COMPLIANCE WITH CAMPUS CRIME REPORTING REQUIRED.—No institution of higher education shall be eligible for a grant under this section unless such institution is in compliance with the requirements of section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)). Up to $200,000 of the total amount of grant funds appropriated under this section for fiscal years 2006 through 2010 may be used to provide technical assistance in complying with the mandatory reporting requirements of section 485(f) of such Act.

(d) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) CONFIDENTIALITY.—

(A) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—In order to ensure the safety of adult and minor victims of domestic violence, dating violence, sexual assault, or stalking and their families, grantees and sub-grantees under this section shall reasonably—

(i) protect the confidentiality and privacy of persons receiving services under the grants and subgrants; and

(ii) not disclose and personally identifying information, or individual client information, collected in connection with services requested, utilized, or denied through programs provided by such grantees and subgrantees under this section.

(B) CONSENT.—A grantee or subgrantee under this section shall not reveal personally any identifying information or individual client information collected as described in subparagraph (A) without the informed, written, and reasonably time-limited consent of the person (or, in the case of an unemancipated minor, the minor and the parent or guardian of the minor) about whom information is sought, whether for the program carried out under this section or any other Federal, State, tribal, or territorial assistance program.

(C) COMPELLED RELEASE AND NOTICE.—If a grantee or subgrantee under this section is compelled by statutory or court mandate to disclose information described in subparagraph (A), the grantee or subgrantee—

(i) shall make reasonable attempts to provide notice to individuals affected by the disclosure of information; and

(ii) shall take steps necessary to protect the privacy and safety of the individual affected by the disclosure.

(D) PERMISSIVE SHARING.—Grantees and subgrantees under this section may share with each other, in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements—

(i) aggregate data, that is not personally identifying information, regarding services provided to their clients; and

(ii) demographic information that is not personally identifying information.

(E) COURT-GENERATED AND LAW ENFORCEMENT-GENERATED INFORMATION.—Grantees and subgrantees under this section may share with each other—

(i) court-generated information contained in secure, governmental registries for protection order enforcement purposes; and

(ii) law enforcement-generated information.

(F) DEFINITION.—As used in this paragraph, the term "personally identifying information" means individually identifying information from or about an individual, including—

(i) first and last name;

(ii) home or other physical address, including street name and name of city or town;

(iii) email address or other online contact information, such as an instant-messaging user identifier or a screen name that reveals an individual's email address;

(iv) telephone number;

(v) social security number;

(vi) Internet Protocol ("IP") address or host name that identifies an individual;

(vii) persistent identifier, such as a customer number held in a "cookie" or processor serial number, that is combined with other available data that identifies an individual; or

(viii) information that, in combination with the information in any of the clauses (i) through (vii), would serve to identify any individual, including—

(I) grade point average;

(II) date of birth;

(III) academic or occupational interests;

(IV) athletic or extracurricular interests;

(V) racial or ethnic background; or

(VI) religious affiliation.

(3) GRANTEE REPORTING.—

(A) ANNUAL REPORT.—Each institution of higher education receiving a grant under this section shall submit a biennial performance report to the Attorney General. The Attorney General shall suspend funding under this section for an institution of higher education if the institution fails to submit such a report.

(B) FINAL REPORT.—Upon completion of the grant period under this section, the institution shall file a performance report with the Attorney General and the Secretary of Education explaining the activities carried out under this section together with an assessment of the effectiveness of those activities in achieving the purposes described in subsection (b).

(4) REPORT TO CONGRESS.—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to Congress a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this part.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for each of fiscal years 2006 through 2010.

SEC. 703. SAFE HAVENS.

Section 1301 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1301. SAFE HAVENS FOR CHILDREN.";

(2) in subsection (a)—

(A) by inserting ", through the Director of the Office on Violence Against Women," after "Attorney General";

(B) by inserting "public or nonprofit nongovernmental entities, and to" after "may award grants to";

(C) by inserting "dating violence," after "domestic violence,";

(D) by striking "to provide" and inserting the following:

"(1) to provide";

(E) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges;

"(3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation exchanges; and

"(4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges."; and

(3) by striking subsection (e) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended.

"(2) USE OF FUNDS.—Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

"(A) set aside not less than 5 percent for grants to Indian tribal governments or tribal organizations;

"(B) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section; and

"(C) set aside not more than 8 percent for training, technical assistance, and data collection to be provided by organizations having nationally recognized expertise in the design of safe and secure supervised visitation programs and visitation exchange of children in situations involving domestic violence, dating violence, sexual assault, or stalking.".

SEC. 704. GRANTS TO COMBAT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING IN MIDDLE AND HIGH SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the "Supporting Teens through Education and Protection Act of 2005" or the "STEP Act".

(b) GRANTS AUTHORIZED.—The Attorney General, through the Director of the Office on Violence Against Women, is authorized to award grants to middle schools and high schools that work with domestic violence and sexual assault experts to enable the schools—

(1) to provide training to school administrators, faculty, counselors, coaches, healthcare providers, security personnel, and other staff on the needs and concerns of students who experience domestic violence, dating violence, sexual assault, or stalking, and the impact of such violence on students;

(2) to develop and implement policies in middle and high schools regarding appropriate, safe responses to, and identification and referral procedures for, students who are experiencing or perpetrating domestic violence, dating violence, sexual assault, or stalking, including procedures for handling the requirements of court protective orders issued to or against students or school personnel, in a manner that ensures the safety of the victim and holds the perpetrator accountable;

(3) to provide support services for students and school personnel, such as a resource person who is either on-site or on-call, and who is an expert described in subsections (i)(2) and (i)(3), for the purpose of developing and strengthening effective prevention and intervention strategies for students and school personnel experiencing domestic violence, dating violence, sexual assault or stalking;

(4) to provide developmentally appropriate educational programming to students regarding domestic violence, dating violence, sexual assault, and stalking, and the impact of experiencing domestic violence, dating violence, sexual assault, and stalking on children and youth by adapting existing curricula activities to the relevant student population;

(5) to work with existing mentoring programs and develop strong mentoring programs for students, including student athletes, to help them understand and recognize violence and violent behavior, how to prevent it and how to appropriately address their feelings; and

(6) to conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

(c) AWARD BASIS.—The Director shall award grants and contracts under this section on a competitive basis.

(d) POLICY DISSEMINATION.—The Director shall disseminate to middle and high schools any existing Department of Justice, Department of Health and Human Services, and Department of Education policy guidance and curricula regarding the prevention of domestic violence, dating violence, sexual assault, and stalking, and the impact of the violence on children and youth.

(e) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—In order to ensure the safety of adult, youth, and minor victims of domestic violence, dating violence, sexual assault, or stalking and their families, grantees and subgrantees shall protect the confidentiality and privacy of persons receiving services. Grantees and subgrantees pursuant to this section shall not disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs. Grantees and subgrantees shall not reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of unemancipated minor, the minor and the parent or guardian) about whom information is sought, whether for this program or any other Tribal, Federal, State or Territorial grant program. If release of such information is compelled by statutory or court mandate, grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information. If such personally identifying information is or will be revealed, grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information. Grantees may share non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Tribal, Federal, State or Territorial reporting, evaluation, or data collection requirements. Grantees and subgrantees may share court-generated information contained in secure, governmental registries for protection order enforcement purposes.

(f) GRANT TERM AND ALLOCATION.—

(1) TERM.—The Director shall make the grants under this section for a period of 3 fiscal years.

(2) ALLOCATION.—Not more than 15 percent of the funds available to a grantee in a given year shall be used for the purposes described in subsection (b)(4)(D), (b).(5), and (b)(6).

(g) DISTRIBUTION.—

(1) IN GENERAL.—Not less than 5 percent of funds appropriated under subsection (l) in any year shall be available for grants to tribal schools, schools on tribal lands or schools whose student population is more than 25 percent native American.

(2) ADMINISTRATION.—The Director shall not use more than 5 percent of funds appropriated under subsection (l) in any year for administration, monitoring and evaluation of grants made available under this section.

(3) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Not less than 5 percent of funds appropriated under subsection (l) in any year shall be available to provide training, technical assistance, and data collection for programs funded under this section.

(h) APPLICATION.—To be eligible to be awarded a grant or contract under this section for any fiscal year, a middle or secondary school, in consultation with an expert as described in subsections (i)(2) and (i)(3), shall submit an application to the Director at such time and in such manner as the Director shall prescribe.

(i) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a partnership that—

(1) shall include a public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under 10 U.S.C. 2164 or 20 U.S.C. 921, a group of schools, or a school district;

(2) shall include a domestic violence victim service provider that has a history of working on domestic violence and the impact that domestic violence and dating violence have on children and youth;

(3) shall include a sexual assault victim service provider, such as a rape crisis center, program serving tribal victims of sexual assault, or coalition or other nonprofit nongovernmental organization carrying out a community-based sexual assault program, that has a history of effective work concerning sexual assault and the impact that sexual assault has on children and youth; and

(4) may include a law enforcement agency, the State, Tribal, Territorial or local court, nonprofit nongovernmental organizations and service providers addressing sexual harassment, bullying or gang-related violence in schools, and any other such agencies or nonprofit nongovernmental organizations with the capacity to provide effective assistance to the adult, youth, and minor victims served by the partnership.

(j) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with relevant courts or law enforcement agencies.

(k) REPORTING AND DISSEMINATION OF INFORMATION.—

(1) REPORTING.—Each of the entities that are members of the applicant partnership described in subsection (i), that receive a grant under this section shall jointly prepare and submit to the Director every 18 months a report detailing the activities that the entities have undertaken under the grant and such additional information as the Director shall require.

(2) DISSEMINATION OF INFORMATION.—Within 9 months of the completion of the first full grant cycle, the Director shall publicly disseminate, including through electronic means, model policies and procedures developed and implemented in middle and high schools by the grantees, including information on the impact the policies have had on their respective schools and communities.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2006 through 2010.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

TITLE VIII—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE IN THE HOME

SEC. 801. PREVENTING VIOLENCE IN THE HOME.

The Violence Against Women Act of 1994 is amended by adding after subtitle L (as added by section 701) the following:

"Subtitle M—Strengthening America's Families by Preventing Violence in the Home

"SEC. 41301. PURPOSE.

"The purpose of this subtitle is to—

"(1) prevent crimes involving domestic violence, dating violence, sexual assault, and stalking, including when committed against children and youth;

"(2) increase the resources and services available to prevent domestic violence, dating violence, sexual assault, and stalking, including when committed against children and youth;

"(3) reduce the impact of exposure to violence in the lives of children and youth so that the intergenerational cycle of violence is interrupted;

"(4) develop and implement education and services programs to prevent children in vulnerable families from becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking;

"(5) promote programs to ensure that children and youth receive the assistance they need to end the cycle of violence and develop mutually respectful, nonviolent relationships; and

"(6) encourage collaboration among community-based organizations and governmental agencies serving children and youth, providers of health and mental health services and providers of domestic violence, dating violence, sexual assault, and stalking victim services to prevent violence.

"SEC. 41302. GRANTS TO ASSIST CHILDREN AND YOUTH EXPOSED TO VIOLENCE.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in consultation with the Secretary of Health and Human Services, is authorized to award grants on a competitive basis to eligible entities for the purpose of mitigating the effects of domestic violence, dating violence, sexual assault, and stalking on children exposed to such violence, and reducing the risk of future victimization or perpetration of domestic violence, dating violence, sexual assault, and stalking.

"(2) TERM.—The Director shall make grants under this section for a period of 3 fiscal years.

"(3) AWARD BASIS.—The Director shall award grants—

"(A) considering the needs of racial and ethnic and other underserved populations, as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968;

"(B) awarding not less than 10 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year;

"(C) awarding up to 8 percent for the funding of training, technical assistance, and data collection programs from the amounts made available under this section for a fiscal year; and

"(D) awarding not less than 66 percent to programs described in subsection (c)(1) from the amounts made available under this section for a fiscal year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2006 through 2010.

"(c) USE OF FUNDS.—The funds appropriated under this section shall be used for—

"(1) programs that provide services for children exposed to domestic violence, dating violence, sexual assault, or stalking, which may include direct counseling, advocacy, or mentoring, and must include support for the nonabusing parent or the child's caretaker;

"(2) training and coordination for programs that serve children and youth (such as Head Start, child care, and after-school programs) on how to safely and confidentially identify children and families experiencing domestic violence and properly refer them to programs that can provide direct services to the family and children, and coordination with other domestic violence or other programs serving children exposed to domestic violence, dating violence, sexual assault, or stalking that can provide the training and direct services referenced in this subsection; or

"(3) advocacy within the systems that serve children to improve the system's understanding of and response to children who have been exposed to domestic violence and the needs of the nonabusing parent.

"(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be—

"(1) a victim service provider, tribal nonprofit organization or community-based organization *that has a documented history of effective work concerning children or youth exposed to domestic violence, dating violence, sexual assault, or stalking, including programs that provide culturally specific services, Head Start, child care, after school programs, and health and mental health providers; or*

"(2) a State, territorial, tribal, or local unit of government agency that is partnered with an organization described in paragraph (1).

"(e) Grantee Requirements.—Under this section, an entity shall—

"(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

"(2) at a minimum, describe in the application the policies and procedures that the entity has or will adopt to—

"(A) enhance or ensure the safety and security of children who have been exposed to violence and their nonabusing parent, enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking; and

"(B) ensure linguistically, culturally, and community relevant services for racial and ethnic and other underserved populations.

"(f) Reports.—An entity receiving a grant under this section shall prepare and submit to the Director every 18 months a report detailing the activities undertaken with grant funds, providing additional information as the Director shall require.

"SEC. 41303. BUILDING ALLIANCES AMONG MEN, WOMEN, AND YOUTH TO PREVENT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

"(a) Grants Authorized.—

"(1) In general.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Secretary of Health and Human Services, shall award grants on a competitive basis to eligible entities for the purpose of developing or enhancing programs related to building alliances among men, women, and youth to prevent domestic violence, dating violence, sexual assault, and stalking by helping them to develop mutually respectful, nonviolent relationships.

"(2) Term.—The Director shall make grants under this section for a period of 3 fiscal years.

"(3) Award basis.—The Director shall award grants—

"(A) considering the needs of racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968);

"(B) with respect to gender-specific programs described under subsection (c)(1)(A), ensuring reasonable distribution of funds to programs for boys and programs for girls;

"(C) awarding not less than 10 percent of such amounts for the funding of tribel projects from the amounts made available under this section for a fiscal year; and

"(D) awarding up to 8 percent for the funding of training, technical assistance, and data collection for grantees and non-grantees working in this area and evaluation programs from the amounts made available under this section for a fiscal year.

"(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

"(c) Use of Funds.—

"(1) Programs.—The funds appropriated under this section shall be used by eligible entities for—

"(A) public education and community based programs, including gender-specific programs in accordance with applicable laws—

"(i) to encourage children and youth to pursue only mutually respectful, nonviolent relationships and empower them to reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking; and

"(ii) that include at a minimum—

"(I) information on domestic violence, dating violence, sexual assault, stalking, or child sexual abuse and how they affect children and youth; and

"(II) strategies to help participants be as safe as possible; or

"(B) public education campaigns and community organizing to encourage men and boys to work as allies with women and girls to prevent domestic violence, dating violence, stalking, and sexual assault conducted by entities that have experience in conducting public education campaigns that address domestic violence, dating violence, sexual assault, or stalking.

"(2) Media limits.—No more than 25 percent of funds received by a grantee under this section may be used to create and distribute media materials.

"(d) Eligible Entities.—

"(1) Relationships.—Eligible entities under subsection (c)(1)(A) are—

"(A) nonprofit, nongovernmental domestic violence, dating violence, sexual assault, or stalking victim service providers or coalitions;

"(B) community-based child or youth services organizations with demonstrated experience and expertise in addressing the needs and concerns of young people;

"(C) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A) or (B); or

"(D) a program that provides culturally specific services.

"(2) Awareness campaign.—Eligible entities under subsection (c)(1)(B) are—

"(A) nonprofit, nongovernmental organizations or coalitions that have a documented history of creating and administering effective public education campaigns addressing the prevention of domestic violence, dating violence, sexual assault or stalking; or

"(B) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A).

"(e) Grantee Requirements.—Under this section, an entity shall—

"(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

"(2) for a grant under subsection (c)(1)(A), describe in the application the policies and procedures that the entity has or will adopt to—

"(A) enhance or ensure the safety and security of children and youth already experiencing domestic violence, dating violence, sexual assault, or stalking in their lives;

"(B) provide, where appropriate, linguistically, culturally, and community relevant services for racial and ethnic and other underserved populations;

"(C) inform participants about laws, services, and resources in the community, and make referrals as appropriate; and

"(D) ensure that State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section.

"(f) Reports.—An entity receiving a grant under this section shall prepare and submit to the Director every 18 months a report detailing the activities undertaken with grant funds, including an evaluation of funded programs and providing additional information as the Director shall require.

"SEC. 41304. DEVELOPMENT OF CURRICULA AND PILOT PROGRAMS FOR HOME VISITATION PROJECTS.

"(a) Grants Authorized.—

"(1) In general.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall award grants on a competitive basis to home visitation programs, in collaboration with law enforcement, victim service providers, for the purposes of developing and implementing model policies and procedures to train home visitation service providers on addressing domestic violence, dating violence, sexual assault, and stalking in families experiencing violence, or at risk of violence, to reduce the impact of that violence on children, maintain safety, improve parenting skills, and break intergenerational cycles of violence.

"(2) Term.—The Director shall make the grants under this section for a period of 2 fiscal years.

"(3) Award basis.—The Director shall—

"(A) consider the needs of underserved populations;

"(B) award not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

"(C) award up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year.

"(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.

"(c) Eligible Entities.—To be eligible to receive a grant under this section, an entity shall be a national, Federal, State, local, territorial, or tribal—

"(1) home visitation program that provides services to pregnant women and to young children and their parent or primary caregiver that are provided in the permanent or temporary residence or in other familiar surroundings of the individual or family receiving such services; or

"(2) victim services organization or agency in collaboration with an organization or organizations listed in paragraph (1).

"(d) Grantee Requirements.—Under this section, an entity shall—

"(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

"(2) describe in the application the policies and procedures that the entity has or will adopt to—

"(A) enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking;

"(B) ensure linguistically, culturally, and community relevant services for racial ethnic and other underserved communities;

"(C) ensure the adequate training by domestic violence, dating violence, sexual assault or stalking victim service providers of home visitation grantee program staff to—

"(i) safely screen for or recognize (or both) domestic violence, dating violence, sexual assault, and stalking;

"(ii) understand the impact of domestic violence or sexual assault on children and protective actions taken by a nonabusing parent or caretaker in response to violence against anyone in the household; and

"(iii) link new parents with existing community resources in communities where resources exist; and

"(D) ensure that relevant State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section, and are included as training partners, where possible.".

TITLE IX—PROTECTION FOR IMMIGRANT VICTIMS OF VIOLENCE

SEC. 900. SHORT TITLE; REFERENCES TO VAWA-2000; REGULATIONS.

(a) Short Title.—This title may be cited as "Immigrant Victims of Violence Protection Act of 2005".

(b) References to VAWA-2000.—In this title, the term "VAWA-2000" means the Violence Against Women Act of 2000 (division B of Public Law 106–386).

(c) Regulations.—Not later than 180 days after the date of the enactment of this Act, the Attorney General, the Secretary of Homeland Security, and Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 (title V of VAWA-2000) and the amendments made by (and the provisions of) this title. In applying such regulations, in the case of petitions, applications, or certifications filed on or before the effective date of publication of such regulations for relief covered by such regulations, there shall be no requirement to submit an additional petition, application, or certification and any priority or similar date with respect to such a petition or application shall relate back to the date of the filing of the petition or application.

Subtitle A—Victims of Crime

SEC. 901. CONDITIONS APPLICABLE TO U AND T VISAS.

(a) Treatment of Spouse and Children of Victims of Trafficking.—Clause (ii) of section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended to read as follows:

"(ii) if accompanying, or following to join, the alien described in clause (i)—

"(I) in the case of an alien so described who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

"(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien;".

(b) Duration of U and T Visas.—

(1) U visas.—Section 214(p) of such Act (8 U.S.C. 1184(p)) is amended by adding at the end the following new paragraph:

"(6) Duration of status.—The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be 4 years, but—

"(A) shall be extended on a year-by-year basis upon certification from a Federal, State or local law enforcement official, prosecutor, judge, or other Federal, State or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien's ongoing presence in the United States is required to assist in the investigation or prosecution of such criminal activity; and

"(B) shall be extended if the alien files an application for adjustment of status under section 245(m), until final adjudication of such application.".

(2) T visas.—Section 214(o) of such Act (8 U.S.C. 1184(o)), as redesignated by section 8(a)(3) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), is amended by adding at the end the following:

"(7) The authorized period of status of an alien as a nonimmigrant status under section 101(a)(15)(T) shall be 4 years, but—

"(A) shall be extended on a year-by-year basis upon certification from a Federal, State or local law enforcement official, prosecutor, judge, or other Federal, State or local authority investigating or prosecuting criminal activity relating to human trafficking that the alien's ongoing presence in the United States is required to assist in the investigation or prosecution of such criminal activity; and

"(B) shall be extended if the alien files an application for adjustment of status under section 245(l), until final adjudication of such application.".

(c) Permitting Change of Nonimmigrant Status to U and T Nonimmigrant Status.—

(1) In general.—Section 248 of such Act (8 U.S.C. 1258) is amended—

(A) by striking "The Attorney General" and inserting "(a) The Secretary of Homeland Security";

(B) by inserting "(subject to subsection (b))" after "except"; and

(C) by adding at the end the following new subsection:

"(b) The limitation based on inadmissibility under section 212(a)(9)(B) and the exceptions specified in numbered paragraphs of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15), other than from such classification under subparagraph (C) or (D) of such section.".

(2) Conforming amendment.—Section 214(l)(2)(A) of such Act (8 U.S.C. 1184(l)(2)(A)) is amended by striking "248(2)" and inserting "248(a)(2)".

(d) Certification Process for Victims of Trafficking.—

(1) Victim assistance in investigation or prosecution.—Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(b)(1)(E)) is amended—

(A) in clause (i)(I), by striking "investigation and prosecution" and inserting "investigation or prosecution, by the United States or a State or local government"; and

(B) in clause (iii)—

(i) by striking "Investigation and Prosecution" and "investigation and prosecution" and inserting "Investigation or Prosecution" and "investigation or prosecution", respectively;

(ii) in subclause (II), by striking "and" at the end;

(iii) in subclause (III), by striking the period and inserting "; or"; and

(iv) by adding at the end the following new subclause:

"(IV) responding to and cooperating with requests for evidence and information.".

(2) Clarifying roles of attorney general and secretary of homeland security.—

(A) Section 107 of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105) is amended—

(i) in subsections (b)(1)(E)(i)(II)(bb), (b)(1)(E)(ii), (e)(5), and (g), by striking "Attorney General" and inserting "Secretary of Homeland Security" each place it appears; and

(ii) in subsection (c), by inserting ", Secretary of Homeland Security," after "Attorney General".

(B) Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended by striking "Attorney General" and inserting "Secretary of Homeland Security" each place it appears.

(C) Section 212(d)(13) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(13)) is amended—

(i) in subparagraph (A), by striking "Attorney General" and inserting "Secretary of Homeland Security";

(ii) in subparagraph (B), by striking "Attorney General" the first place it appears and inserting "Secretary of Homeland Security"; and

(iii) in subparagraph (B), by striking "Attorney General, in the Attorney General's discretion" and inserting "Secretary, in the Secretary's discretion".

(D) Section 101(i) of the Immigration and Nationality Act (8 U.S.C. 1101(i)) is amended—

(i) in paragraph (1), by striking "Attorney General" and inserting "Secretary of Homeland Security, the Attorney General,"; and

(ii) in paragraph (2), by striking "Attorney General" and inserting "Secretary of Homeland Security".

(E) Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(i) by striking "Attorney General" and inserting "Secretary of Homeland Security" the first place it appears in paragraphs (1) and (2) and in paragraph (5);

(ii) by striking "Attorney General" and inserting "Secretary" the second place it appears in paragraphs (1) and (2); and

(iii) in paragraph (2), by striking "Attorney General's" and inserting "Secretary's".

(3) Request by state and local law enforcement officials.—Section 107(c)(3) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(c)(3)) is amended by adding at the end the following: "State or local law enforcement officials may request that such Federal law enforcement officials permit the continued presence of trafficking victims. If such a request contains a certification that a trafficking victim is a victim of a severe form of trafficking, such Federal law enforcement officials may permit the continued presence of the trafficking victim in accordance with this paragraph.".

(e) Effective Dates.—

(1) In general.—The amendments made by subsections (a), (b)(1), (c), and (d)(3) shall take effect on the date of the enactment of this Act.

(2) Transition for duration of T visas.—In the case of an alien who is classified as a nonimmigrant under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) before the the date of implementation of the amendment made by subsection (b)(2) and whose period of authorized stay was less than 4 years, the authorized period of status of the alien as such a nonimmigrant shall be extended to be 4 years and shall be further extended on a year-by-year basis as provided in section 214(o)(7) of such Act, as added by such amendment.

(3) Certification process.—(A) The amendments made by subsection (d)(1) shall be effective as if included in the enactment of VAWA-2000.

(B) The amendments made by subsection (d)(2) shall be effective as of the applicable date of transfer of authority from the Attorney General to the Secretary of Homeland Security under the Homeland Security Act of 2002 (Public Law 107–296).

SEC. 902. CLARIFICATION OF BASIS FOR RELIEF UNDER HARDSHIP WAIVERS FOR CONDITIONAL PERMANENT RESIDENCE.

(a) In General.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by adding at the end the following: "An application for relief under this paragraph may be based on one or more grounds specified in subparagraphs (A) through (D) and may be amended at any time to change the ground or grounds for such relief without the application being resubmitted.".

(b) Appeals.—Such section is further amended by adding at the end the following: "Such an application may not be considered if there is a final removal order in effect with respect to the alien.".

(c) Conforming Amendment.—Section 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by inserting before the period at the end the following: "or qualifies for a waiver under section 216(c)(4)".

(d) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to applications for relief pending or filed on or after April 10, 2003.

(2) The amendment made by subsection (b) shall apply to applications for relief filed on or after the date of the enactment of this Act.

SEC. 903. ADJUSTMENT OF STATUS FOR VICTIMS OF TRAFFICKING.

(a) Reduction in Required Period of Presence Authorized.—

(1) In general.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(A) in paragraph (1)(A), by inserting "subject to paragraph (6)," after "(A)";

(B) in paragraph (1)(A), by inserting after "since" the following: "the earlier of (i) the date the alien was granted continued presence under section 107(c)(3) of the Trafficking Victims Protection Act of 2000, or (ii)"; and

(C) by adding at the end the following new paragraph:

"(6) The Secretary of Homeland Security may waive or reduce the period of physical presence required under paragraph (1)(A) for an alien's adjustment of status under this subsection if a Federal, State, or local law enforcement official investigating or prosecuting trafficking described in section 101(a)(15)(T)(i) in relation to the alien or the alien's spouse, child, parent, or sibling certifies that the official has no objection to such waiver or reduction.".

(2) Conforming amendment.—Section 107(c) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(c)) is amended by adding at the end the following new paragraph:

"(5) Certification of no objection for waiver or reduction of period of required physical presence for adjustment of status.—In order for an alien to have the required period of physical presence under paragraph (1)(A) of section 245(l) of the Immigration and Nationality Act waived or reduced under paragraph (6) of such section, a Federal, State, and local law enforcement official investigating or prosecuting trafficking described in section 101(a)(15)(T)(i) in relation to the alien or the alien's spouse, child, parent, or sibling may provide for a certification of having no objection to such waiver or reduction.".

(b) Treatment of Good Moral Character.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)), as amended by subsection (a)(1), is amended—

(1) in paragraph (1)(B), by inserting "subject to paragraph (7)," after "(B)"; and

(2) by adding at the end the following new paragraph:

"(7) For purposes of paragraph (1)(B), the Secretary of Homeland Security, in the Secretary's sole unreviewable discretion, may waive consideration of a disqualification from good moral character described in section 101(f) with respect to an alien if there is a connection between the disqualification and the trafficking with respect to the alien described in section 101(a)(15)(T)(i).".

(c) Annual Report on Training of Law Enforcement.—

(1) In general.—Section 107(g) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(g)) is amended by adding at the end the following: "Each such report shall also include statistics regarding the number of law enforcement officials who have been trained in the identification and protection of trafficking victims and certification for assistance as nonimmigrants under section 101(a)(15)(T) of such Act.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to annual reports beginning with the report for fiscal year 2006.

Subtitle B—VAWA Petitioners

SEC. 911. DEFINITION OF VAWA PETITIONER.

(a) In General.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(51) The term 'VAWA petitioner' means an alien whose application or petition for classification or relief under any of the following provisions (whether as a principal or as a derivative) has been filed and has not been denied after exhaustion of administrative appeals:

"(A) Clause (iii), (iv), or (vii) of section 204(a)(1)(A).

"(B) Clause (ii) or (iii) of section 204(a)(1)(B).

"(C) Subparagraph (C) or (D) of section 216(c)(4).

"(D) The first section of Public Law 89–732 (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty.

"(E) Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277).

"(F) Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100).

"(G) Section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note).".

(b) Conforming Amendments.—

(1) Section 212(a)(6)(A)(ii)(I) of such Act (8 U.S.C. 1182(a)(6)(A)(ii)(I)) is amended by striking "qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)" and inserting "is a VAWA petitioner".

(2) Section 212(a)(9)(C)(ii) of such Act (8 U.S.C. 1182(a)(9)(C)(ii)) is amended by striking "to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B)" and inserting "is a VAWA petitioner".

(3) Subsections (h)(1)(C) and (g)(1)(C) of section 212 (8 U.S.C. 1182) is amended by striking "qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B)" and inserting "is a VAWA petitioner".

(4) Section 212(i)(1) of such Act (8 U.S.C. 1182(i)(1)) is amended by striking "an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)" and inserting "a VAWA petitioner".

(5) Section 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by striking "is an alien who qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)" and inserting "is a VAWA petitioner".

(6) Section 240A(b)(4)(B) of such Act (8 U.S.C. 1229b(b)(4)(B)) is amended by striking "they were applications filed under section 204(a)(1)(A)(iii), (A)(iv), (B)(ii), or (B)(iii)" and inserting "the applicants were VAWA petitioners".

(7) Section 245(a) of such Act (8 U.S.C. 1255(a)) is amended by striking "under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" and inserting "as a VAWA petitioner".

(8) Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended by striking "under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1)" and inserting "as a VAWA petitioner".

(9) For additional conforming amendments to sections 212(a)(4)(C)(i) and 240(c)(7)(C)(iv)(I) of the Immigration and Nationality Act, see sections 832(b)(2) and 817(a) of this Act.

SEC. 912. SELF-PETITIONING FOR CHILDREN.

(a) Self-Petitioning by Children of Parent-Abusers Upon Death or Other Termination of Parent-Child Relationship.—

(1) Citizen parents.—Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended—

(A) by striking "or who" and inserting "who"; and

(B) by inserting after "domestic violence," the following: "or who was a child of a United States citizen parent who within the past 2 years (or, if later, two years after the date the child attains 18 years of age) died or otherwise terminated the parent-child relationship (as defined under section 101(b)),".

(2) Lawful permanent resident parents.—

(A) In general.—Section 204(a)(1)(B)(iii) of such Act (8 U.S.C. 1154(a)(1)(B)(iii)) is amended—

(i) by striking "or who" and inserting "who"; and

(ii) by inserting after "domestic violence," the following: "or who was a child of a lawful permanent resident resident who within the past 2 years (or, if later, two years after the date the child attains 18 years of age) died or otherwise terminated the parent-child relationship (as defined under section 101(b)),".

(B) Conforming treatment of deceased spouses.—Section 204(a)(1)(B)(ii)(II)(aa)(CC) of such Act (8 U.S.C. 1154(a)(1)(B)(ii)(II)(aa)(CC)) is amended—

(i) by redesignating subitems (aaa) and (bbb) as subitems (bbb) and (ccc), respectively; and

(ii) by inserting before subitem (bbb), as so redesignated, the following:

"(aaa) whose spouse died within the past 2 years;".

(3) Effective dates.—

(A) In general.—Subject to subparagraph (B), the amendment made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(B) Transition in case of citizen parents who died before enactment.—In applying the amendments made by paragraphs (1) and (2)(A) in the case of an alien whose citizen parent or lawful permanent resident parent died or whose parent-child relationship with such parent terminated during the period beginning on October 28, 1998, and ending on the date of the enactment of this Act, the following rules apply:

(i) The reference to "within the past 2 years" in section 204(a)(1)(A)(iv) or 204(a)(1)(B)(iii), respectively, of the Immigration and Nationality Act in the matter inserted by such paragraph is deemed to be a reference to such period.

(ii) The petition must be filed under such section within 2 years after the date of the enactment of this Act (or, if later, 2 years after the alien's 18th birthday).

(iii) The determination of eligibility for benefits as a child under such section (including under section 204(a)(1)(D) of the Immigration and Nationality Act by reason of a petition authorized under such section) shall be determined as of the date of the death of the citizen parent or lawful permanent resident parent or the termination of the parent-child relationship.

(b) Protecting Victims of Child Abuse From Aging Out.—

(1) Clarification regarding continuation of immediate relative status for children of citizens.—Section 204(a)(1)(D)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)(i)(I)) is amended—

(A) by striking "clause (iv) of section 204(a)(1)(A)" and inserting "subparagraph (A)(iv)" each place it appears; and

(B) by striking "a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable" and inserting "to continue to be treated as an immediate relative under section 201(b)(2)(A)(i), or a petitioner for preference status under section 203(a)(3) if subsequently married".

(2) Clarification regarding application to children of lawful permanent residents.—Section 204(a)(1)(D) of such Act (8 U.S.C. 1154(a)(1)(D)) is amended—

(A) in clause (i)(I)—

(i) by inserting after the first sentence the following new sentence: "Any child who attains 21 years of age who has filed a petition under subparagraph (B)(iii) that was filed or approved before the date on which the child attained 21

year of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under section 203(a)(2)(A), with the same priority date assigned to the self-petition filed under such subparagraph."; and

(ii) in the last sentence, by inserting "in either such case" after "shall be required to be filed";

(B) in clause (i)(III), by striking "paragraph (1), (2), or (3) of section 203(a)" and inserting "section 203(a)(2)(A)"; and

(C) in clause (ii), by striking "(A)(iii), (A)(iv),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed before, on, or after the date of the enactment of VAWA-2000.

(c) CLARIFICATION OF NO SEPARATE ADJUSTMENT APPLICATION FOR DERIVATIVE CHILDREN.—

(1) IN GENERAL.—Section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) is amended by adding at the end the following: "In the case of a petition under clause (ii), (iii), or (iv) of section 204(a)(1)(A) that includes an individual as a derivative child of a principal alien, no adjustment application other than the adjustment application of the principal alien shall be required for adjustment of status of the individual under this subsection or subsection (c).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

(d) LATE PETITION PERMITTED FOR ADULTS ABUSED AS CHILDREN.—

(1) IN GENERAL.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)), is amended by adding at the end the following new clause:

"(iv) In the case of an alien who qualified to petition under subparagraph (A)(iv) or (B)(iii) as of the date the individual attained 21 years of age, the alien may file a petition under such respective subparagraph notwithstanding that the alien has attained such age or been married so long as the petition is filed before the date the individual attains 25 years of age. In the case of such a petition, the alien shall remain eligible for adjustment of status as a child notwithstanding that the alien has attained 21 years of age or has married, or both.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to individuals who attain 21 years of age on or after the date of the enactment of VAWA–2000.

SEC. 913. SELF-PETITIONING PARENTS.

(a) IN GENERAL.—Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following new clause:

"(vii) An alien who—

"(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who within the past 2 years lost or renounced citizenship status related to battering or extreme cruelty by the United States citizen son or daughter or who within the past two years died;

"(II) is a person of good moral character;

"(III) is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) by virtue of the alien's relationship to the son or daughter referred to in subclause.(I); and

"(IV) resides, or has resided in the past, with the citizen daughter or son;

may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under such section if the alien demonstrates that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen son or daughter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 914. PROMOTING CONSISTENCY IN VAWA ADJUDICATIONS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)(iii)(II)(aa)(CC)(bbb), by striking "an incident of domestic violence" and inserting "battering or extreme cruelty by the United States citizen spouse";

(2) in subparagraph (A)(iv), by striking "an incident of domestic violence" and inserting "battering or extreme cruelty by such parent";

(3) in subparagraph (B)(ii)(II)(aa)(CC)(bbb), as redesignated by section 912(a)(2)(B)(i), by striking "due to an incident of domestic violence" and inserting "related to battering or extreme cruelty by the lawful permanent resident spouse"; and

(4) in subparagraph (B)(iii), by striking "due to an incident of domestic violence" and inserting "related to battering or extreme cruelty by such parent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of VAWA–2000.

SEC. 915. RELIEF FOR CERTAIN VICTIMS PENDING ACTIONS ON PETITIONS AND APPLICATIONS FOR RELIEF.

(a) RELIEF.—

(1) LIMITATION ON REMOVAL OR DEPORTATION.—Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

"(d)(1) In the case of an alien in the United States for whom a petition as a VAWA petitioner has been filed, if the petition sets forth a prima facie case for approval, the Secretary of Homeland Security, in the Secretary's sole unreviewable discretion, may grant the alien deferred action until the petition is approved or the petition is denied after exhaustion of administrative appeals. In the case of the approval of such petition, such deferred action may be extended until a final determination is made on an application for adjustment of status.

"(2) In the case of an alien in the United States for whom an application for nonimmigrant status (whether as a principal or derivative child) under subparagraph (T) or (U) of section 101(a)(15) has been filed, if the application sets forth a prima facie case for approval, the Secretary of Homeland Security, in the Secretary's sole unreviewable discretion, may grant the alien deferred action until the application is approved or the application is denied after exhaustion of administrative appeals.

"(3) During a period in which an alien is provided deferred action under this subsection, the alien shall not be removed or deported. ".

(2) LIMITATION ON DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(f) LIMITATION ON DETENTION OF CERTAIN VICTIMS OF VIOLENCE.—(1) An alien for whom a petition as a VAWA petitioner has been approved or for whom an application for nonimmigrant status (whether as a principal or derivative child) under subparagraph (T) or (U) of section 101(a)(15) has been approved, subject to paragraph (2), the alien shall not be detained if the only basis for detention is a ground for which—

"(A) a waiver is provided under section 212(h), 212(d)(13), 212(d)(14), 237(a)(7), or 237(a)(2)(a)(V); or

"(B) there is an exception under section 204(a)(1)(C).

"(2) Paragraph (1) shall not apply in the case of detention that is required under subsection (c) or section 236A.".

(3) EMPLOYMENT AUTHORIZATION.—

(A) FOR VAWA PETITIONERS.—Section 204(a)(1) of such Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following:

"(K)(i) In the case of an alien for whom a petition as a VAWA petitioner is approved, the alien is eligible for work authorization and shall be provided an 'employment authorized' endorsement or other appropriate work permit.".

(B) FOR ALIENS WITH APPROVED T VISAS.—Section 214(o) of such Act (8 U.S.C. 1184(o)), as amended by section 901(b)(2), is amended by adding at the end the following new paragraph:

"(8) In the case of an alien for whom an application for nonimmigrant status (whether as a principal or derivative) under section 101(a)(15)(T) has been approved, the alien is eligible for work authorization and shall be provided an 'employment authorized' endorsement or other appropriate work permit.".

(4) PROCESSING OF APPLICATIONS.—Section 204(a)(1)(K) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(K)), as added by paragraph (3)(A), is amended by adding at the end the following:

"(ii) A petition as a VAWA petitioner shall be processed without regard to whether a proceeding to remove or deport such alien is brought or pending.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to petitions and applications filed before, on, or after such date.

(b) APPLICANTS FOR CANCELLATION OF REMOVAL OR SUSPENSION OF DEPORTATION.—

(1) IN GENERAL.—Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended by adding at the end the following new subparagraph:

"(E) RELIEF WHILE APPLICATION PENDING.—In the case of an alien who has applied for relief under this paragraph and whose application sets forth a prima facie case for such relief or who has filed an application for relief under section 244(a)(3) (as in effect on March 31, 1997) that sets forth a prima facie case for such relief—

"(i) the alien shall not be removed or deported until the application has been approved or, in the case it is denied, until all opportunities for appeal of the denial have been exhausted; and

"(ii) such an application shall be processed without regard to whether a proceeding to remove or deport such alien is brought or pending.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 916. ACCESS TO VAWA PROTECTION REGARDLESS OF MANNER OF ENTRY.

(a) FIANCEES.—

(1) SELF-PETITIONING.—Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended—

(A) in subclause (I)(bb), by inserting after "during the marriage" the following: "or relationship intended by the alien to be legally a marriage or to conclude in a valid marriage";

(B) in subclause (II)(aa)—

(i) by striking "or" at the end of subitem (BB);

(ii) by inserting "or" at the end of subitem (CC); and

(iii) by adding at the end the following new subitem:

"(DD) who entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien (or child of the alien) was battered or subject to extreme cruelty in the United States by the United States citizen who filed the petition to accord status under such section;";

(C) in subclause (II)(cc), by striking "or who" and inserting ", who" and by inserting before the semicolon at the end the following: ", or who is described in subitem (aa)(DD)"; and

(D) in subclause (II)(dd), by inserting "or who is described in subitem (aa)(DD)" before the period at the end.

(2) Exception from requirement to depart.—Section 214(d) of such Act (8 U.S.C. 1184(d)) is amended by inserting before the period at the end the following: "unless the alien (and the child of the alien) entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien or child was battered or subject to extreme cruelty in the United States by the United States citizen who filed the petition to accord status under such section".

(3) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to aliens admitted before, on, or after such date.

(b) Spouses Who Are Conditional Permanent Residents.—

(1) In general.—Section 245(d) of the Immigration and Nationality Act (8 U.S.C. 1255(d)) is amended—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to an alien who seeks adjustment of status on the basis of an approved petition for classification as a VAWA petitioner.".

(2) Conforming application in cancellation of removal.—Section 240A(b)(2)(A)(i) of such Act (8 U.S.C. 1229b(b)(2)(A)(i)) is amended—

(A) by striking "or" at the end of subclause (II);

(B) by adding "or" at the end of subclause (III); and

(C) by adding at the end the following new subclause:

"(IV) the alien entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien (or the child of the alien who is described in such section) was battered or subject to extreme cruelty in the United States by the United States citizen who filed the petition to accord status under such section;".

(3) Exception to restriction on adjustment of status.—The second sentence of section 245(d)(1) of such Act (8 U.S.C. 1255(d)(1)), as designated by paragraph (1)(A), is amended by inserting "who is not described in section 204(a)(1)(A)(iii)(II)(aa)(DD)" after "alien described in section 101(a)(15)(K)".

(4) Application under suspension of deportation.—Section 244(a)(3) of such Act (as in effect on March 31, 1997) shall be applied (as if in effect on such date) as if the phrase "is described in section 240A(b)(2)(A)(i)(IV) or" were inserted before "has been battered" the first place it appears.

(5) Effective date.—The amendments made by this subsection, and the provisions of paragraph (4), shall take effect on the date of the enactment of this Act and shall apply to applications for adjustment of status, for cancellation of removal, or for suspension of deportation filed before, on, or after such date.

(c) Information on Certain Convictions and Limitation on Petitions for K Nonimmigrant Petitioners.—Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(1) by striking "(d)" and inserting "(d)(1)";

(2) by inserting after the second sentence the following: "Such information shall include information on any criminal convictions of the petitioner for domestic violence, sexual assault, or child abuse."; and

(3) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that—

"(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to more than 2 applying aliens; and

"(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

"(B) The Secretary of Homeland Security may, in the discretion of the Secretary, waive the limitation in subparagraph (A), if justification exists for such a waiver.

"(3) For purposes of this subsection—

"(A) the term 'child abuse' means a felony or misdemeanor crime, as defined by Federal or State law, committed by an offender who is a stranger to the victim, or committed by an offender who is known by, or related by blood or marriage to, the victim, against a victim who has not attained the lesser of—

"(i) 18 years of age; or

"(ii) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides; and

"(B) the terms 'domestic violence' and 'sexual assault' have the meaning given such terms in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).".

(d) Spouses and Children of Asylum Applicants Under Adjustment Provisions.—

(1) In general.—Section 209(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1159(b)(3)) is amended—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following:

"(B) was the spouse of a refugee within the meaning of section 101(a)(42)(A) at the time the asylum application was granted and who was battered or was the subject of extreme cruelty perpetrated by such refugee or whose child was battered or subjected to extreme cruelty by such refugee (without the active participation of such spouse in the battery or cruelty), or

"(C) was the child of a refugee within the meaning of section 101(a)(42)(A) at the time of the filing of the asylum application and who was battered or was the subject of extreme cruelty perpetrated by such refugee.".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and—

(A) section 209(b)(3)(B) of the Immigration and Nationality Act, as added by paragraph (1)(B), shall apply to spouses of refugees for whom an asylum application is granted before, on, or after such date; and

(B) section 209(b)(3)(C) of such Act, as so added, shall apply with respect to the child of a refugee for whom an asylum application is filed before, on, or after such date.

(e) Visa Waiver Entrants.—

(1) In general.—Section 217(b)(2) of such Act (8 U.S.C. 1187(b)(2)) is amended by inserting after "asylum," the following: "as a VAWA petitioner, or for relief under subparagraph (T) or (U) of section 101(a)(15), under section 240A(b)(2), or under section 244(a)(3) (as in effect on March 31, 1997),".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to waivers provided under section 217(b)(2) of the Immigration and Nationality Act before, on, or after such date as if it had been included in such waivers.

(f) Exception From Foreign Residence Requirement for Educational Visitors.—

(1) In general.—Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended, in the matter before the first proviso, by inserting "unless the alien is a VAWA petitioner or an applicant for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15)" after "for an aggregate of a least two years following departure from the United States".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to aliens regardless of whether the foreign residence requirement under section 212(e) of the Immigration and Nationality Act arises out of an admission or acquisition of status under section 101(a)(15)(J) of such Act before, on, or after the date of the enactment of this Act.

SEC. 917. ELIMINATING ABUSERS' CONTROL OVER APPLICATIONS FOR ADJUSTMENTS OF STATUS.

(a) Application of Motions to Reopen for All VAWA Petitioners.—Section 240(c)(7)(C)(iv) of the Immigration and Nationality Act (8 U.S.C. 1230(c)(7)(C)(iv)), as redesignated by section 101(d)(1) of the REAL ID Act of 2005 (division B of Public Law 109-13), is amended—

(1) in subclause (I), by striking "under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B)" and inserting "as a VAWA petitioner"; and

(2) in subclause (II), by inserting "or adjustment of status" after "cancellation of removal".

(b) Application of VAWA Deportation Protections for Transitional Relief to All VAWA Petitioners.—Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note) is amended—

(1) in subparagraph (A)—

(A) by amending clause (i) to read as follows:

"(i) if the basis of the motion is to apply for relief as a VAWA petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)) or under section 244(a)(3) of such Act (8 U.S.C. 1254(a)(3)); and"; and

(B) in clause (ii), by inserting "or adjustment of status" after "suspension of deportation"; and

(2) in subparagraph (B)(ii), by striking "for relief" and all that follows through "1101 note))" and inserting "for relief described in subparagraph (A)(i)".

(c) Application of VAWA-Related Relief Under Section 202 of NACARA.—Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100) is amended—

(1) in subparagraph (B)(ii), by inserting ", or was eligible for adjustment," after "whose status is adjusted"; and

(2) in subparagraph (E), by inserting after "April 1, 2000" the following: ", or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women Act of 2005".

(d) Petitioning Rights of Certain Former Spouses Under Cuban Adjustment.—The first section of Public Law 89–732 (8 U.S.C. 1255 note) is amended by adding at the end the following: "An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005) if the alien demonstrates a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.".

(e) Self-Petitioning Rights of HRIFA Applicants.—Section 902(d)(1)(B) of the Haitian

Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538; 8 U.S.C. 1255 note), as amended by section 1511(a) of VAWA-2000, is amended—

(1) in clause (i), by striking "whose status is adjusted to that of an alien lawfully admitted for permanent residence" and inserting "who is or was eligible for classification"; and

(2) in clause (ii), by striking "whose status is adjusted to that of an alien lawfully admitted for permanent residence" and inserting "who is or was eligible for classification".

(f) SELF-PETITIONING RIGHTS UNDER SECTION 203 OF NACARA.—Section 309 of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note), as amended by section 203(a) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100), is amended—

(1) in subsection (c)(5)(C)(i)(VII)(aa), as amended by section 1510(b) of VAWA-2000—

(A) by striking "or" at the end of subitem (BB);

(B) by striking "and" at the end of subitem (CC) and inserting "or"; and

(C) by adding at the end the following new subitem:

"(DD) at the time at which the spouse or child files an application for suspension of deportation or cancellation of removal; and"; and

(2) in subsection (g)—

(A) by inserting "(1)" before "Notwithstanding";

(B) by inserting "subject to paragraph (2)," after "section 101(a) of the Immigration and Nationality Act)),"; and

(C) by adding at the end the following new paragraph:

"(2) There shall be no limitation on a motion to reopen removal or deportation proceedings in the case of an alien who is described in subclause (VI) or (VII) of subsection (c)(5)(C)(i). Motions to reopen removal or deportation proceedings in the case of such an alien shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(A)(iii) of the Immigration and Nationality Act.".

(g) LIMITATION ON PETITIONING FOR ABUSER.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)), as amended by section 915(a)(3)(A), is amended by adding at the end the following new subparagraph:

"(L) Notwithstanding the previous provisions of this paragraph, an individual who was a VAWA petitioner or who had the status of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15) may not file a petition for classification under this section or section 214 to classify any person who committed the battery or extreme cruelty or trafficking against the individual (or the individual's child) which established the individual's (or individual's child's) eligibility as a VAWA petitioner or for such nonimmigrant status.".

(h) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 918. PAROLE FOR VAWA PETITIONERS AND FOR DERIVATIVES OF TRAFFICKING VICTIMS.

(a) IN GENERAL.—Section 240A(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(4)) is amended—

(1) in the heading, by striking "CHILDREN OF BATTERED ALIENS" and inserting "BATTERED ALIENS, CHILDREN OF BATTERED ALIENS, AND DERIVATIVE FAMILY MEMBERS OF TRAFFICKING VICTIMS,";

(2) in subparagraph (A)—

(A) by striking "or" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(iii) VAWA petitioner whose petition was approved based on having been battered or subjected to extreme cruelty by a United States citizen spouse, parent, or son or daughter and who is admissible and eligible for an immigrant visa;

"(iv) VAWA petitioner whose petition was approved based on having been battered or subjected to extreme cruelty by a lawful permanent resident spouse or parent, who is admissible and would be eligible for an immigrant visa but for the fact that an immigrant visa is not immediately available to the alien, and who filed a petition for classification under section 204(a)(1)(B), if at least 3 years has elapsed since the petitioner's priority date; or

"(v) an alien whom the Secretary of State determines would, but for an application or approval, meet the conditions for approval as a nonimmigrant described in section 101(a)(15)(T)(ii)."; and

(3) in subparagraph (B)—

(A) in the first sentence, by striking "The grant of parole" and inserting "(i) The grant of parole under subparagraph (A)(i) or (A)(ii)";

(B) in the second sentence, by striking "covered under this paragraph" and inserting "covered under such subparagraphs";

(C) in the last sentence, by inserting "of subparagraph (A)" after "clause (i) or (ii)"; and

(D) by adding at the end the following new clauses:

"(ii) The grant of parole under subparagraph (A)(iii) or (A)(iv) shall extend from the date of approval of the applicable petition to the time the application for adjustment of status filed by aliens covered under such subparagraphs has been finally adjudicated. Applications for adjustment of status filed by aliens covered under such subparagraphs shall be treated as if they were applications filed under section 204(a)(1)(A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c).

"(iii) The grant of parole under subparagraph (A)(v) shall extend from the date of the determination of the Secretary of State described in such subparagraph to the time the application for status under section 101(a)(15)(T)(ii) has been finally adjudicated. Failure by such an alien to exercise due diligence in filing a visa petition on the alien's behalf may result in revocation of parole.".

(b) CONFORMING REFERENCE.—Section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following new subparagraph:

"(C) Parole is provided for certain battered aliens, children of battered aliens, and parents of battered alien children under section 240A(b)(4).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 919. EXEMPTION OF VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT AND TRAFFICKING FROM SANCTIONS FOR FAILURE TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)) is amended—

(1) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) The ineligibility for relief under paragraph (1) shall not apply to an alien who is a VAWA petitioner, who is seeking status as a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15), or who is an applicant for relief under section 240A(b)(2) or under section 244(a)(3) (as in effect on March 31, 1997), if there is a connection between the failure to voluntarily depart and the battery or extreme cruelty, trafficking, or criminal activity, referred to in the respective provision.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the enactment of the Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) and shall apply to failures to depart voluntarily occurring before, on, or after the date of the enactment of this Act.

SEC. 920. CLARIFICATION OF ACCESS TO NATURALIZATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended by inserting after "extreme cruelty by a United States citizen spouse or parent" the following: ", regardless of whether the lawful permanent resident status was obtained on the basis of such battery or cruelty".

(b) USE OF CREDIBLE EVIDENCE.—Such section is further amended by adding at the end the following: "The provisions of section 204(a)(1)(J) shall apply in acting on an application under this subsection in the same manner as they apply in acting on petitions referred to in such section."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed before, on, or after the date of the enactment of this Act.

SEC. 921. PROHIBITION OF ADVERSE DETERMINATIONS OF ADMISSIBILITY OR DEPORTABILITY BASED ON PROTECTED INFORMATION.

(a) APPLICATION OF RESTRICTIONS ON ADDITIONAL DEPARTMENTS.—Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1367) is amended—

(1) in subsection (a), as amended by section 1513(d) of VAWA-2000—

(A) in the matter before paragraph (1), by striking "(including any bureau or agency of such Department)" and inserting ", or the Secretary of Homeland Security, the Secretary of State, the Secretary of Health and Human Services, or the Secretary of Labor or any other official or employee of the Department of Homeland Security, the Department of State, the Department of Health and Human Services, or the Department of Labor (including any bureau or agency of any such Department)"; and

(B) in paragraph (2), by striking "of the Department," and inserting "of any such Department,"; and

(2) in subsection (b)—

(A) in paragraphs (1), by striking "The Attorney General may provide, in the Attorney General's discretion" and inserting "The Attorney General, Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and Secretary of Labor may provide, in each's discretion";

(B) in paragraph (2), by striking "The Attorney General may provide in the discretion of the Attorney General" and inserting "The Attorney General, Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and the Secretary of Labor may provide, in each's discretion"; and

(C) in paragraph (5), by striking "is authorized to disclose" and inserting ", Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and Secretary of Labor, or Attorney General may disclose".

(b) INCREASING SCOPE OF ALIENS AND INFORMATION PROTECTED.—Subsection (a) of such section is amended—

(1) in paragraph (1)—

(A) in the matter before subparagraph (A), by striking "furnished solely by" and inserting "furnished by or derived from information provided solely by";

(B) by striking "or" at the end of subparagraph (D);

(C) by adding "or" at the end of subparagraph (E); and

(D) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of an alien applying for continued presence as a victim of trafficking under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Protection Act of 2000 or status under section 101(a)(15)(T) of the Immigration and Nationality Act, the trafficker or perpetrator,"; and

(2) in paragraph (2)—

(A) by striking "under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B)" and inserting "as a VAWA petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act), or under"; and

(B) by striking "or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty." and inserting the following: ", section 101(a)(15)(T), section 214(c)(15), or section 240A(b)(2) of such Act, or section 244(a)(3) of such Act (as in effect on March 31, 1997), or for continued presence as a victim of trafficking under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Protection Act of 2000, or any derivative of the alien;".

(c) PROVIDING FOR CONGRESSIONAL REVIEW.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(6) Subsection (a) shall not apply to prevent the Attorney General and the Secretary of Homeland Security from disclosing to the chairmen and ranking members of the Judiciary Committees of the House of Representatives and of the Senate in the exercise of Congressional oversight authority information on closed cases under this section in a manner that protects the confidentiality of such information and that omits personally identifying information (including locational information about individuals).".

(d) APPLICATION TO JUVENILE SPECIAL IMMIGRANTS.—Subsection (a) of such section, as amended by subsection (b)(2)(B), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) in the case of an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been abused, neglected, or abandoned, contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for the consent of the Secretary of Homeland Security under clause (iii)(I) of such section.".

(e) IMPROVED ENFORCEMENT.—Subsection (c) of such section is amended by adding at the end the following: "The Office of Professional Responsibility in the Department of Justice shall be responsible for carrying out enforcement under the previous sentence.".

(f) CERTIFICATION OF COMPLIANCE IN REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 239 of the Immigration and Nationality Act (8 U.S.C. 1229) is amended by adding at the end the following new subsection:

"(e) CERTIFICATION OF COMPLIANCE WITH RESTRICTIONS ON DISCLOSURE.—Removal proceedings shall not be initiated against an alien unless there is a certification of either of the following:

"(1) No enforcement action was taken leading to such proceedings against the alien—

"(A) at a domestic violence shelter, a victims services organization or program (as described in section 2003(8) of the Omnibus Crime Control and Safe Streets Act of 1968), a rape crisis center, a family justice center, or a supervised visitation center; or

"(B) at a courthouse (or in connection with the appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (U) of section 101(a)(15).

"(2) Such an enforcement action was taken, but the provisions of section 384(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 have been complied with.".

(2) COMPLIANCE.—Section 384(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1367(c)) is amended by inserting "or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act" after "in violation of this section".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations or disclosures made on or after such date.

SEC. 922. INFORMATION FOR K NONIMMIGRANTS ABOUT LEGAL RIGHTS AND RESOURCES FOR IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop consistent and accurate materials, including an information pamphlet described in subsection (b), on legal rights and resources for immigrant victims of domestic violence for dissemination to applicants for K nonimmigrant visas. In preparing such materials, the Secretary shall consult with non-governmental organizations with expertise on the legal rights of immigrant victims of battery, extreme cruelty, sexual assault and other crimes.

(b) INFORMATION PAMPHLET.—The information pamphlet developed under subsection (a) shall include information on the following:

(1) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.

(2) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence.

(3) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(4) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters.

(5) The obligations of parents to provide child support for children.

(6) Marriage fraud under United States immigration laws and the penalties for committing such fraud.

(7) A warning concerning the potential use of K nonimmigrant visas by individuals who have a history of committing domestic violence, sexual assault, or child abuse.

(c) SUMMARIES.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop summaries of the pamphlet developed under subsection (a) that shall be used by consular officers when reviewing the pamphlet in interviews under section (e)(2).

(d) TRANSLATION.—

(1) IN GENERAL.—In order to best serve the language groups having the greatest concentration of K nonimmigrant visa applicants, the information pamphlet under subsection (b) shall, subject to paragraph (2), be translated by the Secretary of State into the following languages: Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, and Hindi.

(2) REVISION.—Every two years, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall determine the specific languages into which the information pamphlet is translated based on the languages spoken by the greatest concentrations of K nonimmigrant visa applicants.

(e) AVAILABILITY AND DISTRIBUTION.—The information pamphlet developed under subsection (a) shall be made available and distributed as follows:

(1) MAILINGS TO K NONIMMIGRANT VISA APPLICANTS.—

(A) The pamphlet shall be mailed by the Secretary of State to each applicant for a K nonimmigrant visa at the same time that the instruction packet regarding the visa application process is mailed to such applicant. The pamphlet so mailed shall be in the primary language of the applicant, or in English if no translation into the applicant's primary language is available.

(B) In addition, in the case of an applicant for a nonimmigrant visa under section 101(a)(15)(K)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)(i)) the Secretary of Homeland Security shall provide to the Secretary of State, for inclusion in the mailing under subparagraph (A), a copy of the petition submitted by the petitioner for such applicant under section 214(d) of such Act (8 U.S.C. 1184(d)).

(C) The Secretary of Homeland Security shall provide to the Secretary of State any criminal background information the Secretary of Homeland Security possesses with respect to a petitioner under such section 214(d). The Secretary of State, in turn, shall share any such criminal background information that is in the public record with the nonimmigrant visa applicant who is the beneficiary of the petition. The visa applicant shall be informed that such criminal background information is based on available records and may not be complete. The Secretary of State also shall provide for the disclosure of such criminal background information to the visa applicant at the consular interview in the primary language of the visa applicant. Nothing in this subparagraph shall be construed to authorize the Secretary of Homeland Security to conduct any new or additional criminal background check that is not otherwise conducted in the course of adjudicating such petitions.

(2) CONSULAR INTERVIEWS.—The pamphlet shall be distributed directly to K nonimmigrant visa applicants at all consular interviews for such visas. The consular officer conducting the visa interview shall review the pamphlet and summary with the applicant orally in the applicant's primary language, in addition to distributing the pamphlet to the applicant in English.

(3) CONSULAR ACCESS.—The pamphlet shall be made available to the public at all consular posts. Summaries of the pamphlets under subsection (c) shall be made available to foreign service officers at all consular posts.

(4) POSTING ON STATE DEPARTMENT WEBSITE.—The pamphlet shall be posted on the website of the Department of State as well as on the websites of all consular posts processing K nonimmigrant visa applications.

(f) K NONIMMIGRANT DEFINED.—For purposes of this section, the term "K nonimmigrant visa" means a nonimmigrant visa under clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)).

SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Homeland Security such sums as *may be necessary to provide for adjudication of petitions and adjustment applications of VAWA petitioners (as defined in section 101(a)(51) of the Immigration and Nationality Act, as added by section 911(a)) and of aliens seeking status as nonimmigrants under subparagraph (T) or (U) of section 101(a)(15) of such Act.*

Subtitle C—Miscellaneous Provisions

SEC. 931. REMOVING 2 YEAR CUSTODY AND RESIDENCY REQUIREMENT FOR BATTERED ADOPTED CHILDREN.

(a) In General.—Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(E)(i)) is amended by inserting after "at least two years" the following: "or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household".

(b) Conforming Naturalization Amendment.—Section 320(a)(3) of such Act (8 U.S.C. 1431(a)(3)) is amended by inserting before the period at the end the following: "or the child is residing in the United States pursuant to a lawful admission for permanent residence and has been battered or subject to extreme cruelty by the citizen parent or by a family member of the citizen parent residing in the same household ".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications pending or filed on or after such date.

SEC. 932. WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY FOR VAWA PETITIONERS.

(a) Waiver of False Claim of U.S. Citizenship.—

(1) In general.—Section 212(i)(1) of such Act (8 U.S.C. 1182(i)(1)) is amended by inserting "(and, in the case of a VAWA petitioner who demonstrates a connection between the false claim of United States citizenship and the petitioner being subjected to battery or extreme cruelty, clause (ii))" after "clause (i)".

(2) Conforming reference.—Section 212(a)(6)(C)(iii) of such Act (8 U.S.C. 1182(a)(6)(C)(iii)) is amended by striking "clause (i)" and inserting "clauses (i) and (ii)".

(b) Exemption From Public Charge Ground.—

(1) In general.—Section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) is amended by adding at the end the following new subparagraph:

"(E) Special rule for battered aliens.—Subparagraphs (A) through (C) shall not apply to an alien who is a VAWA petitioner or is a qualified alien described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.".

(2) Conforming amendment.—Section 212(a)(4)(C)(i) of such Act (8 U.S.C. 1182(a)(4)(C)(i)) is amended to read as follows:

"(i) the alien is described in subparagraph (E); or".

(c) Effective Date.—Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply regardless of whether the conviction was entered, crime, or disqualifying event occurred before, on, or after such date.

SEC. 933. EMPLOYMENT AUTHORIZATION FOR BATTERED SPOUSES OF CERTAIN NONIMMIGRANTS.

(a) In General.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by sections 403(a) and 404(a) of the REAL ID Act of 2005 (division B of Public Law 109–13), is amended by adding at the end the following new paragraph:

"(15) In the case of an alien spouse admitted under subparagraph (A), (E)(iii), (G), or (H) of section 101(a)(15) who is accompanying or following to join a principal alien admitted under subparagraph (A), (E)(iii), (G), or (H)(i) of such section, respectively, the Secretary of Homeland Security shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an 'employment authorized' endorsement or other appropriate work permit if the alien spouse demonstrates that during the marriage the alien spouse or a child of the alien spouse has been battered or has been the subject to extreme cruelty perpetrated by the spouse of the alien spouse. Requests for relief under this paragraph shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(A)(iii).".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to aliens who obtained the status of an alien spouse before, on, or after such date.

SEC. 934. GROUNDS FOR HARDSHIP WAIVER FOR CONDITIONAL PERMANENT RESIDENCE FOR INTENDED SPOUSES.

(a) In General.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the alien meets the requirements under section 204(a)(1)(A)(iii)(II)(aa)(BB) and following the marriage ceremony has been battered by or was subject to extreme cruelty perpetrated by his or her intended spouse and was not at fault in failing to meet the requirements of paragraph (1).".

(b) Effective Date.—The amendments made by subsection (a) shall apply as if included in the enactment of VAWA–2000.

SEC. 935. CANCELLATION OF REMOVAL.

(a) Clarifying Application of Domestic Violence Waiver Authority in Cancellation of Removal.—

(1) In general.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting "subject to paragraph (5)," after "(C)"; and

(ii) by striking "(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)";

(B) in paragraph (2)(A), by amending clause (iv) to read as follows:

"(iv) subject to paragraph (5), the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not removable under paragraph (2), (3)(D), or (4) of section 237(a), and is not removable under section 237(a)(1)(G) (except if there was a connection between the marriage fraud described in such section and the battery or extreme cruelty described in clause (i)); and"; and

(C) by adding at the end the following new paragraph:

"(5) Application of domestic violence waiver authority.—The provisions of section 237(a)(7) shall apply in the application of paragraphs (1)(C) and (2)(A)(iv) (including waiving grounds of deportability) in the same manner as they apply under section 237(a). In addition, for purposes of such paragraphs and in the case of an alien who has been battered or subjected to extreme cruelty and if there was a connection between the inadmissibility or deportability and such battery or cruelty with respect to the activity involved, the Attorney General may waive, in the sole unreviewable discretion of the Attorney General, any other ground of inadmissibility or deportability for which a waiver is authorized under section 212(h), 212(d)(13), 212(d)(14), or 237(a)(2)(A)(v), and the exception described in section 204(a)(1)(C) shall apply.".

(2) Effective date.—The amendments made by paragraph (1) shall apply as if included in the enactment of section 1504(a) of VAWA–2000.

(b) Clarifying Nonapplication of Cancellation Cap.—

(1) In general.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following new subparagraph:

"(C) Aliens with respect to their cancellation of removal under subsection (b)(2).".

(2) Effective date.—The amendment made by paragraph (1) shall apply to cancellations of removal occurring on or after October 1, 2004.

SEC. 936. MOTIONS TO REOPEN.

(a) Removal Proceedings.—

(1) In general.—Section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1230(c)(7)), as redesignated by section 101(d)(1) of the REAL ID Act of 2005 (division B of Public Law 109–13), is amended—

(A) in subparagraph (A), by inserting ", except that this limitation shall not apply so as to prevent the filing of one motion to reopen described in subparagraph (C)(iv)" before the period at the end; and

(B) in subparagraph (C)—

(i) in the heading of clause (iv), by striking "SPOUSES AND CHILDREN" and inserting "SPOUSES, CHILDREN, AND PARENTS";

(ii) in the matter before subclause (I) of clause (iv), by striking "The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply" and inserting "Any limitation under this section on the deadlines for filing such motions shall not apply";

(iii) in clause (iv)(I), by inserting "or section 244(a)(3) (as in effect on March 31, 1997)" after "section 240A(b)(2)";

(iv) by striking "and" at the end of clause (iv)(II);

(v) by striking the period at the end of clause (iv)(III) and inserting "; and"; and

(vi) by adding at the end the following:

"(IV) if the alien is physically present in the United States at the time of filing the motion.

The filing of a motion to reopen under this clause shall stay the removal of the alien pending final disposition of the motion including exhaustion of all appeals if the motion establishes a prima facie case for the relief applied for.".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) Deportation and Exclusion Proceedings.—

(1) In general.—Section 1506(c)(2) of VAWA-2000 is amended—

(A) in the matter before clause (i) of subparagraph (A), by striking "Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation" inserting "Notwithstanding any limitation on the number of motions, or the deadlines for filing motions (including the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act before the title III–A effective date), to reopen or rescind deportation or exclusion";

(B) in the matter before clause (i) of subparagraph (A), by striking "there is no time limit on the filing of a motion" and all that follows through "does not apply" and inserting "such limitations shall not apply to the filing of a single motion under this subparagraph to reopen such proceedings";

(C) by adding at the end of subparagraph (A) the following:

"The filing of a motion under this subparagraph shall stay the removal of the alien pending a final disposition of the motion including the exhaustion of all appeals if the motion establishes a prima facie case for the relief applied for.";

(D) in subparagraph (B), by inserting "who are physically present in the United States and" after "filed by aliens"; and

(E) in subparagraph (B)(i), by inserting "or exclusion" after "deportation".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 937. REMOVAL PROCEEDINGS.

(a) TREATMENT OF BATTERY OR EXTREME CRUELTY AS EXCEPTIONAL CIRCUMSTANCES.—Section 240(e)(1) of such Act (8 U.S.C. 1230(e)(1)) is amended by inserting "battery or extreme cruelty of the alien or any child or parent of the alien or" after "exceptional circumstances (such as".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a failure to appear that occurs before, on, or after such date.

SEC. 938. CONFORMING RELIEF IN SUSPENSION OF DEPORTATION PARALLEL TO THE RELIEF AVAILABLE IN VAWA–2000 CANCELLATION FOR BIGAMY.

Section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) shall be applied as if "or by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or permanent resident's bigamy" were inserted after "by a spouse or parent who is a United States citizen or lawful permanent resident".

SEC. 939. CORRECTION OF CROSS-REFERENCE TO CREDIBLE EVIDENCE PROVISIONS.

(a) CUBAN ADJUSTMENT PROVISION.—The last sentence of the first section of Public Law 89–732 (November 2, 1966; 8 U.S.C. 1255 note), as amended by section 1509(a) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(b) NACARA.—Section 202(d)(3) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100), as amended by section 1510(a)(2) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(c) IIARAIRA.—Section 309(c)(5)(C)(iii) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note), as amended by section 1510(b)(2) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(d) HRIFA.—Section 902(d)(1)(B)(iii) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277; 112 Stat. 2681–538), as amended by section 1511(a) of VAWA–2000, is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of VAWA–2000.

SEC. 940. TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTIONS TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.—

(1) PHYSICAL PRESENCE RULES.—Section 240A(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(B)) is amended—

(A) in the first sentence, by striking "(A)(i)(II)" and inserting "(A)(ii)"; and

(B) in the fourth sentence, by striking "section 240A(b)(2)(B)" and inserting "this subparagraph, subparagraph (A)(ii),".

(2) MORAL CHARACTER RULES.—Section 240A(b)(2)(C) of such Act (8 U.S.C. 1229b(b)(2)(C)) is amended by striking "(A)(i)(III)" and inserting "(A)(iii)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 1504(a) of VAWA (114 Stat. 1522).

(b) CORRECTION OF CROSS-REFERENCE ERROR IN APPLYING GOOD MORAL CHARACTER.—

(1) IN GENERAL.—Section 101(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(3)) is amended by striking "(9)(A)" and inserting "(10)(A)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208).

(c) PUNCTUATION CORRECTION.—Effective as if included in the enactment of section 5(c)(2) of VAWA–2000, section 237(a)(1)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by striking the period at the end and inserting "; or".

(d) CORRECTION OF DESIGNATION AND INDENTATION.—The last sentence of section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)), as added by section 1505(a) of VAWA–2000, is amended—

(1) by striking "section 212(a)(9)(C)(i)" and inserting "clause (i)";

(2) by redesignating paragraphs (1) and (2), and subparagraphs (A) through (D) of paragraph (2), as subclauses (I) and (II), and items (aa) through (dd) of subclause (II), respectively; and

(3) by moving the margins of each of such paragraphs and subparagraphs 6 ems to the right.

(e) ADDITIONAL TECHNICAL CORRECTIONS.—(1) Section 237(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(7)(A)(i)(I)) is amended by striking "is self-defense" and inserting "in self-defense".

(2) Section 245(l)(2)(B) of such Act (8 U.S.C. 1255(l)(2)(B)) is amended by striking "(10(E))" and inserting "(10)(E))".

TITLE X—SAFETY ON TRIBAL LANDS

SEC. 1001. PURPOSES.

The purposes of this title are—

(1) to decrease the incidence of domestic violence, dating violence, sexual assault, and stalking on Tribal lands;

(2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to domestic violence, dating violence, sexual assault, and stalking on Tribal lands under their jurisdiction; and

(3) to ensure that perpetrators of domestic violence, dating violence, sexual assault, and stalking on Tribal lands are held accountable for their criminal behavior.

SEC. 1002. CONSULTATION.

(a) IN GENERAL.—The Secretary of the Interior and the Attorney General shall each conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (division B of Public Law 106–386), including consultation concerning—

(1) the timeliness of the Federal grant application and award processes;

(2) the amounts awarded under each program directly to tribal governments, tribal organizations, and tribal nonprofit organizations;

(3) determinations not to award grant funds;

(4) grant awards made in violation of the eligibility guidelines to a nontribal entity; and

(5) training, technical assistance, and data collection grants for tribal grant programs or programs addressing the safety of Indian women.

(b) RECOMMENDATIONS.—During consultations under subsection (a), the Secretary and the Attorney General shall solicit recommendations from Indian tribes concerning—

(1) administering tribal funds and programs;

(2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and

(3) strengthening the Federal response to such violent crimes.

SEC. 1003. ANALYSIS AND RESEARCH ON VIOLENCE ON TRIBAL LANDS.

(a) NATIONAL BASELINE STUDY.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women.

(b) SCOPE.—

(1) IN GENERAL.—The study shall examine violence committed against Indian women, including—

(A) domestic violence;

(B) dating violence;

(C) sexual assault;

(D) stalking; and

(E) murder.

(2) EVALUATION.—The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in paragraph (1) committed against Indian women.

(c) TASK FORCE.—

(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under subsection (a).

(2) MEMBERS.—The Director shall appoint to the task force representatives from—

(A) national tribal domestic violence and sexual assault nonprofit organizations;

(B) tribal governments; and

(C) the National Congress of American Indians.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report that describes the findings made in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 and 2007, to remain available until expended.

SEC. 1004. TRACKING OF VIOLENCE ON TRIBAL LANDS.

(a) ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.—Section 534 of title 28, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsection (e) and (f); and

(2) by inserting after subsection (c) the following:

"(d) INDIAN LAW ENFORCEMENT AGENCIES.—The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into Federal criminal information databases and to obtain information from the databases, including information relating to—

"(1) identification records;

"(2) criminal history records;

"(3) protection orders; and

"(4) wanted person records.".

(b) TRIBAL REGISTRY.—

(1) ESTABLISHMENT.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

(A) a national tribal sex offender registry; and

(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 1005. TRIBAL DIVISION OF THE OFFICE ON VIOLENCE AGAINST WOMEN.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after *section 2015 (as added by section 604 of this Act) the following:*

"SEC. 2016. TRIBAL DIVISION.

"(a) In General.—The Director of the Office on Violence Against Women shall designate one or more employees, each of whom shall have demonstrated expertise in tribal law and practice regarding domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes, to be responsible for—

"(1) overseeing and managing the administration of grants to and contracts with Indian tribes, tribal courts, tribal organizations, tribal nonprofit organizations and the territories;

"(2) ensuring that, if a grant or a contract pursuant to such a grant is made to an organization to perform services that benefit more than one Indian tribe, the approval of each Indian tribe to be benefited shall be a prerequisite to the making of the grant or letting of the contract;

"(3) assisting in the development of Federal policy, protocols, and guidelines on matters relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes;

"(4) advising the Director of the Office on Violence Against Women concerning policies, legislation, implementation of laws, and other issues relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes;

"(5) representing the Office on Violence Against Women in the annual consultations under section 1002 of the Violence Against Women Reauthorization Act of 2005;

"(6) providing assistance to the Department of Justice to develop policy and to enforce Federal law relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes;

"(7) maintaining a liaison with the judicial branches of Federal, State and tribal governments on matters relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes; and

"(8) ensuring that adequate tribal training, technical assistance, and data collection is made available to Indian tribes, tribal courts, tribal organizations, and tribal nonprofit organizations for all programs relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes.

"(b) Authority.—

"(1) In General.—The Director shall ensure that a portion of the tribal set-aside funds from any grant awarded under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) or the Violence Against Women Act of 2000 (division B of Public Law 106–386) is used to enhance the capacity of Indian tribes to address the safety of members of Indian tribes.

"(2) Accountability.—The Director shall ensure that some portion of the tribal set-aside funds from any grant made under this part is used to hold offenders accountable through—

"(A) enhancement to the response of Indian tribes to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including legal services for victims and Indian-specific offender programs;

"(B) development and maintenance of tribal domestic violence shelters or programs for battered members of Indian tribes, including sexual assault services, that are based upon the unique circumstances of the members of Indian tribes to be served;

"(C) development of tribal educational awareness programs and materials;

"(D) support for customary tribal activities to strengthen the intolerance of an Indian tribe to violence against memberes of Indian tribes; and

"(E) development, implementation, and maintenance of tribal electronic databases for tribal protection order registries.

"SEC. 2017. SAFETY FOR INDIAN WOMEN FORMULA GRANTS PROGRAM.

"(a) Establishment.—

"(1) In General.—Of the amounts set aside for Indian tribes and tribal organizations in a program referred to in paragraph (2), the Attorney General, through the Director of the Office of Violence Against Women (referred to in this section as the "Director"), shall take such setasides and combine them to establish the Safety for Indian Women Formula Grants Program, a single formula grant program to enhance the response of Indian tribal governments to address domestic violence, sexual assault, dating violence, and stalking. Grants made under this program shall be administered by the Tribal Division of the Office on Violence Against Women.

"(2) Programs Covered.—The programs covered by paragraph (1) are the programs carried out under the following provisions:

"(A) Section 2007 (42 U.S.C. 3796gg–1), Grants to Combat Violent Crimes Against Women.

"(B) Section 2101 (42 U.S.C. 3796hh), Grants to Encourage Arrest Policies.

"(C) Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6), Legal Assistance for Victims.

"(D) Section 1301 of the Violence Against Women Act of 2000 (42 U.S.C. 10420), Safe Havens for Children Pilot Program.

"(E) Section 40295 of the Violence Against Women Act of 1994 (42 U.S.C. 13971), Rural Domestic Violence and Child Abuser Enforcement Assistance.

"(F) Section 41002 of the Violence Against Women Act of 1994, Grants for Court Training and Improvements.

"(G) Section 2014(b), Sexual Assault Services Program, Grants to States, Territories and Indian Tribes.

"(H) Title VII, section 41201, Grants for Training and Collaboration on the Intersection Between Domestic Violence and Child Maltreatment. Section 41202, Services to Advocate For and Respond to Teens.

"(I) Section 704, Grants to Combat Domestic Violence, Dating Violence, Sexual Assault, and Stalking In Middle And High Schools.

"(b) Purpose of Program and Grants.—

"(1) General Program Purpose.—The purpose of the program required by this section is to assist Indian tribal governments to develop and enhance effective governmental strategies to curtail violent crimes against and increase the safety of members of Indian tribes consistent with tribal law and custom, specifically the following:

"(A) To increase tribal capacity to respond to domestic violence, dating violence, sexual assault, and stalking crimes against members of Indian tribes.

"(B) To strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities; and enhance services to members of Indian tribes victimized by domestic violence, dating violence, sexual assault, and stalking.

"(2) Purposes for Which Grants May Be Used.—The Director may make grants to Indian tribes for the purpose of enhancing participating tribes' capacity to address the safety of members of Indian tribes. Each participating tribe shall exercise its right of self-determination and self-governance in allocating and using funds made available under the program. Each participating tribe may use funds under the program to support its specific tribally based response to increasing the safety of members of Indian tribes. Grants under the program shall support the governmental efforts identified by the Indian tribe required according to its distinctive ways of life to increase the safety of members of Indian tribes from crimes of sexual assault, domestic violence, dating violence, stalking, kidnapping, and murder.

"(c) Disbursement.—Not later than 120 days after the receipt of an application under this section, the Attorney General, through the Director, shall—

"(1) disburse the appropriate sums provided for under this section; or

"(2) inform the Indian tribe why the application does not conform to the terms of the application requirements.

"(d) Required Procedures.—

"(1) Deadline to Provide Notice.—No later than 60 days after receiving an appropriation of funds supporting the program required by this section, Director shall—

"(A) publish in the Federal Register notification of—

"(i) the availability of those funds to Indian tribes;

"(ii) the total amount of funds available; and

"(iii) the process by which tribes may participate in the program; and

"(B) mail each Indian tribe a notification of the matters required by subparagraph (A), together with instructions on the process, copies of application forms, and a notification of the deadline for submission of an application.

"(2) Deadline to Make Funds Available.—No later than 180 days after receiving an appropriation referred to in paragraph (1), the Director shall distribute and make accessible those funds to Indian tribes opting to participate in the program.

"(3) Formula.—The Director shall distribute those funds according to the following formula:

"(A) 60 percent of the available funds shall be allocated equally to all Indian tribes who exercise the option to access the funds.

"(B) The remaining 40 percent shall be allocated to the same Indian tribes on a per capita basis, according to the population residing in the respective Indian tribe's service area.

"(4) Set-Aside.—No later than 120 days after receiving an appropriation referred to in paragraph (1), the Director shall set aside not less than 5 percent and up to 7 percent of the total amount of those funds for the purpose of entering into a cooperative agreement or contract with one or more tribal organizations with demonstrated expertise in providing training and technical assistance to Indian tribes in addressing domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes, tribal law, and customary pratices. At least one of the cooperative agreements or contracts shall be entered into with a single tribal organization to provide comprehensive technical assistance to participating tribal governments. Such training and technical assistance shall be specifically designed to address the unique legal unique legal status, distinct cultural ways of life, and geographic circumstances of the Indian tribes receiving funds under the program.

"(e) Recipient Requirements.—

"(1) In General.—Indian tribes may receive funds under the program required by this section as individual tribes or as a consortium of tribes.

"(2) Subgrants and Other Arrangements.—Participating tribes may make subgrants or enter into contracts or cooperative agreements with the funds under the program to enhance the safety of, and end domestic violence, dating violence, sexual assault, and stalking against, members of Indian tribes.

"(3) Set Aside.—Participating tribes must set aside no less than 50 percent of their total allocation under this section for tribally specific domestic violence, dating violence, sexual assault, or stalking victim services and advocacy for members of Indian tribes. The services supported with funds under the program must be designed to address the unique circumstances of the individuals to be served, including the customary practices and linguistic needs of the individuals

within the tribal community to be served. Tribes shall give preference to tribal organizations or tribal nonprofit organizations providing advocacy services to members of Indian tribes within the community to be served such as a safety center or shelter program for members of Indian tribes. In the case where the above organizations do not exist within the participating tribe, the participation and support from members of Indian tribes in the community to be served is sufficient to meet this requirement.

"(f) ADMINISTRATION REQUIREMENTS.—

"(1) APPLICATION.—To reduce the administrative burden for Indian tribes, the Director shall prepare an expedited application process for Indian tribes participating in the program required by this section. The expedited process shall facilitate participating tribes' submission of information—

"(A) outlining project activities;

"(B) describing how the project activities will enhance the Indian tribe's response to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes; and

"(C) identifying the tribal partner providing advocacy and related services for members of Indian tribes who are victims of crimes of domestic violence, dating violence, sexual assault, and stalking.

"(2) REPORTING AND EVALUATION.—The Director shall alleviate administrative burdens upon participating Indian tribes by—

"(A) developing a reporting and evaluation process relevant to the distinct governance of Indian tribes;

"(B) requiring only essential data to be collected; and

"(C) limiting reporting to an annual basis.

"(3) GRANT PERIOD.—The Director shall award grants for a two-year period, with a possible extension of another two years to implement projects under the grant.

"(g) PRESUMPTION THAT MATCHING FUNDS NOT REQUIRED.—

"(1) IN GENERAL.—Given the unique political relationship between the United States and Indian tribes differentiates tribes from other entities that deal with or are affected by, the Federal Government, the Director shall not require an Indian tribe to match funds under this section, except as provided in paragraph (2).

"(2) EXCEPTION.—If the Director determines that an Indian tribe has adequate resources to comply with a matching requirement that would otherwise apply but for the operation of paragraph (1), the Director may waive the operation of paragraph (1) for that tribe.

"(h) EVALUATION.—The Director shall award a contract or cooperative agreement to evaluate programs under this section to an entity with the demonstrated expertise in domestic violence, dating violence, sexual assault, and stalking and knowledge and experience in—

"(1) the development and delivery of services to members of Indian tribes who are victimized;

"(2) the development and implementation of tribal governmental responses to such crimes; and

"(3) the traditional and customary practices of Indian tribes to such crimes.".

SEC. 1006. GAO REPORT TO CONGRESS ON STATUS OF PROSECUTION OF SEXUAL ASSAULT AND DOMESTIC VIOLENCE ON TRIBAL LANDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Comptroller General of the United States shall submit to the Congress a report on the prosecution of sexual assault and domestic violence committed against adult American Indians and Alaska Natives.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include the following:

(1) An assessment of the effectiveness of prosecution of such cases by the United States district attorneys of such cases.

(2) For each district containing Indian country, a summary of the number of sexual assault and domestic violence related cases within Federal criminal jurisdiction and charged according to the following provisions of title 18, United States Code: Sections 1153, 1152, 113, 2261(a)(1)(2), 2261A(1), 2261A(2), and 922(g)(8).

(3) A summary of the number of—

(A) reports received;

(B) investigations conducted;

(C) declinations and basis for declination;

(D) prosecutions, including original charge and final disposition;

(E) sentences imposed upon conviction; and

(F) male victims, female victims, Indian defendants, and non-Indian defendants.

(4) The priority assigned by the district to the prosecution of such cases and the percentage of such cases prosecuted to total cases prosecuted.

(5) Any recommendations by the Comptroller General for improved Federal prosecution of such cases.

(c) YEARS COVERED.—The report required by this section shall cover the years 2000 through 2005.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–236. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–236.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 6, line 14, strike "pardon and".

Page 10, line 14, strike "pardon and".

Page 25, line 1, insert "(1)" before "Any".

Page 25, line 7, strike the close quotation marks and strike "; and".

Page 25, after line 7, insert the following:

"(2) Any reference in a law, regulation, document, paper, or other record of the United States to section 506 of this Act as such section was in effect on the date of the enactment of the Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009, shall be deemed to be a reference to section 505(a) of this Act as amended by the Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009.".

Page 27, strike line 23, and insert the following:

"(A) vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters);".

Page 40, after line 16, insert the following as quoted matter:

SEC. 508. INCLUSION OF INDIAN TRIBES.

In this subpart, the term "State" includes an Indian tribal government.

Page 40, line 17, redesignate section 508 as section 509.

Page 43, strike lines 8 through 11 and insert the following:

(ii) by striking "the application submitted pursuant to section 503 of this title." and inserting "the application submitted pursuant to section 502 of this title. Such report shall include details identifying each applicant that used any funds to purchase any cruiser, boat, or helicopter and, with respect to such applicant, specifying both the amount of funds used by such applicant for each purchase of any cruiser, boat, or helicopter and a justification of each such purchase (and the Bureau of Justice Assistance shall submit to the Committee of the Judiciary of the House of Representatives and the Committee of the Judiciary of the Senate, promptly after preparation of such report a written copy of the portion of such report containing the information required by this sentence).";

Page 46, line 5, insert "tribal," before "and local".

Page 47, beginning on line 1, strike "National Criminal History Background Check System" and insert "National Instant Criminal Background Check System".

Page 55, line 22, before the close quotation marks, insert the following as quoted matter:

SEC. 105. INCLUSION OF INDIAN TRIBES.

For purposes of sections 103 and 104, the term "State" includes an Indian tribal government.

Page 65, strike line 1 and all that follows through line 10.

Page 65, line 11, strike "(d)" and insert "(c)".

Page 67, line 3, strike "provisions" and insert "provision".

Page 67, line 4, strike "are" and insert "is".

Page 67, strike lines 7–8.

Page 74, line 12, strike "5" and insert "3".

Page 78, line 1, strike "**OFFICE**" and insert "**DIVISION**".

Page 78, line 4, strike "an office" and insert "of Science and Technology, the Division".

Page 78, line 5, strike "a Director" and insert "an individual".

Page 78, line 6, strike "Office" and insert "Division".

Page 78, beginning on line 10, strike "Office, the Director" and insert "Division, the head of the Division".

Page 80, line 17, insert ", in coordination with the Chief Information Officer and Chief Financial Officer of the Department of Justice," after "Programs".

Page 81, line 2, insert ", in coordination with the Chief Information Officer and Chief Financial Officer of the Department of Justice," after "General".

Page 81, line 11, insert ", in coordination with the Chief Information Officer and Chief Financial Officer of the Department of Justice," after "General".

Page 83, strike line 22 and all that follows through page 84, line 8.

Page 84, line 22, insert "and" at the end.

Page 84, line 25, strike the semicolon and all that follows through page 85, line 19, and insert a period.

Page 90, after line 6, insert the following new section:

SEC. 259. REAUTHORIZATION OF MATCHING GRANT PROGRAM FOR SCHOOL SECURITY.

(a) IN GENERAL.—Section 2705 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797e) is amended by striking "2003" and inserting "2009".

(b) PROGRAM TO REMAIN UNDER COPS OFFICE.—Section 2701 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797a) is amended in subsection (a) by inserting after "The Attorney General" the following: ", acting through the Office of Community Oriented Policing Services,".

Page 91, strike lines 5 through 9.

Page 91, after line 19, insert the following:

"(c) REPEAL OF PROVISION RELATING TO UNAUTHORIZED PROGRAM.—Section 20301 of Public Law 103-322 is amended by striking subsection (c).".

Page 91, line 24, strike "predominately" and insert "predominantly".

Page 96, strike lines 6 through 9, and insert the following:

inserting "or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General" after "in a Federal prison,":

Page 97, strike lines 3 through 8, and insert the following:

Section 1791(d)(4) of title 18, United States Code, is amended by inserting "or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General" after "penal facility".

Page 100, line 24, insert after "bullying" the following: ", cyberbullying,".

Page 104, after line 14, insert the following (and conform the table of contents accordingly):

SEC. 323. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to any other amounts authorized by law, there are authorized to be appropriated for grants to the American Prosecutors Research Institute under section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003) $7,500,000 for each of fiscal years 2006 through 2010.

SEC. 324. ASSISTANCE TO COURTS.

The chief judge of each United States district court is encouraged to cooperate with requests from State and local authorities whose operations have been significantly disrupted as a result of Hurricane Katrina or Hurricane Rita to provide accommodations in Federal facilities for State and local courts to conduct their proceedings.

Page 116, line 2, insert "or sexual assault" after "violence".

Page 120, beginning on line 3, strike "subparagraph (C)" and insert "subparagraphs (C) and (D)".

Page 120, line 19, insert ", except that consent for release may not be given by the abuser of the minor or person with disabilities, or the abuser of the other parent of the minor" before the period.

Page 121, line 15, strike "and" at the end.

Page 121, line 18, insert "protection order" after "governmental".

Page 121, line 20, strike the period and insert "; and".

Page 121, after line 20, insert the following:

"(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.".

Page 123, line 13, strike "3793(a)(8)" and insert "3793(a)(18)".

Page 126, lines 1–2, strike "racial and ethnic minorities and other underserved populations" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General." .

Page 126, lines 6–7, strike "racial and ethnic and other underserved populations" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General," .

Page 126, lines 8–9, strike "racial and ethnic and other underserved" and insert "those".

Page 126, line 24, insert "coalitions for" after the open quotation marks.

Page 130, line 4, insert "or Indian Tribal government" after "State".

Page 130, line 9, insert "(1)" before "Part".

Page 130, line 17, strike "that" and insert "must certify".

Page 130, line 18, insert "will" after "practices".

Page 131, after line 2, insert the following:

(2) COMPLIANCE.—Section 2007(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-l(d)) is amended—

(1) in paragraph (2) by striking "and" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (4) the following:

"(4) proof of compliance with the requirements regarding polygraph testing provided in section 2012.".

Page 134, at the end of line 25, add the following: "Although funds may be used to support the co-location of project partners, funds may not support construction or major renovation expenses or activities that fall outside of the scope of the other statutory purpose areas.".

Page 135, line 2, insert "probation and parole officers," after "prosecutors,".

Page 135, line 6, strike the close quotation marks and the semicolon at the end.

Page 135, after line 6, insert the following:

"(13) To develop, to enhance, and to maintain protection order registries.";

Page 135, line 13, insert "that" after "certify".

Page 135, line 15, strike "that".

Page 135, line 15, insert "will" after "practices".

Page 137, beginning on line 2, strike "to offer" and all that follows through "violence".

Page 142, lines 8–12, strike "racial and ethnic communities" and all that follows through the semicolon on line 12 and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General;" .

Page 147, lines 22–23, strike "Office on Violence Against Women" and insert "Violence Against Women Office".

Page 150, line 3, strike "assure" and insert "ensure".

Page 151, line 23, strike "every 18 months".

Page 152, strike lines 2 through 15, and insert the following:

"tain information on the activities implemented by the recipients of the grants awarded under this section.".

Page 158, line 7, insert "(a) OFFENSES.—" before "Section".

Page 158, after line 14, insert the following:

(b) DEFINITION.—Section 2216 of title 18, United States Code, is amended by adding at the end the following:

"(c) DEFINITION.—The term 'dating partner' refers to a person who is or has been in an ongoing relationship of a romantic or intimate nature with the abuser. Factors to consider in determining whether the relationship is or was ongoing include, but are not limited to, the length of the relationship and the frequency of interaction between the persons involved in the relationship.".

Page 161, line 7, strike "and".

Page 161, line 19, strike the period and insert "; and".

Page 161, after line 19, insert the following:

"(3) to enhance coordinated community responses to sexual assault.".

Page 162, line 9, insert "and support coordinated community responses to sexual assault" before the period at the end.

Page 164, line 11, strike "and" at the end.

Page 164, line 14, strike "clauses (A) through (G)." insert "paragraphs (1) through (7);".

Page 164, after line 14, insert the following:

"(9) sexual assault forensic examinations performed by specially trained examiners, including coordination of examiners with other responders and testimony by examiners; and

"(10) developing and enhancing coordinated community responses to sexual assault, including the development and enhancement of sexual assault response teams.".

Page 170, line 4, strike "between" and insert "among".

Page 171, line 14, insert "(including rural areas or rural communities in United States Territories)" after "rural communities".

Page 171, line 17, strike "between" and insert "among".

Page 174, lines 10–13, strike "racial and ethnic and other" and all that follows through the period on line 13 and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General.".

Page 183, line 3, strike "Office on Violence Against Women" and insert "Violence Against Women Office".

Page 183, beginning on line 18, strike "Office on Violence Against Women" and insert "Violence Against Women Office".

Page 186, lines 7–9, strike "racial and ethnic and other" and all that follows through the period on line 9 and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General.".

Page 189, line 14, strike "racial and ethnic minorities" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General,".

Page 190, line 3, strike "racial and ethnic populations" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General,".

Page 191, line 13, strike "may" and insert "shall".

Page 191, line 24, strike "every 18 months".

Page 193, lines 15–16, strike "racial and ethnic and other underserved populations" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General,".

Page 193, lines 18-19, strike "racial and ethnic and other underserved populations" and insert "those populations".

Page 195, beginning on line 6, strike "every 18 months".

Page 205, line 18, strike "ANNUAL" and insert "PERFORMANCE".

Page 205, line 20, strike "submit a biennial performance".

Page 205, line 21, insert "on activities conducted with grant funds" before the period.

Page 206, strike lines 9 through 12, and insert the following:

(4) REPORT TO CONGRESS.—Not later than 30 days after the end of each even-numbered fiscal year, the Attorney General shall submit to Congress a report for the period of 2 fiscal years at any time in which grants were made under this section and ending in such even-numbered fiscal year, that includes—

Page 207, line 13, strike "Office on Violence Against Women" and insert "Violence Against Women Office".

Page 212, line 16, insert ", except that consent for release may not be given by the abuser of the minor or of the other parent of the minor" after "guardian".

Page 213, line 21 strike "native" and insert "Native".

Page 219, lines 7–10, strike "racial and ethnic and other" and all that follows through the semicolon on line 10 and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General;".

Page 222, lines 4–5, strike "racial and ethnic and other underserved populations" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General".

Page 222, beginning on line 7, strike "every 18 months".

Page 223, lines 5–8, strike "racial and ethnic and other" and all that follows through the semicolon on line 8 and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General;".

Page 226, lines 23-24, strike "racial and ethnic and other underserved populations" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General".

Page 227, beginning on line 10, strike "every 18 months".

Page 229, lines 23–24, strike "racial ethnic and other underserved communities" and insert "populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General".

Page 306, line 9; insert "National Institute of Justice in consultation with the" after "through the".

Page 313, beginning on line 5, strike "Office on Violence Against Women" and insert "Violence Against Women Office".

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 4 minutes.

This manager's amendment makes several technical and clarifying changes requested by the Department of Justice. Probably more importantly, because this is the issue of controversy, it clarifies a provision in the legislation that may have been vulnerable to a constitutional challenge.

In its current form, a provision in the legislation could be viewed to prescribe race-based VAWA grant awards by conditioning certain grants upon an applicant's ability to address the needs of ethnic and racial minorities. The amendment addresses this issue by clarifying existing VAWA grant criteria that require applicants to indicate how they intend to meet the needs of populations that are currently underserved by existing VAWA programs. Specifically, the manager's amendment clarifies that such funding should be based on an applicant's ability to address the needs of "populations underserved by geographic locations, underserved racial and ethnic populations, populations underserved because of special needs, such as language barriers, disabilities, alienage status, or age, and any other population determined to be underserved by the Attorney General."

The amendment remedies the possible constitutional concerns that effectuates the intent of the committee when drafting the legislation. Additionally, the amendment reauthorizes the Secure Our Schools grant program and ensures that it is preserved as a stand-alone program; authorizes a program for training prosecutors for child abuse cases; and ensures that Native American Tribes are eligible for certain DOJ grants, including the new Justice Assistance Grants program and the Weed and Seed program grants.

Finally, the amendment includes a provision to encourage cooperation between Federal, State and local courts and communities to ensure that the State and local courts will be able to continue to operate utilizing available Federal facilities in the wake of Hurricane Katrina and Hurricane Rita. I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is unfortunate that we on the committee can agree with everything, which should be being celebrated; but the one thing that is in disagreement creates the greatest amount of discussion. I regret that, but I think the manager's amendment has to be called into account because it would significantly weaken the bill's emphasis on domestic violence grant funding for communities of color, and I cannot allow this to happen without making the comments that I do.

Let us understand that constitutional law is not some secret body of intelligence that is in the power of the members of the Committee on the Judiciary. This amendment, which is being taken out because it is thought to cause constitutional problems, is the same amendment that is supported by the National Network to End Domestic Violence, the Family Violence Prevention Fund, the National Coalition to End Domestic Violence, Break the Cycle, Legal Momentum, the NAACP, the YWCA and the Sisters of Color Ending Sexual Abuse.

The bill that passed the House and Senate Committees on the Judiciary contain language ensuring that the minorities who are victims of domestic and sexual assault would receive adequate services. That the members of the Committee on the Judiciary agreed upon. This language was necessary because the bureaucrats at the Department of Justice were ignoring communities of color when considering grants from domestic violence, rape prevention and other organizations.

Now this was unfortunately removed, but under current law since the Supreme Court's decision in Adarand and its decision in Grutter, specific set-asides that are race-based have been subject to strict scrutiny. There are no such set asides or quotas in the bill that passed the Committee on the Judiciary. The same provision has passed in the Senate, and we have lists of constitutional scholars to attest to the fact that this language does not require the distribution of money on the basis of race or ethnicity.

I urge my colleagues in a sense of fairness, not making political points, that we reject the manager's amendment.

I rise in strong opposition to the Managers' amendment because it would significantly weaken the bill's emphasis on domestic violence grant funding for communities of color.

This is why the amendment is opposed by the groups that are working so hard to prevent rape and sexual assault—the National Network to End Domestic Violence; the Family Violence Prevention Fund; the National Coalition to End Domestic Violence; Legal Momentum; the NAACP; and the Sisters of Color Ending Sexual Assault.

The bill that passed both the House and Senate Judiciary Committees contains language ensuring that minorities who are victims of domestic violence and sexual assault would receive adequate services. The Members of the Judiciary Committee agreed—on a bipartisan basis—that this language was necessary because the bureaucrats at the Department of Justice were ignoring communities of color when considering grants from domestic violence, rape prevention and other organizations.

This is a serious problem because we know that people of color are far less likely than other groups to report incidents of rape and sexual assault. The only way we can reach out to these individuals is by supporting these non-traditional groups.

Unfortunately, between the Judiciary Committee and the floor, this provision—which has been in the bill since its introduction—suddenly became controversial. Out of the blue, the Administration has attempted to argue that there might, possibly be a constitutional problem with this provision.

Under current law, since the Supreme Court's decision in Adarand v. Pena and Grutter v. Bollinger, specific set asides that are race-based have been subject to strict scrutiny. Clearly, there are no such set asides or quotas in the bill that passed the Judiciary Committee.

The bill simply requires states to "describe how they will address the needs of racial and ethnic minorities and other underserved populations" and "to recognize and meaningfully respond to the needs of racial and ethnic minorities and other underserved populations" and to ensure that each gets their fair share.

There is no set aside. There is no quota. Considering the needs of certain communities in no way violates the Constitution's Equal Protection Clause, and I would hope that the Members of this body would agree with that very common sense notion.

We have consulted with outside and independent constitutional experts and have confirmed that the Administration's last minute arguments do not pass the legal laugh test. For example, an esteemed constitutional scholar at the University of Texas, Professor Douglas Laycock, said the language does not require distribution of money on the basis of race or ethnicity, but rather requires states to be alert and ensure that underserved racial and ethnic populations are not subject to discrimination. "A state cannot be confident that funds are being administered and awarded in a nondiscriminatory way unless it examines the treatment of racial and ethnic minorities. That is all these provisions require."

We have also received a letter from several other law professors who are experts in the field, including Professor Joan Meier of the George Washington University Law School, Professor Julie Goldscheid of the City University of New York School of Law, Professor Sally Goldfarb of Rutgers University School of Law, and Professor Martha Davis of the Northeastern School of Law. These professors authoritatively state that "referencing 'racial and ethnic minorities' meets the standard most recently laid out by the Supreme Court in Grutter v. Bollinger. [T]he Federal Government has a compelling interest in assuring that racial and ethnic minorities receive due consideration in the receipt of services, or grants flowing from the Violence Against Women Act. H.R. 3402 does not create quotas or unduly favor racial and ethnic minorities for government benefits. It simply urges that grantors give due consideration to their needs and interests."

Let me close by noting that in the last several weeks, some have raised questions about the Administration's and Congress' sensitivity to issues of race. In the aftermath of Hurricane Katrina, many openly wondered whether it was the race of the victims of the Hurricane that led to a sluggish federal response. The Nation watched and asked why we had left so many people of color behind.

Today, we have a chance to respond to this issue, by telling people of color and other minorities that if you are raped or assaulted, we will do our best to make sure that you have support and counseling. We will do our best to make sure that you are not victimized twice—first by the assailant, and second by the federal bureaucracy.

I urge my colleagues on both sides of the aisle to join with me in supporting the common sense idea of supporting these victims of rape and violence and vote down the Manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Let me say that the gentleman from Michigan correctly states the law that anything that has race-based quotas in it or set-asides is subject to strict scrutiny by the courts.

I am afraid that if the manager's amendment goes down, there will be a lawsuit and a temporary restraining order against disposing of any of these funds to underserved communities, and that would be a shame. What the manager's amendment does is err on the side of caution.

Now I point out that the bill, H.R. 357 of the 106th Congress, which the gentleman from Michigan himself introduced, does exactly what the manager's amendment proposes to do. And in section 651(c)(7), his bill from the 106th Congress says underserved populations include populations underserved because of race, ethnicity, age, disability, sexual orientation, religion, alienage status, geographic location, including rural isolation, language barriers, or any other populations determined to be underserved by the State planning process.

Now the gentleman from Michigan has changed his position. The manager's amendment keeps it the way it is because we know that the money will be flowing and cannot be enjoined as a result of a constitutional challenge irrespective of how that challenge ends up being finally decided by the courts. I urge adoption of the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to remind the gentleman that it is not me who changed my position. The gentleman from Wisconsin supported the amendment. The amendment that he is striking in the manager's amendment, the gentleman supported in committee, so how can I be changing my position, please?

I have enjoyed the friendly exchanges we have had over the years, and I look forward to them in the future, but to threaten the House with the fact that an injunction might hold up the entire bill, it should be realized that for an injunction, it must be shown that there is a reasonable chance of passage.

□ 1615

He and I and, I think, probably the court would realize that there is nothing, nothing, in here that would suggest that there would be set-asides or quotas. There is nothing race-based here. He knows it; I know it; the committee knew it. And yet last night we were beset by this last problem. And all of the civil rights groups are arguing the same position.

So I urge that the manager's amendment be turned back.

Ms. SOLIS. Mr. Chairman, I rise today to address the reauthorization of the Violence Against Women Act.

While I am supportive of the underlying bill, the manager's amendment that we will soon consider creates serious problems for women of color who are victims of domestic violence.

This manager's amendment weakens the definition of underserved communities so that groups that work specifically to help women of color who are victims of domestic violence would continue to be ignored by the grants process of the Department of Justice.

After all of the bipartisan work that has been done to produce a balanced VAWA reauthorization, it is an outrage that at the last minute, Republican Leadership is shortchanging women of color who are victims of domestic violence.

When considering VAWA, we must recognize the complex problems facing women of color, particularly immigrant women, who are victims of domestic violence.

Women of color are less likely to report incidents of domestic violence, which means that studies of domestic violence among communities of color do not reflect the reality of these women's lives.

Women of color who are victims of domestic violence are at an even greater risk when their spouses control the immigration status of their family members.

Women of color also face institutional barriers to reporting abuse or seeking help for domestic violence, because of restrictions on public assistance, limited access to immigration relief, lack of translators, scarce educational materials in the woman's native language, and other factors.

By addressing domestic violence in these communities in a way that understands their culture and values, we greatly increase the chance of making a difference for women of color who are being abused.

It is my hope that the reauthorization for the Violence Against Women Act (VAWA) is comprehensive and meets the needs of all women.

I urge my colleagues to oppose the Manager's Amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today in objection to the Manager's Amendment, which would weaken the Violence Against Women Act.

After months of bipartisan negations, H.R. 3402 came out of committee as a balanced bill that sought to help ALL women who are victims of violence.

With the removal of racial and ethnic minorities from the STOP grants section, we will be denying the significant problem of violence in our minority communities.

Unfortunately, domestic violence in our minority population is a substantial problem that is vastly under-reported. If we wish to eradicate violence in our communities we must proceed with policies that address cultural and language barriers.

Our government's commitment to minorities is being questioned by many. Passing this amendment sends a clear message that this Congress does not care about sexual assault and domestic violence in our communities of color.

I strongly urge my colleagues to vote "no" on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 191, not voting 17, as follows:

[Roll No. 499]

AYES—225

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Roybal-Allard
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—17

Alexander
Berkley
Blumenauer
Boswell
Cleaver
Costa
Culberson
Davis (FL)
Gutierrez
Harman
Hunter
Melancon
Pickering
Ruppersberger
Skelton
Tancredo
Tauscher

□ 1640

Ms. ESHOO and Mr. GRIJALVA changed their vote from "aye" to "no."

Mr. NUNES changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. SKELTON. Mr. Chairman, on rollcall No. 499, had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–236.

AMENDMENT NO. 2 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CUELLAR:

Page 23, after line 23, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 106. UNITED STATES-MEXICO BORDER VIOLENCE TASK FORCE.

(a) TASK FORCE.—(1) The Attorney General shall establish the United States-Mexico Border Violence Task Force in Laredo, Texas, to combat drug trafficking, violence, and kidnapping along the border between the United States and Mexico and to provide expertise to the law enforcement and homeland security agencies along the border between the United States and Mexico. The Task Force shall include personnel from the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Immigration and Customs Enforcement, the Drug Enforcement Administration, Customs and Border Protection, other Federal agencies (as appropriate), the Texas Department of Public Safety, and local law enforcement agencies.

(2) The Attorney General shall make available funds to provide for the ongoing administrative and technological costs to Federal, State, and local law enforcement agencies participating in the Task Force.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2009, for—

(1) the establishment and operation of the United States-Mexico Border Violence Task Force, and

(2) the investigation, apprehension, and prosecution of individuals engaged in drug trafficking, violence, and kidnapping along the border between the United States and Mexico.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CUELLAR).

□ 1645

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the chairman of the Committee on the Judiciary and also the ranking member. I believe this amendment is acceptable both to the chairman and the ranking member.

Mr. Chairman, I would like to thank Judiciary Chairman SENSENBRENNER and Ranking Member CONYERS for putting together a good bill that will benefit the justice system in the United States.

Mr. Chairman, my amendment—number 40—to this bill will authorize appropriations for the newly structured Border Violence Task Force in Laredo, Texas.

My amendment will authorize appropriations of $10 million per year for the duration of the bill to provide for equipment, personnel, administrative, and technological costs. This authorization is necessary to provide the Border Violence Task Force the resources it needs to combat border violence.

My amendment will allow the Attorney General to designate the lead on the Border Violence Task Force that is currently being lead by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

This task force is an inter-agency law enforcement effort on the Federal, State, and local level to combat escalating violence on the United States-Mexico border. As the largest land port of entry in the United States, Laredo is a critical component of our Nation's economy. I have been working with officials from both sides of the border to help establish a collaborative solution to the violence, and the Border Violence Task Force is the result of that effort.

Our shared border with Mexico is one of our Nation's greatest cultural and economic assets. Unfortunately, in the past year, the growth and security of the border region has been threatened by a wave of violence. This violence has affected communities on both sides of the border, and has resulted in the highly publicized kidnapping of over 35 American citizens. If we are to restore peace and prosperity to our border communities, we need to act now.

Last May, I organized a Border Violence Task Force in Laredo, TX, to deal with border violence. The group included experts from the FBI; the Alcohol, Tobacco, and Firearms; Customs and Border Protection; Immigration and Customs Enforcement; the U.S. Marshal; the U.S. Attorney, the DEA, the State Department, U.S. Consulate in Nuevo Laredo, the Department of Public Safety-Narcotics, the Department of Public Safety-Intelligence, the local Webb County Sheriff, and the Laredo Chief of Police.

This Task Force has met a few times and the Special Agents-in-Charge in the region have agreed to work in a joint effort to develop a plan of action to address the escalating violence along the Mexico-United States border in Laredo, TX.

The task force will develop initiatives and strategies dealing specifically with the problems in the border region. The group will work in partnership and cooperation with each other maximizing their strengths and expertise.

This authorization represents a critical step forward for law enforcement in the border region, and the increased security and growth it will bring to the border will benefit communities throughout the Nation. I urge you to support the law enforcement officers on the United States-Mexico border who are working to keep our border communities safe.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the gentleman from Texas has a great amendment, and we are happy to accept it.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, we are delighted to accept the amendment on this side.

Mr. CUELLAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–236.

AMENDMENT NO. 3 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. CUELLAR:

Page 23, after line 23, insert the following (and conform the table of contents accordingly):

SECTION 106. NATIONAL GANG INTELLIGENCE CENTER.

(a) ESTABLISHMENT.—The Attorney General shall establish a National Gang Intelligence Center and gang information database to be housed at and administered by the Federal Bureau of Investigation to collect, analyze, and disseminate gang activity information from—

(1) the Federal Bureau of Investigation;

(2) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(3) the Drug Enforcement Administration;

(4) the Bureau of Prisons;

(5) the United States Marshals Service;

(6) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(7) the Department of Housing and Urban Development;

(8) State and local law enforcement;

(9) Federal, State, and local prosecutors;

(10) Federal, State, and local probation and parole offices;

(11) Federal, State, and local prisons and jails; and

(12) any other entity as appropriate.

(b) INFORMATION.—The Center established under subsection (a) shall make available the information referred to in subsection (a) to—

(1) Federal, State, and local law enforcement agencies;

(2) Federal, State, and local corrections agencies and penal institutions;

(3) Federal, State, and local prosecutorial agencies; and

(4) any other entity as appropriate.

(c) ANNUAL REPORT.—The Center established under subsection (a) shall annually submit to Congress a report on gang activity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2006 and for each fiscal year thereafter.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment to H.R. 3402—number 39—will authorize the Federal Bureau of Investigation National Gang Intelligence Center. This effort builds upon a $10 million appropriation given in fiscal year 2005 for the establishment of such a center, and will permanently ensure the presence and operation of this critical information network.

A version of this amendment was unanimously approved in H.R. 1279, the Gang Deterrence and Community Protection Act of 2005.

My amendment adds $10 million in authorization for the National Gang Intelligence Center for each fiscal year of the bill, which mirrors the $10 million appropriation given for fiscal year 2005.

In order to fully encompass the scope of gang intelligence collection and capabilities, my amendment not only includes collection and dissemination involving law enforcement from Federal, State, and local agencies, but also corrections agencies and penal institutions at the Federal, State and local levels.

The addition of these components will allow for intelligence gathering from entities involved in post-prosecution activities such as community-based corrections and incarceration.

My Congressional District, the 28th of Texas, is both rural and urban, and has the added concerns of the violence and drug trafficking along the U.S.-Mexico border. Along the border there is violence in Nuevo Laredo in Mexico that spills over into Laredo, in my district. For the pervasive gang problem, we definitely need a system of intelligence collection and sharing.

Increasingly, gangs operate on an interstate and even international level. Our law enforcement agencies are often handicapped in their gang enforcement efforts by a lack of clear communication and ready information. What is needed is a central clearinghouse, to coordinate the efforts of various law enforcement and corrections agencies to combat violent gang activity. An information-oriented approach to gang violence has been highly effective in my home State of Texas, and I am confident that it will be effective on a national level as well.

I urge passage of my amendment that will help our Nation's law enforcement professionals keep the tools they need to keep our communities safe.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is also a very good amendment. The gentleman is batting 1.000 and ought to play for the Red Sox. We are happy to accept it.

Mr. CONYERS. Mr. Chairman, will the gentleman yield.

Mr. CUELLAR. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is this the amendment that authorizes the FBI National Gang Intelligence Center?

Mr. CUELLAR. That is correct.

Mr. CONYERS. Mr. Chairman, I am happy to accept the amendment.

Mr. CUELLAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Cuellar).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 109–236.

AMENDMENT NO. 4 OFFERED BY MR. POE

Mr. POE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. Poe:

Page 57, line 23, insert "(a) In General.—".

Page 59, after line 6, insert the following new subsections:

(b) Additional Amendments.—

(1) Section 1402 (42 U.S.C. 10601) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "and" at the end;

(ii) in paragraph (5), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following new paragraph:

"(6) Amounts deposited pursuant to section 3612(c)(2), 3663(c)(3)(B), or 3663A(c)(3)(A) of title 18, United States Code.";

(B) by amending subsection (c) to read as follows:

"(c)(1) Notwithstanding any other provision of law, the total amount to be distributed from the Fund in any fiscal year shall be an amount equal to the sum of the amounts required under subsection (d).

"(2) In each fiscal year, the Director shall distribute amounts from the Fund in accordance with subsection (d). All sums not distributed during a fiscal year shall remain in reserve in the Fund to be distributed during a subsequent fiscal year. Notwithstanding any other provision of law, all sums deposited in the Fund that are not distributed shall remain in reserve in the Fund for obligation in future fiscal years, without fiscal year limitation.";

(C) in subsection (d), by amending paragraph (2) to read as follows:

"(2) $20,000,000 shall be available for grants under section 1404A.";

(D) in subsection (d)(3), by striking "Of the sums" and all that follows through "such sums" and inserting "Such sums";

(E) in subsection (d)(4)(A), by striking "47.5 percent shall be available" and inserting "such sums as may be necessary";

(F) in subsection (d)(4)(B), by striking "47.5 percent shall be available" and inserting "such sums as may be necessary";

(G) in subsection (d)(4)(C), by striking "5 percent shall be available" and inserting "such sums as may be necessary"; and

(H) by adding at the end the following new subsection:

"(f) In any fiscal year in which the amount in the Fund is less than the total amount required under subsection (d), there shall be transferred into the Fund an amount equal to such additional sums as may be required to fully fund grants under subsection (d) from the following:

"(1) Civil or administrative fines, forfeitures or other monetary penalties or assessments collected from persons adjudged to have violated any of the laws or regulations of the United States.

"(2) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 2722 of title 31 (known as the False Claims Act), other than funds awarded to a relator or for restitution.".

(2) Section 1403 (42 U.S.C. 10602) is amended—

(A) in subsection (a)(1), by striking "Except as provided in paragraph (2), the Director" and inserting "The Director"; and

(B) in subsection (a), by striking paragraph (2).

(3) Section 1404 (42 U.S.C. 10603) is amended—

(A) in subsection (a)(1) by striking "Subject to" and all that follows through the period at the end and inserting "The Director shall make an annual grant from the Fund to the chief executive of each State for the financial support of eligible crime victim assistance programs. Each grant shall be the average amount of the grants made for this purpose during the previous three fiscal years plus 5 percent."; and

(B) in subsection (c)(2) by inserting "The total amount available for grants under this subsection shall be the average amount available for this purpose during the previous three fiscal years plus 5 percent." before "Of the amount".

(4) Section 1407 (42 U.S.C. 10604) is amended—

(A) in subsection (g), by inserting after "effectiveness" the following: ", including measurable results,"; and

(B) by adding at the end the following new subsection:

"(i)(1) Every recipient of funds under this chapter shall submit an annual report to the Director in such fashion as the Director directs. The report shall include the amounts expended, quantitative data on the numbers of victims served, types of services provided and other supported activities, measurable results on the services and activities provided, and such other information as the Director may require. The Director may terminate or suspend current or future payments to recipients of funds under this chapter for failure to provide the Director with complete, accurate and timely information as required under this subsection.

"(2) The Director may request the cooperation and assistance of other Federal agencies in obtaining the information required under this subsection. The other agencies shall comply with all reasonable requests made by the Director, including the submission of information requested under paragraph (1).".

(c) Conforming Amendments.—

(1) Section 3663 of title 18, United States Code, is amended—

(A) in subsection (c)(1), by striking "described in" and all that follows through "863),";

(B) in subsection (c)(3)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), and indenting appropriately;

(ii) by inserting before clause (i) (as so redesignated) the following new paragraph:

"(A) If the defendant was convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848 (a), 849, 856, 861, 863):"; and

(iii) by adding at the end the following new subparagraph:

"(B) For all other offenses, restitution shall be deposited into the fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).".

(2) Section 3663A of title 18, United States Code, is amended in subsection (c)(3)(A) by inserting before the semicolon the following: ", in which case the court may order restitution to be paid into the fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601)".

(3) Section 3612 of title 18, United States Code, is amended in subsection (c)(2) by adding at the end the following: "If, for any reason, the money received from a defendant cannot be disbursed to the person to whom the restitution is ordered to be paid, the amount collected shall be deposited into the fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601). If such person subsequently makes a valid claim for such payment, the payment shall be made from the fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).".

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Texas (Mr. Poe) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. Poe).

Mr. POE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this amendment to bring much-needed reform to the Crime Victims Fund. The Crime Victims Fund was created as a result of the Victims of Crime Act, called VOCA, that was signed into law during the 1980s.

The purpose of this fund is to make criminals pay for their crime by funding direct services and compensations to victims of crime. This fund is completely paid for by criminal fees and forfeiture. Taxpayer money is not used. As time progressed, Congress began tinkering with VOCA and funding priorities started to shift away from helping victims and toward funding Federal bureaucracies.

All the money collected by the Federal Government from criminal fees goes into the Crime Victims Fund; and each year, that money is distributed to several funding streams to help the victims of crime. The fund sends money to the U.S. Attorney's Office, the FBI, a

Federal victim notification system, State victim compensation programs, and direct victim assistance service providers.

Since 2000, the Appropriations Committees have been limiting how much of these funds can be used each year. The U.S. Attorney's, FBI and other bureaucratic programs are paid first, which means that direct victim assistance funding gets whatever is left over. At times, this has resulted in cuts to these critical victims assistance programs. This money pays for the salaries of victim advocates and counselors, domestic violence shelters, children's assessment centers, hospital and attorney fees for underprivileged victims, and other services directly impacting victims.

The Poe amendment seeks to strike a reasonable balance between the needs of the victims' field for stable, assured funding and the realities of the appropriations and budget processes. It seeks to guarantee the original, primary purpose of the Crime Victims Fund—to support state and local victim services. At the very least, this amendment assures we give victims' assistance and compensation programs the same budgeting priority as the federal agencies and bureaucracy.

Mr. Chairman, I want to thank you for your leadership in giving victims a higher priority in Congress. Your leadership helped pass the Child Safety Act that provides greater protections for America's children from Child Predators. You also committed to protecting VOCA from the Administration's plan for rescinding all of the money in the Crime Victims Fund and placing it in the general Treasury—balancing the budget on the backs of crime victims. And I appreciate your willingness to work with me to better prioritize the Crime Victims Fund. It is my goal to bring about reforms to the Victims of Crime Act that restores the original spirit of the law and puts victims ahead of bureaucracy.

Mr. Chairman, I am withdrawing my amendment and look forward to working with you as this bill moves towards Conference.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. POE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, while I recognize the gentleman's amendment is well intentioned, I have concerns about changing the caps under VOCA, and I want to make sure that there is a reserve fund for victims of crime to ensure that their needs are met.

If the gentleman will withdraw his amendment, I think we can work on this issue down the road to address his concerns.

Mr. POE. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–236.

AMENDMENT NO. 5 OFFERED BY MR. CAPUANO

Mr. CAPUANO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. CAPUANO:

Page 61, after line 20, insert the following (and conform the table of contents accordingly):

SEC. 226. GRANTS FOR YOUNG WITNESS ASSISTANCE.

(a) IN GENERAL.—The Attorney General, acting through the Bureau of Justice Assistance, may make grants to State and local prosecutors and law enforcement agencies in support of juvenile and young adult witness assistance programs.

(b) USE OF FUNDS.—Grants made available under this section may be used—

(1) to assess the needs of juvenile and young adult witnesses;

(2) to develop appropriate program goals and objectives; and

(3) to develop and administer a variety of witness assistance services, which includes—

(A) counseling services to young witnesses dealing with trauma associated in witnessing a violent crime;

(B) pre- and post-trial assistance for the youth and their family;

(C) providing education services if the child is removed from or changes their school for safety concerns;

(D) protective services for young witnesses and their families when a serious threat of harm from the perpetrators or their associates is made; and

(E) community outreach and school-based initiatives that stimulate and maintain public awareness and support.

(c) DEFINITIONS.—In this section:

(1) The term "juvenile" means an individual who is age 17 or younger.

(2) The term "young adult" means an individual who is age 21 or younger but not a juvenile.

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2009.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Massachusetts (Mr. CAPUANO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Chairman, I yield myself such time as I may consume.

This is a very simple amendment that will simply specifically authorize the Attorney General to make grants to State and local prosecutors and law enforcement agencies to help the young witnesses that have the courage and temerity to stand up to crime when they see it, to do the right thing in their community.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CAPUANO. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is also a very good amendment. The gentleman from Massachusetts is also batting 1.000. We are happy to accept it, and he should play for the Red Sox, too.

Mr. CAPUANO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CAPUANO).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109–236.

AMENDMENT NO. 6 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. KENNEDY of Minnesota:

Page 64, after line 2, insert the following new section (and conform the table of contents accordingly):

SEC. 235. ENHANCED RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR STATE PRISONERS.

(a) ENHANCED DRUG SCREENINGS REQUIREMENT.—Subsection (b) of section 1902 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff—1(b)) is amended to read as follows:

"(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree—

"(1) to implement or continue to require urinalysis or other proven reliable forms of testing, including both periodic and random testing—

"(A) of an individual before the individual enters a residential substance abuse treatment program and during the period in which the individual participates in the treatment program; and

"(B) of an individual released from a residential substance abuse treatment program if the individual remains in the custody of the State; and

"(2) to require, as a condition of participation in the treatment program, that such testing indicate that the individual has not used a controlled substance for at least the three-month period prior to the date the individual receives such testing to enter the treatment program.".

(b) AFTERCARE SERVICES REQUIREMENT.—Subsection (c) of such section is amended—

(1) in the matter preceding paragraph (1), by striking "ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT" and inserting "AFTERCARE SERVICES REQUIREMENT"; and

(2) in paragraph (1), by striking "To be eligible for a preference under this part" and inserting "To be eligible to receive funds under this part".

(c) PRIORITY FOR PARTNERSHIPS WITH COMMUNITY-BASED DRUG TREATMENT PROGRAMS.—Section 1903 of such Act (42 U.S.C. 3796ff—2) is amended by adding at the end the following new subsection:

"(e) PRIORITY FOR PARTNERSHIPS WITH COMMUNITY-BASED DRUG TREATMENT PROGRAMS.—In considering an application submitted by a State under section 1902, the Attorney General shall give priority to an application that involves a partnership between the State and a community-based drug treatment program within the State.".

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Minnesota (Mr. KENNEDY) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield myself such time as I may consume.

I have often spoken about the tragic story of a young lady named Megan from a beautiful town in my home State of Minnesota. She got started on meth when she was in the seventh grade at the age of 13 and, like too many other female addicts, she was exploited into becoming a prostitute to pay for her meth that she craved every second of the day.

Megan is managing to pull her life back together now, after the 5 years that meth stole from her, with the help of her family, her friends, and through substance abuse treatment programs.

Mr. Chairman, about one in five of those in treatment for methamphetamine use in the State of Minnesota are 17 years old or younger.

That's a shocking statistic: one in five are younger than 17 years old. That means before they can vote, and just barely after they get their driver's licenses, 20 percent of those seeking help for substance abuse and addiction are our children.

Mr. Chairman, in some parts of Minnesota 80–90 percent of prisoners are meth users. This is a statistic illuminates the crushing pressures meth is putting on our state and local governments.

Mr. Chairman, many of my colleagues may not have heard of the Residential Substance Abuse Treatment for State Prisoners (RSAT) Grant program, but they should know that it is one of the most important tools in the toolbox to help the victims of substance abuse fight and beat their addiction.

But my amendment is important because it recognizes that our resources are limited. We need to make sure that individuals who are involved in substance abuse treatment want to be there. We can do that by making sure they are "clean" when they enter treatment.

The Kennedy amendment to the RSAT program provides a requirement that treatment be available to those individuals who have passed a regularly administered drug-screening test for three months. The Amendment also provides that aftercare be provided to prisoners enrolled in the RSAT program as a component of comprehensive substance abuse treatment.

Drug treatment will not work for those who are still addicted or who are still using, but it will help those who are ready to seek help and work to beat their addiction.

My amendment also recognizes that when a substance abuser finishes a treatment program, he or she isn't at the end of the recovery process, he or she is actually at the end of the beginning of it. Aftercare is a critical part of substance abuse treatment, and my amendment recognizes that.

These improvements are consistent with best practices for substance abuse and they respond to the important needs and nearly crippling demands on our drug treatment systems.

As Members of Congress, in the face of so much suffering, we have an obligation to act.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is also a very good amendment, and I am pleased to accept it.

Mr. KENNEDY of Minnesota. Mr. Chairman, reclaiming my time, I appreciate the chairman's accepting the amendment. I also want to recognize that the gentlewoman from Oregon (Ms. HOOLEY) is here in support of the amendment as well.

Ms. HOOLEY. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentlewoman from Oregon.

Ms. HOOLEY. Mr. Chairman, I rise in support of this amendment.

I was talking to a gentleman the other day, and he was talking about his daughter who was addicted to methamphetamine. She had six children, and all of the children are now living with someone else. The mother spent more time in prison than she had out on the streets.

It is important that we have this kind of a treatment program for those in prison. I thank the gentleman for yielding, and I thank him for the amendment.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support after-care to prisoners enrolled in the RSAT program, but the problem with the amendment is that it contains the irrational requirement that the individuals must be drug-free in order to be eligible for a substance abuse program. Please. If they are drug-free, they will not have to use a substance abuse program. So this requirement in the well-intended amendment defeats the very purpose of a substance abuse program, which is to help drug-addicted individuals overcome drug abuse. For that reason, I cannot join in the support of it.

Mr. Chairman, I yield back the balance of my time.

Mr. KENNEDY of Minnesota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 109-236.

AMENDMENT NO. 7 OFFERED BY MS. GINNY BROWN-WAITE OF FLORIDA

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. GINNY BROWN-WAITE of Florida:

Page 104, after line 14, insert the following new section:

SECTION 323. STUDY AND REPORT ON CORRELATION BETWEEN SUBSTANCE ABUSE AND DOMESTIC VIOLENCE AT DOMESTIC VIOLENCE SHELTERS.

The Secretary of Health and Human Services shall carry out a study on the correlation between a perpetrator's drug and alcohol abuse and the reported incidence of domestic violence at domestic violence shelters. The study shall cover fiscal years 2006 through 2008. Not later than February 2009, The Secretary shall submit to Congress a report on the results of the study.

The CHAIRMAN. Pursuant to House Resolution 462, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I yield myself such time as I may consume.

My amendment requires the Secretary of Health and Human Services to report to Congress on the correlation between a perpetrator's drug or alcohol abuse and the reported incidence of domestic violence.

I rise today to offer an amendment to the Department of Justice Authorization Act. As you know, this bill includes provision that reauthorize the successful Violence Against Women Act (VAWA).

As the Republican Co-Chair of the Congressional Caucus for Women's Issues, I wholeheartedly support VAWA 2005 because it faithfully reauthorizes existing programs that work and it sets forth new and innovative ideas. Since VAWA was first passed in 1994, the rate of domestic violence against females over the age of 12 in the U.S. has declined each year.

While great strides have been made in breaking the vicious cycle of domestic violence in this country, there is much more to be done. Too many people continue to be abused and victimized by family members whom they should be able to trust.

When VAWA 2005 was drafted, I was disturbed by the lack of information available to Members of Congress on the correlation between a perpetrator's drug and alcohol abuse and incidence of domestic violence. My amendment seeks to fill this gap in time for the next reauthorization of VAWA in 2010.

Intuitively, the connection between substance abuse and physical abuse of a spouse or family member seems obvious. While Congress can be guided by intuition, ultimately we need hard data to help shape future policy decisions. Currently, there is an absence of nationally complied data examining the strength of this connection.

My amendment requires the Secretary of Health and Human Services to report to Congress on the correlation between a perpetrator's drug and alcohol abuse and the reported incidence of domestic violence.

I urge support of my amendment to the 2005 Department of Justice Authorization Act.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. GINNY BROWN-WAITE of Florida. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is a very good amendment, and I am pleased to accept it.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I appreciate the gentleman accepting the amendment.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. GINNY BROWN-WAITE of Florida. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, because this amendment supports the efforts to investigate domestic violence and collect data that will help define the next step for Congress to put an end to domestic violence entirely, I am happy to support the amendment.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 109–236.

AMENDMENT NO. 8 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. SLAUGHTER:

Page 104, after line 14, insert the following new section:

SEC. 323. EMERGENCY AUTHORITY OF STATE OR LOCAL LAW ENFORCEMENT AGENCY TO GATHER OR RECEIVE EVIDENCE FOR LAW ENFORCEMENT PURPOSES OUTSIDE THE TERRITORIAL JURISDICTION OF THE AGENCY.

(a) IN GENERAL.—Notwithstanding any other State, local, or tribal law to the contrary, each State, local, or tribal law enforcement agency may, for law enforcement purposes, gather or receive evidence at any place within the United States as the nature of its mission may require, upon a finding by the head of the agency (or, if the head of the agency is unavailable, the person authorized by law to act as head) that, because of emergency conditions, the ability of that agency to carry out its mission, or the ability of victims within the territorial jurisdiction of that agency or of any other such agency to obtain justice, has been substantially impaired.

(b) COORDINATION.—The Office of Victims of Crime, working in consultation with national, State, and local domestic violence, sexual violence, and stalking non-profit, non-governmental organizations, and in collaboration with the Department of Health and Human Services and other appropriate Federal agencies, shall develop and implement a plan under which the Office—

(1) coordinates the activities of law enforcement agencies under subsection (a); and

(2) coordinates, and provides information and assistance to, victims, service providers, and law enforcement officials as contemplated by subsection (a).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Office of Victims of Crime shall submit to Congress a report on the plan required by subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

The CHAIRMAN. Pursuant to House Resolution 462, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I intend to withdraw this amendment and ask to engage the chairman in a colloquy.

My amendment would require law enforcement authorities to be able to file reports and collect evidence when a violent crime has been committed during an emergency, even if the crime occurred outside their jurisdiction.

It would also require the Office for Victims of Crime working with national, State, and local authorities and in collaboration with other Federal agencies to develop and implement a plan that allows law enforcement officials to gather evidence of a crime during times of emergency and inform victims and law enforcement officials about these available mechanisms.

The intent of the amendment is to put systems in place to assist victims and law enforcement officials to better respond to crimes committed against vulnerable people during times of national crisis.

The chaos following Hurricane Katrina produced an especially fertile breeding ground for violent crime. At evacuation centers such as the Superdome and convention center, and on the streets of New Orleans, there were unofficial reports of sexual assaults, armed robbery, murder, child molestation, and looting.

While the true number of crimes that took place is unclear, we do know that many will not be subject to criminal prosecution because the victims and witnesses had no place to report the crime.

□ 1700

The problem was compounded by the fact that once evacuated they were no longer located in the jurisdiction where the crimes occurred. And most local law enforcement officials do not have the authority to take the crime report if it occurred outside their jurisdiction.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I appreciate the gentlewoman yielding, Mr. Chairman.

I think the gentlewoman's amendment is very well intentioned; however, there are both constitutional and practical problems that arise in the manner in which it has been drafted. If the gentlewoman will withdraw her amendment, I will work with her to try to put something that will pass constitutional muster and will not cause practical problems between jurisdiction in the final version of the bill.

Ms. SLAUGHTER. I thank the chairman for this colloquy, and I look forward to working with him in conference.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109–236.

AMENDMENT NO. 9 OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. KOLBE:

At the end of title III, add the following (and amend the table of contents accordingly):

SEC. . REAUTHORIZATION OF STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking "appropriated" and all that follows through the period and inserting the following: "appropriated to carry out this subsection—

"(A) such sums as may be necessary for fiscal year 2005;

"(B) $750,000,000 for fiscal year 2006;

"(C) $850,000,000 for fiscal year 2007; and

"(D) $950,000,000 for each of the fiscal years 2008 through 2011.".

(b) LIMITATION ON USE OF FUNDS.—Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

"(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.".

(c) STUDY AND REPORT ON STATE AND LOCAL ASSISTANCE IN INCARCERATING UNDOCUMENTED CRIMINAL ALIENS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the United States Department of Justice shall perform a study, and report to the Committee on the Judiciary of the United States House of Representatives and the Committee on the Judiciary of the United States Senate on the following:

(A) Whether there are States, or political subdivisions of a State, that have received compensation under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) and are not fully cooperating in the Department of Homeland Security's efforts to remove from the United States undocumented criminal aliens (as defined in paragraph (3) of such section).

(B) Whether there are States, or political subdivisions of a State, that have received compensation under section 241(i) of the Immigration and Nationality Act (8 U.S.C.

1231(i)) and that have in effect a policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373).

(C) The number of criminal offenses that have been committed by aliens unlawfully present in the United States after having been apprehended by States or local law enforcement officials for a criminal offense and subsequently being released without being referred to the Department of Homeland Security for removal from the United States.

(D) The number of aliens described in subparagraph (C) who were released because the State or political subdivision lacked space or funds for detention of the alien.

(2) IDENTIFICATION.—In the report submitted under paragraph (1), the Inspector General of the United States Department of Justice—

(A) shall include a list identifying each State or political subdivision of a State that is determined to be described in subparagraph (A) or (B) of paragraph (1); and

(B) shall include a copy of any written policy determined to be described in subparagraph (B).

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Arizona (Mr. KOLBE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I rise to urge Members to support this amendment. I want to thank the gentleman from California (Mr. DREIER) and the gentleman from California (Mr. LEWIS) for joining me in sponsoring this important amendment. I am glad we have been able to come to an agreement with the gentleman from Wisconsin (Mr. SENSENBRENNER) to craft an amendment that both ensures the Federal Government assumes more of its responsibility for incarcerating undocumented criminal aliens while also addressing concerns some Members have regarding the way these funds are spent.

My State of Arizona has been the doormat of the country for illegal immigration. The Federal Government has failed to secure our borders and reform our broken immigration system.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe that the SCAAP program is a very important program in providing reimbursements to those States that do have to incarcerate criminal illegal aliens. I am pleased to support his amendment and would urge that we promptly adopt it.

Mr. KOLBE. Mr. Chairman, I will abbreviate my remarks. I just want to be able to say because Arizona has been at the forefront of this problem for so long and had more than 50 percent of all the apprehensions in our State that this is extraordinarily important.

The amendment does increase the authorizations through fiscal year 2011 from the current to $750 million in 2006 and $850 million in 2007 and $950 million in 2008. So I believe these provisions are extraordinarily important to us as well as the provisions which at the behest of the gentleman from Wisconsin we have added regarding how these funds are spent and to look at them.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I join in supporting the amendment because it ensures full funding for the State Criminal Alien Assistance Program. I commend the gentleman on his amendment.

Mr. KOLBE. I thank the gentleman for his statement in support.

Mr. Chairman, I yield to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, we have been working in the State of California for a long time on this bill. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER). It is a good bill. We appreciate the compromise that was made. I rise in strong support.

Mr. KOLBE. Mr. Chairman, I yield to the gentleman from California (Mr. LEWIS),the distinguished chairman of the Committee on Appropriations.

(Mr. LEWIS of California asked and was given permission to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Chairman, I rise to express my support of the work of both the gentleman from Arizona (Mr. KOLBE) and the gentleman from California (Mr. DREIER) on this very important matter. They have done great work together. I appreciate it.

Mr. Chairman, I want to thank my colleagues JIM KOLBE and DAVID DREIER for taking the lead on this extremely important measure. This amendment is about meeting federal responsibilities, about fairness to our states, and about making sure federal policies make our streets safer, not more dangerous.

There can be no debate that immigration is a federal responsibility. The Supreme Court has ruled again and again that the states cannot take the lead on immigration, even if they want to. Every President has insisted that the federal government must control, and be responsible for, immigration. And Congress throughout history has passed laws that ensure we will help states cover the costs of immigration.

I want my colleagues to understand this point: The SCAAP fund is not a grant program. We are reimbursing State and local governments for money they have already spent to arrest, process and incarcerate criminal aliens. These aliens should not be here, creating a burden on our society. We all agree that if the federal government was protecting our borders effectively, this would not be the problem it is.

Yet every year, more than $635 million is spent by California and our local governments to incarcerate criminal aliens. This is not an estimate—to qualify for SCAAP, the states must clearly document their costs and get federal verification that the convicts are aliens. Nationwide, the costs are nearly $2 billion a year to jail more than 200,000 criminal aliens in state and local lockups.

Let me be clear on this: This is $2 billion that has been spent on criminals who everyone agrees are federal responsibilities. This is $2 billion that is not being spent by states, counties and cities on more law enforcement officers, better courts and reducing the prison population.

This is not a partisan matter. When Mr. KOLBE and Mr. DREIER introduced an amendment to increase SCAAP reimbursements this year, it was passed easily in a bipartisan vote. The Senate has passed this reauthorization legislation unanimously. It is time for Congress to reaffirm this federal responsibility. Please vote for the Kolbe-Dreier-Lewis amendment.

Mr. KOLBE. Mr. Chairman, I appreciate the chairman of the Committee on Appropriations for co-sponsoring this amendment with me. It means a great deal.

Mr. Chairman, I yield to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, who has been instrumental in helping to craft this amendment.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding. I rise in very strong support of this amendment. I am proud to join with the gentleman from California (Mr. LEWIS) and the gentleman from Arizona (Mr. KOLBE) in co-sponsoring it. The gentleman from Arizona (Mr. KOLBE) and I had an amendment that increased by $50 million in the appropriations bill, having worked closely with the Committee on Appropriations, for the reimbursement to the States for the incarceration of illegal immigrant felons.

Obviously, this is a very pressing challenge. The sheriff of Los Angeles County has told me that it costs $150 million a year simply for the incarceration of criminals who are in this country illegally, and in light of that fact, is making sure that we realize that the States, the States have been shouldering this burden. Policing our borders is a Federal responsibility. It is not the responsibility of cities, counties, or States. And that is why I believe that ensuring that States that have already paid, already paid for this tremendous cost, should be reimbursed.

There are those who believe that this is somehow money that is moving ahead and it is fungible so they can spend it on something else. These are dollars that have already been expended. So that is why this amendment is very important, to make sure that as we proceed with this very difficult challenge of border security and immigration reform that we pass this. I thank my friends on both sides of the aisle for the strong support in this effort.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for his comments, and I appreciate the support of all the Members who have risen today.

Mr. DREIER. Mr. Chairman, I rise in strong support of the amendment I am offering with my friends Mr. KOLBE and Chairman LEWIS to reauthorize the State Criminal Alien Assistance Program.

Illegal immigration is a critical federal responsibility and a serious local problem. Local law enforcement are on the front lines when it comes to keeping neighborhoods safe from illegal immigrants who commit crimes. Our officers are forced to shoulder the added burden of punishing undocumented individuals who endanger our communities.

The SCAAP program is designed to fulfill the federal government's responsibility to reimburse states and localities for the significant costs they incur when jailing illegal aliens. Passage of this amendment will demonstrate our unwavering support for local law enforcement as they uphold the law and protect our communities.

This amendment authorizes $750 million for SCAAP in fiscal year 2006, $850 million for 2007, and $950 million for each of fiscal years 2008–2011. While significant, this money represents only a fraction of the true costs incurred by state and local governments. California alone spends more than $750 million each year to jail criminal illegal aliens.

The amendment also adds an additional measure of accountability and oversight to the SCAAP program. It requires the DOJ Inspector General to report to Congress on how effectively jurisdictions that receive SCAAP funding are cooperating with the Department of Homeland Security on deporting criminal aliens. Clearly, it is a national security priority and a local necessity to deport criminal aliens. This measure will help keep the federal focus on securing the borders, right where it should be.

It is also important to note that the SCAAP program is not only critical for border states, such as California and Arizona, which Mr. KOLBE, Mr. LEWIS and I are privileged to represent. States with the highest growth in illegal immigrants include North Carolina and Iowa. SCAAP has assisted all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands.

Let's stand with our local law enforcement and support robust funding for SCAAP. Support the Kolbe/Dreier/Lewis amendment.

Mr. KOLBE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. KOLBE).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 109–236.

AMENDMENT NO. 10 OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. KING of Iowa:

Page 302, after line 3, insert the following (and amend the table of contents accordingly):

SEC. 940. PROHIBITING ABUSERS FROM SPONSORING FAMILY IMMIGRANTS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

"(l) Notwithstanding subsection (a), a petition may not be approved under subparagraph (A) or (B) of such subsection if the petition is submitted by a person convicted of a crime described in paragraph (5), (7), (8), (21), or (22) of section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968.".

Page 302, line 4, strike "**940.**." and insert "**941.**"

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Iowa (Mr. KING) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I yield myself such time as I may consume.

My amendment would prohibit any person convicted of crimes of domestic violence as defined by the Violence Against Women Act from sponsoring the visa application of a foreigner.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. KING of Iowa. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe this amendment is a very constructive amendment, and I am happy to accept it.

Mr. KING of Iowa. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

The simple problem with the amendment, although well intended, is that it would also apply to some victims of domestic violence as well as the abusers. Victims sometimes have conviction records for minor domestic violence offenses because police who arrive at the scene of a dispute charge both parties with violent offenses, even though it may later become clear that one party is just a victim, not an abuser.

In addition, battered immigrant women who are arrested sometimes receive bad legal advice and are often likely to take a plea offer even when they did nothing wrong. These victims should be exempted from the effects of this amendment; and because they are not, I reluctantly oppose the amendment.

Mr. Chairman, I support the intent of the gentleman from Iowa's amendment, which is to ensure that persons who have been convicted of certain types of abuse be prevented from sponsoring the immigration of family members whom they may, in turn, abuse.

However, while noble in its intent, this amendment is overly broad and could have serious, negative, unintended consequences on innocent immigrants, as it is currently drafted.

First, the amendment makes no distinction as to the degree of the crime or rehabilitation of the offender. A person with a 30-year-old misdemeanor conviction of assault who has successfully completed a domestic violence rehabilitation program, has no further domestic violence convictions and has no other record of violent crime is barred from sponsoring family members just as an abuser with a string of domestic violence convictions culminating in the murder of his wife would be barred.

Second, the amendment does not specify where the crime must have been committed. It may well require DHS to ask foreign governments to investigate and reveal the criminal histories of U.S. legal permanent residents and citizens who have lived in other countries and are now trying to sponsor a family member. This could include countries with long histories of politically motivated persecution or human rights abuses—such as Cuba, Sudan, or Iran—and inquire about the criminal history of one of their citizens who has received asylum or refugee status here due to persecution they suffered in that country. Not only might this lead to inaccurate information from untrustworthy governments, but it also may lead to reprisals against the family members of refugees who fled persecution by the foreign government.

Third, this amendment will also apply to some victims of domestic violence as well as the abusers. Victims sometimes have conviction records for minor domestic violence offenses because police who arrive at the scene of a dispute charge both parties with violent offenses, even though it may later become clear that one party is just a victim, not an abuser. Furthermore, battered immigrant women who are arrested often receive bad legal advice and are often likely to take a plea offer, even when they did nothing wrong. These victims should be exempted from the effects of this amendment.

The safety of immigrant victims can be enhanced by expanding their support system to include close family members. We should not bar victims of domestic violence from sponsoring their children, siblings and other close relatives. If this amendment passes as it is, it will do just that.

Mr. Chairman, I am not encouraging opposition to the King amendment today. However, should the House adopt this amendment, I hope that the House Conferees will work with our colleagues in the other body to ensure that the unintended negative consequences of the amendment are mitigated, while still preserving the vision that is embodied within it.

Mr. Chairman, I yield back the balance of my time.

Mr. KING of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say in response to that that we have real victims in the cemeteries in America because they have been allowed, already having committed the crime of violence against women, to sponsor another woman to come into the country even though they have been convicted of a crime of violence and then murdered a second woman. I can give you an anecdote here; but rather than belabor that point, I think the point of protecting people from violent criminals is more important than protecting the latitude of someone who might also be a domestic criminal and their latitude to sponsor someone. If that is the case, they can find someone else to sponsor them, not someone who has committed a domestic crime.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I support the intent of the gentleman from Iowa's amendment, which is to ensure that persons who have been convicted of certain types of abuse be prevented from sponsoring the immigration of family members whom they may, in turn, abuse.

However, while noble in its intent, this amendment is overly broad and could have serious, negative, unintended consequences on innocent immigrants, as it is currently drafted.

First, it threatens the operation of the family reunification system. Every U.S. citizen or legal permanent resident who files a petition to bring a family member here to join them would become subject to criminal background checks. Not only does this raise privacy concerns, but it also raises constitutional concerns by limiting the rights of some U.S. citizens to live here with their immediate family members.

Second, the amendment makes no distinction as to the degree of the crime or rehabilitation of the offender. A person with a 30-year-old misdemeanor conviction of assault who has successfully completed a domestic violence rehabilitation program, has no further domestic violence convictions and has no other record of violent crime, is barred from sponsoring family members, just as an abuser with a string of domestic violence convictions culminating in the murder of his wife would be barred.

Third, the amendment does not specify where the crime must have been committed. It is not limited to domestic violence crimes committed in the United States. It may well require DHS to ask foreign governments to investigate and reveal the criminal histories of U.S. legal permanent residents and citizens who have lived in other countries and are now trying to sponsor a family member. DHS may then go to countries with long histories of politically motivated persecution or human rights abuses—such as Cuba, Sudan, or Iran—and inquire about the criminal history of one of their citizens who has received asylum or refugee status here due to persecution they suffered in that country. Not only might this lead to inaccurate information from untrustworthy governments, but it also may lead to reprisals against the family members of refugees who fled persecution by the foreign government.

Fourth, this amendment will also keep some victims of domestic violence from bringing family members to join them in the U.S. Unfortunately, perpetrators of domestic violence are sometimes able to get their victims arrested for domestic violence offences, especially when the abuser has superior English-speaking skills to the victim. Furthermore, battered immigrant women who are arrested often receive bad legal advice and are often likely to take a plea offer, even when they did nothing wrong.

Among other changes, the amendment needs to include an exemption for victims of battering or extreme cruelty. Approved VAWA, T-visa trafficking victims and U-visa crime victims need to be exempt, as do immigrant victims with domestic violence convictions who already qualify for waivers under VAWA 2000 protections. The safety of immigrant victims can be enhanced by expanding their support system to include close family members. We should not bar victims of domestic violence from sponsoring their children, siblings and other close relatives. If this amendment passes as it is, it will do just that.

Mr. Chairman, I am not encouraging opposition to the King amendment today. However, should the House adopt this amendment, I hope that the House Conferees will work with our colleagues in the other body to ensure that the unintended negative consequences of the amendment are mitigated, while still preserving the vision that is embodied within it.

Mr. KING of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 11 printed in House Report 109–236.

AMENDMENT NO. 11 OFFERED BY MR. RYAN OF OHIO

Mr. RYAN of Ohio. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. RYAN of Ohio:

At the end of the bill, add the following title:

TITLE XI—PUBLIC AWARENESS CAMPAIGN REGARDING DOMESTIC VIOLENCE AGAINST PREGNANT WOMEN

SEC. 1101. PUBLIC AWARENESS CAMPAIGN.

(a) IN GENERAL.—The Attorney General, acting through the Office on Violence Against Women], shall make grants to States for carrying out a campaign to increase public awareness of issues regarding domestic violence against pregnant women.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Ohio (Mr. RYAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of my amendment offered with the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from Minnesota (Mr. OBERSTAR), and the gentleman from Michigan (Mr. STUPAK). I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) for their work on the reauthorization. I would also like to thank the gentleman from California (Mr. DREIER) and especially the gentlewoman from New York (Ms. SLAUGHTER) for allowing me to offer this very important amendment on domestic violence against pregnant women.

My amendment authorizes the Office on Violence Against Women to provide grants to States for carrying out a campaign to increase public awareness of issues regarding domestic violence against pregnant women.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. RYAN of Ohio. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is a very good amendment. I am pleased to accept it and commend him for drafting this amendment and persuading the Committee on Rules to make it in order.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. RYAN of Ohio. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I am inclined to support the amendment as well, and I congratulate the gentleman.

Mr. RYAN of Ohio. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. RYAN).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 109–236.

AMENDMENT NO. 12 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Ms. SLAUGHTER:

Strike section 321, and insert the following:

SEC. 321. PUBLIC EMPLOYEE UNIFORMS.

(a) IN GENERAL.—Section 716 of title 18, United States Code, is amended—

(1) by striking "police badge" each place it appears in subsections (a) and (b) and inserting "official insignia or article of clothing";

(2) in each of paragraphs (2) and (4) of subsection (a), by striking "badge of the police" and inserting "official insignia or article of clothing";

(3) in subsection (b)—

(A) by striking "the badge" and inserting "the insignia or article of clothing"; and

(B) by inserting "is other than a counterfeit police badge and" before "is used or is intended to be used";

(4) in subsection (c)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and";

(C) by adding at the end the following:

"(3) the term 'official insignia or article of clothing' means an article of distinctive clothing or insignia, including a badge, emblem or identification card, that is an indicium of the authority of a public employee; and

"(4) the term 'public employee' means any officer or employee of the Federal Government or of a State or local government.";

(5) by adding at the end the following:

"(d) It is a defense to a prosecution under this section that theofficial insignia or article of clothing is a counterfeit police badge and is used or is intended to be used exclusively—

"(1) for a dramatic presentation, such as a theatrical, film, or television production; or

"(2) for legitimate law enforcement purposes."; and

(6) in the heading for the section, by striking "**Police badges**" and inserting "**Public employee insignia and clothing**".

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The item in the table of sections at the beginning of chapter 33 of title 18, United States Code, relating to section 716 is amended by striking "Police badges" and inserting "Public employee insignia and clothing".

(c) DIRECTION TO SENTENCING COMMISSION.—The United States Sentencing Commission is directed to make appropriate amendments to sentencing guidelines, policy statements, and official commentary to assure that the sentence imposed on a defendant who is convicted of a Federal offense while wearing or displaying insignia and clothing received in violation of section 716 of title 18, United States Code, reflects the gravity of this aggravating factor.

The CHAIRMAN. Pursuant to House Resolution 462, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that would implement legislation that expands the current Federal criminal ban on fake police badges to include the uniforms, identification, and all other insignia of public officials while preserving language in the bill that cracks down on the growing problem of counterfeit police badges.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. I will support the amendment at this time, but I believe that the language may need to be refined during conference and pledge that I will work with the gentlewoman from New York to refine the language if it is determined to be necessary.

Ms. SLAUGHTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. STUPAK. I am in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. Stupak moves to recommit the bill H.R. 3402 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Add at the end the following:

TITLE XI—GAS PRICE GOUGING

SEC. 1101. GAS PRICE GOUGING.

(a) OFFENSE.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"§ 1822. Gas price gouging

"(a) PROHIBITION.—During any time of national disaster, it shall be unlawful for any person to offer to sell crude oil, gasoline, natural gas, or petroleum distillates at a price that—

"(1) is unconscionably excessive; or

"(2) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

"(b) FACTORS CONSIDERED.—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether—

"(1) the amount charged represents a gross disparity between the price of the crude oil, gasoline, natural gas, or petroleum distillate sold and the price at which it was offered for sale in the usual course of the seller's business immediately prior to the time of national disaster; or

"(2) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, natural gas, or petroleum distillate was readily obtainable by other purchasers.

"(c) MITIGATING FACTORS.—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether the price at which the crude oil, gasoline, natural gas, or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

"(d) DEFINITION.—As used in this section, the term 'time of national disaster' means the period during which there is in effect a declaration of a major disaster, or a declaration of an emergency, issued by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 et seq.).

"(e) PENALTY.—The penalty for a violation of this section by an organization is a fine not more than $100,000,000. The penalty for a violation of this section by an individual is a fine not more than $1,000,000 or imprisonment not more than 10 years, or both.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections in chapter 89 of title 18, United States Code, is amended by adding after the item relating to section 1821 the following new item:

"1822. Gas price gouging.".

Mr. STUPAK (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes in support of his motion.

Mr. STUPAK. Mr. Speaker, I am pleased to offer this motion to recommit with my friend and colleague from South Dakota (Ms. HERSETH).

Our motion instructs the Federal Government to crack down on price gouging and provides tough Federal penalties for those guilty of gas price gouging.

Even before the devastation caused by Hurricane Katrina, skyrocketing oil and gasoline prices were taxing American families and burdening our Nation's economy, with the notable exception of the oil industry, which continued to rack up record profits.

Following Katrina, gas prices in some areas of the Nation reached almost $6 per gallon, deepening suspicions of the oil and gas industry profiteering. We need a Federal standard to ensure adequate response to energy emergencies that prohibit price gouging with the priority on refineries and big oil companies. Currently, only 28 States have price gouging laws on the books and have enforcement mechanisms to go after those found ripping off consumers.

At the Federal level there is no oversight to protect consumers from this predatory pricing. No American should have to pay too much for gas because the oil companies are rigging prices.

Our motion to recommit will outlaw the selling of crude oil, gasoline, home heating oil, or natural gas at predatory or unconscionably excessive levels during such a crisis. It will provide new Federal authority to investigate and punish those who engage in predatory pricing from oil companies on down to local gas stations with an emphasis on those who profit most. And it will impose tough maximum penalties on companies that have cheated consumers.

In the wake of Hurricane Katrina, Americans are pulling together, donating to relief organizations, and giving their time to help the people of the gulf coast recover. That is how the American people react when they see their fellow citizens in need. Unfortunately, some have looked at Katrina not as a chance to give but an opportunity for excessive profit. Some have decided to take advantage of this terrible tragedy and line their own pockets by price gouging the American people at the pump.

As eight Governors wrote in a letter to the Congress urging passage of a Federal price gouging legislation, they stated: "To price gouge consumers under normal circumstances is dishonest enough, but to make money off the severe misfortune of others is downright immoral."

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People are rightly angry and frustrated with high gas prices, and they deserve to have someone on their side fighting to ensure that they do not get mugged at the gas pump.

Sadly, the administration and the House majority's answer has been to sit on their hands while consumers get the shakedown from the oil companies.

It is obvious to me and many Americans that Congress needs to act to protect Americans from price gouging.

I urge a "yes" vote on the motion to recommit. A "no" vote denies the American people a law to stop energy and gasoline price gouging.

Ms. HERSETH. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentlewoman from South Dakota (Ms. HERSETH), my friend and coauthor of this amendment.

Ms. HERSETH. Mr. Speaker, I want to thank the gentleman from Michigan for his hard work and do the same to urge my colleagues to support this motion to recommit so that this body will take an important step to addressing the concerns of all consumers in the country, particularly those in rural America.

We need to take steps to be able to define price gouging, with the FTC having the authority to do that, and then to investigate these thousands of complaints that have come into the Energy Department in the past many weeks.

As co-chair of the Rural Working Group for the House Democratic Caucus, we know what the impact of high fuel costs has been for rural Americans, those that drive many miles to get to their jobs, those that are trying to harvest crops this fall.

This is an important step because inaction is inexcusable, and accountability is absolutely necessary. It is no longer a sufficient answer to say, well, price gouging is difficult to define; it is hard to prove.

This is the importance of this motion to recommit, so that we can take a step to allow the FTC to promulgate a rule defining the price gouging and the market manipulation that we believe is taking place and to help overcome the skepticism, especially in rural America, about the role of multinational oil companies who are taking measures that are not allowing the market to operate fairly and efficiently and effectively.

Mr. STUPAK. Mr. Speaker, I would just like to underscore what the gentlewoman from South Dakota has said.

If you have a small business or are a farmer or just an American trying to heat your home, like in my district in northern Michigan, we are expecting snow. So the furnaces are going to be on. They are expecting home heating oil to be up 71 percent over last year, and when we look at the refiners, in 1 year, they have increased their profits by 255 percent. 255 percent in 1 year. That is excessive. That is price gouging. That is predatory pricing.

If my colleagues believe that we should put an end to this predatory gas pricing we see at the gas pump and we heat our home and run our businesses and our family farms, then vote for the motion to recommit. If my colleagues believe those prices, a 250 percent increase, is okay, then vote against the motion to recommit. It is time to end predatory pricing. Vote "yes" on the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, once again, we see games being played by the minority party. The gentleman from Michigan has stood up and said he is opposed to reauthorizing the Violence Against Women Act so he is qualified to introduce this motion to recommit, and the motion to recommit has to do with price gouging.

Nobody's for price gouging. There are laws on the books that have the Federal Trade Commission investigate price gouging. Every time there has been a spike in fuel prices, petroleum prices, the FTC has been on the case. They have investigated it according to law, and in most cases, they have found that no price gouging has occurred.

There are certain legislative provisions of the Violence Against Women Act that expire on Friday, September 30, 2005, and this amendment, once again, is a poison pill that is introduced at the last minute.

We have heard complaints from the other side of the aisle about legislation not receiving a hearing or formal committee consideration. We heard that earlier today, and what happens is there is a motion to recommit, introduced by an opponent of reauthorizing the Violence Against Women Act, that wants to put something that is completely unrelated into a Department of Justice reauthorization bill.

Whatever happened to State prerogatives, to allow State Attorneys General to investigate whether State law is violated? This motion to recommit blows the concept of federalism into little teeny pieces and will tie the hands of your State Attorney General and mine to look into price gouging.

It is a poorly drafted amendment. It does not relate to reauthorizing the Violence Against Women Act. It is something that is put in in an extremely hostile manner to try and get the job done in the Violence Against Women Act.

If my colleagues are for the Violence Against Women Act being reauthorized promptly, vote "no" on the motion to recommit. Vote "yes" on the bill.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Michigan, Mr. STUPAK, and the gentlewoman from South Dakota, Ms. HERSETH, for their extraordinary leadership in fighting price gouging at the gas pump.

Despite the American people's demand for action, the Bush administration and the Republican Congress are doing absolutely nothing.

Three weeks ago, the Bush administration even claimed that price gouging was not a Federal concern. Pressure from Democrats finally caused the Federal Trade Commission to start an investigation, an investigation that in true Bush cronyism style is led by a former ChevronTexaco lawyer. And in the House Energy Committee today, in a party-line vote, Republican committee Members voted unanimously against Mr. STUPAK's bill.

Instead of the bold action that the American people deserve, what we have seen from Republicans is more of the same: a culture of corruption, incompetence, and cronyism.

In contrast, Democrats have been working for months, long before Hurricane Katrina, to bring down the price of gas at the pump and home heating oil. Today, Democrats again stand ready to do something about price gouging. The Stupak-Herseth motion to recommit will give the Federal Government the tools to crack down on price gouging by the big oil and gas companies.

Mr. Speaker, Republicans have long been the handmaidens and apologists for big oil companies. It is long past time for the Republicans to act in the interests of the American people, not against them.

I urge my colleagues to vote for the Stupak-Herseth motion to recommit, so we can end price gouging and so we can lower oil prices. Our Nation is watching and expecting action now.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

"(1) for a dramatic presentation, such as a theatrical, film, or television production; or

"(2) for legitimate law enforcement purposes."; and

(6) in the heading for the section, by striking "**Police badges**" and inserting "**Public employee insignia and clothing**".

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The item in the table of sections at the beginning of chapter 33 of title 18, United States Code, relating to section 716 is amended by striking "Police badges" and inserting "Public employee insignia and clothing".

(c) DIRECTION TO SENTENCING COMMISSION.—The United States Sentencing Commission is directed to make appropriate amendments to sentencing guidelines, policy statements, and official commentary to assure that the sentence imposed on a defendant who is convicted of a Federal offense while wearing or displaying insignia and clothing received in violation of section 716 of title 18, United States Code, reflects the gravity of this aggravating factor.

The CHAIRMAN. Pursuant to House Resolution 462, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that would implement legislation that expands the current Federal criminal ban on fake police badges to include the uniforms, identification, and all other insignia of public officials while preserving language in the bill that cracks down on the growing problem of counterfeit police badges.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. I will support the amendment at this time, but I believe that the language may need to be refined during conference and pledge that I will work with the gentlewoman from New York to refine the language if it is determined to be necessary.

Ms. SLAUGHTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes, pursuant to House Resolution 462, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. STUPAK. I am in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. Stupak moves to recommit the bill H.R. 3402 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Add at the end the following:

TITLE XI—GAS PRICE GOUGING

SEC. 1101. GAS PRICE GOUGING.

(a) OFFENSE.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"§ 1822. Gas price gouging

"(a) PROHIBITION.—During any time of national disaster, it shall be unlawful for any person to offer to sell crude oil, gasoline, natural gas, or petroleum distillates at a price that—

"(1) is unconscionably excessive; or

"(2) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

"(b) FACTORS CONSIDERED.—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether—

"(1) the amount charged represents a gross disparity between the price of the crude oil, gasoline, natural gas, or petroleum distillate sold and the price at which it was offered for sale in the usual course of the seller's business immediately prior to the time of national disaster; or

"(2) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, natural gas, or petroleum distillate was readily obtainable by other purchasers.

"(c) MITIGATING FACTORS.—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether the price at which the crude oil, gasoline, natural gas, or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

"(d) DEFINITION.—As used in this section, the term 'time of national disaster' means the period during which there is in effect a declaration of a major disaster, or a declaration of an emergency, issued by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 et seq.).

"(e) PENALTY.—The penalty for a violation of this section by an organization is a fine not more than $100,000,000. The penalty for a violation of this section by an individual is a fine not more than $1,000,000 or imprisonment not more than 10 years, or both.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections in chapter 89 of title 18, United States Code, is amended by adding after the item relating to section 1821 the following new item:

"1822. Gas price gouging.".

Mr. STUPAK (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes in support of his motion.

Mr. STUPAK. Mr. Speaker, I am pleased to offer this motion to recommit with my friend and colleague from South Dakota (Ms. HERSETH).

Our motion instructs the Federal Government to crack down on price gouging and provides tough Federal penalties for those guilty of gas price gouging.

Even before the devastation caused by Hurricane Katrina, skyrocketing oil and gasoline prices were taxing American families and burdening our Nation's economy, with the notable exception of the oil industry, which continued to rack up record profits.

Following Katrina, gas prices in some areas of the Nation reached almost $6 per gallon, deepening suspicions of the oil and gas industry profiteering. We need a Federal standard to ensure adequate response to energy emergencies that prohibit price gouging with the priority on refineries and big oil companies. Currently, only 28 States have price gouging laws on the books and have enforcement mechanisms to go after those found ripping off consumers.

At the Federal level there is no oversight to protect consumers from this predatory pricing. No American should have to pay too much for gas because the oil companies are rigging prices.

Our motion to recommit will outlaw the selling of crude oil, gasoline, home heating oil, or natural gas at predatory or unconscionably excessive levels during such a crisis. It will provide new Federal authority to investigate and punish those who engage in predatory pricing from oil companies on down to local gas stations with an emphasis on those who profit most. And it will impose tough maximum penalties on companies that have cheated consumers.

In the wake of Hurricane Katrina, Americans are pulling together, donating to relief organizations, and giving their time to help the people of the gulf coast recover. That is how the American people react when they see their fellow citizens in need. Unfortunately, some have looked at Katrina not as a chance to give but an opportunity for excessive profit. Some have decided to take advantage of this terrible tragedy and line their own pockets by price gouging the American people at the pump.

As eight Governors wrote in a letter to the Congress urging passage of a Federal price gouging legislation, they stated: "To price gouge consumers under normal circumstances is dishonest enough, but to make money off the severe misfortune of others is downright immoral."

☐ 1715

People are rightly angry and frustrated with high gas prices, and they deserve to have someone on their side fighting to ensure that they do not get mugged at the gas pump.

Sadly, the administration and the House majority's answer has been to sit on their hands while consumers get the shakedown from the oil companies.

It is obvious to me and many Americans that Congress needs to act to protect Americans from price gouging.

I urge a "yes" vote on the motion to recommit. A "no" vote denies the American people a law to stop energy and gasoline price gouging.

Ms. HERSETH. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentlewoman from South Dakota (Ms. HERSETH), my friend and coauthor of this amendment.

Ms. HERSETH. Mr. Speaker, I want to thank the gentleman from Michigan for his hard work and do the same to urge my colleagues to support this motion to recommit so that this body will take an important step to addressing the concerns of all consumers in the country, particularly those in rural America.

We need to take steps to be able to define price gouging, with the FTC having the authority to do that, and then to investigate these thousands of complaints that have come into the Energy Department in the past many weeks.

As co-chair of the Rural Working Group for the House Democratic Caucus, we know what the impact of high fuel costs has been for rural Americans, those that drive many miles to get to their jobs, those that are trying to harvest crops this fall.

This is an important step because inaction is inexcusable, and accountability is absolutely necessary. It is no longer a sufficient answer to say, well, price gouging is difficult to define; it is hard to prove.

This is the importance of this motion to recommit, so that we can take a step to allow the FTC to promulgate a rule defining the price gouging and the market manipulation that we believe is taking place and to help overcome the skepticism, especially in rural America, about the role of multinational oil companies who are taking measures that are not allowing the market to operate fairly and efficiently and effectively.

Mr. STUPAK. Mr. Speaker, I would just like to underscore what the gentlewoman from South Dakota has said.

If you have a small business or are a farmer or just an American trying to heat your home, like in my district in northern Michigan, we are expecting snow. So the furnaces are going to be on. They are expecting home heating oil to be up 71 percent over last year, and when we look at the refiners, in 1 year, they have increased their profits by 255 percent, 255 percent in 1 year. That is excessive. That is price gouging. That is predatory pricing.

If my colleagues believe that we should put an end to this predatory gas pricing we see at the gas pump and we heat our home and run our businesses and our family farms, then vote for the motion to recommit. If my colleagues believe those prices, a 250 percent increase, is okay, then vote against the motion to recommit. It is time to end predatory pricing. Vote "yes" on the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, once again, we see games being played by the minority party. The gentleman from Michigan has stood up and said he is opposed to reauthorizing the Violence Against Women Act so he is qualified to introduce this motion to recommit, and the motion to recommit has to do with price gouging.

Nobody's for price gouging. There are laws on the books that have the Federal Trade Commission investigate price gouging. Every time there has been a spike in fuel prices, petroleum prices, the FTC has been on the case. They have investigated it according to law, and in most cases, they have found that no price gouging has occurred.

There are certain legislative provisions of the Violence Against Women Act that expire on Friday, September 30, 2005, and this amendment, once again, is a poison pill that is introduced at the last minute.

We have heard complaints from the other side of the aisle about legislation not receiving a hearing or formal committee consideration. We heard that earlier today, and what happens is there is a motion to recommit, introduced by an opponent of reauthorizing the Violence Against Women Act, that wants to put something that is completely unrelated into a Department of Justice reauthorization bill.

Whatever happened to State prerogatives, to allow State Attorneys General to investigate whether State law is violated? This motion to recommit blows the concept of federalism into little teeny pieces and will tie the hands of your State Attorney General and mine to look into price gouging.

It is a poorly drafted amendment. It does not relate to reauthorizing the Violence Against Women Act. It is something that is put in in an extremely hostile manner to try and get the job done in the Violence Against Women Act.

If my colleagues are for the Violence Against Women Act being reauthorized promptly, vote "no" on the motion to recommit. Vote "yes" on the bill.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Michigan, Mr. STUPAK, and the gentlewoman from South Dakota, Ms. HERSETH, for their extraordinary leadership in fighting price gouging at the gas pump.

Despite the American people's demand for action, the Bush administration and the Republican Congress are doing absolutely nothing.

Three weeks ago, the Bush administration even claimed that price gouging was not a Federal concern. Pressure from Democrats finally caused the Federal Trade Commission to start an investigation, an investigation that in true Bush cronyism style is led by a former ChevronTexaco lawyer. And in the House Energy Committee today, in a party-line vote, Republican committee Members voted unanimously against Mr. STUPAK's bill.

Instead of the bold action that the American people deserve, what we have seen from Republicans is more of the same: a culture of corruption, incompetence, and cronyism.

In contrast, Democrats have been working for months, long before Hurricane Katrina, to bring down the price of gas at the pump and home heating oil. Today, Democrats again stand ready to do something about price gouging. The Stupak-Herseth motion to recommit will give the Federal Government the tools to crack down on price gouging by the big oil and gas companies.

Mr. Speaker, Republicans have long been the handmaidens and apologists for big oil companies. It is long past time for the Republicans to act in the interests of the American people, not against them.

I urge my colleagues to vote for the Stupak-Herseth motion to recommit, so we can end price gouging and so we can lower oil prices. Our Nation is watching and expecting action now.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STUPAK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 195, nays 226, not voting 12, as follows:

[Roll No. 500]

YEAS—195

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boren
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—12

Blumenauer
Boswell
Costa
Culberson
Davis (FL)
Gutierrez
Harman
Hunter
Hyde
Melancon
Ruppersberger
Young (AK)

□ 1744

Messrs. FOLEY, BONILLA, BEAUPREZ, CRENSHAW and Ms. GRANGER changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 4, not voting 14, as follows:

[Roll No. 501]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack

Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—4

Meehan
Paul
Tancredo
Watson

NOT VOTING—14

Blumenauer
Boswell
Costa
Culberson
Davis (FL)
Dicks
Gutierrez
Harman
Hunter
Hyde
Melancon
Ruppersberger
Visclosky
Waters

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1752

Mrs. KELLY changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, due to a family illness, I was absent from this Chamber today.

I would like the RECORD to show that, had I been present, I would have voted "nay" on rollcall vote 499. I would have also voted "yea" on rollcall 497, 498, 500, and 501.

PERSONAL EXPLANATION

Mr. RUPPERSBERGER. Mr. Speaker, on September 28, 2005 I was unavoidably detained dealing with district issues.

If I were present, on rollcall votes 499 through 500 I would have voted in the following manner:

On rollcall vote 499 I would have voted "no" on agreeing to the Sensenbrenner Amendment to H.R. 3402, Justice Department Authorization.

On rollcall vote 500 I would have voted "yes" on the Motion to Recommit for H.R. 3402, Justice Department Authorization Repression.

On rollcall vote 501 I would have voted "yes" on Final Passage for H.R. 3402, Justice Department Authorization.

RULES OF THE HOUSE

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute.)

Mr. SENSENBRENNER. Mr. Speaker, I noticed in the last roll call that the author of the motion to recommit voted in favor of passage of H.R. 3402. At the time he rose to offer the motion to recommit, he stated clearly that he was opposed to the bill in its present form; and during my arguments against the motion to recommit, I reminded him and other Members that in order to make a motion to recommit, one must be opposed to the bill.

This is in direct contravention of House rules and the admonition of the Speaker several months ago when the author of another motion to recommit on another bill voted in favor of the passage of the bill.

I would hope that Members would be cognizant of the rules and precedents of the House and not repeat what has just happened.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3402, DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 3402 that the Clerk be authorized to make technical and conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MAJORITY LEADER

Ms. PRYCE of Ohio. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as majority leader the gentleman from Missouri, the Honorable ROY BLUNT.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the remaining motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question and votes postponed earlier today will be taken tomorrow.

RECOGNIZING THE NEED TO PURSUE RESEARCH INTO CAUSES, TREATMENT AND CURE FOR IDIOPATHIC PULMONARY FIBROSIS

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 178) recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 178

Whereas idiopathic pulmonary fibrosis is a serious lung disorder causing progressive, incurable lung scarring;

Whereas idiopathic pulmonary fibrosis is one of about 200 disorders called interstitial lung diseases;

Whereas idiopathic pulmonary fibrosis is the most common form of interstitial lung disease;

Whereas idiopathic pulmonary fibrosis is a debilitating and generally fatal disease marked by progressive scarring of the lungs, causing an irreversible loss of the lung tissue's ability to transport oxygen;

Whereas idiopathic pulmonary fibrosis progresses quickly, often causing disability or death within a few short years;

Whereas there is no proven cause of idiopathic pulmonary fibrosis;

Whereas approximately 83,000 United States citizens have idiopathic pulmonary fibrosis, and 31,000 new cases are diagnosed each year;

Whereas idiopathic pulmonary fibrosis is often misdiagnosed or underdiagnosed;

Whereas the median survival rate for idiopathic pulmonary fibrosis patients is 2 to 3 years, and about two thirds of idiopathic pulmonary fibrosis patients die within 5 years; and

Whereas a need has been identified to increase awareness and detection of this misdiagnosed and underdiagnosed disorder: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis;

(2) supports the work of advocates and organizations in educating, supporting, and providing hope for individuals who suffer from idiopathic pulmonary fibrosis, including efforts to organize a National Idiopathic Pulmonary Fibrosis Awareness Week;

(3) supports the designation of an appropriate week as National Idiopathic Pulmonary Fibrosis Awareness Week;

(4) encourages the President to issue a proclamation designating a National Idiopathic Pulmonary Fibrosis Awareness Week;

(5) congratulates advocates and organizations for their efforts to educate the public about idiopathic pulmonary fibrosis, while funding research to help find a cure for this disorder; and

(6) supports the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, about 7 years ago, my good friend and a good friend of many Members in this Chamber, the gentleman from Georgia (Mr. NORWOOD) was diagnosed with a life-threatening disease that, despite his own lifetime experience in the medical care field, he said he had never heard of before. In fact, the vast majority of Americans have never heard of idiopathic pulmonary fibrosis, or IPF. That is why we are here today, to raise the awareness of the American public about this debilitating and fatal disease so one day we may seek and find a cure.

IPF is a serious lung disorder for which there is no known cause, and more importantly, at this time no known cure. IPF causes progressive scarring or fibrosis of the lungs, gradually interfering with a patient's ability to breathe and ultimately resulting in death.

Recent studies have identified that approximately 83,000 individuals suffer from IPF in the United States, and an estimated 30,000 new cases develop each year. The availability of a new treatment option for IPF is essential to improving overall patient care and further research will be required to develop these new therapies as well as assess their safety and efficacy.

Over the past 7 years, as I have watched my friend, the gentleman from Georgia (Mr. NORWOOD), I have seen firsthand the debilitating effect this disease can have on a person's life, and given that the median survival rate for IPF patients is only 2 to 3 years, we are extremely fortunate to have our friend with us today. But unfortunately, each year thousands of Americans are not as fortunate as the gentleman from Georgia (Mr. NORWOOD) and that is why I encourage my colleagues to adopt this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, over 80,000 Americans, 5 million people worldwide suffer from idiopathic pulmonary fibrosis. As with so many diseases, the difficulty in diagnosing IPF indicates that the actual numbers may be much higher. Members of this body, as the gentleman from Georgia (Mr. DEAL) said, all have a personal connection to this disease. Our colleague, the distinguished member of our subcommittee, the gentleman from Georgia (Mr. NORWOOD) has battled the disease since 1998 and underwent a lung transplant about a year ago.

There are currently no effective treatments or cure for idiopathic pulmonary fibrosis. The only option for patients is a lung transplant, which simply does not come in time for so many who suffer from the disease. There is hope, but it requires the continued investment in the development of new treatments. Drugs designed both to treat the lungs scarred by the fibrosis and to suppress the inflammation it causes are currently in the experimental stages. We need to build on that progress and move on towards a cure.

□ 1800

This resolution reflects several important goals as we, government, patients and their doctors and society at large fight this disease. First and foremost, it underscores the need for research, not just in a new treatment for IPF, but into the causes of the disease so we can understand more about this and some 200 other related diseases, particularly various kinds of lung disorders.

It also underscores the point of funding NIH and CDC, not making huge tax cuts and underfunding these very important government programs that we realize in this country more and more are so important for all people in this country.

It is appropriate this body recognize the goals and ideals of a National Idiopathic Pulmonary Fibrosis Awareness Week.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank the chairman and my friend for yielding me this time.

Mr. Speaker, I ask my colleagues to support H. Con. Res. 178, which I did author, the purpose of which is to bring attention to idiopathic pulmonary fibrosis to as many people as humanly possible. This is known as IPF.

I would like to start, of course, by thanking all of the IPF patients, survivors, advocates who have come to Capitol Hill this week to just simply make us aware of this disease. I know the story these brave individuals have to tell because it is one that I have lived.

I was very fortunate to be correctly diagnosed with IPF when I was in the early stages of the disease in 1998, diagnosed right here in this Capitol. IPF is too often misdiagnosed in the critical, critical early stages. I was blessed to have a loving family, who saw me through the difficult times as this disease progressed. I was fortunate enough to receive a single lung transplant late last year that spared me from further harm from the disease. I am incredibly grateful to have the best nurse I could ask for in my loving wife, Gloria.

I am thankful for the opportunity to join a community of terrific folks who want nothing more, nothing more, than to bring needed attention to this relatively unknown disease.

IPF is a progressive and generally fatal lung disease. It is marked by the inflammation and the scarring of the delicate lung tissues and hinders the lung's ability to transport oxygen to the rest of one's body.

While my colleagues have seen me come back from the effects of IPF since my lung transplant, a transplant is really not a treatment, and it is certainly not a cure. A transplant is a medical decision of last resort in the face of an irreversible disease whose causes remain a mystery for us today.

Unfortunately, a lung transplant will not work for every patient, in every case; and as I well know, organs are very much in short supply in this Nation.

Mr. Speaker, in an era in which medical science can do much, there is no reason why we cannot give hope to the 83,000 Americans currently living with this disease and the 31,000 that are diagnosed each year. The reason the number of current patients remains so low despite over 30,000 new cases each year is that far too many of those with IPF face severe disability and death within a few short years. In fact, two thirds of IPF patients die within 5 years of developing the disease. That is why this resolution is so important.

H. Con. Res. 178 will bring awareness, I hope, to the severity of this devastating disease by encouraging the President to recognize IPF Awareness Week. It will also recognize and encourage the need for further research.

further research into IPF in the hopes of finding a cause and a treatment and a cure.

Over 50 of our colleagues have already cosponsored, Mr. Speaker, this important resolution; and I urge this body to join with me in taking the first step toward a cure by passing this resolution to bring more attention to IPF in Washington, our capital city, and in our Nation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Ohio for yielding me this time.

I am a cosponsor of this legislation; and, of course, there could be no more eloquent speaker than the gentleman from Georgia (Mr. NORWOOD) on this question. But I think if there is anything we emphasize with this resolution it is that in this instance research is equal to pounds and pounds of cure. So I rise to support H. Con. Res. 178.

This legislation recognizes the need to research the cause of and find a treatment and cure for IPF. It also recognizes the Coalition of Pulmonary Fibrosis and urges the President to designate an IPF Awareness Week. As the number of over-50 bipartisan cosponsors indicates, there is very strong support for this legislation.

Let me just mention a few points that I think are worth emphasizing. The disease is debilitating and generally fatal, causing an irreversible loss of the lung tissue's ability to transport oxygen to the organs. It moves very quickly. There is no proven cause of IPF, and 83,000 Americans are living with this disease and 31,000 are diagnosed each year. Idiopathic pulmonary fibrosis progresses quickly, often causing disability or death within a few short years.

So the movement of research has to be key. I know that research will lead to solution. And when we start determining in the budget reconciliation, Mr. Speaker, I am asking that our colleagues be considered in their thoughts that not only is it most important to cut, cut, cut, but it is important to be able to find the resources to do the important work that our constituents have sent us to do.

Furthermore, a recent study found that IPF may be five to 10 times more prevalent than previously thought. It is unknown whether this may be due to an increased prevalence of the disease or to a previous lack of definitive guidelines for diagnosing IPF. This research effort will help us understand that. Unfortunately, many patients, particularly in the early stages of the disease, can continue to go about their normal activities for months or years before the disease runs its course. IPF can strike anyone, but the disease tends to affect men more than women and usually strikes people between the ages of 50 and 70.

Mr. Speaker, I ask my colleagues to join in the leadership of this resolution and support it enthusiastically.

Mr. Speaker, I rise in support of H. Con. Res. 178. This legislation recognizes the need to research the cause of, and to find a treatment and cure for IPF. It also recognizes the work of the Coalition for Pulmonary Fibrosis, and urges the President to designate an Idiopathic Pulmonary Fibrosis Awareness Week. As the number of over 50 bipartisan co-sponsors indicates, there is strong support for this legislation.

Let's take a moment to mention a few important facts about this issue:

Idiopathic pulmonary fibrosis is a serious lung disorder causing progressive, incurable lung scarring.

Idiopathic pulmonary fibrosis is the most common form of interstitial lung disease.

There is no cure or treatment for this disease.

The disease is debilitating and generally fatal, causing an irreversible loss of the lung tissue's ability to transport oxygen to the organs.

There is no proven cause of idiopathic pulmonary fibrosis.

There are 83,000 Americans living with this disease and 31,000 are diaghosed each year.

Idiopathic pulmonary fibrosis progresses quickly, often causing disability or death within a few short years.

It is often misdiagnosed in the early stages.

The median survival rate for idiopathic pulmonary fibrosis patients is 2 to 3 years, and about two thirds of idiopathic pulmonary fibrosis patients die within 5 years of developing the disease.

Furthermore, a recent study found that IPF may be 5 to 10 times more prevalent than previously thought. It is unknown whether this may be due to an increased prevalence of the disease or to a previous lack of definitive guidelines for diagnosing IPF. Unfortunately, many patients, particularly in their early stages of the disease, can continue to go about their normal activities for months or years, before the disease runs its course. IPF can strike anyone, but the disease tends to affect men more than women and usually strikes people between the ages of 50 and 70.

In closing, I support this legislation and the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. WESTMORELAND).

Mr. WESTMORELAND. Mr. Speaker, I want to thank my friend from Georgia for yielding me this time.

Mr. Speaker, I rise in support of House Concurrent Resolution 178, bringing attention to the need to research and to find a cure for idiopathic pulmonary fibrosis. I am one of more than 50 bipartisan cosponsors of this legislation.

I first learned that the gentleman from the great State of Georgia (Mr. NORWOOD) had this disease a few years ago, and I was amazed to learn of its effects. There is no cure or treatment for IPF, and the disease continues to build up scar tissue in the lungs until fatality results in many cases.

More than 31,000 Americans are diagnosed with IPF each year, and the median survival rate is only 2 to 3 years.

Although IPF is three times more common than cystic fibrosis, it only receives a fraction of the research funding. This resolution does the right thing by calling attention to it and increasing public awareness. Increased awareness will also help the diagnosis process to help ensure that the disease is caught as early as possible. Many times the disease is misdiagnosed in the early stages and doctors do not even realize the effects the disease is having until it moves on to its later stages.

The gentleman from Georgia (Mr. NORWOOD), my friend, has been incredible in his strength and has been an example to me. He did not let the difficulties he faced prior to his lung transplant slow him down. And after the transplant, he continued to zoom around the Capitol, often quicker than I, as he has recovered. Even when he was still on oxygen full time, he was up speaking to this House and addressing the issues and concerns of his constituents. He did not miss a beat. Mr. Speaker, I am proud to be able to serve with such a great American as the gentleman from Georgia (Mr. NORWOOD).

I ask for support of House Concurrent Resolution 178.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, House Concurrent Resolution 178 takes an important step toward recognizing the need to research not only the cause of idiopathic pulmonary fibrosis but also viable therapies and, we hope one day, a cure.

It has recently been cited that IPF may be five to 10 times more prevalent than previously documented, and this may be due to increased awareness or an increased prevalence of the disease state. Regardless of what the reason, we need to act.

That is why I applaud the gentleman from Georgia (Mr. NORWOOD), my friend and colleague, for bringing this resolution to the floor. It is important to elevate the education and awareness of this disease in our country because 83,000 Americans, including the gentleman from Georgia (Mr. NORWOOD), are currently living with idiopathic pulmonary fibrosis.

In that spirit, I want to commend the gentleman from Georgia (Mr. NORWOOD) for his courage and resilient spirit. He has fought this disease every step of the way, always maintaining his hard work and commitment to this great body, the House of Representatives; and I want him to know his dedication is deeply appreciated.

Unfortunately, there is a lot we do not know and do not yet understand about this debilitating disease. We do not know what causes IPF, and in many cases the disease is misdiagnosed.

Additionally, we are relying on treatment therapies that are more than 30 years old. These IPF patients need the help of cutting-edge technology. Unfortunately, researchers are being held back by the lack of appropriate funding. Currently, IPF research receives only a fraction of the funding of what other diseases get that are less prevalent in our country.

I am proud to be an original cosponsor of this legislation. I urge my colleagues to support these efforts to bring national attention to this horrible and devastating disease.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I listened to this debate, and I hope that all of my friends on the other side of the aisle who support this resolution, as we all should, keep this in context. As we spend a billion dollars a week in Iraq, as my friends on the other side of the aisle insist on tax cuts for the wealthiest people in our society, as we continue to drive this Federal budget deficit up and up and up, and I hear some people in this body say we need to cut National Institutes of Health spending, that we need to cut Centers for Disease Control in the gentleman from Georgia's (Mr. DEAL) area, that we need to cut programs on Medicaid and Medicare, I hope they will remember this debate tonight about how important this program is to the gentleman from Georgia (Mr. NORWOOD) and how important this program is to so many in our country who, frankly, do not have the good health plans and the good insurance that Members of this institution have.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I guess I hope people will remember this debate too because this is one of the debates that ought to be absolutely nonpartisan and ought to have not any political bickering in it. This is about the lives of a lot of human beings that we need to work on.

I am on the floor as maybe the only Member of Congress who has IPF. I may not be the only one, but I am the only one we know for sure has IPF.

□ 1815

I am here to bring this resolution to the floor to talk about what this disease is, what IPF is, and to say it over and over again, because that is how you get the word out.

I can speak from personal experiences that IPF is a serious lung disorder. Many may not know it, but IPF is the most common form of interstitial lung disease. I guarantee you, most of us do not know that.

Idiopathic, and I have been asked this 1,000 times, means that there is no known cause. It is hard to cure something when you do not know what caused it. Pulmonary fibrosis has no cure or treatment. However, I would say to my friend the gentleman from Ohio (Mr. BROWN), having a new lung certainly extends one's lifetime, and I am going to be here to argue with him a lot longer than the statistics say. So do not give up. I am going to be with you awhile. With this disease, a person's ability to breathe becomes increasingly restricted, and it is painful, and eventually, of course, it results in death.

As we review the legislation today and as we think about what we are actually asking to be done, I want us to remember there are 83,000 Americans today, right now, that are facing this painful reality of IPF, and they all cannot get a lung. I was blessed to have one, but not everybody can.

Unfortunately, an unknown number above and beyond those 83,000 Americans succumb to its fatal outcome without even knowing they have had IPF. There is little awareness of IPF, and it is often missed or underdiagnosed in this Nation, as the gentleman from Georgia (Mr. GINGREY) pointed out. It is true.

In fact, a recent study found that IPF may be five to ten times more prevalent than we previously thought. It is unknown whether this increase is due to an actual spike in the occurrence of the disease or simply a previous lack of definite guidelines for diagnosing IPF.

Even those who are properly and quickly diagnosed, as I was fortunate enough to be, must face the facts that the medium survival rate for idiopathic pulmonary fibrosis patients is 2 to 3 years. I would say to the gentleman from Ohio (Mr. BROWN), do not count on that, I have a new lung. I am going to be around a lot longer than that. About two-thirds of the IPF patients die within 5 years of developing the disease. I am not going to do that. I was blessed to have a new lung.

Furthermore, knowledge of this disease is hindered by very low public awareness, awareness that is alarmingly low when compared to other less prevalent diseases. A recent poll indicates only 29 percent of Americans know the first thing about IPF, half of which are familiar only with its name. This resolution is a start. It is an effort to make IPF, idiopathic pulmonary fibrosis, a well-known name.

Lastly, I make a plea to all of Americans and all of the families in America to consider being organ donors. It is not simply a matter of simply deciding you will be a donor. You must talk this over with your family at your kitchen table.

I want to talk to everyone about this donor list. You cannot just be a donor. It does not just work that way. You have got to talk this over with your family, and you have got to talk to them at your kitchen table. God forbid if you or any of your family have to have this discussion in an emergency room. That is not the place to have it. My donor saved my life and four other lives a year ago October 5.

This is important stuff that is affecting thousands of people. It is worth doing. But you must discuss this with your family. On behalf of other IPF patients and others who are suffering, I hope all Americans will consider this and discuss and talk over being an organ donor. Currently, a lung transplant is simply the only hope for long-term survival for victims of my disease, IPF.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, so many of us in this body prayed for and were thrilled by recovery of the gentleman from Georgia (Mr. NORWOOD), and I appreciate tonight, all of us do, how he has said so well how he, because he has insurance, because he knew how to negotiate the whole medical care system, health care system, how lucky he has been, and how so many in this country are not so lucky. I appreciate that he said that.

As I said earlier, I hope we in this body can get serious at some point about the 45 million people without health insurance and about what we are going to do about Medicaid in this body, not to make cuts in Medicaid, but to make our health care system work better than it has in the past.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to say I certainly support this resolution and support all the good work of the gentleman from Georgia (Mr. DEAL) and the gentleman from Georgia (Mr. NORWOOD), and I think that this is the kind of thing that, if we cannot have more recognition of it, there would not be more success stories like the gentleman from Georgia (Mr. NORWOOD).

I have to say to my good friend from Ohio, who was elected the same year that I was, that we have always enjoyed the great spirit of this House in terms of debate, and we know that it is people like the gentleman from Georgia (Mr. NORWOOD) who add to that debate and make it a lot more fun to be up here, no matter what side you are on. And because the gentleman from Georgia (Mr. NORWOOD) was able to get his new lung, he came out here with a lot of vim and vigor from that class of 1994, and then he got kind of quiet for a while, and I know there are many, maybe on both sides, I cannot say to the gentleman from Georgia (Mr. NORWOOD), but who might wish you were still quiet at times.

But the reality is the gentleman is back, and he is back because he was one of the fortunate miracles. We are just delighted to see the blood is flowing back in his veins and the spirit is back in his heart and the ideas and thoughts are back in his mind.

Yet as we look at the gentleman from Georgia (Mr. NORWOOD) as a miracle, we know that there are lots of folks out there who may not be so fortunate. H. Con. Res. 178 makes it possible for others to know more about IPF, and it raises that recognition so that Congress can help its own internal education process so we can know what we can do and do a lot more studying and try to come up with what the cause is and so forth.

I want to say to the gentleman from Georgia (Mr. NORWOOD), best of luck to you. We all love you and we are glad you are back, and we pray for others in your same situation. I support H. Con. Res. 178.

H. CON. RES. 178

Recognizes the need to research cause of, treatment and cure for IPF.

Recognizes the work of the Coalition for Pulmonary Fibrosis.

Urges the President to designate an Idiopathic Pulmonary Fibrosis Awareness Week.

Over 50 bipartisan co-sponsors.

Idiopathic pulmonary fibrosis is a serious lung disorder causing progressive, incurable lung scarring. Idiopathic pulmonary fibrosis is the most common form of interstitial lung disease. There is no cure or treatment for this disease. The disease is debilitating and generally fatal, causing an irreversible loss of the lung tissue's ability to transport oxygen to the organs. There is no proven cause of idiopathic pulmonary fibrosis. There are 83,000 Americans living with this disease and 31,000 are diagnosed each year. Idiopathic pulmonary fibrosis progresses quickly, often causing disability or death within a few short years. It is often misdiagnosed in the early stages. The median survival rate for idiopathic pulmonary fibrosis patients is 2 to 3 years, and about two thirds of idiopathic pulmonary fibrosis patients die within 5 years of developing the disease.

The Coalition for Pulmonary Fibrosis (CPF) is a 501(c)(3) nonprofit organization, founded in 2001 to further education, patient support and research efforts for pulmonary fibrosis, specifically idiopathic pulmonary fibrosis. The CPF is governed by the nation's leading pulmonologists, individuals affected by pulmonary fibrosis, medical research professionals and advocacy organizations. It has more than 8,500 members nationwide, and is the largest nonprofit organization in the country specifically dedicated to helping those with IPF.

Congressman NORWOOD was diagnosed with IPF in 1998—due to the slow progression of the disease (if caught early) he was able to manage his condition until the summer of 2004.

Despite coming to the top of the transplant list several times in the intervening years, Congressman NORWOOD was judged 'too healthy' for a transplant and thus continued his duties in Washington and Georgia.

In the Summer of 2004 Congressman NORWOOD's case began to worsen (as the disease does as it runs its course) and he was forced to pursue the only medical option available to IPF patients; a lung transplant.

CHARLIE received a single lung transplant at Inova Fairfax Hospital in Fairfax, Virginia on October 5, 2004.

While there is no standard recovery model for transplant patients, generally speaking, Congressman NORWOOD's recovery was impressive with him leaving the hospital in short order and continuing his work in Congress by January 2005.

While still needing the assistance of oxygen at times, Congressman NORWOOD continues his recovery and remains an active member of the 109th Congress.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the cooperation of the gentleman from Ohio (Mr. BROWN) in bringing this resolution to the floor. As you have heard, those of us from Georgia have paid tribute to the gentleman from Georgia (Mr. NORWOOD), who has been the victim of IPF. But it is a testament to his fighting spirit and to the esteem with which we hold him that we have used his situation as the example for which this legislation has been based.

We urge the adoption of the concurrent resolution so that those in the American public as a whole can become aware of the significance of this disease. Hopefully through our efforts here and the efforts of researchers across the country, we will find a cure for this now fatal disease.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SODREL). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 178, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DEAL of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1281. An act to authorize appropriations for the National Aeronautics and Space Administration for science, aeronautics, exploration, exploration capabilities, and the Inspector General, and for other purposes, for fiscal years 2006, 2007, 2008, 2009, and 2010.

MESSAGE FROM CHIEF OF STAFF FOR HON. WILLIAM J. JEFFERSON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Nicole Venable, Chief of Staff for the Honorable WILLIAM J. JEFFERSON, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
September 28, 2005.

HON. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for testimony issued by the U.S. District Court for the Eastern District of Virginia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

NICOLE VENABLE,
Chief of Staff.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 6913, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Congressional-Executive Commission on the People's Republic of China:

Mr. LEVIN, Michigan
Ms. KAPTUR, Ohio
Mr. BROWN, Ohio
Mr. HONDA, California

KATRINA/RITA RELIEF AND FISCAL DISCIPLINE

(Mrs. SCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Speaker, I rise before you tonight to talk to you about something which I have a lot of experience with as a wife and a mother, budgeting.

Today, an honest estimate of what it will cost to pay for the Federal Government's responsibilities on the Gulf

Coast is approximately $100 billion. This money will go to rebuild things like levees, highways, bridges, hospitals and schools, the infrastructure needed for the private sector to rebuild this devastated region. That is a lot of money, money that no one planned or anticipated.

As we all know, when the car breaks down or the dishwasher stops or any other unanticipated expense comes up, we must prioritize and separate the needs from the wants.

Raising taxes is not an option. The last thing anyone in this country needs is the burden of giving the government more money to spend, spend, spend. Our economy and thousands of jobs will pay the price. We need to make some tough decisions, realize what is important to us as Americans, what we need, and decide what can wait until another payday.

Some may call for deficit spending, but that is not the answer. American families make tough budget decisions every day. A broken furnace means no trip to Disney World. Increased prices at the pump means less meals eaten outside the home. It is a matter of priorities. It is a matter of responsibilities.

The government needs to prioritize, start acting like responsible adults, and quit spending money like it grows on trees.

□ 1830

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SODREL). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BUDGET CUTS THAT MAKE SENSE FOR ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I appreciate the fact that the gentlewoman who preceded me in the well was speaking to the issue of paying for the disaster, not borrowing or obligating future generations to borrow. This House, in fact, 2 weeks ago, with 40 minutes of debate, 40 minutes and no amendments allowed, borrowed $51.8 billion for the beginnings of hurricane recovery efforts, on top of the $10 billion borrowed the week before.

Now, she said one thing I do disagree with, which is you cannot ask the rich people to pay for any share of this. Now, it is true they live on high ground, I understand that; so, for the most part, they are not affected by disasters. They have private security, they fly on private jets, they live in a different world than most Americans. But she and the majority are saying, there is no way they should be asked to pay for a share of these disasters, unlike working Americans who are paying day in and day out for the money that is being borrowed.

If Katrina cost, she said $100 billion, let us say $200 billion, if we just did not extend the tax cuts for people who earn over $300,000 a year and limited estate tax relief to estates worth less than $6 million, that is most small businesses where I come from, and family farms and tree farms, then that would pay for Katrina over the next 10 years 5 times over.

Well, okay. She says that is off the table. Well, let us look elsewhere. They have an interesting list of cuts. As we saw the abject poverty of the inner city folks in New Orleans, they are talking about trimming on medical care for poor people, food assistance for poor people, education for middle class and poor people; those are the things that are being targeted on that side of the aisle to pay for this.

I would suggest a couple of other places we might cut. Now, we cannot even build levees that can withstand a category 3 hurricane; we do not have new energy efficient forms of transportation which puts us in enthralled to the Saudis and other enemies of the United States, and the President wants to borrow $1 trillion to go to Mars; and NASA, which was mentioned just previously, is going to spend $100 billion to go back to the moon. They want to get some more dust and rocks.

Well, how about we cut those programs and devote that money, the $100 billion to go back to the moon. That would pay for Katrina, according to the numbers previously given, and the $1 trillion would pay for that and a lot of other things in America if we did not go to Mars. I do not think we can afford that now. Until maybe we can build levees that can withstand a category 4 and maybe even a category 5 hurricane, and we do a few things about the areas in the Pacific northwest that are not earthquake proof, and other preventive measures around the country. But, hey, maybe people do not want to cut NASA because it is based in Texas.

So, okay. How about then the redundant, useless Cold War fighter called the F–22, which is now 5 times over its original cost estimates and is not needed. That would pay for Katrina relief 3½ times over, and we could depend upon the F–16 until the joint strike fighter, a little more economical version of a fighter plane, is developed for future enemies and wars, but I am sure they would not want to do that. Well, okay. We cannot cut that.

Well, let us talk about something else. How about subsidies to farms where farmers earn over $100,000 a year. I really do not have very many farmers in my State who earn over $100,000 and, guess what, most of the farmers in my State could not get subsidies. But those farmers in the midwest who earn over $100,000 a year in the northern Midwest get very substantial subsidies under the Freedom to Farm Act. If we limited farm subsidies to farmers and families on family farms who earn less than $100,000 a year, in 10 years, we could pay for 1½ Katrinas.

So, instead of cutting the medicaid program, putting the burden on the States and depriving poor people of health care, instead of cutting food stamps, instead of cutting education programs that are important to average Americans, instead of stupid, across-the-board cuts that cut abysmally wasteful programs the same as essential programs, that is how we got in trouble with FEMA, they are cutting an essential program, we could do a few different things. But that would mean maybe a little rethinking on that side of the aisle. Ask the wealthy to carry their fair share of the burden, eliminate the redundant return to the moon, put off the mission to Mars, cancel a Cold War-era fighter designed to have air superiority versus the Soviet Union in Europe, and/or, maybe just cut back on subsidies for farmers who earn over $100,000 a year. That would more than pay for Katrina.

If we do all of those things, that would be 15 times what we need to pay for Katrina, and then we could begin to reinvest in FEMA, education and health care, and things that are essential to all Americans, and maybe even veterans' benefits too.

MADD CELEBRATES SILVER ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, William Murphy had everything going for him. He had a beautiful bride, three young children, and he was about to embark on a new chapter in his life. On June 16, 2005, all his dreams came to a crashing halt on a hot, humid, summer night in Dayton, Texas.

Mr. Murphy had spent the evening celebrating with his family. He was scheduled to graduate as a medical assistant from the Texas School of Business the next day. On his way home from his mother's house in Baytown, Texas 10 miles away, his car stalled on a darkened stretch of rural State highway 146. He and his sister pushed the car to the shoulder and turned on the flashers. His 9-month-old twin daughters, Mariah and Miranda, remained strapped in the car seats and his wife Amanda cared for the 19-month-old William, Jr. They then waited for assistance.

Soon after, Murphy saw a set of bright headlights heading toward the family. He was relieved because he assumed his mother, whom he had just called when the car stalled, was on her way. But this pickup truck barreling toward his family was not his mother and it was not stopping. Seconds before the impact he attempted to warn his family, but it was too late. He witnessed the destruction of his family that night. The truck never stopped, never slowed down, and crashed into the back of Murphy's vehicle.

Murphy's vehicle was pushed a quarter of a mile down the road. When he got to his vehicle, the trunk was smashed into the back seat. He struggled to get his twin daughters from the wreckage. He found his wife laying in the grass unconscious and his son's barely breathing body 5 feet away.

The driver of the truck stumbled out of the vehicle and it was clear he had been drinking. He failed a sobriety test and he was charged with three counts of intoxication manslaughter. Murphy's twin daughters were killed that night. So was his son. His wife and sister were badly injured. Mr. MURPHY is still struggling with the assault on his family and the death of all of his children.

Unfortunately, this story is all too familiar to the many families that have been affected by drunk drivers. Mothers Against Drunk Driving, or MADD as we know them, is working to prevent this sort of senseless crime. MADD's mission is to find effective solutions to drunk driving and underage drinking problems, while supporting and helping those who have been affected by the pain of these senseless crimes. Founded by a small group of California women in 1980 after a 13-year-old girl was killed by a hit-and-run repeat offender, MADD has saved more than 300,000 lives through their outreach and education programs.

Mr. Speaker, as founder of the Congressional Victims' Rights Caucus, I have worked closely with many members of MADD this year in the effort to protect the rights of crime victims and protect money in the Victims of Crime Act.

The National Conference of MADD is here in D.C. this week celebrating their silver anniversary and continuing their fight against drunk driving and their mission to hold drunk drivers accountable for their crimes. There are hundreds of MADD staff, volunteers, board members, and past presidents coming from all across the Nation and as far away as Guam to take part in this conference. These people coming to town are kids, mothers, daughters, fathers, victims, and survivors who have been affected by drunk driving.

I would like to commend them for their work on behalf of victims and their cause-driven efforts to stop drunk driving and the drunk driving epidemic. Thanks to the support of Mothers Against Drunk Driving, our roads and highways and children, friends, and family are safer today. Due to their efforts, alcohol-related traffic deaths have declined.

Mr. Speaker, in the 1950s, when I was a little kid, my grandfather worked for the Texas Highway Department. In the middle of the day while laying asphalt on what is now interstate 35 between Dallas and Austin, Texas, he was struck and killed by a drunk driver. The driver was never punished because he was some big shot from Dallas. My grandmother became a widow and never quite got over the loss of my grandfather. She spent the rest of her life supporting herself by working in a department store selling dresses until she was required to quit at the age of 75. My grandmother died only a couple of years ago in her robust 90s, but she often mentioned until her death how she missed my grandfather.

In those days there was no MADD organization. But thanks to MADD, the public attitude and the acceptance of drinking and driving has changed dramatically.

Mr. Speaker, there are few tragedies that bring as much pain to families and communities as these violent crimes caused by drunk drivers. This pain is made even worse when our community's young people are injured and involved. As a criminal court judge in Texas, I saw firsthand what the effects of drunk driving do to a family and to our communities. This is one of the many reasons I support the efforts of MADD and I encourage MADD to continue their good fight. I admire the women who started MADD and those countless women who are still working.

It reminds me of one of the statements my grandmother made many years ago. She said, "There is nothing more powerful than a woman who has made up her mind." Mr. Speaker, that is just the way it is.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 109–238) on the resolution (H. Res. 468) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 68, CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 109–239) on the resolution (H. Res. 469) providing for consideration of the joint resolution (H. J. Res. 68) making continuing appropriations for the fiscal year 2006, and for other purposes; for consideration of motions to suspend the rules; and addressing a motion to proceed under section 2908 of the Defense Base Closure and Realignment Act of 1990, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 109–240) on the resolution (H. Res. 470) providing for consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

IRAQ AND THE BUSH ADMINISTRATION'S GREED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, for the last 2 years, Halliburton and subsidiaries such as Kellogg, Brown, and Root, have received billions of dollars in contracts to rebuild Iraq. Despite the handsome profits, Halliburton, which used to be run by the Vice President, DICK CHENEY, has not had to offer competitive bids on the vast majority of these projects. Earlier this week a Halliburton subsidiary received yet another no-bid contract for reconstruction efforts.

This should not come as a surprise to anyone, anyone who has monitored the greed, the selfishness, the sheer corruption with which the Bush administration has administered Iraq's reconstruction. Only this time, the contract was not for Iraq, it was for hurricane relief and reconstruction efforts here in the United States. Finally, the chickens have come to roost.

Mr. Speaker, my colleagues might recall that Halliburton is the company that overcharged the United States Government for meals served to soldiers serving in Iraq. It is also the company that made the United States Government pay a ridiculous markup on gasoline purchased from nearby Kuwait. Unfortunately, the Bush administration did not seem to mind. Halliburton's corruption certainly did not stop the White House from turning to them yet again as its primary source for no-bid government contracts in the Gulf.

But the sad truth is, these examples of corruption and incompetence are not just isolated to Halliburton. They are emblematic of the Bush administration itself.

This is the administration that presided over $9 billion in missing funds that was supposed to pay for Iraq's reconstruction. This is the administration that, for over a year, neglected to provide the lifesaving protective body armor that our troops needed to survive. These examples are not isolated. No, they are indicative of how the Bush administration has approached both the war in Iraq and the recent hurricane devastation in the gulf coast.

The sheer ineptitude surrounding the war in Iraq has been the most staggering of all. The Bush administration had no plan for how to conduct the war, they had no plan for securing the country once Saddam was deposed, and now they have no plan for ending the war.

It is clear that the military situation in Iraq is not improving. In fact, it is the very presence of nearly 150,000 U.S. soldiers who appear as occupiers that so enrages Iraq's insurgency.

□ 1845

By bringing our troops home, we can save both American and Iraqi lives, and we can reunite thousands of American families in the process. That is why I have called on the House Committee on Armed Services and the Committee on International Relations to hold hearings to address how best to achieve a military disengagement. Since they will not address this issue, we will.

Two weeks ago, I held an informal bipartisan hearing to address how to end the war in Iraq. Not when, but how. We heard from an expert panel of witnesses who each testified that the need for a change in U.S. policy is absolute in Iraq. This is not about finding the one right approach. It is about getting the conversation started. It is about putting all the ideas on the table.

Mr. Speaker, my hope is that last week's hearing will help begin a discussion that we desperately need, one that is long overdue, one that will help save lives, how to end the war in Iraq, and how to bring our troops home.

CALL FOR PEACE IN ETHIOPIA

The SPEAKER pro tempore (Mr. SODREL). Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I rise today to discuss democracy and elections in Ethiopia. As this country has been a close ally of the United States in the war on terror, it is critical that we encourage their evolution from monarchy to communism to democracy.

I used to live in Ethiopia as a child, and I lived there when Haile Selassie was the emperor. And even under a monarchy, Ethiopia had a lot of good things going for it. And as they have always been an ally of ours, strangely, we often forget them.

Ethiopia is divided into nine states along linguistic and ethnic lines. It is a 3,000-year-old civilization which until the 1970s was under a monarchy, and then a brutal Marxist junta through him over. Civil war and famines racked the country in the 1980s. Calm finally began to return in 1991 when Meles Zenawi, who assisted in the overthrow of the junta, became president and finally prime minister 4 years later.

Since that time, Ethiopia has participated in a total of three elections. That is three elections in a 3,000-year history.

This past spring, Ethiopia held their second election since the introduction of multiparty politics and the first under international scrutiny. Thirty-five political parties vied for seats in the 547 seat lower house of parliament called the Council of People's Representatives. Voters also chose representatives in nine regional state parliaments that will appoint members of parliament's upper house, the Council of the Federation.

Twenty-five million people registered to vote in the election. With 200,000 of those registered to vote living in villages inaccessible by roads, election officials on camels, pack animals, and boats fanned out to distribute ballots in time for the election. The National Electoral Board drafted 38 camels, 65 donkeys, 20 horses and 10 mules to carry election workers, ballots, stamps, counting sheets, and indelible ink to rural parts of a country twice the size of Texas.

In the weeks leading up to the May elections, peaceful mass rallies were held by both the ruling party and opposition parties in Ethiopia's capital of Addis Ababa. At one of the rallies, 250,000 supporters of one of the main opposition parties, the Coalition for Unity and Democracy, rallied in the capital's main Meskel Square. A government rally attracted 600,000 people the day before.

One voter, Solomon Aseffa, told reporters that after witnessing two public rallies in two days, democracy finally really was flourishing in Ethiopia. Another resident said that the peaceful rallies were indicative of the increasing political consciousness of the community. An Addis Ababa resident, Fitsum Argaw, urged young people to cast their votes in order to safeguard a democratic system that had been achieved through great sacrifice.

During the campaign, there was unprecedented media access for the opposition. They received equal time on state-run radio and the opportunity to participate in broadcast debates. One main opposition party even launched a text messaging campaign to get out the vote. European observers praised the openness to the run-up to the elections although they admitted that they witnessed intimidating tactics by the ruling party.

Despite the reports of harassment, there was a stunning 90 percent turnout of registered voters. Foreign election observers found out the worst problem had been the crowds, with some waiting for hours just to cast their ballots. A young female economics consultant called it "a great day because I am able to vote freely and that is a new thing here in Ethiopia."

The election results showed that while the ruling party held on to a majority, the opposition made major gains. However, opposition parties argued that the process was marred by fraud, intimidation, and violence. After the electric, Prime Minister Zenawi promptly banned all demonstrations for 1 month and assumed control of the capital police.

Sadly, events spiraled out of control after the university students were arrested for defying this ban. Ultimately, 36 people were shot dead by police and thousands were arrested after protests erupted over the election results. This type of bloodshed cannot be allowed to happen again.

This Sunday there is a rally scheduled to take place in Addis Ababa. Members of the main opposition parties, the Coalition for Unity and Democracy and the United Ethiopian Democratic Forces, plan to protest alleged fraud in the May 15 parliamentary elections and call for the formation of a national unity government to supervise new elections.

What we want the folks in Ethiopia to know is that we are behind them in the democratic process. We know it is not perfect, as we are still working on ours; but we wish them success in this great and noble endeavor.

I would like to take this time to urge peace and calm in Ethiopia. There has already been too much violence and bloodshed in the wake of these elections. However, in an ominous sign, on Monday forty-three members of the opposition were arrested ahead of Sunday's assembly and the branch offices of the opposition parties were raided and are now closed. Authorities have threatened "severe consequences" for any illegal acts or violence that occur during Sunday's event.

Mr. Speaker, the path to democracy is never a smooth and easy process. We are seeing that now in Iraq. In Ethiopia, democracy is in its infancy and it must be nurtured along by its leaders.

To that end, I would urge Prime Minister Zenawi and the Ethiopian authorities to allow this rally to occur peacefully. As pre-election rallies were held without violence and bloodshed, post-election rallies should be equally violence and bloodshed-free.

Ethiopia has come so far. From a monarchy followed by suffering under Communism, Ethiopians must be given the opportunity to flourish under the greatest of systems—democracy.

NO NEED FOR AN INDEPENDENT COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, a number of our friends across the aisle yesterday once again demanded that an independent commission is vital to what they said is getting to the truth about the response to Hurricane Katrina. They want a commission like the 9/11 Commission. They put their hope and their avowed trust in a so-called independent commission.

They also said, in fact, that there had been no adequate investigations in recent years, even though their glorified 9/11 Commission occurred during that time. Yet it was their glorified 9/11 Commission that recommended putting FEMA under Homeland Security even though it had been working just fine where it was. FEMA previously had the ability to put resources where it needed them without worrying about a higher boss redirecting resources in the budget. Well, folks got what they wanted, and it may have been a huge mistake.

Our friends across the aisle said yesterday that all that goes on around here is whitewashing and a cover-up and that is all Congress will do anymore. But during my years as a judge, I noticed people will often ascribe to the opponents the very motivations and characteristics that they themselves have and then assume that the others around them are just as devious as they are. Now, whether or not that applies here, I will leave for other consideration.

The fact is, however, if they bear to watch the hearings that have been on C-SPAN or gone to the hearings themselves instead of calling for a press conference or participated in some way, they have would have seen that tough questions were being asked. In fact, some were so tough they were really a bit unfair.

It is Congress's job to oversee such things, and the mere fact that Congress has punted such obligation in other cases so it can point blame elsewhere if a bad decision is made is no reason to run from our responsibility here. In the congressional hearings both sides get to ask questions. You get to submit witnesses. And if you do not like the majority report, you file a minority report.

That is not whitewashing. It is simply disingenuous for people to come to this building and say by their actions and their words that if they cannot be in charge, then they are simply not going to participate. Like on schoolyards, some child stamping their foot, stomping around saying, if we are not going to do it my way, if I am not in charge, I will not play. The trouble is this is not a game. This is our Nation at stake.

Members of Congress were elected to do a job, not complain why someone should be doing it for us. We do not need an independent commission. We need some additional independent-thinking Members across the aisle to step up and help us by doing their job.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BUTTERFIELD. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from Ohio (Ms. KAPTUR).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

RYAN WHITE CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BUTTERFIELD) is recognized for 5 minutes.

Mr. BUTTERFIELD. Mr. Speaker, I rise this evening to speak on the importance of reauthorizing the Ryan White CARE Act. This act has been so valuable in providing services to those persons infected with HIV/AIDS. I want to thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for her passion and her work and her advocacy on this issue. Her work has been unparalleled in this Congress.

Mr. Speaker, I want to encourage my colleagues to reauthorize the Ryan White CARE Act at $3.1 billion to ensure that today's health care needs of people living with HIV/AIDS and their families are adequately and consistently met. Today, unlike the past, those most likely to be infected with HIV are people of color, women, and our youths. This act directly funds medical and support services for approximately 533,000 individuals and their families living with HIV/AIDS each year. Persons of color represent 88 percent. 88 percent of the clients that are being served.

HIV/AIDS is no longer a death sentence. Great strides in medical technology have slowed the progression from HIV to AIDS, allowing people with HIV to live longer, to live healthier and more productive lives.

This act should be authorized in a manner that allows it to fully respond to the needs for underserved and uninsured populations living with HIV/AIDS.

Mr. Speaker, African Americans in this country are disproportionately affected with HIV/AIDS. In 2000, African Americans made up 12.3 percent of the U.S. population, but they account for 40 percent of the diagnosed AIDS cases. In North Carolina, my home State, the total number of new AIDS cases in 2003 was 1,083; 724 of these cases were found among African Americans.

In fiscal year 2005, this act was funded at $2.073 billion, but that is not enough. Funding should not be shifted from one region of the country to another based on perceived severity of need. Instead, the act should be adequately funded so that it can ensure progress in regions where HIV infections have slowed while targeting regions that are being hard hit by the epidemic. By increasing the reauthorization level to $3.1 billion, the CARE Act will be able to provide services to both urban and rural areas, which will put an end to the competition between health care providers whose clients are desperately needing funding.

EXCHANGE OF SPECIAL ORDER TIME

Mr. DREIER. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Texas (Mr. BURGESS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

HONORING CHRIS COX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, on the 2nd of June our very distinguished colleague, Chris Cox, was nominated by President Bush to become the chairman of the Securities and Exchange Commission. On July 29, the Senate voted unanimously to confirm Chris as the 28th chairman of the SEC. His nomination was widely heralded. That economic guru, Larry Kudlow, said, "Chris Cox's keen intellect and free market view point will provide a breath of fresh air at the Securities and Exchange Commission."

☐ 1900

The majority leader in the Senate said, "Chris Cox will bring an experienced and steady hand to the Securities and Exchange Commission."

Stanford law professor, who is a former SEC commissioner, Joseph Grundfest, said, "We should give a great deal of respect and deference to Chris Cox's tremendous intellectual abilities and political skills."

Mr. Speaker, I mention this praise because it so clearly shows that the gain at the Securities and Exchange

Commission is a significant loss for us here in the House of Representatives. As his colleagues in Congress, we will all miss working with Chris.

Chairman Cox was first elected to the House in 1988 to represent Orange County, California. During his nine terms in office, he gained a well-deserved reputation as a hardworking, action-oriented, fair and bipartisan Member. In fact, he said one time, "The well-worn partisan rut is not a place where you are going to get a lot of work done."

Chairman Cox did not spend a lot of time in that rut. He was an integral part of our California delegation, served on important committees and delved into critical issues facing our Nation. He served on the Committee on Energy and Commerce, the Committee on Financial Services, the Committee on Government Reform and the Committee on the Budget. He served as a member of the majority leadership for over 10 years as Chairman of the House Policy Committee.

Most recently, we all know Chris served as chairman of the Committee on Homeland Security when we established this new committee. Throughout his involvement in national security issues, he was very intimately involved in those throughout his entire 17 years in Congress. He was a tireless advocate for our men and women in uniform, a vocal anti-Communist, an active proponent of California's military bases, and an ardent supporter of the global war on terror.

As Chairman of the Committee on Homeland Security, Mr. Speaker, Chris pushed for common-sense reform to ensure that we spent homeland security dollars based on actual risk, and he left a legacy of very vigorous oversight at the Department of Homeland Security.

Additionally, as a representative from California, Chairman Cox was intimately involved in the effort to secure our border and give the border patrol the tools needed to apprehend anyone seeking to enter our country illegally, particularly those wishing to do our Nation harm.

It is fitting that he is now the country's top cop for the securities markets because he has long been committed to improving and supporting the free market.

Whether it was ending the double taxation on shareholder dividends or supporting innovative technologies with the Internet Tax Freedom Act or standing up for free trade by voting for permanent normal trade relations for the People's Republic of China or protecting investors from junk lawsuits with the Private Securities Litigation Reform Act, Chairman Cox has been in the forefront of making sure capitalism and financial markets work on their own when they can but, most important, work within the law around the clock.

When accepting the nomination to chair the SEC, Chairman Cox had this to say about the U.S. economy: "The natural enemies of this economic marvel are fraud and unfair dealing." At the SEC, he will continue, Mr. Speaker, to do what he practiced here in the Congress, instilling faith in the financial markets by targeting bad actors and protecting investors.

Throughout his life, Chairman Cox has held firm to his conservative beliefs; his faith in democracy; and his pro-growth, free market principles, even when his views were not always popular. When he was at Harvard in the early 1970s, where he earned a business and law degree, he placed a Ronald Reagan bumper sticker on his car, only to have his car repeatedly vandalized.

There was little that could intimidate Chairman Cox, and that was particularly due to the confidence he derived from his political lodestar, the man whose name was on that bumper sticker, Ronald Reagan.

Chris and I both share an intense admiration for Ronald Reagan. President Reagan taught our country to stand tall, to believe in and trust the virtues of democracy, the power of the individual, the promise of entrepreneurship, and the might of our military.

Chris had the distinct privilege of serving President Reagan as a White House counsel. He worked behind the scenes to promote Ronald Reagan's muscular foreign policy and effective, limited government domestic policy.

In 1988, during Chris's first campaign for Congress, President Reagan said, "I could always count on Chris Cox to push our agenda forward and to keep his sights on why we were in Washington." Mr. Speaker, those words still ring true today. Chairman Cox is a man of powerful intellect, whose selfless service of his constituents and of his country has earned the respect of everyone he has worked with, and he has never lost sight of why he was here.

I know he will continue to serve the people of the United States with unfailing dedication and the utmost integrity. That is how his colleagues in Congress knew him, and that is how his new colleagues at the SEC will come to know him.

President Bush gave Chairman Cox this mission to the SEC: "To continue to strengthen public trust in our markets so the American economy can continue to grow and create jobs." Mr. Speaker, if the success of his congressional career is any guide, there is no doubt that Chairman Cox will accomplish this mission.

I offer my sincere thanks to Chris for the pleasure of working with him as a member of the California delegation, as a dedicated disciple of President Reagan and as a force for progress here in the House of Representatives. I wish him the very best as he embarks on this new path.

Mr. RADANOVICH. Mr. Speaker, I rise today to pay honor and congratulate a now former colleague of mine, Congressman Christopher Cox. Mr. Cox has served the U.S. House of Representatives with great distinction for six terms. For 10 years Mr. Cox displayed his tremendous leadership capability as chairman of the House Policy Committee, and most recently as the founding Chairman of the House Committee on Homeland Security.

In June of 2005, the President of the United States had the foresight to recognize Mr. Cox's leadership ability and subsequently appointed Mr. Cox, Chairman of the Securities and Exchange Commission. Mr. President, you made a very fine choice. Mr. Cox holds an M.B.A. from Harvard Business School, as well as a J.D. from Harvard School of Law. He has taught Federal income tax courses at his alma mater. During former President Reagan's second term, Mr. Cox served as his Senior Associate Counsel. While serving in the U.S. House of Representatives Mr. Cox served in a capacity of leadership in every committee with jurisdiction over investor protection and U.S. capital markets. It seems obvious to me, as I'm sure it does to the rest of my colleagues that Mr. Cox is very well qualified for his new position.

While the citizens of Mr. Cox's 48th District will surely miss his commitment, I am sure they share my sentiments of congratulation to Mr. Cox for receiving this new appointment. I have thoroughly enjoyed my time as a colleague of Mr. Cox and look forward to working with him in his new capacity.

Mr. THOMAS. Mr. Speaker, I rise today to honor my friend and former colleague from California, Christopher Cox, for his excellent service as a Member of the House of Representatives and to wish him well in his tenure as Chairman of the Securities and Exchange Commission, SEC.

I commend the President for selecting Chris to serve in that capacity because Chris has the proven leadership ability, intelligence, fairness, and experience necessary to successfully manage the SEC, which has an integral role in ensuring our Nation's continued economic growth and prosperity. I have had the great pleasure of working with Chris as he exhibited his leadership abilities in the House through his service for over a decade as the Chairman of the House Republican Policy Committee and most recently as Chairman of the Committee on Homeland Security.

As many of you know, Chris has impressive academic credentials, which include earning both an M.B.A. and law degree from Harvard, where he also served as an editor of the prestigious Harvard Law Review. These credentials were supplemented through his service as a Federal appellate law clerk and as Senior Associate Counsel to the late President Reagan.

Moreover, Chris' experience has provided him with a broad and deep understanding of how our Nation's capital markets operate. As an attorney with an international law firm, Chris specialized in venture capital and corporate finance, and in his 18 years of service as a Member of the House, Chris served on the Energy and Commerce, Financial Services, and Government Reform Committees. During his House career, Chris was an ardent proponent of legislation to improve the budget process, eliminate the double tax on shareholder dividends, reform medical malpractice litigation, and repeal the estate tax. I worked with Chris on these issues and I am pleased that we were able to enact legislation to address capital gains, dividends, and estate taxation.

While I will miss working with Chris in the House, I look forward to working with him in his new role. Accordingly, I ask my colleagues to join me in wishing him well as he continues to serve as a free-market advocate in his new capacity.

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today to honor our former colleague and my good friend, the Honorable Christopher Cox.

For almost 20 years, Chris Cox has served his country nobly, admirably, and to the best of his ability as a public official and legislator. Now President Bush has tapped him for a new chapter in his public service career as the next Chairman of the Securities and Exchange Commission.

In making this choice, the President could not have picked a more qualified, a more determined, and a more able candidate. Chris Cox has extensive experience as an attorney specializing in venture capital and corporate finance and a lecturer at Harvard Business School where he taught Federal income tax law. He began his service to our nation as a Senior Associate Counsel to President Reagan, advising the President on a range of issues. Now he will continue this service in a different capacity as the Chairman of the SEC, where he will have a platform to encourage corporate responsibility and raise investor confidence.

From 1988, until very recently, Chairman Cox represented Orange County faithfully in the U.S. Congress. In this body, his leadership was essential in authoring the Private Securities Litigation Reform Act and the Internet Tax Freedom Act. Chairman Cox was also instrumental in the creation of a permanent Homeland Security Committee, on which he served as the first Chairman. No matter his role in this House, he continuously worked for a smaller and more efficient government, a fiscally responsible budget, and an overall better America.

For the last 7 years, I had the great privilege of being his colleague in this House. Here I witnessed firsthand the depth of his intellect and the extent of his devotion to our nation. I also witnessed his compassion and care for the residents of south Orange County. He represented them loyally and they rewarded him with eight consecutive reelections to the House of Representatives.

As Chairman Cox leaves these halls to continue his public service at the SEC, I can say with certainty that he will be missed by his fellow lawmakers, his constituents, and the American people. We can take solace, however, in his call to a higher duty. In this time of war and economic uncertainty, America needs capable leaders—leaders with experience, with knowledge, with determination—leaders like Christopher Cox.

As Chris Cox begins his new challenge as Chairman of the SEC, I am confident that the qualities that made him such a great Congressman will likewise make him an excellent Chairman.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to thank my colleague, Chris Cox, for his service to this House, and to Orange County California, a region we both had the privilege and the responsibility to represent.

I would also like to take this opportunity to wish now Commissioner Cox good luck in his new position at the Securities Exchange Commission, SEC.

As a former constituent, a member of the investment banking community, I know how important Mr. Cox's new job is to the health and security to our Nation's economy.

The job of the SEC is to maintain investor confidence in our financial markets. I would urge my friend to invest more resources in maintaining that confidence. That would include going after insider-trading cases, and preventing scandals, like Enron and WorldCom, that undermine our system. We shouldn't forget that it's the small investors, and workers depending on their pensions, that get hit the hardest by these scandals.

I would also urge the Commissioner also to think about the future and to help reform the New York Stock Exchange, and other exchanges, to bring them into the 21st Century. Instant trading is a fact in the market. It needs to be brought to the floor of the NYSE.

In closing, I would like to thank Chris Cox again for his service and wish him all the best at the SEC. I look forward to working with him and helping to make our nation's future, safe, fair and secure.

Mr. GALLEGLY. Mr. Speaker, I rise in honor of my friend, former colleague, fellow Californian and Securities and Exchange Commission Chairman Christopher Cox.

A capable and affable leader, Chris is well-suited to be the 28th SEC chairman. While in Congress, he served as a senior member of every committee with jurisdiction over investor protection and capital markets, including the House Energy and Commerce Committee, the Financial Services Committee, the Government Reform Committee and the Budget Committee. He also served as chairman of the Task Force on Budget Reform. He authored the Private Securities Litigation Reform Act and the Internet Tax Freedom Act.

It was no surprise that the Senate unanimously confirmed his SEC chairmanship on July 29, 2005.

Mr. Speaker, I know my colleagues will join me in honoring Chris Cox for his service in the U.S. House of Representatives and wish him Godspeed at the SEC.

Mr. CALVERT. Mr. Speaker, I rise today to pay tribute and give thanks to my friend and colleague, Chris Cox. After serving in the House for more than 16 years, Chris is now taking on a new challenge by serving as the Chairman of the Securities and Exchange Commission. I think all of us can agree that our loss is most certainly their gain.

Following the redistricting of 2002, I became the newest member of the Orange County delegation and my newly drawn district shared a border with his. Chris immediately welcomed me to the delegation with open arms and graciously introduced me to a host of local government officials, business owners, and community leaders.

If anyone has spent time in his district and enjoyed its extraordinary coastal setting, they would agree that Chris must be a truly dedicated public servant for agreeing to spend so much time here in Washington. Thankfully, he possessed the will to serve in Congress and to be a leader for his county, State and Nation.

During his time in the House, Chris served with distinction in many different roles. Most recently, Chris made history by serving as the first Chairman of the Homeland Security Committee. In this capacity, Chris took on an unprecedented challenge and oversaw the most radical government reform in decades. As those who know Chris would expect, he was up to the task and eager to find out what was working and what needed to be fixed.

Chris came to Congress in 1988 after serving as Senior Associate Counsel to President Reagan. While at the White House, Chris gained tremendous insight and invaluable experience, but I think he would tell you that the best thing he took away from his time there would be his wife, Rebecca.

I know Chris will take on this new challenge with the same tenacity and vigor that he showed so often on so many important issues here in Congress. I understand Chris wisely decided to keep his home in Orange County, and I look forward working with him in Washington and enjoying the warm California sun with him in Orange County.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my Special Order.

The SPEAKER pro tempore (Mr. SODREL). Is there objection to the request of the gentleman from California?

There was no objection.

REAUTHORIZATION OF THE RYAN WHITE CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, in 2 days, the Ryan White CARE Act will expire, and though it will continue under its current authorization, as this landmark and life-saving Act expires, it is almost as though a light expires as well, a light of life and hope for the hundreds of thousands of Americans who have depended upon it.

We all know how disproportionately the HIV/AIDS epidemic has, and continues to, affect the African American community. In fact, since the beginning of this epidemic, African Americans have been hardest hit. This is not only due to adverse lifestyles but also largely due to the poor level of services, lack of insurance and the intractable poverty where too many people of color are trapped.

As shocking as the statistics are one year, they get worse the following year.

Nearly half of all people living with HIV and AIDS in the United States are African American, and the AIDS case rate for African Americans is 9.5 times that of whites.

About six in 10 children to HIV-infected mothers are African American.

Sixty-five percent of the AIDS cases among young people, 13 to 19 years of age, are in African Americans.

AIDS is the leading cause of death for African American women, 24 to 34 years of age.

This epidemic creates generation gaps in black families, leaving children to be reared by grandparents or other guardians, and the startling number of AIDS cases among teenagers indicates that this epidemic will undermine the very future of the African American community and thus undermine our Nation.

In the African American community, this is a state of emergency and requires an emergency response, not this lack of attention and lackadaisical approach that we are receiving from the leadership. We should not be presiding over the expiration of this Act, which has been a lifeline to countless individuals and their families. We should be going beyond reauthorization, expanding it and ensuring that all of the funding is there to meet the programmatic needs.

The Ryan White CARE Act was created to improve the quality and expand access to comprehensive care for people living with HIV and AIDS and their families. Because of the CARE Act, metropolitan regions, which are heavily African American, those that are most severely affected by HIV and AIDS receive funding to launch HIV prevention and support HIV/AIDS care efforts.

The CARE Act also provides funding for AIDS Drug Assistance Programs; early intervention services; capacity building and planning grants; crucial services for women, infants, children, youth and their affected family members; funding for AIDS Education and Training Centers; dental reimbursement programs; and funding for special projects on innovative models of HIV care and service delivery, among other services.

As a physician who has treated people living with HIV and AIDS, I know well how critical these services, especially access to medications that slow the progression of HIV to AIDS, are to improve the quality of life of those with AIDS, are to the health and well-being of and the care of people living with it.

The CARE Act, though, is particularly important to the community that is hit the hardest, year after year, the African American community. About half of all Ryan White CARE Act clients are African American.

More than eight in 10 clients at the Title IV clinics who receive important medical care, case management, child care and other services, are people of color, the majority of whom are African American women, children, youth and families.

We must recognize that when the Ryan White CARE Act was created and passed, the face of the HIV/AIDS epidemic, the unmet needs of those living with HIV disease, and the medical management of HIV and AIDS were much different than they are today.

Furthermore, great strides in medical technology have slowed the progression from HIV to AIDS, allowing people with HIV disease to live longer, healthier lives. The CARE Act should be authorized in a manner that allows it to fully respond to the health and health care needs of those most at risk for, or those who currently are, living with HIV and AIDS.

Because of this, any funding less than $3.1 billion is simply not acceptable. That is equivalent to what we spend every month in the war in Iraq.

What it costs to make the Republican tax cuts permanent for 1 year is more than 10 times the amount needed to help ensure that a child born to an HIV-positive mother has a chance at life.

One might be moved to ask why this crisis, which has taken so many lives, ruining so many families and having such a detrimental social and economic impact on our communities is being responded to in such an inadequate manner, if one can say it is being responded to at all?

It is not the absence of urgent need. The numbers are there. Neither could it be due to lack of resources. We have seen this administration in times bankroll solutions to others and more expensive crises without hesitation. The reauthorization of the Ryan White CARE Act and adequate funding of this and all of the other health care programs that would improve the health of the poor, the rural or people of color, are not all that happening for one reason, the absence of political will.

Mr. Speaker, I do not want us to lose sight of the fact that this Act gets its name from a brave little boy who was not only a pioneer but an inspiration. I did not know Ryan, but I do know his mother, Jeanne, and so on her behalf and on behalf of the patients I have served, and all of those infected with HIV or who have AIDS, their families, as well as all of the dedicated care providers, I ask that we not let this lapse in our moral responsibility be prolonged.

Let us do the work we are entrusted to do and reauthorize and modernize an even stronger, better Ryan White CARE Act.

RYAN WHITE AIDS CARE ACT

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I would like to thank the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for organizing this series of Special Orders on the reauthorization of the Ryan White CARE Act.

The Ryan White CARE Act is essential for millions of Americans who are living with the AIDS virus and millions more who are at risk of becoming infected in the future.

The Ryan White CARE Act was passed into law in 1990, 10 years after the beginning of the HIV/AIDS epidemic, to provide a comprehensive approach to AIDS prevention, treatment, patient care and community support for people affected by this dreadful disease.

The Ryan White CARE Act provides funding for a variety of programs, including drug assistance, capacity building and planning grants, services for infected people and their families, funding for AIDS Education and Training Centers, and grants to metropolitan areas like Los Angeles that are severely affected by HIV/AIDS.

The Ryan White CARE authorization expires this Saturday, on October 1, 2005. If it is not reauthorized, it will remain in its current form until legislation is approved. The Ryan White CARE Act needs to be updated to address the needs of communities affected by HIV/AIDS today. The people affected by HIV/AIDS have changed tremendously over the course of the epidemic, and HIV/AIDS programs must adapt and change as well.

When the HIV/AIDS epidemic first began in 1980, most Americans with AIDS were white. Today, over 70 percent of new AIDS cases in the United States are people of color. Blacks account for about half of new AIDS cases, and Hispanics account for 20 percent of new AIDS cases. Racial minorities now represent a majority of new AIDS cases, and a majority of Americans living with AIDS, and a majority of deaths among persons with AIDS.

The Ryan White CARE Act is critical for minorities who often lack access to traditional health care and support services. About half of all Ryan White CARE Act clients are black, and that proportion is much higher in some care settings.

Title IV of the Act is especially important for racial minorities. Title IV provides medical care, case management, child care, transportation, and other support services for families affected by HIV and AIDS. Over 80 percent of the clients at clinics funded by Title IV of the Act are minorities.

The Ryan White CARE Act is severely underfunded. In the current fiscal year, the Ryan White CARE Act received a total of just over $2 billion for all programs nationwide. However, it has been estimated that Ryan White CARE programs should receive at least $3 billion in order to address adequately the needs of people affected by or at risk of HIV/AIDS.

In July of this year, the Bush administration released its principles for the reauthorization of the Ryan White CARE Act. Unfortunately, these principles are pitting the most affected communities against one another.

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One of the principles is a prioritization of core medical services. This principle could eliminate many of the support services provided under title IV, such as case management, child care, and transportation, which make medical care accessible to people in need. For most title IV clients, medical care is covered through Medicaid, not title IV; but support services provided under title IV are essential to make medical services accessible.

Reducing HIV/AIDS support services in order to prioritize HIV medical services is no way to address the needs of people with HIV/AIDS. I urge my colleagues to reauthorize the Ryan White CARE Act in a manner that will ensure that HIV/AIDS programs will indeed address the needs of all communities in the United States that are affected by the HIV/AIDS epidemic, and I urge my colleagues to make certain that the Ryan White CARE Act programs will be fully funded in future years.

Mr. Speaker, I mentioned the disproportionate number of African Americans and Hispanics that are now HIV/AIDS positive. I would like to share with you what we have attempted to do to address those very special populations.

In 1998, while I was the Chair of the Congressional Black Caucus, I spearheaded the development of the Minority AIDS Initiative, which provides grants to health care providers for HIV/AIDS treatment and prevention programs serving minority communities. The Minority AIDS Initiative enables health care providers to expand their capacity to deliver culturally and linguistically appropriate care and services.

Mr. Speaker, we will not get the increases we need, so we need to pay attention not only to this reauthorization but to the very special needs of those who have suffered the most.

WOMEN AND HIV

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I rise to ask the House to reauthorize the Ryan White CARE Act, and I rise with special gratitude to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), a physician and the leader of the Congressional Black Caucus on health care issues, who has alerted us to a very important date, and that is September 30 of this year when the CARE Act requires reauthorization or it will lapse. We just came to the floor because of just such a deadline to reauthorize the Violence Against Women Act. I am asking the House to do the very same thing for the Ryan White CARE Act.

Mr. Speaker, this is a bedeviling disease. In our country we initially saw it as a disease of segments of the population, and certainly in the beginning it was identified somehow as a gay disease. It took the infection of a young white man, a teenager, indeed, to wake America up to what this disease really means and how universal the disease is.

We face the same issue, however, as the disease has moved so largely into the black and Latino communities. When a disease moves in that direction, it becomes too easy for a country with our history to identify it with the specific group that is most identified with the disease. Let us not make that mistake again.

It is true that of the cases of AIDS diagnosed in the most recent period, 49 percent were African Americans and 20 percent were Hispanics. Those are the most alarming statistics I have read in a long time, considering that together blacks and Hispanics are not 20 percent of the population. African Americans are 42 percent of all of the people in the United States living with AIDS, and we are talking about people who are about 12 percent of the population.

Behind these figures are very complicated reasons, and my time does not allow me to go into it; but the fact that these figures exist is enough to call us to this floor to reauthorize the Ryan White Act before September 30.

African Americans have AIDS at almost 10 times the rate of whites. As with all diseases that tend to move toward the most disadvantaged in society, this disease is showing up in hugely disproportionate numbers among the very same disadvantaged groups that we associate with such figures, and I am particularly concerned that women are about 27 percent of all new HIV infections.

We can all remember when it was rare to find women of any color with HIV/AIDS. They represented only 8 percent of diagnosed AIDS patients in 1985. Now we see that jump from 8 percent to 27 percent. Fifty-one percent of new HIV cases are among children, that is to say, people who are from 13 to 19 years of age. That is just unacceptable, Mr. Speaker.

The movement of this disease downward into the population is the darkest aspect of the disease. Seventy-one percent of the women with this disease were infected through heterosexual conduct. That means that they probably had no idea that their partner was infected. This may be the chief reason that African American women are infected at a rate 25 times the rate for white women.

Mr. Speaker, this disease, once wrongly thought of as a gay disease, must not now wrongly be thought of as a disease of certain ethnic or racial minorities. One way to make sure that we stop the spread of this disease is to reauthorize the Ryan White Act now when it is so desperately needed. We do not want to let this session end with our country looking like one of the Third World countries that is now caught in the grips of this disease. It is a preventable disease.

If the Ryan White Act is reauthorized, we know what to do to contain this disease among blacks and Hispanics, just as we were successful in containing it among gays. Let us do it. Remember September 30. That is our deadline.

THE RYAN WHITE CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in support of reauthorizing the Ryan White CARE Act. Signed into law on August 18, 1990, the act was designed to improve the quality and availability of care for persons with HIV/AIDS and their families.

The Ryan White CARE Act awards critical grants to metropolitan areas with particularly high rates of HIV. These grants help pay for outpatient services including case management, home health, hospice care, housing, transportation and nutrition.

The Ryan White CARE Act also provides money to States for pharmacy support through the AIDS Drug Assistance Program. This act enables the Federal Government to assist States so they provide lifesaving antiviral drugs for people who are HIV-positive.

This legislation lets States choose how to spend the money. This act allows States to dedicate Federal dollars for home and community-based health care and pharmaceuticals. States have formed local consortia to assess communities' needs and organize regional plans for delivery of HIV/AIDS services, as well as medical care.

In addition to supporting the States and major metropolitan areas, the Ryan White CARE Act also provides funds to primary care providers.

This comprehensive law reaches local health departments, homeless shelters, community health centers, hemophilia centers and family planning centers.

Mr. Speaker, I have not heard one negative thing about the Ryan White CARE Act. Why, then, are we allowing this critical legislation to expire without doing anything about it?

Colleagues, allow me to call your attention to the five States with the highest numbers of HIV-infected individuals in the country: New York, California, Florida, Texas, and Georgia. In my own State of Texas, more than 18,000 people are infected with HIV.

HIV/AIDS disproportionately affects African-Americans.

Sixty-two thousand AIDS cases have been reported in Texas through December 2003—and that's not even counting HIV. Half a million people in this country and nearly 35,000 Texans have died of AIDS.

Mr. Speaker, on Friday, September 30, the current Ryan White CARE Act will expire. Reauthorizing legislation must be approved. Without it, States, communities and individuals will no longer be able to access the critical funds they need to prevent, diagnose and treat HIV and AIDS.

Because of its critical role in affording access to care among African-Americans living with HIV/AIDS, the Congressional Black Caucus is deeply concerned about the future of the Ryan White CARE Act.

As a nurse, I cannot emphasize enough the importance of reauthorizing the Ryan White CARE Act.

RYAN WHITE CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-McDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, I join my colleagues today, especially the Congressional Black Caucus, as I rise to speak on a piece of legislation that is of utmost importance to me and to many in this body, and that is the Ryan White Comprehensive AIDS Resources Emergency Act. It is scheduled, as my colleagues have said, to end this week.

This law, Mr. Speaker, provides care and assistance to over 500,000 persons in this country infected by HIV. A piece of legislation this important should not expire. It should be expanded, because it affects tremendously the African American community. I would be hard pressed to find an issue that is more troubling to the African American community than HIV and AIDS. As African Americans, we make up only 13 percent of the United States population; however, about 50 percent of the estimated AIDS cases in this country are African Americans. This number is an outrage.

HIV is killing our young people. African American women are especially at risk. In 2001, HIV was the third leading cause of death among African Americans between the ages of 25 and 34. Among women of this same age group, HIV was the number one cause of death. This is why annually I have a minority AIDS walk for women and children, especially minority women, because of the devastation this has caused. It is ravaging communities of color.

In 2003, African Americans accounted for two-thirds of new AIDS cases among all women nationwide. Moreover, African American teenagers make up only 15 percent of the U.S. teenagers. Why is it then that they account for 65 percent of the total new AIDS cases reported among teenagers in 2002?

Mr. Speaker, we must have this piece of legislation expanded. We must have this piece of legislation so that we can eradicate this dreadful disease that is ravaging our communities. We cannot sit idly by and watch this disease tear apart our communities and affect a generation of our children. That is why I stand here today with my CBC colleagues to impress upon my colleagues the absolute necessity for the reauthorization of the Ryan White CARE Act.

This act is essential in making sure that HIV/AIDS no longer ravages our community. The numbers illustrate the horrible trend. We are an underserved and vulnerable population, and I refuse to allow that to continue.

Title IV of the CARE Act is particularly essential. Title IV serves women, children, youth, and families who are all affected by AIDS. Each year, over 50,000 women and children benefit from title IV services. Title IV services include, among other things, medical care, child care, and transportation. Without these services, Mr. Speaker, women and children participants would not receive the care they need to fight this dreadful disease. People of color make up 88 percent of the beneficiaries of title IV services. Thirty percent of all title IV consumers are children under the age of 13.

In 2002, almost half of all Ryan White CARE Act clients were African Americans. The Ryan White CARE Act funds the National Minority AIDS Education and Training Center. We need this. We need it desperately. Programs like this ensure that African American victims of this disease get the quality care they need and deserve to survive and that our communities get the clinical expertise to be able to provide that care.

We also need more education programs and testing sites. We need to make sure that the care is available to everyone in need. We need more attention paid to this epidemic. It is not just international, it is national, and it is widespread among the African American community. We need the reauthorization of the Ryan White Comprehensive AIDS Resources Emergency Act.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.

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THE NATION IS AT RISK

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, I would like to talk about a number of pressing issues. As we enter the final stages of this 109th session of Congress, we are confronted with some dire emergencies and challenges and I prefer to place all of the things I have to say under the big umbrella title "The Nation is At Risk."

The Nation is at risk. We need an administration at this point in the history of the Nation that governs for all, not just for a few. We need an administration that cares about everybody, not just a few. We have an incompetent blundering administration. Iraq showed us how serious the consequences of such blundering could be. If we did not understand because of Iraq, and some of us understood what we were getting into. I voted against going to war in Iraq. I think it is very important as a Member of this Congress, as a major policymaker for the United States of America, it is very important never to place young people, our soldiers, military personnel, in a situation where they may die in vain or they may die for no good reason. For that reason, I voted against the war in Iraq.

But we went ahead and we kept going right through an election and refused to recognize. And when I say we, the majority as a Nation, did not recognize the dangers of the Iraq blunder. Some of my religious friends say that God wanted us to open our eyes and give us a wake-up call so he sent Hurricane Katrina. Hurricane Katrina is on a smaller scale than the catastrophe of Iraq. Hurricane Katrina is at home. Hurricane Katrina was on our television cameras as it was unfolding. The question is will the next high level set of blunders by this administration lead us into something even more devastating. The failure to respond properly to the Hurricane Katrina, it showed us we have an incompetent blundering administration. If we did not understand with what happened in Iraq, we certainly can understand it now. Our Nation is at risk.

It is very serious to have a Nation of this size with its power, its position in the world, unable to cope with catastrophes like Katrina, unable to make decisions about major international policy matters like Iraq. Yes, Saddam Hussein was an evil man. Saddam Hussein was highly undesirable and somebody needed to help get rid of Saddam Hussein, but so was Joseph Stalin and so was the Soviet Union for years. Before the Soviet Union acquired the nuclear bomb, there were people who urged President Truman and some subsequent Presidents to attack. Let us have a preventive war before they got the nuclear bomb. After they got the nuclear bomb and they did not have the hydrogen bomb, people were urging it was even more important to attack. They said let us make certain they do not get the hydrogen bomb. After they got the hydrogen bomb, of course, at least we were willing to say let us have a balance of power. Even during that balance of power, we had the missile crisis in Cuba and some people were urging then, let us get it over with and strike first with our atomic weapons. We did not. The Soviet Union was a far greater power, was a far greater threat to us than Saddam Hussein could ever be. We managed to live with it until they fell under their own weight. The Soviet Union collapsed because it also had a group of blundering leaders who would not accept the complexities of modern society until it was at the brink of economic disaster. The Soviet Union was quite fortunate that they happened to produce a genius with a heart, with compassion at just the right time. Gorbachev is a genius, and he saw the only way he could save the Soviet Union was to go to war, and he refused to do. He had a heart. He had compassion, and that combination saved the world from a conflagration. The Soviet Union's leaders realized their way of life was doomed. Instead, they surrendered ideologically, so what seemed impossible over the years, to bring down that evil empire, to go to war, was not necessary.

I assure Members that Saddam Hussein would not have lasted for many more years without us having to go to war and get involved in the quagmire we are involved in there, but we did it. We did it because I am afraid we are led by some old men who have juvenile minds. We are led by some old men who play war like little children and they could not resist the temptation to go to war and display our shock and awe and all our modern weapons and bring Iraq to its knees overnight. They could not resist the possibility of being able to ride through the streets and have people wave flowers at them and welcome them. They had all kinds of dreams that were not realistic and they led us into a quagmire.

I am not certain how we are going to get out of that quagmire, but at least we ought to begin to recognize it. The polls show us the majority of American people say we should get out of Iraq, bring our troops home as soon as possible. Those who do not understand still and did not understand before, Hurricane Katrina should show us, Hurricane Katrina should finish the job of awakening us to the fact that we have incompetent, blundering people in the leadership.

We have the results of a situation that has built up over the years where the primary requirement for getting into government was to be able to raise large sums of money or a group of people who could raise large sums of money began to dominate the decision-making, what I call the "donocracy." The "donocracy" has pushed up people in power who do not necessarily have competence in terms of the background, the training, the experience, to govern.

Those who do rise to power and are elected are surrounded by a group of people who are primarily great fund-raisers. Those who do rise to the top are maybe even great friends of great fund-raisers and great donors. And you get people appointed to positions, like Mr. Brown of FEMA, people appointed to positions where they should not be. It is patronage on a grand scale.

It used to be that if you had to have someone pushed forward by the partisan political process, then you made sure that the top guy, if he was the guy that was the partisan candidate, you had to have the second guy be competent and could run the situation, or vice versa. If the top guy was competent, then your partisan appointee could be the second guy.

But there arose a situation where we lost touched with reality, and FEMA represents that. Not only the top officer in FEMA, Mr. Brown, but we are told by people who are professionals, who worked in FEMA over the years, people who came out of the Clinton administration. And by the way, President Clinton made a great effort to professionalize FEMA. It was one of those places for too many years where political hacks had been appointed. He tried to professionalize, and he succeeded. But all of that was wiped away by a new administration that had no respect for competence. In fact, I would say has contempt for competence, as too many elected officials in Washington have.

So we are in a situation where one great blunder is draining billions of dollars out of our coffers halfway across the world in Iraq, and also thousands of our young people have died. Our standing in the world has gone down. There are many consequences of the blundering in Iraq.

The Hurricane Katrina blunder showed us that even on a smaller scale if you have contempt for competence, if you do not really care about all of the people, if you are going to govern for just a few, you are going to be preoccupied with big tax cuts while you cut agencies like FEMA, and other agencies that serve people on the bottom, you could do not care about safety nets and an education system that is going to produce the best we can from every human being who has the potential, you do not care about all of that, well, FEMA brought it home. It brought it home in a very dramatic way in terms of the combination of poverty and race.

Poverty and race happens to be a very dramatic way the presentation came out in New Orleans. I assure Members if those had been white poor people in the areas flooded, they would have suffered the same fate from an administration that does not care about all of the people, it cares about just a few.

These blunders will lead us into a situation where we will not survive. The Roman Empire survived a lot of blunders. They had Julius Caesar and many other emperors with various degrees of competence. Some were complete maniacs like Nero. They survived some maniacs and fools at the top. They basically survived because the Roman Empire was unchallenged in the known world. There was nothing to compete with the Roman Empire. They could make blunders for decades and centuries and recover.

The United States of America cannot have more blunders one on top of another and survive as a leading Nation in the world in terms of values, in terms of its democratic system, and in terms of its economic system. I happen to believe that it would not be just a disaster for Americans, for us who live here, we citizens who love this country, it would be a disaster for the whole world if our leadership position is lost. I do not see a rival. Among the rivals, I do not see anyone more capable of leading in the world in the direction we would like to see it go, where more people can enjoy the fruits of the earth, where more people can develop their potential.

The Declaration of Independence and the Preamble to the Constitution prevails. There is no Nation on earth that can do a better job. I do not want our Nation to collapse, not only for my own grandchildren and great grandchildren and those who survive me. I want the whole world to benefit from continued leadership by the United States of America. We should not allow a handful to throw away what so many have labored for so long to create. We should not let a blundering group of fund-raisers, a blundering group of fund-raisers, a blundering group of people who have contempt for competence, who laugh at wisdom, who ridicule experience, we should not let them dominate our government any longer.

I think the problems of New Orleans and the problems of the other sectors hit by Hurricane Katrina are problems we should begin to examine as possible new opportunities. In the process of rebuilding, let us not rush to spend billions of dollars. Dollars are very important. I do not like those who insist when helping the poor, if you throw dollars at them, you will hurt them. Throwing dollars do not solve problems. Dollars are the beginning of a solution to the problem. It does not solve the problem, but at least no solution begins unless you have resources, unless you have dollars. So it is good we have as Congress taken the first steps and appropriated $60 billion already to move the process. Much more will be necessary and it should be appropriated, but if we do not have the wisdom and the competence and we do not have the experience, if we do not have an administration that cares about governing for all of people, not just for a few, then those dollars are going to be wasted.

Lives that could be redeemed are going to be forever lost. There will be no comeback. New Orleans will not be rebuilt in a way that is productive and a signpost for the future.

In the rebuilding of New Orleans, we should build a city of the future. New Orleans is a great resource. The whole world will always look at New Orleans as a place, a colorful attraction that they want to go to. Its traditions with jazz, that is a vital part of it. It is also located in a place where it will always attract a great deal of attention.

□ 1945

So instead of condemning New Orleans and following the leadership of some people who say why rebuild it, it is too expensive, the next hurricane may wipe it out, we should look to rebuilding it as a city of the future, rebuilding it as a hurricane-proof city. There is such a thing as a city that could withstand a hurricane. There is such a thing as planning that could take into consideration all the things that went wrong and deal with the problems that have been revealed.

I think that the challenge of rebuilding New Orleans, the challenge of recovering from Katrina along the whole path, Mississippi, Alabama, wherever it hit, that challenge could show us the way to create a world-class, first-class, adequate homeland security system. Natural disaster relief merges now with homeland security concerns. Concerns of recouping from terrorism, of fighting terrorism, coping with terrorism, now merge with the concerns of natural disaster.

Why not have them merge? It is a way to approach the problem in a very economical way, it seems, if we are going to in anticipation of terrorism. And we know very well that it is going to strike only in a few places because we now are alerted. We have all kinds of mechanisms to thwart it, but still terrorism may get through; it may strike someplace. But in order to be prepared, we have got to be prepared everywhere. If we have got to be prepared everywhere for terrorism, why not the combination of preparation for terrorism and preparation for natural disaster be combined, be combined?

Why not deal with the problem revealed in New Orleans of abject poverty at the same time we deal with how to show that New Orleans can be prepared not only for future natural disasters but also for any terrorism threat? Why not show how the residents can be involved in the process of rebuilding and be involved in the process of creating a new economy and capitalizing on the fact that the whole world knows New Orleans and with the exploding world where the middle class is creating more and more tourists all the time, there will be always enough tourists to help bolster the economy of New Orleans.

There will always be a fascination with the location of New Orleans and the river and the various environmental things along that coast. It is a matter of how do we preserve what is good there and how do we handle it so that future problems are not there to dwarf the redevelopment, that business people are not afraid to go back to New Orleans, that the population itself is not afraid.

It is a great pity that we did not have the foresight the last few decades to prepare New Orleans properly. We have had experts on top of experts. We have done studies that showed us the dangers. It is quite an excellent example, unfortunately, of how our blundering administration in power and some other administrations in the past have had contempt for science, contempt for wisdom. The science was there. The preparations were there. Just last year they ran scenarios of hurricane level five. All these things have been done, but the willpower was not there. The wisdom was not there. The competence was not there to take steps to cope with the problem.

And over the years, we have spent billions of dollars in Iraq and billions of dollars on other projects, rockets, anti-missile systems; and there were numerous projects that were great failures and a great waste of taxpayers' money that could have been jettisoned in order to provide the money to build decent levees and waterworks of New Orleans.

"Who lost New Orleans?" And I am reading a few quotes from a piece that I submitted to the Huffington Post. "Who lost New Orleans? Our cities are the greatest treasures of our civilization. So why were the levees and the pumping stations emplaced to protect New Orleans from the sea so technologically obsolete?" The Dutch, the Netherlands have been controlling the sea for a long time in a much wider area. They have the expertise. Why did we not bring the Dutch in to do the job that had to be done if we did not have Americans in the Army Corps, the engineers, the technological know-how did not exist? We could have in the world found the people that could do it, and we did not have to go any further than the Netherlands.

"If the descendants of the American geniuses who built large artificial ports at Normandy on D-Day could not design adequate protection, then why didn't we ask the Netherlands to outsource their expert sea management engineers to us long ago?"

And when we look at what happened on D-Day, we begin to have the benefit of history in the reruns of movies and the documentaries; and we see that D-Day was more than about the courage of American soldiers. That was the critical piece. If there had been no courage, if they had not kept going forward, all would have been for naught. But if they had courage and kept going forward and they were not backed up by a tremendous set of technological innovations, all would have been lost.

They built a port, artificial port, at Normandy, a port big enough to take trucks and tanks; and it was built in a very short period of time. If the people who designed that could not provide adequate protection for New Orleans, or the descendants of the people who designed that, then we should have gone to the Netherlands and outsourced their expert sea management engineers to come back to do it for us.

But I suspect that if the will had been there, if we wanted to do it, just as we did the impossible on the beaches of Normandy on D-Day, we could have done over a period of time what was necessary to save New Orleans.

"New Orleans will be lost only for a short period of time." As I just said, it is going to make a comeback.

"In spite of the paucity of spirit and imagination among our ruling decision-makers, cities will continue to resurrect themselves and survive. But Americans must learn from the lesson of an almost drowned New Orleans. No great American city should be needlessly placed at risk. The rural-centered congressional policies of the last 2 decades must be radically reversed. The power of Senators, in a Chamber not based on one man, one vote representation, deal-making for small population interests must be curbed."

Taxpayer dollars must not be spent for projects and programs located where people do not live. They should be spent in places where people live in large numbers. That should be the priority.

"Who is served by expensive bridges in Alaska?

"Examine the last omnibus budget bill passed by Congress and signed by the President or review the items listed in the recently signed Surface Transportation Act. For even a high school sophomore, one fact will be immediately revealed: the per capita expenditure is far greater in sparsely populated States than it is in the densely populated States where the big cities are located."

This is a leaning, a direction, a trend that has gotten out of hand in American policy-making and expenditures of taxpayers' dollars over the last 30 years. We are spending far more per capita in rural and suburban areas than we are in cities where the people are concentrated.

"Each Senator from a rural State has many more allies than the Senators from States with big cities. In other words, Senators who represent urban Americans have less influence.

"Review the scenario of last year's Senate deliberations on the provision of emergency hurricane relief aid." We voted money for the Florida hurricanes, remember, last year. We started at $6 billion. I do not know how far it went finally; but I know at the last minute, and I am not going to read this in great detail, but at the last minute there was a sudden request in the Senate by people who represented certain western States that drought relief had to be attached to the hurricane relief bill. Suddenly, they produced drought relief; and I think $2 billion, an extra $2 billion, was added.

It was kind of blackmail, if one asks me. It was added to the hurricane money in order to take care of drought relief that suddenly appeared. The power was there and it was used, unfortunately, to benefit too few. It was used in a way which was wasteful.

"With billions readily available to make war or implement any other deadly or wasteful priority our leaders deem necessary, why haven't we appropriated the funds needed to save, to maintain, to expand, to glorify our cities? That which is urban is almost synonymous with that which is civilized. Jefferson notwithstanding, the agrarian life permitted the flowering of only a few. In the rural domain, nature is to be placed on a much-deserved pedestal to be observed and admired. But" big cities "keep man's feet on the ground where life can be hugged and kissed and ravished, where culture is a unique product of imaginations interacting. Jazz could never have been born in the countryside, and between rows of corn and cotton, Satchmo could never have strutted and marched," as he did to put New Orleans on the map.

"New Orleans will not be lost forever like Atlantis. Salvaging New Orleans could prove to be a process which fuels the revamping of the corrupted Washington decision-making process." Salvaging New Orleans "could spur the salvation of all cities which collectively constitute the core of our modern American civilization. The process must begin with less focus on bread and water looters," which got a lot of publicity and we are learning that that was greatly exaggerated, "and more" focus should be made on the "looting of the Federal Treasury which has enriched a small percentage of the population" to the detriment of cities.

Cities have not been properly funded because there were administrations like the present one that were not concerned about legislating for all the people, but were content to legislate just for a few.

"New Orleans has presented us with a hysterical profile which shows that in many vital ways, despite our impressive skyscrapers, we are an underdeveloped Nation. Our masses live in our cities, or the dependant exurbias and suburbs" that surround our cities.

"To foster our Nation's security, prosperity and greatness, we must expend taxpayer resources on planning, programs, and projects which provide the greatest benefits for the greatest numbers. The Washington looting mentality must be replaced with a new Washington creative leadership imperative." A creative leadership imperative which governs for all and not just for the few.

I summed it all up in a short rap point called "The Washington Looting of New Orleans."

"Washington looters still running loose
Abusers of New Orleans
Embezzlers of canal repair dollars
Big shot necks too big for a noose.
For the Mardi Gras
Neo-con domestic shock and awe
Bush budget blunders trapped in the crayfish claw
Grandmothers and babies cry
Urban peasant victims die;
Oh, when the Saints come marching in
Judgment will fall on merciless men.
Put street looting logs away
Only political atrocities on the dock today.
Washington looters still running loose
Big shot necks too big for a noose."

Mr. Speaker, I will include in the RECORD this piece that appeared in the Huffington Post on September 1, 2005.

Mr. Speaker, we need to combine our concern with homeland security with our concern with the poor and our concern with the maintenance of our cities.

I am going to propose, for the benefit of the Congressional Black Caucus, an omnibus bill to deal with all the various problems relating to New Orleans. The problems are legion. They are problems of all kinds that have grown out of the crisis in New Orleans. And every Member of Congress is concerned. Many suggestions are being made, and they are not partisan necessarily. There is a great deal of concern on both sides of the aisle.

My problem is that we have authorized $60 billion without any omnibus bill to go with it, without any legislation to go with it; so these ideas out there percolating all around, everybody wanting to do the right thing, they do not get institutionalized in the proper way. We need legislation which definitely institutionalizes and codifies and makes it clear in legislation what it is we are going to do.

There are complaints and there are articles being written, exposes already about the contracting process, that no-bid contracts are being spread all over the place and the usual problems we have with large contractors not honoring subcontractors who are minority. All of those problems are resulting.

☐ 2000

The President did not want us to take time to debate the legislation and write instructions as to how the money should be spent. But the President acted immediately in a very partisan way. He intervened into this process by first declaring that Davis-Bacon regulations should be suspended.

What are Davis-Bacon regulations? Why did the President rush into this process and say right away that Davis-Bacon regulations should be suspended. The President hesitated, was tardy in responding to the Katrina disaster. His administration was tardy. All of a sudden, they rushed in and said Davis-Bacon requirements should be suspended, that all contractors are not obligated to abide by Davis-Bacon regulations.

What is Davis-Bacon? It is a long-time regulation that says when the Federal Government is financing a program, building a building, a road, or whatever, when the Federal Government is concerned, contractors must pay the local prevailing wages. It is as simple as that. Contractors must pay the local prevailing wages.

Why would anyone not want contractors to pay local prevailing wages? As you move southward in this country, I know, because I sit on the committee which is responsible for Davis-Bacon legislation, I know the charges and how they stack up, the wages that prevail in New Orleans and many of the southern States are far lower than the wages in any other part of the country. So they already are low.

Why do we have to rush to intervene and say you do not have to pay prevailing wages? The problem is they are going to run into situations where they are going to be paying wages higher than prevailing, because in order to get people to come in who have the expertise to do some of the construction, they are going to have to pay higher wages.

But the intervention of the White House immediately to suspend Davis-Bacon was a blow to a principal that they had enunciated, and we all agreed with, that priority would be given to the people of New Orleans, the workers of New Orleans who returned to rebuild their city. If they are given priority, but you say to the contractors, you do not have to pay them the wages they are used to getting for carpentry, for plastering, for operating machinery, you do not have to pay that, you are undercutting the economy by not paying the citizens the wages that they were receiving before.

So the suspension of Davis-Bacon was an unfortunate rush of a partisan nature, because the present administration and the majority party have relentlessly pursued an effort to sabotage and destroy Davis-Bacon over the last 4 years. To seize the opportunity for a partisan thrust like that was most unfortunate.

Then, a few days later, there is an order coming out of the Department of Labor which says we suspend all affirmative action rules. Any regulation relating to affirmative action that you have to comply with, forget about it.

There are not many affirmative action rules that apply to contractors, but even those small numbers that there are, some kind of little report you have to write to show you have diversity, et cetera, the nature of it, that is suspended. This is a second blow to the people of New Orleans since most of them, as you saw on television, the city was 67 percent African American, 67 percent. So if you suspend any requirements that contractors have diversity in their hiring, then you are certainly not helping to guarantee that those people who lived there before, who suffered through the hurricane, who suffered through relocation, can come back and expect to get jobs.

You are encouraging the contractors to ignore that, if it suits their purpose, and it will suit their purpose if they can get cheap labor from illegal immigrants, which is one of the problems that we are going to be confronted with as a result of not having any oversight on Davis-Bacon or on the affirmative action requirements.

So we are not taking advantage of this catastrophe and making it an opportunity. It could be an opportunity to show how well the Federal Government operates to protect the interests of workers, how well we operate to bring back and guarantee that the people who have suffered through this are part of the rebuilding process.

I hear that the mayor of New Orleans is creating a commission to come up with plans to restore and rebuild New Orleans. That is fine. That is wonderful, and such commissions should exist. But I think it is a commission that is going to be at the local level, the State and the city level. They need that.

But we also need another commission, which is made up of national people, people from the Nation, to participate and help to plan the rebuilding of New Orleans. We need to look at it as an opportunity for showing how an ideal city could be structured to better meet the needs of all the people.

We need to take on the challenge of a location which is hazardous under normal conditions. How do you make it less hazardous, is the question. What can you do?

I have a statement I made over the weekend at the Congressional Black Caucus Education Brain Trust, where I was focusing on the Katrina challenge in terms of education. I said that faith-based and community-based organizations could be involved in a very constructive way in the rebuilding of New Orleans. It is just one of the many ideas that need to be put into the hopper and made available to those people who could help oversee a national effort to support the rebuilding of New Orleans.

Of course, the Congressional Black Caucus, as I said before, has prepared omnibus legislation to express the ideas that have been put forward by the leadership of the African American community. Several meetings have been held.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REICHERT). Would guests in the gallery please take their conversations outside.

Mr. OWENS. Mr. Speaker, I would like to read from that statement that I read to the Members of the Congressional Black Caucus Education Brain Trust about Katrina and how education initiatives could be important.

The Katrina hurricane disaster has highlighted the continuing permanent disaster of national and local policies which neglect the basic needs of poor Americans. To focus specifically on education, please be advised that the New Orleans school system is rated presently as the very worst among numerous struggling urban systems.

From this current tragedy, there is a challenge for all Americans. In concert with the citizens of New Orleans and Louisiana, there should be a multi-level effort to redesign and rebuild a 21st century model education system. In concert with the citizens of New Orleans and Louisiana, there should be a national effort, a multi-level effort, to redesign and rebuild a 21st century model education system in New Orleans. New standards would could be set for physical facilities constructed to serve as emergency centers as well as schools.

Now, every school, whenever there is a natural disaster, the first facility utilized, if nearby, is a school. Why do we not better equip schools to handle emergencies? Why do we not recognize in the building of schools that they should be built so that they are adaptable for disasters, whether they are natural or man-made? Why can schools not be built so there are storage places for extra equipment and supplies and beds? Why can schools not be built so they have the best of modern communications equipment, so they will not be isolated, so they can communicate with the police and the National Guard, et cetera? Why can we not have that all built into the system? It would not cost very much more. It is a way to combine the homeland security dollars with the rebuilding dollars for New Orleans. New standards could be set for physical facilities constructed to serve as emergency centers as well as schools.

In my district, I had an organization come and ask for help with the funding for a new visitors center. It is the botanical garden. They are building a huge new visitors center. They wanted help from the Federal Government.

I said, why the Federal Government? They said well, it is a major economic facility, et cetera. I said maybe in the construction of your visitors center, you are in the center of Brooklyn, with a large population. Brooklyn has 2.7 million people. You are a public facility. You could be one of the places we could depend on in case of a disaster.

New York, as a city, is considered a high-risk city, so we are in a high risk area. Why not build in your new center some extras which can be used in the case of an emergency, a natural disaster or a terrorism attack?

They accepted that. The architects went to work. They have their proposal and are proposing and begging for funding to help them with that process. I am asking for money from the Committee on Homeland Security. It could be a good model, because every new public facility should take into consideration the fact that it may be needed in the future to help respond to an emergency, and in the process of its construction it would not be exceptionally unusually expensive to build in some extras.

All of the equipment for electrical wiring and communication services automatically would be placed at a higher level in such a new building, on roofs. One of the problems that flooding does is when you have electricity hooked up in the basement, along with connections to gas, is that the natural disasters result in impairing electricity early in the process. Why do we not put our electrical wiring and switches and facilities higher in our buildings? Schools could lead the way.

In addition to regular phone, computer and fire alarm communications, every school should be equipped with a shortwave radio or whatever is necessary to establish communications with various other entities in homeland security.

Of equal importance to the physical features, funding should be provided for the guarantee of the opportunity to learn for every student, using the standards that already are in place in numerous suburban school districts across the country. You get in a big debate when you say we are going to establish some standards so every student has an opportunity to learn. How much is that going to cost and how can the Federal Government afford that and what is it?

If you go to most suburban schools, it is already in existence. They provide the money necessary to guarantee the opportunity to learn for all their students. The decent libraries are there, with the right number of books, current and useful books. The laboratories for science teachers are there. The physical education facilities are there.

So we should build into the new schools what New Orleans schools have not had, all of those opportunities to learn.

If necessary, a program of aid to families with children in schools could supplement the education funding in order to systematically attack the problem of inadequate home and family support.

In addition to the problems of poverty and weak home structures, the students who go back to school in New Orleans are going to be victims of trauma. They have had experiences which are very traumatic. They are going to have numerous problems that deserve some extra support, and we should build that in. It may come from the Department of Health and Human Services, which has a program called Aid to Families with Dependent Children. Why not Aid to Families With Children in School as another separate program related to the experience of a child in school?

Attendance and the regularity of parents going to meetings, a number of things could be done which would encourage a new mindset among family members and community members regarding education. That is not a physical feature, but it is an important opportunity-to-learn feature.

The greatest benefit to the people that the government can provide to the survivors of Katrina is a comprehensive support program which educates a generation of children to take new positions in their new City of New Orleans and the Nation, because, I repeat, it is to the Nation's advantage to have as many of its human beings educated as best as possible. It is part of the competition we face again.

□ 2015

Again, we are not like the Roman Empire. We cannot blunder on and on and expect to maintain leadership in the world. We cannot blunder on and on without being overrun, and I do not mean overrun militarily. We will be overrun culturally and economically. Our standard of living will be greatly changed if some of the great powers that are maneuvering, not maneuvering. I congratulate the government of India for providing a first-rate education program so that they are producing large numbers of scientists and technologists and they are taking over large swaths of the information industry from the United States.

I congratulate the small Asian countries that are taking some medical business, opening their own hospitals over there where they provide much better care than we provide here at cheaper rates. I congratulate them for educating their population for being able to do that.

I congratulate the government of China. They are graduating 600,000 scientists and engineers every year. That is a marvelous thing to do for human beings. Their nation, their leadership is not blundering; they are doing the right thing.

We should stop blundering on matters related to education and understand that that is where the world is going. If we are going to survive and outlast the Roman Empire, which is highly desirable, we should be in the leadership of the world for as long as possible and stay there. We are going to have to stop the incompetence and the blundering that exists presently.

Mr. Speaker, let me just take a minute to be very practical about the coming omnibus bill that the Congressional Black Caucus is preparing. There are some other groups here on the Hill preparing bills; I am sure Republican and Democratic groups are preparing some legislation. But by omnibus bill, we mean we want to take into consideration all of the various problems that do exist.

We do not want the blundering to go any further. The blundering that existed in the response to Katrina could be far more destructive as we prepare for a rebuilding of New Orleans and the coast, which is going to last for years and years. If we do it wrong, the effects will be there forever, probably. We will never have another opportunity like this. Just as with the war in Iraq, we have done it wrong; we lost an opportunity, as I said before.

Instead of following history, understanding the implications of history, understanding how much we have learned by waiting out the Soviet Union, waiting for it to fall; despite its terrible leaders like Stalin, and despite its advances with nuclear weapons, we waited, and we won. But in the case of Iraq, the blunder has cost us a great deal.

I am not submitting this for inclusion in the RECORD at this point, because I have not found a way to do that, but I want to call everybody's attention to the fact that USA Today, the national newspaper USA Today on Thursday, September 22 of this year, had an ad in its paper which tells the story dramatically about blunders and what the results can be. On one side it has a picture of all the people who led us into the Iraq war, and it says, "They lied." On the other side, it has the listing of all of the people who died in the Iraq war, and at the bottom it says, "They died." They lied, they died. I will not submit it for the RECORD today, but I urge everybody to look up September 22 USA Today and get a feel for where we are on our way to. They have all the names listed of all of those who died, just as we have them listed on the Vietnam Memorial.

Mr. Speaker, 58,000 died in Vietnam. We know we never want to do that again. But 58,000 died. They are all heroes. In fact, every American who puts on a uniform, whether he gets killed or wounded or comes back alive and healthy, is a hero. The minute you put on the uniform of your Nation, you are at the command, beck and call of our Nation. You go where you are sent. It is just sometimes luck that you are sent to a place where you are able to survive. You are a hero, and everybody should be looked upon, who goes out to serve their country and puts themselves at risk, as heroes, and we should be heroes in making certain that we never do it unnecessarily, that they are never put in situations which do not require those kinds of risks. Those that give their all should do it for something worthwhile.

We do not want that kind of blunder to ever affect us again. We do not want to blunder now as we go forward in the peaceful process of rebuilding New Orleans.

There are several groups who listed things that we should look for as we rebuild New Orleans and the gulf coast region. This one comes from Policy Link, but it happens to dovetail and sound very much like what the Congressional Black Caucus omnibus bill is proposing also, will be proposing.

One, rebuilding New Orleans and other devastated areas so that all communities are mixed income communities. Let us not rebuild ghettos which we have in the low-lying areas where the greatest amount of flooding took place; you had the poorest people. Probably because years and years ago, the realtors and the people who did the planning understood those areas were in danger, were at risk. The land was cheaper there, so the poor people are all there. The poor people who service the hotels and the industries, they all live there.

Why not, understanding that we are never going to be totally immune, no matter how we build the buildings, why not move the population so that they are on higher ground. Why not mix downtown, higher ground, why not have moderate-income and low-income housing mixed in among the hotels, mixed in in areas of high ground, the scenic parts of New Orleans which have been reserved for the old aristocracy. Why not guarantee that there are places to live for those New Orleans evacuees who want to come back, so that they do not have to live in danger anymore.

Or if you are going to build in the low-lying areas where the greatest risk is, build buildings which are floodproof, on stilts. There are various ways we can have large buildings which are not subject to flooding and buildings that hurricanes cannot blow down too. It is possible to do that.

Beyond that, I would recommend that there would be fewer, and other people have recommended, that there be fewer residences, but build institutions in those places. If you have to evacuate or something happens, the colleges like Dillard University, Xavier University, Southern University, all of those were inundated with the flood. they were put out of business for this semester and maybe next semester, and some may never recover. Those kinds of institutions could be rebuilt in that area and built with the flood-proofing and hurricane-proofing. But if something does go wrong, you do not have to evacuate large numbers of individuals, because institutions have fewer human beings that have to be dealt with.

Number two, let us have equitable distribution of the amenities and the infrastructure investments that make all communities livable, so that parks and schools and so forth are structured so that they encourage people to live in the neighborhoods and are designated as the places which are most habitable, less dangerous.

Number three, prioritize health and safety concerns. Let us not ignore the lessons of 9/11. We cannot ignore the fact that toxins, pollution, those things are going to kill people later on if we do not deal with them now. We had problems in New York when large numbers of our firemen were heroes and went into 9/11 searching for people under the rubbish, were there for the first few days.

They are now coming down with serious diseases, a few have died, and much of it was caused by the fact that they went in with no protection. That is very heroic, but it was not necessary. We should have provided the protection, the masks, and a few other things that were necessary. So the people who come back to live there certainly should not be forced to live in situations which are not thoroughly cleansed of all of these toxins.

Number four, we should ensure responsible resettlement and relocation for the people who have been displaced. There should be a guarantee. Here is where the Federal Government must come in and make it right, if the State and the city does not do it, a right to return, a right to resettlement in New Orleans, with the accompanying bonuses, whatever is necessary to entice people and get them to return.

All of those things should be there, and we should play a major role in guaranteeing that they are there. We should not discourage people to go from New Orleans to Idaho permanently, from New Orleans to San Francisco, New Orleans to Memphis, et cetera, and stay there. They have gone to these places that reached out and assured some shelter for the evacuees; they should not be forced to remain scattered. They should have a right to resettle.

Point five, we should restore and build a capacity of community-based organizations in the gulf coast region. As I said before, a program which involves all of the people there ought to be put forward so the capacity of community-based organizations should be a part of the way we guarantee some employment to people who live there in the area.

Number six, create wealth-building opportunities to effectively address poverty.

Number seven, strengthen the political voice of dispersed residents. We do not want any party to take advantage of the fact that we have residents dispersed now. It changes the voting patterns; it changes the political clout of New Orleans. We do not want any party to try to take advantage of that by leaving the residents dispersed so that they have no voting power.

Point eight, create a system for meaningful, sustained resident oversight. They should participate in the $200 billion investment that is predicted the American taxpayer is going to make. Certainly the residents of the gulf coast and of New Orleans should be able to have some voice in the way money is spent.

Point nine, leverage the rebuilding expenditures to create jobs and liveable wages that go first to local residents. I talked about Davis-Bacon and the suspension of affirmative action. Both of those do not help to create the jobs for local residents. We should reverse those policies as soon as possible.

And finally, number ten, develop a communication and technology infrastructure that provides residents with the means to receive and share information related to community-building, support services, access, et cetera, and for communications to be provided for future emergencies.

I would propose a homeland security faith and community-based organization neighborhood mobilization program, on top of whatever else we do, and this kind of program would provide a defined set of community services. Each organization would be responsible for, and it would maintain, a homeland security fail-safe, volunteer committee that each group would have to maintain; and that volunteer, fail-safe committee would be laymen who would be first responders, lay people who could be first responders in case of emergency.

Special homeland security training would be provided for these fail-safe committees. Establish disaster relief and shelter sites ahead of time so that these laymen who are part of the process know where to go and what to do. Increases in auxiliary policemen, increases in volunteer firemen, all of those kinds of things we can put on the agenda as part of using the New Orleans and gulf coast experience as a model for what has to happen in large populations across the country.

Mr. Speaker, I would like to close with a request to submit for the RECORD an item entitled "Fact Sheet." This deals with community-based and faith-based institutions being involved in this process, and one is called "Models for Combination Church and School-based Projects for Possible Funding," along with my previous statements for the RECORD.

[FROM THE HUFFINGTON POST]

THE WASHINGTON LOOTING OF NEW ORLEANS

(BY REPRESENTATIVE MAJOR R. OWENS)

Who lost New Orleans? Our cities are the greatest treasures of our civilization. So why were the levees and the pumping stations emplaced to protect New Orleans from the sea so technologically obsolete?

If the descendants of the American geniuses who built large artificial ports at Normandy on D-Day could not design adequate protection, then why didn't we ask the Netherlands to outsource their expert sea management engineers to us long ago?

New Orleans will be lost only for a short period. In spite of the paucity of spirit and imagination among our ruling decision-makers, cities will continue to resurrect themselves and survive. But Americans must learn from the lesson of an almost drowned New Orleans. No great American city should be needlessly placed at risk. The rural-centered congressional policies of the last two decades must be radically reversed. The power of senators (in a chamber not based on one man, one vote representation) deal making for small population interests must be curbed. Taxpayer dollars must be spent for projects and programs located where people live. Who is served by expensive bridges in Alaska?

Examine the last omnibus budget bill passed by Congress and signed by the president; or review the items listed in the recently signed Surface Transportation Act. For even a high school sophomore one fact will be immediately revealed: the per capita expenditure is far greater in sparsely populated states than it is in the densely populated states where the big cities are located. Each senator from a rural state has many more allies than the senators from states with big cities. In other words, senators who represent urban Americans have less influence.

Review the scenario of last year's Senate deliberations on the provision of emergency hurricane relief aid and the power of the states with less people becomes apparent. During the negotiations the Senate rural raiders held the bill hostage until they could extort an extra two billion dollars for a sudden need for drought relief. At the end of this extortion orgy there was no money left for New Orleans where, in 2004, government officials had conducted a training exercise, pinpointed the same water control problems which have now emerged, and accurately predicted the number of casualties we see occurring today. The knowledge was available but the sympathy and sensitivity to cities was smothered. In Washington, particularly the undemocratic Senate, village mind-sets unwilling and/or unable to manage modern complexities are firmly in charge.

With billions readily available to make war or implement any other deadly or wasteful priority our leaders deem necessary, why haven't we appropriated the funds needed to save, to maintain, to expand, to glorify our cities? That which is urban is almost synonymous with that which is civilized. Jefferson notwithstanding, the agrarian life permitted the flowering of only a few. In the rural domain nature is to be placed on a much deserved pedestal to be observed and admired. But a city keeps man's feet on the ground where life can be hugged and kissed and ravished; where culture is the unique product of imaginations interacting. Jazz could never have been born in the countryside; and between rows of corn and cotton Satchmo could never have strutted and marched.

Ted Koppel wants fervently to lash the New Orleans lawless looters looking for food and bottled water in the sacred supermarkets. Where are the commentators with the guts to go bounty hunting for the government treasury looters who for decades devoured all of the appropriations that should have been saved for our needy cities. Throwing dollars at problems never automatically solves them but in New Orleans there could have been more planning on how to spray the rapidly breeding mosquitoes; how to manage the evacuation of the refugees from the Superdome; how to keep intact a fail-safe system for repairing a breech in the wall around Lake Ponchartrain; how to guarantee at vital installations the necessary auxiliary generating power; how to achieve the immediate deployment of massive numbers of U.S. military helicopters and naval small boats to speedily rescue all stranded inhabitants instead of waiting for the conventional sluggish National Guard and Red Cross buggies to roll out.

New Orleans will not be lost forever like Atlantis. Salvaging New Orleans could prove to be a process which fuels the revamping of the corrupted Washington decision-making process. It could spur the salvation of all cities which collectively constitute the core of our modern American civilization. The process must begin with less focus on bread and water looters and more scrutiny of the Washington leadership which has for decades allowed the continuous looting of the federal treasury to enrich the small percentage of the population not dependent on cities.

New Orleans has presented us with a hysterical profile which shows that in many vital ways, despite our impressive skyscrapers, we are an underdeveloped civilization. Our masses live in our cities (or the dependent exurbias and suburbs). To foster our nation's security, prosperity and greatness we must expend taxpayer resources on planning, programs and projects which provide the greatest benefits for the greatest numbers. The Washington looting mentality must be replaced with a new Washington creative leadership.

THE WASHINGTON LOOTING OF NEW ORLEANS

Washington looters still running loose
Abusers of New Orleans
Embezzlers of canal repair dollars
Big shot necks too big for a noose.

For the Mardi Gras
Neo-con domestic shock and awe
Bush budget blunders trapped in the crayfish
claw.

Grandmothers and babies cry
Urban peasant victims die;
Oh when the Saints come marching in
Judgement will fall on merciless men.

Put street looting logs away
Only political atrocities on the dock today.

Washington looters still running loose
Big shot necks too big for a noose.

CONGRESSIONAL BLACK CAUCUS EDUCATION BRAINTRUST

FACT SHEET

SUMMARY DEFINITION

The Faith-Based and Community Initiative was designed to "enlist, equip, empower, and expand the heroic works of faith-based and community groups across America." It includes increased tax incentives for charitable giving, an extension of Charitable Choice rules to most federally funded social service programs, and the Compassion Capital Fund, an HHS program. President Bush established a White House Office of Faith-Based and Community Initiatives and set up Centers for Faith-Based and Community Initiatives in 10 federal agencies to ensure that faith-based and community organizations have improved access to the programs operated by their agencies.

WHITE HOUSE OFFICE OF FAITH BASED AND COMMUNITY INITIATIVES

The purpose of this office is to: Identify and eliminate federal barriers to the full participation of faith-based and community serving programs in the provision of social services; Give these organizations the fullest opportunity permitted by law to compete for federal funding; Encourage greater corporate and philanthropic support for faith-based and community organizations through public education and outreach activities; Existing evidence shows that only partisan favored groups have received priority to date.

COMPASSION FUND

The Compassion Capital Fund (CCF) administered by the Department of Health and Human Services, since its inception three years ago, has provided $99.5 million in grants to 197 organizations and sub-grants to over 1,700 grassroots organizations. CCF administers two grant programs: the Demonstration Program and the Targeted Capacity Building Program. Operated almost as a covert domestic program, for a long period no objective criteria was established for the handouts of these taxpayers dollars.

APPLICATION PROCEDURES

Except for the very flexible Compassion Capital Fund (CCF), there are no publicly earmarked faith-based funds set aside for faith-based organizations. For the CCF there was no transparent review and selection process; and no timely announcements of funds awarded. At present, "where appropriate" certain programs are granted "Novice Eligibility" and given 5 extra points when being reviewed in the various cabinet level Departments.

CHURCH VS. STATE CONSTITUTION ISSUE

Faith institutions have always participated in community based programs. Indeed, the record shows that in the "War Against Poverty" and Head Start" programs the best performing agencies were often church based. The current controversy concerning government funding of religious institutions relates to the position of the Bush administration which insists that religious affiliation can be a factor in hiring program personnel. Also religious doctrine and dictates may be incorporated into any activities or curriculum of these Bush funded programs. To avoid the continuing denial of needed funds to poor community recipients this constitutional question should be left to be decided by the Federal courts.

COMPONENTS OF PROPOSED FAIR AND BALANCED FAITH AND COMMUNITY BASED FUNDING INITIATIVES

Poor communities throughout the nation, for the last thirty years, have seen Federal funds drained from their grassroots organization. Funding which places resources in the hands of front-line efforts is desperately needed. All public decision-makers should support fair competition for community based grants. The standards and procedures for the unbiased, transparent, objective notification, processing, review and evaluation of community-based programs have been well established by the Economic Opportunity Act and its successor, the Community Services Block Grant.

CONTACTS FOR ADDITIONAL INFORMATION

White House Office of Faith-based and Community Initiatives, Jim Towey, Director.

Centers for Faith-Based and Community Initiatives

Department of Justice, Patrick Purtill, Director, *www.ojp.usdoj.gov/fbci*

Department of Health and Human Services, Bobby Polito, Director, *www.hhs.gov/fbci*

Department of Education, John Porter, Director, *www.ed.gov/faithandcommunity*

Agency of International Development, Linda Shovlain, Acting Director, *www.usaid.gov/fbci*

Small Business Administration, Joseph Shattan, Director, *www.sba.gov/fbci*

Department of Labor, Brent Orrell, Director, *www.dol.gov/cfbci*

Department of Housing and Urban Development, Ryan Streeter, Director, *www.hud.gov/offices/fbci*

Department of Agriculture, Juliet McCarthy, Director, *www.usda.gov/fbci*

Department of Commerce, David Bohigian, Director, *www.commerce.gov/fbci*

Department of Veteran Affairs, Darin Selnick, Director, *www.va.gov*

THE KATRINA CHALLENGE TO FAITH-BASED AND COMMUNITY INITIATIVES EDUCATION

The Katrina Hurricane disaster has highlighted the continuing permanent disaster of national and local policies which neglect the basic needs of poor Americans. To focus specifically on education please be advised that the New Orleans school system is rated as the very worst among numerous struggling urban systems. From this current tragedy there is a challenge for all Americans. In concert with the citizens of New Orleans and Louisiana there should be a multi-level effort to redesign and rebuild a 21st Century Model Education System. New standards could be set for physical facilities constructed to serve as emergency centers as well as schools. Extra spaces for the storage of vital equipment and provisions would be incorporated into the new architecture which places all buildings on stilts with grassy playgrounds beneath them. All of the equipment for electrical wiring and communication services would be placed at higher levels or on roofs instead of easily flooded basements. In addition to regular phone, computer and five alarm communications, every school should be equipped with a short wave radio on the newly established Homeland Security standard frequencies.

As equally important as the physical features funding should be provided for the guarantee of the Opportunity-To-Learn for every student using the standards already in place in numerous suburban school districts across the nation. A program of Aid to Families With Children In School must supplement education funding in order to systematically attack the problem of inadequate home and community support. Stipends should be paid to parents who regularly attend meetings and volunteer. Bonuses should be paid to families where students maintain good attendance and high grades. Grants should be given to churches and other organizations who provide support for families with children in school.

The greatest benefit that the people and the government can provide for the survivors of Katrina is a comprehensive support program which educates a generation of children to take productive positions in their new city of New Orleans and in the nation.

MODELS FOR COMBINATION CHURCH/SCHOOL BASED PROJECTS FOR POSSIBLE FUNDING

I. SUPPLEMENTAL EDUCATION SERVICES (SES) NETWORK USING RETIRED TEACHERS

Program Purpose and Function

Tutorial, After-School and Weekend Programs for low-performing, low-income students attending low performing schools. Church and Community Organization Sites could provide more intimate settings in close proximity to the homes of students.

Possible Funding Sources

Funding is mandated by the Department of Education (DOE) through all recipients of Title I Funds. Other DOE Funds could be made available. Title I funds will cover the cost of tutors; however, to establish and maintain a network with additional enticements and incentives for pupils would require some auxiliary funding.

Administration and Operations

The Local Education Agency will determine the contents and processes for the tutoring although State licensing or approval may also be required. Funding beyond the cost of tutors will allow for flexibility in creating enrichment activities and maximizing family and community involvement. It is particularly important to maintain continuity of the Supplementary Education Services presence during each Summer recess. Assuming the attachment to a parent entity which provides space, bookkeeping and financial services, the budget for a project serving 50 children should be enough to finance: A coordinator's salary; stipend for two parents; phone and computer services; indoor game materials; field trips, snacks for students and parents. An application should be submitted for $150,000 to 250,000.

II. COUNSELING FOR CHILDREN OF INCARCERATED PARENTS

Program Purpose and Functions

This is an initiative that has been highlighted by the Bush Administration as a highly desirable function. There are no detailed guidelines in place and this allows for a great deal of creative flexibility. Advice and examples of models should be requested from the Department of Justice. Educators should insist that schools are in a pivotal position to play a major role in producing worthwhile results for such a program. This does not rule out collaborations and partnerships with agencies and churches serving prison inmates and ex-offenders.

Possible Funding Sources

Although the Department of Justice (DOJ) is the obvious starting point, possible funding should be explored with the departments of Health and Human Services (HHS) and Housing and Urban Development (HUD). The latter funds a number of programs for uplift and improvement in the low-income public housing under its jurisdiction.

Administrative and Operations

The professional advice of social workers, psychiatrists and psychologists must be at the core of such a project, however, community residents who are ex-offenders or the relatives of current inmates may make invaluable contributions. Assuming that the project will operate under the administrative and fiscal umbrella of an already established church or community organization (or the school system), the budget for a project serving 50 children should be enough to finance: A coordinator; Stipends for Volunteers; Fees for Professional Consultants; Prison Visit Trips. An application should be submitted for $200,000–300,000.

III. AUXILIARY DISCIPLINARY, PATROLLING, POLICING SERVICES USING PARENTS

Program Purpose and Function

Security is a major problem in many urban schools and many have chosen to use local police or private guards. Pilot projects are needed to show that utilizing parents, church members, and community residents would injure student self-esteem less and also cost less.

Possible Funding Sources

The Department of Education (DOE) is concerned about the increase of spending on security and should entertain new approaches. The Department of Justice (DOJ) will accept proposals which are in harmony with its juvenile delinquency prevention mandate. The Department of Homeland Security (DHS) should be offered proposals which demonstrate the possibilities of training these same parents and community residents to be volunteer first responders for emergencies.

Administration and Operations

Where necessary, local school systems have already developed structures for maintaining security. The pilot programs proposed here should be funded long enough (one year) to prove that they can accomplish a better result for less money. A request should be made (for one school) for $200,000–300,000.

IV. COOPERATIVE TECHNOLOGY, TRAINING AND REPAIR PROJECT

Program Purpose and Function

Large numbers of computers and other educational technology devices are grossly underutilized as a result of the absence of mechanics and technicians to make repairs and perform preventive maintenance. A church or community organization based project could provide an ongoing service for local schools while at the same time it trains a group of local residents.

Possible Funding Sources

The Department of Education (DOE) and the Department of Labor (DOL) should be solicited for funds to accomplish this worthwhile objective. It is possible that the E-Rate discounted coverage of expenses could be utilized for such a project after the appropriate negotiations.

Administration and Operations

The project is obviously best suited for a cluster of schools with a reasonable critical mass of computers and other equipment to be maintained. A supervisor instructor with the necessary assistants and interns to serve a minimal cluster could be sustained with an annual appropriation of $200,000—300,000.

PUSHING AHEAD WITH AMERICA'S AGENDA

The SPEAKER pro tempore (Mr. REICHERT). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, tonight I want to talk a little bit about all the great things that Americans are doing day in and day out to help our friends and neighbors from the gulf coast.

But first, Mr. Speaker, I want to commend the Republican Conference for taking decisive action today to be sure that we continue to push ahead with our agenda here in this House, that agenda of spending reductions, immigration reform, and keeping our focus on national security. It is clear that we will not let partisan wrangling get in the way of progress, and that is exactly why the American people have elected us to serve in this body. We are focused on their agenda.

I think it is important too, Mr. Speaker, to let the American people know that we have heard them loud and clear; and what they are wanting to see is action, decisive action on fiscal responsibility. They want fiscal accountability. After all, as so many of my constituents have reminded me in these last few days as we have talked about the pressing needs that we have in our country, this money is their money. It is not government's money.

□ 2030

It is the taxpayers' money, and it is our responsibility to be good stewards of that money. Many people have told me that they have just really grown ill and fatigued with seeing money spent and that they are not seeing it accounted for. They feel like it is time for bureaucrats to turn around and be responsible to taxpayers that are sitting at kitchen tables.

I have a lots of things I would like to respond to from my colleague across the aisle. He spoke about blunders that have taken place, and he seemed to have lost a little bit of hope with the U.S. and spoke negatively with how we have progressed with certain areas and positively of things that are happening in other areas in other countries. It just made me recall something that I remembered President Reagan would time and again say when he talked about spreading freedom and about what a noble goal, a noble goal it was to spread freedom to every corner of the world.

Mr. Speaker, you know, as we talk about what is happening in Iraq and as we talk about what is happening in Afghanistan, and we look at the agenda that our men and women in uniform carry out every day, as we look at how committed our President and his team have been to spreading freedom, we know that that is done because in the end having peace spread across this Nation, through the Middle East is going to give a peace dividend for our children and our grandchildren.

And in that peace dividend people find the opportunity to dream those big dreams. They find the opportunity to seek a better education, to seek opportunity, to build those businesses and to create a life that they would like to have for themselves and for their children. That is possible because of freedom. It is possible because of a commitment, a commitment that we make to move forward in spreading freedom.

My colleague also was talking about blunders and rebuilding and looking at the wonderful gulf coast area and how it is going to be rebuilt. Mr. Speaker, I would just have to tell you, I feel that those are some mighty resilient folks down there in the gulf coast. They are people who when that stormed passed through and it cleared away, I know many of the folks down in southern Mississippi that I was working with, they threw that chain saw in the back of that pickup truck, they grabbed their work gloves, they grabbed their work boots, they got out there and they started cutting trees. They started clearing the way. They went to work. They were not waiting for somebody else. They went to work.

Now, as we get to the rebuilding phase, it is important that we be innovative, that we be creative, that we bring some great solutions to the table, that we think about tax incentives, that we think about enterprise zones, that we think about going in here and encouraging ownership.

What can we do to encourage private property ownership? What can we do to encourage businesses to redevelop?

Possibly, Mr. Speaker, going into this area is a great place to go and run a pilot project to see how a flat tax would work so that we are making it easier on hard-working men and women, making it easier on families to come back and reestablish those homes and reestablish those businesses and rebuild those communities. Because right now they are looking at physical infrastructure that has been damaged. Their economic infrastructure has been damaged. The social infrastructure of their community has been damaged. They want to take ownership of those projects.

I commend the good communities along the gulf coast region, whether they are in Alabama, Mississippi, Louisiana, or Texas. Communities are coming together to meet their needs. And I want to talk a little bit about those Americans and the folks that have taken time to show compassion and caring. And I want to express some things tonight. I think it is important for us to stand and thank all of the churches and the not-for-profit organizations and the faith-based organizations who have led the way, who have led the way in caring for those who have provided shelter, who have provided money, have continued to raise money, that have donated supplies, and people who have even traveled into areas to help with caring, to help with feeding those that need to be fed, to help with clean up, and are committed to staying with these communities as they rebuild.

You know, photos do not do the degree of damage justice. I think that during this process that we have been through for the past month, we have seen government make some mistakes. We have seen government do some things right, and I know that most of us have probably been both impressed and sorely disappointed at the very same time. And I think one of the things that we have seen is that we have seen ordinary people do some truly extraordinary things.

I will have to tell you, as I said earlier, for me there is a personal connection to all of this. I grew up down in south Mississippi, and I was a high school girl when Hurricane Camille hit. And I can tell you from what I have seen, Katrina is much worse than my memories of Hurricane Camille. And just a few days after Katrina struck, I was down at where I grew up in southern Mississippi.

I went down there with my family so that we could help those in my home community. We took in supplies, and we went down to assist. My parents are long-time Red Cross volunteers; and they had been working at the shelter before the storm hit, trying to help those who were fleeing out of Gulf Port and Biloxi right along the coastal areas.

Even though my home community in southern Mississippi where I grew up suffered a lot of damage, those folks were there tending to others. It did not seem to matter that they did not have water, they did not have electricity, that some people did not have roofs. What they were doing was tending people that really had a need. They felt like that was the most important thing to do: tend to those that were injured; tend to those that were grieving; go clean things up and then let us get around to rebuilding.

The thing that I could not help but notice is the way that people from all walks of life were coming together to clear debris, to clear fallen structures. The spirit of America truly has been alive and well, even in the very tough days that we saw after Hurricane Katrina and we have seen this past week with Hurricane Rita. And since then we have learned more about some of these ordinary folks who stepped forward and did extraordinary things to help those who had lost their homes and their community.

In my district, which runs from the Mississippi border north to the Kentucky border, I have seen our communities across this entire district pull together to offer assistance. In many of our counties they have done so.

Mr. Speaker, that is what I am hearing from congressional Members all across this country. Forty-eight States have evacuees that are seeking refuge and a place to call home, maybe temporarily, maybe a little longer. They are all coming together, 48 States, communities across 48 States. A great example of this is our Memphis Corps of Engineers has been in New Orleans helping to repair the levees while our Shelby County, Memphis area nonprofits and faith-based groups have been pitching in as well. They have been incredibly generous.

We have had so many, and I would like to list just a few: the Bellevue Baptist Church, the Cathedral of Faith Ministries, Christ United Methodist Church, the Cornerstone Institutional Baptist Church, Cummings Street Baptist Church, Greater Harvest Church of God In Christ, the Greater Praise Church of God In Christ, the Independent Presbyterian Church, Memphis Union Mission, the Mid-South Baptist Association, and the Baptist Children's Home.

Mr. Speaker, it is like this in districts all across our country. All are working to provide shelter for evacuees. And then those that are coming forward with meals and shelters, the Friendship Baptist Church, the Germantown Presbyterian Church, Oakland First Baptist Church, and then the Breath of Life Seventh Day Adventist, Calvary Episcopal Church, the Holy Rosary Catholic church and School, and Hope Presbyterian Church, the Hutchinson School, and Impact Ministries of Memphis.

They are finding a way to feed volunteers and to feed evacuees. Mr. Speaker, all of this is such a testament to the greatness of our country. Up in the greater Nashville area, Montgomery County areas, they are in middle Tennessee, we have seen the Crievewood Baptist Church, Tulip Grove Baptist Church, Clear View Baptist Church, Hilldale Church of Christ all open their doors and provide shelter for those that were needing a temporary home.

We have also seen a wonderful evacuation center open in Franklin, Tennessee. I had the opportunity of inviting Secretary Mineta to join me as he had the opportunity to work with the Red Cross volunteers and look at this wonderful shelter, visit with our local elected officials, visit with the evacuees who had come out of Texas, out of Louisiana, out of Mississippi to call Franklin, Tennessee temporarily home.

We have also had the kitchen at Clear View Baptist Church and Near Ministry providing food; Grace Works Ministries collecting clothing and hygiene kits. Our Interfaith Dental Clinic providing acute care.

Mr. Speaker, while folks were receiving evacuees there, they were in the process of loading 18-wheelers and trucks and sending much needed supplies into the gulf coast area.

The Montgomery Bell Academy Service Club loaded an 18-wheeler full of supplies that were needed and sent it south into Jones County, Mississippi. This is happening all across the country in many districts.

I would like to mention a few of the things that some of our colleagues have done. In fact, just last Thursday my good friend, the gentleman from Texas (Mr. GOHMERT), rented two U-Haul trucks and went to a local food bank in Tyler, Texas. He then drove the trucks to Lufkin, Texas, which was out of food and water. They had received an influx of evacuees at several of their shelters. They were out of food and water and needed some help. So the gentleman from Texas (Mr. GOHMERT) unloaded the supplies and then went to the emergency operations center to meet with the local officials to see what else it was they needed. So he found out.

After midnight he visited a shelter. He found out there were nearly 200 evacuees there. They did not have pillows and blankets. So off he went to the local Wal-Mart where he bought the supplies that were needed. He returned and distributed these to the folks that were there that were in need.

That is a good deal of work, and it is a great thing a good man did for some folks in need. I want to thank the gentleman from Texas (Mr. GOHMERT) and all of those across the country who like him are reaching out to help others. I also want to thank those in his district that helped him in meeting these needs.

We have also seen some of the Nation's largest companies really step up to the plate on this. We have watched Wal-Mart really do some fantastic work. They have now donated in excess of $20 million in funds and in goods to help those that have been displaced, $20 million. Motorola has provided $1 million to an education fund to help rebuild schools and educate displaced children in the gulf coast region.

There again, another company that is stepping up to the plate to help. To date, they have provided several mission-critical responses to the gulf coast, including the delivery of replacement communications equipment to first responders, direct financial support to the American Red Cross Disaster Relief Fund, and more than 300 Motorola employees and partners are on the front lines in the impacted areas to repair and restore communications.

It is going to be a heavy lift. There is a lot of devastation in this area; and, indeed, it is going to take each and every one of us working together as a team, working together as a team from the local, the State, and the Federal levels, from the private, not-for-profit and public sectors, and here in Congress from both sides of the aisle as we work to meet the needs of this region of our Nation.

We all know that for so many prescription drugs are critical for survival, and we know that many people escaped thinking they would return in a day or two and be back home, not thinking to bring documents, prescriptions, health care information with them. And of course, we know many times when you escape and you are leaving and evacuating for a hurricane, in a couple of days you are back.

□ 2045

This time was different, and so we have watched as the Nation's pharmaceutical companies have contributed $120 million in refrigerated insulin, vaccines, antibiotics, antiseptics, nonprescription pain relievers, and millions of cans of infant formula.

One of our former colleagues here in the House, a Louisianan, Billy Tauzin, who had been a Republican Member from Louisiana, now works with these pharmaceutical companies. He said, "We want to make certain that every single person who needs help gets it during the difficult weeks and months ahead."

I want to thank him and the companies he represents for their donations. They are literally saving lives.

Mr. Speaker, I can tell my colleagues firsthand, having been in some of these shelters, having talked with the medical teams that are there, having worked with them to find out what their needs are, they are incredibly appreciative of the medical supplies and the pharmaceuticals that have come into the shelters to help them, to help our medical professionals meet the needs that so many of the evacuees are having with their health care.

Mr. Speaker, another word on another Member of this body. The gentleman from New Hampshire (Mr. BASS) has created an informal relief committee in his hometown of Peterborough, and I want to tell my colleagues a little bit about what he is doing. This is the kind of partnership that is going to make a tremendous difference.

The gentleman from New Hampshire's (Mr. BASS) rural New England town will provide essential resources to the small southern city of Collins, Mississippi. That little town is represented by the gentleman from Mississippi (Mr. PICKERING). It is down in south Mississippi. They sustained a tremendous amount of devastation and damage in Hurricane Katrina.

The gentleman from Mississippi (Mr. PICKERING) and the gentleman from New Hampshire (Mr. BASS) have worked to connect these two communities, and these two communities, miles apart, are forging a sister city relationship that will help ensure the swift delivery of goods and services to the citizens of Collins, Mississippi. Grateful citizens they are to the wonderful citizens of Peterborough, New Hampshire, and we thank them for that effort.

The gentleman from Delaware (Mr. CASTLE) helped kick off "Hunger Drive 2005" for the hurricane victims by donating groceries, preparing meal packages and announcing that his Wilmington congressional office will serve as a satellite office in collecting goods.

The gentleman from Delaware (Mr. CASTLE) said that, "In the aftermath of Hurricane Katrina, we have all been searching for ways to help, and help in more ways than just donating money. We wanted to do something that directly impacted the lives of the victims and their families."

I thank the gentleman from Delaware (Mr. CASTLE) for stepping forward and for working with his constituents in Delaware to help our citizens in the gulf coast region.

Mr. Speaker, I will have to tell my colleagues one little story, too. While driving to Mississippi, I stopped in the gentleman from Alabama's (Mr. ADERHOLT) district. I was going to grab a quick sandwich and get back on the road and continue driving so that we could get the load of supplies that we were taking down to where we wanted them to be.

I walked into the fast food restaurant. I was greeted at the counter by a friendly young man, big smile. I placed my order. He invited me to drop some change in the hurricane relief jar that they had put on the counter, and I thanked him for doing that, told him where I was heading, and he said, I have got to tell you, we are working with our congressman and his wife; we have got a great congressman and they are going to help us help some folks down in the gulf coast.

So we thank the gentleman from Alabama (Mr. ADERHOLT), his staff and his family for taking the lead in Cullman, Alabama.

I really think this sums up some of what this country is feeling and how we are reaching out right now. It is certainly clear that this effort is having an impact on our kids.

In Kalamazoo, Michigan, third graders are selling pickles at school to raise money for the hurricane victims.

In Maryland, high school students are collecting thousands of backpacks for needy children.

A group of children in Forest Acres, South Carolina, spent their day off from school to help those in need. The students sold baked goods and lemonade on a neighborhood sidewalk. They raised $145 in just a few hours, and all of it is going to help the victims and the families that are victims of Hurricane Katrina.

We, in Tennessee, have seen our great country music community come together in order to put their unique talents to work for the relief effort. This weekend in Oxford, Mississippi, there is an enormous concert. It is filled with country music stars. We thank them. They are performing, they are travelling, they are participating to raise money and raise awareness, raise the funds that are necessary to help hardworking Americans rebuild their lives and, as I said, raise awareness about what the true needs are in the gulf coast area.

Alan Jackson, Craig Morgan, Terri Clark, LeAnn Rimes, Marty Stuart, Keith Urban, Alison Kraus, just to name a few, sold out the 4,400-seat Grand Old Opry House to raise money. They were able to donate, get this, $230,000 to the Red Cross.

One of our great Nashville companies, the Great American Country owner Scripps Network, they contributed $1 million.

Mr. Speaker, I could go on and on because America has once again risen to the challenge. The American people have been incredibly generous, but I want to end this time tonight with this. To every individual, to every community who is out there, helping to ease the suffering of our friends in the gulf coast, I want to say thank you. I want to encourage them to keep up the good work because, indeed, Mr. Speaker, this is what we are a great Nation of, freedom, free people who group together to stand together to help one another and to be there to support one another when times are tough.

Mr. Speaker, we thank them all for their contribution to this Nation. We thank them for their commitment to being certain that American families, that American communities continue to be the beacon of light and hope and freedom for the entire world.

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30 SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. REICHERT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to come before the House, and we would like to thank the gentlewoman from California (Ms. PELOSI), the Democratic leader, for allowing us to have an hour here on the floor on the Democratic side.

Our 30 Something Working Group has been coming to the floor now for the second Congress, talking about issues that are facing Americans, issues that we are working on here in the Congress, issues that are facing the Congress and things that we feel very strongly about. Every week, we come together to talk about these issues and then we come to the floor.

As of recent, we have been coming to the floor if not every other day, every day, because there are so many issues that are facing the country and this Congress. I think it is important that we continue to not only speak to the Members of this House of Representatives and this Congress, but this administration and the American people.

We have been talking for quite a few weeks now on the action or lack of action as it relates to Hurricane Katrina. We have had a couple of events today that I think is worthy of merit of discussing, and also, as it relates to still, Mr. Speaker, pointing out the fact that we have over 100,000 Americans still in shelters, some based on the fact that we have had a natural disaster, two natural disasters, but some based on the fact of we have not governed in the way that we should have governed to protect those Americans.

Many of the experiences that these Americans have gone through and loss of life has been a breakdown in government operation. Either it be local or State or Federal, it is important that we address these issues.

Before we really get into what we are here to talk about tonight, the last time we left this floor, we talked about an independent panel, a bipartisan independent panel outside of this Congress, to deal with the issues that are facing some may say, well, it is just dealing with the gulf States, but I think that is an understatement. I think we are dealing with all Americans when we are talking about $200 billion-plus of the Federal tax dollars.

I can also share with my colleagues and Members, Mr. Speaker, the fact that it is disturbing to see some of the proposals that are coming out from the majority side that are saying that we should sell 13 national parks to pay for the natural disaster or we should look at wasteful spending. Of course, we have been talking about looking at wasteful spending for a very long time. Of course, the majority side has taken us into a deficit as far as the eye can see, but I think it is important for us to look at Americans that understand that we have to respond to Americans when they are in their time of need, not take away from.

We need to address issues like oil companies making more money than they have ever made before, record profits. Meanwhile, Americans cannot even fill their tank. Folks in my neighborhood, where I come from, they are having to park their cars. The President is saying conserve; if you do not need gas, do not get it. I do not quite get that, but Americans need gas to be able to take their families to work and their children to school.

There are some very interesting statements, some very interesting actions, here in Washington, DC. I think it is important that we not only point out to the Members what the American people, in this time that we live in now here in this country, with all eyes on this Federal Government, that we act responsibly.

I think it is also important that we address the issue of protecting the institution. This institution, which is the U.S. Congress, wherein the Members of the 109th Congress, regardless of whether we are on the majority side or the minority side, it is our responsibility to keep this argument above the belt, and I am very disturbed, at a time of national disaster, in a time of need, that Americans need this Congress, that we are still moving as business as usual.

I am talking about the partisan panel that has been passed by this House to look into what happened in Hurricane Katrina. I know that a couple of hearings have taken place, but it is very disturbing that Americans have to see that we are working against what they have asked for.

Here in my hand I hold a CNN–USA Today poll that was taken the 16th through 18th. Anyone, I am pretty sure, can go on the Web site. I just want to make sure no one sees this as the Kendrick Meek Report or the Tim Ryan Report or the Ms. Wasserman Schultz Report.

The question goes as follows: As you know, some people have called for an investigation into the problems the government had in responding to Hurricane Katrina. Who would rather see conduct this investigation, independent panel or Congress?

Now, it does say problems the government had in responding to Hurricane Katrina. It did not say the Federal Government. It did not say the State government. It did not say the local government. So I want to put that aside because some folks are playing this game as though it is some conspiracy theory to go after the Federal Government because they did not do what they were supposed to do and the local government did what they did right; they had no wrong.

Eighty-one percent, independent panel, 81 percent; 18, Congress. One percent was unsure. I am pretty sure if the question was put out on the issue of do you want a partisan panel to look at the response to the natural disasters, I am pretty sure they would have been a lot lower to Congress, and that is what is happening right now.

I, once again, say that it is important that we have an independent panel. What we mean by independent panel, just like the 9/11 Commission, that brought about the kind of accountability that we are having now. All has not been implemented that the 9/11 Commission called for, but a lot has improved as it relates to communications, the State, Federal and local governments, and I think it is important that we follow that.

Also, I know that we are going to talk about some of the cronyisms, some of the corruption that is going on around, not only this body, but throughout the government structure, and it is important, and I think a lot of this has brought about a lack of oversight, even when it comes down for some of the candidates for some of these appointments as it relates to the plum list, that have been well-documented, these are not my words, well-documented throughout the media and also as it relates to watchdog groups that are watching the Congress for what we do, and the President for what he does.

□ 2100

And I think we have to be responsible to the American people, Democrat, Republican, Independent alike. We have to make sure individuals that are being placed in these positions have some level of qualifications to be able to fill the position so that American people are not left vulnerable.

And with that, Mr. Speaker, I would like to yield to either of my colleagues, whichever wants to start this discussion.

Mr. RYAN of Ohio. Mr. Speaker, I would be happy to join in, and I thank the gentleman again for having me here. There is a lot going on here in Washington. And just to kind of follow up where the gentleman was going, we had about 70- or 80-some e-mails just last week talking about we want to have an independent commission and it should be removed from the traditional partisan bickering that goes on in this Chamber; there should be an independent counsel and independent commission that oversees what is going on with Katrina.

We know about the appointments, and we know that we had a gentleman who was a lawyer for equestrian horse shows that was not qualified, and seven or eight of the top brass in FEMA were political appointees. We know all this stuff, but we need to figure out how to get to the end and how to respond next time. Because next time it may not be a hurricane. Next time it may be a biological attack. The next time it may be a 9/11-type of attack. And though we do not like to talk about these things, our constitutional obligation here is to talk about worst-case scenarios and prepare for them.

If the President and this administration is not going to appoint the proper people, and I saw today or yesterday that Michael Brown, Brownie, is now being hired as a consultant for FEMA. So he is still in the mix.

Mr. MEEK of Florida. If the gentleman will yield for just a second on that point, he is not only hired as a consultant but he has been hired as a consultant to find out what went wrong.

This takes me back to last week. Same thing happening in the White House right now. The adviser, the young lady who is the Presidential adviser on homeland security now, has the task as it relates to the White House to find out what went wrong. These are the people that are making the decisions. That is the reason why we need an independent panel.

Last week we talked about this, and it was a little facetious to say it, but I said. My name is KENDRICK MEEK, and I am going to investigate myself and I will give you the findings in another 6 weeks. I said that to drive a point about the issue as it relates to the response to these natural disasters. And let us not leave Rita out, Hurricane Rita.

The fact is that people lost their lives, and not lost their lives in the storm, but lost their lives in the aftermath of the storm. Their lives could have been saved if we had had people in place that could make sound decisions.

I was reading in one of our publications here that Mr. Brown gave an interview to a newspaper and said, I called the White House and told them we have a problem and we need some help. Well, that is not good enough. Because the whole thing about the Federal Emergency Management Agency is to, what? Be ready to respond to a natural disaster. Now, Michael Brown, he is just Exhibit A as far as I am concerned.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, if the gentleman will yield. It gets worse. I was watching the hearings yesterday. FEMA's responsibility is to coordinate the response of the Federal Government in a natural disaster. They literally are the point agency, and all of the agencies in the Federal Government are basically brought under their direction. So what was Mr. Brown's response to, I think it was a question from the gentleman from Connecticut (Mr. SHAYS), about what he did to coordinate the disaster response. His answer was that he told the mayor of New Orleans and the Governor of Louisiana that they should issue a mandatory evacuation, and they did not listen, according to him.

That was the sum total. That is what he kept repeating. That was the sum total of his response to the question of how did he coordinate the vast resources that FEMA has at their disposal and every agency in the Federal Government: that he picked up the phone and called two people and told them to evacuate New Orleans. Well, I do not know about you, but if I had at my disposal the Department of Homeland Security, the Department of Energy, the Department of Health and Human Services, the Department of Housing and Urban Development, and the list goes on, I think that I could probably think of a couple more things to do besides make two phone calls.

This was the biggest natural disaster in American history and his response was to make two phone calls. Now, that may have something to do with the fact that his only previous experience was running the Arabian Horse Association, I do not know; but I would think even with a clean slate, and not knowing almost anything, not being an expert in disaster response at all, I would think I could do a little bit more than make two phone calls.

Mr. RYAN of Ohio. No doubt about it. This goes right to the heart of every single thing that has happened here in the last 5 years. This outfit does not know how to govern. They do not know how, period, dot, end of story. They just do not know how to govern. They do not know how to control the government. They do not know how to utilize the government for good purposes. They cannot do it with FEMA. They screwed up Medicare. The tax cuts are not working. Their tax policy, it stinks. Our trade policy is no good. Our international relations are atrocious. There are very few countries in the world that even like us any more. We are having hearings on global threats. Who likes us? China is going in and scooping up all the people we have upset over the past few years. What are we doing right, I ask my good friends from the 30-something Group?

And since we are talking about homeland security and communicating with people, most people at home that are watching now understand what has happened here today. Unfortunately, it is a very, very sad day in the history of this institution where someone in leadership has been indicted on the Republican side. And as I am going through my notes here, I am realizing that the leadership over there can get hold of Homeland Security if we have an issue in Texas, a political issue. They can call the FAA and have them track down some information.

There was no hesitation in the calling and using of a Federal Government agency to track down Texas legislators during the whole redistricting deal, so we know how to get hold of them if we need the Federal Government for political purposes. But if we need to rescue people or to cut through bureaucracy during a natural disaster, all of a sudden we do not know what we are doing.

Mr. MEEK of Florida. Let me just say this, Mr. Speaker. I think it is important, very important, and my colleagues heard me earlier mention the issue about protecting the institution and making sure that we carry ourselves in the way we are supposed to carry ourselves, but I am here to say, as someone that knows that this happens when you are in political life, you have some people that are investigated. You have some people that are indicted. It happens. When it does happen, I think it is important for those that are accused, or it is said that this is what you have done and here is my evidence, then it is appropriate for one to say, well, I believe that I am innocent. I believe this is not what you think it is; and in the coming weeks, days, months, or years the truth will come out.

But it is another thing entirely when it comes down to intimidation, and that is what I would like to address, especially of my colleagues on the other side of the aisle. Some of the press reports that I have read that came out just recently have me a little disturbed. I am a little disturbed that people in power are coming down on a locally elected prosecutor and saying this is politically motivated. They are not indicted. They have nothing to do with the case, but they are coming down on this individual. I think that is wrong.

Mr. RYAN of Ohio. Let us be sure how this works. This is a grand jury. This is not a prosecutor, this is a grand jury.

Mr. MEEK of Florida. A grand jury has brought this about. But once again I want to state for the record that no one is saying that the person in question is guilty as charged. We do have courts in this land.

But we do know here in this political circle that some people would be lined up out at the door. We have seen it before in the last administration, or when the House was Democratic. Members lined up out of the door to convict on this floor Members that have been indicted or investigated in the past.

Now, I can tell you that I know on this side of the aisle we are better than that. Now, some of my friends on the Republican side did not take part in that, but I am here to tell you that there have been Members that have blown things out of proportion, coming onto the floor with paper bags on their heads, and we have heard Members saying, I am ashamed to be a part of this institution, because someone was accused of not paying a parking ticket. So there are some who have been blowing this thing out of proportion.

But I can tell you what is beyond a coincidence, and that is the number of inquiries that are being conducted on this Congress from outside officials. The number of inquiries that are taking place, and I am talking real inquiries. I am not talking about someone paid for a plane ticket for someone, or someone had a steak dinner somewhere and somebody is upset about it, or someone did not report something small. We are talking about serious charges. We are talking about charges of speaking to Federal officials and not telling the truth. We are talking about questionable financial transactions. We are talking about a number of things. But I will tell you this, it is beyond coincidence that all of this is happening now.

My point is this, my colleagues. The majority side has not carried out its responsibilities. On the Committee on Armed Services, we have had 110 complaints about contractors overcharging the government, people that are being paid that are not even in Iraq, troops not having what they need when they need it at the height of the fighting; and worse yet, we sit on the committee that has oversight, yet not a mumbling word. Not a mumbling word. Not one real "let us pull you in and talk about it."

Look at Abu Ghraib. It almost took an act of Congress, with Members kicking and screaming, to even get the Secretary there to talk about these issues. If we conducted the proper oversight, maybe, just maybe, FEMA would have been in the position to respond to those individuals that were in harm's way. Maybe, just maybe, we would not have these cost overruns as relates to some of these companies like Halliburton and other companies that are out there that are charging our Federal taxpayers' dollars that are undocumented. Maybe, just maybe, officials in the White House that are running around without any oversight, without anyone saying, excuse me, can you answer this question for me; without anyone questioning them, things would be different.

I will tell you this, and then I will come in for a landing because I know you all want to talk about this subject.

Mr. RYAN of Ohio. Just get around the airport.

Mr. MEEK of Florida. We have been talking about this for a very long time, and I hate to say it, but in this Congress everybody wants to saying something out in the media. No one wants to come and talk about the responsibilities that we have as Members of the 109th Congress. We have a responsibility. Guess what, this was the Congress before we got here, and hopefully it will be a Congress and an honorable institution when we leave. We are the stewards of this. We are the benefactors of the past blood, sweat, and tears.

Mr. Speaker, there are veterans right now without limbs that are the reason we have the opportunity to come in here and breathe the very democracy we celebrate every day; their life, their commitment, these families that have lost so much in order for us to come in here. And for us to use our titles to chastise someone for doing what they believe is their job, and not just allegations against an individual but allegations that changed the face of this entire Congress. Members got unelected. If this is true, Members were unelected from this Congress because reapportionment took place. Members were elected and unelected in Texas because reapportionment took place. If that is true, then this is very, very serious.

So I would warn the Members of this Congress on both sides of the aisle to let us make sure that we pay attention to what is going on and make sure we refrain from using our office and our influence, because intimidation is the wrong medicine for this time.

Ms. WASSERMAN SCHULTZ. I do not know where to start here. I have so many things swirling through my head. The both of you have been here a couple of terms now, but I just got here. I am a freshman. I have been here all of 10 months. In January, like you did, but for me it was my first time so it was perhaps a little bit more sacred and special, because you know how it is when you do it your first time, you hold up your hand and swear to uphold the Constitution; and when you are doing that, you swear to uphold the integrity of this institution.

□ 2115

We have all served in legislative bodies. The gentleman from Ohio (Mr. RYAN) served in Ohio, and the gentleman from Florida (Mr. MEEK) and I served in the House and Senate in Florida. One of the things that the staff who have been around a long time, one of the things they impress upon new members, they stress how critical it is that we uphold the integrity of the institution, that the perception of the institution, that each of us as individuals, we impact the perception in America of the American people's view of the U.S. House of Representatives.

Now there is a pall cast over this House. There is a pall cast over this House because it feels like almost every month since I have been here, there is another Member of this body being accused of something.

I recall 11 years ago, in fact, it was 11 years ago Monday, that the Republican Contract With America was issued in 1994. Part of that contract, from my recollection, had to do with the integrity of this House and how the Republican leadership talked then about how they were going to, and they were very sanctimonious about it, they were going to restore integrity to this institution and inspire confidence in the American people.

My constituents have a pretty significant difference in the way they define integrity. My kids are watching tonight. The 6-year-olds are awake, and they are watching and I have to go home and explain to them why this man is all over the news; and, Mommy, what did he do? I have to have that conversation, as do parents across this country, every other week.

The reason that is important is not just because we want to uphold the impression and integrity of this institution, let us bring it home here. It exemplifies why we need an independent commission. If there are Members' ethics called into question, how are the American people going to be able to expect and get an independent, objective investigation of what went wrong?

The example that the gentleman from Florida (Mr. MEEK) just used is a good one. It would be like, to use the example of Enron executives saying Mr. Prosecutor, you do not have to do the investigation about what went wrong at Enron, our CEO and our executive board will take care of that; or Tyco.

Now we are doing that in this very House of Representatives, people who have been accused of wrongdoing, for whatever reason, not related to Hurricane Katrina, but we have got to make sure that this institution's integrity is upheld and maintained.

While you have people who are in the midst of their own personal situation, it is inappropriate, on top of the fact it was inappropriate to start with, to have a partisan select committee investigate the aftermath of Hurricane Katrina, now it is underscored even more so because there are people's integrity called into question in this Chamber. We need to make sure that we can restore the American people's confidence in the direction that this country is going, in the job we are doing here, and without an independent investigation of the aftermath of Hurricane Katrina, we are not going to be able to do that.

I am hopeful in the coming years. I will be able to talk to my kids and tell them this is an institution in which they should be proud that their mom is serving and there are people who are serving in it who have the highest values.

Mr. RYAN of Ohio. Mr. Speaker, I want to try to break this down because we do not want to accuse anybody, and I want to make a different point. The indictment today that was filed against the majority leader, and everyone will read it in the newspaper tomorrow and hear it on the news, I am not explaining anything new, but the basic charge is in Texas there is a law that does not allow corporate money to get involved in political campaigns.

The charge is that corporate money went into this leadership PAC and that money made its way into the State elections for senators and legislators within the State of Texas. The Republicans then, with that money, ended up winning seats and taking control, then using that power to then reapportion congressional districts off-cycle. We normally do it every 10 years. So every 10 years when you do the Census, you reapportion congressional districts. But they did this 3 years after the Census. This did it in 2000.

This is the allegation. They took this corporate money, won the seats, did the redistricting again and got rid of four out of five Democratic Members in Congress because of the redistricting. It is alleged this corporate money made its way to influence elections here in the United States Congress and Democrats lost five seats.

Now that if it is true is horrendous and a total breach of trust for the American people, if that is true. But I want to make another point. This highlights, whether this is true or not, this highlights the number one problem in the United States Congress. There is so much money in this institution it sickens me, and I know it sickens the 30-Something Group, because that money influences too much of the policy that comes forth, and every single decision that is made in this Congress is about money. It is about fund-raising, it is about how we can squeeze somebody else for another dollar for our frontline candidates.

The policy that comes through here consistently reflects how can we raise more money. That is the problem. I think that is the issue that the incidents today lead to. This institution has become more about money than about governing. When you have your policies set around money, you end up getting bad policies and you end up getting an abuse of power. That is exactly what happened.

Look at the Medicare bill. At 3 in the morning, they told us it was $400 billion, that was a lie. It ended up being $700 billion, and the actuary was told not to tell Members of Congress, elected officials in the United States of America, that they were not allowed to know the true cost of the Medicare program. Give me a break. They knew there were Members who would not vote for a bill that cost more than $400 billion, so they said $400 billion. Weeks later we find out it was $700 billion. That was a lie.

The war and all of the nonsense leading up to it was a lie. Every single thing. We are safer now since we elected this new President and we have the Republicans in control; wrong. We saw what happened with Katrina, another lie.

We are good stewards of the government, less government more efficient; wrong. Cronyism at FEMA, eight of the top people all political hacks, and people died because of it.

Our responsibility here is to oversee this kind of thing, and everyone keeps telling us we are safer and we saw it was not true. After September 11, we do not have time to be nice. We do not have time to sit here and accept everything at face value. This has all led to an abuse of power.

Homeland Security and the FAA was used during this whole Texas debacle to track down Texas legislators who feared their government so much they flew to Oklahoma. They feared their government and they flew to Oklahoma. And then the war, again misinformation coming from the government. Again, FEMA, cronyism, abuse of power again.

And now, which really, really frightens me, we have this President talking about getting rid of the Posse Comitatus law in the United States of America which means if you do not think using Homeland Security and FAA to abuse power is not enough, if you do not think appointing cronies at FEMA to oversee emergency management in the United States of America is enough of an abuse of power, now the President is suggesting that we get rid of Posse Comitatus, which means the military can take over emergency situations and have police powers in your communities. Now wait a minute, this has got to stop somewhere.

This has got to stop somewhere, and it all comes back to this money being so ingrained into this system that it drives everything. And too much money, too much power, one party control here, House, Senate, White House, leads to an abuse of power. That is what you are seeing on the news tonight and that is what you will see on the news tomorrow. You will hear about it for the weeks and months to come because one-party rule in the United States of America is bad for our government. Power corrupts and absolute power corrupts absolutely.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, listening to the gentleman from Ohio (Mr. RYAN), I am thinking about all of the reasons I ran for Congress, and I decided that public service was a career choice for me, and that is because I want to make the world a better place. We all do. Certainly the three of us do. Our colleagues do. The vast majority of the Members here want to do that. It leaves such a bad taste.

What has happened over the last several months and what came down today with one of our colleagues on the other side of the aisle, what came down a few weeks ago with another colleague on the other side of the aisle, the whole thing swirling around with Mr. Abramoff and the lobbyist, and we even had a gangland murder connected with that in my district in Hollywood, Florida, it is so pervasive, it is so disturbing, it gives me deep concern that people end up thinking that we are all just like those individuals who have strayed.

We have got to make sure that we can restore some confidence, we can go back to why we all ran in the first place and move this country in the right direction again. You have got cronies and phonies that are infiltrating the government. The culture of corruption that has become so pervasive here, not just in this body but at the executive level as well, it is worst than startling.

Mr. RYAN of Ohio. Mr. Speaker, maybe if we were not so concerned in this House, the other body, the executive branch, about raising money and putting our political friends into certain positions all over, maybe this government would do a better job of actually executing its job. We spend so much time, not we, but the ruling party here, the Republican Party, spends so much time trying to raise money and squeeze donors and appoint their college roommate's friend to the head of FEMA. Maybe if we spent, if this government spent as much time and energy and the resources to actually govern the country, maybe we would be doing a lot better.

Poverty is up. Our education levels are not where they need to be. There is a widening gap between the wealthiest people in the country and the poorest people in this country. We saw a good example of that in New Orleans, but it is the same in every city in United States of America, structural poverty that is here in this country. Maybe if we were spending a little more time actually trying to run the country instead of raising money and appointing political hacks, maybe we would be a little better off.

We talked about the money and how it influences everything here. Is it a coincidence that through all this, all this money that is involved in this whole system, it is a coincidence that the wealthiest people in this country are getting tax breaks? That is like a direct connection. A lot of money donated from the wealthy people in the country, and the wealthy people in the country get a tax break, and everyone else seems to suffer.

We are not saying for one moment that we do not think that our government needs reform: Education, health care, it needs reform. We are the reform party. This group has had control of this Chamber for over 10 years now.

□ 2130

No reform at all. Numbers are not up where they need to be up. They are down where they need to be up, and they are up where they need to be down. It is about reform. But to see the influence of money in this Congress and then to see the wealthiest people who are contributing get the tax cuts just does not seem fair.

Mr. MEEK of Florida. Madam Speaker, reclaiming my time. I think it is important going back to protecting the institution, going back to making sure that we do what we are supposed to do as the 109th Congress. I cannot speak for the 110th Congress. It is up to my constituents if I am to make it there. But I tell my colleagues this: being a Member of the 109th Congress in the minority or the majority, I think it is important that we share with our colleagues the importance of their duty of making sure that they do what they are supposed to do, because this is not about friendships.

We were not elected to come up here to be friends with one another. We were elected to come up here to represent our districts and the American people, to be able to make sure that democracy stands for another 200-plus years and beyond. That is our job. Our job is to come up here to protect the welfare of those individuals who cannot protect their own welfare, and we are here to make sure that there is a government in place for when they need it.

Some people in our country do not want anything from government. But guess what. When they need it, it should be there for them. No one is trying to get into anyone's life. But I can tell the Members this right now: the reason why we are here on this floor and the reason why we come to this floor week after week is to make sure that we raise the issues of the American people, Democrat or Republican alike. It does not matter. I do not ask my constituents, when they come to my office, I need to know their party affiliation. I do not go and chastise in a general sense of the word Republicans because some Republicans that I know, many that I know that are supporters of mine, either it be politically or friendship-wise or what have you, they do not share some of the things that I see the majority side acting on now.

If it was not for this side of the aisle pushing after 9/11 for an independent commission and if it was not for the work of those families, there would not have been an independent 9/11 Commission. There would not have been the testimony by not only White House officials, Pentagon officials, CIA, FBI, DEA, name it, transportation officials. We never would have gotten close to the bottom of what really happened if it was not for the push on this side.

The gentlewoman from California (Ms. PELOSI), our leader right now, was called a tainter by the Republican side for calling for an independent commission. There is a lot of name calling that goes on here on this floor. I for one do not like to name call. I just like to speak of the truth, period. When I talked about the allegations today, if they are true, then it is a problem.

The 9/11 Commission would not have seen the light of day if it was not for what we are doing right now, giving voice to those who sent us up here to give voice to them. After 9/11, Democrats called for a Department of Homeland Security. It is well documented. The majority-side leadership said we do not need a Department of Homeland Security. The White House said we do not need a Department of Homeland Security. And now we have a Department of Homeland Security, not because they thought it was a great idea. It was because of the pressure that was brought upon by us and also by the American people.

I think it is also important to talk about the issue of Social Security. The 30-something Working Group cut its teeth on the issue of Social Security, making sure that every American has the opportunity to have a guaranteed benefit. Whether it be a Democrat, Republican, young, old, disabled, retired, a survivor of someone that paid into Social Security, we fought for that. We stood here on this floor. We called out the leadership on the majority side. And the American people then, when we were making that argument, were on our side and we were on the side of the American people, period, dot.

Now when it comes down to Katrina, when it came down to responding to Hurricane Katrina, we were brought up here in special session over a case in Florida. We have got to come up here, and we have got to vote to try to save someone's life. We can get into all of that, but that is the past. We came up here for that. And after Hurricane Katrina, the Democratic leadership called for a special session. Oh, we do not need to do that. The American people demanded that the Federal Government do more than what it is doing right now. The President said, I am calling Congress back to session. There was a question, did the Democrats not call for that? Yes, they did too, but we are all in this thing together.

There should be an emergency supplemental. Oh, we do not need that, not now. Then that happened.

We called for Michael Brown's resignation because it was obvious. Here on this floor, I remember like it was yesterday, we called for it. I personally said if they are in a football game and they are within the first quarter and they have a quarterback that is not necessarily going to get them to the goal line, it is time to change personnel. A week later the President said, Michael Brown, you are doing an excellent job.

This goes into exactly what we are talking about. If it is left up to the majority, and I will not say us because we are here speaking now after 9 o'clock at night, children at home, loved ones at home, but we are here on this floor. Not because it is good for our health. It is because we care about what happens in this institution and this country. The bottom line is if it is left up to what the spin machine puts out from the majority side, we are in trouble.

Three days later, the Director of FEMA is sent back to Washington, then later resigned. We brought that issue up to the American people that he should be removed. Now we are at the independent commission. We have Members making statements that it is a shame that Democrats are not participating in the partisan commission.

The American people can see it. Go on CNN, USA Today Web site. This poll is there just as clear as my name is KENDRICK MEEK. As a matter of fact, I will give out the Web site: www.pollingreport.com disasters. We can get third, fourth-party validators. We called for an independent commission. Eighty-one percent of the American people called for an independent commission. I was talking with some of my Republican colleagues yesterday that are in leadership, and I told them they could save the country a lot of pain and frustration if they were just to say doing this in a partisan way is not the right way to do it. We should have an independent commission. If they are calling for it or the American people are calling for it, let us find a way.

I just want to finish this actual conversation that just took place yesterday. If they want it, we should just do it because we have nothing to hide. We are calling for an independent commission outside of this government because it does not have the ability to investigate itself. We cannot do it. We can just not do it because I am going to tell my colleagues right now, they say one thing and they do another. When I say "they," I am talking about leadership on the Republican side.

The President said, I am a fiscal conservative. He has not vetoed one spending bill since becoming President. An unprecedented highway bill with all kinds of pork projects in it and everything. He is not even saying, I am going to stand for what I told you I would do, and we are not going to spend. Unprecedented spending. Unprecedented deficit. I mean, this is like opposite day. This is like, I am a fiscal conservative. No, I am not. I believe in responsible spending. I really do not. The action does not follow the words.

But in this case in the posture that we are in now, as Members of Congress, as we go to our districts, people cannot help but say, Wow, you are a Member of Congress? You are going to admit to that? You are actually going to admit that you are a Member of Congress? So you must not care about spending, or you must not really have control over no-bid contracts or companies that are already under investigation by the very government that has called them into question.

So what I am saying is that when we talk about credibility, when we talk about name-calling, remember the Democratic leader was called a tainter, and worse, I am pretty sure, in private. But I think it is important. And I call on all of my colleagues, Democrat, Republican, and the one Independent we have, that it is more important now than ever that we go see the wizard and get some courage and heart, and I will not even go to the third one as it relates to mine because I know that we know better. We need to be man-up and woman-up and leader-up enough to say this is not right and we have got to stop it.

And I believe, as I close on this point, Madam Speaker, that the American people will smile on those that are trying to do something about the present situation and frown on those that just watch what is happening and say that it will go away. It will not go away. This is reality. People cannot afford to put gas in their tank; meanwhile companies are making record profits and no one is saying anything about it.

Eight States have asked the Congress to look into this issue of record profits of these gas companies. Has it happened? No. Do my colleagues know what I hear today? There are Members here looking at an energy bill. We are going to help the whole gas thing, and we have to go into the Arctic natural reserve and look for oil. People have hidden agendas that they want to carry out on the pain and suffering of Americans. As I speak right now, 100,000-plus in the middle of a basketball court in a shelter without a home, which could have been prevented if we had been on our j-o-b and making sure that the Corps of Engineers had what they needed to make sure that they can build that levee around New Orleans, to make sure that FEMA was able to respond to these folks. To make sure that the Congress, as they said, or the majority said, does what they were going to do from the beginning of being fiscal conservatives.

They have been just the opposite. The President said, I will make sure that we do not carry out wasteful spending. Maybe, just maybe, we would have no no-bid contracts going on with record profits. Maybe companies that are under investigation by this government and Departments will not continue to get billions of dollars in contracts. Maybe, just maybe, we would have some accountability if, only if, we had Members that were willing to stand up and face the music on our responsibilities and tell whoever is saying that we have to look the other way: I am sorry. We have a constitutional responsibility because someone woke up early Tuesday on election day to make sure I was elected to come here to Congress.

So whatever repercussions that may come out of this pressure, so be it. That is the bottom line because I will not, as a Member of this Congress, look my constituents in the eye and say I was in the minority and it was not much that we could do because there were powerful people on the other side of the argument who would have done things to me and would have said things about me and would have looked at me funny if I would have said something.

This country would not be independent if we had leaders like that. I would not be in Congress if we did not have leaders that were willing to fight to make sure that I could make it to Congress. The lights would not be on on this building if veterans did not lay down their life to make sure that we are able to salute one flag here today. That is how deep this argument goes.

And for those who have a problem, a problem, with our exercising democracy under this flag, then they have a problem with America. That is the bottom line. That is what it is, period, dot.

Madam Speaker, I am sorry, but I just had to share the fact that the reason why we are here is to make this country better. The reason why we are here and we argue the way we do night after night is to make sure that those who are in power, those who are committee chairmen, those who make the decisions on what bills come up, what bills do not come up, that we work on their conscience, that we remind them of their power and we remind the American people that if they want a change, then they will have their opportunity to make that change. And when they have that opportunity to make that change, then they need to make that change at the right time.

But I will tell the Members we cannot even last that long if we continue to act the way we are acting here, especially on the majority side, like it is just another day at the office.

People are suffering. People cannot put gas in their tanks. Folks are being threatened by the fact that they are going to roll back a prescription drug benefit that poor people have. Folks do not even know if their kids can get title I lunch. Meanwhile, no one speaks of billionaires getting tax cuts. We are going to sell national parks. There are questions of drilling where we have never drilled before. We do not even know if there is oil there; but because we are in this situation, we have individuals with power that want to come in and take advantage on the backs of suffering and death and lack of governance.

Ms. WASSERMAN SCHULTZ. Madam Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Madam Speaker, the thought occurs to me that people might be wondering why this even matters. I mean, so many times I talk to people and they say to me it is just the way politics is. They are going to reward their friends. They get into power and they are going to reward their friends, and that is just the way politics is.

And what I have to say to them, what we are trying to say to them, is that this culture of corruption is pervasive.

□ 2145

The culture of corruption is pervasive. It would disturb me deeply if it was just Members of Congress and we could say, there are some bad apples where people have gone astray and that is all it is. But it goes so much deeper than that with this administration, with the leadership on the other side.

This is how deep it goes: We have got cronyism and corruption that runs all the way up the ladder. I will just outline for you what I am talking about. Let us look at the appointments that have been made.

As recently has come to light, Mr. Brown was totally unqualified to be the director of FEMA.

Mr. RYAN of Ohio. "Brownie."

Ms. WASSERMAN SCHULTZ. Brownie's previous experience was being head of the Arabian Horse Association. I saw him attempt to defend himself at the hearing the other day, and he outlined his vast array of experience being the assistant to a city manager, essentially a glorified intern. But, to me, I just feel like there needs to be a couple more lines on the resume when it comes to the man who directs the response of the Federal Government to natural disasters.

Let us take if it was just the Congress or just Michael Brown heading up FEMA where the cronyism stopped. Then I could say, you know, occasionally that is going to happen.

But let us look at the gentleman who was appointed as the Deputy Commissioner for Medical and Scientific Affairs at the Food and Drug Administration. The Food and Drug Administration is charged with assuring the safety of everything from new vaccines and dietary supplements to animal feed and hair dye. They are the one that approve medicines and say whether medication can go on the market.

So Mr. Scott Gottlieb was named the Deputy Commissioner, and he was 33-years-old. This is the 30-something Group, so we are not going to be critical of that. But this is a person who got his medical degree at Mount Sinai School of Medicine, and his previous experience prior to taking this job at FDA, and they declared him a "noted authority" who had written "more than 300 policy and medical articles," his biography neglects the fact that many of those articles that he wrote criticized the FDA for being too slow to approve new drugs and too quick to issue warning letters when it suspects one already on the market might be unsafe.

I think if you asked the family members and people whose loved ones died from taking Vioxx and some of the other inhibitors that people have had horrendous reactions, and even deaths from because some of these drugs have been raced to the market too quickly before they have been fully vetted by the FDA, I think they might take issue with the fact that the person in charge of that is slightly less than qualified.

His previous experience before that was to be the editor of a popular Wall Street newsletter, the Forbes-Gottlieb Medical Technology Investor, in which he offered such tips as "three biotech stocks to buy now." This is the deputy commissioner of the FDA in charge of medical and scientific affairs.

If it was just the FDA, if we were going to stop there and it did not go further than that, I might be able to write it off. But then let us go travel over to another agency. We have another agency, the Office of Management and Budget, in which an ex-lobbyist with minimal purchasing experience was overseeing $300 billion in spending, until his arrest last week. The person who was in charge of procurement for the Office of Management and Budget was responsible for $300 billion in spending until he got arrested.

So you can see where we go. You peel back layer after layer after layer. So we are not casting aspersions randomly here. We are not just being partisan. There is a culture of corruption that is pervasive, and, my god, we have an opportunity in the next 13 months to take our message to the American people and help tell them that we are going to come and restore their confidence; that we have got competence and we have got integrity and we know how to make sure we can expand access to health care.

Our priorities are straight. We know that the Federal Government can do something about gas prices, and not just have the President stand behind a podium and say, "You know, if you don't have to drive, please don't." That is their conservation policy.

So before I go further than I should, I am going to turn it over to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. That was beautiful. You know, you play sports when you are a kid, and I know the gentleman from Florida (Mr. MEEK) was a college athlete, a college football player, a great athlete back in his day, a little slower afoot now than he used to be. But if you used to play sports as a kid and if you would not start or you did not get in the game right away, you would be watching everybody play and you knew you were better than everyone else that was playing, and you just thought, put me in coach.

Well, the Democrats are saying, put me in, coach. We will do better than this. And quite frankly, it does not seem that hard, given everything that has been going on, the corruption, the cronyism.

Democrats know how to run the government. Are we perfect? No. But we had a great FEMA director, we knew how to respond. We passed the first Family and Medical Leave Act. We know what families need and we know how to deliver.

In 1993 we balanced the budget, leading to the greatest economic expansion in the history of the United States of America, without one Republican vote. Al Gore had to come to the Senate to make the tie-breaking vote. Many people on this side of the aisle lost their seats because they made a tough vote that was in the best interests of the country, but not in the best interests of their own political careers. If you get a chance to read President Clinton's book, he highlights a couple of those people who made those tough votes.

My point is that the Democrats know how to govern. Are we perfect? Absolutely not. But you do not see this nonsense going on. They had to spend $40 million to chase our President around for something that had nothing to do with the public affairs of government. Was he wrong? Absolutely. But we are talking about the public affairs and public responsibilities.

Put us in, coach.

Mr. MEEK of Florida. Give the website.

Mr. RYAN of Ohio. The website is 30somethingdems@mail.house.gov. If you think we have cronies in government, do you think there is an abuse of power, a waste of money, things are tilted too much, the website is 30somethingdems@mail.house.gov.

Mr. MEEK of Florida. Madam Speaker, reclaiming my time, with that, I just want to thank the Democratic leader for allowing us to have this time. Also I want to commend you both for doing your homework. I believe we will be back tomorrow, the 30-something Group tomorrow afternoon after votes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. SCHMIDT). The Chair must admonish Members that remarks in debate should be directed to the Chair, and not to persons who may be viewing the proceedings.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUTIERREZ (at the request of Ms. PELOSI) for today on account of illness in the family.

Mr. COSTA (at the request of Ms. PELOSI) for today after 5:00 p.m.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DEFAZIO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. BUTTERFIELD, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. POE) to revise and extend their remarks and include extraneous material:)

Mr. KINGSTON, for 5 minutes, today.

Mr. POE, for 5 minutes, September 29.

Mr. MCHENRY, for 5 minutes, September 29.

Mr. NORWOOD, for 5 minutes, September 29.

Mr. GINGREY, for 5 minutes, September 29.

Mr. GOHMERT, for 5 minutes, today and September 29.

Mr. BURGESS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 37. An act to extend the special postage stamp for breast cancer research for 2 years; to the Committee on Government Reform; in addition to the Committee on Energy and Commerce and to the Committee on Armed Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3667. An act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station".

H.R. 3767. An act to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the "Jacob L. Frazier Post Office Building".

ADJOURNMENT

Mr. MEEK of Florida. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Thursday, September 29, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4250. A letter from the Under Secretary, Acquisition, Techonology, and Logistics, Department of Defense, transmitting a report on status of V-22 Osprey Aircraft before resumption of flight testing, pursuant to Public Law 107-107, section 123 (115 Stat. 1031); to the Committee on Armed Services.

4251. A letter from the Engine Manager, Department of the Air Force, Department of Defense, transmitting a request for a congratulatory letter for the retirement of Master Sergeant Christopher A. Shipp; to the Committee on Armed Services.

4252. A letter from the Administrator of National Banks, Comptroller of the Currency, transmitting the issues of the Quarterly Journal that comprise the 2004 annual report to Congress of the Office of the Comptroller of the Currency; to the Committee on Financial Services.

4253. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule — HIPAA Administrative Simplification: Standards for Electronic Health Care Claims Attachments [CMS-0050-P] (RIN: 0938-AK62) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4254. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 05-44, concerning the Department of the Navy's proposed Letter(s)of Offer and Acceptance for defense articles and services; to the Committee on International Relations.

4255. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed license for the export of defense articles and services to the Government of Japan (Transmittal No. DDTC 038-05); to the Committee on International Relations.

4256. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 081805B] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4257. A letter from the Acting Deputy Asst. Admin. for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean; Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Extension of Commercial Trip Limits for Gulf of Mexico Grouper Fishery [Docket No. 050209033-5033-01; I.D. 020405D] (RIN: 0648-AS97) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4258. A letter from the Deputy Asst. Admin. for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Reef Fish Limited Access System [Docket No. 050408096-5182-02; I.D. 033105A] (RIN: 0648-AS69) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4259. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Haddock Incidental Catch Allowance for the 2005 Atlantic Herring Fishery [Docket No. 050517132-5132-01; I.D. 051105D] (RIN: 0648-AT36) received August 12,2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4260. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting; Fishery Closure [Docket No. 050816224-5224-01; I.D. 081005A] (RIN: 0648-AT69) received September 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4261. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Modification of Emergency Fishery Closure Due to the Presence of the Toxin That Causes Paralytic Shellfish Poisoning [Docket No. 050613158-5237-02; I.D. 090105A] (RIN: 0648-AT48) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4262. A letter from the Deputy Asst. Admin. for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Pacific Halibut Fisheries; Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program [Docket No. 050421110-5192-02; I.D. 041505F] (RIN: 0648-AT03) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4263. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #5 — Adjustments of the Recreational Fishery from Cape Alava, Washington, to Cape Falcon, OR [Docket No. 050426117-5117-01; I.D. 080805A] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4264. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 080805C] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4265. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea Subarea [Docket No. 041126332-5039-02; I.D. 082505A] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4266. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area

620 of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 082405B] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4267. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 082405A] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4268. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 082305B] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4269. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits [Docket No. 040830250-5109-04; I.D. 081605C] (RIN: 0648-AS27) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4270. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 090605E] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4271. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 081705F] received September 16,2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4272. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule -- Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 081705G] received September 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4273. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 081705E] received September 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4274. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Yellowfin Sole in the Bering Sea and Aleutian Islands [Docket No. 041126332-5039-02; I.D. 072205B] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4275. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule -- Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 072205C] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4276. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 071505D] received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4277. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2005 Winter II Quota [Docket No. 030912231-3266-02; I.D. 071905B] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4278. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 071905A] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4279. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" in the Western Regulatory Area of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 072205A] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4280. A letter from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting the Department's final rule -- Changes to Implement the Cooperative Research and Technology Enhancement Act of 2004 [Docket No.: 2004-P-034] (RIN: 0651-AB76) received September 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4281. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the annual report for 2004 on the STOP Violence Against Women Formula GrantProgram; to the Committee on the Judiciary.

4282. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7889] received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4283. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4284. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4285. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Anchorage Grounds; Hampton Roads, VA [CGD05-04-043] (RIN: 1625-AA01) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4286. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulations; St. Croix, United States Virgin Islands [CGD07-05-042] (RIN: 1625-AA87) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4287. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Tchoutacabouffa River, Cedar Lake, MS [CGD08-05-034] (RIN: 1625-AA09) received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4288. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Marana Regional Airport, AZ [Docket No. FAA-2005-21005; Airspace Docket No. 05-AWP-2] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4289. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ruidoso, NM [Docket No. FAA-2005-22160; Airspace Docket No. 2005-ASW-12] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4290. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment to Class E Airspace; Santa Teresa, NM [Docket No. FAA-2005-22159; Airspace Docket No. 2005-ASW-11] received September 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4291. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Stage 4 Aircraft Noise Standards [Docket No.: FAA-2003-16526] (RIN: 2120-AH99] (RIN: 2120-AA99) received August 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4292. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, Weather Takeoff Minimum; Miscellaneous Amendments [Docket No. 30449; Amdt. No. 3125] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4293. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments [Docket No. 30451; Amdt. No. 3127] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4294. A letter from the Director, Regulations & Rulings Division, Department of the Treasury, transmitting the Department's "Major" final rule —Certification Requirements for Imported Natural Wine (2005R-002P) [T.D. TTB-31] (RIN: 1513-AB00) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4295. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for Calendar Year 2006 [CMS-8026-N](RIN: 0938-AO00) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4296. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program: Part A Premium for Calendar Year 2006 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement [CMS-8025-AO01] (RIN: 0938-AO01) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4297. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures [CMS-1478-IFC] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

4298. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible for Calendar Year 2006 [CMS-8027-N] (RIN: 0938-AO02) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

4299. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Hospice Wage Index for Fiscal Year 2006 [CMS-1286-f] (RIN: 0938-AN89) received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SESSIONS: Committee on Rules. House Resolution 468. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–238). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 469. Resolution providing for consideration of the joint resolution (H.J. Res. 68) making continuing appropriations for the fiscal year 2006, and for other purposes; for consideration of motions to suspend the rules; and addressing a motion to proceed under section 2908 of the Defense Base Closure and Realignment Act of 1990 (Rept. 109–239). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 470. Resolution providing for consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes (Rept. 109–240). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MURPHY (for himself and Ms. HART):

H.R. 3928. A bill to amend the Internal Revenue Code of 1986 to allow a credit for qualified expenditures paid or incurred to replace certain wood stoves; to the Committee on Ways and Means.

By Mr. CALVERT (for himself, Mr. ROHRABACHER, and Mr. GARY G. MILLER of California):

H.R. 3929. A bill to amend the Water Desalination Act of 1996 to authorize the Secretary of the Interior to assist in research and development, environmental and feasibility studies, and preliminary engineering for the Municipal Water District of Orange County, California, Dana Point Desalination Project located at Dana Point, California; to the Committee on Resources, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. GILCHREST, and Mr. SCHIFF):

H.R. 3930. A bill to establish the Universal Education Account and the Universal Education Corporation to promote global education reform; to the Committee on International Relations.

By Mr. ACKERMAN (for himself, Mr. LATOURETTE, Mr. VAN HOLLEN, Mr. SIMMONS, Mr. GRIJALVA, Mr. BLUMENAUER, Mr. WEXLER, Mrs. TAUSCHER, Mr. GEORGE MILLER of California, Mr. NADLER, Mr. CROWLEY, Ms. ESHOO, Ms. KAPTUR, Mrs. MCCARTHY, Mr. MORAN of Virginia, Mr. BROWN of Ohio, Mr. ROTHMAN, Mr. MOORE of Kansas, Ms. LEE, Mr. SHERMAN, Mr. MCNULTY, Mr. DICKS, Mr. KENNEDY of Rhode Island, Mr. HOLT, Ms. SOLIS, Mr. FRANK of Massachusetts, Mr. LARSON of Connecticut, Mr. KIRK, Ms. SCHAKOWSKY, Mr. STARK, Mr. HONDA, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. ISRAEL, Ms. KILPATRICK of Michigan, Ms. BORDALLO, Ms. JACKSON-LEE of Texas, Mr. RUSH, Ms. NORTON, Mr. OWENS, Mr. KUCINICH, Mr. OLVER, Mr. PALLONE, Ms. WOOLSEY, Mr. SABO, Mr. NEAL of Massachusetts, Mr. LANGEVIN, Mr. UDALL of Colorado, Mr. SERRANO, Ms. LINDA T. SÁNCHEZ of California, Mr. INSLEE, Mr. BARTLETT of Maryland, Mr. ABERCROMBIE, Ms. ZOE LOFGREN of California, Mr. KILDEE, Mr. MEEHAN, Mr. FARR, Mrs. DAVIS of California, Mr. GUTIERREZ, Mrs. NAPOLITANO, Mr. SCHIFF, Mr. WEINER, Mr. PASCRELL, Mr. LANTOS, Mr. RYAN of Ohio, Mr. LEWIS of Georgia, Mr. PAYNE, Mrs. BIGGERT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TOWNS, Mr. FOLEY, Mrs. MALONEY, Mr. UDALL of New Mexico, Ms. CARSON, Mr. BRADY of Pennsylvania, Mr. CUMMINGS, Mrs. CAPPS, Ms. MCCOLLUM of Minnesota, Mr. RANGEL, Mr. SHAYS, Mr. WELDON of Pennsylvania, Mrs. LOWEY, Mr. FERGUSON, Ms. BERKLEY, Mr. DEFAZIO, Mr. SMITH of New Jersey, Mr. KING of New York, Mr. SANDERS, Mr. TIERNEY, Mr. WOLF, Mr. GERLACH, Mr. ENGLISH of Pennsylvania, Mr. MARKEY, Mr. GALLEGLY, Mrs. KELLY, Mr. BERMAN, Mr. SAXTON, and Mr. WYNN):

H.R. 3931. A bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes; to the Committee on Agriculture.

By Mrs. BONO (for herself, Mr. LANTOS, Mr. CASTLE, and Mrs. CAPPS):

H.R. 3932. A bill to prohibit human cloning; to the Committee on the Judiciary.

By Mr. FITZPATRICK of Pennsylvania (for himself, Mr. MICHAUD, Mr. SAXTON, and Mr. SIMMONS):

H.R. 3933. A bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl; to the Committee on Agriculture.

By Mr. KING of New York (for himself, Mr. FOSSELLA, Mr. RANGEL, Mr. CROWLEY, Mr. MCNULTY, Mrs. MCCARTHY, Mr. ISRAEL, Mr. HINCHEY, Mr. HIGGINS, Mr. ENGEL, Mr. BOEHLERT, Mr. BISHOP of New York, Mr. SERRANO, Mrs. MALONEY, Mr. SWEENEY, Mr. KUHL of New York, Mr. WEINER, Mr. ACKERMAN, Mr. TOWNS, Mrs. LOWEY, Mrs. KELLY, Mr. REYNOLDS, Mr. MCHUGH, Mr. MEEKS of New York, Mr. WALSH, Mr. OWENS, Ms. VELÁZQUEZ, Mr. NADLER, and Ms. SLAUGHTER):

H.R. 3934. A bill to designate the facility of the United States Postal Service located at 80 Killian Road in Massapequa, New York, as the "Gerard A. Fiorenza Post Office Building"; to the Committee on Government Reform.

By Mr. ROGERS of Kentucky (for himself, Mr. BLUNT, Mr. SIMMONS, Mr. DAVIS of Kentucky, Mrs. JOHNSON of Connecticut, Mr. BONNER, Mr. WAMP, Mr. BOUSTANY, Mr. WALSH, Mr. SWEENEY, Mr. BROWN of South Carolina, Mr. LEWIS of Kentucky, Mr. CAMP, Ms. GRANGER, Mr. BEAUPREZ, Mr. MCCOTTER, Mr. DUNCAN, Ms. LORETTA SANCHEZ of California, and Mr. WICKER):

H.R. 3935. A bill to authorize the Secretary of the Treasury to issue Hurricane Relief Bonds in response to Hurricanes Katrina and Rita and subsequent flooding and displacement of residents in the federally designated disaster areas of Alabama, Florida, Louisiana, Mississippi, and Texas; to the Committee on Ways and Means.

By Mr. STUPAK (for himself, Ms. HERSETH, Mr. ETHERIDGE, Ms. PELOSI, Mr. DEFAZIO, Mr. OBERSTAR, Ms. SCHAKOWSKY, Mr. HOLDEN, Mr. KILDEE, Mr. RAHALL, Mr. MICHAUD, Ms.

BORDALLO, Mrs. CAPPS, Ms. SCHWARTZ of Pennsylvania, Mr. FILNER, Mr. PASCRELL, Mr. BISHOP of New York, Mr. MCNULTY, Mr. COSTELLO, Mr. SANDERS, Mr. CONYERS, Mr. LIPINSKI, Mr. BOUCHER, Ms. ESHOO, Ms. HARMAN, Mr. EVANS, Mr. PALLONE, Ms. MCCOLLUM of Minnesota, Mr. ENGEL, Mr. MARKEY, Mrs. MCCARTHY, Mr. HINCHEY, Ms. SOLIS, and Mr. VAN HOLLEN):

H.R. 3936. A bill to protect consumers from price-gouging of gasoline and other fuels during energy emergencies, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SWEENEY:

H.R. 3937. A bill to include dehydroepiandrosterone as an anabolic steroid; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Tennessee (for himself and Mr. DUNCAN):

H. Con. Res. 255. Concurrent resolution expressing the sense of the Congress that the United States flag flown over the United States Capitol should be lowered to half-mast one day each month in honor of the brave men and women from the United States who have lost their lives in military conflicts; to the Committee on House Administration.

By Mr. TOM DAVIS of Virginia (for himself and Mr. VAN HOLLEN):

H. Res. 471. A resolution supporting the goals and ideals of a "National IT'S ACADEMIC Television Quiz Show Day"; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mr. BOEHLERT and Mr. MILLER of North Carolina.

H.R. 328: Mrs. LOWEY.

H.R. 445: Mr. WILSON of South Carolina.

H.R. 503: Ms. CARSON and Ms. ROYBAL-ALLARD.

H.R. 543: Mr. OXLEY.

H.R. 550: Mrs. BONO and Mr. GONZALEZ.

H.R. 552: Mr. BOOZMAN and Mr. PETERSON of Pennsylvania.

H.R. 576: Mr. WESTMORELAND.

H.R. 583: Mr. PORTER.

H.R. 586: Mr. BARTLETT of Maryland and Mr. SCHIFF.

H.R. 657: Mrs. LOWEY, Mr. MILLER of Florida, and Mr. SCOTT of Georgia.

H.R. 668: Mrs. MALONEY.

H.R. 691: Mr. GILLMOR.

H.R. 698: Mr. MICA.

H.R. 752: Mr. MARKEY.

H.R. 768: Mr. ANDREWS.

H.R. 819: Ms. GINNY BROWN-WAITE of Florida.

H.R. 867: Ms. ESHOO.

H.R. 923: Mr. MCHUGH, Mr. TOM DAVIS of Virginia, Mr. HIGGINS, and Mr. DENT.

H.R. 976: Mr. BARTLETT of Maryland.

H.R. 1083: Mr. KOLBE.

H.R. 1097: Mr. FEENEY.

H.R. 1106: Mr. DOGGETT.

H.R. 1120: Mr. STUPAK.

H.R. 1129: Mr. SALAZAR.

H.R. 1190: Mrs. DAVIS of California.

H.R. 1201: Mr. ANDREWS.

H.R. 1204: Mr. SCOTT of Georgia.

H.R. 1264: Ms. ZOE LOFGREN of California, Mr. HINCHEY, Mr. KILDEE, Ms. HERSETH, Mr. LANGEVIN, and Mr. RYAN of Wisconsin.

H.R. 1435: Mr. ANDREWS.

H.R. 1498: Mr. FORTENBERRY and Mr. WELLER.

H.R. 1545: Mr. MCKEON.

H.R. 1554: Mr. SIMMONS.

H.R. 1602: Mr. BOOZMAN and Mr. TERRY.

H.R. 1615: Ms. CARSON.

H.R. 1870: Ms. HART.

H.R. 1973: Mr. BRADY of Pennsylvania and Mr. ABERCROMBIE.

H.R. 2037: Ms. DELAURO.

H.R. 2052: Mr. RUPPERSBERGER.

H.R. 2053: Mr. RUPPERSBERGER.

H.R. 2087: Mr. TIERNEY.

H.R. 2112: Mr. TIAHRT, Ms. ROS-LEHTINEN, and Mr. FOLEY.

H.R. 2177: Mr. BILIRAKIS.

H.R. 2209: Mr. JENKINS.

H.R. 2317: Mr. SALAZAR.

H.R. 2553: Mr. ANDREWS.

H.R. 2567: Mr. JACKSON of Illinois.

H.R. 2594: Mr. EMANUEL.

H.R. 2646: Mr. FORD.

H.R. 2694: Mr. SCOTT of Georgia and Mr. CHANDLER.

H.R. 2802: Ms. ESHOO.

H.R. 2803: Mr. KANJORSKI and Mr. MOORE of Kansas.

H.R. 2807: Mr. BERMAN.

H.R. 2861: Mr. JACKSON of Illinois.

H.R. 2933: Mr. ALEXANDER.

H.R. 2963: Mr. BROWN of South Carolina and Ms. MCCOLLUM of Minnesota.

H.R. 3006: Mr. GRIJALVA, Mrs. DAVIS of California, Mr. MILLER of North Carolina, and Mr. KENNEDY of Rhode Island.

H.R. 3011: Mr. GOODLATTE, Mr. KLINE, and Mr. DOOLITTLE.

H.R. 3142: Mr. BERMAN, Ms. MATSUI, Mr. MEEHAN, Mr. FARR, Mr. SMITH of Washington, Mr. HINCHEY, Mr. JACKSON of Illinois, and Mr. LEWIS of Georgia.

H.R. 3147: Mr. UDALL of New Mexico and Mr. ALEXANDER.

H.R. 3191: Ms. KILPATRICK of Michigan.

H.R. 3196: Mr. NADLER.

H.R. 3336: Mr. WEXLER.

H.R. 3359: Mr. VISCLOSKY.

H.R. 3361: Mr. BRADY of Pennsylvania.

H.R. 3368: Mr. LEVIN, Ms. KILPATRICK of Michigan, Mr. UPTON, Mr. STUPAK, Mrs. MILLER of Michigan, Mr. CONYERS, Mr. DINGELL, Mr. KNOLLENBERG, Mr. SCHWARZ of Michigan, Mr. HOEKSTRA, Mr. ROGERS of Michigan, Mr. EHLERS, Mr. MCCOTTER, and Mr. CAMP.

H.R. 3385: Mr. LEACH.

H.R. 3417: Ms. SOLIS.

H.R. 3436: Mr. MANZULLO.

H.R. 3504: Mr. HIGGINS.

H.R. 3561: Mr. MCGOVERN and Mr. BERMAN.

H.R. 3568: Mr. CASE.

H.R. 3588: Mr. BURTON of Indiana.

H.R. 3697: Ms. BALDWIN, Mr. HOLT, and Mr. BAIRD.

H.R. 3698: Mr. DOGGETT, Mr. GONZALEZ, and Mr. FRANK of Massachusetts.

H.R. 3740: Mr. OWENS, Mr. NADLER, Mr. SNYDER, Ms. BORDALLO, Mr. RYAN of Ohio, Mr. MCGOVERN, Ms. BERKLEY, Mr. AL GREEN of Texas, Mr. ALEXANDER, Mr. PASCRELL, and Mr. NEAL of Massachusetts.

H.R. 3763: Mr. BOYD, Mr. DAVIS of Tennessee, Mr. TANNER, Mr. CRAMER, and Mr. MCINTYRE.

H.R. 3780: Ms. BERKLEY and Mr. OBEY.

H.R. 3802: Mrs. DAVIS of California, Mr. GRIJALVA, and Ms. WOOLSEY.

H.R. 3811: Mr. SAM JOHNSON of Texas.

H.R. 3829: Mr. COLE of Oklahoma.

H.R. 3838: Mr. MCGOVERN, Mr. STUPAK, Mr. GUTIERREZ, Mr. BERMAN, Mr. DOGGETT, and Mr. LEVIN.

H.R. 3841: Mr. GRAVES and Mr. HOBSON.

H.R. 3868: Mr. MILLER of Florida, Mr. FLAKE, and Mr. BURTON of Indiana.

H.R. 3869: Mrs. BLACKBURN and Mr. UPTON.

H.R. 3870: Mr. MORAN of Kansas and Mr. MILLER of Florida.

H.R. 3915: Mr. ENGLISH of Pennsylvania.

H.R. 3916: Mr. HONDA.

H.R. 3918: Mr. JEFFERSON, Mr. HALL, Mr. SAM JOHNSON of Texas, and Mr. MARSHALL.

H.J. Res. 38: Mrs. KELLY.

H.J. Res. 55: Mr. DUNCAN.

H. Con. Res. 42: Mr. MOORE of Kansas.

H. Con. Res. 112: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAYNE, Mr. BACA, Mr. SCOTT of Georgia, Mrs. MCCARTHY, Mr. BISHOP of Georgia, Mr. MCNULTY, Mr. KUCINICH, Mr. PASTOR, Mr. GRIJALVA, Mr. MCDERMOTT, and Mr. GONZALEZ.

H. Con. Res. 137: Mr. PAYNE.

H. Con. Res. 158: Mr. BAIRD.

H. Con. Res. 178: Mr. ISSA.

H. Con. Res. 197: Mr. MILLER of North Carolina, Mr. BROWN of Ohio, Mr. SKELTON, and Mr. PRICE of North Carolina.

H. Con. Res. 230: Ms. HARRIS, Mr. SESSIONS, Mr. PETERSON of Minnesota, Ms. HART, Mr. GOHMERT, Mr. COOPER, and Mr. TOWNS.

H. Con. Res. 245: Mr. MILLER of Florida, Mr. MATHESON, Mr. HAYES, Mr. GINGREY, Mr. DAVIS of Kentucky, Mr. BISHOP of Georgia, and Mr. HOSTETTLER.

H. Con. Res. 248: Mr. WOLF, Mr. CANTOR, Mr. GALLEGLY, Mr. BISHOP of New York, Ms. HARRIS, and Mr. GONZALEZ.

H. Con. Res. 252: Mr. SMITH of New Jersey.

H. Res. 97: Mr. MILLER of Florida and Mr. ADERHOLT.

H. Res. 192: Mr. BISHOP of Georgia and Mr. GONZALEZ.

H. Res. 220: Mr. SABO and Mr. KING of Iowa.

H. Res. 261: Mr. DOYLE.

H. Res. 388: Mr. BOOZMAN.

H. Res. 438: Mr. CARDIN, Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. TANCREDO, Mr. MCCOTTER, Mr. HIGGINS, Mr. PENCE, Ms. ROS-LEHTINEN, Mr. KING of New York, and Mr. BISHOP of New York.

H. Res. 442: Mr. NADLER.

H. Res. 444: Mrs. MCCARTHY, Mr. WALDEN of Oregon, Mr. BRADY of Pennsylvania, and Mr. LANTOS.

H. Res. 457: Mr. BARTLETT of Maryland, Mr. MCDERMOTT, and Ms. EDDIE BERNICE JOHNSON of Texas.

H. Res. 463: Mr. MEEKS of New York.

EXTENSIONS OF REMARKS

RECOGNIZING PRESIDENTIAL SCHOLARS OF PINE CREST SCHOOL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. SHAW. I rise today to recognize and honor the dedication and ambition of three recent graduates of Pine Crest School in Fort Lauderdale, Florida.

Kyle Mahowald, Andrew Malcolm, and Caitlin McAuliffe have each been recognized as National Presidential Scholars. The Presidential Scholars program was introduced by Executive Order in 1964 as a means of applauding the efforts of the Nation's top high school graduates. This year, only 141 winners were chosen from a candidate pool of over 2,700. With three, Pine Crest has the most honorees of any school in the Nation. I am confident that this achievement foreshadows what their bright futures may hold.

The efforts of these students extend far beyond the classroom. Kyle, Andrew, and Caitlin have reached out to their fellow peers, taking leadership roles in various student organizations and serving as mentors for younger students. Additionally, they have reached out to their communities, giving countless hours from their busy schedules to raise money for various worthy causes. Kyle Mahowald even became the youngest person to compose the Sunday crossword puzzle for the New York Times.

The educators and parents of Pine Crest School play a critical role in the success of all of their students. I commend Raymond Sessman, Anthony Jaswinski, and Gordon Ivanoski for their dedication and guidance to these three students. Only with the support of truly caring teachers can future generations of American students hope to reach their dreams.

On behalf of Florida's 22nd District, I wish to recognize Kyle Mahowald, Andrew Malcolm, and Caitlin McAuliffe for their admirable efforts and wish them the best of luck in their studies at Harvard, Princeton, and Yale, respectively. Their accomplishments are a shining example to all of South Florida's students and students across the Nation.

TRIBUTE TO JOHN AND BETTY ANN DONEGAN FOR THEIR OUTSTANDING SERVICE TO THE COMMUNITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join Harbor Health Services and, the many family, friends, and community members who have gathered to pay tribute to two outstanding members of the Branford community and my good friends, John and Betty Ann Donegan. John and Betty Ann have dedicated a lifetime to public and community service—making all the difference throughout the Branford community.

As Harbor Health Services celebrates its 25th Anniversary, it is only fitting that they should honor Betty Ann who, as a charter board member, helped give life to this outstanding organization. Since its inception, Harbor Health Services has provided invaluable programs and services to those with behavioral health needs and has become a leader in quality care and service. Through her efforts and guidance on the Board, Betty Ann's involvement with the organization has helped to make it the success it is today. However, it is not just for her good work with this agency that she is being honored.

Both John and Betty Ann have devoted countless hours to the Branford community. Every community should be so fortunate as to have a couple who so willingly give of themselves to make a difference in the lives of others. Betty Ann's reputation as an active and dynamic volunteer is only further enhanced when you consider the innumerable contributions she has made. Whether chairing benefits for the Branford Volunteer Service Center, the celebration of the reopening of the James Blackstone Memorial Library, or the Branford Festival, it seems that Betty Ann is always available to lend a helping hand to ensure that these community events are a success.

John has also demonstrated a unique commitment to public and community service. He has represented Branford residents as a member of the Representative Town Meeting, served on the Branford Board of Education, and has for many years served as the town's Judge of Probate. In addition to his public service, John has also devoted much of his time to community organizations. For 25 years he served as Secretary of the Branford Community Foundation, he is the immediate past president of the Pine Orchard Yacht and Country Club and has served as volunteer counsel for the Branford Volunteer Service Center. Through all of these efforts, John has quietly enriched the community, improving the quality of life for all of its residents.

On a more personal note, I must also thank John and Betty Ann for their many years of special friendship. When I first ran for Congress in 1989, the Donegans were some of the very first to support my efforts. Even during a horrible blizzard, they opened up their home to introduce me to the Branford community. They are true friends and I am certainly fortunate to have their support and encouragement.

Their dedication and commitment to public and community service is unparalleled. John and Betty Ann reflect all that community leaders should be. I am certainly proud to call them my friends. I am pleased to stand today and join all of those gathered in extending my deepest thanks and appreciation to John and Betty Ann Donegan as they are so fittingly honored by Harbor Health Services with their Community Service Award. There are few who have demonstrated such generosity and compassion. They have left an indelible mark on the Branford community—a legacy that has touched the lives of thousands.

UNIVERSITY OF MASSACHUSETTS DARTMOUTH STUDENTS HAVE ENTERED THIS YEAR'S DEPARTMENT OF ENERGY SOLAR DECATHLON

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, I rise today to recognize the accomplishments of a gifted group of students from the University of Massachusetts Dartmouth who have designed and built an entry at this year's Department of Energy Solar Decathlon.

The Solar Decathlon brings 18 college and university teams to participate in this innovative solar competition to design, build, and operate the most attractive and energy-efficient solar-powered home. Student teams built their solar houses on their respective campuses and will transport them to the National Mall in Washington, DC, where they will form a solar village on the National Mall.

The solar village is open to the public October 7–16, 2005. The teams' solar houses are open for touring every day except October 12, when they are closed for competition purposes. An overall winner will be announced on October 14.

I especially wanted to note that after the competition the University of Massachusetts Dartmouth Solar Decathlon Team will be donating their solar home to Habitat For Humanity where it will be permanently installed in Northeast DC as a Habitat-provided home. I'm proud to have the University of Massachusetts Dartmouth in my district and to represent these bright young people who have worked so hard to draw attention to the benefits of alternative energy.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CONGRATULATING PASQUALE CASTAGNA AS RHODE ISLAND'S 2005 OUTSTANDING OLDER WORKER

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. LANGEVIN. Mr. Speaker, today I rise to congratulate Pasquale Castagna, recently honored as Rhode Island's 2005 Outstanding Older Worker. Mr. Castagna, at the age of 84, continues to manage the Grandview Bed and Breakfast in Westerly, RI, and still finds the time to give back to his community through service and dedication.

A World War II veteran and committed public servant, Pat Castagna began working for the bed and breakfast 18 years ago, after spending 34 years as a community postman for the U.S. Postal Service. He was honored in that position in 1973 for "recognition of efforts beyond the call of duty in bringing credit to the postal service."

Now property manager of the Grandview Bed and Breakfast, Pat has kept the house, grounds, and office running smoothly. His work has contributed to making Grandview one of the best in the area, winner of the 1998 Bed and Breakfast Excellence Award from the South County Tourism Council.

After 84 years, Pat still finds time not only to continue performing his job, but to contribute to the community as well. He was cited for most consecutive years of community service for his work on the Westerly Town Council, helping plan the Columbus Day Celebration for 25 years and serving as a member of a committee to memorialize those who died serving our country.

The Outstanding Older Worker award reflects the characteristics of "leadership, learning, mentoring, and community service," and was created by Experience Works to honor America's senior workforce. The importance of this segment of the workforce should never be underestimated, and Rhode Island is proud to have people like Mr. Castagna still hard at work in our community. On behalf of my home State, I would like to thank Mr. Castagna and all older workers for their dedication to their jobs, and I would like to wish them all great success in the future.

RECOGNIZING PRESIDENTIAL FREEDOM SCHOLARSHIP RECIPIENTS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. SHAW. Mr. Speaker, I rise today to recognize and honor the outstanding dedication to community service displayed by ten high school students who were recently awarded the Presidential Freedom Scholarship.

This year's recipients are Maruan Almada of Fort Lauderdale, Jenna Ali of Deerfield Beach, Charity Lamerson of Boynton Beach, Monique Shepherd and Edwin Morales of Boca Raton, Shaina McGehe of West Palm Beach, Aaron Grossman of Royal Palm Beach, Jarrod Matthei of Pompano Beach, Joshua Miller of Parkland, and Stacey Blase of Palm Beach Gardens.

These ten fine young individuals have taken a leadership role in local community service projects and devoted significant time and energy to improving our district. They have each contributed more than 100 hours of service in the last 12 months alone.

Mr. Speaker, today we recognize these ten Freedom Scholarship recipients for their tireless efforts and leadership in working to improve the lives of others in our community. I wish these fine young men and women the best of luck in their future endeavors, with full confidence that their dedication to service will continue to both improve lives and inspire others.

TRIBUTE TO CHIEF ROBERT F. NOLAN ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. DELAURO. Mr. Speaker, I am very proud to rise today to join family, friends, and community members in extending my sincere thanks and appreciation to my good friend, Chief Robert F. Nolan, who is celebrating his retirement after thirty-four years of dedicated service. His retirement marks the end of a distinguished career in law enforcement with the Hamden Police Department.

Recent times have brought a renewed public respect for our Nation's law enforcement officials and the very real dangers they face. From the tragic events of Columbine to the devastating attacks of September 11th to the catastrophic destruction of Hurricane Katrina, the skill, dedication and commitment of our law enforcement officials has been tested. From these tragedies lessons have been learned and higher expectations have been made for those who dedicate their lives to protecting our communities. In these times, we have looked to our police officers for guidance and reassurance.

Chief Nolan began his career as a patrol officer with the Hamden Police Department in 1971. In his over three decades of service with the Department, he served in many positions with the utmost of distinction and integrity. Throughout his career, Chief Nolan has always dedicated himself to ensuring the protection and safety of the Hamden community. Attending countless training exercises, workshops, forums, with both local and federal agencies, the Chief always availed himself of the most advanced law enforcement training available. His unparalleled leadership and dedication to law enforcement earned him the appointment of Chief, a rank which he has held for the last seven years.

I have perhaps never been so proud of our law enforcement officials than in the days immediately following September 11th. Chief Nolan along with twenty-two of his officers went to New York City to assist authorities at the police command center. It has been through outstanding efforts like these that the Chief has earned the respect and esteem of his Department, the citizens of Hamden, and all that have had the opportunity to work with him. Every community should be so fortunate.

With all of his work at the Department and in the community, Chief Nolan still made time to be of great assistance to myself and my staff. He has been an invaluable resource to us all and I want to extend my deepest thanks and sincere appreciation for all of his many years of support and friendship.

Chief Robert F. Nolan has demonstrated an unparalleled commitment and has left an indelible mark on the Town of Hamden—he will be missed. As he celebrates his retirement, it is with great pleasure that I rise today to join his wife, Shirley; daughters, Dawn and Robyn; his three grandchildren, family, friends, and colleagues in wishing him the very best for many more years of health and happiness.

AVTEX BOILER HOUSE IMPLOSION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. WOLF. Mr. Speaker, September 19, 2005, was an historic day for Warren County in Virginia's 10th District. On that Monday, the largest and last major building in the American Viscose (Avtex) plant complex on Kendrick Lane in Front Royal, next to the South Fork of the Shenandoah River, was imploded. The site is now being prepared for redevelopment as a 165-acre technology-oriented business park, 240-acre nature conservancy park, and 35-acre community soccer complex.

The event marked the end of an era for the Front Royal and Warren County area which began over six decades ago. From 1940 to 1989, the Avtex plant was a hub for this community, employing more than 2,500 people manufacturing rayon, polyester and polypropylene fibers for the defense, space and commercial industries. But its closure in 1989, not only eliminated a great number of jobs, it left the site unsuitable for reuse.

Following its closure, the facility was identified by the Environmental Protection Agency as a Superfund site. However, before the EPA could begin its work on cleaning up the site, asbestos and lead-contaminated buildings had to be removed. Since 2000, the Army Corp of Engineers has been partnering with the Environmental Protection Agency, Virginia Department of Environmental Quality, the Economic Development Authority of Front Royal and Warren County and the FMC Corporation, a former owner of the site, in the Avtex cleanup efforts. These partners have done an amazing job of cleaning up this site and preparing for a new use.

Clean-up can be very costly. That's why securing federal assistance for the effort has been a priority for Senator JOHN WARNER of Virginia and myself for many years. However, the initial funding of $12 million ended up being insufficient to cover the full cost of demolishing the buildings and removing the asbestos. In 2003, Senator WARNER and I were able to help provide an additional $11 million in federal funds to finish the effort. It would have been unacceptable to leave the project half-done.

Monday was a very emotional day for many who had dedicated years of service to our nation at the Avtex site. While the occasion was tinged with sadness for many former Avtex employees who were on hand for Monday's ceremony, they are hopeful that their former work site can once again be an economic center for the region.

Former Avtex employees were recognized for their contributions over the years with yellow ribbons. Louise Bowers, an 83-year-old town resident, worked at the rayon plant for 46 years, over half of her life. Her father, the late Noah Martin, had a part in the history of this site having hauled sand used in the construction of the plant.

Mrs. Bowers went to work there in 1940, one of 19 young women hired that day. During World War II, she wound motors for the spinning room. She ended up in the "double-deck" or the lower part of the plant, where the syrup-like viscose liquid was poured through platinum "jets" or thimbles, forming tiny filaments of rayon yarn. She said the men worked upstairs and the women worked downstairs.

It was through her job at Avtex that Louise met her husband, John C. Bowers. He worked at Avtex for 39 years. Much of his work was in the "staple" department, where sheets of fluffy rayon were baled. Like his wife, it was a bittersweet moment to see the boiler house imploded.

For Lloyd W. Ebaugh Sr., 92, of Woodstock, his work at Avtex over 32 years provided a good living for him and his wife, Catherine, to raise their twin daughters. Avtex was the lifeblood for other communities from Winchester to Woodstock to Edinburg to Luray, across the mountain, all around. It was the major industry in the area. His wife was saddened by Monday's implosion noting that "it represented the end of a lot of things, wonderful and good things."

Also on hand for Monday's implosion was William K. Sine, 76, of Front Royal, who earned his living at Avtex for more than 29 years. His was the next to the last shift worked before the plant closed for good on November 9, 1989. "It was a good experience," Mr. Sine said. "I know a lot of the guys I worked with up there, most of them are dead now."

The implosion of the last significant remaining building was a milestone for everyone involved—the town, the county, the Economic Development Authority, and all the federal partners. As the U.S. representative for this area, I was pleased be able to participate in this historic occasion—the end of the Avtex plant but the birth of a new economic generator for the people of Front Royal, Warren County and the surrounding areas. The people of Warren County are to be commended for their resolve to see this project through to its completion.

RECOGNIZING THE 75TH ANNIVERSARY OF PUBLIX

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. SHAW. Mr. Speaker, I rise today to recognize and honor the 75th Anniversary of Publix supermarkets.

Publix was founded by George W. Jenkins in 1930 in Winter Haven, Florida. Since then, Publix has more than 125,000 associates in Florida, Georgia, South Carolina, Alabama and Tennessee. With more than 800 stores, it is one of the fastest growing employee-owned Fortune 500 companies.

In 1940, George Jenkins mortgaged an orange grove he had acquired during the Depression for a down payment on his dream store—Florida's first supermarket. He built his "food palace" of marble, glass and stucco, and equipped it with innovations never seen before in a grocery store. Such innovations included air conditioning, fluorescent lighting, electriceye doors and frozen food cases. People from all over traveled hundreds of miles to partake in the Publix experience.

In 1951, to help build and supply the stores, a 125,000–square-foot warehouse and headquarters complex was completed in Lakeland. Five years later, Publix recorded its first million-dollar profit year.

George Jenkins' reputation grew along with the business and he was elected president of the Super Market Institute in 1961. In 1970, Publix achieved another high mark, recording nearly $500 million in sales, a figure that would double in four short years. In 1979, Publix had a record-breaking year with 15 new store openings.

Publix turned 50 in 1980, and celebrated by kicking off a decade of technological innovation. In keeping with the company's affinity for using technology to make shopping more pleasurable, Publix introduced checkout scanning statewide.

Publix marked another milestone in 1991 when the company crossed the state line to open a store in Savannah, Georgia. It was named in the top ten Best Companies to Work for in America in 1993, and is consistently recognized in the grocery business for superior quality and customer service by an American Customer Index survey.

The company has received numerous awards during its 75 year history including Diversistar Award for excelling in promoting workplace diversity practices; named by Child magazine as one ofthe Top 10 Family-Friendly Supermarkets; "Outstanding Business" award for recycling efforts from Recycle Today, Inc.; and the Governor's Business Diversification Award for Business Expansion.

Mr. Speaker, on behalf of Florida's 22nd District, I wish to commend the efforts of the Publix CEO, Charlie Jenkins, Jr. and everyone at Publix for their mission to provide quality food and their continued efforts to offer excellent customer service.

IN HONOR AND RECOGNITION OF FREDERICK DOUGLAS "FRITZ" POLLARD

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. CARSON. Mr. Speaker, I rise to pay tribute to Frederick Douglas "Fritz" Pollard. This past August, Fritz, a native Hoosier, was inducted into the National Football League Hall of Fame alongside gridiron legends Dan Marino, Steve Young, and Benny Friedman. Fritz Pollard was a pioneer for African-American athletes in the NFL during the pre-civil rights era of the 20th century.

Fritz Pollard was born in Chicago in 1894; the son of a former soldier in the Union army. Upon his high school graduation, Pollard attended Northwestern, Dartmouth, and Harvard universities prior to his enrollment at Brown University in 1915.

As a young freshman halfback, Pollard led the Brown football team to victory over Harvard and Yale with Pollard producing 531 yards of total offense and six touchdowns in just two games. As a tribute to his success on the field, Pollard was named the first African-American All American running back in 1916. Pollard also became the first African-American to play in the Rose Bowl that same season. Pollard was later recognized for his stellar college career in 1954 when he was inducted into the College Football Hall of Fame.

Pollard's professional football career began in 1921 on the early Akron Pros roster. He later went on to play for the Milwaukee Badgers, the Hammond Pros, and the Providence Steam Roller.

In the NFL, Pollard electrified the game while enduring the hatred of crowds because of his race and the indignities of dressing and eating in isolation from his teammates due to Jim Crow laws and customs. He often suited up for football games in seclusion at a nearby cigar store or in automobiles. While on the field, Pollard always had to remain alert for flying rocks and at times even needed to be escorted from the field for his safety. This was in addition to the acts of discrimination he faced at hotels and restaurants.

Beginning in 1934, the NFL banned African-American players until 1946. Pollard fought this segregation by forming independent African-American touring football teams: the Chicago Black Hawks and most notably the New York Brown Bomber, to showcase African-American talent to the fans and to the NFL.

Fritz Pollard's talents extended far beyond the football field. He owned a coal company, ran a weekly newspaper, formed his own New York-based public relations firm, founded F. D. Pollard & Co., one of the nation's first Black run securities firms, a talent agency, headed a movie studio in Harlem, and produced the first black motion picture.

Today, Hoosiers still pay tribute to Pollard for the trail that he blazed for equality. The Indiana Black Expo, Inc.'s Circle City Classic football game annually showcases the talents of collegiate football players, coaches, musicians, administrators, faculty, staff and boosters to ensure that the name Fritz Pollard and his legacy are not forgotten. Frederick Douglas "Fritz" Pollard didn't live his life to make a living, but rather to make a difference. Pollard forged a trail followed by the 69 percent of today's NFL players who are African-American and the just over 70 percent of the NFL's players from other racial and ethnic minority groups. Pollard charted the course followed by the six African-American Head Coaches currently in the NFL, the 11 coordinators and the upwards of 170 minority Assistant Coaches.

Fredrick Douglas "Fritz" Pollard's induction to the NFL Hall of Fame shed a light on the early history of the NFL and Pollard's pioneering roles as the first African-American coach. To this day we in Indiana are proud to have called him our own.

TRIBUTE TO THE WORCESTER WOMEN'S HISTORY PROJECT

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. McGOVERN. Mr. Speaker, I rise today to recognize the Worcester Women's History Project. During their 10 years of exceptional service, the Worcester Women's History Project has raised awareness of the important and vital role of women in the history of Worcester and our Nation.

The Worcester Women's History Project, since its creation in 1994, has raised awareness of the importance of Worcester, site of the first National Woman's Rights Convention in 1850. In conjunction with that goal, the Worcester Women's History Foundation has educated the local community on the rich history of women and their courage in organizing against oppression and slavery. The WWHP is devoted to ensuring the recognition and incorporation of women's contributions to the historical record. Dedication to the discovery of connections between past and present—for the benefit of the future—is displayed in the scholarships and workshops that the WWHP continuously supports and funds.

The Project is particularly committed to spreading awareness concerning Worcester's central role in the history of the women's rights movement, and remains devoted to the ideal put forth in the 1850 Convention that there should be "equality under the law, without distinction of sex or color" or ethnicity.

The Worcester Women's History Project works to reveal the past in order to ensure a brighter future for all. They believe that acknowledging women's contributions is fundamental to the growth and education of the Worcester community and the Nation at large. I am grateful to the WWHP for their contribution to my community and ask my colleagues to join me in honoring this exemplary organization.

TRIBUTE TO THE SOUTHEAST MISSOURIAN

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mrs. EMERSON. Mr. Speaker, today I rise to recognize the Southeast Missourian, a newspaper in Cape Girardeau, MO, for 100 years of service to Southern Missouri. Next week, the year-long celebration marking the centennial of the newspaper will come to a close. I would like to offer my sincere congratulations to the staff of the Southeast Missourian, past and present, for their hard work and dedication as they advance the mission of the paper.

It is only fitting, given the newspaper's long history of political coverage, that this great anniversary be commemorated in the House of Representatives. The Southeast Missourian has never been a small-town newspaper, but it has never lost its small-town sensibilities, either. During the 100-year existence of the paper, its reporters and editors have covered 2 World Wars, catastrophic floods and journeys to the moon. The paper has also covered these events from a local perspective: the native sons who went to war in the uniform of our Nation, the impact of the Mississippi River on local lives and economies, and the members of our community who have achieved great things—like traveling to space. At its heart, the newspaper business is about public service, and the Southeast Missourian has served our community well.

On October 3, 1904, two brothers named George and Fred Naeter completed their journey down the Mississippi River to Cape Girardeau and published the first edition of the Southeast Missourian. They had fallen in love with Cape Girardeau, the City of Roses. Over the years, many more people have fallen in love with the city, and the Southeast Missourian has helped deliver the beauty, the good works, the public services and the patriotic spirit of the people to doorsteps just like mine every morning.

In a world where the news is increasingly dominated by bad news, it is refreshing and important to have a newspaper that looks for the good in our communities and in our Nation—making it a daily point to bring those events before the public eye. Another challenge arises in the information age, in which the Internet and 24-hour news offer constant update and interpretation of the news. Still, the Southeast Missourian does what other media cannot: deliver thorough, thoughtful and reliable news coverage right on schedule, every day.

The hardworking men and women of the Southeast Missourian bring their balanced approach to the newspaper's office each morning. Publisher Jon K. Rust and Rust Communications chairman Gary Rust view the paper as a public trust. The public has good reason to trust in the Southeast Missourian, a longstanding institution of Cape Girardeau. Once again, I congratulate everyone who has advanced the mission of the newspaper in Southeast Missouri and worked so hard to bring the news of the day to our residents.

TRIBUTE TO PETER UCCELLI, JR.

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. ESHOO. Mr. Speaker, I rise today to honor the life of Peter Uccelli, Jr., who died on Thursday, September 22, 2005, at the age of 84, in California.

Pete Uccelli was born and raised in South San Francisco and served our Nation with the Army Corps of Engineers in the Philippines during World War II. He moved to Redwood City in 1949, and in 1954, purchased property that became Pete's Harbor. In 1973, he and his wife Paula opened the Harbor House Restaurant.

I had the privilege and pleasure of working with Pete Uccelli during my tenure on the San Mateo County Board of Supervisors and I've always been proud to call him my friend. He was a kind and generous man who was deeply devoted to his community and extraordinarily generous to individuals and organizations. The list of community groups that benefited from his largesse is long and broad, a reflection of his big heart.

Pete was the beloved husband of Paula, loving father of Richard, Sharon and Patricia, father-in-law of Debra and Ron, grandfather of Stephanie, Rhonda, Dot, Veronica and Michelle, and great-grandfather of Becky, Ryan and Ariana Rose. He was the dear brother of Alice Marsili and Norma Falletti and also leaves behind many loving nieces and nephews.

Mr. Speaker, I ask my colleagues to join me in extending our sympathy to Paula Uccelli and the entire Uccelli family. Pete Uccelli was a national treasure, someone who loved his community and his country abashedly and gave all of himself to make them better. He will always be missed but never be forgotten.

IN RECOGNITION OF DAVID BRUBECK AND THE DUKE ELLINGTON JAZZ FESTIVAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. NORTON. Mr. Speaker, I rise today, on the occasion of the First Annual Duke Ellington Jazz Festival, to pay tribute to one of our Nation's great jazz musicians, Dave Brubeck, for his contributions to American jazz music. On September 30, 2004, Congress passed H. Con. Res. 501 paying tribute to the festival's namesake, Duke Ellington, a DC native and a celebrated American musical genius. I am proud that from September 28 through October 3, 2005, the Nation's Capital will honor Ellington with the first annual Duke Ellington Jazz Festival in the District of Columbia. Special recognition for Dave Brubeck will be among the opening activities of the festival.

We inaugurate our jazz festival in the city of Washington as New Orleans, the great city that gave birth to jazz, has been overwhelmed by flood and hurricane. We know that New Orleans will overcome and will rise to reclaim its people, its culture, and its precious jazz heritage and leadership.

Dave Brubeck stands as one of jazz music's living legends, and he is equally distinguished as a composer and pianist. Mr. Brubeck began his musical studies at the College of the Pacific, earning his degree in 1942. Shortly thereafter he entered the United States Army, where he served honorably in General George Patton's 3rd Army during World War II. Near the end of the war Mr. Brubeck played in an Army band that he himself integrated, one of the first integrated units of any type in the entire military.

After his military service, Dave Brubeck returned to school to study music, enrolling at Mills College in Oakland, CA. There he studied under the distinguished composer Darius Milhaud, and upon graduation, Mr. Brubeck formed the Dave Brubeck Octet. He later gained great notoriety after forming the Dave Brubeck Quartet.

By 1954 Mr. Brubeck's popularity was such that his picture appeared on the cover of Time Magazine, and his recordings were being played throughout the world. His album "Time Out" and the hits "Take Five" and "Blue Rondo a la Turk" "went gold," a rare feat for an instrumental jazz recording.

Subsequent world tours by the Quartet, including several for the U.S. State Department, made Brubeck one of America's foremost goodwill ambassadors. He entertained world leaders at the Reagan-Gorbachev Summit in Moscow in 1988; he has performed before eight U.S. presidents, princes, kings, heads of state and Pope John Paul II. Always expanding jazz horizons, the Dave Brubeck Quartet performed, and in 1959 recorded, with Leonard Bernstein and the New York Philharmonic Orchestra. An early experimenter in combining jazz with symphony orchestras, Brubeck continues to appear as composer-performer in concerts of his choral and symphonic orchestral compositions. He celebrated his 80th birthday with the London Symphony Orchestra, performing an all-Brubeck program.

Mr. Brubeck has received many honors, including a star on the Hollywood Walk of Fame, the Down Beat Hall of Fame, the Jazz Institute Hall of Fame at Rutgers University, the American Eagle Award from the National Music Council, the Gerard Manley Hopkins Award from Fairfield University, the Connecticut Arts Award, Helwig Distinguished Artist Award, and honorary doctorates from six American universities, one from the University of Duisburg in Germany and Nottingham University in England. Early this year he received the Benny Carter Award from the Association of Jazz Societies. The French Government has cited him for his contribution to the arts. In 1999, the National Endowment of the Arts honored Mr. Brubeck as an NEA Jazz Master.

He has recently received the Smithson Medal and awards from the Music Educators National Conference, the National Music Teachers Association and Columbia University Teachers College. The State of California presented him with its first Golden State award. The University of the Pacific has honored him with the establishment of the Brubeck Institute that is dedicated to the promulgation of contemporary music of all styles, with an emphasis on jazz and improvisation.

Duke Ellington himself was a great influence on Dave Brubeck, and Mr. Brubeck even performed onstage with the maestro at one point during his career. Among his many accomplishments, Dave Brubeck is credited with bringing an enthusiasm for jazz music to college campuses and an entire generation of young Americans. As a sign of his talents, Mr. Brubeck has been a performer at the White House two times, in 1964 and 1981. His passion for his music continues to this day, as he is still touring and releasing songs.

For his many accomplishments, I join jazz supporters in the Nation's Capital and the Congress in paying tribute to David Brubeck on the occasion of the First Annual Duke Ellington Jazz Festival in the District of Columbia.

COMMENDATION FOR THE GUAM LITTLE LEAGUE BASEBALL TEAM

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. BORDALLO. Mr. Speaker, I rise today to commend Guam's Little League Baseball Team for their victories in the Pacific Regional Tournament in Fukuoka, Japan and their subsequent advancement to the Little League World Series in Williamsport, PA.

I would like to recognize all of the coaches and players for their extraordinary effort: Coaches Shon Muna, Eddie Muna, and Tom Duenas; Eric Alcantara, 12, of Mangilao, attending Untalan Middle School, son of Gerard and Joan Alcantara; Calvert Alokoa, 12, of Mangilao, attending Untalan Middle School, son of Arou and Cil Alokoa; Gerald Borja, 12, of Barrigada, attending Untalan Middle School, son of Gerard and Darlene Borja; Valiant Borja, 11, of Barrigada, attending Untalan Middle School, son of the late Harold and Audre Borja; Joseph Duenas, 11, of Dededo, attending Untalan Middle School, son of Tommy and Joann Duenas; Chad Fernandez, 11, of Barrigada, attending Untalan Middle School, son of Wayne and Doreen Fernandez; Sean Manley, 12, of Mangilao, attending Untalan Middle School, son of Albert Manley and Sinfrosa Longa; Ryan McIntosh, 11, of Mangilao, attending San Vicente School, son of Bob McIntosh and Lucille Ryder; Scott Perez, 12, of Sinajana, attending Agueda Johnston Middle School, son of Frank Camacho and Margaret Perez; Byron Quenga, 12, of Yona, attending Inarajan Middle School, son of Bill Quenga and Jacalyn Taisacan; Alomar Rdialul, 12, of Mangilao, attending Untalan Middle School, son of Albert and Madeleine Rdialul; Trae Santos, 12, of Barrigada, attending Untalan Middle School, son of Tim and Carmen Santon; Jeremy Taijeron, 12, of Yona, attending Inarajan Middle School, son of Bill and Marie Quenga. These young men displayed outstanding teamwork, skill, spirit, and sportsmanship and showcased the talent of our island.

Our team is a source of pride year after year, with our entire island rallying around them whenever they compete. In 2001, the Guam Little League team had a spectacular run in which they went undefeated in regional play and continued their streak in the World Series against Mexico, Canada, and Europe; and advancing to the international semifinal. In 2002, they again advanced to the international semifinals after another outstanding performance. They once more reached the World Series in 2003, after going undefeated in the regional tournament.

The 2005 Guam team went undefeated against teams from Indonesia, the Philippines, the CNMI, and New Zealand in regional play. They advanced to the Little League World Series representing the Pacific and faced teams from Russia, Canada, and Mexico. During the Little League World Series Guam swept their pool, defeating Russia 6–2; Canada 5–0; and Mexico 5–3. After winning their pool, Guam went on to play Curacao in the international semi-finals. Although Guam did not advance to the finals, effort inspires us and their record in tournament play is outstanding.

Our entire island community congratulates the Guam Little League Central-East all stars who represented the Pacific. They are an inspiration for us all and we are very proud of their effort and accomplishments.

HONORING NORTH INTERMEDIATE CENTER OF EDUCATION AT WABASH COMMUNITY SCHOOL DISTRICT #348

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to honor the North Intermediate Center of Education at Wabash Community School District #348 in Mt. Carmel, Illinois for their participation in International Walk to School Day on October 5, 2005.

Through their participation in International Walk to School Day, approximately 100 students from the North Intermediate Center of Education will learn about health, pedestrian safety, and physical activity, and will gain a sense of neighborhood and concern for the environment. These students will be joining students from all 50 States and 36 countries around the world in this exercise.

I am pleased to congratulate the students and teachers at the North Intermediate Center of Education for their participation in International Walk to School Day. I wish them much success in this endeavor.

HONORING JUDGE HORACE WHEATLEY

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary life and achievements of Alameda County Superior Court Judge Horace Wheatley of Oakland, California. Serving Alameda County on the bench for almost 25 years, Judge Wheatley has been known throughout his career for his unfaltering sense of social justice, and for his unwavering commitment to our young people. Today our community comes together to celebrate his career and achievements on the occasion of his retirement in Oakland, California.

Judge Wheatley was born in Lake Charles, Louisiana, and raised in San Francisco's historic Fillmore district. After graduating from the "old" Lowell High School in 1957, he went to College of the Pacific, now known as University of the Pacific, later transferring to Howard University in Washington, DC, where he continued his record as a champion debater. The Civil Rights Act of 1964 had not yet been enacted during his time in college, making some of the challenges he faced in school extend far beyond the realm of academics. When he competed in the National Collegiate Debate Tournament at the University of Oklahoma in 1961, the open and unabated racial discrimination that prevailed in some parts of the country was so severe that the southern colleges who were competing were instructed to walk out of any round in which an African American was competing. Undeterred, Judge Wheatley went on not only to win the tournament, but to be awarded the Pi Kappa Delta gold debate key for his outstanding performance. Following his studies at Howard, Judge Wheatley returned to the University of the Pacific in 1960, where he graduated with a degree in Sociology and Psychology.

Following a successful law school career at Willamette University in Oregon, where he won the school's Moot Court Competition and served as a teaching assistant before earning his Doctor of Jurisprudence degree, Judge Wheatley began serving as Deputy Attorney General for the State of California in 1965. He later went into private practice in Oakland, where he engaged in general litigation practice and was one of the lead attorneys in a precedent-setting class-action lawsuit against the savings and loan industry. In 1972, he became General Counsel for the California Teachers Association, representing the organization's 300,000 members in several noteworthy cases which resulted in precedent-setting rulings in favor of public school teachers' rights and benefits.

Judge Wheatley was appointed as a Judge of the Alameda County Municipal Court on July 1, 1981 by California Governor Edmond G. "Jerry" Brown, Jr., and was elevated to the Alameda County Superior Court when all of the courts in Alameda County were unified in 1998. Known for his tendency to give many young defendants the choice to "Go to school or go to jail," Judge Wheatley's career on the bench has been marked by his steadfast commitment to serving the young people in our community who are most in need of guidance.

Judge Wheatley's outstanding dedication and accomplishments have not only impacted countless young lives, but have also been recognized by a number of the professional organizations of which he is a member. He has not only been inducted into the Charles Houston Bar Association's Hall of Fame, but has also received its "Judicial Excellence Award." In addition, he received the Bernard S. Jefferson Award from the California Association of Black Lawyers as its Judge of the Year in 2001, and has also been named the Lend-A-Hand Foundation's "Man of the Year." This past August, he was inducted into the National Bar Association's Hall of Fame in recognition of having practiced law for over 40 years and made significant contributions to the cause of justice. In addition, he was also given the A. Leon Higginbotham Memorial Award by the Young Lawyers Division of the National Bar Association in recognition of his intellectual accomplishments, professional achievements and community contributions.

Today Judge Wheatley's family, friends and colleagues come together to celebrate the impact of his life and work not only on the innumerable lives, particularly young lives, he has touched here in Alameda County, but the lasting effects his rulings and his commitment to true justice have had and will continue to have on our legal system. On behalf of the 9th Congressional District of California, I salute and thank Judge Horace Wheatley for his invaluable contributions to the people of Alameda County, the 9th Congressional District, the State of California and our entire country.

CELEBRATING HISCOCK & BARCLAY'S 150TH ANNIVERSARY

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to recognize Hiscock & Barclay, a legal institution in the State of New York.

In 1855 founding partners and brothers L. Harris and Frank Hiscock opened a two-man law office in Tully, NY.

H. Douglas Barclay later became a partner in the firm, now known as Hiscock & Barclay. Mr. Barclay dedicated 40 years to the practice and has also served his fellow citizens as a 20-year member of the New York State Senate, his country as a President George H.W. Bush appointee as director of the Overseas Private Investment Corporation and was named United States Ambassador to the Republic of El Salvador by current President Bush.

Throughout the years Hiscock & Barclay's team has grown to 160 attorneys working in offices in Syracuse, Buffalo, Rochester, Albany and New York City. The firm's attorneys have held various auxiliary roles including: former general counsels of New York State's Department of Environmental Conservation, Department of Social Services and Health Planning Commission; a nationally syndicated media commentator; district attorneys and Court of Appeals judges; New York State and Federal Representatives; a former NFL football player; the former general counsel of a North American trade association; and a World War II prisoner of war.

In the last century and a half, Hiscock & Barclay has evolved from a practice dedicated to railroad, banking and manufacturing law, to one that now covers 26 practice areas ranging from construction and environmental law, to labor, real estate and international business services.

Mr. Speaker, I am pleased to have this opportunity to recognize Hiscock & Barclay, a firm with a long tradition of commitment to defending the law, upon this, their 150th anniversary.

ELEPHANT APPRECIATION DAY SEPTEMBER 22, 2005

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. PUTNAM. Mr. Speaker, I rise today to draw the House of Representative's attention to September 22 as Elephant Appreciation Day, a day designated to pay tribute to one of the most iconic members of the animal kingdom.

Elephants have always generated a special and unique affection from young and old alike. One need only ask the millions of Americans who visit zoos and circuses each year to learn that for most, the elephants are by far the biggest attraction, both figuratively and literally.

While we admire their strength, we also recognize their vulnerability as highly endangered species, challenged by fragmented habitats and scarce resources in their natural range. Asian elephants, in particular, have had a long, rich history living and working with humans, however, today there are fewer than 35,000 remaining in the world. Although ivory poaching is a factor in Asia, the primary threat to Asian elephants is the loss of habitat and the resulting conflicts with an ever-expanding human population. Most experts agree that the future survival of this species relies on several factors: habitat preservation, public conservation education and successful captive breeding.

Today I would like to talk about one of the success stories in the fight to save the Asian elephant—one which takes place right in my backyard in Polk County, FL—home to the largest and most genetically diverse population of Asian elephants in North America.

This year marks the 10th anniversary of the founding of the Ringling Bros. and Barnum & Bailey Center for Elephant Conservation or CEC. The Ringling Bros. CEC is a state of the art facility dedicated to the research, reproduction and retirement of Asian elephants and reflects the commitment and stewardship of Ringling Bros. and the Feld family to the future survival of this magnificent species.

Located on over 200 acres of central Florida wilderness, the Ringling Bros. CEC is home to dozens of Asian elephants, as well as the most successful breeding program outside of Asia. With 18 young elephants born in the past decade, the Ringling Bros. program accounts for over 40 percent of Asian elephant births in North America during this same time period.

In addition, the CEC is a focal point for researchers from around the world who come for the unique opportunity to study elephant reproductive and behavioral science in a hands-on setting. Information gleaned from our Florida herd is applied to wild and managed populations in Asia in an effort to promote better conservation, preservation and husbandry.

Ringling Bros.'s commitment to conservation and the future of this beloved circus icon goes beyond its work at the CEC. Ringling Bros. is also committed to educating its patrons about the challenges facing Asian elephants in the wild and the need to support conservation efforts. In addition, Ringling Bros. is an active member of the International Elephant Foundation, providing financial support and technical, hands on expertise. Ringling Bros.'s elephant managers and veterinarians have participated in workshops and symposia in Thailand, India and Sumatra and have worked side by side with their Asian counterparts in elephant camps and wildlife parks.

According to Jack Hanna, director emeritus of the Columbus Zoo, "[a] concerted effort to save the Asian elephant is imperative. Zoos are doing their best with the resources they have, but most can't afford to maintain a large breeding group of elephants. The Ringling Bros. and Barnum & Bailey Center for Elephant Conservation is dedicated to saving the Asian elephant and has both the resources and the commitment to succeed."

Thanks to this commitment, Elephant Appreciation Day of 2005 finds the fate of the world's Asian elephants a little more secure. I urge my colleagues to continue their efforts in support of this trend through continued funding for the Asian and African Elephant Conservation Acts.

I want to congratulate Kenneth Feld and Ringling Bros. on the occasion of the 10 anniversary of the Center for Elephant Conservation and I invite my colleagues to come and visit this unique and inspiring facility.

CELEBRATING 25 YEARS AT FRIENDS OF THE FAMILY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the Denton County organization Friends of the Family for celebrating its 25th anniversary. This is a great accomplishment, and I am proud to have an establishment such as this in the 26th Congressional District of Texas.

Friends of the Family is an organization that works to provide crisis intervention, safe shelter, counseling, support services, and advocacy for all those impacted by domestic violence or sexual assault. The organization also facilitates community awareness and involvement through education, information, and violence prevention programs.

From a starting budget of $10,000 in 1980 to this year's $1.5 million budget, the organization has grown a great deal in 25 years. With the program employing licensed professional counselors, social workers and psychologists, instead of relying solely on volunteers, they now serve about 7,000 people annually.

Congratulations to Denton County's Friends of the Family on their anniversary. Twenty-five years of service is a milestone to be celebrated.

IN HONOR OF THE CLEVELAND INDIANS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Major League Baseball's Cleveland Indians Organization, in partnership with the Hispanic Community Services Coalition as they unite in celebration of Hispanic Heritage Month and Viva Cleveland!

Viva Cleveland!, a joyous event, will be held at Jacobs Field on September 16th and will showcase the Parade of Flags representing 21 Latino nations, and carried aloft by youth of Hispanic heritage. The Parade of Flags promises to reflect the diverse, rich and colorful fabric that comprises the brilliant mosaic of our Cleveland community.

The players, administrators and fans of the Cleveland Indians organization carry on a century-old legacy of community outreach focused on cultural and charitable causes throughout northeast Ohio. Their individual and collective service continues to provide an array of life-enriching programs for baseball fans of all ages. The vital programs implemented by the Cleveland Indians and in partnership with other community agencies, serves to elevate the quality of life for countless families and individuals throughout our community. The Cleveland Indians' support of the young people of our region is offered through three programs: Educational, Recreational and Humanitarian. These programs provide the necessary support and guidance to assist our youth in attaining their educational and professional goals, and also promotes strength in character by fostering self-confidence.

Mr. Speaker and Colleagues, please join me in honor and celebration of the Cleveland Indians Organization, as they partnership with the Hispanic Community Services Coalition to celebrate Hispanic Heritage Month and Viva Cleveland! Their collective and individual efforts serves to celebrate our diversity and provides humanitarian assistance where needed, thereby enhancing the lives of countless people, and bolstering the spirit of the City of Cleveland, and far beyond.

NORTH TEXANS EMBRACE A VICTIM AND NURTURE A SURVIVOR

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. GRANGER. Mr. Speaker, I want to tell America about a very special girl named Aurica and the very special people who are helping her.

In April, 2005, Congresswoman DEBORAH PRYCE led a Congressional delegation on a fact-finding mission to Albania, Moldova, Italy and Greece. Congresswoman THELMA DRAKE and I accompanied Ms. PRYCE to see the effects of the growing epidemic of sex trafficking in women and children. Our finding? That sex trafficking is a real and growing threat to women and children everywhere. Our solution? To fight for the rights of these precious victims one person at a time.

It was during our trip to Moldova, that I first met Aurica. What an amazing young woman. We were visiting a shelter housing girls—most in their teens—who had been victims of sex trafficking. These women had been brought back to their homeland and were being taken care of with the hopes they could in some way return to normal lives after their horrendous experiences.

We had spoken with these women and were leaving when the director of the program said there was one young woman who was unable to join the group. She was bedridden and very ill, but was willing to meet with us. Thus began our adventure. What we saw was a beautiful 19-year old with haunted eyes—unable to walk, unable to eat, unable to leave her bed.

Aurica had left her country to go to Turkey to work in a shop, hoping to send money home to her family to help support them. While she was there, she was kidnapped and placed in a building with others like herself who had been tricked and kidnapped to become sex slaves. In her desperation to avoid the plight she heard from others, she climbed out of a window in the dead of night. But it was late and she was tired. At the sixth floor, she lost her grip and fell to the ground. When she was found, her back was broken, and her leg, and her pelvis were broken. After being treated at the hospital, she was taken to a prison. The iron walls of confinement did little to improve her condition.

Her doctors and her family secured her release from Turkey. She was brought home and was treated at the International Organization for Migration. And it was here, amid the dark clouds of pain and suffering, that I saw Aurica's sunlight. And so she was so brave, so tough, and yet so in need of so much help. She needed surgery. But the surgery would have been difficult if not impossible in her country. We talked to her. We could see the pain on her face. Yet we could also see the courage in her eyes.

It has been said that every journey begins with a single step. That April day, I decided to do my part to fight sex trafficking by saving at least one person—Aurica. And we embarked on a journey to give her the health care she deserved, desired, and desperately needed. The first step was a phone call. Pedro Nosnik is a specialist in neurology and internal medicine. I explained to Dr. Nosnik what had happened to Aurica and asked a simple question: Can you help? Dr. Nosnik set us up with Dr. Ralph Raushbaum of the Texas Back Institute in Plano, the largest spine specialty clinic in the United States. TBI physicians, led by Dr. Barton Sachs, volunteered to treat Aurica at no expense. This type of care would normally cost more than $200,000.

The next step was getting her to the hospital. Before the treatment, we had to deal with the issue of travel. Her condition ruled out a flight on a commercial airline. She would need to fly on a plane equipped for patients. Once more, Americans were there to donate their services. Rod Crane, the CEO of MedFlight of Ohio offered to transport Aurica on an air ambulance. Normally, this would cost $80,000. But Rod agreed to pay for the flight and for a doctor to travel with Aurica.

The next step was the actual surgery and recovery. Once Aurica got to Dallas, she got the treatment she needed. But the road wasn't easy. She underwent surgery at TBI. Dr. Barton Sachs led a team of physicians during the initial delicate spinal surgery and aftercare. This team included William Struthers, M.D., Anesthesiologist, Ted Wen, M.D., Radiologist, Nayan Patel, M.D., Physiatrist, John Josephs, M.D., General Surgeon, Stephen Rubin, D.O., Anesthesiologist, Son Do, M.D., Gastroenterologist, Mike Gross, M.D., Urologist, James Montgomery, M.D., Anesthesiologist, Andrew R. Block, Ph.D., Psychologist, Michael Blackmon, M.D., Intensive Care Specialist, and Mark McQuaid, M.D., General Vascular Surgeon. This was followed by a second surgery under the care of Dr. Alan Jones at Parkland Hospital in Dallas. After that, she spent three weeks recovering at the highly-acclaimed Zale Lipshy Center located on the UT Southwestern campus. All donated.

Finally, Aurica's journey took her to four months of recovery in outpatient physical therapy. Since she needed a place to stay, we contacted David Tesmer, Vice President for Government and Community Affairs at Texas Health Resources. He offered the services of Presbyterian Village North in Dallas, one of the best assisted-living facilities in the state. At Presbyterian Village, both the President, Ron Bergstrom, and the lead nurse, Becky Williams, made every effort to give Aurica every comfort. When Aurica arrived, she was given a fully furnished room. And today, thanks to the love of so many, Aurica is on the way to a full recovery.

What a journey this has been. This is the story of a very special woman and the very special people who have helped with her recovery. From time to time we hear critics complain about what is wrong with America. This story shows us what is right with America. We are still a nation that is great because our people are good. And not just the ones I named. There are still others.

Like The Kula Group for donating more than $30,000 in time and expenses; the Texas Back Institute's Physical Therapy division, which donated all of the outpatient physical therapy; Doug Hawthorne, CEO of Texas Health Resources; Jim Boswell and Leslie Baker from Presbyterian Hospital of Plano; the nursing and physical therapy staff at the Zale Lipshy Center; Linda Caram of SBC Communications; The Daniel Dawn Smalley Foundation; AmeriSuites in Plano; Father Dimitru and Gladiola Paun; and everyone else at Presbyterian Hospital of Plano, Parkland Hospital, and Presbyterian Village North.

Thanks for making an effort to make a difference. You have shown the nation and the world that America's generosity knows no boundaries, no barriers, no limits. We will always speak for the voiceless, stand with the helpless, and fight for the powerless.

IN HONOR OF CLIFF LEE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mr. Cliff Lee, dedicated family man, community activist and Major League baseball player with the Cleveland Indians, whose grace and spirit on the ball field equals his grace and energy off the field.

Mr. Lee's deep sense of helping others is framed by sincerity and humbleness, and has not gone unnoticed by others. In honor of his exceptional service to the people of the Cleveland community, Mr. Lee has been selected as the recipient of the prestigious 2005 John Hancock Roberto Clemente Man of the Year Award.

Mr. Lee continues to dedicate his personal time and talents in vital service on behalf of those families and individuals in need of assistance, with a personal focus on the children of our community. From his regular visits to the children at Rainbow Babies and Children's Hospital and the Ronald McDonald House, to his dedication and focus on behalf of Cleveland's Providence House, Mr. Lee is an exceptional role model to the young and old alike, here in Cleveland and across this Nation, and his life personifies all that is good in humanity, reflecting compassion, giving and heart.

Mr. Speaker and Colleagues, please join me in tribute and recognition of Mr. Cliff Lee as he is honored as the recipient of Major League Baseball's 2005 John Hancock Roberto Clemente Man of the Year Award. Mr. Lee's continued concern for others and vibrant spirit of volunteerism, with a special focus on the children of our community, serves to raise their spirits above the struggle and into the light of promise, strength, hope and possibility—thereby uplifting our entire community.

RECOGNIZING THE RETIREMENT OF JACOB LEE

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize the retirement of Jacob R. Lee, Jr. from the Air Force.

Chief Master Sergeant Jacob R. Lee, Jr. enlisted in the Air Force in Albany, NY, coming on active duty in September of 1978. During his 27-year meteorological career, Chief Lee had 13 assignments, including four overseas.

Chief Lee worked in many different jobs in the weather career field, beginning as an observer at a six person unit. He went on to serve as the noncommissioned officer in charge of six different weather stations around the world.

His career culminated with Chief Lee's selection to the very pinnacle of the weather career field as the chief of enlisted matters at the Pentagon. As Chief, Jacob will finish his long and distinguished service to our Nation.

In recognition of his outstanding performance, Chief Lee has been awarded the Meritorious Service Medal on four occasions and has been the recipient of four Air Force Commendation Medals as well.

Chief Lee is married to his wife Kathy, a math teacher, and has three children; Amanda, Benjamin and Casey.

Mr. Speaker, I know that his colleagues and his family wish Chief Lee well as he begins his retirement.

HONORING JUDGE MABEL M. JASPER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of The Honorable Judge Mabel M. Jasper, for her exceptional accomplishments within our educational and legal system, and for serving as an inspiration and role model in Cleveland, Ohio, and far beyond.

Her unwavering integrity and strong work ethic were childhood gifts instilled by family. At age 10, Judge Jasper's family moved from Alabama to Cleveland, where she excelled academically and graduated from Glenville High School early at the age of sixteen. By age nineteen, Judge Jasper had earned a Bachelor's degree in education from Kent State University. She was hired as a substitute teacher at John Burroughs Elementary School and was soon promoted to full-time teacher. Throughout her twenty-year teaching career, Judge Jasper imbued a sense of wonder, confidence and inspiration within her young students. Ready to embark on a new journey, she enrolled in the Cleveland-Marshall College of Law in 1973 and graduated three years later with a Juris Doctor degree.

Throughout her noteworthy career as an attorney, Judge Jasper worked in private practice and served as general counsel for a local financial institution. She became the assistant attorney general and trial attorney for the Bureau of Worker's Compensation. Judge Jasper served for four years as a magistrate with the Cuyahoga County Domestic Relations Court before being elected as Judge with the Cleveland Municipal Court in 1987. She was reelected to the bench for two more consecutive terms, in 1993 and 1999. Beyond her dedication to her family and profession, Judge Jasper continues to offer her time and talents as an active leader within her neighborhood, her church and within several civic organizations.

Mr. Speaker and Colleagues, please join me in tribute and recognition of Judge Mabel M. Jasper, as she is being honored on September 16, 2005, by colleagues and friends to celebrate her significant contributions to the Cleveland community, framed by tenacity, integrity and excellence. As a distinguished judge and attorney, Judge Jasper's brilliant legacy will continue to inspire us all, and will serve as a beacon of possibility for people of all races, lighting a clear path along which goals are attained and where others will follow. I wish Judge Mabel M. Jasper continued health, happiness and peace as she journeys onward from this day.

HONORING THE 216TH ANNIVERSARY OF THE UNITED STATES MARSHALS SERVICE

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor the 216th Anniversary of the United States Marshals Service (USMS), our nation's oldest federal law enforcement agency.

The Judiciary Act of 1789 created the United States Marshals Service. That same year, President George Washington appointed the first thirteen U.S. Marshals. At that time the Service's primary mission was to support the federal courts; however, U.S. Marshals and Deputy U.S. Marshals also performed a myriad of duties such as executing warrants, distributing presidential proclamations, registering enemy aliens in time of war, controlling riots, conducting the national census, collecting commerce statistics, and protecting the President. Many of these responsibilities have changed over the past 216 years, yet the Service's dedication to integrity and justice has remained constant.

Today, the USMS provides for the custody and transportation of federal prisoners, ensures protection for witnesses, and manages the maintenance and disposal of seized and forfeited properties. Also of great importance is the Service's fugitive apprehension mission. The USMS apprehends more federal fugitives than all other federal law enforcement agencies combined. State and local law enforcement agencies nationwide have found the Service to be an invaluable fugitive apprehension resource. U.S. Marshals and Deputy U.S. Marshals carry out complex and life-threatening missions daily, striving to maintain the integrity of the American judicial process.

Over the years, the USMS has earned its reputation as one of the most versatile and effective law enforcement agencies in the world. The 4,500 men and women of the U.S. Marshals Service are justly proud of their history. I too am proud, and wish to commend the United States Marshals Service and thank them for their contributions to the law enforcement community and to our nation.

THE GOLDEN POPPY AWARD

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. FARR. Mr. Speaker, I rise today to mark the annual selection of The Golden Poppy Award in California. The Golden Poppy Award is given annually by the California State Parks Foundation to individuals or organizations that have made a significant contribution to protecting, enhancing, and advocating for California's state parks. This year's recipient of the Golden Poppy Award is Toyota Motor Sales, U.S.A.

Support of our state parks means support of our environment. This company has developed its own "Toyota Earth Charter." In it, Toyota outlines its goal of growing as a company in a way that is in harmony with the environment, including achieving zero emissions throughout all areas of business activities. To that end the company pledges to build close and cooperative relationships with a wide spectrum of individuals and organizations involved in environmental preservation, including governments, local municipalities, and related companies and industries.

One such example of the company's interest in a clean environment is its development of a high-mileage, low-emissions gas-electric hybrid vehicle, the Prius. The technology behind the Prius has made Toyota a leader in environment friendly hybrid technology today.

In keeping with the spirit of their Earth Charter, Toyota supports a wide range of projects, and awarded a major grant to the California State Parks Foundation for its "Coast Alive!" program. "Coast Alive!" underwrites workshops to middle school teachers that enable them to lead their classes on field studies at nearby State Parks. Armed with this knowledge, their students study the fragile marine ecology of our coastline, experience its beauty, and come to understand the importance of restoring and preserving it as a valuable resource. With the generous donation from Toyota, the Foundation will be able to create interactive, multi-media materials for this program.

Mr. Speaker, I join with the California State Parks family in congratulating Toyota Motor Sales, U.S.A. on earning the Golden Poppy Award, the symbol of the Golden State.

IN HONOR OF HISPANIC HERITAGE MONTH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Hispanic Heritage Month—a celebration of Americans of Hispanic heritage and their significant, collective and individual contribution to our community and to our nation.

Hosting one of the events this year is the Cleveland Public Library. The Cleveland Public Library and regional branches continue their commitment to promoting our diverse community, richly infused with Hispanic culture and language. As part of the Library's 2005 Strategic Plan, new and permanent resources of Spanish Language collections is now underway, along with the implementation of a Spanish language website.

Hispanic Heritage Month is reflective of the five hundred-year history of Hispanic culture and contribution to America. Hispanic Americans have contributed immeasurably to all areas of our culture—from medicine, law and business, to education, music and the fine arts. Hispanic Americans in our community and in communities across the country are life-saving doctors and nurses, veterans, inspiring professors, dedicated teachers, committed elected officials, fair-minded judges, and hardworking factory employees. Americans of Hispanic heritage continue to bring energy, innovation, and a real sense of social justice to America, while retaining the cultural traditions of their homeland for all citizens to enjoy.

Mr. Speaker and Colleagues, please join me in honor and celebration of Hispanic Heritage Month, and join me in expressing my gratitude for the outstanding contributions made by Hispanic Americans. Their journey to America, fraught with significant obstacles and strife, paved the way for a better life for their children and future generations, and signifies what it means to be an American. Within our diversity we find strength. Within our traditions we find unity. Because of their journey, and the journey of people from all points of the world, we are stronger as a community, more unified as a nation, and better as people.

STERLING HEIGHTS' FIRE FIGHTERS UNION ANNUAL DINNER-DANCE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. LEVIN. Mr. Speaker, on Friday, September 30, 2005 the Sterling Heights' Fire Fighters Union will host their Annual Dinner-Dance, honoring their 2005 retirees. This yearly event honors Sterling Heights firefighters for their dedication to their community and recognizes their commendable contributions to the city. I am pleased to be associated with this fine organization and to call many of them my friends.

I rise today to pay tribute to the careers of three retiring firefighters. Tom Kropf was appointed as a Sterling Heights firefighter on May 21, 1979. He was licensed as an Emergency Medical Technician in December 1980. Upon his completion of the maiden medic program in December 1991, he was promoted to firefighter ALS (Advanced Life Support) on June 19, 1992. He has been promoted three times: Lieutenant on March 30, 1995, Fire Inspector on January 3, 1996, and Fire Marshal on May 21, 2003. Throughout his tenure, he has received many awards and recognitions. Mr. Kropf was Employee of the Month in February 1987 and Firefighter of the Year in 1999. He received a citation for performing lifesaving efforts on June 2, 1998 and the Fire Chief's Award in March 2002.

Bill Kreston earned his Bachelor's degree in math from Eastern Michigan University in 1972. First employed by the Hamtramck Fire Department, Mr. Kreston was hired by the Sterling Heights Fire Department in 1986. He received a Meritorious Unit Citation for freeing a pinned victim from a serious auto accident in 1990. He has also received numerous safe driver awards. On July 27, 1992, Mr. Kreston was promoted to Fire Equipment Operator; on July 2, 1997, he was promoted to the rank of Lieutenant; and to the rank of Fire Inspector on January 9, 2003.

Fred Campau was appointed as a Sterling Heights Firefighter on January 21, 1980. He was a member of the maiden medic course and pioneered the way for future Advanced Life Support students. He has received many distinctions, including 5-year Safe Driver Awards, Perfect Attendance Award and the

Fire Chief Award in January 2002. Throughout his career, Mr. Campau has been promoted to Fire Lieutenant on October 17, 1995 and Fire Inspector on August 31, 1998.

Mr. Speaker, I ask my colleagues to join me in recognizing these three heros, who have dedicated themselves to the community with valor, commitment and honor.

A TRIBUTE TO POLYTECHNIC UNIVERSITY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. TOWNS. Mr. Speaker, I rise today to honor Polytechnic University upon the extremely momentous occasion of its Sesquicentennial celebration. It is a privilege to represent Polytechnic University in the United States House of Representatives and I hope my colleagues will join me in recognizing its illustrious history and impressive accomplishments.

Founded in 1854 for "the higher education of lads and young men," Brooklyn Collegiate and Polytechnic Institute welcomed its first class of 265 students at 99 Livingston Street on September 10, 1855. The Institute thrived, and by the close of the 19th century, it was a full-fledged school of engineering with a new name—Polytechnic Institute of Brooklyn.

By its 100th birthday in 1954, Polytechnic had outgrown its campus in varied downtown Brooklyn locations. In 1957, it moved to a centralized location at 333 Jay Street, former home to the American Safety Razor Factory. In 1973, Polytechnic merged with the New York University School of Engineering and Science and was renamed Polytechnic Institute of New York. In 1985, the Institute was granted university status by the New York State Board of Regents and officially renamed Polytechnic University.

Over the next 17 years, the University experienced the greatest transformation in its history. Polytechnic spearheaded the creation of MetroTech Center, a 16-acre, $1-billion university-corporate park in Brooklyn, NY, which was built around its existing campus. The University updated its facilities and built a new home in 1992, for its Bern Dibner Library of Science and Technology and its Center for Advanced Technology in Telecommunications.

Mr. Speaker, Polytechnic University is an extremely prestigious institution, which has dedicated itself to producing students who are prepared to change and embrace the ever-increasing technological world. Under the leadership of its new President, Jerry MacArthur Hultin, I am confident that Polytechnic University will continue to teach and challenge its students to be among our nation's brightest.

Mr. Speaker, I believe that it is incumbent upon this body to recognize the prestigious accomplishments of Polytechnic University and join the university in celebrating 150 years of dedicated service to the people of the United States.

RECOGNIZING THE HURON RIVER VFW POST 4434 ON ITS 60TH ANNIVERSARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. McCOTTER. Mr. Speaker, I rise today to honor and commemorate the 60th anniversary of the Huron River Veterans of Foreign Wars Post 4434, whose members have valiantly defended our Nation against all enemies and, often, all odds.

As they transitioned back to their loved ones and civilian life, the Huron River Veterans of Foreign Wars continued their distinguished service to our country through their dedicated community service projects, including the support of local veteran's services and the propagation of patriotism education for local youth. Truly, the members of the Huron River Veterans of Foreign Wars have provided a stellar example of service above self, and have championed the cause of liberty and equality within our Nation and our world. May their heroism and altruism ever be remembered as an inspiration to every generation of Americans.

In conclusion, then, Mr. Speaker, let us all extend our enduring gratitude to the Huron River Veterans of Foreign War Post 4434. It is the least we can do for those who have done so much for us.

IN HONOR OF ELLIE MAPSON, JR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Ellie Mapson, Jr., community leader, activist, artist, dedicated family man and friend and mentor to many, as he is being honored by the West Park Community Coalition, Inc., for his grace, focus and tireless efforts in raising our Westside community into the light of possibility for everyone.

Mr. Mapson's steadfast commitment to his community mirrors his unwavering focus on family and faith. Mr. Mapson's wife of 47 years, Maggie, their children, Daryl, Kimberly and Dana; the loving memory of David; and their four grandchildren remain central to his life. Mr. Mapson and his family are long-time members of the Second Calvary Baptist Church and the West Park Community Coalition, where he also serves on the Board of Directors. Mr. Mapson has devoted countless hours at his church as layman, program vice-president, past chairman of the board and Sunday school teacher. He also led the effort to develop a college scholarship program for member families.

Mr. Mapson is known as a local historian and ironically, his own life became part of Cleveland history. In 1972, Ellie Mapson Jr. became the first African American to run for Cleveland City Council in a seat located west of the Cuyahoga River. He finished second out of five candidates. He went on to serve as president of the predominantly white West Park Community Council, and he was also the first African American member of the West Park Kiwanis Club and eventually served as its president.

Mr. Speaker and colleagues, please join me in honor and recognition of Ellie Mapson, Jr., whose integrity, warmth, faith and concern for others continues to pave the way for strength and renewal throughout our Westside community. Mr. Mapson's professional talents and spirit of volunteerism have fortified all aspects of the West Park Community Coalition, Inc. and the Second Calvary Baptist Church. His activism on behalf of our entire community offers light, hope and the promise of a better day for people of the Westside, and for our entire Cleveland community.

PERSONAL EXPLANATION

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. WELLER. Mr. Speaker, I rise today to enter into the RECORD votes I would have cast had I been present on the legislative days of September 21, September 22 and September 28 of 2005 for Roll Call votes 478 through 493. On Wednesday, September 21, I underwent surgery for a detached retina and this was the reason for my absence.

If I were present I would have voted "Aye" on Roll Call vote 478, "Aye" on Roll Call vote 479, "Aye" on Roll Call vote 480, "Aye" on Roll Call vote 481, "No" on Roll Call vote 482, "No" on Roll Call vote 483, "No" on Roll Call vote 484, "Aye" on Roll Call vote 485, "Aye" on Roll Call vote 486, "Aye" on Roll Call vote 487, "No" on Roll Call vote 488, "Aye" on Roll Call vote 489, "Aye" on Roll Call vote 490, "No" on Roll Call vote 491, "Aye" on Roll Call vote 492, "Aye" on Roll Call vote 493, "Aye" on Roll Call vote 494, "No" on Roll Call vote 495, and "Aye" on Roll Call vote 496.

TRIBUTE TO PROJECT BACKPACK

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. VAN HOLLEN. Mr. Speaker it is with great pleasure that I rise to commend the founders of Project Backpack for their inventive and inspiring efforts to help the children affected by Hurricane Katrina.

Project Backpack was begun by Jacqueline, Melissa, and Jenna Kantor, three young sisters from Bethesda, Maryland. These sisters came up with an idea to collect donations of backpacks, toys and school supplies to be sent out to the thousands of children who were left homeless in the wake of Hurricane Katrina. Inspired by the concept of "kids helping kids," Project Backpack has been tremendously successful.

Joined by Sodexho USA and other charitable organizations, Project Backpack has set a local goal of 10,000 backpacks and a national goal of 100,000. I encourage people throughout the United States to participate in this worthy project.

I applaud Jacqueline, Melissa, and Jenna in their continued efforts to help the children affected by Hurricane Katrina.

PERSONAL EXPLANATION

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. McDERMOTT. Mr. Speaker, I missed votes on September 27, 2005. Had I been able to, I would have voted "yea" on H.J. Res. 66 (Rollcall vote 494); "yea" on H.R. 438 (Rollcall vote 495) and "yea" on H. Con. Res. 209 (Rollcall vote 496).

COMMEMORATING THE 25TH ANNIVERSARY OF THE LAKE HIGHLANDS REPUBLICAN WOMEN

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. HENSARLING. Mr. Speaker, today, I would like to commemorate the 25th anniversary of the Lake Highlands Republican Women. In December of 1980, the Lake Highlands Republican Women were formed, based on the guiding principle of the National Federation of Republican Women, "to foster and encourage loyalty to the Republican Party and the ideals for which it stands."

For the past 30 years, the Lake Highlands Republican Women have worked hard to promote the principles of the Grand Old Party and to elect Republican leaders from the Courthouse to the White House.

The Lake Highlands Republican Women are truly helping make our community and our country a better place to live. The Lake Highlands Republican Women continue to strengthen the Republican Party through candidate recruitment, training and election activities as well as advocating the GOP common sense conservative philosophy of faith, family, free enterprise, and freedom.

Today, I would like to honor the Lake Highlands Republican Women and their leaders, including: Patti Clapp (1981–1982), Jan Patterson (1983–1984, 1993), Lee Dewbre (1985–1986), Fredda Horton (1987–1988), Libby Swaim (1989–1990), Linda Russell (1991–1992), Annabelle Ward (1994–1995), Jill Mellinger (1996–2001), Suzy Pollok (1997), Deborah Brown (1998–1999), Kathi Drew (2000), Elaine Travis, (2002), Glee Huebner (2003–2004), and Gloria Gibeau (2005). These strong Republican women embody the energy, vision and values of our party.

INTRODUCTION OF THE WOOD STOVE REPLACEMENT ACT OF 2005

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. MURPHY. Mr. Speaker, I am pleased to introduce the Wood Stove Replacement Act of 2005. I am joined in the introduction by Representative MELISSA HART.

Quite simply, our bill would provide a tax credit of $500 for individuals and families who replace their old, dirty, uncertified wood stoves with new, EPA-compliant, clean-burning wood stoves or fireplace inserts.

As America's cities and counties struggle to come into compliance with the National Ambient Air Quality Standards set by the U.S. Environmental Protection Agency, smaller and more diverse sources of pollution are regulated. The primary air pollution problem in many areas of the country, including Pittsburgh, is particulate matter. Particulate matter, or soot, is caused by burning fuels such as coal, as well as wood.

On December 17, 2004, the EPA designated nearly two hundred and fifty counties in the U.S. as out of compliance with federal air quality standards for "fine particulates" (particles under 2.5 microns in diameter). EPA has concluded that wood smoke from residential wood combustion appliances, fireplaces and wood stoves, is a significant contributor to fine particulate pollution in many of the designated counties.

In 1986, EPA established a New Source Performance Standard, or NSPS, that imposed strict limits on the wood smoke that can be emitted from wood burning stoves, and it implemented a program for certifying the performance of wood stoves that comply with the standard. EPA-certified wood stoves reduce wood smoke emissions by as much as 90 percent. According to the EPA, "certified wood stoves burn more cleanly and efficiently, save [. . . .] money, reduce the risk of fire, and improve air quality inside and outside [the] home."

It is estimated that there are as many as 10 million old, uncertified, pre-NSPS wood stoves still in use in American homes. Fourteen thousand of them are in my area in Pittsburgh. Many of the uncertified wood stoves still in use today were purchased at the height of the fossil-fuel crisis in the 1970s. Many were installed in lower income, rural residences with ample access to free or low-cost wood fuel. The installed cost of new, certified stoves can be as high as $2,000 to $3,000, which is out of reach for many users of the old, uncertified units. To encourage users of old, dirty-burning units to trade up to new certified stoves, strong incentives must be provided. Local regulations prohibiting the use of uncertified woodstoves are politically unpalatable unless financial assistance is provided to enable homeowners to abide by such prohibitions and keep their families warm in the winter with low-cost, renewable wood fuel.

According to the EPA, "Helping areas of the country reduce pollution and meet national air quality standards for fine particles is our top priority . . . By combining local programs like clean wood stove installation with tough new federal regulations on power plants, cars, trucks and diesel equipment, we can dramatically reduce fine particle pollution and improve public health across the country."

Our legislation to provide a federal tax credit for the replacement of uncertified wood stoves is an important way to reach consumers who otherwise may never replace their old stoves. This credit would only be available to consumers who live in areas designated as out of compliance with the fine particle and total particulate standards. A $500 tax credit would give consumers living in poor air quality areas an immediate incentive and necessary financial assistance to remove their old stove now. By using the cleaner stoves, consumers will save on fuel costs by burning one-third less wood and reduce fine particle pollution in their area thereby improving their health and the health of their families and neighbors.

The need to encourage consumers to burn cleaner, more efficient woodstoves is an urgent matter. The record-high costs predicted for home heating this winter will likely push many consumers to choose more affordable wood heating. With nearly 10 million old, conventional, dirty wood stoves still in use today, it is imperative that consumers have an incentive to change out their old appliances for clean, more efficient, and EPA-certified wood stoves.

Representative HART and I are introducing this bill to coincide with an EPA event in Pittsburgh on September 29. That will be National Wood Stove Change-Out Day, where EPA encourages owners of old stoves to trade them in for new, certified units. The incentives in this bill should help accomplish this goal.

CINDY SHEEHAN: PEACE MOM AND PATRIOT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. RANGEL. Mr. Speaker, I rise today to honor Cindy Sheehan the "Peace Mom" from Vacaville, California, whose 24 year-old son Casey was killed in Sadr City, Iraq on April 4, 2004. Referred to by some as, the "Rosa Parks" of the peace and justice movement, she was arrested today in front of the White House while calling on President Bush to end the War in Iraq.

Cindy had traveled to Washington from Crawford, Texas where, intent on a face-to-face meeting with President Bush, she gained national attention by camping outside the Texas White House during the President's summer vacation. The site was called Camp Casey in honor of her son.

Cindy Sheehan wanted to ask President Bush: What is the "noble cause" that my son Casey died for?

Like millions of people in this country, Cindy Sheehan knew there were no weapons of mass destruction in Iraq, the citizens in the United States had never been in "imminent danger" from Saddam Hussein and Iraq had no connection to 9/11 as the President had claimed. As a mother she felt she had the right to ask the President to meet with her to explain why her son had been sent on a fraudulent mission. After all, he had the time for a bicycle ride with Lance Armstrong. She felt he should make the time to meet with her.

The President refused to meet with Cindy, but sent two high level White House officials in his place. Explaining this substitution, President Bush stated that he had to go on with his "normal life" and that the American people wanted him to do that. Cindy announced she would not leave Crawford until Mr. Bush met with her or left for Washington DC.

As Cindy Sheehan waited in the broiling Texas sun, people began to come to Crawford to be with her. They wanted to support her and to send a message to the President that they, too, wanted an explanation for the war. Thousands came from across the country; some stayed a few hours, others, a few days.

When authorities ordered her to move Camp Casey, a local landowner gave her space on his ranch for an even larger encampment. White crosses with the names of the soldiers killed were planted in the ground. The boots Casey was wearing when he died were placed with his cross as were the boots of other soldiers whose crosses were at Camp Casey.

After President Bush finally left his ranch a few days short of his planned five week vacation, four groups of Cindy's supporters—Gold Star Families for Peace, Military Families Speak Out, Iraq Vets Against the War and Veterans for Peace—left Camp Casey on a "Bring Them Home Tour" from Crawford, TX to Washington, DC.

The Veterans for Peace sent a bus to Covington, KY, to deliver supplies to victims of Hurricane Katrina. Three other buses filled with representatives of each group toured the central, southern and northern States and met in Washington on September 22nd to prepare for the peace march on September 24, 2005.

An estimated 300,000 people participated in the demonstration. Cindy spoke to the crowd who welcomed her as a hero. I called Cindy the "Rosa Parks" of this peace movement. Like the woman who sparked the civil rights movement, Cindy is the one person who has come forth to inspire others to do more than they believed themselves capable of doing. On that day when our grandchildren ask what we were doing during the Iraq War, we will be able to say: We spoke out and stood up in support of Cindy Sheehan.

PERSONAL EXPLANATION

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, I rise today to recognize that on September 27, 2005, I voted "yea" on H.R. 438 (rollcall 495), which designates the United States Postal Service facility located at 2000 Allston Way in Berkeley, California, as the "Maudelle Shirek Post Office Building."

Before voting on H.R. 438, many of my colleagues discussed Ms. Shirek's efforts on behalf of her community. At the time, I found them reason to support H.R. 438. However, after I voted "yea" on H.R. 438, I was informed of Ms. Shirek's active support for the release of Mumia Abu-Jamal—the same man who killed Daniel Faulkner, a Philadelphia police officer.

Had I known of Ms. Shirek's statements regarding Mumia Abu-Jamal prior to voting on H.R. 438, please let the RECORD reflect that I would not only have voted "nay" on passage of this bill, but I also would have urged my colleagues to join me in opposition.

ADDICTION, TREATMENT AND RECOVERY

HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. BOREN. Mr. Speaker, I rise today to express my support of the 16th annual celebration of recovery month. All people are affected by addiction in some way, and it is important to celebrate those who beat addictive diseases and are now in recovery. Most people who know very little about the dangers of addiction suppose they could identify an addict if they saw one. Surprisingly, addiction can confront any person in any family, and this makes the joys of recovery all the more important. One mother whose daughter received treatment at Narcanon Arrowhead in my district said:

"I am the mother of five beautiful, intelligent and talented children. I gave up a lucrative and rewarding profession so that I could spend my life raising my children. I wanted to be part of every moment of their lives. As every mother does, I made plans. Those plans were for my spouse and myself and of course, our children. We want them to be healthy, educated and successful.

Six months ago, my days, hours, weeks were consumed with finding a solution to my daughter's drug addiction, which seemed an impossible task. My daughter fought her addiction and lost since she was 13 years old. It all began by harmless experimentation with marijuana and alcohol but she then fell into the drug trap battling an addiction to every drug available today.

As her addiction grew worse and worse my husband and I feared the day when we would get the call that she had landed in jail, or worse—she had died. Thankfully that call never came. In July of 2001 we gave her an ultimatum—either she seek treatment or we could no longer have anything to do with her. For 2 months after she was "out there" doing whatever she could to get high. I have never been that scared in my life. In August she finally agreed to go into treatment.

Thanks to the Narconon Program my daughter has been clean for over six months. She is happy and functioning and for the first time in a long time, she is stable. I never want any parent to go through the nightmare that I went through with my child and there are millions of us going through it right now. I am writing this to tell you that there is hope. Today I can honestly say that I have my daughter back."

Stories like the one from this mother give me hope. I have hope for the treatment and recovery of the growing number of citizens in Oklahoma addicted to methamphetamines. Although the problem is daunting, with enough support and understanding addiction can be beaten! I appreciate what this month celebrates, and I am proud to share a success story from my home state.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 29, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 30

9:30 a.m.

Foreign Relations

To hold hearings to examine the nominations of John Hillen, of Virginia, to be Assistant Secretary for Political-Military Affairs, Barry F. Lowenkron, of Virginia, to be Assistant Secretary for Democracy, Human Rights, and Labor, both of the Department of State, and Kent R. Hill, of Virginia, and Jacqueline Ellen Schafer, of the District of Columbia, both to be Assistant Administrator, United States Agency for International Development.

SD–419

OCTOBER 5

9:30 a.m.

Indian Affairs

Business meeting to consider S. 1057, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

10:30 a.m.

Aging

To hold hearings to examine preparing for and meeting the needs of older Americans during a disaster.

SH–216

2:30 p.m.

Environment and Public Works

To hold hearings to examine the status of efforts to reduce greenhouse gases relating to the Kyoto Protocol.

SD–406

Intelligence

To receive a closed briefing regarding certain intelligence matters.

SH-219

OCTOBER 6

9:30 a.m.

Armed Services

To hold hearings to examine U.S. military strategy and operations in Iraq.

SD-106

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the implementation of the Exon-Florio provision by the Committee on Foreign Investment in the United States (CFIUS), Department of the Treasury, which seeks to serve U.S. investment policy through reviews that protect national security while maintaining the credibility of open investment policy.

SD-538

Energy and Natural Resources

To hold hearings to examine Hurricanes Katrina and Rita's effects on energy infrastructure and that status of recovery efforts in the Gulf Coast region.

SD-366

2:30 p.m.

Judiciary

To hold hearings to examine pending judicial nominations.

SD-226

Intelligence

To receive a closed briefing regarding certain intelligence matters.

SH-219

3 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings to examine S. 1025, to amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas" to authorize the Equus Beds Division of the Wichita Project, S. 1498, to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District, S. 1529, to provide for the conveyance of certain Federal land in the city of Yuma, Arizona, S. 1578, to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs, and S. 1760, to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District.

SD-366

OCTOBER 20

10 a.m.

Indian Affairs

To hold hearings to examine Indian water rights settlement policy effects on the Duck Valley Reservation proposed settlement agreement.

SR-485

SENATE—*Thursday, September 29, 2005*

The Senate met at 9:30 a.m. and was called to order by the PRESIDENT pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, You have made this day for Yourself and for us. It is Your day, and we share its meaning. Remind us that You use our minds, hands, and feet to do Your work in our world.

Help us to bring aid and comfort to those who have been battered by the forces of nature. May we see in their trials opportunities to serve You.

Give the Members of this body the wisdom to use this day for Your glory. May they use their talents to strengthen our Nation and world. Empower them to strive for integrity, faith, love, and peace.

Entwine our lives with Your purposes so that our land will be blessed by Your providence.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 317, which the clerk will report.

The legislative clerk read the nomination of John G. Roberts, Jr., of Maryland to be Chief Justice of the United States.

The PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided between the two leaders or their designees.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in a few minutes, we will begin the final remarks regarding the nomination of Judge John Roberts to serve as Chief Justice of the United States. Beginning at 10:30 this morning, the time until the vote has been allocated for closing comments by the chairman and ranking member of the Judiciary Committee. The vote on the confirmation of Judge Roberts will begin at 11:30.

I remind all Senators to be at their desks at the outset of this historic vote. Senators should come to the Chamber around 11:20 for the 11:30 vote.

Following the confirmation vote on Judge Roberts, the Senate will take up the Defense appropriations bill. Senators should expect additional votes on the Defense bill, as well as votes on Friday.

The vote we cast today is one of the most consequential of our careers. With the confirmation of John Roberts, the Supreme Court will embark upon a new era in its history—the Roberts era. For many years to come, long after many of us will have left public service, the Roberts Court will be deliberating on some of the most difficult and fundamental questions of U.S. law. As all Supreme Courts that have come before, their decisions will affect the lives of all Americans.

When the President announced his nomination of Judge Roberts in July, we pledged to conduct a full, thorough, and fair review of Judge Roberts' credentials and qualifications. We also pledged we would conduct those deliberations in a timely and expeditious manner so the Supreme Court could begin its term on October 3 at full strength. We have delivered on both promises.

I thank Chairman ARLEN SPECTER for his leadership and handling of the hearings process, and I also want to thank my colleagues for moving forward so the Supreme Court can do its important work for the American people.

I expect a strong bipartisan vote in support for Judge Roberts later this morning. As has been said by Members on both sides of the aisle, Judge Roberts is an exceptional candidate who possesses the keen intelligence, the exemplary character, and sterling credentials to serve as Chief Justice of the highest Court in the land. I look forward to confirming him to lead the Supreme Court of the United States.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, my friend and colleague, the Senator from New York, is here. He wants to speak briefly. I know the time is divided for the next hour. I ask unanimous consent that he follow my remarks.

The PRESIDENT pro tempore. The time is equally divided.

Mr. FRIST. Mr. President, for the information of my colleagues, Senator LOTT has been scheduled to speak. When he comes, we will be alternating back and forth.

The PRESIDENT pro tempore. Does the Senator seek recognition now?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will probably speak 8 or 9 minutes. My colleague wanted to speak for about 4 or 5 minutes. That would not interfere with the previous agreement. I ask unanimous consent that he be recognized following me.

The PRESIDENT pro tempore. That would take an amendment to the previously agreed-to order.

Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

Mr. President, the Supreme Court of the United States is the ultimate arbiter of our Constitution and, as such, it is the final protector of individual rights and liberties in this great Nation. So when we vote to confirm a justice for a lifetime appointment to the Supreme Court, we have an awesome responsibility to get it right. And when we vote to confirm the Chief Justice of the United States, we have an even greater responsibility, because the stakes are even higher.

The Chief Justice sets the tone for the Court and, through leadership, influences Court decisions in ways both subtle and direct. Indeed, during the course of his confirmation hearings, Judge Roberts expressly acknowledged the important role that a Chief Justice can play in persuading his fellow justices to come along to his way of thinking about a particular case. During my discussion with him of the Supreme Court's landmark decision in Brown v. Board of Education, I mentioned that the decision was a unanimous one. Judge Roberts responded:

> Yes. That represented a lot of work by Chief Justice Earl Warren because my understanding of the history is that it initially was not. And he spent—it was re-argued. He spent a considerable amount of time talking to his colleagues and bringing around to the point where they ended up with unanimous court. . .

On another day, when I again mentioned Brown and the indispensable role played by Chief Justice Warren, Judge Roberts said:

> Well, Senator, my point with respect to Chief Justice Warren was that he appreciated the impact that the decision in Brown

would have. And he appreciated that the impact would be far more beneficial and favorable and far more effectively implemented with the unanimous court, the court speaking with one voice, than a splintered court.

The issue was significant enough that he spent the extra time in the reargument of the case to devote his energies to convincing the other justices—and, obviously, there's no arm-twisting or anything of that; it's the type of collegial discussion that judges and justices have to engage in—of the importance of what the court was doing and an appreciation of its impact on real people and real lives.

I have thought long and hard about the exchanges I had with Judge Roberts, and I have read and re-read the transcript and the record. And try as I might, I cannot find the evidence to conclude that John Roberts understands the real world impact of court decisions on civil rights and equal rights in this country. And I cannot find the evidence to conclude that a Chief Justice John Roberts would be the kind of inspirational leader who would use his powers of persuasion to bring all the Court along on America's continued march toward progress.

Therefore, I do not believe that John Roberts has met the burden of proof necessary to be confirmed by the Senate as Chief Justice of the United States. Sadly, there is ample evidence in John Roberts' record to indicate that he would turn the clock back on this country's great march of progress toward equal opportunity for all. The White House has refused to release documents and information from his years in the Reagan administration and in the first Bush administration that might indicate otherwise, but without those records we have no way of knowing.

Both in committee and on the floor, some have argued that those of us who oppose John Roberts' nomination are trying to force a nominee to adopt our "partisan" positions, to support our "causes," to yield to our "special interest" agendas.

But progress toward a freer, fairer Nation where "justice for all" is a reality—not just a pledge in the Constitution—is not a personal "cause" or a "special interest" or a "partisan" philosophy or ideology or agenda.

For more than half a century, our Nation's progress toward a just society has been a shared goal of both Democrats and Republicans. Since Republican Senate Leader Everett Dirksen led his party in supporting the Civil Rights Act of 1964, equal rights for all has been a consensus cause, not a "partisan cause." Since Congress adopted the Voting Rights Act of 1965 and began the process of spreading true democracy to all Americans, it has been a national goal, not a "special interest" goal. Fulfilling the Founders' ideals of equality and justice for all is not just a personal ideology, it is America's ideology. Surely, in the 21st century, anyone who leaves the slightest doubt as to whether he shares it fully, openly and enthusiastically should not be confirmed to any office, let alone the highest judicial office in the land.

Our doubts about John Roberts' commitment to continuing our national progress toward justice was, quite appropriately, a major issue in the committee hearings. The fundamental question was whether his record and his answers suggested that he would be an obstacle to that progress, by treating cases before the Supreme Court in a narrow legalistic way that resists and undermines the extraordinary gains of the past.

For all his brilliance and polish, he gave us insufficient evidence to demonstrate that the John Roberts of today is not the ideological activist he clearly was before. The strong evidence from his own hand and mind, the crucial 3-year gap in evidence because of the Administration's refusal to release his papers as Deputy Solicitor General, and his grudging and ambiguous answers at the hearing left too many fundamental doubts, and could put the entire Nation at risk for decades to come.

Some argue that John Roberts was just doing his job and carrying out the policies of the Reagan administration in the early 1980s. But his own writings refute that argument—these were clearly his own views, and were enthusiastically offered as his views. If he didn't agree with those policies as a lawyer in the Justice Department in 1981 and 1982, he would not have applied for the more political and more sensitive job in the White House Counsel's office when he left the Justice Department. He knowingly chose to be a voice for their policies, and often advocated even more extreme versions of those policies.

He certainly knew what was expected of him when he chose to become Deputy Solicitor General in 1989. That position was explicitly created to be the political monitor over all Department of Justice litigation. He was eager to advance the ideological views that his earlier memoranda show he personally supported. He obviously wasn't just "following orders"—he was an eager recruit for those causes. That was the evidence he needed to overcome in the hearings, and his effort to do so is unconvincing.

I hope I am proven wrong about John Roberts. I have been proven wrong before on my confirmation votes. I regret my vote to confirm Justice Scalia even though he, too, like John Roberts, was a nice person and a very smart Harvard lawyer. I regret my vote against Justice Souter, although at the time, his record did not persuade me he was in tune with the Nation's goals and progress.

But as the example of Justice Scalia shows, and contrary to the assertions of my colleagues across the aisle, I have never hesitated to vote for a Republican President's nominee to the Supreme Court whose commitment to core national goals and values appeared clear at the time. In fact, I have voted for seven of them, more than the number of nominees of Democratic Presidents I have voted for.

Our Senate responsibility to provide advice and consent on the Supreme Court Justices and other nominations is one of our most important functions. The future and the quality of life in this Nation may literally depend on how we exercise it. If we are merely a rubberstamp for the President's nominees, if we put party over principle, then we have failed in this vital responsibility. Even more important, if we go along to get along with the White House, we will be undermining the trust the Founders placed in us, and we will diminish the great institution entrusted to our care. Every thoughtful and reasonable "no" vote is a vote for the balance of powers and for the Constitution, so we must never hesitate to cast it when our independent consciences tell us to do so.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank the Senator from Massachusetts for his leadership on these issues through the decades.

Mr. President, today John Roberts will be confirmed as the 17th Chief Justice of the United States, so it is a historic day. Not everyone in this Senate will vote for him, and our opinions differ on many things: How much we were consulted, how many documents we received, how fair John Roberts will be, how ideological he will be.

In the end, I decided that while there was a very good chance that Judge Roberts would be a very conservative but mainstream Justice without an ideological agenda, he was not convincing enough. And the down side, even a minority downside that he would be a Justice in the mold of Scalia and Thomas, was too great to risk, so I will vote no.

But no matter how we vote, today we all share a fervent hope that Justice Roberts becomes a great jurist and serves our Nation well. In the end, I cannot vote for Judge Roberts, but I hope he proves me wrong in my vote and that he takes the goodwill of this body and the American people with him onto the bench; that he rules fairly; that he looks out for the little guy if the law is on the little guy's side; that he will be the lawyer's lawyer, without an ideological agenda; that he sees justice done in the many areas of the law that he will profoundly affect over the next several decades.

However, as the curtain falls on this vote, the curtain is about to rise on the nomination of a replacement for Justice Sandra Day O'Connor. If ever there was a time that cried out for consensus, the time is now. If the President nominates a consensus nominee, he will be embraced, the President will be embraced, and the nominee will be embraced with open arms by people on this side of the aisle. Not only we on this side of the aisle, but the American people hope and pray in these difficult times for a consensus nominee. The ball is in your court, Mr. President.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Mississippi is recognized.

Mr. LOTT. Madam President, I am delighted this morning to rise to speak on the nomination of Judge John Roberts to become Chief Justice of the U.S. Supreme Court. Before I proceed on my discussion of Judge Roberts, I want to take a moment to commend the President of the United States for his brilliant selection of this outstanding human being, lawyer, judge, and public servant. I had thought there would be pressures to move in some other direction, that some other person might be selected for a variety of reasons—good reasons. But the most important thing was for him to select the best man or woman for the job, regardless of anything else. That is what the President did.

When I had an opportunity to comment to White House representatives when they asked my recommendations, I said, frankly, I didn't have a particular person I recommend. I have faith in this President and I believe he will make the right choice. But second, I urged that he pick the best person, regardless of sex, religion, race, religious background, region of the country, or philosophy. And then I had one or two that I thought, well, maybe you do not want to suggest these people.

I was, frankly, delightfully surprised when the President selected Judge Roberts. I am very pleased with this selection.

I also want to thank Senator SPECTER of Pennsylvania for conducting these confirmation hearings in such a fair, dignified, and respectful manner. We can only hope that the nature of these hearings will carry over to the next Supreme Court nomination. Every Senator had ample opportunity to make statements and ask what were supposed to be questions that quite often became just another speech, but I thought that the overall tenor and tone of the committee hearings was very good.

Maybe this nomination and the conduct of these hearings in the Judiciary Committee and the vote today in the Senate will be overwhelming and will bring to a final close a dark and ugly chapter in the history of Federal judicial nominations and confirmations. What we have done to men, women, and minorities over the past 4 years, until May of this year, was one of the nastiest things I have ever witnessed. Good people's remarks were misinterpreted. I will not even describe how strongly I feel about some of the things that were said and done.

We found a way to change the atmosphere, to move some of these nominees, and now to vote on this nomination. Thank goodness. This is a good opportunity. Let's continue these future hearings and these nomination considerations in this vein.

We are set to vote later this morning on the nomination of Judge Roberts to be the 17th Chief Justice of the U.S. Supreme Court, the youngest nominee in probably over 150 years. The vote will place Judge Roberts at the head of the judiciary branch, a job that comes with an immense amount of responsibility and a position for which Judge Roberts is eminently qualified.

Before I met Judge Roberts, I knew him by his reputation. I had some mutual friends who had worked with him at the Supreme Court, who had served with him in previous administrations, who had known him in a variety of roles, and to a man or woman they gave glowing reports on his quality and his credentials.

By Supreme Court standards he is still a young man, just 50 years old, but he has compiled an outstanding résumé, graduating sum cum laude from Harvard, taking only 3 years. He graduated magna cum laude from Harvard Law School and served as managing editor of the Harvard Law Review, with clerkships for Judge Henry Friendly and then Associate Justice William Rehnquist.

When I met with him I said, You have an outstanding résumé and we will overlook the Harvard thing—which always gets a laugh. And I am only jesting—in half.

Judge Roberts embarked upon a distinguished career in public service and served as Associate White House Counsel in the Reagan administration and the Principal Deputy Solicitor General in the George H.W. Bush administration. In all, Judge Roberts argued 39 cases before the U.S. Supreme Court, winning more than half. That is a pretty sterling record of appearances, let alone the victories. The American Bar Association gave him its highest rating, a unanimous "well-qualified," both for the Supreme Court and DC Circuit nominations.

After visiting with Judge Roberts and watching how he has conducted himself during his nomination process, I continue to be extremely impressed. He is brilliant, eminently qualified, and fair man who clearly has a passion for the law. If confirmed, I believe he will serve the United States with honor and distinction for a long time.

Before Hurricane Katrina hit my home area and shifted the focus of us all, as we try to do all we can in a responsible way to help the people who have been so devastated by this natural disaster, I consistently heard concerns from Mississippians about the direction of our judicial system. My constituents realized that judicial activism is a serious problem that threatens their rights and ignores the constitutional obligations of the judiciary. With recent decisions such as Kelo v. City of New London that allows local governments to take private property and give it to someone else for private development, and the Pledge of Allegiance cases out of the Ninth Circuit, it should be clear to everyone what the dangers of judicial activism are and how it causes serious concerns.

I have a friend who serves in the Federal Judiciary, a very close friend. Recently, we were together in my home and after breakfast on Sunday morning we were talking about things in general. He said: I am concerned about the attitude toward the Federal judiciary. We actually have to worry about security in our courthouses. Why is this?

And I said: Your Honor, my friend, look at your decisions. You Federal judicial members are out of control. And until you get back in the box and stay as judges, not as legislators, and quit rendering these ridiculous decisions, there will be no respect.

However, I have learned, also, in so many ways in recent years, that one of the sayings of the Jaycees when I was a young man in a young businessman's organization was that this is a government of laws, not of men. It is just not so. You can have the best laws in the world, you can have the best system in the world, which we do, but if you have the wrong men and women in place, it does not work.

So we have a little changing of the judiciary that is called for. And these recent decisions I refer to just magnify why this is needed. Judicial activism is a threat to all Americans, regardless of political alliances. The use of judicial activism to advance conservative or liberal political goals is simply wrong.

Judge Roberts' own testimony illustrates his understanding of the constitutional role of the judiciary and shows his understanding of the issue. He said:

> Judges are like umpires. Umpires' don't make the rules, they apply them. . . . They make sure everybody plays by the rules, but it is a limited role.

While Judge Roberts acknowledged this analysis might be an oversimplification, but it shows a welcome respect for the constitutional role of the Judiciary.

When he was asked what type of judge he would like to be known as, Judge Roberts responded "a modest judge," meaning he has an "appreciation that the role of the judge is limited, that a judge is to decide the cases before them, they are not to legislate, they are not to execute the laws."

Judge Roberts vowed to decide each case in a fair-minded, independent, and unbiased fashion and has stated repeatedly that personal ideology has no place in the decision making process of a judge.

Simply put, this is a rock solid judicial philosophy. This is what separates judges from legislators. We as legislators are free to use our personal ideology and make decisions, and boy do we. We are elected and accountable to our constituents for those decisions if we go too far, in their opinion, one way or the other.

Judge Roberts addressed the role of personal ideology in the judiciary during his hearings by saying:

> [Judges] are not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs.

During his hearings, Judge Roberts was asked to answer several questions on issues that potentially could come before him if confirmed to the Supreme Court. He handled those questions exactly as he should have. It is a well-established standard that nominees should not answer questions that might bias them on future cases. I commend Judge Roberts for his handling of that sometimes difficult situation with steadfastness, with intelligent responses, and even sometimes with a sense of humor.

This nomination has served as a fantastic example of how the Ginsburg standard should be applied. Judicial nominees should have a fair and respectful hearing. They should not be expected to prejudge issues or cases. Judges must remain impartial and should not be asked to commit to rule a certain way in order to win confirmation votes. Judge Roberts, like Justice Ginsburg and all the other sitting judges, rightly refused to prejudge cases or issues likely to come before the Supreme Court.

During this process, Judge Roberts' record was scrutinized more closely than any other person in the history of judicial nominees. Senators had access to unprecedented 76,000 pages of documents from his time spent in public service and 327 cases decided by him on the DC Circuit. In addition, he was questioned for nearly 20 hours by the Judiciary Committee before receiving bipartisan support and a vote of 13 to 5. Through all of this intense scrutiny Judge Roberts and his record remain consistent and impressive.

Being placed under the microscope like this is not for the fainthearted. I admire how he handled this entire process with grace and poise.

Nobody should be surprised that when faced with a Supreme Court vacancy President Bush nominated a judicial conservative for that position. He said he would, I expected him to, and so he did. I expect him to do it again. In fact, you are talking about a consensus nominee. There won't be a consensus if he nominates somebody like Justice Ginsburg.

But I voted for her. I knew she was going to be way out of the mainstream, extremely liberal, but President Clinton won the election. He selected her. She was qualified by education, by experience, by demeanor. I voted for her. I did not expect her then to go on the Supreme Court and vote the way I would vote. She was a liberal. She is today. And probably—I have every reason to believe—a wonderful lady and a very thoughtful judge. She just comes to wrong conclusions, in my opinion.

The President was elected twice to the Presidency, telling anyone who would listen he would fill a vacancy in the Supreme Court with a judicial conservative. So why are we surprised? Why would you expect anything else? That is the way it is going to be; and that is the way it should be. He has followed through on that promise with John Roberts. He will likely do so again in the next nomination. And the next nominee, whoever it might be, deserves to be treated with the same fairness, respect, and dignity given to Judge Roberts.

There is clear and convincing evidence here that Judge Roberts is the right choice to be Chief Justice of the U.S. Supreme Court. I look forward to voting in favor of his confirmation.

I yield the floor.

Mr. AKAKA. Mr. President, I rise today in reluctant opposition to the confirmation of John Roberts as Chief Justice of the United States. While Judge Roberts is a talented lawyer and Constitutional scholar, I do not believe that these qualities alone are sufficient for leading the highest court in the land.

I approached this nomination as I do any nomination: with an open mind. I take my role of advice and consent on nominations seriously. That is why I joined a group of my colleagues in the Senate to respectfully ask the President to make available documents from Roberts' time in the Solicitor General's office. These documents could have provided valuable insight into how Roberts views important Constitutional questions, and I am disappointed that the White House did not fulfill this request. The White House owes not only the Senate, but also the American people, access to this information.

And so I am left to wonder about Judge Roberts' positions on critical questions regarding our Constitution and our way of life. I continue to hope that Judge Roberts shares my understanding that the Constitution provides robust protections guaranteeing the equality of all Americans. I hope that Judge Roberts' view of the Constitution is not as narrow as I have been led to believe.

However, neither the White House nor Judge Roberts has convinced me. On the contrary, they have given me reasons for alarm. Because the White House failed to respond to requests for Roberts' more recent work at the Solicitor General's office, the memoranda Judge Roberts wrote as a young lawyer in government service are all I have to go on. These memos raise serious concerns for me about Judge Roberts' commitment to protecting fundamental rights. Judge Roberts expressed views on civil rights, the Voting Rights Act, and the right to privacy convey a view of the Constitution that I simply do not agree with.

I recognize that these memos were written a long time ago, which is why I reserved judgement until Judge Roberts had the opportunity to clarify his position on these issues at the hearings. I listened carefully for Judge Roberts to dispel concerns about these memoranda, hoping that Judge Roberts would clarify the values that would guide his deliberations as Chief Justice. While Judge Roberts would occasionally distance himself from his old memos, stating that he was simply an employee doing what his boss had asked of him, he never fully explained where he stands on these important issues now.

Consequently, I am left with the memos to piece together Judge Roberts' judicial philosophy. These memos concerned me not only for the ideas they conveyed, but also the language that Judge Roberts chose to express his ideas. To me, phrases such as "illegal amigo," "Indian giveaway," and "supposed right to privacy" convey an unacceptable lack of respect for the people whose rights and freedoms Judge Roberts would be entrusted to protect. It disappointed me that, when asked whether he regretted his flippant tone, Judge Roberts not only deflected responsibility but also failed to articulate any semblance of regret for these hostile words.

For these reasons, I cannot vote for this nominee. This was not an easy decision for me. I have great respect for my many friends—both inside and outside this body—who have come to a different conclusion. I hope the President will use his next nomination to appoint a justice whom all Senators can agree upon, and if doubts arise the White House will choose to resolve rather than exacerbate them.

Mr. BOND. Mr. President, among the great responsibilities and privileges of being a Member of the U.S. Senate is assessing the qualifications and voting on the confirmation of members of the U.S. Supreme Court. Reflecting upon this vote, one gets a sense of the weight of the responsibility—we will be voting on a replacement for only the 17th Chief Justice in the history of our great country.

But this vote is not unique because of its infrequency but because of its place in our system of government. The Supreme Court is the final voice in the land on the meaning of the words of the Constitution as they apply to the extent of the rights guaranteed to individuals by the document. It is the final word on the demarcation of power between the legislative and executive branch of government and it is the voice on defining the power reserved for the Federal Government and the governments of the individual States.

As a member of the legislative branch of our national government who was in a former life a State Governor, I am acutely aware of the importance of these lines and the consequences when they are breached. As a Member of the Senate, I do not welcome decisions overturning legislative acts that I support but I frequently work with my colleagues to reject efforts to meddle in state affairs. As a Governor attempting to guide my State, I had to labor through the burdens placed in my way by an intrusive Federal Government.

The judicial branch of our government, most notably the Supreme Court, has been designated by the Constitution as the branch to maintain these divisions of power and law making.

So it is a great privilege and responsibility to have a role in confirming people who will occupy a place on the court. In this case, confirming the person that will lead that court.

After observing Judge Roberts during 3 days of hearing before the Committee on the Judiciary, I am convinced the power that comes with the vote of a Supreme Court Justice will be in wise and capable hands. First, throughout this strenuous session, Judge Roberts' intelligence, patience and temperament were on full display and were nothing short of extraordinary.

But it was that which he had to say that satisfies me and secures my vote for his confirmation.

He made a convincing case through his words and his demeanor that he will approach his responsibility with modesty and humility, which means approaching cases with an open mind and carefully studying the words of Congress or the precedents of the Court on constitutional questions. As Judge Roberts said and I agree, "a certain humility should characterize the judicial role. Judges . . . are servants of the law, not the other way around."

Also, as Judge Roberts repeatedly reminded his inquisitors, he is not a politician. In that statement, I am comforted. I commend him on his willingness to remind my colleagues that he was not before Congress to compromise or give hints on how he might vote on a hypothetical case in exchange for confirmation votes. Rather, he confirmed repeatedly that the constitution and the rule of law will be his guide.

Judge Roberts made the case that he recognizes that the authority on the division of power between the branches of government and the authority on the division of power in our federalist system of government are contained in the Constitution.

It is a positive thing that we are going to confirm a decent person for the Court, but that should not be our guiding principle. Our vote should not rest on whether a future judge will approach cases as a father or a son, on the side of the weak or the strong or with the intent to expand rights or protections. That subjects judicial decision making to subjective standards, compromises impartiality and removes the blinders from justice. Some have argued that this is to dodge a question. Rather, it is an indication that one recognizes that the obligation of the judge is to follow the Constitution rather than his own interests.

At one point during the proceedings, the Judge was prodded to comment on a case in which he participated to decide the extent of benefits available under a health plan. To limit or expand the benefits provided under a statute is the job of a legislature, not a judge. Judge Roberts agrees with this important principal. As he stated, "As far as a Judge is concerned, they have to decide questions according to the rule of law, not their own social preferences, not their policy views, not their personal preferences, but according to the rule of law."

If the support of a majority of a State or national legislature can be won, a statute can be changed and this concern addressed. I suspect that many of my colleagues, particularly those who will vote against this nomination, have come to rely on the judiciary to advance changes that have no support in legislatures. Hence, their frustration with Judge Roberts. He has clearly defined views of the role of the judiciary and the role of the legislature and they do not appear to be blurred. He has not shown a willingness to approach case guided by a point of view or a subjective standard—that is what is to motivate legislators as they debate on the campaign trail and the floors of congress and statehouses across the country.

But as Judge Roberts again put it so well, "If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, 'Let's take all the hard issues and give them over to the judges.' That would have been the farthest thing from their mind."

As did the Founders, I do not believe State and national legislative bodies are incapable of settling tough and contious issues. I do not believe it is benevolent or admirable for judges to remove questions from the public realm because they are divisive. Roberts has shown the modesty and respect for the role of the court and an legislature to refrain from that path.

Judge Roberts has also made it clear that he finds no place for reflection on the public attitudes and legal documents of foreign lands in the consideration of constitutional questions. They do not offer any guidance as to the words of our constitution.

During his testimony, Judge Roberts displayed a respect for Constitution and the rule of law as the principles that should guide him when ruling on a case. His view of the role of the judiciary is very consistent with that of my own.

Finally, I believe President Bush has executed his duties in a responsible manner that will serve our Nation well. He interviewed many distinguished and qualified attorneys an judges in the country to serve on our Nation's highest court. After responsible consultation with members of the Senate and careful and thoughtful deliberation, President Bush returned to the Senate the name of John Roberts. As we have learned, his qualifications to lead the Supreme Court and Federal judiciary are as unquestioned as they are impressive.

President Bush was reelected with over 62 million votes, the highest received by a presidential candidate. He is the first candidate in 16 years to win a majority of the popular vote, something not achieved by his predecessor, who incidentally won easy confirmation of both of his appointments to the high court.

President Bush resoundingly won the right to nominate someone who he views as fit to serve on the Supreme Court and he won the right to have that nominee considered fairly and impartially. The President also asked for the thoughts and advice of Members of this body as to the pending nomination. When it came time to exercise his responsibility as President, he did so by nominating someone with an impeccable record and extraordinary qualifications. In the execution of his duties, President Bush exceeded any standard to which he should be held.

Nonetheless, I suspect that this nomination and the subsequent nomination will not be treated in the manner that President Clinton's nominees were treated, when they received 96 votes. But it should as should the next nominee.

Judge Roberts is an outstanding nomination. He will get my support and he deserves the overwhelming support of this body.

Mr. ENSIGN. Mr. President, I rise to speak in support of John Roberts' nomination for Chief Justice of the Supreme Court. The debate that the Senate will have this week is truly historic. In our Nation's history there have only been 16 previous Chief Justices. The opportunity to vote on a nomination for Chief Justice is a once-in-a-lifetime opportunity and should be undertaken with recognition of its importance. The importance of this vote simply cannot be overstated.

I believe that our Nation is best served when we confirm individuals who appreciate that the role of a judge is not to make laws but to uphold the Constitution. We need judges who understand that their oath requires them to follow the Constitution and to apply the law in a modest fashion. Judges do not serve in the legislative branch. They should not make the law. As Senators, that is our job.

Under our Constitution, judges are appointed to interpret the law. They should apply the law without prejudice. Judges must be open to the legal arguments presented by each of the parties before them. They must fully and fairly analyze the facts and faithfully apply the law.

I have carefully considered John Roberts' record and his qualifications. I believe that his record reflects a proper understanding of the role of judges. I met with him and discussed face-to-face his views on the role of Supreme Court Justices. Judge Roberts possesses the highest intellect and integrity. He has also demonstrated that he is fair-minded. He possesses the necessary experience, as an attorney for the government, in private practice and as a judge, to serve on the high court. By any objective measure, John Roberts is qualified to sit on the bench, and he deserves to be confirmed.

Judge Roberts, in his testimony before the Judiciary Committee and in his writings throughout his career, has presented himself as a man with a clear view of the role of a Supreme Court Justice: to interpret the law and to uphold the Constitution. His answers to specific questions have been necessarily and appropriately limited so we must trust, as we have with past nominees to the Court, that Judge Roberts is presenting himself and his views honestly. I believe he has, and for the sake of our country, I hope so.

Today, throughout the judicial branch, judicial activism is impeding and restricting freedoms the American people should expect to enjoy as envisioned by our Nation's founders. Recent and significant rulings have established standards created not by elected Members of Congress but by activist judges. These rulings have infringed on Americans' rights to exercise their religious beliefs; to recite the Pledge of Allegiance; and to own property without fear that the Government might seize that property for economic gain.

Now more than ever we need justices who will stand against this type of judicial activism, adhere to the proper role of upholding the Constitution, and leave the task of creating laws to the Congress. John Roberts is representing himself as someone who believes in a return to what our founders intended and we hope his portrayal of his views is honest and true.

Historically, the Senate has confirmed a nominee when the nominee is found to be well qualified. John Roberts certainly meets this criterion. Historically, the Senate has based confirmation on a nominee's record, writings, and prior decisions. There is ample documentation on which my colleagues can make a decision with respect to John Roberts' nomination. And the documentation supports confirmation.

John Roberts deserves to be confirmed, and America deserves a Chief Justice like John Roberts.

I yield the floor.

Mr. FEINGOLD. Mr. President, I will vote in favor of the nomination of Judge John Roberts to be the Chief Justice of the United States. This has not been an easy decision, but I believe it is the correct one. Judge Roberts' impeccable legal credentials, his reputation and record as a fair-minded person, and his commitment to modesty and respect for precedent have persuaded me that he will not bring an ideological agenda to the position of Chief Justice of the United States and that he should be confirmed.

I have often noted that the scrutiny that I will apply to a President's nominee to the Supreme Court is the highest of any nomination and that the scrutiny to be applied to the position of Chief Justice must be the very highest. I have voted for executive branch appointments, and even for court of appeals nominees, whom I would not necessarily vote to put on the Supreme Court.

Furthermore, because the Supreme Court, alone among our courts, has the power to revisit and reverse its precedents, I believe that anyone who sits on that Court must not have a pre-set agenda to reverse precedents with which he or she disagrees and must recognize and appreciate the awesome power and responsibility of the Court to do justice when other branches of Government infringe on or ignore the freedoms and rights of all citizens.

Judge Roberts came to his hearing with a record that few can top. His long record of excellence as a lawyer practicing before the Supreme Court, and his reputation as a lawyer's lawyer who has no ideological agenda, carry substantial weight. I wanted to see, however, how that record and reputation would stand up against a searching inquiry into his past statements and current views. As a member of the Judiciary Committee, I was proud to play a role in that inquiry. I believe the hearing was fair and thorough and I congratulate the chairman and ranking member, and all of the members of the committee, for the seriousness with which they undertook this task.

One important question I had was about Judge Roberts' views on the role of precedent and stare decisis in our legal system. A lot of the concern about this nomination stems from the fact that many important precedents seem to be hanging by a thread. In both our private meeting and in his hearing, Judge Roberts demonstrated a great respect for precedent and for the importance of stability and settled expectations. His themes of modesty and humility showed appropriate respect for the work of the Justices who have come before him. He convinced me that he will take these issues very seriously, with respect to both the constitutional right to privacy and many other issues of settled law.

As I am sure every Member of the Senate noticed and expected, Judge Roberts did not expressly say how he would rule if asked to overturn Roe v. Wade. But if Judge Roberts abides by what he said about how he would approach the question of stare decisis, I think he should vote to uphold Roe. He certainly left some wiggle room, and he said he would approach the possibility of overturning a case differently if the underlying precedents themselves came into question. But it will be difficult to overrule Roe or other important precedents while remaining true to his testimony about stability and settled law, including his statement that he agrees with the outcome in Griswold v. Connecticut. I know the American people will be watching him very closely on that question, and I personally will consider it a reversal of huge proportions, and a grave disappointment, if he ultimately does attempt to go down that road.

I was also impressed that Judge Roberts does not seem inclined to try to rein in Congress's power under the commerce clause. He repeatedly called attention to the Court's recent decision in Gonzales v. Raich as indicating that the Court is not headed inexorably in the direction it turned in the Lopez and Morrison cases limiting Congress's power. His approving references to Raich suggests to me that he will take a more moderate stance on these issues than his mentor, Chief Justice Rehnquist. His attitude seems to be if Congress does its job right, he will not stand in the way as a judge. That is, of course, cold comfort if the Court creates new hoops for Congress to jump through and applies them retroactively. I hope that Judge Roberts will recognize that Congress can pay attention to what the Court says is needed to justify legislation only if the Court gives clear advance notice of those requirements.

Judge Roberts also seemed to reject a return to the Lochner era, when a majority of the Court invoked the due process and contracts clauses of the Constitution to strike down child labor and other laws it disagreed with, and the courts openly acted as a super-legislature, rejecting congressional enactments based on their own political and economic judgments. Judge Roberts disparaged the Lochner decision, saying, "[y]ou can read that opinion today and it's quite clear that they're not interpreting the law, they're making the law." That is a marked contrast to many in the so-called "Constitution in Exile" movement, including recently confirmed DC Circuit Judge Janice Rogers Brown.

Judge Roberts' determination to be a humble and modest judge should lead him to reject efforts to undermine Congress's power to address social and economic problems through national legislation. I view that as a significant commitment he has made to the Congress and to the country.

Another important issue involves not so much respect for settled precedent, but rather questions that will arise in the future with respect to the application of the Bill of Rights in a time of war. The Supreme Court has already dealt with a series of cases arising from the Bush administration's conduct of the fight against terrorism, and will undoubtedly face many more during the next Chief Justice's term. Indeed, how the new Justices address these issues may well define them and the Court in history.

For me, Judge Roberts' discussion of the Foreign Intelligence Surveillance Court, which has been such an issue in the Patriot Act debate, was a defining moment in the hearing. His answers showed a gut-level understanding of the potential dangers of a court that operates entirely in secret, with no adversary process. His instincts as a lawyer, one who trusts our judicial system and its protections to yield the correct result under the rule of law, seemed to take over, and he seemed genuinely disturbed by the idea of a court without the usual protections of an open, adversary process. Here is what he said about the FISA Court to Senator DEWINE:

> I'll be very candid. When I first learned about the FISA Court, I was surprised. It's not what we usually think of when we think of a court. We think of a place where we can go, we can watch the lawyers argue and it's subject to the glare of publicity and the judges explain their decision to the public and they can examine them. That's what we think of as a court.
>
> This is a very different and unusual institution. That was my first reaction. I appreciate the reasons that it operates the way it does, but it does seem to me that the departures from the normal judicial model that are involved there put a premium on the individuals involved.

Judge Roberts' comments, and that he went out of his way to express surprise at the fact that this secret court even exists, suggests to me that he would address issues related to FISA, such as government secrecy and challenges to civil liberties, with an appropriately skeptical mindset.

I was troubled when Judge Roberts refused to give a fuller answer about his view of the Supreme Court's decision in the Hamdi case, and I have concerns about his decision as an appeals court judge in the Hamdan case regarding military commissions. But Judge Roberts did tell me that he believes: "The Bill of Rights doesn't change during times of war. The Bill of Rights doesn't change in times of crisis." I was pleased to hear him recognize this fundamental principle.

I do not want to minimize the concerns that have been expressed by those who oppose the nomination. I share some of them. Many of my misgivings about this nomination stem from Judge Roberts' refusal to answer many of our reasonable questions. Not only that, he refused to acknowledge that many of the positions he took as a member of the Reagan administration team were misguided or in some cases even flat-out wrong.

I do not understand why the one person who cannot express an opinion on virtually anything the Supreme Court has done is the person whom the American public most needs to hear from. No one on the committee asked him for a commitment on a given case or set of issues. We certainly recognize that it is possible his views might change once he is on the Court and hears the arguments and discusses the issues with his colleagues. All of those caveats would have been perfectly appropriate. But why shouldn't the committee and the public have some idea of where he stands, or at least what his instincts are, on recent controversial decisions?

Although in some areas he was more forthcoming than others, Judge Roberts did not answer questions that he could and should have—unfortunately with the full support of committee members who want to smooth his confirmation—and I think that is disrespectful of the Senate's constitutional role. In addition, the administration's refusal to respond to a reasonable, limited request for documents from the time Judge Roberts served in the Solicitor General's office did a real disservice to the country and to the nominee. My voting in favor of Judge Roberts does not endorse this refusal. In fact, if not for Judge Roberts' singular qualifications, I may have felt compelled to oppose his nomination on these grounds alone. Future nominees who refuse to answer reasonable questions or whose documents the administration—any administration—refuses to provide should not count on my approval.

Also troubling was Judge Roberts' approach to the memos he wrote as a young Reagan administration lawyer. His writings from his early service in government were those of a very smart man who was at times a little too sure of himself and too dismissive of other viewpoints. I wanted to see if the Judge Roberts of 2005 had grown from the John Roberts of 1985, whose strong views often suggested a rigid ideological agenda. I wanted to see the possibility of a seasoned, wise, and just John Roberts on the Supreme Court, not just a more polished, shrewder version of his younger self.

Unfortunately, he refused to disavow any of those memos, many of which laid out disturbing opinions on a variety of issues, from voting rights, to habeas corpus, to affirmative action. He refused to acknowledge that some of his tone and word choice in that era demonstrated a lack of sensitivity to minorities and women, and to the challenges they face. Instead, he took refuge in the argument that he was simply doing his job, so we are not now supposed to infer anything about his beliefs or motivations based on the memos he wrote in the 1980s.

I found these arguments unpersuasive, particularly since several of these memos indicate that those were, in fact, his own personal views. And I do not understand why he felt he had to defend these 20-year-old memos. Maybe it was pride. Maybe it was a political strategy dictated by a White House that so rarely admits error. But take voting rights—it should have been easy for Judge Roberts to say that in retrospect he was wrong about the dangers of the effects test, and that the 1982 amendments to the Voting Rights Act that he opposed have been good for the country. Instead, he said he wasn't an expert on the Voting Rights Act and insisted on the correctness of his position. That troubles me.

The John Roberts of 2005 did not have to embrace the John Roberts of 1985, but in some cases he did, all too readily. On the other hand, I am not sure that the John Roberts of 1985 would have told Senator FEINSTEIN with respect to affirmative action that: "A measured effort that can withstand strict scrutiny is . . . a very positive approach." His answers to questions on affirmative action, seemed to me, on balance, to be an encouraging sign that he will not undo the Court's current approach.

Finally, I was unhappy with Judge Roberts' failure to recuse himself in the Hamdan v. Rumsfeld case, once he realized he was being seriously considered for a Supreme Court nomination. It is also hard to believe, as Judge Roberts testified, that he does not remember precisely when the possibility of an ethics violation first came to his attention. Judge Roberts sat on a court of appeals panel that heard the appeal of a district court ruling that, if upheld, would have been a huge setback for the administration's position on military commissions and the detainees at Guantanamo Bay. And he heard oral argument just 6 days after interviewing for a Supreme Court appointment with the Attorney General of the United States, who also was a major participant in the underlying legal judgment of the administration that was challenged in the case. I am troubled that Judge Roberts apparently didn't recognize at the time that there was an ethical issue.

I give great weight to ethical considerations in judicial nominations. For example, when Judge Charles Pickering solicited letters of recommendation for his court of appeals nomination from lawyers practicing before him in the district court, I found that very significant, especially in combination with his actions in a cross burning case where improper ex parte contacts were alleged. But while the issue raised about Judge Roberts is serious, I do not see such a pattern with Judge Roberts, who has a long record and reputation for ethical behavior. Nor is there evidence of the egregious, almost aggressive unethical behavior that was present in the nomination of Judge Pickering.

I hope that Judge Roberts now understands the concerns that I and a number of respected legal ethicists have about his participation in the Hamdan case. It is not too late for him to recuse himself and allow a new panel to hear the case.

At the end of the day, I had to ask myself: What kind of Justice does this man aspire to be? An ideologue? A lawyer's lawyer? A great Supreme Court Justice like Justice Jackson, who moved comfortably from the top legal positions in the Department of Justice to a judicial position in which he was more than willing to challenge executive power? A Chief Justice who will go down in history as the leader of a sharp ideological turn to the right, or a consensus builder who is committed to the Court and its role as guarantor of basic freedoms?

I have talked to a number of people who know John Roberts or to people who know people who know John Roberts. Those I have heard from directly or indirectly have seen him develop since 1985 into one of the foremost Supreme Court advocates in the Nation, whose skills and judgment are respected by lawyers from across the ideological spectrum. They don't see him as a champion of one cause, as a narrow ideologue who wants to impose his views on the country. They see him as openminded, respectful, thoughtful, devoted to the law, and truly one of the great legal minds of his time. That carries a great deal of weight with me. And it helps to overcome my frustration with Judge Roberts for not distancing himself from what he wrote in his Reagan-era memos and with the White House for refusing to release relevant documents to the committee.

History has shown that control of the White House, and with it the power to shape the courts, never stays for too long with one party. When my party retakes the White House, there may very well be a Democratic John Roberts nominated to the Court, a man or woman with outstanding qualifications, highly respected by virtually everyone in the legal community, and perhaps with a paper trail of political experience or service on the progressive side of the ideological spectrum. When that day comes, and it will, that will be the test for the Senate. And, in the end, it is one of the central reasons I will vote to confirm Judge John Roberts to be perhaps the last Chief Justice of the United States in my lifetime. This is not a matter of deference to the President's choice. It is instead a recognition that the Supreme Court should be open to the very brightest of legal minds on either side of the political spectrum.

The position of Chief Justice demands the very highest scrutiny from the Senate, and the qualifications and abilities of the nominee for this position must shine through. Judge Roberts has the legal skills, the intellect, and the character to be a good Chief Justice, and I hope he fulfills that promise. I wish him well. May his service be a credit not only to the rule of law, but also to the principles of equality and freedom and justice that make this country so great.

Mr. CORZINE. Mr. President, I believe that the U.S. Constitution is about protecting the rights of Americans, not about restricting those rights. And that is why I will vote against Judge John Roberts' nomination to be Chief Justice of the United States.

Judge Roberts and I appear to hold different views of the role that the Federal Government should play in our country. I believe that Government is here to preserve rights, to protect and support our citizens, and to offer opportunity to those less fortunate. Based on the limited record before us, I am not convinced that John Roberts shares these views.

Though he is clearly intelligent, articulate, and accomplished, I am deeply concerned that Judge Roberts' narrow and cramped view of the Constitution will lead inevitably to the restriction of our most scared rights and protections. I fear that Judge Roberts will interpret the Constitution so narrowly that he will reach results that are inconsistent with decades of well-established Supreme Court precedent.

From civil liberties to the ability of courts to protect minorities, from voting rights to school desegregation, from privacy to environmental protections, Judge Roberts has consistently adopted positions intended to limit the role of Government in a way that would harm all Americans.

I simply cannot vote to confirm a nominee who may vote to roll back decades of progress and protections for our most fundamental rights. Our most basic rights hang in the balance and I am not prepared to gamble with these rights.

Before the hearings on Judge Roberts began, I stated that we needed to learn his positions on all of the important issues that face Americans today, including the right to privacy, a woman's right to choose, civil rights, the rights of consumers, federalism, the scope of executive power, and the Government's ability to help those who need it most. I asserted that it was essential to learn Judge Roberts' position on first amendment protections and the authority of Congress to enact laws protecting the environment.

I also requested that the White House and Judge Roberts release documents relating to 16 cases in which he was involved from 1989 to 1993 as the Principal Deputy Solicitor General in the Justice Department. I wanted to review these documents to learn all we needed to know about a man selected for a lifetime appointment to the highest Court in the Nation.

I sought this information and asked for these documents because I strongly believe that Senators have both a right and a duty to evaluate thoroughly Supreme Court nominees. We have a right to request that the nominee answer relevant questions about legal philosophy and we have a corresponding duty to look carefully into all aspects of the nominee's record, including his or her prior statements, memoranda, and judicial opinions. When faced with a nominee who has an extremely sparse record, as Judge Roberts does, the level of scrutiny required in evaluating answers and reviewing documents must necessarily be higher.

Unfortunately, during 3 days of testimony before the Senate Judiciary Committee, Judge Roberts raised more questions than he answered. And we have never been given the opportunity to review the documents requested from the Solicitor General's Office. This lack of information, when coupled with Judge Roberts' early writings in which he advanced an exceedingly restrictive view of the civil rights laws as a lawyer in the administrations of Presidents Ronald Reagan and George H.W. Bush, raises serious concerns.

During his testimony, Judge Roberts failed to answer the most basic questions about his constitutional and legal philosophy—in total, he refused to answer almost 100 questions during the hearings. Judge Roberts also refused to distance himself from the vast majority of his prior, controversial writings. In failing to state his position on many critical issues, Judge Roberts left us with little to go on beyond his prior writings and limited judicial record.

I have been struck, in listening to the statements of many of my colleagues who have struggled with how to vote on this nomination, by the simple fact that we are all guessing—guessing if Judge Roberts will uphold the right to privacy, guessing if he will restrict the right of a woman to choose, guessing if he will uphold Federal laws regulating the environment.

guessing if he will greatly expand Executive power, and guessing if he will support the gains we have made in the area of civil rights during the past 40 years. I cannot in good conscience cast a vote for the position of Chief Justice of the Supreme Court based on conjecture.

My concerns about Judge Roberts' legal philosophy run deepest in the areas of privacy, civil rights, and federalism.

One of our most important liberties is the right of individuals to privacy, which includes a woman's right to choose. During his hearings, Judge Roberts acknowledged that the due process clause of the Constitution encompasses the right to privacy. He also stated that he believed that the right to privacy encompasses the right of married couples to access contraception as established by the Court in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). However, beyond these broad, generalized statements supporting the constitutional underpinnings of the right to privacy and the holding in Griswold, Judge Roberts failed to explain his views on the right to privacy.

When pressed with questions on the landmark 1973 decision, *Roe* v. *Wade*, 410 U.S. 113, which extended the right to privacy recognized in Griswold to encompass a woman's right to choose, Judge Roberts either refused to answer the questions or responded with generalizations about precedent. Judge Roberts made it clear that his analysis on this issue starts with the holding in the 1992 Supreme Court case, *Planned Parenthood of Connecticut* v. *Casey*, 505 U.S. 833, which held that the right to choose may be restricted so long as State statutes do not have the purpose or effect of imposing an "undue burden" on a woman's right. In using this as his starting point, Judge Roberts leaves open the strong possibility that he may vote, perhaps as early as the upcoming Supreme Court term, to further restrict a woman's right to choose.

I cannot overlook the similarity between Judge Roberts' responses to questions about a woman's right to choose and the answers given by Justice Clarence Thomas during his confirmation hearings. Like Judge Roberts, Justice Thomas acknowledged a right to privacy in the Constitution. Justice Thomas also expressed support for the decision in Griswold. However, once he was confirmed to the Supreme Court, Justice Thomas argued vehemently against the existence of a general right to privacy and even called for the reversal of Roe v. Wade, describing the decision as "grievously wrong."

We simply cannot allow this to happen again. And we should not have to. We should not be in a position today where we have to guess if Judge Roberts will attempt to overrule Roe v. Wade or to further restrict the constitutional right of all women to choose.

In addition to my concerns about the right to privacy, I have serious concerns about Judge Roberts' views on civil rights. His record is extremely limited, but what little evidence we have reveals Judge Roberts' repeated attempts to roll back legal protections afforded to minorities and to those less fortunate.

In the area of affirmative action, Roberts urged the Reagan and the first Bush administrations to oppose affirmative action programs. Roberts sought to overturn established precedent supporting affirmative action programs and, in 1981, he fought to abolish race- and gender-conscious remedies for discrimination. This position was contrary to the Supreme Court's ruling in *United Steelworkers of America* v. *Weber*, 443 U.S. 193 (1979), which upheld affirmative action in employment. During his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Judge Roberts also has a detailed record of opposing a broad interpretation of the Voting Rights Act, which is considered one of the most powerful and effective civil rights laws ever enacted. While working in the Justice Department during the Reagan administration, Judge Roberts urged the administration to oppose a bill that allowed discrimination under section 2 of the act to be proven through a showing of the discriminatory effects, and not just the discriminatory intent, of State voting restrictions. Congress enacted the bill over the administration's objections. Judge Roberts' approach, had it been adopted, would have made it tremendously difficult to overturn discriminatory voting laws. Again, during his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Judge Roberts' record in the area of access to education is also troubling. In prior writings, Judge Roberts expressed opposition to the Supreme Court decision in *Plyler* v. *Doe*, 457 U.S. 202 (1982), wherein the Court ruled that the Constitution mandates that all children, including the children of undocumented immigrants, have the same access to education. Again, during his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Additionally, memoranda written by Judge Roberts during his tenure at the Department of Justice raise concerns about his eagerness to deny the Supreme Court the power to decide questions of constitutional interpretation and subsequent remedies. In one writing, Judge Roberts argued that Congress had the power to strip courts of the power to desegregate schools through busing in the wake of *Brown* v. *Board of Education*, 347 U.S. 483 (1954). During his hearings, Judge Roberts neither stated his present view on this issue nor distanced himself from his prior writings.

Had Judge Roberts' views prevailed on these civil rights issues or on other similar issues during his tenure in the Reagan and George H.W. Bush administrations, we would today live in a far different world. It would be a world with fewer protections for minorities, women, and people with disabilities.

I am also concerned about Judge Roberts' views on the power of the Federal Government to pass legislation under the commerce clause of the Constitution. Although Judge Roberts' record is sparse, his dissent from a full court opinion denying a rehearing en banc in *Rancho Viejo, LLC* v. *Norton*, 334 F.3d 1158 (2003), causes concern. Judge Roberts was one of only two judges on the entire U.S. Court of Appeals for the DC Circuit to challenge the decision of the panel to uphold the constitutionality of the Endangered Species Act. Although Judge Roberts allowed in a footnote that there could be alternative grounds on which the full DC Circuit might uphold the constitutionality of the Act, his opinion demonstrates a narrow view of Congress's power to legislate under the commerce clause.

I am concerned that, based upon this critical view of Federal power, Judge Roberts may vote to limit Congress's authority to enact laws that help all American citizens. In the wake of Hurricanes Katrina and Rita, the role of the Federal Government in protecting all Americans, and particularly those less fortunate, has never been clearer. Congress must have the power to assist those in need, and to help citizens during times of natural and manmade disasters.

I am mindful of Judge Roberts' frequent statements that he would approach the law with modesty and restraint. However, we have never learned the reference point for this modesty and restraint. The starting point in this inquiry is as important as the ending point, for either can dictate the result. It is difficult to tell from Judge Roberts' testimony and writings whether, in exercising restraint, Judge Roberts would be deferring to the original intent of the Founders, Supreme Court precedent, the contemporary understanding of the Constitution, or something else entirely. Without this information, we are unable to meaningfully understand Judge Roberts' judicial philosophy.

If he begins at the point where Justices Scalia and Thomas do, Judge Roberts would view judicial restraint and modesty as adherence to a static, narrow, antiquated, and inaccurate originalist view of the Constitution that fails to acknowledge the realities of modern America. This form of "modesty" and "restraint", followed by Justices Scalia and Thomas, quite openly seeks to overrule the accomplishments of much of our Supreme Court jurisprudence during the past 200 years. Justices Scalia and Thomas believe that they exercise judicial restraint when they attempt to overturn Supreme Court precedent such as Roe v. Wade on the ground that it is inconsistent with their own originalist understanding of the Constitution. Although they may call this modesty and restraint, this view of the Constitution is neither modest nor restrained; rather, it is a form of judicial activism as aggressive as any the Court has ever seen.

I have carefully weighed my concerns in light of my constitutional duty as a U.S. Senator. And I have concluded that, fundamentally, I cannot vote yes without being confident that Judge Roberts will not vote to roll back the protections and rights our Nation fought so hard to attain.

I am deeply mindful that we must never become so cynical or political that we fail to do what is best for the citizens of our Nation. And that means that we must place the value of an independent judiciary above the partisan politics of the day. That also means that we must not be afraid to stand up to the President and vote against a nominee who puts us in a position of guessing about his constitutional and legal philosophy.

We must never forget that our Supreme Court depends, first and foremost, on the Justices who hear arguments and issue rulings each and every day. As all Americans know, the Supreme Court is the highest Court in the United States. This is the Court that issues final rulings on many of the most important issues of our time, ones that touch the lives of all Americans. Therefore, it is essential that we know the views of each and every person whom we approve for a lifetime appointment to the Supreme Court.

There is no question that Judge John Roberts will get an up-or-down vote in the full Senate. However, that does not mean that he will get my vote. I will only vote to confirm Justices who will uphold established precedent and understand that the Constitution is about protecting rights, not about restricting them.

The stakes are simply too high to guess about the future of our fundamental rights and protections.

Mr. SHELBY. Mr. President, I rise today to support the nomination of Judge John Roberts to be Chief Justice of the U.S. Supreme Court.

Judge Roberts is a man of integrity whose reputation is irrefutable. He has been widely praised for his affable and humble personality as well as his integrity and intellect. Judge Roberts is already greatly respected by his colleagues and current Supreme Court Justices who know him as a leading advocate before that Court.

I believe that Judge Roberts is eminently qualified for this position. He earned both his bachelor's degree and his law degree from Harvard University. In fact, after earning his bachelor's degree summa cum laude, he managed to earn his law degree magna cum laude while serving as the editor of the Harvard Law Review. Following graduation, Judge Roberts earned a clerkship on the Supreme Court for the late Chief Justice William Rehnquist.

Since that time, Judge Roberts has had a long and distinguished career of service to this country, including serving as an attorney in the Office of the Solicitor General. Most recently, he served as a judge on the DC Circuit Court of Appeals, widely considered the second most powerful court in the Nation. During his service on the court, he has been consistent and fair.

Judge Roberts has also been a private practice attorney representing the full range of clients before the Supreme Court. He has argued before the Supreme Court 39 times, an impressive record even if you do not consider the fact that his client prevailed in 25 of those cases. In fact, Judge Roberts is widely considered by his colleagues to be one of the most accomplished attorneys to argue before the Supreme Court.

For some time I have been concerned that our judiciary was being overwhelmed by activist judges who attempt to legislate from the bench. They appear to make decisions based upon political philosophy and twist the words of our Forefathers and of Congress to serve their ideological goals.

We do not need judges who will make their own laws and interpret the Constitution based on one political philosophy or another. Rather, we must insist on judges who maintain a fair and judicious tone—judges who rule without the influence of ideology or personal opinion.

After 20 hours of testimony before the Senate Judiciary Committee, I believe the Nation learned a great deal about how Judge Roberts views the judicial role and what kind of service he will provide the Nation as Chief Justice. Judge Roberts is a skilled lawyer who understands and respects the Constitution. I believe he understands that the role of the judiciary is to interpret the law—not make law. It is clear from his testimony that his goal will be to fairly and effectively interpret the Constitution and the law without prejudice and with the utmost respect for the rule of law.

I commend President Bush for his continued efforts to put judges in place who respect the rule of law. I believe that Judge Roberts is a shining example of this type of jurist, and there is no doubt in my mind that he should be confirmed as our country's 17th Chief Justice, and I am proud to support his nomination.

Ms. STABENOW. Mr. President, this is a critical time in our Nation's history. For the first time in more than a decade, we have not just one but two vacancies on the United States Supreme Court. Sandra Day O'Conner, the first woman justice and often the critical deciding vote, is retiring, and Chief Justice Rehnquist, who served on the Court for more than 33 years, passed away after a courageous battle with cancer.

The two nominees who will receive these lifetime appointments will dramatically impact the direction of the Court for decades to come and will shape decisions that will affect the rights and freedoms of all Americans.

Furthermore, the new Chief Justice will play a unique and critical role. He will lead the Court. The new Chief Justice will set the initial agenda of what cases should be considered, and assign the justice who will write the majority opinion when he or she is a part of the majority. He will be the most powerful judge in the country.

We all understand that the U.S. Senate has a constitutional obligation to "advise and consent" on all Federal judicial nominees. Unlike other nominations that come before the Senate, judicial nominations are lifetime appointments. These are not decisions that will affect our courts for 3 or 4 years but for 30 or 40 years, making it even more important for the Senate to act carefully and responsibly.

I am one of the newer Members of this chamber. In fact, I rank 74th in seniority. I don't have the 20 year voting history on Supreme Court nominees that many of my colleagues do. I didn't vote on the nominations of Justices Scalia, Ginsburg, O'Connor or Thomas.

But I bring a different kind of history to this Chamber. I am the first woman U.S. Senator in history from the State of Michigan. My office is next door to the Sewell Belmont house, where Alice Paul and Lucy Burns planned their suffrage marches and fought to get women the right to vote.

I can see it from my window and every day I am reminded of what the women before me went through so that I could speak on the Senate floor today. I feel the same responsibility to fight against discrimination and for equal rights, for the women that will come after me.

I take this responsibility very seriously and have closely studied Judge Roberts' writings and testimony at the Judiciary Committee hearings. I commend Senators SPECTER and LEAHY for conducting the hearings in a civil and bipartisan manner.

The Judiciary Committee hearings were the only opportunity for Americans to hear directly from Judge Roberts on issues and concerns that impact their daily lives, and to find out what a "Roberts Court" might look like. Unfortunately, Judge Roberts refused to answer many of the questions that are on the minds of most Americans.

However, the American people are being asked to hire Judge Roberts for this lifetime job without knowing the answers to most of the interview questions. This problem has been exacerbated by the White House's refusal to share even a limited number of documents from Judge Roberts' time as Deputy Solicitor General.

The Constitution grants all Americans the same rights, liberties and freedoms under the law. These are the sacred, bedrock values upon which the United States of America was founded. And we count on the Supreme Court to protect these constitutional rights at all times, whether they are popular or not.

Unfortunately, Judge Roberts refused to answer most substantive questions about how he would protect our fundamental constitutional rights. Because of his failure to answer questions on the major legal issues of our time in a forthright manner, I feel compelled to base my decision on his writings and opinions.

When you closely examine these documents, you see a forceful and instinctive opposition toward protecting the fundamental rights of all Americans. In case after case, Judge Roberts argued that the Constitution did not protect workers, voters, women, minorities and people with disabilities from discrimination. He also argued that the Constitution does not firmly establish the right of privacy for all Americans.

In all of his memos, writings and briefs, Judge Roberts took the view that the Constitution only protects Americans in the most narrow and technical ways, and does not convey to us fundamental rights, liberties and freedoms. Because of these views, after much deliberation, I have concluded that Judge Roberts is the wrong choice for a lifetime appointment as Chief Justice of the U.S. Supreme Court.

Judge Roberts is certainly an intelligent man with a record of public service. However, that alone does not qualify him to lead the entire third branch of our government. I believe that his writings reveal a philosophy that undermines our most cherished and fundamental rights, liberties and freedoms as Americans, and for that reason, I will be voting no on his nomination.

The Supreme Court decides cases that have a broad impact on American jobs and the economy. Manufacturing is the backbone of Michigan's economy, and these court decisions will affect the livelihood of the families, workers and businesses I represent. We in Michigan need to know whether Judge Roberts will stand with us and with our families or be on the side of major special interests who were his clients in the private sector.

Right now, we are feeling the full impact of price-gouging and oil company monopolies at the gas pumps. But Americans don't know what Judge Roberts' views are of antitrust and consumer protection laws that punish these illegal corporate practices. How will he rule on cases dealing with insider-trading, anti-competitive business behavior and other kinds of corporate fraud to prevent another Enron?

We don't know if he supports basic consumer protections like patients' rights to receive a second doctor's opinion if their HMO tries to deny them treatment. Judge Roberts fought against these patients' right when he represented HMOs in private practice and Americans are entitled to know where he stands on this issue.

Americans need to know where Judge Roberts stands on worker protections under the Family and Medical Leave Act. And will Judge Roberts rule to protect their pensions and retirement benefits? We don't have the answers to these basic questions.

The foundation of our democracy is the belief that all people are created equal and that every American deserves an equal opportunity for a good education, good job, and a good life. The Supreme Court will be deciding cases that have an enormous impact on our civil rights protections and this fundamental American notion of equality.

As a lawyer in the Reagan administration, Judge Roberts argued against some of the most basic civil rights protections such as workplace discrimination laws and strengthening the Voting Rights Act. When he was asked if he disagreed with any of those positions today, Judge Roberts said he was just reflecting the administration's views, and refused to provide any clarity on his own personal views.

However these memos expressed more than just the administration's position; they included Judge Roberts' own extreme views on everything from school desegregation to title IX.

When urging the Attorney General to step up efforts to oppose legislation to strengthen the Voting Rights Act, Judge Roberts wrote, "My own view is that something must be done to educate the Senators on the seriousness of this problem." This legislation ultimately passed with overwhelming bipartisan support.

In memos, he referred to the "purported gender gap" and "the canard that women are discriminated against because they receive $0.59 to every $1.00 earned by men. . . ." In response to an equal pay letter from three Republican congresswomen, Roberts wrote, "I honestly find it troubling that three Republican representatives are so quick to embrace such a radical redistributive concept. Their slogan may as well be 'from each according to his ability, to each according to her gender.'"

As special assistant, Roberts criticized the Labor Department's affirmative action program and referred to the policies which required "employers who contract with the government to engage in race and sex conscious affirmative action as a condition of doing business with the government" as "offensive." Roberts wrote: "Under our view of the law it is not enough to say that blacks and women have been historically discriminated against as groups and are therefore entitled to special preferences."

What is particularly troublesome is not just the content of these writings but his tone toward these issues—one that is disrespectful. And one which Judge Roberts refused to disavow during the hearings.

As Senator FEINSTEIN, the only woman on the Senate Judiciary Committee said, "If Judge Roberts had provided different answers to these questions, he could have easily demonstrated to us that wisdom comes with age, and a sense of his own autonomy. But he did neither."

These are opinions and attitudes that will have an impact on real people's lives. And Judge Roberts' opinion matters.

They will affect whether or not we have admissions policies that promote diversity at our Nation's universities and policies that help minority-owned and women-owned businesses compete for government contracts.

They will determine how well our antidiscrimination laws are enforced to protect all Americans from housing discrimination, abusive work environments, sexual harassment, discriminatory hiring policies, and sexism in education and collegiate sports under title IX.

And they will determine whether our most fundamental democratic right—the right to vote— is protected.

As Chief Justice, Judge Roberts would decide in case after case, whether these principals of equal opportunity and equal protection should be upheld and whether these laws should be enforced.

The constitutional right to privacy is one of the most fundamental rights we have as Americans. At its core, it is about the role of government in the most personal of family decisions. It is about a woman's right to make her own reproductive choices and a couple's right to use contraception.

But it is also about keeping medical records private to prevent them from being used against Americans in their jobs or when they are trying to get health insurance. It is about a parent's right to send their child to the school of their choice. And it is about the role of government in right-to-die cases, as the nation witnessed in the Terry Schiavo case.

Our constitutional right to privacy is a complicated and often politically charged area of the law. It is extremely important that a Supreme Court nominee approach this issue as a fair and independent-minded jurist who will uphold settled law, and not approach it with a politically motivated agenda.

While Judge Roberts acknowledged that a right to privacy exists, he refused to explain what he believes that right actually encompasses. Like Justice Thomas in his testimony before the committee, Judge Roberts refused to say whether he believed the right to privacy extended beyond a married couple's right to contraception. Senator SCHUMER asked Judge Roberts whether he agreed that there is a "general" right to privacy provided in the Constitution. Roberts' response was, "I wouldn't use the phrase 'general,' because I don't know what that means."

He repeatedly refused to answer whether the right to privacy protects a woman's right to make her own reproductive choices, and like many women across the country, I was very disappointed that he was evasive in answering this important privacy question.

How Judge Roberts will approach and decide these questions of law will have a profound impact on not just our lives but on the lives of our children and grandchildren.

I had hoped that the hearings would give us insight into his legal reasoning and judicial philosophy on all of these important issues. And I strongly believe that the American people deserve these answers. This isn't a decision that should be based on guesswork or a leap of faith.

So all we have to go on are Judge Roberts' own writings over the past 25 years. Based on this record, I cannot in good conscience cast my vote for John Roberts to be Chief Justice of the United States Supreme Court.

Mr. KOHL. Mr. President, Judge Roberts came before the Senate Judiciary Committee earlier this month as a very well respected judge with a sterling academic record and a remarkable legal career. He left the Judiciary Committee with that reputation intact, if not enhanced. I have enormous respect for Judge Roberts' legal talents. They are undeniable. As a result, I supported his nomination last week in the Senate Judiciary Committee.

It is for this reason, his distinguished career and his sterling reputation as a lawyer and a judge, that I will vote my hopes today and not my fears and support Judge Roberts' nomination for Chief Justice of the United States.

During a private meeting with him, as well as through four impressive days of testimony, Judge Roberts made clear that he will be a modest judge. He assures us that he will address each case on its merits and approach each argument with an open mind. He recognized that judges should not substitute their policy preferences for those of Congress, and I agree.

Judge Roberts sees a clear boundary to the judge's role. He told us repeatedly that his personal views about issues did not matter. He assured us that he will not be an activist; and that he will rarely, if ever, look to overturn precedent. Rather, precedent, not his version of how the law should be, will mark the beginning of his constitutional analysis.

Judge Roberts recognizes a right to privacy in the Constitution, and he understands that people have come to rely on it. He made clear his agreement with the cases on the right to privacy that led to the Court's decisions in Roe and Casey.

Judge Roberts rejected "originalist" or a "literalist" philosophies. He does not bind the Constitution to narrow interpretations of the past. Too many judicial activists have used this philosophy to limit our rights and freedoms. Judge Roberts believes that as society evolves, our interpretation of the Constitution must evolve with it.

We choose to take Judge Roberts at his word, and believe that those words will bind him throughout his tenure on the Court. Ultimately, Judge Roberts persuaded us that he will be the Chief Justice we saw during his hearing, not the Chief Justice that his critics see in his past.

Nonetheless, the decision was not an easy one. While I support moderation in judicial temperament, I do not support inaction in the face of injustice. I worry that a Court full of neutral umpires would not have decided Brown v. Board of Education or other cases in which the Court moved America forward. Modesty is to be respected to a point, but not when it stands in the way of progress. Historically, the courts have often succeeded when our democratically-elected branches could not.

However, Judge Roberts testified, and I do not disagree, that his confirmation to replace Chief Justice Rehnquist will not radically shift the balance of the Court. If he had been nominated, as he was originally, to replace Justice O'Connor then his confirmation would have moved the Court to the right. That would have been a much more difficult decision. It is my hope that the White House recognizes this concern when they choose their next nominee.

In considering my decision, I was troubled by parts of Judge Roberts' record, but I was impressed by the man himself. I will support him as a Chief Justice who will keep an open mind and reject ideological extremism and simplistic approaches to interpreting the Constitution. I will vote my hopes and not my fears.

Mr. ROCKEFELLER. Mr. President, I rise today in support of the nomination of Judge John G. Roberts, Jr., to be Chief Justice of the United States Supreme Court.

In Judge Roberts the Nation is presented with a nominee who possesses an extraordinary intellect, a modest temperament, and a steady hand. I see in him the will and the ability to seek common ground among the Justices of the Court on important national issues. And I believe he possesses sufficient humility, as a man and as a judge, to be mindful of the powerful impact of his actions on the lives of average Americans.

Four days of intensive hearings allowed all of us, and much of America, to come to know something of John Roberts and to observe and assess what we don't know.

None of us can fully fathom the matters that will be determined, and the people who will be affected, by a judge with lifetime tenure on the highest Court of the land. John Roberts today very likely becomes the Chief Justice of a generation.

It is not surprising that this President would select a nominee with whom I disagree on some important issues, particularly as articulated in his early policy work. But it is reassuring, and ultimately determinative, that the President has selected a nominee who asserts with conviction, supported by the record, that he is not an ideologue, that he takes precedent as established law and people and cases as they come before him. I take him at his word, and trust that in interpreting and applying the law he will be his own man.

Yet once a nominee's high credentials and unimpeachable integrity have been established, the selection of a Supreme Court justice further demands of us a leap of faith. And it is in that leap of faith that we must attempt to know more: Who is he as a person? What is his understanding of the human condition? Does he take seriously our fundamental responsibility to people as well as to legal concepts?

Judge Roberts and I had the opportunity to meet in recent days to discuss his nomination. We had a good, long talk about West Virginia and our country and the people who make America great.

In talking with Judge Roberts I looked for assurance that when he tackles the grave questions that will come before his Court, he will consider fully the lives of average people, the lives of those in need and those whose voices often are not heard, the lives of working men and women, children, the elderly, our veterans.

Judge Roberts listened. He is a careful and attentive listener. And, I want my fellow West Virginians to know. Judge Roberts shared that his grandfather was a coal miner and his father worked in the steel mills, and that he is, in fact, mindful of the awesome responsibility he faces toward all Americans, from all walks of life, equally and unequivocally deserving of the rights and protections of our Nation.

I yield the floor.

Mr. LAUTENBERG. Mr. President, the Constitution grants the Senate the power and responsibility to advise and consent on the President's judicial nominations. And there is no more important judicial nomination than Chief Justice of the United States.

The President and Congress share responsibility for the makeup of the third branch. The President nominates a candidate to be a Federal judge, and the Senate is required to give its advice and consent for that nominee to be placed on the bench. It is a shared function: the Senate is not merely a rubber stamp for a President's nominee.

To evaluate a nominee, Congress must be informed about that nominee. We are not supposed to consent first and be informed later.

In the case of Judge Roberts, we cannot make an informed judgment because he was so evasive at his hearing. During his confirmation hearing, Judge Roberts declined to answer questions more than 90 times. The Senate and the American people deserve to know more about an individual who will lead our Nation's judiciary for decades to come.

Despite numerous efforts by members of the Senate Judiciary Committee, the Bush administration was not forthcoming. Not a single document from the years when Roberts was deputy Solicitor General was made available.

To be deprived of important information left me unable to give informed consent. The Constitution requires the Senate to advise and consent on these lifetime appointments, not to consent first and advise later.

However, there are some things we do know about John Roberts. We know that as an attorney for the Reagan and first Bush administrations, his writings on many issues relating to women's rights were disturbing for those concerned about such matters. In an official memo to the Attorney General, Roberts wrote about the "so-called right to privacy." In the Supreme Court case Rust v. Sullivan, Roberts co-authored a brief that declared Roe v. Wade was "wrongly decided" and should be overturned. At his hearings, Mr. Roberts refused to clarify whether he still would vote to overturn Roe.

Roberts also wrote of a "perceived" gender bias in the workplace. A "perceived" bias?

I know that Roberts admitted in his confirmation hearings that there has been discrimination against women in the past. He had to say that. But did he really once believe such a bias was merely "perceived," and could he still believe that today?

Let me tell my colleague, about gender bias that was not perceived. When my father died at an early age, my mother was left a young widow. I watched her struggle to make her way in the workplace. She never got the same opportunities for advancement as men. She was very successful as an insurance sales person, but she was told that after the war, the company she worked for would be unable to continue her employment. Her manager told her, "You know, we don't hire women for these jobs," and thus she was terminated.

The views of John Roberts portray a judge who could also undermine important protections for the environment and minorities. In his 2 years as a judge on the U.S. Court of Appeals for the DC Circuit, for instance, Mr. Roberts did not support congressional powers to use the commerce clause of our Constitution to pass clean air and clean water regulations.

While working for President Reagan, Roberts opposed a bill in Congress that would have strengthened the protections of the Voting Rights Act. Memos from the 1980s also show that Roberts supported the Reagan administration's opposition to measures initiated to redress past racial discrimination.

John Roberts has said that when writing many of these memos in Republican administrations, he was merely a staff attorney, just doing his job, advocating the position of his client. He claims that these memos do not necessarily reflect his views.

Yet, when the Judiciary Committee gave him ample opportunities to clarify exactly which memos expressed his views and which ones did not, he declined to answer.

So, even though Mr. Roberts had ample opportunity to answer the questions of the Judiciary Committee, we are still uncertain what he really believes.

I believe the risk is too great to support the confirmation of a Chief Justice to the United States Supreme Court, the highest-ranking leader in the judicial branch of our Government.

The fact that he is an intelligent and experienced fellow isn't enough. That is not enough for me to be able to reassure the people of New Jersey that he would preserve and protect their rights. I don't know some things that I need to know and some of the things that I do know are disconcerting. I will therefore oppose his confirmation.

Mrs. DOLE. Mr. President, Judge John Roberts is indeed an outstanding choice to be the 17th Chief Justice of the United States. He is one of our Nation's top legal minds, and as the American public has learned, he is a man of great intelligence and skill who will serve our country with the same integrity that has been the hallmark of his professional career.

In fact, it is hard to think of anyone who is more qualified to lead this Nation's High Court. Soon after graduating magna cum laude from Harvard Law, where he was managing editor of the Harvard Law Review, Roberts clerked for then-Associate Justice Rehnquist—a man he learned much from and deeply admired for 25 years. He went on to work in various legal capacities in the Reagan administration and later went into private practice. Just 2 ago, the Senate confirmed Roberts for a seat on the DC Circuit Court of Appeals.

In his distinguished career, including his tenure as a government lawyer, Roberts has argued a remarkable 39 cases before the Supreme Court. The issues at the heart of these cases have spanned the legal spectrum—from healthcare law to Indian law, environmental law to labor law, and many, many other areas of the law as well.

In his Senate confirmation hearings last week, John Roberts reinforced that he will be the kind of Chief Justice America needs and deserves. Undergoing hours upon hours of questioning, Judge Roberts maintained a steady, even temperament. He politely and respectfully answered more than 500 questions—and amazingly without much of a glance at notes. Most importantly, Judge Roberts revealed a great deal about how he views the judicial role. He emphasized that he is committed to the rule of law, not to his personal preferences or views. He emphasized his belief that judges are not politicians or legislators and that the role of a judge is limited. I wholeheartedly agree with Judge Roberts' assessment of the appropriate role of judges, and I am confident that he will strictly uphold the law and not attempt to legislate his own personal views from the bench.

I can think of no vote more important, save a declaration of war, than giving advice and consent to a nominee for Chief Justice of the United States. This has been a fair process, and the Judiciary Committee held extensive and meaningful hearings. Over the course of the last week, the Senate has conducted a spirited debate on the qualifications of John Roberts to be the next Chief Justice. And today, we will give him an up or down vote.

I am very pleased that my colleagues have proceeded expeditiously on the nomination of Judge Roberts, as it is of utmost importance that this nation's High Court have a new Chief Justice before the start of the Court's fall term.

For many in this Chamber, today's vote will be the only time in their entire Senate careers that they provide advice and consent on a nominee to be Chief Justice. I commend my colleagues who have risen above the normal day-to-day politics of this institution. But still, there are some of you who question how Judge Roberts will vote on specific cases in the future. Others of you may also be swayed by the passions of partisans.

But none have questioned Judge Robert's integrity. None have questioned his temperament. None have questioned his intellectual ability. And none have questioned his qualifications. These are the traditional measures the Senate has looked to when evaluating a judicial nomination of this importance. I would ask that my fellow Senators look to these time-tested standards and vote to confirm John Roberts as Chief Justice of the United States.

Ms. LANDRIEU. Mr. President, I will vote for the nomination of John Roberts to be the next Chief Justice of the United States. He is intelligent with an impressive educational background; extensive experience arguing before the Supreme Court; and distinguished public service experience at the highest levels of government. Based on his resume, he has the qualifications to be Chief Justice.

But a nominee's resume alone is not automatic grounds for confirmation to any office. The Senate has a duty to delve more deeply beyond a nominee's paper record. So while Judge Roberts's credentials are clearly impressive, I still had concerns about his original nomination to the Court.

My concern lay in the fact that Judge Roberts was originally nominated to replace Justice Sandra Day O'Connor who in her 24 years on the court brought a voice of moderation and balance to an increasingly polarized body. She wrote opinions that surprised and outraged both the right and the left; proof positive that she was not grinding a particular political ax or was beholden to one unbending judicial philosophy. She judged and considered both sides of a case and the law carefully and was more interested in getting the case right than pushing a particular agenda.

Justice O'Connor understood, just as Potter Stewart did before her, that power on the Court lay in the center, not at the extremes. Judge Roberts was about to replace that all-important center. I was not sure which way he would go. In the wake of William Rehnquist's death, my concerns for this nominee deepened.

We had seen far right wing conservative ideologues nominated for these life-long positions on the Federal bench. Democrats fought for greater consultation with the President about them, only to be met with the "nuclear option." Fortunately, a group of my colleagues and I were able to reach agreement to avoid this outcome; we were called the Gang of 14. Judge Roberts's nomination was going to be the first major test of this agreement.

When I had the opportunity to meet with Judge Roberts, he was able to relieve some of my concerns, enough that I knew we would not have to consider a filibuster. He struck me in two ways. First, he described his judicial philosophy as modest. Modesty is not a word that gets used to describe public figures in Washington, DC, that often. He saw the role of a judge as being limited. As he said in his opening remarks before his hearing: "I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind." He further said that the legitimacy of a judge's role is confined to interpreting the law and not making it.

The second thing that impressed me in our meeting was his appreciation that for many in this country the Supreme Court is seen as the last hope they have to ensure that their rights are not taken away. Earlier this year, as my colleagues will remember the Senate finally went on record apologizing for lynching. James Allen's book "Without Sanctuary" described in vivid black and white photos and prose the acts of barbarism that were used to terrorize African Americans in our Nation's not too distant past.

I showed this book to Judge Roberts and he was visibly moved. He told me that he never wanted to forget that the courts were there to protect the powerless. Lynching victims did not get due process of law, even though many of the mobs had law enforcement officers in their midst, and often acted to avenge some perceived crime. Those victims did not get a jury trial with the right to face their accusers as called for under the Constitution.

I came away from this meeting believing he will treat all people who come before the Court with respect. That every argument would receive fair consideration because for the party making that argument a tremendous amount could be at stake.

I am well aware of the criticism of Judge Roberts's earlier writings both those we have seen and several we have not. Some of the things he wrote while a young lawyer in the Reagan White House and Justice Departments indicate that he was hostile to civil rights, women's rights, the Voting Rights Act, and the right of privacy. While he was in the Solicitor General's office he wrote a brief suggesting that Roe v. Wade be overruled.

In thinking about these writings and what they mean for who he is now, I was reminded of something that Justice Oliver Wendell Holmes once said: "The character of every act depends upon the circumstances in which it is done." I chose to look at Judge Roberts's earlier writings in the same light. When Judge Roberts wrote those things he was a young lawyer who came to the Reagan Administration fresh from a prestigious clerkship with then Associate Justice William Rehnquist. He was a young conservative working at the highest levels of power in our country for a conservative icon, President Reagan. In those positions he was an advocate for the administration and the President's agenda at the time.

His most recent experience in private practice has changed his views on the role of the court, the law; and the needs of individuals. He pointed out to me that he has represented a wide range of clients in his private practice: large and small businesses, indigent defendants, and State governments. Each one, he said, deserved a careful analysis of their position and how the law would apply to their case. He took that approach to his current work on the Court of appeals.

I believe that Judge Roberts has taken to heart another observation by Oliver Wendell Holmes and that is, "to have doubted one's own first principles is the mark of a civilized man." Judge Roberts, I am sure would look back on his earlier writings and understand that he must revisit them in light of the new responsibilities he is about to undertake.

In the weeks leading up to the confirmation hearings, there was a great deal of discussion and criticism of the administration for not turning over memoranda Judge Roberts wrote while he was Deputy Solicitor General at the Department of Justice. I was disappointed that the administration was not more forthcoming with these documents. I hope in the future we can reach an accommodation of some kind so that Senators will have complete information on a nominee. But the fact that we do not have these memos is not enough to keep this highly qualified nominee from becoming our next Chief Justice.

I want to congratulate Chairman SPECTER and Ranking Member LEAHY for the quality of the hearings they held for this nominee. The questioning was tough, but fair, and the committee performed its work with dignity. The hearing record gave us plenty of information to go on in making our decisions about this nominee. The qualities that every member of the Judiciary Committee saw in Judge Roberts, I saw firsthand in our meeting.

John Roberts is an excellent nominee who will be a fine Chief Justice. I encourage President Bush to send us a similarly qualified, modest, fair nominee to replace Justice O'Connor. The White House reached out to many Senators before naming Judge Roberts and I hope the administration will continue to build on that approach for this next nominee. I fully expect the President to nominate a conservative to fill Justice O'Connor's seat, but I also expect that nominee to be fair. Judge Roberts has set a very high bar. I hope the next nominee meets that standard.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Madam President. Senators cast many important votes—

votes to strengthen our highway system, or to implement a comprehensive energy strategy, for example—but it is not often we cast a vote that is both important and truly historic. We do so, however, when we vote on whether to confirm a nominee to be Chief Justice of the United States.

There have been 9,869 Members of the House of Representatives, 1,884 Senators, and 43 Presidents of the United States, but only 16 Chief Justices. On average, each Chief Justice serves for well over a decade. Our last Chief Justice served for 19 years, a little short of two decades. The occupant of the "center seat" on the Court often has had a profound impact on the shape and substance of our legal system. But despite such profound effects, the position of Chief Justice actually got off to a rather inauspicious start.

The Constitution of the United States mentions the position of Chief Justice only once. Interestingly, it does not do so in Article III, which establishes the judicial branch of our Government. Rather, the Constitution refers to the position of Chief Justice, almost in passing, only in Article I, which sets forth the powers of the legislative branch.

There, in section 3, clause 6, it discusses the Senate's procedures for a trial of an impeached President, stating that "When the President of the United States is tried, the Chief Justice shall preside." That is the sum and substance of his constitutional authority.

The Judiciary Act of 1789, which established the Federal court system, did not add much to the Chief Justice's responsibilities. It specified merely that "the supreme court of the United States shall consist of a chief justice and five associate justices."

It is not surprising, then, that the position of Chief Justice initially was not viewed as particularly important. Indeed, the first Chief Justice, John Jay, left completely disillusioned, believing that neither the Court nor the post would ever amount to very much.

It took George Washington four tries to find Jay's successor, as prominent people repeatedly turned him down. They were turning down George Washington's offers to make them the Chief Justice of the United States.

With such humble constitutional roots for the office, the power, prestige, and independence of the Supreme Court and the Federal court system in general often has been tied to the particular personal qualities of those who have served as Chief Justice.

John Marshall was our first great Chief Justice. His twin legacies were to increase respect for the Court and, relatedly, its power as well. He worked to establish clear, unanimous opinions for the Court, and his opinion in Marbury v. Madison forever cemented the Court as a coequal branch of Government.

Marshall's successes were viewed, then as now, as a function of his formidable personal qualities. He is said to have had a "first-class mind and a thoroughly engaging personality." Thomas Jefferson, for example, tried, in vain, to break his influence on the Court. In writing to James Madison, his successor, about Supreme Court appointments, Jefferson said:

> [I]t will be difficult to find a character of firmness to preserve his independence on the same bench with Marshall.

That is Thomas Jefferson speaking about Chief Justice Marshall.

I find myself agreeing with the columnist George Will, who wrote recently in one of his columns:

> Marshall is the most important American never to have been President.

William Howard Taft and Charles Evans Hughes also used their individual talents to become great Chief Justices. Taft, the only Chief Justice to serve also as President, which was prior to that, had a singular determination to modernize the Federal courts. He used his energy and his political acumen to convince Congress to establish what is now the Judicial Conference of the United States to administer the Federal courts; enact the Judiciary Act of 1925, which allowed the Court to decide the cases it would hear; and, before he left office, to give the Court its first, and current, permanent home—a stone's throw from where we stand today, across the East Lawn of the Capitol.

A fellow Justice called Charles Evans Hughes "the greatest in a great line of Chief Justices." He was known for his leadership in running the Court and for constantly working to enhance the public's confidence in the Court. His successes were at least partly due to his keen appreciation of the limits of that office. This is what Charles Evans Hughes had to say:

> The Chief Justice as the head of the Court has an outstanding position, but in a small body of able men with equal authority in the making of decisions, it is evident that his actual influence will depend on the strength of his character and the demonstration of his ability in the intimate relations of the judges.

Hughes was famous for the efficient, skillful, and courteous way in which he presided at oral argument, ran the Court's conferences, and assigned opinions, calling the latter his "most delicate task." But his greatest service may have been in spearheading public opposition to FDR's court-packing plan.

Our last great Chief Justice, William Rehnquist, may be said to have possessed the best qualities of Marshall, Taft, and Hughes. He had an exceptional mind, an engaging personality, boundless energy, and a courteous and professional manner. These qualities helped him revolutionize Federal jurisprudence, administer the Supreme Court and the court system very efficiently, and interact constructively with those of us here in Congress.

Of course, we will soon vote on the nomination of his successor, Judge John Roberts, who, in one of life's bittersweet turns, served as a young and able law clerk to then-Associate Justice Rehnquist. In meeting with him, and watching his confirmation hearings, I believe Judge Roberts possesses many of the qualities of our great Chief Justices: an impressive legal acumen, a sterling reputation for integrity, and an outstanding judicial temperament. But I want to focus on one quality in particular; and that is, his devotion to the rule of law.

We use that term all the time, but the question is, what does it mean? I focus on the rule of law because of the positions my colleagues have taken during his nomination. One distinguished Member of this body said on the floor that he needed to find out "whose side" John Roberts "is on." Another asked Judge Roberts whether, as a general proposition, he will be on the side of the "big guy" or the "little guy." Still another insisted that the position to which Judge Roberts is nominated is akin to an elected official; in other words, an elected politician. Comments such as these are based on a fundamental misunderstanding of the role of a judge.

Many of the Founders were politicians, and they, of course, recognized that politics may favor certain constituencies. Judges, however, are not supposed to be on any group's "side." They are not supposed to favor one party's "little guy" at the expense of another political party's "big guy." In short, judges are anti-politicians; at least they are supposed to be.

In giving life tenure to Federal judges, the Founders did not want them—did not want them—to exercise the powers of politicians, to whom they had denied life tenure. None of us are given life tenure here, for good reason. As Alexander Hamilton wrote in Federalist No. 78:

> It can be of no weight to say that the courts . . . may substitute their own pleasure to the constitutional intentions of the legislature. . . . The Courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment—

"Will instead of judgment"—

> the consequence would equally be the substitution of their pleasure to that of the legislative body.

In other words, judges must only interpret the law, not write it in order to favor one group over another. Judge Roberts understands the role of a judge is that, and he is committed to adhering to it. Here is what he had to say. This was Judge Roberts at his hearing:

> Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront

> every case with an open mind. . . . and I will decide every case . . . according to the rule of law, without fear or favor, to the best of my ability.

"Without fear or favor, to the best of my ability."

To put it more simply, he knows if the law favors the "little guy," then the "little guy" will win. If the law favors the "big guy," then the "big guy" will win. It is as simple and principled as that.

I do not know—none of us do—the mark a Chief Justice Roberts will leave on the Court. With his many fine qualities, he may be a great administrator. He may lead some great reform of our court system. He may revolutionize some area of law. But he will be a successful leader. And I suspect that whatever else, with his total devotion to the rule of law, he will instill in our legal system a renewed appreciation for the role of judges in our Republic and, thereby, keep the Court on the path the Founders intended.

So today, I, like my colleagues, am mindful of the gravity and the privilege of this vote to confirm our 17th Chief Justice. I do so with the absolute conviction that Judge John Roberts meets the measure of his great predecessors, and will lead the Court with judgment, skill, and integrity as befits the third branch of Government—the branch that protects our liberties by insisting that ours is a country of laws and not of men.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the time from 10:30 a.m. to 10:45 a.m. will be under the control of the Senator from Vermont.

Mr. LEAHY. Madam President, as we come to the conclusion of these confirmation proceedings, I commend Senators on both sides of the aisle for taking the time and making the effort to actively participate in this process. Few duties and few votes are as enduring and as consequential as deciding on a nomination for the premier jurist of the United States in our Federal court system. We have had 43 Presidents in our Nation's history. We have only had 16 Chief Justices of the United States. In fact, only slightly under two dozen Members of the Senate have ever voted on the question of a Chief Justice.

We have had full and fair hearings. We have had a constructive debate. This process has been a credit to the Senate and to the Judiciary Committee. I commend especially Senator SPECTER of Pennsylvania, our chairman, and all of the members of the committee on both sides and their staffs for the detailed, sometimes grueling, preparation that evaluating a Supreme Court nomination requires.

I am sure people understand when I refer to the committee's Democratic staff. They worked for 2 months. They labored dutifully. They gave up their weekends and their evenings, and with professionalism they helped Senators in our review of this important nomination. I particularly thank Bruce Cohen, Edward Pagano, Andrew Mason, Chris Matthias, Daniel Fine, Daniel Triggs, David Carle, Ed Barron, Elizabeth Martin, Erica Chabot, Erica Santo Pietro, Helaine Greenfeld, Jennie Pasquarella, Jeremy Paris, Jessica Bashford, Joe Sexton, Joshu Harris, Julia Franklin, Julie Katzman, Kathryn Neal, Katy Hutchison, Kristine Lucius, Kyra Harris, Lisa Anderson, Margaret Gage, Marit DeLozier, Mary Kate Meyer, Matt Nelson, Matt Oresman, Matt Virkstis, Nate Burris, Noah Bookbinder, Sam Schneider, Sripriya Narasimhan, Susan Davies, Tara Magner, Tracy Schmaler, Valerie Frias and William Bittinger. And their experience was duplicated by the hardworking Republican staff.

As a member of the minority party, I speak about our vital role in our system that is often less visible, but is crucial just the same. The minority sharpens the Senate's and the public's focus on issues that come before the Senate or sometimes on unattended issues that deserve the Senate's attention.

In these proceedings, we have helped sharpen the Senate's focus on issues that matter most in the decision before us, that of confirming a new Chief Justice of the United States.

I especially commend my fellow Democrats for taking this responsibility so dutifully. They waited to hear the evidence and to learn the particulars about this nomination. They did not rush to judgment. They did not speak out until after the hearings. Individual Senators now have weighed the evidence, and they have come to their individual conclusions.

On this side of the aisle, there will not be a lockstep vote. I appreciate the thoughtful remarks by those who decided to vote in favor of confirmation and by those who decide to vote against the nomination. I respect the decisions of Senators who have come to different conclusions on this nomination. I know for many, including myself, it was a difficult decision. I have said that each Senator must carefully weigh this matter and decide for herself or himself.

We are, each of us, 1 vote out of 100, but those 100 votes are entrusted with protecting the rights of 280 million of our fellow citizens. We stand in the shoes of 280 million Americans in this Chamber. What a somber and humbling responsibility we have in casting this vote.

I was glad to hear the Republican leader say earlier this week that a judge must jettison politics in order to be a fair jurist. He is right. I thought the remarks of the senior Senator from Maine were especially meaningful, and I appreciated that she was careful to include judicial philosophy among the criteria she considered on this nomination. And of course she is right.

As the Senate considers the nomination, it is important to have more information, rather than less, about a nominee's approach to the law and about his or her judicial philosophy.

For the American people whose lives will be directly and indirectly affected by the decisions of a nominee, it is equally important that the Senate's review process be fair, that it be transparent, and that it be thorough. The hearings we conduct and the debates we hold are the best and only opportunity for the American people to hear from and learn about the persons who could have significant influence over their constitutional protections and freedoms. We owe the people we represent a vigorous and open review, including forthright answers to questions.

My Vermont roots, which go back three centuries, have always told me to go with my conscience, and that is what I have done in this decision. Judge Roberts is a man of integrity. For me, a vote to confirm requires faith that the words he spoke to the Judiciary Committee in the hearings and to me in our meetings have meaning. I have taken him at his word that he does not have an ideological agenda, that he will be his own man as Chief Justice. I take him at his word that he will steer the Court so it will serve as an appropriate check on potential abuses of Presidential power, not just today but tomorrow. I hope that he will, and I trust that he will.

As we close the debate on this nomination and move to a vote, we do so knowing we will soon be considering another Supreme Court nominee in the Senate. Last week, Chairman SPECTER and I, along with the Republican and Democratic leaders of the Senate, met with the President. I urged him to follow through with meaningful consultation. I urged him to share with us his intentions and seek our advice on the next nomination before he acts.

There could and should have been consultation with the Senate on the nomination of someone to serve as the 17th Chief Justice of the United States. I am sorry there was not, but there could and should be meaningful consultation on the person to be named to succeed Justice O'Connor, who has so often been the decisive vote of the Supreme Court.

The stakes for all Americans and for the Nation's well-being are high as the

President contemplates his second pick for a Justice on the Nation's highest Court, a choice that will fill a swing vote and could steer the Court's direction long after the President is gone and long after most of us are gone.

The President does have this opportunity to work with us to unite the country, to be a uniter, to unite us around a nominee to succeed Justice O'Connor. Now more than ever, with Americans fighting and dying in Iraq every day, with hundreds of thousands of Americans displaced by disasters at home, it is a time to unite rather than divide. The Supreme Court belongs to all Americans, not to any faction. So for the sake of the Nation, I urge the President to live up to his original promise, to be a uniter and not a divider.

If I might speak just personally to Judge John Roberts who will soon be Chief Justice John Roberts: Be there for all Americans. And whoever comes before you as Chief Justice, it should make no difference if their name is PATRICK LEAHY or Patrick Jones, George Bush or George Smith. No matter what their issue is, be there for all of us because what you do will affect our children and our grandchildren. And, Judge Roberts, it will affect your two lovely children. It will affect all Americans.

We are a great and a good country, but we are a diverse country. Any nation the size of ours, a nation built on immigrants—such as my Italian grandparents or my Irish great grandparents—has to be diverse. But we are diverse in all ways. Protect that diversity. Protect that diversity because it is that diversity that makes us strong as a nation, far more than our military might if we protect our diversity—a diversity of thought, a diversity of religion, a diversity of race, a diversity of politics.

Judge Roberts, soon to be Chief Justice Roberts, be there for all 280 million Americans. That is what I have tried to do in putting myself in the shoes of those 280 million Americans. I will cast my vote with hope and faith, but you, Judge Roberts, show the same hope and faith for this great country that you love and I love and all the other 99 Members of the Senate love.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 10:45 a.m. to 11 a.m. will be under the control of the Senator from Pennsylvania.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, at the outset, I compliment and salute my distinguished colleague, Senator LEAHY, for his appropriate, really elegant, remarks in support of the nomination of Judge Roberts to be Chief Justice. I compliment him on his leadership in taking a difficult stand, being the first Democrat to announce support for Judge Roberts' confirmation. It is difficult to step out against party leadership, against what may be a party position, but I believe it is precisely that kind of leadership which is so important for the Senate to discharge its constitutional responsibility in the confirmation process. I compliment as well the other committee members—Senator KOHL and Senator FEINGOLD for stepping out in support of Judge Roberts. And at last count, I know that some 18 Democrats have stated their intention to vote for Judge Roberts.

As yet, there are some who are undeclared, so that number will grow beyond. I believe it is a matter of real urgency that when we come to the designation of the Chief Justice of the United States, or any Supreme Court nominee, that politics stop. We say in foreign policy that partisanship should stop at the water's edge, and I extend that metaphor on the recognition that the pillars of the Senate immediately outside the Chamber are lined up directly with the pillars of the Supreme Court of the United States.

In that intervening few blocks on the green, on the Capitol complex, that partisanship should stop at the Senate pillars as they extend across the way to the Supreme Court pillars.

In the confirmation of a Supreme Court nominee, there is a unique confluence of the three branches of Government on our separation of powers, with the President exercising the executive authority to nominate, the Senate on the confirmation process, and then the seating of the new Justice in the Supreme Court. It is a matter of vital concern that it be nonpartisan.

Twelve days ago, on September 17, at the Constitution Center in Philadelphia, the 218th anniversary of the signing of the Constitution was celebrated. Today is an historic day, with Judge Roberts, by all conventional wisdom, slated to become the 17th Chief Justice of the United States. On only 16 occasions in the past have we had a new Chief Justice of our Nation.

I believe Judge Roberts comes to this position uniquely qualified, with an academic record of superior standing, magna cum laude, summa cum laude, Harvard College and Harvard Law School, a distinguished career clerking first with Circuit Judge Henry Friendly, a very distinguished judge in the Court of Appeals; then clerked for then Associate Justice Rehnquist; then as an assistant to Attorney General William French Smith; later as associate White House counsel in the Reagan administration; a distinguished practice in the law firm of Hogan & Hartson; then 39 cases argued before the Supreme Court of the United States. So he has a phenomenal record.

His answers to the questioning before the committee, which I think was very intense, very directed, appropriately tough, was that he saw the Constitution as a document for the ages responding to societal changes; that he saw the phrases "equal protection of the law" and "due process of law" as expansive phrases which can accommodate societal changes.

As he approaches the job of Chief Justice, he has a remarkable running start. He described his arguments before the Court as a dialog among equals, a phrase that I think is unique and in a sense remarkable; that as an advocate he had the confidence to consider himself talking to equals when he addressed the nine members of the Supreme Court.

There have already been indications from the members of the Court about their liking the fact that Judge Roberts is going to be the new Chief Justice. It is not easy to come into a court at the age of 50, where Justice Stevens, the senior Justice, is 85 and others, Justice Scalia, 68, the next youngest member, Justice Thomas, 57. When he has the self-confidence to consider as an advocate a dialog among equals, that is a good sign that he has the potential to bring consensus to the Court.

There was an extended discussion during his confirmation proceeding about what Chief Justice Earl Warren did in bringing the Court together for a unanimous decision in Brown v. Board of Education and how important it was. In a case involving deep-seated patterns of segregation and the difficulty of implementing that decision and the years it has taken—it is still a work in process to give quality to African Americans, to Blacks in our society—let us make no mistake about it, it has been, since 1954 when the decision came down, 51 years, and there is still more work to be done, but it was an outstanding job by Chief Justice Warren to bring the Court together with a unanimous decision to put desegregation on the best possible plane with unanimity among the nine Justices who decided the case.

As I emphasized during my questioning of Judge Roberts, there is much to be done to move away from the 5-to-4 decisions of the Court, some inexplicable this year. The Court upheld the displaying of the Ten Commandments on a tower in Texas 5 to 4, and rejected displaying the Ten Commandments in Kentucky; within the past 5 years, inconsistent decisions on the interpretation of the Americans with Disabilities Act, 5 to 4 upholding the access provisions, 5 to 4 rejecting the constitutionality on the provisions relating to discrimination in employment.

Judge Roberts as Chief Justice has the capacity to fully understand the balance of power between the Congress and the Court and to move away from the denigrating comments that the Court made in Alabama v. Garrett that in declaring an act unconstitutional they had a superior "method of reasoning," or that in establishing the flabby test, flabby being the words of Justice Scalia, on invoking the test of proportionality and congruence in the 1997 case of Boerne, where Justice Scalia accurately noted in his dissent in Tennessee v. Lane that it was a flabby test that allowed judicial legislation and that the Court was setting itself up as the taskmaster of the Congress to see that the Congress had done its homework.

So the new Chief Justice will have his work cut out in trying to bring a consensus on the reduction of the proliferation of opinions with so many concurrences coming out of the Court.

Yesterday's Washington Post had a headline about a filibuster showdown looms in the Senate and a recitation of frustration among so-called Democratic political activists who do not think their elected leaders put up a serious enough fight as to Judge Roberts.

Having been there for every minute of the Roberts proceeding in my capacity as chairman to preside, it was a searching, probing inquiry into Judge Roberts' background and his approach to the issue confronting the Court. When they say there was not a sufficient fight, there were very senior Senators, very experienced, leading the opposition. Who can challenge the tenacity of Senator KENNEDY, Senator BIDEN, Senator FEINSTEIN, Senator SCHUMER, and Senator DURBIN putting up that battle?

In the final analysis, we have had many experienced Senators who have come forward to join Senators LEAHY, KOHL, and FEINGOLD on the committee, and Senators of standing and distinction—Senator BYRD, who has been in this body since his election in 1958, Senator LEVIN, 27 years in this body, Senator DODD, 25 years, Senator LIEBERMAN, and so many among the 18 Senators—where there is the showing of that kind of bipartisanship.

It is my hope we will carry forward the spirit of bipartisanship which was demonstrated in the last two confirmation proceedings. Justice Breyer was confirmed in 1994 with an 87-to-9 vote, with 31 Republicans joining 56 Democrats, so it did not make any difference to 31 Republicans that Justice Breyer was nominated by President Clinton, who was a Democrat.

The year before, Justice Ginsburg was confirmed 96 to 3, with 41 Republicans voting for her nomination. Before that, Justice Souter was confirmed 90 to 9, with 45 Democrats joining 45 Republicans. Nine Democrats did vote "no" against Justice Souter, perhaps influenced by the posters that he would wreck Roe v. Wade. We know he was in the joint opinion in Casey v. Planned Parenthood.

Before that, the votes were unanimous as to Justice John Paul Stevens and Justice Scalia, 98 to 0, and Justice O'Connor was confirmed 99 to 0.

While the votes among the Democrats will not be as strong as the 41 Republicans who voted for President Clinton's nomination of Justice Ginsburg, we have a sufficient indication of a strong bipartisan vote so that I think it is not unduly optimistic to look for a future where we will have partisanship stopping at the Senate columns.

We face another nomination imminently. There have been discussions as to what our sequence and timing will be. We have shown, with the cooperation of Senator LEAHY and the Senate Democratic leader, Senator REID, as we negotiated this timetable—and we had some angst in the negotiations but we worked in a cooperative way so that on September 29 we have met the timetable which we anticipated, although nobody was bound to it. There could have been objections and there could have been delaying tactics, but Senator REID, Senator LEAHY, and the Judiciary Committee, with Democrats as well as Republicans, supported that timetable.

It is my hope we will have a nominee who will come forward to replace Justice O'Connor who will be in the mold of Judge Roberts. In a sense, Judge Roberts replaces Chief Justice Rehnquist. Perhaps the ideology is not so important with that replacement, but it is my hope we will have someone who in the mold of Judge Roberts will stand up to the job, looking for the interpretations of due process and equal protection as Judge Roberts did in an expansive way, and looking for societal interests in that broad interpretation.

I am pleased to be a participant in this historic occasion, and again I salute my colleagues on both sides of the aisle for the dignified proceeding and meeting our timetable, in coming forward to this confirmation vote at 11:30 this morning.

The PRESIDING OFFICER (Mr. ENSIGN). Under the previous order, the time from 11 a.m. to 11:15 a.m. will be under the control of the Democratic leader.

Mr. REID. Mr. President, as I announced on this floor last week, I intend to vote against the nomination of Judge John Roberts to be Chief Justice of the United States. In my meetings with John Roberts, I found him to be a very nice person. I like him. I respect his legal skills. I respect much of the work he has done in his career. For example, his advocacy on the environmental side of the Lake Tahoe takings case several years ago was remarkably good. He decided the law did not look too good to him, so he figured the way to win the case was to argue to the Court the facts, and he did that and he won the case. So I admire his legal skills, as I think everyone in this body does. But at the end of the day, I have had many unanswered questions about the nominee, and because of that, I cannot justify a vote confirming him to this lifetime position.

Each one of the 100 Senators applies his or her own standard in carrying out the advice and consent clause of the Constitution. That is a constitutional role that we have. I know that elections have consequences, and I agree that Presidents are entitled to a measure of deference in appointing judicial nominees. After all, the Senate has confirmed well over 200 of President Bush's nominees, some of whom possess a judicial philosophy with which I disagree. But deference to the President can only go so far. Our Founding Fathers gave the Senate the central role in the nominations process, and that role is especially important in placing someone on the Supreme Court.

If confirmed by the Senate, John Roberts will serve as Chief Justice of the United States and leader of the third branch of the Federal Government for decades to come. He will possess enormous legal authority. In my view, we should only vote to confirm this nominee if he has persuaded us he will protect the freedoms that all Americans hold dear. This is a close question for me, but I will resolve my doubts in favor of the American people, whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job.

As I have indicated, I was impressed with Judge Roberts the first time I met him. This was a day or two after he was nominated. I knew that he had been a thoughtful member of the DC Circuit Court of Appeals for the last 2 years. But several factors caused me to reassess my initial view. Most notably, I was disturbed by memos that surfaced from John Roberts' years of service in the Reagan administration. These documents raised serious questions about the nominee's approach to the rights of women and civil rights.

In the statement that I gave last week, I gave some specific examples of the memos that concerned me. I also explained that I was prepared to look past these memos if the nominee distanced himself from these views at his Judiciary Committee hearings. He did not. I was so disappointed when he took the disingenuous stance that the views expressed in these memos were merely the views of his client, the Reagan administration. Anyone who has read the memos can see that their author was expressing his own personal views.

When I saw Senator SCHUMER throw him the proverbial softball in these hearings, I waited with anticipation for the answer that I knew would come. This brilliant man, John Roberts, certainly could see what Senator SCHUMER was attempting to do. He was attempting to have John Roberts say: Well, I was younger then. It was a poor choice of words. If I offended anyone, I am sorry. I know it was insensitive. I could have made the same point in a different manner.

But he didn't say that. For example, the softball that was thrown to him by

Senator SCHUMER was words to the effect: In a memo you wrote that President Reagan was going to have a meeting in just a short period of time with some illegal amigos, Hispanics—that was insensitive. It was unwise. And it was wrong. And he should have acknowledged that and he did not.

That affected me. It gave me an insight into who John Roberts is.

My concerns about these Reagan-era memos were heightened when the White House rejected a reasonable request by the committee Democrats for documents written by the nominee when he served as Deputy Solicitor General in the first Bush administration. The claim of attorney-client privilege to shield these documents was unpersuasive. This was stonewalling, plain and simple.

In the absence of these documents, it was equally important for the nominee to answer fully questions from the committee members at his hearing. He didn't do that. Of course a judicial nominee should decline to answer questions regarding specific cases that will come before the Court to which the witness has been nominated. We all know that. But Judge Roberts refused to answer many questions certainly more remote than that, including questions seeking his views of long-settled precedents.

Finally, I was swayed by the testimony of civil rights and women's rights leaders against this confirmation. As we proceed through our public life, we have an opportunity to meet lots of people. That is one of the pluses of this wonderful job, the great honor that the people of the State of Nevada have bestowed upon me. During my public service, I have had the opportunity to serve in Congress with some people whom I consider heroes. One of those is a man by the name of JOHN LEWIS. JOHN LEWIS was part of the civil rights movement, and he has scars to show his involvement in the civil rights movement. Any time they show films of the beatings that took place in the Southern part of the United States of people trying to change America, John Lewis is one of those people you will see on the ground being kicked and stomped on while punches are thrown. He still has those scars.

But those scars are on the outside, not the inside. This man is one of the most kind, gentle people I have ever met, someone who is very sensitive to the civil rights we all enjoy. Congressman JOHN LEWIS is an icon and, as I have said, a personal hero of mine. When JOHN LEWIS says that John Roberts was on the wrong side of history and should not be confirmed, his view carries great weight with me.

So I weigh John Roberts' fine résumé and his 2 years of mainstream judicial service against the Reagan-era memos, the nominee's unsatisfactory testimony, and the administrations's failure to produce relevant documents. I have to reluctantly conclude the scales tipped against confirmation.

Some have accused Democrats of treating this nominee unfairly. Nothing could be further from the truth. There are volumes written about the uncivil atmosphere in Washington, about how things could be better in the Senate. All those people who write that, let them take a look at how this proceeding transpired in the Senate and I hope on the face of America. It was not easy to get to this point. In 20 minutes, we will have a vote on the Chief Justice of the United States. But people should understand that the Judiciary Committee conducted itself in an exemplary fashion, led by ARLEN SPECTER and PAT LEAHY. No better example in Government could be shown than to look at how they conducted the hearings and the full breadth of everything that took place with this confirmation process. It is exemplary.

People have strong feelings, not only in that committee but in the Senate, and there were many opportunities for mischief. But because of the strong leadership of two distinguished Senators—one from the tiny State of Vermont and one from the very heavily populated State of Pennsylvania—it all worked out. They trusted each other and the members of the Judiciary Committee trusted them, and after a few weeks of this process, which went on for months, by the way, every Member of the Senate saw that this was going to be a civil proceeding, and it was. It has been. I commend and applaud the dignity of these hearings.

Each Democrat considered the nomination on the merits and approached the vote as a matter of conscience. Democrats were not told how to vote, not by me, not by the chairman of the Judiciary Committee, not by the senior Member of the Senate, Senator BYRD. They will vote their conscience.

Democrats have not employed any procedural tactics that we might have otherwise considered. As Senator SPECTER and Senator LEAHY have said to the President himself—I have been there when they said it—we want the next nominee not to be extreme.

The fact that some Democrats will vote no on this nomination is hardly unfair. We are simply doing our duty under the Constitution that we hold so dearly. The Constitution—that is what this is all about, this little document. We have a role, a constitutional role, of giving advice and consent to the President. The consent will come in a few minutes. The advice has been long in coming.

In the fullness of time, John Roberts may well prove to be a fine Supreme Court Justice. I hope that he is. If so, I will happily admit that I was wrong in voting against his confirmation. But I have reluctantly concluded that this nominee has not satisfied the high burden that would justify my voting for his confirmation based on the current record.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I wonder if the senior Senator from Nevada will yield to me. I wish to make a comment. I know he still has a couple of minutes left.

Mr. REID. The time is yours.

Mr. LEAHY. Mr. President, I want to compliment the senior Senator from Nevada, the Democratic leader. I supported him for assistant leader, and I supported him for leader, and I have never regretted, nor doubted, that support.

I have been here 31 years. He is a fine leader. I have been here for 12 nominations to the Supreme Court, 2 of them for Chief Justice. I am one of only a handful of Senators who can say that. I know, throughout all this process, the Senator from Nevada, Senator REID, dealt with us evenhandedly and fairly. Never at any time did he try to twist any arms on this side of the aisle. Throughout it all he said: Keep your powder dry—his expression which I picked up—until the hearings were over. That is the sort of thing we should do. Hear the evidence first. Hear the evidence, and then reach a verdict. I am extremely proud of him.

We have reached different conclusions on this, but we remain friends and respectful to each other throughout. His praise of Senator SPECTER and of myself means so much to me. But I think, more importantly, what he has done means so much to the Senate. Senator REID has worked with both sides of the aisle to make sure that we were going to have a hearing for the Chief Justice of the United States that reflected what was best in this country.

When I finished my speech, I spoke directly to Judge John Roberts, and I will do so again: Please, remember there are 280 million Americans. Be a Chief Justice for all of us.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

Mr. FRIST. Mr. President, the duty before us today to provide advice and consent on John Roberts' nomination as Chief Justice of the United States is perhaps the most significant responsibility we will undertake as elected leaders. It is a duty decreed to us by the Constitution and an obligation the American people have entrusted us to fulfill.

In this Chamber today, we are seated at the drafting table of history. We are prepared to write a new chapter in the history of our Nation. Our words and our actions will be judged not only by the American people today but by the eyes of history forever.

As we prepare to pick up the pen to write these words that will shape the course of our highest Court, I ask that we think hard about the words we will write. I ask that we think hard about the question we must answer: Is Judge Roberts qualified to lead the highest Court in the land? I believe the answer to this question is yes.

Judge Roberts possesses the qualities Americans expect in the Chief Justice of its highest Court and the qualifications that America deserves. Without a doubt, he is the brightest of the bright. His understanding of constitutional law is unquestionable. Judge Roberts has proven through his tenure on the District of Columbia Circuit Court of Appeals and in his testimony before the Judiciary Committee that he is committed to upholding the rule of law and the Constitution. He has demonstrated that he won't let personal opinions sway his fairminded approach. He will check political views at the door to the Court, for he respects the role of the judiciary and recognizes the importance of separation of powers.

As he so eloquently stated before the committee: "Judges are like umpires. Umpires don't make the rules, they apply them . . . They make sure everybody plays by the rules, but it is a limited role."

Judge Roberts will be a great umpire on the High Court. He will be fair and openminded. He will stand on principle and lead by example. He will be respectful of the judicial colleagues and litigants who come before the Court. And above all, he will be a faithful steward of the Constitution.

This is what we know about John Roberts: In the last few weeks, he has provided us information and answered our questions. John Roberts has fulfilled his obligation to the Senate.

Now it is time to fulfill our obligation to the American people. It is time for each Member to answer, Is John Roberts the right person for the job of Chief Justice of the United States? It is my belief that the answer is yes. It is my belief that the chapter we write should begin with his name. It is my hope that today Members will join me in writing the words; that Members will join me in writing "yes" for John Roberts' nomination as our Nation's 17th Chief Justice.

I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John G. Roberts, Jr., of Maryland, to be the Chief Justice of the United States?

Under Resolution 480, the standing orders of the Senate, during the yea and nay votes of the Senate, each Senator shall vote from the assigned desk of the Senator.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 78, nays 22, as follows:

[Rollcall Vote No. 245 Ex.]

YEAS—78

Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Feingold
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—22

Akaka
Bayh
Biden
Boxer
Cantwell
Clinton
Corzine
Dayton
Durbin
Feinstein
Harkin
Inouye
Kennedy
Kerry
Lautenberg
Mikulski
Obama
Reed
Reid
Sarbanes
Schumer
Stabenow

The nomination was confirmed.

Mr. FRIST. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. I ask that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. FRIST. I ask that the Senate resume legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

IRAQ

Mr. FEINGOLD. Mr. President, I rise once again today to comment on the deeply disturbing consequences of the President's misguided policies in Iraq. I have spoken before about my grave concern that the administration's Iraq policies are actually strengthening the hand of our enemies, fueling the insurgency's recruitment of foreign fighters, and unifying elements of the insurgency that might otherwise turn on each other.

But today I want to focus on a different and equally alarming issue, which is that the Bush administration's policies in Iraq are making America weaker. None of us should stand by and allow this to continue.

It is shocking to me this Senate has not found the time and the energy to take up the Defense authorization bill and give that bill the full debate and attention it deserves. Our men and women in uniform and our military families continue to make real sacrifices every day in service to this country. They perform their duties with skill and honor, sometimes in the most difficult of circumstances. But the Senate has not performed its duties, and the state of the U.S. military desperately needs our attention.

The administration's policies in Iraq are breaking the U.S. Army. As soldiers confront the prospect of a third tour in the extremely difficult theater of Iraq, it would be understandable if they began to wonder why all of the sacrifice undertaken by our country in wartime seems to be falling on their shoulders. It would be understandable if they and their brothers and sisters in the Marine Corps began to feel some skepticism about whether essential resources, such as adequately armored vehicles, will be there when they need them. It would be understandable if they came to greet information about deployment schedules with cynicism because reliable information has been hard to come by for our military families in recent years. And it would be understandable if they asked themselves whether their numbers will be great enough—great enough—to hold hard-won territory, and whether properly vetted translators will be available to help them distinguish friend from foe.

At some point, the sense of solidarity and commitment that helps maintain strong retention rates can give way to a sense of frustration with the status quo. I fear we may be very close to that tipping point today. It is possible we may not see the men and women of the Army continue to volunteer for more of the same. It is not reasonable to expect that current retention problems will improve rather than worsen. We should not bet our national security on that kind of wishful thinking.

Make no mistake, our military readiness is already suffering. According to a recent RAND study, the Army has been stretched so thin that active-duty soldiers are now spending 1 of every 2 years abroad, leaving little of the

Army left in any appropriate condition to respond to crises that may emerge elsewhere in the world. In an era in which we confront a globally networked enemy, and at a time when nuclear weapons proliferation is an urgent threat, continuing on our present course is irresponsible at best.

We are not just wearing out the troops; we are also wearing out equipment much faster than it is being replaced or refurbished. Days ago, the chief of the National Guard, GEN H. Steven Blum, told a group of Senate staffers that the National Guard had approximately 75 percent of the equipment it needed on 9/11, 2001. Today, the National Guard has only 34 percent of the equipment it needs. The response to Hurricane Katrina exposed some of the dangerous gaps in the Guard's communications systems.

What we are asking of the Army is not sustainable, and the burden and the toll it is taking on our military families is unacceptable. This cannot go on.

Many of my colleagues, often led by Senator REED of Rhode Island, have taken stock of where we stand and have joined to support efforts to expand the size of our standing Army. But this effort, which I support, is a solution for the long term, because it depends on new recruits to address our problems. We cannot suddenly increase the numbers of experienced soldiers so essential to providing leadership in the field. It takes years to grow a new crop of such leaders. But the annual resignation rate of Army lieutenants and captains rose last year to its highest rate since the attacks of September 11, 2001. We are heading toward crisis right now.

Growing the all-volunteer Army can only happen if qualified new recruits sign up for duty. But all indications suggest that at the end of this month the Army will fall thousands short—thousands short—of its annual recruiting goal. Barring some sudden and dramatic change, the Army National Guard and Army Reserve too will miss their annual targets by about 20 percent, missing their targets this year by 20 percent in terms of recruitment. GEN Peter Schoomaker, the Army's Chief of Staff, told Congress recently that 2006 "may be the toughest recruiting environment ever."

Too often, too many of us are reluctant to criticize the administration's policies in Iraq for fear that anything other than staying the course set by the President will somehow appear weak. But the President's course is misguided, and it is doing grave damage to our extraordinarily professional and globally admired all-volunteer U.S. Army. To stand by—to stand by—while this damage is done is not patriotic. It is not supportive. It is not tough on terrorism, nor is it strong on national security. Because I am proud of our men and women in uniform, and because I am committed to working with all of my colleagues to make this country more secure, I am convinced we must change our course.

As some of my colleagues know, I have introduced a resolution calling for the President to provide a public report clarifying the mission the United States military is being asked to accomplish in Iraq, and laying out a plan and a timeframe for accomplishing that mission and subsequently bringing our troops home. It is in our interest to provide some clarity about our intentions and restore confidence at home and abroad that U.S. troops will not be in Iraq indefinitely. I have tried to jump-start this discussion by proposing a date for U.S. troop withdrawal: December 31, 2006.

We need to start working with a realistic set of plans and benchmarks if we are to gain control of our Iraq policy, instead of simply letting it dominate our security strategy and drain vital resources for an unlimited amount of time.

So this brings me to another facet of this administration's misguided approach to Iraq, another front on which our great country is growing weaker rather than stronger as a result of the administration's policy choices, and that is the tremendously serious fiscal consequences of the President's decision to put the entire Iraq war on our national tab. How much longer can the elected representatives of the American people in this Congress allow the President to rack up over $1 billion a week in new debts? This war is draining, by one estimate, $5.6 billion every month from our economy—funds that might be used to help the victims of Hurricane Katrina recover, or to help address the skyrocketing health care costs facing businesses and families, or to help pay down the enormous debt this Government has already piled up.

Not only are we weakening our economy today, this costly war is undermining our Nation's economic future because none of that considerable expenditure has been offset in the budget by cuts in spending elsewhere or by revenue increases. All of it—every penny—has been added to the already massive debt that will be paid by future generations of Americans.

For years now, this administration has refused to budget for the cost of our ongoing operations in Iraq that can be predicted, and has refused to make the hard choices that would be required to cover those costs. Instead—instead—the President apparently prefers to leave those tough calls to our children.

Mrs. BOXER. Mr. President, will the Senator yield for a quick question?

Mr. FEINGOLD. Could I do that in 2 minutes?

Mrs. BOXER. Sure.

Mr. FEINGOLD. I want to finish my statement.

Mr. President, in effect, we are asking future generations to pay for this war, and they will pay for it in the form of higher taxes or fewer Government benefits. They stand to inherit a weakened America, one so compromised by debt and economic crisis that the promise of opportunity for all has faded. And there is no end in sight.

In addition to that, the war will leave other costly legacies. Here again, it is the members of the military and their families who will endure the most severe costs. But even if the war ended tomorrow, the Nation will continue to pay the price for decades to come.

Linda Bilmes of the Kennedy School of Government at Harvard estimates that over the next 45 years, the health care, disability, and other benefits due our Iraq war veterans will cost $315 billion. We owe our brave troops the services and benefits they are due. We owe it to them and to their children and to their grandchildren to guide the course of this country and this economy to ensure that we are in a position to deliver for our veterans and for all Americans.

I cannot support an Iraq policy that makes our enemies stronger and our country weaker, and that is why I will not support staying the course the President has set. If Iraq were truly the solution to our national security challenges, this gamble with the future of our military and with our economy—who knows?—might make sense, if that were the case. If Iraq, rather than such strategically more significant countries as Saudi Arabia and Pakistan, were at the heart of the global fight against violent Islamic terrorism, this might make some sense. If it were true that fighting insurgents in Baghdad meant we would not have to fight them elsewhere, all the costs of this policy might well make sense.

But these things are not true. Iraq is not—is not—the "silver bullet" in the fight against global terrorist networks. As I have argued in some detail, it is quite possible that the administration's policies in Iraq are actually strengthening the terrorists by helping them to recruit new fighters from around the world, giving those jihadists on-the-ground training in terrorism, and building new, transnational networks among our enemies. Meanwhile, the costs of staying this course indefinitely, the consequences of weakening America's military and America's economy, loom more ominously before us with each passing week. There is no leadership in simply hoping for the best. We must insist on an Iraq policy that makes sense.

I yield to the Senator from California for a question.

Mrs. BOXER. Mr. President, I thank the Senator from Wisconsin, Mr. FEINGOLD. I am very proud to be on his resolution which finally would hold this President and his administration accountable for the disastrous situation we find ourselves in in Iraq, a situation that has led to now nearly 2,000 dead, countless wounded, young people and not so young without limbs, without their full brain capacity. It is a stunning failure.

Finally, in the Senate, we have a resolution that simply says to this administration: Do tell us, what is your plan? When are we getting out? Give us the milestones. And, what is the mission?

I have a couple of questions I wanted to ask my friend. As my friend was talking, I wrote down the various missions that we have heard from the administration that we were supposed to have in Iraq. The first one was weapons of mass destruction. Remember when Secretary Rumsfeld said: I know where they are; I could point to where they are. No, there weren't any. Then they said: We have to get Saddam. He is a tyrant. We all agreed, he is a tyrant. Saddam is gone for all intents and purposes. That was the second mission. Then they said: We are going to rebuild Iraq, a disastrous situation over which Secretary Rice is in charge. I haven't seen much rebuilding. I have seen a lot of no-bid contracts. Then they said: We have to have an election. That is the next mission. They had an election. After that, everything fell apart. Then they said: We need to bring security. We are going to train the Iraqi forces. The Senator from Wisconsin and I agree with that. We want to see them trained—it seems to be taking forever—especially when we have the President saying: We will stay there as long as it takes. What kind of message is that to the Iraqis?

We had a briefing yesterday. We can't discuss the details of that briefing, but it seemed to me there were yet other missions laid out.

I ask my friend, does he see the situation the way I do: An ever-changing mission in Iraq, setting the bar higher and higher with no end in sight is where we are at the present time?

Mr. FEINGOLD. I thank the Senator from California. She accurately described the way in which we got in this situation. I called it on the Senate floor, in October 2002, shifting justifications. The one we began with, the one that sold the American people, was that somehow there was a connection between Osama bin Laden and Saddam Hussein. Most of the American people apparently believed it because the President told them so at the time of the invasion. That would have been the ultimate justification because everybody assumed the Iraq invasion had something to do with that.

Ever since that myth has been exploded, the administration has been trying any way, scampering any way they can to come up with other justifications—the obviously failed attempt to suggest the imminent threat of weapons of mass destruction from Saddam Hussein, and then 6 to 7 months later, a year later, the President suddenly announces what he was really trying to do was to start a domino effect. We were going to fight a war that was going to create a domino effect of democracy around the world, which is a lovely ideal and notion, but nobody thought that was the justification when we voted here. I am guessing that it wouldn't have gotten one single vote if Members thought we were buying into that kind of project.

The Senator is right, not only with regard to how we got into the war but also with regard to how this administration is conducting the war. It is a mixture of so many inconsistent justifications that it doesn't make sense.

I had 18 town meetings in northern and central Wisconsin, some of them at very conservative areas, during the August recess. These were places where most of the people supported the Iraq war. They came to my town meetings and said: Why is this happening? Why were we given false pretenses to get into the war, and why is it that there isn't a serious plan to finish the war? Because of the failure of the administration to handle this war in any sensible way, the very people who supported the war are starting to say: Let's just leave.

So the President presents us with a false choice. He says: We have to stay the course. And if you don't believe in staying the course, then you must be for cutting and running. He is causing the movement in America to simply leave Iraq because of his failure of leadership.

What our resolution does—and I thank the Senator from California for her cosponsorship—is modest. It just says: Mr. President, within 30 days, could you give us a written plan that lays out the best way you want, without being bound to it, what is the plan, what is the mission, what are the benchmarks we have to achieve, by what time do you think we can achieve those benchmarks, and at what point and through what stages do you think we can begin and then complete the withdrawal of our American troops.

I say to my friend through the Chair, I think her comments and her question are right on the point.

I yield for another question.

Mrs. BOXER. Mr. President, I wish to thank my colleague for correcting me on the point that I missed that, yes, out of the five or six missions I named, I left out the very important one that he corrected me on, which is that there was a link between Saddam and al-Qaida and, in fact, there was al-Qaida all over Iraq.

The Senator and I sit on the Foreign Relations Committee. I think he remembers this document that I put into the RECORD, because I remember he very much wanted it, which showed that about a month after September 11 when we were so viciously attacked by bin Laden—who, by the way, we were going to get dead or alive, and we need to do that—the fact is, the State Department in its own document said there wasn't one al-Qaida cell, not one, in Iraq. There were more cells in America than in Iraq, according to our own State Department. We have put that in the RECORD.

Now, of course, it is a haven for terrorism because of this failed policy, this disastrous policy, this policy that is utter chaos with no end in sight, unless the Senate and the administration look at what my friend put forward, which is finally saying to the President: You need a mission, a mission that can be accomplished, and we need to end this in an orderly fashion.

I wanted to ask my friend one more point, and then I will leave the Chamber. That is about the National Guard. Right now, there are fires raging in my home State, sadly. We have them every year at this time. It is heartwrenching. We need all the help we can get. We always get all the help we ask for. We have never had a problem. The National Guard is called out when it gets really out of control.

Is my friend aware that the best equipment that the National Guard had at its disposal is in Iraq, not here at home? And when the people were crying out for help, not only were so many of the National Guard over in Iraq, my understanding is—and my friend can correct me—approximately 40 percent of our troops over there are National Guard. That is my information. Not only that, the best equipment of the National Guard is over in Iraq.

Don't our people deserve better than that so when they experience disasters, our National Guard can respond?

Mr. FEINGOLD. Mr. President, I thank the Senator from California. The Senator has very nicely returned to the main point of what I was trying to illustrate today. We certainly agree on the problems of how we got into this war and our very troubled feelings about that and also the myriad of problems with the way the war is being conducted. But what the Senator from California has done is returned us to the main point I wanted to make today: This strategy is weakening America. I am not talking about some general sense. We are talking specifically about our military. We are talking specifically about our Army. We are talking specifically about our National Guard.

Yes, we know about this in Wisconsin. We have some 10,000 Guard and Reserve. The vast majority of them have been called up for action overseas. There are serious concerns that have been reported—which, by the way, were beginning prior to 9/11—about equipment. It is to the point where my National Guard people ask me to ask the Secretary of Defense, Are we going to replenish these things for our National Guard? What is the guarantee? I received a rather weak answer, as I recall. The equipment needs are only at

34 percent for the National Guard—a dramatic decline in the last 4 years. Since 9/11, we have allowed the situation to become much worse in terms of equipment for our National Guard, whether it be for use in a foreign conflict or whether it be used to handle a terrorist situation domestically or whether it be used to help deal with one of the natural disasters that obviously can and do occur.

I appreciate the Senator heightening this point. This isn't about opposing a war. This is about mistakes being made by an administration in terms of forgetting the main point of fighting terrorism and forgetting about the need for our military to be strong both internationally and to be able to help, as the National Guard must, domestically.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to speak as in morning business. Is that proper at this time?

The PRESIDING OFFICER. Yes, it is. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. STEVENS. Mr. President, I am disturbed that we are delayed in taking up the Defense appropriations bill for 2006. It has been a problem. We have to wait for the authorization bill to come before the Senate. I have asked the leader for permission to take up this bill, along with my colleague from Hawaii, and bring the Defense appropriations bill for 2006 before the Senate today. I understand that has been objected to on some procedural ground.

It is my intention to make the statement I would make if the bill were before us. I will later ask that it be printed in the RECORD when the bill is laid before us.

I think the Senate should be using this time. We had intended to have votes today and tomorrow. We will not have votes Monday and Tuesday, but the bill will be before the Senate Monday and Tuesday.

We tried our best to work with the Armed Services Committee on their authorization bill, and we have a dispute between our subcommittee and the Intelligence Committee. That dispute pertains to a matter that should not be discussed on the floor. It is one we thought we had worked out by virtue of a compromise provision we put into this Defense appropriations bill, and I hope the members of the Intelligence Committee will recognize that as such.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AVIAN FLU PANDEMIC

Mr. HARKIN. I thank the Presiding Officer.

Mr. President, I come to the floor at this time to discuss a matter of grave national security. If recent Hurricane Katrina and Hurricane Rita have taught us anything, it is that we have to do a dramatically better job of preparing for diseases before they strike so we are not left picking up the pieces afterward.

I am very gravely concerned that the United States is totally unprepared for an outbreak—and a subsequent international pandemic—of avian flu. We have had two disasters in the last 4 years—9/11 and Katrina followed by Rita. And the Federal Government was totally unprepared for both, despite clear warnings. Similarly, we have been warned in no uncertain terms about avian flu, but our preparations so far have been grossly inadequate.

I think I got my first briefing on this about a year ago from CDC in Atlanta. I have been following it closely in our Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee.

As it has unfolded over the last several months, it is clear that it is not a question of if avian flu is going to reach us, it is a question of when—not if, just when.

As many of my colleagues know, avian flu—or as it is called in the technical jargon, H5N1—has been known to pass first in bird species. It was passed from bird to bird, chicken to chicken, and that type of thing. It has then gotten into migratory waterfowl, which has spread from countries such as Thailand, Cambodia, Vietnam, and Hong Kong. And they have now found it as far away as Kazakhstan and as far north as the northern regions of Russia. It is just a matter of time before it gets here.

We have known this passed from bird to bird. We now know it has passed from birds to mammals, certain types of cats, particular tigers. We also know now it has passed from birds to humans. We have some cases. Now we have a few cases that have been reported of passing from human to human.

So the virus is mutating. It is getting smarter. It knows that it has now gone from bird to bird, bird to mammal, and bird to human, and now from human to human.

Experts in virology at the Department of Health and Human Services and others tell us that it is only a matter of time until the virus mutates from human to human to human, and then it becomes widespread. When that happens, we are in deep trouble.

An outbreak in China, Vietnam or Cambodia could trigger, within a couple of weeks' time, a worldwide outbreak, facilitated by air traffic and the mass movement of people across borders. And the data so far shows that of the 150 cases of the human avian flu—H5N1—that we know of, 54 have died. Almost 50 percent of the people infected have died.

This is a virulent form of the flu virus. It is a nightmare scenario—a kind of 21st century Black Death.

It is not hard to picture that could happen within a few months' period of time.

Again, as I say, many experts say it is not a matter of if, it is when. We have to ask tough questions.

Where do our preparedness efforts stand? What could we be doing better?

At some future time—I have it on charts, but I didn't have time to put it together—I will have charts to show what happened with the last great flu pandemic that hit the world in 1918 and 1919. Understand this: 500 million people were infected worldwide. This was almost 100 years ago—20 million to 40 million deaths worldwide. There were over 500 deaths in the United States.

In one month alone, October 1918, 196 people died in the United States from this influenza.

I have been told by experts that this H5N1 and how it manifests itself mirrors the influenza of 1918 and 1919.

Where do our efforts stand, and what can we be doing better?

First, where do we stand?

The Centers for Disease Control, under the great leadership of Dr. Gerberding, is doing a fine job working in cooperation with the World Health Organization and governments in affected regions to detect the disease and to help to stop its spread. Surveillance can alert us to an outbreak and governments can then take measures to isolate the disease so that widespread infection does not occur.

Again, we know how to do this. The CDC knows how to do this. They had great success with surveillance, isolation, and quarantine during the SARS outbreak, and they managed to control its spread. We never got SARS in the United States because we were able to isolate it and quarantine it in other countries.

We also learned valuable lessons from this SARS episode. We need to be doing a better job of surveillance. We have had some problems with some countries which do not have a very good public health infrastructure. They may not report illnesses and deaths as do we or some other places.

But we have CDC personnel on the ground in these countries. They know what to do. But they are woefully inadequate in funds. They don't have the funds needed to conduct adequate surveillance in these countries such as Cambodia, Thailand, Vietnam, Russia, and places such as that. They need some more support for surveillance. I will get into that in a little bit.

In order for us to get the necessary vaccines for this drug, it is going to take a few months.

The best thing we can be about in the initial stages is surveillance, finding out where it is outbreaking, control it, isolate it, and quarantine it.

As I said, the Centers for Disease Control and Prevention know how do that. There are other things we can be doing better. The World Health Organization is encouraging the purchase of antiviruses, medicines that help mitigate the infectious disease once you have already gotten it. Unfortunately, the United States only has enough antiviral medication for 1 percent of our population. That is not enough. We need to invest approximately $3 billion to build an adequate stockpile of antiviral medications. That would get us enough for about 50 percent of the population.

The experts tell us that we ought to be prepared for that kind of an infectious rate in the United States: that it could be up to 50 percent or more of our people in the United States affected by this—140 million people.

If we stay where we are, and we only have 1 percent or 10 percent, then you raise the question: Who gets it? How is it distributed?

We need to reassure our people that we have enough of these antivirals. These antivirals have a long shelf life—7 to 10 years, and maybe even more.

It is not as if we are buying something that is going to disintegrate right away. These antivirals have a long shelf life.

In addition, the President's budget cut $120 million from State and public health agencies. These are the agencies that will be on the front lines of both surveillance and disease prevention should an outbreak occur. We have to restore this funding. But that is not adequate.

In the future, our public health infrastructure would be stretched to the limits by an outbreak of avian influenza.

We need to invest in more public health professionals, epidemiologists, physicians, laboratory technicians, and others.

As I said, if we have an outbreak and it gets to the United States, the first thing we want to do is have good surveillance, isolation, and quarantine. That costs money.

Lastly, we also must take measures to increase our Nation's vaccine capacity. Currently, there is only one flu vaccine manufacturing facility in the United States.

I have wondered about that. Why is that so?

In meetings with the drug industry and others, I have learned that vaccine production is not very profitable compared to other types of drug development and manufacturing. Plus, they do not know if there is going to be a market for it.

This is a classic point of market failure—where the market really can't respond to a future need.

This is where the Government must step in to provide incentives for more manufacturers to build facilities in the United States.

Many will remember what happened during the last flu season, when overseas manufacturing facilities were shut down for safety reasons. Because we had no manufacturing capacity domestically, we were stuck. We should learn from this lesson. We cannot afford this problem when faced with the threat of avian influenza. So the Federal Government can and must do more to improve domestic vaccine capacity.

What does that mean? That means we are going to have to have some kind of guarantee that if you make this vaccine, we guarantee we will buy so many millions of doses of this vaccine.

Why is that important?

For this strain of the avian flu—in technological terms, H5N1—the virus that we have isolated in people who have contracted it in Thailand, Cambodia, Vietnam, and Hong Kong, the National Institutes of Health and Infectious Disease, under Dr. Fauci, has been developing a vaccine. The initial reports that came out in July were that this vaccine has great promise. However, what we don't know is will the virus that mutates and comes to this country be H5N1 or will it be H5N3 or H5N5? We don't know. Therefore, if a manufacturer were to manufacture all these doses of vaccine for H5N1, that may not work for the kind of viruses we might get later on. I am told it might work for some; it might slow it down a little bit.

That is why we need to have incentives for vaccine manufacturers in this country so they know if they manufacture the vaccine, it will be purchased. We may not use it all. We may have to develop new vaccines later on down the road. But at least we will have these vaccines in case H5N1 is the virus that gets here because we know that virus. That is why we have to move and we have to move right now. We do not have much time to invest in preparation for avian flu.

Some may ask, Why wasn't this done before? Perhaps we should have done something better before. But after Katrina, maybe a lot of our eyes were opened that we were not prepared and that we have to do something different from what we are doing. Also, the virulence and the spread of avian flu has taken new leaps in the last several months that we had hoped might not happen. So we are faced right now with an urgent situation. We need to start right now.

Later on, I will be offering an amendment to this bill that will basically do the following things: One, double our global surveillance of the avian flu through the Centers for Disease Control to identify and contain as soon as possible. In my conversation with CDC and others, this figure is about $33 million to adequately do the surveillance.

Second, to restore the budget cuts to local and State public health departments and emergency preparedness activities to help communities prepare to recognize, treat, and quarantine the avian flu virus if it reaches our country. The President's budget cut $122 million from grants to State and local public health departments for emergency preparedness activities. These were grants that were first funded under our Subcommittee on Labor, Health, and Human Services in 2001 in response to the September 11 attacks.

Again, as best as we could determine in talking to those who administer programs, in order to get it up to the point where they would be prepared for an avian flu outbreak, it is about $600 million nationally.

Next, we need to increase the stockpile of antivirals. I mentioned earlier the World Health Organization recommended that each company stockpile enough Tamiflu—that is a brand name made by Roche Pharmaceuticals in Switzerland. They have the patent which has been very effective. The World Health Organization recommended each country stockpile enough for 40 percent of their population.

As I mentioned, right now we have enough for about 1 percent. Other countries have heeded this warning and have gotten in line to purchase this. The United States, as I said, has 2 million doses on hand, enough for 1 percent of the population.

We need additional resources. We need to build this up to serve at least 50 percent of our population. This comes at about $20 per dose as it is a multidose vaccine. It is not just one vaccine, you have to take a couple, three doses but only if you get infected. The tab for this is about $3 billion.

Why, again, do we need to do that? Because we do not have any company making it in this country. Roche has the patent. I want to be respectful of patent rights, but other companies in America could, under patent law, make an agreement with Roche, for example, to manufacture it under their patent. Again, they are not going to do it if there is no buyer out there. Who is buying it? If we are to have enough of a stockpile to protect 50 percent of our population, we are going to need to come up with the money right now to guarantee a buyer out there to get more antivirals manufactured in a hurry.

Consider the nightmare scenario if next year, God forbid, avian flu does mutate, it does reach the United States, and we only have enough doses for a million or 2 million people? Who will get it? How will it be distributed?

The next part of the amendment builds up and strengthens our vaccine infrastructure. We only have one manufacturer of flu vaccine in the United States, and they do not have the capacity to rapidly ramp up and make enough vaccine for what we need. In the event of a pandemic, the United States would have to rely on imported vaccines which countries may be unwilling to export to us; They will want it for their own people.

Again, the estimate to get a guaranteed order out for the vaccines would be about $125 million. To provide new resources for outreach educational efforts to health providers in the public, the estimate is $75 million.

What this all adds up to, to be prepared for an outbreak of avian flu, is going to require somewhere around $4 billion, a little bit less than $4 billion. That is a big chunk of change. I remind my colleagues that is less than what we spend in Iraq in 1 month in order to start reassuring the people of this country that we are going to do whatever is necessary to respond to this threat that is looming on the horizon.

I don't have my charts. I will have some later that will demonstrate the kinds of deaths we can expect in this country. When we looked at the flu epidemic of 1918 and 1919, there were about 500,000 deaths in the United States, 20 to 40 million deaths worldwide. We are looking at the possibility in the United States of deaths that can range anywhere from 100,000 up to 2 million anywhere in that range. Hospitalizations could go anywhere from 300,000 to 10 million. Illnesses—we do not really know, but it could go from 20 to 30 to 40 million up to 100 million or more. That is the kind of pandemic we are looking at.

When I first had my briefing on this at CDC last year, it was perhaps hoped that this avian flu would not mutate as rapidly as it has. But it has. So now we are in a situation of waiting until that next shoe drops when we find it has gone from a human to a human to a human. When that happens, we have to be able to react immediately. It is almost the midnight hour right now.

I hope it never hits, obviously; but since the experts say it is not a matter of if but is only a matter of when because this is a virulent virus, I hope it is put off long enough so we can get the vaccines made, buy the antiviral, and put in place the surveillance and quarantine that we need so that when it does happen—because we are assured by the experts that it will—we can respond, we can quarantine, we can isolate, and if it starts to spread we can give the people who are infected the antivirus they need and we can vaccinate other people so they do not get it.

I am hopeful we can reach some agreement on an amendment to do that. I hope to be offering that sometime later. It is being worked on right now. I hope we can find the money to do this. This is an emergency basis because I think this is an emergency basis. We passed an emergency to respond to Katrina; no one objected to that. We passed emergencies to respond to September 11; no one objected to that. I am tired of looking in the rearview mirror. I don't want to have us looking in the rearview mirror a couple of years from now when the avian flu has struck. It is time to look ahead. That is what this is geared to do, start putting these things in place.

Keep in mind, it is less than 1 month's expenditure of money in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. I am happy to defer to Senator STEVENS if he has something he would like to say.

Mr. STEVENS. We are still in morning business, are we?

The PRESIDING OFFICER. We are.

Mr. STEVENS. I will wait for the Senator's statement.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I thank the distinguished Senator from Alaska. I will try to be brief.

I just want to offer my strong support for the amendment Senator HARKIN is going to propose and state why I think this is such an important issue.

Let me first say, that I am generally of the view that we should not be tacking on unrelated amendments to the defense bills.

The money in this legislation is badly needed by our men and women in uniform and I do not want to slow this bill down.

But, this amendment dealing with the avian flu pandemic is so important to our public health security—and our national security—so important to the lives of millions of people around the world, that it simply cannot wait. In fact, the situation is so ominous that Dr. Julie Gerberding, the Director of the CDC, said that an avian flu outbreak is "the most important threat that we are facing [today]."

In light of these developments, I believe it is worth the U.S. Senate spending just a few hours on this critical issue, even if it is not directly related to the underlying legislation.

Over the last few months, we have heard alarming reports from countries all over Asia—Indonesia, China, Vietnam, Thailand—about deaths from the avian flu.

International health experts say that two of the three conditions for an avian flu pandemic in Southeast Asia already exist. First, a new strain of the virus, called H5N1, has emerged and humans have little or no immunity. Second, this strain has shown that it can jump between species.

The last condition—the ability for the virus to travel efficiently from human to human—has not been met, and it is the only thing preventing a full blown pandemic. Once this virus mutates and can be transmitted from human to human, because of global trade and travel, we will not be able to contain this disease. We learned this lesson from SARS, which took less than 4 months to get from Asia to Canada, where it caused human and economic devastation.

When I started talking about this issue 7 months ago, many people thought that the avian flu was a mild concern, an Asian problem, an unlikely threat to Americans here in the U.S.

As time has progressed, the Nation's top scientists and experts have focused greater attention on the possibilities of an avian flu pandemic, and they have rapidly come to consensus that it is not a matter of if the pandemic will hit but when? It is not a question of whether will people die but how many? And the main question, the question that keeps me awake at night, is whether the United States will be able to deal with this calamity?

From what we have seen with the lack of readiness and dismal response to Hurricane Katrina, I think that all of us would have to conclude that the answer, at this point in time, is no.

Whether we are talking about having adequate surveillance capacities in our State and local health departments, having enough doctors and hospital beds and medical equipment for infected individuals, or having a vaccine or treatment that is guaranteed to work, I don't want to be an alarmist, but here in the U.S., we are in serious trouble.

Several of us here in the Congress—on a bipartisan basis—have taken the first steps needed to address this looming crisis. In April of this year, I introduced the AVIAN Act, S. 969 that would increase our preparedness for avian flu pandemic. Senators LUGAR and DURBIN and several others have cosponsored this act and I thank them for that. We need to move this bill as quickly as possible.

In May, I and Senators LUGAR, MCCONNELL, and LEAHY included $25 million for avian flu activities as part of the Iraq supplemental. Today, this money is helping the World Health Organization to step up its international surveillance and response efforts.

In July, I included an additional $10 million to combat avian flu in the Foreign Operations assistance bill. That bill is currently in conference, and I hope this funding will be retained.

I am also working with Senate Defense authorizers on an amendment to require the DOD report to Congress on its efforts to prepare for pandemic influenza.

This report must address the procurement of vaccines, antivirals and other medicine; the protocols for distributing such vaccines or medicine to high priority populations; and how the DOD intends to work with other agencies, such as HHS and State, to respond to pandemic flu.

Today, with leadership by Senator HARKIN, we are introducing an amendment to the DOD appropriations bill to provide $3.9 billion in emergency funds for avian flu activities. Senator HARKIN has already outlined what this amendment does, so I will not rehash what he has already said.

The bottom line is that this amendment needs to be passed and passed as quickly as possible.

I know that $3.9 billion is a lot of money—especially given our fiscal situation today. But this is one issue on which we cannot be penny-wise and pound-foolish. If we don't invest the money now, this pandemic will hit America harder, more lives will be lost, and we will have to spend significantly more in resources to respond after the fact.

As we learned the hard way after Hurricane Katrina, the failure to prepare for emergencies can have devastating consequences. This nation must not be caught off guard when faced with the prospect of the avian flu. This amendment will help the Federal agencies to prepare the Nation to prevent and respond to avian flu.

America is already behind in recognizing and preparing for a potentially deadly and economically devastating avian flu pandemic that public health experts say is not a matter of if but when. We must face the reality that in this age when you can get on a plane in Bangkok and arrive in Chicago in hours, this is not a problem isolated half a world away but one that could impact us right here at home.

The need is great, and the time to act is way overdue. I urge my colleagues to vote "yes" and support this amendment.

To reiterate, Senators LUGAR, MCCONNELL, and LEAHY already worked with me to include $25 million for avian flu activities as part of the Iraq supplemental. I included an additional $10 million to combat avian flu in the foreign operations assistance bill. But as Senator HARKIN noted, we need much more based on the briefing we received from the administration yesterday. We have to move now on this issue. It has to be moved rapidly. We have to build an infrastructure to create vaccines and to purchase enough antiviral drugs. I strongly urge that on a bipartisan basis we make this one of our top priorities. This is a crisis waiting to happen. If we are not prepared for it now, we will all be extraordinarily sorry.

The only other comment I will make is, I know times are tough with respect to our budget. I am working with my colleagues across the aisle to figure out ways we can come up with the money for Katrina and Iraq. This is a sound investment. If we don't make this investment now, we will pay much more later.

So I hope the amendment Senator HARKIN is going to offer will get bipartisan support and receive the utmost consideration from this Chamber.

Thank you very much, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I want the Senate to know I welcome the attention of Senators to the problem of the avian virus. In 1997, because of information I discovered concerning what Senator OBAMA just mentioned—the intersection where wild birds come to Alaska from the Chinese mainland and other places in the world, including Russia—we began a series of funds in the Agriculture bill to study the process of this virus being transmitted. As Senator OBAMA has mentioned, so far it has always been bird to bird or animal to animal. There has been no transmutation to take it from human to human or bird to human. It is one of the dangerous problems of the world, no question about it.

When I first heard of Senator HARKIN's amendment, I said I might—I said I would cosponsor it. As I read it, it is not just about the virus. It is reversing the President's decision with regard to State and local public health agencies. It is starting an addition to the domestic vaccine infrastructure. All of that, I understand, was part of the briefing some Senators had yesterday and I am informed others will soon get.

There is a BioShield group working in the administration, particularly in the agencies that are dealing with disease control and various other subjects. There will undoubtedly be a presentation by them to the Congress. There has not been such a presentation yet. The briefing the Senators got was for the information concerning what those people are doing who are working on that plan.

This is an amendment that sort of short circuits the concept of dealing with it and asks for some of the money they ask for, but I am told the amendment will not distribute the money the way the BioShield proposal will distribute it. It is brought to us as an emergency measure. It may well be that the BioShield people bring us a bill that is partially emergency and partially funded. We do not know yet. But very clearly we do know there is no current human-to-human transmission that has been known of in the world. For us to say this is the greatest problem we have and is superior to some of the things we are doing, particularly in Iraq or in the war on terror, I think is a totally misplaced comparison, as far as I am concerned. I am just back from Iraq. I have seen some of the dangers over there and have talked to some of the people who have been injured over there. To compare the money we have in this bill to fund them with funding a proposal to deal with a virus, for something that has not yet become a threat to human beings, I believe is wrong.

The BioShield proposal will be before the Congress, I am told, in this Congress. I want to announce now that I will ask the chairman of the Budget Committee to raise a point of order to this amendment. It is an emergency declaration. It is not the recommendations of the BioShield group who briefed the Senator last night. It is a premature attempt to bring it to the floor on the Defense bill where it does not belong. So I hope the Senate will agree with us and not make this an emergency appropriations at this time.

Now, there is no question in my mind this could well develop into a political argument. I have been on this floor now since 1981 as one of the managers of this bill. I cannot remember a time when we had a political argument on a nongermane amendment to this bill. This is a bill to fund the people in uniform overseas. It is not the authorization bill where there are amendments from time to time offered which are nongermane. We have had a policy of no nongermane amendments on this bill. I intend to pursue that policy.

This is not a germane amendment. This is an amendment that is premature in terms of avian flu. Again, I say no one has a greater interest in this avian flu than I do. When I go home on weekends and I go to a restaurant I love, I know I am sitting next to people who have just come back from Russia. We go to Russia daily from my State. We go to China daily from my State. We have pilots who fly planes throughout China, throughout Russia, living right there in the community in which I live. We know there is an avian flu potential over there. The birds that come from over there intersect with our birds. We know that. We have been studying that since 1997. Just yesterday, I talked to a doctor about avian flu vaccine and when we would be able to get it for Alaska. I was told we will get it in time.

But now I come out here and I have an amendment to be offered when we take up the bill that makes it an emergency to appropriate almost $4 billion, and not on the basis of recommendations of the experts but on the basis of some Senators who were briefed yesterday, prematurely, at their request, of studies that are going on at the administration.

Now, I am not one who takes lightly bringing subjects to this bill that do not pertain to protecting people in uniform. We had a similar situation once with regard to anthrax and other studies, and we acted very promptly because that did apply to people in uniform. But this is not something that pertains to the defense of the United States. It could very well be in the future a very vital issue to our Nation and to the world, but right now we ought to wait for the scientists to come and tell us what needs to be done, how it needs to be done, where it needs to be done, and who is going to do it. But this is throwing money at a wall. I will oppose that.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 230, H.R. 2863. I further ask consent that the committee-reported substitute be agreed to as original text for the purposes of further amendment, with no points of order waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. With the understanding I would be able to offer an amendment as soon as the bill is laid down.

Mr. STEVENS. Mr. President, once the bill is before the Senate, it is open to amendment.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. STEVENS. I will not consent to that. Under the rules, he is entitled to offer an amendment. I have asked unanimous consent.

Mr. HARKIN. Okay.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with an amendment.

(Strike the part in black brackets and insert the part shown in italic.)

H.R. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

[TITLE I

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,357,895,000.

[MILITARY PERSONNEL, NAVY

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $19,417,696,000.

[MILITARY PERSONNEL, MARINE CORPS

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $7,839,813,000.

[MILITARY PERSONNEL, AIR FORCE

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $20,083,037,000.

[RESERVE PERSONNEL, ARMY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,862,103,000.

[RESERVE PERSONNEL, NAVY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,486,061,000.

[RESERVE PERSONNEL, MARINE CORPS

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $472,392,000.

[RESERVE PERSONNEL, AIR FORCE

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,225,360,000.

[NATIONAL GUARD PERSONNEL, ARMY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,359,704,000.

[NATIONAL GUARD PERSONNEL, AIR FORCE

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section

16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,028,215,000.

[TITLE II

[OPERATION AND MAINTENANCE

[OPERATION AND MAINTENANCE, ARMY

[(INCLUDING TRANSFER OF FUNDS)

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,432,727,000: *Provided*, That of funds made available under this heading, $2,500,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading "Operation and Maintenance, Army", in Public Law 107–117.

[OPERATION AND MAINTENANCE, NAVY

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $28,719,818,000.

[OPERATION AND MAINTENANCE, MARINE CORPS

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,123,766,000.

[OPERATION AND MAINTENANCE, AIR FORCE

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $28,659,373,000.

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[(INCLUDING TRANSFER OF FUNDS)

[For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,323,516,000: *Provided*, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $40,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, $500,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: *Provided further*, That of the funds made available under this heading, $5,000,000 is available for contractor support to coordinate a wind test demonstration project on an Air Force installation using wind turbines manufactured in the United States that are new to the United States market and to execute the renewable energy purchasing plan: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

[OPERATION AND MAINTENANCE, ARMY RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,791,212,000.

[OPERATION AND MAINTENANCE, NAVY RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,178,607,000.

[OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $199,929,000.

[OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,465,122,000.

[OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,142,875,000.

[OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,547,515,000.

[OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

[(INCLUDING TRANSFER OF FUNDS)

[For expenses directly relating to Overseas Contingency Operations by United States military forces, $20,000,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

[UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

[For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

[OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

[For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

[FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

[For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008.

[TITLE III

[PROCUREMENT

[Aircraft Procurement, Army

[For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,879,380,000, to remain available for obligation until September 30, 2008, of which $203,500,000 shall be available for the Army National Guard and Army Reserve: *Provided*, That $75,000,000 of the funds provided in this paragraph are available only for the purpose of acquiring four (4) HH-60L medical evacuation variant Blackhawk helicopters for the C/1-159th Aviation Regiment (Army Reserve): *Provided further*, That three (3) UH-60 Blackhawk helicopters in addition to those referred to in the preceding proviso shall be available only for the C/1–159th Aviation Regiment (Army Reserve).

[Missile Procurement, Army

[For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,239,350,000, to remain available for obligation until September 30, 2008, of which $150,000,000 shall be available for the Army National Guard and Army Reserve.

[Procurement of Weapons and Tracked Combat Vehicles, Army

[For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,670,949,000, to remain available for obligation until September 30, 2008, of which $614,800,000 shall be available for the Army National Guard and Army Reserve.

[Procurement of Ammunition, Army

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,753,152,000, to remain available for obligation until September 30, 2008, of which $119,000,000 shall be available for the Army National Guard and Army Reserve.

[Other Procurement, Army

[For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,491,634,000, to remain available for obligation until September 30, 2008, of which $765,400,000 shall be available for the Army National Guard and Army Reserve.

[Aircraft Procurement, Navy

[For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,776,440,000, to remain available for obligation until September 30, 2008, of which $57,779,000 shall be available for the Navy Reserve and the Marine Corps Reserve.

[Weapons Procurement, Navy

[For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,596,781,000, to remain available for obligation until September 30, 2008.

[Procurement of Ammunition, Navy and Marine Corps

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $885,170,000, to remain available for obligation until September 30, 2008, of which $19,562,000 shall be available for the Navy Reserve and Marine Corps Reserve.

[Shipbuilding and Conversion, Navy

[For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

[Carrier Replacement Program (AP), $564,913,000.

[Virginia Class Submarine, $1,637,698,000.

[Virginia Class Submarine (AP), $763,786,000.

[SSGN Conversion, $286,516,000.

[CVN Refueling Overhauls, $1,300,000,000.

[CVN Refueling Overhauls (AP), $20,000,000.

[SSN Engineered Refueling Overhauls (AP), $39,524,000.

[SSBN Engineered Refueling Overhauls, $230,193,000.

[SSBN Engineered Refueling Overhauls (AP), $62,248,000.

[DDG–51 Destroyer, $1,550,000,000.

[DDG–51 Destroyer Modernization, $50,000,000.

[Littoral Combat Ship, $440,000,000.

[LHD–1, $197,769,000.

[LPD–17, $1,344,741,000.

[LHA–R (AP), $200,447,000.

[Service Craft, $46,000,000.

[LCAC Service Life Extension Program, $100,000,000.

[Prior year shipbuilding costs, $394,523,000.

[Outfitting, post delivery, conversions, and first destination transportation, $385,000,000.

[In all: $9,613,358,000, to remain available for obligation until September 30, 2010: *Provided*, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

[OTHER PROCUREMENT, NAVY

[For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,461,196,000, to remain available for obligation until September 30, 2008, of which $43,712,000 shall be available for the Navy Reserve and Marine Corps Reserve.

[PROCUREMENT, MARINE CORPS

[For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,426,405,000, to remain available for obligation until September 30, 2008.

[AIRCRAFT PROCUREMENT, AIR FORCE

[For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,424,298,000, to remain available for obligation until September 30, 2008, of which $380,000,000 shall be available for the Air National Guard and Air Force Reserve.

[MISSILE PROCUREMENT, AIR FORCE

[For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,062,949,000, to remain available for obligation until September 30, 2008.

[PROCUREMENT OF AMMUNITION, AIR FORCE

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,031,907,000, to remain available for obligation until September 30, 2008, of which $164,800,000 shall be available for the Air National Guard and Air Force Reserve.

[OTHER PROCUREMENT, AIR FORCE

[For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $13,737,214,000, to remain available for obligation until September 30, 2008, of which $135,800,000 shall be available for the Air National Guard and Air Force Reserve.

[PROCUREMENT, DEFENSE-WIDE

[For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,728,130,000, to remain available for obligation until September 30, 2008.

[DEFENSE PRODUCTION ACT PURCHASES

[For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $28,573,000, to remain available until expended.

[TITLE IV

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,827,174,000 (reduced by $10,000,000) (increased by $10,000,000), to remain available for obligation until September 30, 2007.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,481,862,000, to remain available for obligation until September 30, 2007: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $22,664,868,000, to remain available for obligation until September 30, 2007.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

[For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,514,530,000, to remain available for obligation until September 30, 2007.

[OPERATIONAL TEST AND EVALUATION, DEFENSE

[For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

[TITLE V

[REVOLVING AND MANAGEMENT FUNDS

[DEFENSE WORKING CAPITAL FUNDS

[For the Defense Working Capital Funds, $1,154,340,000.

[NATIONAL DEFENSE SEALIFT FUND

[For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,599,459,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract:

Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

[TITLE VI

[OTHER DEPARTMENT OF DEFENSE PROGRAMS

[CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

[For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,355,827,000, of which $1,191,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $47,786,000 shall be for Research, development, test and evaluation to remain available until September 30, 2007; and not less than $119,300,000 shall be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

[DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

[(INCLUDING TRANSFER OF FUNDS)

[For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $906,941,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

[OFFICE OF THE INSPECTOR GENERAL

[For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

[TITLE VII

[RELATED AGENCIES

[CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

[For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

[INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

[(INCLUDING TRANSFER OF FUNDS)

[For necessary expenses of the Intelligence Community Management Account, $376,844,000 of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, $39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2008 and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2007: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

[TITLE VIII

[GENERAL PROVISIONS

[SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

[SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

[SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

[SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

[(TRANSFER OF FUNDS)

[SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $4,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

[(TRANSFER OF FUNDS)

[SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

[SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

[SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of

$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

[(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

[(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

[(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

[(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

[Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

[UH-60/MH-60 Helicopters.

[Apache Block II Conversion.

[Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS).

[Sec. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

[Sec. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

[(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2007.

[(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

[Sec. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

[Sec. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

[Sec. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

[Sec. 8014. (a) Limitation on Conversion to Contractor Performance.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

[(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

[(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

[(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

[(B) $10,000,000; and

[(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

[(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

[(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

[(b) Exceptions.—

[(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

[(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

[(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

[(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

[(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

[(c) Treatment of Conversion.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

[(TRANSFER OF FUNDS)

[Sec. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

[Sec. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the

United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

[SEC. 8017. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

[SEC. 8018. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

[SEC. 8019. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding 41 U.S.C. 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): *Provided further*, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

[SEC. 8020. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

[SEC. 8021. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

[SEC. 8022. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

[SEC. 8023. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8024. (a) Of the funds made available in this Act, not less than $33,767,000 shall be available for the Civil Air Patrol Corporation, of which—

[(1) $24,376,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

[(2) $8,571,000 shall be available from "Aircraft Procurement, Air Force"; and

[(3) $820,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

[(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

[SEC. 8025. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

[(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

[(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

[(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,537 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That this subsection shall not apply to staff years funded in the National Intelligence Program.

[(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

[(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $40,000,000.

[SEC. 8026. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

[SEC. 8027. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

[SEC. 8028. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

[SEC. 8029. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

[(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

[(b) The Secretary of Defense shall submit to the Congress a report on the amount of

Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

[(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

[SEC. 8030. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

[SEC. 8031. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

[SEC. 8032. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8033. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

[SEC. 8034. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

[(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

[(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

[(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

[SEC. 8035. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

[SEC. 8036. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

[(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

[SEC. 8037. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

[SEC. 8038. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

[SEC. 8039. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

[SEC. 8040. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

[(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

[(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

[SEC. 8041. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

[(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

[(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

[(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

[SEC. 8042. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

[(1) to establish a field operating agency; or

[(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

[(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

[(c) This section does not apply to field operating agencies funded within the National Intelligence Program.

[SEC. 8043. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the House of Representatives accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

[(RESCISSIONS)

[SEC. 8044. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

["Other Procurement, Army, 2005/2007", $60,500,000.

["Shipbuilding and Conversion, Navy, 2005/2011", $325,000,000.

["Aircraft Procurement, Air Force, 2005/2007", $10,000,000.

["Other Procurement, Air Force, 2005/2007", $3,400,000.

["Research, Development, Test and Evaluation, Army, 2005/2006", $21,600,000.

["Research, Development, Test and Evaluation, Navy, 2005/2006", $5,100,000.

["Research, Development, Test and Evaluation, Air Force, 2005/2006", $142,000,000.

["Research, Development, Test and Evaluation, Defense-Wide, 2005/2006", $65,950,000.

[SEC. 8045. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

[SEC. 8046. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

[SEC. 8047. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

[SEC. 8048. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(TRANSFER OF FUNDS)

[SEC. 8049. Appropriations available under the heading "Operation and Maintenance, Defense-Wide" for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

[SEC. 8050. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

[SEC. 8051. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

[SEC. 8052. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

[SEC. 8053. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

[SEC. 8054. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

[(b) COVERED ACTIVITIES.—This section applies to—

[(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

[(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

[(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

[(1) A description of the equipment, supplies, or services to be transferred.

[(2) A statement of the value of the equipment, supplies, or services to be transferred.

[(3) In the case of a proposed transfer of equipment or supplies—

[(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

[(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

[SEC. 8055. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

[(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

[(2) such bonus is part of restructuring costs associated with a business combination.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8056. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

[SEC. 8057. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

[(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

[(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

[(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

[SEC. 8058. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

[(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

[SEC. 8059. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

[SEC. 8060. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8061. None of the funds made available in this Act may be used to approve or license the sale of the F/A–22 advanced tactical fighter to any foreign government.

[SEC. 8062. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

[(b) Subsection (a) applies with respect to—

[(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

[(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

[(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

[SEC. 8063. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

[(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

[(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

[(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

[SEC. 8064. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

[SEC. 8065. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

[SEC. 8066. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

[SEC. 8067. The Secretary of Defense shall provide a classified quarterly report to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

[SEC. 8068. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

[SEC. 8069. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

[(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

[(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

[(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

[(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

[(A) Business process reengineering.

[(B) An analysis of alternatives.

[(C) An economic analysis that includes a calculation of the return on investment.

[(D) Performance measures.

[(E) An information assurance strategy consistent with the Department's Global Information Grid.

[(d) DEFINITIONS.—For purposes of this section:

[(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

[(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

[SEC. 8070. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8071. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a centerfire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

[SEC. 8072. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

[SEC. 8073. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

[SEC. 8074. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8075. (a) Of the amounts appropriated in this Act under the heading, "Research, Development, Test and Evaluation, Defense-Wide", $90,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

[(b) Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", $147,900,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

[SEC. 8076. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

[SEC. 8077. In addition to amounts provided elsewhere in this Act, $2,500,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

[SEC. 8078. Amounts appropriated in title II of this Act are hereby reduced by $264,630,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

[(1) From "Operation and Maintenance, Army", $12,734,000.

[(2) From "Operation and Maintenance, Navy", $91,725,000.

[(3) From "Operation and Maintenance, Marine Corps", $1,870,000.

[(4) From "Operation and Maintenance, Air Force", $158,301,000.

[SEC. 8079. The total amount appropriated or otherwise made available in this Act is hereby reduced by $167,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

["Operation and Maintenance, Army", $24,000,000.

["Operation and Maintenance, Navy", $19,000,000.

["Operation and Maintenance, Air Force", $74,000,000.

["Operation and Maintenance, Defense-Wide", $50,000,000.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8080. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $77,616,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, $15,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8081. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $394,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

[(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

[SEC. 8058. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

[(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

[SEC. 8059. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

[SEC. 8060. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8061. None of the funds made available in this Act may be used to approve or license the sale of the F/A-22 advanced tactical fighter to any foreign government.

[SEC. 8062. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

[(b) Subsection (a) applies with respect to—

[(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

[(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

[(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

[SEC. 8063. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

[(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

[(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

[(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

[SEC. 8064. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

[SEC. 8065. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

[SEC. 8066. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

[SEC. 8067. The Secretary of Defense shall provide a classified quarterly report to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

[SEC. 8068. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

[SEC. 8069. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

[(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

[(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

[(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

[(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

[(A) Business process reengineering.

[(B) An analysis of alternatives.

[(C) An economic analysis that includes a calculation of the return on investment.

[(D) Performance measures.

[(E) An information assurance strategy consistent with the Department's Global Information Grid.

[(d) DEFINITIONS.—For purposes of this section:

[(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

[(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

[SEC. 8070. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8071. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a centerfire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

[SEC. 8072. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

[SEC. 8073. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

[SEC. 8074. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8075. (a) Of the amounts appropriated in this Act under the heading, "Research, Development, Test and Evaluation, Defense-Wide", $90,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

[(b) Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", $147,900,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

[SEC. 8076. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

[SEC. 8077. In addition to amounts provided elsewhere in this Act, $2,500,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

[SEC. 8078. Amounts appropriated in title II of this Act are hereby reduced by $264,630,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

[(1) From "Operation and Maintenance, Army", $12,734,000.

[(2) From "Operation and Maintenance, Navy", $91,725,000.

[(3) From "Operation and Maintenance, Marine Corps", $1,870,000.

[(4) From "Operation and Maintenance, Air Force", $158,301,000.

[SEC. 8079. The total amount appropriated or otherwise made available in this Act is hereby reduced by $167,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

["Operation and Maintenance, Army", $24,000,000.

["Operation and Maintenance, Navy", $19,000,000.

["Operation and Maintenance, Air Force", $74,000,000.

["Operation and Maintenance, Defense-Wide", $50,000,000.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8080. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $77,616,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, $15,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8081. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $394,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

[To: Under the heading, "Shipbuilding and Conversion, Navy, 1998/2007":

[NSSN, $28,000,000.

[Under the heading, "Shipbuilding and Conversion, Navy, 1999/2009":

[LPD-17 Amphibious Transport Dock Ship, $25,000,000; and

[NSSN, $72,000,000.

[Under the heading, "Shipbuilding and Conversion, Navy, 2000/2009":

[LPD-17 Amphibious Transport Dock Ship, $41,800,000.

[Under the heading, "Shipbuilding and Conversion, Navy, 2001/2007":

[Carrier Replacement Program, $145,023,000; and

[NSSN, $82,700,000.

[SEC. 8082. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

[SEC. 8083. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

[Pharmacists, Audiologists, and Dental Hygienists.

[(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

[(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

[SEC. 8084. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 8085. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

[SEC. 8086. The amounts appropriated in title II of this Act are hereby reduced by $250,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

[(1) From "Operation and Maintenance, Army", $107,000,000.

[(2) From "Operation and Maintenance, Air Force", $143,000,000.

[SEC. 8087. (a) In addition to the amounts provided elsewhere in this Act, the amount of $6,000,000 is hereby appropriated to the Department of Defense for "Operation and Maintenance, Army National Guard". Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $6,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

[(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

[SEC. 8088. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: *Provided*, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

[SEC. 8089. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $14,400,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense shall make grants in the amounts specified as follows: $4,500,000 to the Intrepid Sea-Air-Space Foundation; $1,000,000 to the Pentagon Memorial Fund, Inc.; $4,400,000 to the Center for Applied Science and Technologies at Jordan Valley Innovation Center; $1,000,000 to the Vietnam Veterans Memorial Fund for the Teach Vietnam initiative; $500,000 for the Westchester County World Trade Center Memorial; $1,000,000 for the Women in Military Service for America Memorial Foundation; and $2,000,000 to the Presidio Trust.

[SEC. 8090. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Account": *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

[SEC. 8091. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

[SEC. 8092. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

[SEC. 8093. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

[SEC. 8094. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

[SEC. 8095. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

[SEC. 8096. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

[SEC. 8097. (a) From within amounts made available in title II of this Act under the heading "Operation and Maintenance, Army" $4,500,000 is only for an additional amount for the project for which funds were appropriated in section 8103 of Public Law 106–79, for the same purposes, which shall remain available until expended: *Provided*, That no funds in this or any other Act, nor non-appropriated funds, may be used to operate recreational facilities (such as the officers club, golf course, or bowling alleys) at Ft. Irwin, California, if such facilities provide services to Army officers of the grade O-7 or higher, until such time as the project in the previous proviso has been fully completed.

[(b) From within amounts made available in title II of this Act under the heading "Operation and Maintenance, Marine Corps", the Secretary of the Navy shall make a grant in the amount of $2,000,000, notwithstanding any other provision of law, to the City of Twentynine Palms, California, for the widening of off-base Adobe Road, which is used by members of the Marine Corps stationed at the Marine Corps Air Ground Task Force

Training Center, Twentynine Palms, California, and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

[SEC. 8098. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

[(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8099. The Secretary of the Navy may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committee on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

[SEC. 8100. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $147,000,000 to limit excessive growth in the travel and transportation of persons.

[(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

[SEC. 8101. Of the funds appropriated or otherwise made available in this Act, a reduction of $176,500,000 is hereby taken from title III, Procurement, from the following accounts in the specified amounts:

["Missile Procurement, Army", $9,000,000.

["Other Procurement, Army", $112,500,000.

["Procurement, Marine Corps", $55,000,000: *Provided*, That within 30 days of enactment of this Act, the Secretary of the Army and the Secretary of the Navy shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within these accounts.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8102. (a) THREE-YEAR EXTENSION.—During the current fiscal year and each of fiscal years 2007 and 2008, the Secretary of Defense may transfer not more than $20,000,000 of unobligated balances remaining in the expiring RDT&E, Army, appropriation account to a current Research, Development, Test and Evaluation, Army, appropriation account to be used only for the continuation of the Army Venture Capital Fund demonstration.

[(b) EXPIRING RDT&E, ARMY, ACCOUNT.—For purposes of this section, for any fiscal year, the expiring RDT&E, Army, account is the Research, Development, Test and Evaluation, Army, appropriation account that is then in its last fiscal year of availability for obligation before the account closes under section 1552 of title 31, United States Code.

[(c) ARMY VENTURE CAPITAL FUND DEMONSTRATION.—For purposes of this section, the Army Venture Capital Fund demonstration is the program for which funds were initially provided in section 8150 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2281), as extended and revised in section 8105 of Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562).

[(d) ADMINISTRATIVE PROVISIONS.—The provisos in section 8105 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562), shall apply with respect to amounts transferred under this section in the same manner as to amounts transferred under that section.

[TITLE IX

[ADDITIONAL APPROPRIATIONS

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For an additional amount for "Military Personnel, Army", $5,877,400,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, NAVY

[For an additional amount for "Military Personnel, Navy", $282,000,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, MARINE CORPS

[For an additional amount for "Military Personnel, Marine Corps", $667,800,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, AIR FORCE

[For an additional amount for "Military Personnel, Air Force", $982,800,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESERVE PERSONNEL, ARMY

[For an additional amount for "Reserve Personnel, Army", $138,755,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[NATIONAL GUARD PERSONNEL, ARMY

[For an additional amount for "National Guard Personnel, Army", $67,000,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE

[OPERATION AND MAINTENANCE, ARMY

[For an additional amount for "Operation and Maintenance, Army", $20,398,450,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, NAVY

[For an additional amount for "Operation and Maintenance, Navy", $1,907,800,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, MARINE CORPS

[For an additional amount for "Operation and Maintenance, Marine Corps", $1,827,150,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, AIR FORCE

[For an additional amount for "Operation and Maintenance, Air Force", $3,559,900,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[For an additional amount for "Operation and Maintenance, Defense-Wide", $826,000,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[IRAQ FREEDOM FUND

[(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for "Iraq Freedom Fund", $3,500,000,000, to remain available for transfer until September 30, 2007, only to support operations in Iraq or Afghanistan and classified activities: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That of the amounts provided under this heading, not less than $2,500,000,000 shall be for classified programs, which shall be in addition to amounts provided for elsewhere in this Act: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred:

Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Operation and Maintenance, Army Reserve

[For an additional amount for "Operation and Maintenance, Army Reserve", $35,700,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Operation and Maintenance, Marine Corps Reserve

[For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $23,950,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Operation and Maintenance, Army National Guard

[For an additional amount for "Operation and Maintenance, Army National Guard", $159,500,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT

[Procurement of Weapons and Tracked Combat Vehicles, Army

[For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $455,427,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Procurement of Ammunition, Army

[For an additional amount for "Procurement of Ammunition, Army", $13,900,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Other Procurement, Army

[For an additional amount for "Other Procurement, Army", $1,501,270,000, to remain available until September 30, 2008: *Provided*, That of the amount provided in this paragraph, not less than $200,370,000 shall be available only for the Army Reserve: *Provided further*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Weapons Procurement, Navy

[For an additional amount for "Weapons Procurement, Navy", $81,696,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Procurement of Ammunition, Navy and Marine Corps

[For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $144,721,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Other Procurement, Navy

[For an additional amount for "Other Procurement, Navy", $48,800,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Procurement, Marine Corps

[For an additional amount for "Procurement, Marine Corps", $389,900,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Aircraft Procurement, Air Force

[For an additional amount for "Aircraft Procurement, Air Force", $115,300,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Other Procurement, Air Force

[For an additional amount for "Other Procurement, Air Force", $2,400,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Procurement, Defense-Wide

[For an additional amount for "Procurement, Defense-Wide", $103,900,000, to remain available until September 30, 2008: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[Research, Development, Test and Evaluation, Navy

[For an additional amount for "Research, Development, Test and Evaluation, Navy", $13,100,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[Research, Development, Test and Evaluation, Defense-Wide

[For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $75,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[REVOLVING AND MANAGEMENT FUNDS

[Defense Working Capital Funds

[For an additional amount for "Defense Working Capital Funds", $2,055,000,000: *Provided*, That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[TITLE IX

[GENERAL PROVISIONS

[Sec. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

[Sec. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

[(TRANSFER OF FUNDS)

[Sec. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act: *Provided further*, That the amounts transferred under the authority of this section are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 or 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

[SEC. 9006. Notwithstanding any other provision of law, funds made available in this title to the Department of Defense for operation and maintenance may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to military or security forces of Iraq and Afghanistan to enhance their capability to combat terrorism and to support United States military operations in Iraq and Afghanistan: *Provided*, That such assistance may include the provision of equipment, supplies, services, training, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

[SEC. 9007. (a) FISCAL YEAR 2006 AUTHORITY.—During the current fiscal year, from funds made available to the Department of Defense for operation and maintenance pursuant to title IX, not to exceed $500,000,000 may be used by the Secretary of Defense to provide funds—

[(1) for the Commanders' Emergency Response Program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people; and

[(2) for a similar program to assist the people of Afghanistan.

[(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes stated in subsection (a).

[(c) LIMITATION ON USE OF FUNDS.—Funds authorized for the Commanders' Emergency Response Program by this section may not be used to provide goods, services, or funds to national armies, national guard forces, border security forces, civil defense forces, infrastructure protection forces, highway patrol units, police, special police, or intelligence or other security forces.

[(d) SECRETARY OF DEFENSE GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue to the commander of the United States Central Command detailed guidance concerning the types of activities for which United States military commanders in Iraq may use funds under the Commanders' Emergency Response Program to respond to urgent relief and reconstruction requirements and the terms under which such funds may be expended. The Secretary shall simultaneously provide a copy of that guidance to the congressional defense committees.

[SEC. 9008. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

[SEC. 9009. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

[SEC. 9010. The reporting requirements of section 9010 of Public Law 108–287 regarding the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan shall apply to the funds appropriated in this Act.

[SEC. 9011. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom.

[SEC. 9012. SENSE OF CONGRESS AND REPORT CONCERNING RELIGIOUS FREEDOM AND TOLERANCE AT UNITED STATES AIR FORCE ACADEMY. (a) SENSE OF CONGRESS.—It is the sense of Congress that—

[(1) the expression of personal religious faith is welcome in the United States military;

[(2) the military must be a place where there is freedom for religious expression for all faiths; and

[(3) the Secretary of the Air Force and the Department of Defense Inspector General have undertaken several reviews of the issues of religious tolerance at the Air Force Academy.

[(b) REPORT.—

[(1) RECOMMENDATIONS.—The Secretary of the Air Force, based upon the reviews referred in subsection (a)(3), shall develop recommendations to maintain a positive climate of religious freedom and tolerance at the United States Air Force Academy.

[(2) SECRETARY OF AIR FORCE REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report providing the recommendations developed pursuant to paragraph (1).

[SEC. 9013. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

[(1) Section 2340A of title 18, United States Code.

[(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2631–822; 8 U.S.C. 1231 note) and any regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

[This Act may be cited as the "Department of Defense Appropriations Act, 2006".] *That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:*

TITLE I—MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $28,099,587,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,671,875,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $8,894,984,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,908,750,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United

States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,052,269,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,617,299,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $491,601,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,263,046,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,555,794,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,125,632,000.

TITLE II—OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $24,573,795,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $30,317,964,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,780,926,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $30,891,386,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,517,218,000: Provided, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $32,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That of the funds provided under this heading not less than $27,009,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,956,482,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,239,295,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $197,734,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,474,286,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,428,119,000: Provided, That $10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training Center-East and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other federal agency, and state and local first responder personnel at the Joint Interagency Training Center-East.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger *motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,681,291,000.*

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $407,865,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $305,275,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $406,461,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $28,167,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $271,921,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III—PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,562,480,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,214,919,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,359,465,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,708,680,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 14 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation *of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,426,531,000, to remain available for obligation until September 30, 2008.*

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,880,492,000, to remain available for obligation until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,593,341,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $832,791,000, to remain available for obligation until September 30, 2008.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $651,613,000;
NSSN, $1,637,698,000;
NSSN (AP), $763,786,000;
SSGN, $286,516,000;
CVN Refuelings, $1,493,563,000;
CVN Refuelings (AP), $20,000,000;
SSBN Submarine Refuelings, $230,193,000;
SSBN Submarine Refuelings (AP), $62,248,000;
DD(X) (AP), $765,992,000;
DDG–51 Destroyer, $29,773,000;
LHD–8, $197,769,000;
LPD–17, $1,344,741,000;
LHA–R, $150,447,000;
LCAC Landing Craft Air Cushion, $110,583,000;
Prior year shipbuilding costs, $517,523,000;
Service Craft, $46,055,000; and
For outfitting, post delivery, conversions, and first destination transportation, $369,387,000;

in all: $8,677,887,000, to remain available for obligation until September 30, 2010: Provided, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 9 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,293,157,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,361,605,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,729,492,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,068,974,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $996,111,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $14,048,439,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,572,250,000, to remain available for obligation until September 30, 2008.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, *and other procurement for the reserve components of the Armed Forces, $422,000,000, to remain available for obligation until September 30, 2008: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.*

Defense Production Act Purchases

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $68,573,000, to remain available until expended.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Research, Development, Test and Evaluation, Army

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,520,592,000, to remain available for obligation until September 30, 2007.

Research, Development, Test and Evaluation, Navy

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,557,904,000, to remain available for obligation until September 30, 2007: Provided, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

Research, Development, Test and Evaluation, Air Force

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,859,010,000, to remain available for obligation until September 30, 2007.

Research, Development, Test and Evaluation, Defense-Wide

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,301,618,000, to remain available for obligation until September 30, 2007.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

TITLE V—REVOLVING AND MANAGEMENT FUNDS

Defense Working Capital Funds

For the Defense Working Capital Funds, $1,154,940,000.

National Defense Sealift Fund

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $579,954,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $20,237,962,000, of which $19,345,087,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2007, and of which up to $10,157,427,000 may be available for contracts entered into under the TRICARE program; of which $377,319,000, to remain available for obligation until September 30, 2008, shall be for Procurement; and of which $515,556,000, to remain available for obligation until September 30, 2007, shall be for Research, development, test and evaluation.

Chemical Agents and Munitions Destruction, Army

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,430,727,000, of which $1,241,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $72,686,000 shall be for Research, development, test and evaluation, of which $57,926,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2007; and no less than $119,300,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $926,821,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

TITLE VII—RELATED AGENCIES

Central Intelligence Agency Retirement and Disability System Fund

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

Intelligence Community Management Account

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $413,344,000, of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $17,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities.

TITLE VIII—GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

UH–60/MH–60 Helicopters; and

C–17 Globemaster.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2006.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to

enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Of the funds appropriated or otherwise made available in this Act, a reduction of $591,100,000 is hereby taken from title III, Procurement, from the "Other Procurement, Army" account: Provided, That within 30 days of enactment of this Act, the Secretary of the Army shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within this account.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8020. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code: Provided further, That, during the current fiscal year and hereafter, businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the Senate accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

SEC. 8026. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8027. (a) Of the funds made available in this Act, not less than $31,109,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $24,288,000 shall be available from "Operation and Maintenance, Air Force" to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $6,000,000 shall be available from "Aircraft Procurement, Air Force"; and

(3) $821,000 shall be available from "Other Procurement, Air Force" for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8028. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed

travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,500 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs: Provided further, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $51,600,000.

SEC. 8029. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8030. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8031. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8032. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8033. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8034. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8035. None of the funds appropriated in this Act shall be used to study, demonstrate, or implement any plans privatizing, divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, and hereafter, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8046. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: Provided, That this limitation shall not apply to contracts in an amount of less than $25,000,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8047. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8048. Up to $3,000,000 of the funds appropriated in Title II of this Act under the heading, "Operation and Maintenance, Army", may be made available to contract with the Army Historical Foundation, a non profit organization, for services required to solicit non-Federal donations to support construction and operation of the National Museum of the United States Army at Fort Belvoir, Virginia: Provided, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any non-profit organization chartered to support the National Museum of the United States Army to reimburse amounts expended by the Army pursuant to this section: Provided further, That any reimbursements received pursuant to this section shall be merged with "Operation and Maintenance, Army" and shall be made available for the same purposes and for the same time period as that appropriation account.

(RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Other Procurement, Army, 2005/2007", $68,500,000;

"Aircraft Procurement, Navy, 2005/2007", $104,800,000;

"Shipbuilding and Conversion, Navy, 2005/2009", $67,300,000;

"Other Procurement, Navy, 2005/2007", $43,000,000;

"Aircraft Procurement, Air Force, 2004/2006", $4,000,000;

"Aircraft Procurement, Air Force, 2005/2007", $20,000,000;

"Missile Procurement, Air Force, 2005/2007", $29,000,000;

"Research, Development, Test and Evaluation, Army, 2005/2006", $25,900,000;

"Research, Development, Test and Evaluation, Navy, 2005/2006", $70,900,000; and

"Research, Development, Test and Evaluation, Air Force, 2005/2006", $63,400,000.

SEC. 8050. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8052. During the current fiscal year and hereafter, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8053. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program (NIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8055. Up to $2,000,000 of the funds appropriated under the heading, "Operation and Maintenance, Navy" may be made available to contract for the installation, repair, and maintenance of an on-base and adjacent off-base wastewater/treatment facility and infrastructure critical to base operations and the public health and safety of community residents in the vicinity of the NCTAMS.

SEC. 8056. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8058. Appropriations available under the heading "Operation and Maintenance, Defense-Wide" for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8059. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may *waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.*

SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8061. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8062. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8063. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8064. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8065. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $92,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8066. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8067. None of the funds provided in this Act may be obligated to realign or relocate forces or operational assets from bases to be converted to enclave status until the Secretary of Defense certifies that he has sought new missions for these bases as mandated by the 2005 Defense Base Closure and Realignment Commission: Provided, That the Secretary of Defense shall report his findings to the congressional defense committees npt later than October 1, 2006.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8068. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8069. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8070. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of Title 32 may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8071. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8072. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8073. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8074. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8075. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that *country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.*

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8076. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8077. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

SEC. 8078. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8079. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8080. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8081. The Secretary of Defense shall provide a classified quarterly report, beginning 30 days after enactment of this Act, to the Houseand Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8082. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8083. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8084. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8085. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense *that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.*

SEC. 8086. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8087. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8088. Up to $2,500,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8089. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8090. Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", $147,900,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8091. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

SEC. 8092. Amounts appropriated in title II of this Act are hereby reduced by $265,890,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From "Operation and Maintenance, Army", $36,890,000.

(2) From "Operation and Maintenance, Navy", $79,000,000.

(3) From "Operation and Maintenance, Air Force", $150,000,000.

SEC. 8093. The total amount appropriated or otherwise made available in this Act is hereby reduced by $100,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

"Operation and Maintenance, Army", $37,000,000;

"Operation and Maintenance, Air Force", $6,000,000;

"Operation and Maintenance, Defense-Wide", $45,000,000; and

"Operation and Maintenance, Army Reserve", $12,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8094. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", $143,600,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $70,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures, and $10,000,000 shall be available for the purpose of the initiation of a joint feasibility study and risk reduction activities designated the Short Range Ballistic Missile Defense (SRBMD) initiative: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8095. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", $517,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1998/2006":

New SSN, $28,000,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1999/2006":

LPD–17 Amphibious Transport Dock Ship Program, $95,000,000;

New SSN, $72,000,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2000/2006":

LPD–17 Amphibious Transport Dock Ship Program, $94,800,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2001/2006":

Carrier Replacement Program, $145,023,000;

New SSN, $82,700,000.

SEC. 8096. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under section 7622 of title 10, United States Code arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8097. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: Provided, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8098. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code for occupations listed in section 7403(a)(2) of title 38, United States Code as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code shall not apply.

SEC. 8099. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 8100. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: Provided further, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): Provided further, That up to $2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, *That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.*

SEC. 8101. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8102. The amounts appropriated in title II of this Act are hereby reduced by $350,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From "Operation and Maintenance, Army", $100,000,000.

(2) From "Operation and Maintenance, Navy", $150,000,000.

(3) From "Operation and Maintenance, Air Force", $100,000,000.

SEC. 8103. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS-C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: Provided, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: Provided further, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Tetams.

SEC. 8104. Of the funds made available in this Act, not less than $76,100,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which $3,900,000 shall be available from "Military Personnel, Air Force", $44,300,000 shall be available from "Operation and Maintenance, Air Force", and $27,900,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2006: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2007 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8105. The Secretary of the Air Force is authorized, using funds available under the heading "Operation and Maintenance, Air Force", to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the operational ranges managed by the Air Force in Alaska: Provided, That the total cost of such phased projects shall not exceed $32,000,000.

SEC. 8106. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $12,850,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: Provided, That the Secretary of Defense shall make grants in the amounts specified as follows: $850,000 to the Fort Des Moines Memorial Park and Education Center; $2,000,000 to the American Civil War Center at Historic Tredegar; $3,000,000 to the Museum of Flight, American Heroes Collection; $1,000,000 to the National Guard Youth Foundation; $3,000,000 to the United Services Organization; $2,000,000 to the Dwight D. Eisenhower Memorial Commission; and $1,000,000 to the Iraq Cultural Heritage Assistance Project.

(TRANSFER OF FUNDS)

SEC. 8107. The Secretary of Defense may transfer funds from any currently available Department of the Navy appropriation to any available Navy shipbuilding and conversion appropriation for the purpose of funding shipbuilding cost increases for any ship construction program, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That all transfers under this section shall be subject to the notification requirements applicable to transfers under section 8005 of this Act.

SEC. 8108. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8109. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8110. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8111. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8112. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading "Shipbuilding and Conversion, Navy" that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in the current fiscal year or any prior fiscal year.

(TRANSFER OF FUNDS)

SEC. 8113. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 2003/2007":

For outfitting, post delivery, conversions, and first destination transportation, $3,300,000;

Under the heading, "Shipbuilding and Conversion, Navy, 2004/2008":

For outfitting, post delivery, conversions, and first destination transportation, $6,100,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 2003/2007":

SSGN, $3,300,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2004/2008":

SSGN, $6,100,000.

SEC. 8114. None of the funds in this Act may be obligated for a classified program as described on page 18 of the compartmented annex to Volume IV of the Fiscal Year 2006 National Intelligence Program justification book unless specifically authorized in the Intelligence Authorization Act for Fiscal Year 2006.

SEC. 8115. (a) The Director of the Office of Management and Budget shall, in coordination with the Secretary of Defense and the Secretary of Homeland Security, conduct a study on improving the response of the Federal Government to disasters.

(b) The study under subsection (a) shall—

(1) consider mechanisms for coordinating and expediting disaster response efforts;

(2) examine the role of the Department of Defense in participating in disaster response efforts, including by providing planning, logistics, and relief and reconstruction assistance;

(3) consider the establishment of criteria for automatically triggering the participation of the Department of Defense in disaster response efforts; and

(4) assess the role of the United States Geological Survey in enhancing disaster preparation measures.

(c) Not later than May 1, 2006, the Director of the Office of Management and Budget shall submit to Congress a report on the study conducted under subsection (a), including—

(1) recommendations for improving the response of the Federal Government to disasters, including by providing for greater participation by the Department of Defense in response efforts; and

(2) proposals for any legislation or regulations that the Director determines necessary to implement such recommendations.

TITLE IX—ADDITIONAL WAR-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $5,009,420,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $180,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $455,420,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $372,480,000.

RESERVE PERSONNEL, ARMY

For an additional amount for "Reserve Personnel, Army", $121,500,000.

RESERVE PERSONNEL, NAVY

For an additional amount for "Reserve Personnel, Navy", $10,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for "National Guard Personnel, Army", $232,300,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force", $5,300,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $21,915,547,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $1,806,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $1,275,800,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $2,014,900,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $980,000,000, of which up to $195,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $53,700,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $9,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and Maintenance, Marine Corps Reserve", $27,950,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and Maintenance, Air Force Reserve", $7,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $201,300,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $13,400,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Iraq Freedom Fund", $4,100,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: Provided further, That of the amounts provided under this heading, $2,850,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: Provided further, That $750,000,000 shall be available for the Joint IED Defeat Task Force: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $348,100,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", $80,000,000, to remain available until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of Weapons and Tracked Combat Vehicles, Army", $910,700,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", $335,780,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $3,916,000,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft Procurement, Navy", $151,537,000, to remain available until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", $56,700,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for "Procurement of Ammunition, Navy and Marine Corps", $48,485,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", $116,048,000, to remain available until September 30, 2008.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", $2,303,700,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft Procurement, Air Force", $118,058,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", $17,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $17,500,000, to remain available until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $132,075,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for "Research, Development, Test and Evaluation, Army", $72,000,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $17,800,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $2,500,000, to remain available until September 30, 2007.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for "Defense Working Capital Funds", $2,716,400,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for "Drug Interdiction and Counter-drug Activities, Defense", $27,620,000.

GENERAL PROVISIONS, TITLE IX

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 and 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 9006. Notwithstanding any other provision of law, from funds made available in this title to the Department of Defense for operation and maintenance, not to exceed $500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: Provided, That such assistance may include the provision of equipment, supplies, services, training and funding: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

SEC. 9007. (a) From funds made available in this title to the Department of Defense, not to exceed $500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 9008. Amounts provided in this title for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in this Act, or any other provision of law: Provided, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9010. (a) Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2006, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

SEC. 9011. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

SEC. 9012. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government cost.

SEC. 9013. Amounts appropriated or otherwise made available in this title are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

This Act may be cited as the "Department of Defense Appropriations Act, 2006".

The committee amendment in the nature of a substitute was agreed to.

Mr. STEVENS. Along with the Senator from Hawaii, I am pleased to present the Defense appropriations bill for 2006. This bill reflects the bipartisan approach that my cochairman, Senator INOUYE, and I have always maintained regarding the Department of Defense. It is, once again, a pleasure to work with him on this bill and with other members of our subcommittee and the full Appropriations Committee through this process.

This bill was reported out of the full Appropriations Committee yesterday by a unanimous vote of 28 to 0. We have worked hard to make certain the bill reaches out and is understood, is appreciated, and supported by every member of our Appropriations Committee.

As we will be debating this bill, there are hundreds of thousands of men and women in uniform forward deployed and serving our country in over 120 countries and also throughout the United States. Their bravery and dedication to our country are extraordinary, and their sacrifices do not go unnoticed.

Each year, the Department of Defense faces critical challenges. The Department must ensure that we can maintain high levels of readiness and we are able to respond to the call of duty wherever and whenever it is necessary. And it must ensure we are simultaneously invested in the resources which will enable us to meet the threats of tomorrow.

This bill, which Senator INOUYE and I will present I hope today, reflects a prudent balance among those challenges. It recommends $440.2 billion in budget authority for the Department of Defense. This funding includes $50 billion for contingency operations related to the global war on terrorism pursuant to section 402 of the concurrent budget resolution on the budget for 2006.

While this bill is a $7 billion reduction from that provided in the President's budget request for 2006, it still meets the Defense Subcommittee's allocation for both budget authority and outlays, and it is consistent with the objectives of this administration and the recommendations contained in the Senate national defense authorization bill for 2006 as it was reported.

We have sought to recommend a balanced bill to the Senate. We believe this bill addresses key requirements for readiness, quality of life, and transformation of the force. This bill will honor our commitment to our Armed Forces. It helps ensure they will continue to have first-rate training, modernized equipment, and quality infrastructure. It also provides the funds needed to continue the global war on terrorism.

Mr. President, yesterday Senator INOUYE and I met with GEN John Abizaid, Commander of the U.S. Central Command, and GEN George Casey, the Commander of the multinational force in Iraq, to discuss the global war on terrorism and the current situation in Iraq.

The central command, with its responsibility for the Middle East, the Horn of Africa, parts of south Asia, and central Asia, has the lead in fighting this war on terrorism. It is a war that some envision may last for several generations. I am not talking about the war in Iraq. I am talking about the overall war on terrorism. And I repeat, we are informed that is a war that many envision will last for generations.

The terrorists we face view this war as a worldwide crusade for their ideology, a war that they are willing to win at all costs, at least try to win at all costs. In fact, they see that inflicting suffering on innocent civilians furthers their cause. In my view, the United States has to lead the world in fighting this terrorist movement. We must remain resilient. We must set the example. We must stay the course.

Our meeting with Generals Abizaid and Casey was both insightful and disturbing, but I am convinced our country has entrusted this global war on terrorism to two very capable leaders. They understand the challenges we face and are committed to successfully prosecuting this war on terrorism.

We also talked about the strategy in Iraq and agreed that building local Iraq military capacity is a central tenet to our success there. General Abizaid and General Casey informed us that Iraqi security forces are already in charge of large parts of Iraq. Fourteen of the country's 18 provinces are now in charge of their own force.

Last year, before the Iraqi elections, we deployed an additional 12,000 troops to maintain stability throughout the countryside. This year, our senior commanders have only requested 2,000 troops for that same purpose. Let me repeat that. When they had an election last year, it was believed that 12,000 troops, our troops, in addition to the forces there, were needed to help maintain stability throughout the countryside. This year, senior commanders have only requested 2,000 troops for that. Although this is a small metric, it is tangible proof of forward progress and tangible proof that the Iraqis can, will, and are taking over substantial responsibility to meet the problems in their own country.

Currently, our military leaders have assigned 8 to 10 military personnel to each and every Iraqi unit as advisers. They are helping Iraqi units leverage their strength and shore up their weaknesses.

There are those who say we should accelerate this process, training more Iraqi forces faster so we can bring U.S. troops home sooner. this sounds like a straightforward solution, but the situation is not so simple or clear-cut.

Earlier this month, along with Senators WARNER and KERRY, I traveled to Iraq, and I repeatedly asked two questions: Can we speed up the training and equipping of Iraqi forces? And even more fundamentally, I asked of those there, both Iraqis and Americans, what do they think about our mission in Iraq.

On the first question, the unanimous feedback from U.S. civilian and military officials was that we cannot be rushed in the process of training Iraqis. It must be done in a careful and measured way.

The U.S. Government is not only helping to build Iraqi forces, we are building capacity both within the Iraqi ministries and the security forces within the Government itself. The Iraqi Government must assume responsibility for these forces, which means after the United States equips and trains these people, the Iraqis must pay their way and sustain them. This may lead to a drawdown of U.S. forces at an appropriate time in the future, but a premature withdrawal of U.S. forces would be disastrous for the Iraqi people and for the world. We must continue to demonstrate our commitment that we will stay in Iraq until our mission is complete and remain engaged in a mission so that we are certain that the Iraqis will complete that and be able to sustain their new Government.

The second question I asked was: What do you think of our mission in Iraq? The response I received was unanimous. U.S. civilians, our men and women in uniform, told me they believe we are doing what is important, that we should stay the course and get the job done, do our job.

I was impressed with the fact that so many young military people, when I asked them how long they had been there, told me they had been there two and three times, and they had asked to come back so they were sure they had a part in finishing the job we undertook in Iraq.

Senator INOUYE and I are part of a different generation. We are what is left of the World War II generation in the Senate. Our generation had no doubt about our duty. I believe the young men and women of today's Armed Forces share our commitment to preserve and protect freedom. Our visit with them was inspiring, and many times it left tears in my eyes. These young men and women make me proud to be an American. Every one of them volunteered to enter the armed services. There are no draftees in Iraq. I promised them that I am going to be back again to make certain they have the materials and the support they need.

On this same trip, we traveled throughout the region to Kuwait, Turkey, and other countries where we visited with senior NATO officials. They, too, talked about the broad problem of the world, the threat of international terrorism. These military leaders from other countries, as well as ours, and NATO highlighted the need for the United States to take the lead on the global war on terrorism and to continue to assist our friends and allies in Iraq, Afghanistan, Africa, and Europe, to make sure this crusade does not take root, that it does not gather steam.

The bill we will place before the Senate will enable us to maintain our commitment and our support of these troops. I am proud again to thank my cochairman, my friend for so many years, for his support and invaluable counsel on this bill. I thank Sid Ashworth, who has worked with me, and Charlie Houy, who has worked with Senator INOUYE, and recognize them for their tremendous efforts on this bill. We have all worked together for a long time now, and I believe this is as good a bill as we have ever brought before the Senate, represented by the vote I mentioned. Every member of the full Appropriations Committee voted that we should be allowed to bring this bill to the floor.

I hope that sometime today that will be possible. I hope my friend understands the circumstances under which we are making statements.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today to offer my strong endorsement of H.R. 2863, the fiscal year 2006 Defense appropriations bill. As the chairman noted, this bill was unanimously approved by the Appropriations Committee. It is a bipartisan bill which was crafted by Chairman STEVENS with the full involvement of the minority.

In compliance with the committee allocations, this bill is $7 billion lower than the amount requested by the administration. As such, the committee had to make several difficult decisions to meet the reduced level. Even under these conditions, I can assure my colleagues that this is a very good bill which will meet our national security needs for the coming year.

The top priority of this measure is to ensure that we provide for the well-being of our men and women in uniform and their families. The bill includes a 3.1-percent pay raise, and it provides $19.3 billion to run our military hospitals and pay for the other day-to-day health care costs for our forces.

Not counting the costs of operations in Afghanistan and Iraq, this measure includes nearly $125 billion to safeguard military readiness and pay for other routine operations of the Department of Defense.

As most of my colleagues are surely aware, recruiting has become a greater challenge in recent years. So I am pleased to note that this bill includes $622 million above the budgeted amount to improve recruiting tools so that we can maintain the highest quality in our military. Furthermore, a total of $146 billion is recommended in this bill for investing in much needed equipment for our forces today and our forces of the future.

We all know that the war in Iraq is controversial, on which many of our colleagues have very strong opinions. But I believe what we all agree upon is the need to support our troops who are now serving in harm's way. To that end, the bill provides an additional $50 billion for pay, operations, and equipment to support our fighting forces overseas. These funds are essential to support these brave men and women.

Today is September 29. The fiscal year ends tomorrow. It is imperative that we move this bill as quickly as possible. After Senate passage, the committee will still need to take this bill into conference. Because of that, I would urge my colleagues not to offer amendments to this bill which might be better suited for other legislation except to meet truly emergency requirements. I believe there will be plenty of time in the coming months to consider issues which are not relevant to this defense spending measure.

This is a good bill. I strongly support it and urge all of my colleagues to do so as well.

Mr. STEVENS. Mr. President, I say to my colleagues that the classified annex that accompanies the 2006 Defense appropriations bill is available in S407 for all Members and those staffs who have appropriate clearance. There has been a request that we distribute this to Members' offices. That is prohibited. We must keep these documents in a classified area, and only those who are cleared may have access to them. This annex is available in S407. We will make arrangements for that room to stay open whatever time the Senators and their cleared staff wish to have access to it, but it is not possible for us to distribute.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1886

(Purpose: To make available emergency funds for pandemic flu preparedness)

Mr. HARKIN. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, and Mr. REED, proposes an amendment numbered 1886:

On page , at the appropriate place at the end of Title 9, insert the following:

TITLE .

SEC. 101.

(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Centers for Disease Control and Prevention $3,913,000,000 for activities relating to the avian flu epidemic during the fiscal year ending September 30, 2006, which shall be available until expended.

(b) Of the amount appropriated under subsection (a)—

(1) $3,080,000,000 shall be for the stockpiling of antivirals and necessary medical supplies

(2) $33,000,000 shall be for global surveillance relating to avian flu

(3) $125,000,000 shall be to increase the national investment in domestic vaccine infrastructure including development and research

(4) $600,000,000 shall be for additional grants to state and local public health agencies for emergency preparedness, to increase funding for emergency preparedness centers, and to expand hospital surge capacity

(5) $75,000,000 shall be for risk communication and outreach to providers, businesses, and to the American public

(c) The amount appropriated under subsection (a)

(1) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

(d) This title shall take effect on the date of enactment of this Act.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period of routine morning business between the hours of 2:30 p.m. and 4 p.m. today. Senators have been invited to the White House to attend the swearing in of Judge Roberts. Buses will be provided for transportation. We will not conduct business during the period of that important event.

The PRESIDING OFFICER. Is there objection?

The Democratic leader.

Mr. REID. Mr. President, would the distinguished President pro tempore of the Senate allow us to be in a period of morning business during that period of time? There are some people who want to come and talk.

Mr. STEVENS. I am asking for morning business during that period. There would be morning business with no votes from 2:30 to 4 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I wanted the amendment I sent to the desk read because I want those who are not here, who are maybe in their offices, and their staff to understand what it is. It is not that long of an amendment. It basically tracks what I said earlier in my opening statement.

I wish to respond a little bit to what was said on the floor just a minute ago. First of all, I point out to the Senator from Alaska that maybe this might be more appropriate on the Labor-HHS bill, the Labor-Health and Human Services appropriations bill.

I remind people, tomorrow is the end of the fiscal year. They have not brought the Labor-Health and Human Services appropriations bill to the floor. We do not know if they are ever going to bring it to the floor. So we do not have an opportunity to offer it there. The Defense authorization bill was up, and they took that off the floor. So I have not had an opportunity to offer it there.

Now we have Defense appropriations. Quite frankly, this is about defense. It is about defending our people—not against a terrorist but against terrorism, the terrorism of an avian flu pandemic. That is what this is about.

Now, I heard the Senator talk about BioShield. Well, I think maybe we ought to understand that BioShield money cannot be used for this because BioShield money can only be used for drugs for which there is no commercial market. Obviously there is a great commercial market for Tamiflu.

So they can have all kinds of study groups and stuff going on down at the

White House, but they have been privy to this information for a long time down at the White House, I say to my colleagues, more privy to this information than we have been. So if people are saying, "Well, why are you offering this now?" I am offering it now because it is the midnight hour. We have to do something about this. We have to put the money up there. We have to get moving on it now—not next year, not after some study group in the White House has banged this thing around for another 3 months.

Who is in charge of this study group? I do not know. We had a briefing yesterday by Secretary Leavitt, Dr. Fauci, Dr. Gerberding, others. I thought it very unusual we would have a top-secret meeting, a briefing. Be that as it may, that is what they wanted to do. It became clear to me we have to do something. We can't dawdle any longer.

The Senator said there is a task force at the White House working under BioShield. That is not what this is about. BioShield, fine, that has its own process. There is a reason for BioShield, for developing drugs that have no commercial market. That is not what this is about. This is about money for surveillance, quarantine. It is about money for building up local public health facilities, buying antivirals to cover half of our people. There is a market for that. We just don't have them; that is all. It is about putting money into vaccine production.

We only have one flu vaccine manufacturing plant in America. I am told the reason for that is because there is not much profit in vaccines, not like Viagra or Cyalis, drugs such as that. I can't fault the drug companies. There is no money to be made from this. They are in the business of answering to their shareholders. This is a proper place for Government interference, interjection.

Some of the things I heard from Alaska didn't comport with what we are trying to do. H5N1, the virus that struck in Southeast Asia, was isolated. We brought it back to NIH. They have been developing a vaccine based on H5N1. Preliminary reports are promising, but we are not there yet. The problem is, if we run off on a tangent, all we do is make the vaccine for H5N1, we might be invaded by H5N2 or 3, or 4 or 5, some other mutation, and that vaccine may not be adaptable for that. That is why we need to build up the vaccination manufacturing capability in this country.

Yes, we need to be preparing the vaccine for H5N1, but we have to build up capacity for rapidly developing other vaccines in case it is a mutation and is not that virus. Keep in mind, this is not some scenario of maybe. When you talk to the people at the Centers for Disease Control and Prevention or NIH, they say it is not a matter of if, it is when. We have to be prepared.

We had warnings before. We had warnings about Katrina. We knew things weren't adequate in New Orleans and the gulf coast. We had a lot of warnings before 9/11 about terrorists blowing up the World Trade Center, using airplanes as weapons. We had all those warnings. We ignored them. We cannot afford to ignore this.

The chairman raised all kinds of arguments as to why this should not be on the Defense appropriations bill. Well, we don't have any other bill. It is before us. This is a money matter. It has to do with using Government money to get us ready. Quite frankly, I can think of a better place than the appropriations bill.

The Senator from Alaska also said this has never happened where we have done something that didn't pertain to our troops and defense on an appropriations bill. I am sorry. About 14 years ago, I offered an amendment to increase funding for breast cancer research to the Defense appropriations bill, and it was adopted. Quite frankly, I must say, the DOD has done a great job in utilizing those funds ever since, and the money we put in after that. They have done some of the best grant programs on breast cancer research. That didn't have anything to do with troops in the field, but it was added to the Defense bill. That is not the only example. There are others. I mentioned that one because I happened to be involved. To say we have never done this before on a Defense appropriations bill is not factual.

I am hopeful we can get to a vote on this amendment and have a strong bipartisan vote on this bill to get us ready and to reassure our people that we are going to defend them to the maximum extent possible from an outbreak of avian flu.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from North Carolina.

Mr. BURR. Mr. President, I rise to commend my colleague from Iowa. My colleague recognizes the need for this country to prepare for a possible influenza pandemic. I am not here to be a historian, to determine what has happened in the past on Defense appropriations bills. I will share that disease surveillance is not something new. It occurs day in and day out. The Centers for Disease Control is an active participant in the surveillance efforts for a potential global outbreak of avian flu. Post-9/11, this country became not only concerned but began actively preparing for consequences of chemical, biological, and radiological threats that could be used by terrorists.

We should pause and remind ourselves these potential acts can be deliberate, accidental, or natural. Clearly, the threat of avian flu is a natural occurrence. The Centers for Disease Control, the World Health Organization, all participate in preventing the spread of avian flu and work to make us better understand when that threat may affect us here at home.

The Senator from Iowa targets a number of things that are very appropriate and important: stockpiles, global surveillance, a national investment in domestic vaccine infrastructure, additional grant moneys for local public health agencies. But clearly, the chairman of the Appropriations Committee is right; the majority of these need to be considered in and appropriated from the committees that have jurisdiction over the relevant agencies—the National Institutes of Health, the Centers for Disease Control.

We are all alarmed about any of these threats, whether it is deliberate, accidental, or natural. This year the Subcommittee on Bioterrorism and Public Preparedness has held six hearings and/or roundtables on this subject. We have examined the infrastructure we currently have to research, develop, and approve countermeasures against all of these threats. These countermeasures can be antivirals, as the Senator spoke of, for avian flu. They could be vaccines, as we have already purchased with BioShield, for anthrax for example. We are committed to ensure that we have the right kinds of countermeasures to protect the American public.

But we have a fiduciary responsibility to the American people, too. That is to make sure that we do not invest billions and billions and billions of dollars into a stockpile that, in fact, has a life expectancy shorter than the threat.

I have come to plead with my colleagues, let's approach this in a comprehensive way. Let's, in fact, put together a plan that addresses not only avian flu but all of those chemical, biological, radiological threats that exist today. I remind you of the threat from anthrax and smallpox we have debated in this building before this date. I remind my colleagues that we have currently invested some $800 million for anthrax vaccines for the national stockpile. We have this week received a briefing from the Secretary of Health and Human Services, as Senator HARKIN said, and the Director of the CDC and the head of National Institute for Allergies and Infectious Diseases during which they talked about their initial approach to the threat of avian flu. I stress the word "initial" because it is yet to have the input of this body, of the committees, and the subcommittees that have held hearings, that have met with representatives from industry, that understand the deficiencies in our infrastructure to confront this and other similar threats.

Vaccine shortages are not just an infrastructure deficiency for avian flu. There is a deficiency across the board for vaccines in this country, in large part because of the policies we have adopted. I suggest this is not an issue we can just throw money at. This is an issue that needs a comprehensive plan and approach as to how we set up a structure and mechanism so we are not on this floor in the future talking about further deficiencies. In many cases, everything Senator HARKIN lists will be components of comprehensive legislation that we plan to deal with how much and what we should stockpile. It will deal with global surveillance and whether we can do it better than we do today. It will deal with the vaccine infrastructure and our reliance on having the manufacturing, research, and development capabilities on the shores of the United States and not have us reliant on a company that might have a facility outside of the United States.

Once again, I urge my colleagues, let's do it in a comprehensive way so we are prepared to move forward in an expedited process that would answer all these questions before we adjourn this calendar year.

Mr. HARKIN. Will the Senator yield?

Mr. BURR. I am happy to yield.

The PRESIDING OFFICER. The minority leader.

Mr. HARKIN. Mr. President, I was yielded to for a question.

The PRESIDING OFFICER. The Senator from North Carolina yielded for a question to the Senator from Iowa.

Mr. BURR. Will the Senator from Iowa allow me to yield to the minority leader?

Mr. HARKIN. Absolutely.

I thank the Senator. He is a very thoughtful individual and chairman of the Bioterrorism Subcommittee on which I sit. He has given a thoughtful response. I respect that. I think there is a certain logic to what the Senator has said. I might use the phrase "seductive logic," because obviously there is a lot more out there than just this.

I respond to my friend by using an analogy: Just as I thought, it was wrong to put FEMA under Homeland Security because they are two different things. Homeland Security has to do with terrorism, that kind of threat; FEMA, natural disasters. I still think those should be separate. I thought it was wrong before to put them together. This is also the same kind of thing. The bioterrorism the chairman has been doing a great job at, that is one thing. The surveillance that is needed for terrorism and things such as that is different than the kind of surveillance needed by the CDCP in terms of a flu outbreak. You are talking about different people, different disciplines, a whole different set of parameters other than fighting some kind of biological terrorist threat.

So while there may be logic, at some point, for doing this in a broader authorization bill—that is fine—I am saying to my friend, I don't think we have time to wait for that. I don't know when the bill would come up. Secondly, as I said to the chairman of this committee, this probably ought to be on the Labor-Health and Human Services appropriations bill. But that has not been brought up, and I don't know if it is ever going to be brought up.

So my thinking is that because of the urgency of this—and the Senator and I heard the briefing yesterday—I thought we ought to at least do something to get this thing moving and moving now rather be waiting to January or February or who knows when. So I submit to the chairman that while he has logic in what he says in putting this together, I think in this one case it has to be separated out right now. That is all I am trying to say.

Mr. BURR. Mr. President, let me try to connect the logic with the reality, that if the Senator permits me, I will sit down with him next week. I believe I can show him at least the initial language that puts this altogether in a comprehensive way and in fact addresses not only the deliberate and accidental biological, chemical, and radiological threats but also includes the natural threat that avian flu clearly emanates from. I believe there is a new structure, not an existing structure, within the framework that will work, and if the Senator will work with me next week, I think his comfort level would be as great as mine today that we can address this threat in a comprehensive way, and that is a pledge that we will do it expeditiously, this year.

Mr. HARKIN. I say to my friend, if he will yield further, I appreciate it. I would like to work with him on this, and I think our staffs have been, but again I am not certain when we are going to get to the appropriation on that. That is what I don't know. When will we ever get to an appropriation on that? I say to my friend, I don't know. As I said, there is a logic in what he is saying. I am saying because of the problem of avian flu, because it could be so imminent, I don't think we have any days to wait. That is all I am saying.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina holds time.

Mr. BURR. I would be happy to yield time to the minority leader.

Mr. REID. The Senator doesn't need to recognize me. The Chair needs to recognize me. Is he finished?

Mr. BURR. Does the Senator need time before 2:30?

Mr. REID. I don't know. Are we under controlled time?

The PRESIDING OFFICER. The Senate is not under controlled time.

Mr. REID. I would like to be recognized.

The PRESIDING OFFICER. Does the Senator from North Carolina yield the floor?

Mr. BURR. If the minority leader will allow me a few more minutes, I will conclude my comments as they relate to the amendment by the Senator from Iowa.

Let me say, if I can, for the purposes of what the Senator raised with me, there is a willingness on the part of Members on both sides of the aisle that this body move expeditiously to address this threat. I don't believe the timing is going to be a problem as we move through this year. I think it is a question of whether we sufficiently construct a mechanism to assure us that we have done the right thing; that just to dump money into any system that might be deficient today would be a mistake. I truly believe that with the support on both sides of the aisle and both bodies of leadership, this is an issue we can sufficiently resolve and we can do it in an expeditious way.

With that, I yield back my time.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, I thank you very much. I apologize to the Senator from North Carolina for interrupting. I did not mean to do that.

Mr. President, I approach this a little differently. There is always tomorrow. But on this issue, there is no tomorrow; there is only today. I have been worried about this issue for some time. Yesterday, my concern became paramount. The people of the State of Nevada and this country deserve our attention today, not tomorrow.

Dr. Julie Gerberding said:

> . . . many influenza experts, including those at CDC, consider the threat of a serious influenza pandemic to the United States to be high. Although the timing and impact of an influenza pandemic is unpredictable, the occurrence is inevitable and potentially devastating.

I am concerned about smallpox. I am concerned about anthrax. I am concerned about chemical terrorism, biological terrorism. But this pandemic is coming. We have been told this time and time again. I think it is incumbent upon this body to pass our amendment that is now before the Senate. Republicans and Democrats need to pass this amendment because the American people deserve it.

Four years after 9/11, the Government was supposed to be better prepared for the next national disaster. Yet as we witnessed all too clearly and painfully with Hurricane Katrina, our Government was not. We owe it to the American people to do better in the future. Today, we have that opportunity.

The human and economic toll of Hurricane Katrina has been dramatic, but the devastation caused by Katrina would pale in comparison with a potential global avian flu pandemic, which, the head of the Centers for Disease Control says is inevitable.

One health expert has concluded that nearly 2 million Americans would die in the first year alone from this. Now, a flu pandemic in the United States would cost our economy hundreds of billions of dollars due to death, lost productivity, and disruptions to commerce and society.

Perhaps the only thing more troubling than contemplating the possible consequences of avian flu is recognizing that neither this Nation nor the world is prepared to deal with it. We have no plan. Today we have no plan. We know that one of our best opportunities to limit the scope and consequences of any outbreak is to rapidly detect the emergence of a new strain that is capable of sustained human-to-human transmission. Yet we are not devoting enough resources to effective surveillance abroad.

We all know that State and local health departments will be on the front lines of a pandemic and health care providers must develop surge capacity plans so they can respond to a pandemic.

This Congress is poised to approve a $130 million cut for State and local preparedness funding for the Centers for Disease Control. That is in the President's budget—a $130 million cut.

We also know once a flu strain has been identified, we need to develop a vaccine. That takes time, some say as long as 8 months. Our existing stock of vaccines, assuming they are effective against a future, as yet unidentified, strain may protect less than 1 percent of all Americans. And we have only one domestic flu vaccine manufacturer located in the United States.

It is estimated that if our capacity to produce a vaccine is not improved, it could take 15 months to vaccinate the first responders, medical personnel and other high risk groups.

We know it will take months to develop, produce, and distribute a vaccine once we have had it perfected. But we must rely on antiviral medicines as a stopgap against this pandemic. Other nations that certainly do not have the resources we have, including Great Britain, France, Norway, Portugal, Switzerland, Finland, and New Zealand have ordered enough of this Tamiflu, an antiviral pill, to cover up to 40 percent of their population. We have virtually nothing.

The consequences of a pandemic could be far reaching, impacting virtually every sector of our society and our economy. Yet we have not taken appropriate action to prepare the medical community, business community, or the American public so they can take necessary steps to prepare for and respond to an avian flu outbreak.

This great country of ours can do better. We have to. We cannot afford to wait to do better. That is why I am so happy to join my friends in sponsoring this amendment.

To put this amendment in perspective, this amendment calls for $3.9 billion in emergency funds for pandemic flu preparedness at the CDC. To put this amount in perspective, the cost of our amendment is less than what we spend in 1 month on the war in Iraq—far less than we spend in 1 month there. We are facing the real prospect of another war here at home called the flu. This amendment would go a long way toward committing the resources necessary to fighting and winning the war.

People say, well, where are we going to get the money? We have no choice. The American people deserve it. We can't stay back saying we will do it tomorrow. We need to do it today and I want everyone within the sound of my voice to know this is not a partisan issue. We need Republicans and Democrats to support this effort because this flu is going to strike us all.

This is not meant to be alarmist. It is meant to let everyone know the time is here to do something about this.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, we have several minutes remaining before we move on. I take this opportunity to assure the minority leader that I was in the same briefing. I think all Members were somewhat shocked at some of the things we heard. This is a Member who was not shocked because I have been charged as a subcommittee chairman since the beginning of the year with looking at all the aspects of this. I read daily the international press reports of how many new cases of avian flu, in what country, how many humans have contracted it from an animal source, how many humans potentially have contracted it from another human. The reality is this is something that from a committee standpoint we keep up with. We understand the sense of urgency. I plead with my colleagues that the answer is not to throw money at the threat. It is to have a comprehensive plan where research and the investment for that research pays off in countermeasures to protect the American people.

Senator HARKIN described very well that what is H5N1 avian flu in most of Southeast Asia today, by the time it travels, whether it is by humans or potentially by wild birds, the mutations that may take place might make irrelevant any vaccine that is produced today and antivirals that exist today, used to treat it might have potentially less than a satisfactory effect. Without a system that invests in research and development, how in the world do we expect new antiviral drugs and new vaccines to be produced?

To suggest that we put all our eggs into this limited approach—let's put this money up, and let's buy whatever is available on the marketplace—is comforting if, in fact, we believe this is a threat for tomorrow or next week or next month. The reality is this pandemic may occur next year or 3 years or 5 years down the road, and if we want to protect the American people, if we want to do our job, then you have to set up a comprehensive mechanism for that research, that development, and whatever product is needed to address the threat we may face.

Again, I commend those Members who have come to the floor and proposed the appropriations for this item. I disagree that this is the appropriate bill. I disagree that you should appropriate this much money or any money without a comprehensive plan as to how we produce countermeasures that continue past this one appropriations.

I pledge to the minority leader and to Senator HARKIN, but more importantly to every Member of this body, to work with them aggressively over the next 60 days to not only produce legislation out of the subcommittee, but to work with my chairman, Chairman ENZI, and to work with both leaders and all 100 Senators to make sure this legislation is passed in this body and by the House of Representatives, and signed into law by this President. I believe that it is that urgent. But, there is also a requirement for us to do it right, in fact, that is the single most important factor that we should consider.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 4 p.m.

The Senator from Wyoming.

AMENDMENT NO. 1886 TO THE DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

Mr. ENZI. Mr. President, I wish to continue the discussion we were having. I cannot tell you how disappointed I am that the first amendment on the Department of Defense appropriations bill is one dealing with avian flu. If that is the most important amendment the other side of the aisle has for the Department of Defense bill, we ought to go ahead and vote on the appropriations bill as a whole right now. That is not the appropriate place to put it.

To make it sound as though nobody is working on this issue and no money is available is a total disservice to the agencies that work on it and this body as a whole. We have been working on it. We have been working on it partly through the Katrina episode, making sure vaccines and other items that were needed for whatever would be available down there in a timely manner. Fortunately, we already had some laws in effect that allowed the Secretary of Health and Human Services to take some emergency action to put items in place and get things done. We will be reviewing that to see if they worked as well as they could.

We have had a bioshield fund in place for a while. That bioshield fund has money in it to do what needs to be done on any kind of terrorism or pandemic that comes up. What we have lacked is the plan. Actually, the plan falls under the jurisdiction of my committee, and we have been working on it. I divided the committee up—and Senator HARKIN is on the committee—to more closely follow the acronym of our office. We are the HELP Committee, and we are in charge of health and education and labor and pensions.

Of course, we have been devoting a tremendous amount of time recently to getting a pensions bill ready so it can be debated on the floor on a moment's notice. It is ready to go. There is a lot of agreement on both sides of the aisle, so we can get that out of here pretty fast and protect hard-working Americans' pension funds. But we need to do the Department of Defense appropriations bill first.

A more appropriate place to debate this issue would be on almost anything that comes up later. As the Senator from Iowa knows, if there is a lot of debate on a bill that comes up, it probably is not going anywhere at this time of the year and with the crises we face. So perhaps that is why he decided he would put it on this bill.

We are working on it. Again I assure everybody we are working on it in the subcommittee that deals with public health and bioterrorism, under the jurisdiction of Senator BURR. He has been doing an outstanding job with that subcommittee. He hired some spectacular people who have a depth of understanding that I don't think we have seen for a long time in regard to those particular issues. He has held hearings on those issues and gathered valuable information. He has gone pretty far afield to make sure we are covering all of the things that could happen.

He has a bill that is virtually ready to go. It will include the capability and the plan for handling a pandemic, as well as any unexpected event. It greatly compresses the time for dealing with those issues from anything we have had before. It provides a coordination basis that is necessary for unexpected events.

I congratulate him for his efforts and for how widely he has researched it, and for the number of fellow Senators he has involved in it.

Yesterday, there was a briefing he helped set up so we would know more about, particularly, avian flu. That kind of thoroughness should be congratulated. We ought to be working with him to make sure we are getting the bill done.

I have to say, whether the threat is made by man or one that occurs naturally, we need to be prepared, and I agree with Senator HARKIN on that point.

Senator HARKIN, Senator BURR, and I serve on the Senate Committee on Health, Education, Labor, and Pensions. All of us also serve on the Subcommittee on Bioterrorism and Public Health Preparedness. As I said, Senator BURR is chairman of that subcommittee. He has held six hearings and roundtables on what we need to do to have a strong national biodefense.

As chairman of the full committee, I am looking forward to working with Senator BURR, Senator HARKIN, and the rest of the committee members to pass a bill this fall that will develop our capabilities to develop defenses against avian flu and a host of other biological threats we face—some known and some unknown—regardless of whether they are manmade or naturally occurring.

Senator BURR has been working on that comprehensive bill to build on Project BioShield. His bill will address everything from liability protection to biosurveillance, from the threat of terrorism to the threat of a normal disease.

As committee chairman, I fully intend to report that legislation to the floor this year to create a viable and innovative biodefense industry. We do need to create incentives and eliminate barriers to develop this industry because we cannot count on the Government alone to supply us with the countermeasures, the antidotes, and the detection tools we have to have to ensure our safety against biological threats.

Most importantly, we already have billions of dollars available in Project BioShield to do what Senator HARKIN wants to do. What we need to do is create an environment that will encourage business into this industry before we discourage them out of the industry. We need to get them back in. We need the innovativeness of small business and big business, and we need to make it more attractive so the drug and biotechnology companies will want to be engaged.

We have the money. What we need is a plan, and that plan is what we have been working on diligently. I do ask Senator HARKIN to work with me, to work with Senator BURR, to work with our majority leader, and to work with Senator KENNEDY, the ranking member on the HELP Committee, to make that happen. We have the capability to do it. We should be able to put together a package that should take relatively short debate on the floor, the House can match up to it, and we can do a conference and get it into effect. That would be better than having a full-blown debate on the Department of Defense appropriations bill, holding that bill up interminably when the money is needed, and creating difficulty in the conference committee, which will undoubtedly result in this measure being thrown out of the conference committee because it is not applicable to this bill and, therefore, that conference committee.

I appreciate the attention he has brought to the issue. It has brought attention to the issue. We need to do it the right way, and that is to include it in the development of a comprehensive bill that will deal with public health and bioterrorism.

Again, I congratulate Senator BURR and all those who have been working with him on developing that bill. I don't think anybody could have put it together in a shorter time period than he has. We are just 9 months into this term, and he is already delivering. That is a tremendous statement on our part of his capability. Again, I cannot express how thorough it has been. Let's do it right. Let's do it through a stand-alone bill on which both sides of the aisle can join. Let's get this done, solved, and eliminate it as a problem under the Department of Defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

AVIAN FLU

Mr. BAYH. Mr. President, let me begin by thanking our colleague, Senator KENNEDY from Massachusetts. He is busy and has a lot on his agenda. He has graciously agreed to let me speak before giving his remarks. I thank him for his courtesy.

I also commend Senator HARKIN, our colleague from Iowa, and Minority Leader HARRY REID for putting this pressing issue squarely on the national agenda. The issue of avian flu is one of the critically important issues of our time. Second only to the potential for the existence of weapons of mass destruction in the hands of suicidal terrorists, this issue has the potential to be catastrophic to the national security interests of this country.

I cannot imagine a more timely issue or one more appropriate to be brought up on this legislation than something that will protect the American people who are currently dreadfully exposed to the possibility of a global pandemic. We need a new sense of urgency in addressing this issue.

People have died because of avian influenza: 115 people have contracted it in Asia; 59 of those people have died. Leading experts say it is only a matter of time before this deadly disease becomes more efficient in moving from person to person. We should not await that dreadful day, but act proactively to protect the national security interests and the health interests of the people of the United States of America.

Previous influenza epidemics have been catastrophic, killing not hundreds of thousands, but millions of human beings. We cannot afford to wait for that kind of event to occur.

We are currently woefully unprepared. The estimates are that we have in our stockpiles only enough vaccine to cover about 1 percent of the American people. There are about 2.3 million doses of Tamiflu and 2 million doses of experimental pandemic flu vaccine in our stockpile. And another antiviral may have been compromised by the Chinese use on their poultry population, thereby imperiling its efficacy. We are way behind the curve in preparing for a potential outbreak or pandemic of this severity and potential magnitude. Other developed nations are way ahead of us in terms of compiling their stockpiles and preparing their public health agencies for a rapid response to this grave health threat.

The final point I wish to make is I think more than anything else, the lesson of Hurricane Katrina has taught us this: When it is a matter of life and death for the American people, we better prepare for the worst, even as we hope for the best because then one of two things will happen: If the worst occurs, you are prepared to protect the life, the security, and the safety of those who place their confidence in us. That is the very least they should expect from their Government. And if the worst did not happen, then we will be pleasantly surprised.

When it comes to dealing with avian influenza, let us not have a repeat of the mistakes of Hurricane Katrina. Let us be prepared so we may protect our citizens or so we may be pleasantly surprised. That is what Government is all about. That is why I am pleased to be a cosponsor of the Harkin amendment.

I thank our leader HARRY REID and, once again, Senator KENNEDY for a lifetime of leadership on these issues and for his courtesy to me today.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I first pay tribute to my friend, colleague, and the chairman of our HELP Committee, Senator ENZI, for his comments and his statements. We have worked very closely together and will continue to do so on a variety of different health-related issues. We are working together on the challenges that we are facing from Hurricane Katrina, and we are also working on health and education, as well as issues of pensions and higher education.

We come at this with somewhat different viewpoints. First, I commend Secretary Leavitt for an excellent briefing and presentation yesterday. All of our colleagues have had the opportunity to read in our national newspapers the dangers associated with avian influenza, including the potential threat that it presents and why it is different from the seasonal flu that concerns families all over this country, particularly to the elderly.

We have to be reminded that 36,000 people every year die from the flu, even when we work to make sure they have access to the appropriate flu vaccine. But that is the number that we lose, and that certainly is a tragedy.

We heard an outstanding presentation by Secretary Leavitt, as well as an outstanding presentation by Dr. Julie Gerberding, who is the head of the CDC and who has been enormously perceptive in terms of looking at the avian flu that we are facing. We also heard from General Michael Hayden, Deputy Director of National Intelligence, and others. The one thing that came out of that meeting, that I think all of us were impressed by, is the sense of immediacy. I think that is what Senator HARKIN is reacting to and responding to, the real potential danger which would be devastating to potentially tens of millions of Americans.

Perhaps we are being overly sensitive to this issue by adding this amendment to the Defense appropriations bill because of the recent tragedy of Hurricanes Katrina and Rita. Obviously Katrina has been particularly devastating, and Rita was certainly enormously harmful as well.

There were several of us in that briefing who left saying if we are going to make a mistake, it will be on the side of taking too much action.

The Secretary outlined a very vigorous program that he himself is involved in, working with the other agencies of Government and working with other members of the Cabinet. Avian flu is going to involve just about every kind of public policy issue, including transportation, health, commerce, and so many others. He gave us the assurance that he is going to have his own plan that will be released in the next few weeks.

As Senator HARKIN and others have pointed out, this particular legislation outlines the areas where funding should be directed, and also gives great flexibility to the administration in terms of its expenditures. Senator HARKIN says that the funds will be available until spent. By passing this amendment today, we will not get caught at a time when either the Senate or the House is not in session. We now have an opportunity to make the necessary resources available, as well as direct the ways that it ought to be expended.

During the presentation, the Secretary pointed out that their goal was to buy enough antiviral treatment to cover 80 million people, which is about one-quarter of the Nation's population. That was going to be at the cost of $20 a course of treatment. It was brought up by our colleagues that if this pandemic strikes the United States, there is not going to be a family that is not going to want to make sure that they have protections for their children and for themselves, for their spouses, for their parents, and for their grandparents.

Every family is going to want to make sure they are able to afford and obtain that antiviral treatment. If one is affected by avian influenza and the antiviral treatment is taken immediately, the risk of death is diminished in a dramatic way. I think it is going to be very difficult to accept that this Nation will be satisfied with just one out of four Americans having access to this treatment. Even more so, when we already know the potential dangers of a pandemic by what we have seen in the places affected and impacted by avian flu.

This legislation will only cover 50 percent of the population. It does not cover three out of four Americans. And, it does not cover the whole population. It costs $1.6 billion just to cover a quarter. We doubled that roughly to $3.2 billion, which puts us into the range suggested by experts.

The point that was made very carefully by the Secretary is that we are going to have to deal with surge capacity, and that our hospitals do not have this capability at the present time. That is going to be very important.

Previously, we have provided help and assistance to local communities and to State agencies to help them meet their surge capacity needs. Beyond that, it is going to be enormously important that we invest funds, as this legislation does, in surveillance—not only detection in this country but detection in foreign countries. That is the best way that we are going to be able to deal with this avian flu, to get the earliest possible detection.

As a result of that briefing yesterday, I do not think any of us would feel that we have a full alert system working around the world. We had reports from various countries. A number of the countries, large countries as well as small, have effectively buried this health challenge and denied that they ever had it. We have to be very proactive if we are going to protect Americans. We have to be able to develop a system internationally where we can identify early warning signs of a pandemic. That kind of surveillance, is included in this legislation.

We have to make sure we have the capability in our States to be able to detect this when it first affects a community. We have to set up a system for our health clinics and for our hospitals to make sure that the first indications of this kind of health challenge are going to be addressed. We need the detection and then we need the containment. To contain flu, we need to build our public health infrastructure in the local community. We are very far away from that kind of capability.

A year ago, I think the Department submitted a public report about how many States actually had moved ahead in terms of developing their plans. About half of the states have yet to develop pandemic preparedness plans, and those with plans have yet to be evaluated for quality and feasibility.

When I entered the Chamber, I was listening to my friend, Senator ENZI, talk about the BioShield Program which we put in place in preparation for the kind of challenge that we might face from bioterrorists. It focused on different bioterrorism agents that might pose a direct health threat, and allows the Secretary to put in place a system to respond quickly and effectively to those kinds of challenges.

Our colleague, Senator BURR from North Carolina, has held an extraordinary number of hearings in these areas. I know he has been preparing legislation to deal with a number of these items that I am mentioning today. He has done a magnificent job in the development of those hearings. But that still does not mean that with the kind of challenge avian flu presents, which can be so devastating, that we should not be alert and ready to go.

We can point out that our whole system of vaccines is woefully lagging in the United States for a variety of different reasons. Today, we do not have the direct capability and capacity to develop the kind of avian flu countermeasures we need, including vaccines or producing enough antiviral medication. The best estimate is even if we were to give all the contracts out today, it would be well into the year 2007 before we were able to provide important coverage for all Americans. So we are talking years into the future before we can even provide Tamiflu, something that we know can make a difference.

It does seem to me that we do not have a day to waste. This is something that is very dangerous.

Finally, one could ask, Is it appropriate to be on a Defense appropriations bill? Well, if we were talking about something like nuclear weapons, I would say, yes, because we are concerned about the dangers of nuclear proliferation. I, quite frankly, believe avian flu presents a much greater threat, because it is imminent, highly lethal, and we have few countermeasures.

I do not see a great difference myself—certainly it will not be much of a difference to the families who are affected, whether it is terrorism or the fact that this kind of influenza has spread to this country and their family is infected with a deadly virus. That is why I believe that action is necessary.

Very quickly, we have seen reductions in two very important agencies. One is HRSA, which provides grants to help hospitals in the area of preparedness so that they can develop a response plan, get clearance with the State and HHS. Hospitals have begun working on plans, but they are woefully far behind, and this program was cut again this year.

Then we have the Centers for Disease Control that will be certainly a lead agency—I would hope that it would be a lead agency—and we know that their public health expenditures have been reduced. I think this is tragic myself. It is a jewel of an organization in terms of American public health, and it has done extraordinarily well. It is extremely well led at the present time, and it does not seem appropriate to me that we ought to be reducing the CDC budget, when the agency has such great responsibility in this area at this time.

Yesterday, when I asked Secretary Leavitt whether we could actually use the BioShield money—I think we have close to $6 billion in that—he said that it was set up and structured so that the funds are not applicable to this particular kind of challenge.

I think the amounts we are talking about are appropriate, given the essential nature of the potential disaster. The new flu strain poses a deadly threat. One of the important points made by Secretary Leavitt yesterday is that even this very deadly strain they are most concerned about can mutate further. It is always somewhat difficult to develop the vaccines and antivirals because these strains can alter and change, making the vaccines no longer effective. But having said that, they believe the treatments they have developed can have an important impact on saving the lives of those infected with avian flu. In the areas already affected with avian flu, we see a death rate of 44 percent in Vietnam, 71 percent in Thailand, almost 100 percent in Cambodia—and an average of 50 percent for all of Asia.

The great challenge, as we heard yesterday, occurs when it moves from the birds into human beings. That is a big leap. I will come back and make a longer talk about how that comes about and how rare that process is, but that has happened.

Then, the next leap is whether it is easily spread from person to person. For example, if one member of the family—if a child has it, is it easily communicable to the child's siblings? There is only one recorded instance, as we were told yesterday, where that has taken place. But it has taken place. That is a very important warning sign because it suggests that this influenza has the potential to become a pandemic and be absolutely devastating.

We were reminded yesterday, during the briefing, there are usually three pandemics every 100 years. They talked about what happened in the immediate postwar period of 1918, when soldiers had been at the front and they contracted dangerous influenza. In the US, over 500,000 people died from that pandemic flu, and another 50 million worldwide died.

We do not want to be unduly alarmist, but we have to be serious about it. This meeting we had was in S–407. It was going to be top secret, evidently. I said to the Secretary, now that we have heard all this news, it seems to me the public ought to know about it, they ought to understand it, and it ought to be explained by the top health officials in the country so we get accurate information. We have a number of those—Secretary Leavitt, Dr. Tony Fauci, Dr. Julie Gerberding—who are enormously competent, thoughtful scientists, researchers, who have a lifetime of commitment trying to understand these dangers. The more Americans listen to them and read the information on this and the authentic science, the better off they are going to be.

But I believe this Harkin amendment is saying we have been put on notice. If there is an avian flu outbreak, they will say, Didn't you go to the briefing upstairs in 407 where they laid this out to you? You are on the HELP committee. You know the dangers. You worked with Senator FRIST when we passed BioShield. Senator BURR, when he was in the House, was a principal sponsor—even before 9/11. The elements of preparedness, detection, and containment that are in this amendment were included in BioShield as well. These are thoughtful ideas. There is strong support for them in the HELP Committee. Today, we have an opportunity to take action on the floor. The administration is going to be responsible for that when this amendment is passed.

I join with my colleague and friend, Senator ENZI, and with Senator BURR, our other colleague who has provided great leadership in the committee, to get legislation on preparedness out as early as possible.

My chairman, Senator ENZI, likes to do it the old-fashioned way. He likes to listen to witnesses make the presentations, mark up the bill and get it to the floor, and he does it with extraordinary success. I would say, on this particular occasion, we ought to get the resources out there now.

Senator HARKIN has outlined the general areas which I think are justifiable, where the resources should be spent. I would also like to see the Secretary bring together all the major drug companies, which I think he intends to do, and go over this and get a plan from them about how we can maximize the safety and security for all Americans. This is what this amendment is all about.

I thank my colleague from Wyoming for his comments and statements about avian flu. I look forward to working with him on this issue. Our only real difference is whether we move ahead now, trying to at least provide those essential resources for the Secretary, the President, and the administration, to act now and prepare us for the threat of avian flu or wait until it's too late.

We can work with our colleagues within our committee to try to develop additional legislation to further improve our preparedness and develop effective treatments for avian flu. That is certainly a responsibility that we have. I welcome the opportunity to do that with my friend from Wyoming and also the Senator from North Carolina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, reflect for a moment on what America went through with Hurricane Katrina, reflect on what it has meant to our country and what it has meant to our Government. That was the greatest natural disaster of modern time. Americans were shaken to the core watching television night after night to see victims of Hurricane Katrina and what they were living through. Many of those scenes we witnessed did not look like America. It just doesn't seem like our great Nation where people would be in such a helpless and almost hopeless state—to find people struggling just to survive the floodwaters and the hurricane damage, to see Americans begging for water and food, to see what appeared to be refugees—in fact, evacuees—trying to bring their children across interstate bridges to dry land, to see people thrown in many different directions, families divided and still not united. To see all of that occur day in and day out 24-7 was a startling scene. It was an indication to all of us that we needed to take a step back and take a look at America from a different angle.

Perhaps too many of us had been lulled into the belief that this sort of thing could never happen, that leaders in America would never let us reach this terrible point, whether it is a natural disaster or a terrorist disaster, that someone somewhere in Washington or in a State capital or in a city hall had not made preparations and plans to deal with it. It is that concern that has led so many people to call for an honest appraisal of what happened with Hurricane Katrina and Hurricane Rita and what we need to do in America to be better and stronger and better prepared.

I don't think the people of this country expect the Senate or their Government to look at the world through the rearview mirror. We can't spend our time looking back and reliving every moment and pointing a finger of blame here and there or some place for some satisfaction, personal or political. But it is critically important that we review that scenario, that we don't repeat the same mistake, so that the next time, we are better prepared. That is what we need.

That is why we need an independent, nonpartisan commission—people without allegiance to the President or to the Democratic Party or to the Republican Party but people who are truly Americans first who will come together in a commission and ask those questions so that we can be better prepared for our future. Unfortunately, there has been resistance to this idea, but that is nothing new.

After 9/11, many of us called for the creation of a commission to find out why our intelligence sources failed so miserably and what we could have done to avoid that terrible disaster of 9/11. At that time, the White House opposed the creation of the 9/11 Commission, and many members of the President's party also said it is premature, we don't need it. But good sense prevailed. More than that, the 9/11 survivors' families prevailed—those widows and widowers, those children and spouses who came forward and demanded the creation of this independent Commission. They were the political force. They were an irresistible force. They created this Commission with two extremely talented individuals: Governor Kean of New Jersey, a Republican, and Congressman Lee Hamilton of Indiana, a Democrat. They came together with others of like mind and did a great national service.

The 9/11 Commission not only analyzed what went wrong, which you almost have to start with, but then they said: Here is how we could do better. They produced a proposal for reforming the intelligence agencies of America—there are many of them—so that they would be better coordinated, share information, and be there to protect America. The first line of defense against any terrorism is not our military. The first line of defense is intelligence. We need to see the danger coming before it strikes and stop it. That is what good intelligence can bring you.

With their suggestions, on a bipartisan basis with the support the 9/11 families, we moved forward. Credit should go where it is due. In the Senate, SUSAN COLLINS, Republican of Maine, and Senator JOE LIEBERMAN, Democrat of Connecticut, took the proposals of the 9/11 Commission, working with the Members of the House of Representatives, and crafted a piece of legislation which I was honored to be part of, and we worked literally for months to get that done. We gave up a valuable commodity around here: we gave up our time with our families. We came back during the August recess and held hearings. We pushed the bill, and it was signed by the President.

Good things happened. Why? Because we had the right leaders in place. These Commission leaders were in place. They pointed to weaknesses, and they told us how we could overcome. They called for reform. They stayed with the agenda until it was accomplished. It was a model for all of us and one we should look to when it comes to Hurricane Katrina and Hurricane Rita. That is why I believe an independent, nonpartisan commission is so necessary.

The House of Representatives had a hearing earlier this week. They brought in Michael Brown. He pointed a finger of blame in every direction, including his own administration. When it was all said and done, people said: Well, at least he was brought before this committee and the members that did appear and was held accountable. That is a good thing. It is an important thing. But it isn't going to bring us to the point we ought to be in this country. We want to find out what went wrong. Why didn't we think ahead if we had been warned so many times about the dangers in New Orleans? Why didn't we plan ahead when it came to positioning forces, positioning food and supplies? Why didn't we have a communications network that could survive a natural disaster? Why didn't we have better cooperation at all levels of government? Where do we need to change the law so that at some given moment, it is clear who is in charge? What could we have done to save those lives we lost in those disasters? What should we do now to reunite these families and put their lives back in order? These are all valid points.

The reason I have reflected on these circumstances, 9/11 and the hurricanes, is because the amendment that is pending right now on this Department of Defense appropriations bill gives this Senate an opportunity to step forward right now at an early moment to avert the next tragedy. Let me tell you what I mean. We need a wake-up call in America. Most public health officials here and around the world agree that an outbreak of a new pandemic is virtually inevitable. I use the words "virtually inevitable" with some care. Those are the words of Dr. Gerberding, who is the head of the Centers for Disease Control.

You have to be a student of history to remember the great flu pandemic of 1918 that claimed so many innocent lives in America. What Dr. Gerberding and other health officials are telling us is that unless we aggressively monitor and immediately contain this avian flu, it is likely to be a global pandemic.

The difference, of course, is the world of 2005 is so much different from the world of 1918. In the world of 2005, an infected person is 12 hours away from your doorstep. That is about as long as it takes to fly from one part of the world to another.

We have to prepare and we have to start now, no excuses. That is why the Harkin amendment, which I am happy to cosponsor, is so important. People say: Why would you bring up an amendment about a national pandemic of avian flu on a Department of Defense appropriations? Don't you have health appropriations or other things? It is true. And Senator HARKIN and I happen to be on the subcommittee that would more naturally be the place to bring up this amendment. However, he is doing it because we have relatively few opportunities in this Senate to act. We believe, in supporting this amendment, we need to act, and to act now.

I am told what makes the avian flu so dangerous is that humans have no natural immunity to this strain of flu. We remember the flu shots and all the warnings we have received over the years. For the most part, those flu shots are increasing our already natural resistance to flu. When it comes to the new strain of avian flu, we have no resistance. We have no immunity. It is not a question of children and sick people and the elderly being vulnerable, we are all vulnerable. That is what happened in 1918. The healthiest looking people on the street could be dead in 24 hours. That was the nature of that flu and could be the nature of this flu challenge.

The Centers for Disease Control has suggested that an avian flu outbreak in the United States could claim the lives of 200,000 people—a conservative estimate. Compare that to 36,000 lives lost each flu season to typical, normal flu. It is not just that the CDC that is anticipating a flu pandemic. Yesterday, Senator FRIST asked the Secretary of Health and Human Services, Mr. Leavitt, to ensure that there are U.S. antiviral drugs in the national stockpile to provide treatment for 50 percent of the American population in the event of an outbreak. I fully support Senator FRIST's recommendation. As most everyone knows, he is a medical doctor, in addition to being the majority leader of the Senate.

I am pleased to join in offering this amendment which provides the Department of Health and Human Services with the money it needs to purchase those drugs. That recommendation alone will require about $3 billion.

What is the antiviral drug? The one most commonly referred to is called Tamiflu. If a person has flu-like symptoms and calls the doctor as soon as they feel them coming on, that doctor might prescribe Tamiflu, which if taken quickly, could lessen the severity of the influenza. The notion is, we should be prepared as a nation with this antiviral Tamiflu in the stockpile, or something like it, so that if we do see this flu coming toward America, we are prepared to provide some treatment for people as they start to exhibit symptoms.

This amendment that Senator HARKIN has offered, with my support and others, provides funding to the Department of Health and Human Services so it can enter into a contract to buy those drugs now. Until the Department of Health and Human Services has that money on hand, all of our conversations are just theoretical.

Remember last year when we talked about running out of flu vaccine, and the flu had already hit? It was a little late. That is what we are trying to avoid. Step in early for the virtually inevitable pandemic and have a stockpile of medicine available for America. Be prepared. That is what this amendment has as its watchword.

The Department of Health and Human Services cannot add antiviral drugs to the stockpile until it has the money to purchase them. This amendment provides the money to the Department of Health and Human Services so they can purchase drugs to treat up to 50 percent of the U.S. population.

I asked yesterday in one of the briefings, why did you pick a number like 40 or 50 percent? The public health experts, such as Dr. Fauci and others, say that is the percentage of the population we think may be exposed. Let's not revisit the scenario of last year's flu season when there was not enough medicine and we had to make decisions about rationing the medicine. There came a time when we said there is not enough flu vaccine. I said, well, I feel pretty healthy, I will get to the end of the line. And when it was all over we ended up with more than we needed. It was not good management of flu vaccine in our country.

Baruch Fischoff of Carnegie Mellon University, an expert on the public perception of risk, says telling people they cannot get flu treatment "isn't the American way." "That is rationed health care. We just do not accept that."

We have to prepare for developing something else which is going to take a lot of energy, a lot of resource and ingenuity. We have to prepare and develop a vaccine to deal with this flu that prevents the infection from ever setting in. Right now, that vaccine does not exist. Even if it did, we do not have the manufacturing capacity in the United States to produce vaccines at the rate we need them.

Senator HARKIN's amendment, now pending, doubles our commitment to research and development, the manufacture of, even the purchase of an effective avian flu vaccine.

Remember last year when one of two flu vaccine manufacturers for a typical flu season had to close its European facility? The United States could not turn to any domestic supplier to make up for the loss of those doses of vaccine because we did not have that capacity.

We talk a lot about the U.S. dependence on foreign suppliers for oil. We shouldn't have to depend on other countries for the medicines we need during a global health crisis.

Another lesson from last year's flu vaccine shortage, we have to have a plan. In the face of the vaccine shortage, prices for a dose of flu vaccine in Kansas at one point went as high as $600. In Colorado, 600 doses of flu vaccine were stolen from a doctor's office.

Despite these images of chaos, State and local health officials worked long and hard to maintain calm and also figure out how many doses there were, where they were, and how to get them to the people who needed them the most.

If we intend to rely on good work, long hours, and a public health workforce that does not get sick, we may be in trouble. This amendment restores cuts to State and local public health agencies so they will have the money to be prepared. It includes enough money for communities to figure out where we will take care of people who are sick when the hospitals and clinics reach capacity, which could happen.

Again, the people who turned New Orleans airport into a hospital showed bravery and grace under pressure. But we can do better than airport lounges and convention centers as makeshift clinics in America—only if we think ahead; only if we are prepared. Let's give our State and local agencies the resources and timeline to prepare for a pandemic flu outbreak.

This time, we are virtually certain it is going to hit. This time, no excuses. We should be prepared. We need to begin now to prepare, and do it aggressively. The best possible outcome would be an early detection of the outbreak, quick containment and treatment, and then development of a vaccine to prevent its spread. This amendment doubles the investment of the Centers for Disease Control in global disease detection in an effort to find, stop, and prevent the spread of the avian flu as soon as it mutates into a strain that can move efficiently, in the words of the medical community, "from person to person."

I heard one of the public health leaders the other day say it might not be this winter, it might be next winter, but it is going to happen. If we know that, and we do not act to prepare for what President Bush says could become the first pandemic of the 21st century, we are failing in leadership. We will have failed as much as any official who did not respond to the catastrophe of Hurricane Katrina.

The funding we propose to add to this bill to prepare for a virtually inevitable, probably global public health crisis is less than we spend on the war in Iraq in 1 month. That is what it will take to get America ready so this avian flu does not claim so many lives.

This investment will, in fact, save lives. Hundreds of thousands of American lives could be spared, by the most conservative estimates. It could be as many as 1.7 million American lives that are at risk in this pandemic, according to an adviser to the Department of Homeland Security. Understand, this amendment does not create any new programs or start any new initiatives. It simply accelerates the work of the CDC in preparing for the outbreak of this deadly flu. The preparation will take time. There is not much we can do about that. Avian flu could begin to spread at any time.

Currently, they have reported 115 cases of avian flu around the world. Where humans were affected by it, over half of them have died. There isn't anything we can do about the current situation, but there is something we can do about the threat to America. What we can do is step up to this challenge, purchase the antiviral drugs we need now, invest in domestic capabilities for vaccine protection for America, and prepare for emergency care during a flu pandemic.

We talk a lot about national security in the Department of Defense bill, but a strong America begins at home. We found that out. We found it out on the gulf coast. We were not prepared. We did not do our job. No one stood up soon enough and early enough and said it is time to hold people accountable. It is time to think ahead, think beyond the moment, think to what we need.

What if I am wrong? What if this flu pandemic does not occur? What if this money is invested in things that, frankly, do not become necessary? That could happen. And I pray that it does. If we could spare Americans and people around the world the suffering that could be associated with that pandemic, I wish that happily. I would be glad to stand and say, well, perhaps we did too much too soon. But I would much rather stand here and apologize for doing too much too soon than to stand here and make excuses for not doing enough when we had to.

The Harkin amendment is an important amendment for the strength of America, for the health of America, and for the protection of America. I look forward to supporting it. It would be wonderful if we had a strong bipartisan rollcall to say that we will start with this national challenge, coming together in a bipartisan fashion, both the administration and Congress dedicated to making certain that we learned a lesson from Hurricane Katrina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

ETHANOL

Mr. NELSON of Florida. Mr. President, I am here for my daily speech on oil independence for this country. Before the assistant minority leader leaves the floor, as he has been such a leader in this area, and before this Senator launches into this series of conversations for the Senate about the need to have oil independence and the ways that we can be going about it, bringing to the Senate each day a new kind of technology we should be looking at—today I am going to talk about the expansion of ethanol—I invite the Senior Senator from Illinois, since he has been such a leader in this area, for any comments that the Senator would like to make in a colloquy before I continue with the series of speeches on oil independence.

Mr. DURBIN. Mr. President, I thank the Senator from Florida. He has identified an issue which every American family understands every time they go to the gasoline station.

The cost of filling up the tank nowadays is stunning. Even the automobile manufacturers are starting to advertise cars with good gas mileage. We haven't seen that in a long time, have we? It reminds all Americans how dependent we are on foreign fuel and foreign sources of energy.

The Senator from Florida, a leader on this issue, remembers we brought an amendment to the floor on the Energy bill saying we believe America should set as a national goal reducing our dependence on foreign oil by 40 percent over the next 20 years. Sadly, it was defeated on a partisan rollcall.

I cannot believe this is a partisan issue. Our dependence on foreign energy puts us at the mercy of the Saudis and others who really do not lose a lot of sleep if our economy is not doing well and if our families suffer.

I am glad the Senator stepped forward. He identifies ethanol. It is near and dear to my heart because my State produces more than any other State. And it is homegrown. We do not need to have a Saudi prince smiling at us to find a gallon of ethanol. All we need is for God to bless us with a little sunshine on that corn crop, and we know just what to do with it.

I am glad the Senator is raising this issue. It goes back to a point I made in my earlier statement about public health: a stronger America begins at home. What the Senator from Florida is reminding us is whether it is public health or energy, it is time to focus the ingenuity, creativity, and innovation of this country into making America stronger at home. I am glad the Senator is leading us in that discussion today.

Mr. NELSON of Florida. I would like the Senator from Illinois to respond to the fact that Hurricane Katrina and now Hurricane Rita has given us another lesson of just how thin and delicate this oil supply and refinery pipeline is, so that the least little disruption in it—a hurricane or the shutting down of a refinery, in this case, five or six refineries that are shut down, or, Lord forbid, a terrorist act, the sinking by a terrorist of a supertanker in the Strait of Hormuz in the Persian Gulf—any one of these things could absolutely disrupt the world that is so thirsty for oil consumption, and could send our gasoline prices not shooting through $3, but could be sending it through $4 and $5 and $6 a gallon.

Would the Senator comment on that?

Mr. DURBIN. I would like to comment, through the Chair, and say to the Senator from Florida that because of the hurricanes we have lost 22 percent of our refining capacity in America. So if you wonder why the price of gasoline is high, higher than it has been historically, that is one of the reasons. I might add, parenthetically, when it comes to the price of gasoline and oil companies, almost any excuse will do to raise the price of gasoline. But in this case, we know that the reduction of 22 percent of our refining capacity means there is less gasoline on hand and, therefore, prices are being pushed upwards.

Today at a press conference, I announced a bill that I am going to introduce which will create a national gasoline reserve and jet fuel reserve. Presently, we have 700 million barrels of crude oil which are being held as our National Petroleum Reserve. The President started releasing that. But releasing crude oil does not meet the need for refining capacity. So the crude oil coming into this narrow funnel of reduced refining capacity does not solve the need.

What I believe we should do is give to any President a tool to respond to shortages in gasoline in various regions that cause price spikes; the same thing with jet fuel. Three new airlines are in bankruptcy mainly because of the increase in the price of jet fuel. So we think we should be setting aside these resources, again, keeping America strong at home, so we are not watching our economy flounder and our families suffer because of these skyrocketing gasoline prices.

Mr. NELSON of Florida. Mr. President, I would like the Senator from Illinois to comment on the fact that in America most of the oil consumption is in the transportation sector. In the transportation sector, most of the oil is consumed in our personal vehicles. So we could start reducing the consumption of oil in our own vehicles a little, have increased miles per gallon, substitute ethanol for gasoline, have hybrid engines, hybrid engines you plug in to give a full charge at night while it is in the garage. We could have ethanol not made just from corn, which is homegrown, but made from sugarcane, sugar beats, cellulose. It could be grass. We happen to have 31 million acres of prairie grass in this country. Cut the grass. Make cheaper ethanol. Therefore, for every gallon of ethanol that goes into that gas tank—and you can use existing engines in our personal vehicles—you are making a mixture of gasoline and ethanol, and that means we are burning that much less gasoline, which means we are burning that much less oil that we have to import from foreign shores.

I would like the Senator from Illinois, who has been a leader in this area, to comment.

Mr. DURBIN. Responding to the Senator from Florida, through the Chair, the nation of Brazil decided, years ago, they were tired of their vulnerability to foreign energy sources and they said: We are going to make a national mission of energy independence. By moving toward homegrown fuels and conservation, they have reduced their dependence on foreign oil to less than 15 percent, while the United States depends on foreign oil, consuming over 60 percent at the current time. And most of it, as the Senator said, goes into the cars and trucks we drive.

The Senator raises an issue that is near and dear to my heart about the fuel efficiency of cars and trucks. A little walk down memory lane: In 1975, when the price of a barrel of oil went up from $3 to $5, to $12, America went into a panic and Congress said: We have to do something about it. The average fuel efficiency of cars and trucks in America was about 18 miles a gallon. So we put in a Federal Government mandate that the auto manufacturing companies had to have an average fleet fuel efficiency of 28 miles a gallon, which they had to reach over the next 10 years. They had to move from 18 miles a gallon to 28 miles a gallon over the next 10 years. They screamed bloody murder. They said: It is technologically impossible. The cars and trucks we build will not be safe. And you are forcing America to buy foreign vehicles.

We ignored them. We said: Do it. We believe you can. If we have to order you to do it, we are going to order you. We ordered them to do it, and in a matter of 10 years they reached the goal of an average fleet fuel efficiency of 28 miles per gallon. The year was 1985.

It has been 20 years since then, and we have done nothing except watch the truck exemption—which we converted into SUVs—create this new breed of heavy, fuel-inefficient vehicle such as this god-awful Hummer. If you want to drive a Hummer, for goodness sakes, join the Army.

In this situation, these fuel-inefficient vehicles have dominated our market, and our average fuel efficiency in America has gone from 28 miles a gallon in 1985 to less than 22 miles a gallon today. We are importing more and more oil to drive the miles we need.

So I offered an amendment on the floor—and the Senator from Florida, I am sure, remembers it—and said: Is it too much to ask the auto manufacturers to increase the fuel efficiency of cars and trucks in America by 1 mile a gallon each year for the next 10 years so we can get to 32 miles a gallon?

The Senator knows what happened. We had resistance not only from the automobile companies but their workers. Do you know what they said? They said: It is technologically impossible. The cars and trucks you want us to build will not be safe. And you are going to force foreign manufacturers on American consumers. They will not have any place to go. It is the same story we heard 30 years ago. The amendment was defeated.

But today I think if we called it up for reconsideration there would be a few more votes. People are understanding you cannot control your fate and you cannot control your pocketbook if you are spending $100 every time you drive into the service station to fill the tank of that SUV. So I think folks are more sensitive to it.

I have written to the big three manufacturers, to their CEOs, and said: Listen, it is time to sit down and get serious. The American consumers want a more fuel-efficient vehicle. You know you can do it. How can we work together to achieve it?

Mr. NELSON of Florida. Mr. President, just exactly what the Senator from Illinois says, there is a waiting list a mile long to get the hybrid vehicles that, in the case of Toyota, get 50 miles to a gallon in city driving. Yet what do we have to do to get the rest of the automobile manufacturers?

Maybe it is going to take Hurricane Katrina, with a scare of a shortage, with the shutting down of refineries, that is going to finally get our collective heads out of the sand and face the fact we are so dependent on oil—and foreign oil—and that this is not a good position for this country to be in.

Does the Senator from Illinois remember when we offered a simple little amendment, and it was only to increase miles per gallon on SUVs, phased in over a multiyear period, and we could not get anymore than about 39 votes out of 100 Senators in this Chamber? Yet we are facing the crisis we are today.

Mr. DURBIN. I would say, in response to the Senator from Florida, through the Chair, I think America understands what this means. Our vulnerability, our dependence on foreign oil, means we are drawn into wars and foreign policy decisions which we may not want to make. It also means our economy is burdened by inefficiency and vehicles that are really burning too much gasoline. It also means that for every extra gallon we burn, there is more pollution in the air. So it is from three different perspectives.

Our lack of fuel efficiency in our vehicles is burdening America with responsibilities and decisions which American consumers would agree and American families would agree we should not have to make as a nation.

Now, I know I voted for the Energy bill—I do not know how the Senator from Florida did—because it contained provisions about ethanol and biodiesel. But if you look beyond those provisions, you will find in that bill many subsidies for oil companies. What an irony that we provide subsidies to oil companies at a time when they are experiencing the highest profits, windfall profits, they have ever seen—billions of dollars. And do you know why? Because the price of gasoline is much higher than is warranted by the price of crude oil. So that Energy bill we had the President sign last August really does not step up to the plate and address the reality of the energy challenge of America.

I believe Americans want us to move toward energy independence, to move toward using fuels that are efficient and do not pollute. And I believe they want us, as a nation, to create incentives for renewable, sustainable energy sources, for innovation in energy technology that will create new companies, new jobs, new opportunities in this country.

We cannot be looking backward. We have to look forward in terms of what our children need for energy in the 21st century.

Mr. NELSON of Florida. Mr. President, this Senator would say that it is only going to get worse if we do not do something now. This Senator thinks we are approaching a crisis because China is now on the scene, and China is becoming a huge consumer of oil. They are second only to the United States in the consumption of oil. They have had 40-percent growth in their demand on the world's oil supply. China's purchases of new passenger cars has risen by 75 percent.

In a tight world oil market, with new demands put on the supply by emerging nations such as China, it is only going to get worse. And here we are, the United States of America, importing 58 to 60 percent of our daily consumption of oil from foreign shores. It is an accident waiting to happen.

What does it take to collectively shake the American people to the point that the body politic will demand of their elected representatives that we start making changes—synthetic fuels, alternative fuels, higher miles per gallon, alternatives such as ethanol, hybrid vehicles, encouraging them, satisfying the demand? The waiting list is a long list. What is it going to take?

Will the Senator give me any kind of reflection?

Mr. DURBIN. I would like to respond to the Senator from Florida through the Chair and say that Hurricane Katrina, those catastrophic winds that blew down the coast of Mississippi and Alabama caused a great deal of suffering. People still suffer today from the consequences.

Maybe, in that terrible natural disaster and tragedy, something good will come of it. If those winds blow down the doors of indifference when it comes to some basic issues in America, then we can build, as a country, from that sad experience—whether it is caring for the most vulnerable in America, who were the ones who suffered; whether it is standing together as a nation, saying we are part of an American family, and if that tragedy hits your State of Florida or my State of Illinois, we will stand together to make sure your State gets back up on its feet; or whether it is looking at our dependence on foreign energy and saying: We have to change. This struck a part of America from which energy comes and is refined. We have to change in terms of our policy.

So I would say to the Senator from Florida, maybe that great disaster, that terrible suffering that came from it, will also bring with it a new awakening in this country about a new direction we need, a direction that moves our Nation together, unified as a community, to solve the serious challenge we face today.

It was not too long ago, I say to the Senator from Florida, we would sit on the floor and argue about the "ownership society." Remember that? Privatizing Social Security: We don't need Social Security. Just let me have my own private account. Well, you heard that a lot. And the model of the ownership society group was: Just remember, we are all in this alone.

Well, we learned better. We learned with Hurricanes Katrina and Rita and other challenges, the only chance we have is when we are all in this together. And together as a nation we have done amazing things.

I think the life of the Senator from Florida tells that story. Most people don't know—but I sure do—you served in the House of Representatives. You were an elected statewide official in Florida and managed to squeeze into that public service career a trip in space as an astronaut. And I know you then came to the Senate with dedication even greater to this country.

Together, Florida is strong, Illinois is strong. We are strong as a nation.

Mr. NELSON of Florida. As we close this out—under the previous order, at 4 o'clock we will be in other business—I will continue my drumbeat on a daily basis about the need for energy independence. I know what our people in Florida believe. They feel very strongly about it. Before I engaged in the colloquy with the Senator from Illinois, I had intended to talk about some specifics of the use of ethanol and the manufacture of ethanol and how that could help us ween ourselves from dependence on foreign oil. I shall pick that up on another day, but I will continue this daily, trying to sound the alarm for this country that if we don't do something, we will rue the day that we did not.

I am told that we might have a couple of more minutes here. I will go ahead and close out some of my comments. As the Senator from Illinois and I discussed in our colloquy, it is true that transportation is where we are consuming most of our oil. If you want to do something about lessening your dependence on foreign oil, go to the place where we consume most of it. That is in our personal vehicles. One thing that we have to do is pursue alternative fuels to petroleum. Gasoline and diesel, petroleum products, accounted for over 98 percent of transportation motor fuels sold in the year 2004. Only 2 percent are from alternatives to petroleum. We need to increase that 2 percent, and it can come from many different sources of alternatives to petroleum, such as ethanol.

As the Senator from Illinois and I discussed, corn is clearly a basis for ethanol. But with the advance of technology, there are many other sources as well. Cellulose and glucose are two. Glucose, sugar, we raise a lot of sugarcane in Florida. They do in Louisiana. We raise a lot of sugar beets throughout the Midwest and the West. That is a source of ethanol. It was one of the things that I pushed for, at the time of the discussion of CAFTA, to get the administration, through the Department of Agriculture, to start the study on making ethanol from sugarcane. I will pick up in the future with a discussion of ethanol made from sources other than corn, as I bring to the attention of the Senate how much this is getting to be an emergency situation that we are depending on oil. And of that oil, almost 60 percent of it comes from foreign shores. That is not good for this country. We have to change that.

I yield the floor.

MEDICARE COST-SHARING AND WELFARE EXTENSION ACT OF 2005

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 1778 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1778) to extend Medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. I ask unanimous consent that the Grassley amendment at the desk be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid on the table, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1894) was agreed to, as follows:

(Purpose: To eliminate coverage under the Medicare and Medicaid programs for drugs when used for treatment of erectile dysfunction)

At the end, add the following:

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting "and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)" after "agents)".

(b) RESTRICTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting ", including drugs described in subparagraph (K) of section 1927(d)(2)" after "1860D–2(e)".

The bill (S. 1778), as amended, was read the third time and passed, as follows:

S. 1778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Cost-Sharing and Welfare Extension Act of 2005".

SEC. 2. EXTENSION OF QI PROGRAM THROUGH SEPTEMBER 2006.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "September 2005" and inserting "September 2006".

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g)(2) of such Act (42 U.S.C. 1396u–3(g)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraphs:

"(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is $100,000,000; and

"(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is $300,000,000.".

SEC. 3. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM, TRANSITIONAL MEDICAL ASSISTANCE, AND RELATED PROGRAMS THROUGH MARCH 31, 2006.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)), as amended by section 2(b)(2)(A) of the TANF Emergency Response and Recovery Act of 2005 (Public Law 109–68), is amended by striking "December 31, 2005" and inserting "March 31, 2006".

(c) EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2006.—Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting "and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)" after "agents)".

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(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting ", including drugs described in subparagraph (K) of section 1927(d)(2)" after "1860D–2(e)".

EXTENSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAVINGS AND ECONOMIC COMPETITIVENESS

Mr. BAUCUS. Mr. President, more than 10,000 years ago, on the eastern edge of the Mediterranean Sea, people became farmers. They started growing crops of emmer and einkorn wheat. They harvested the grain with curved, handheld sickle-blades.

And 5,000 years ago, Mesopotamian farmers yoked cattle to pull plows. The plows' bronze-tipped blades cut deeply, greatly increasing productivity.

Today, in Ethiopia, wheat farmers still harvest their wheat with oxen or by hand. They use tools much like those invented 5,000 years ago. An Ethiopian wheat farmer harvests an acre of wheat in a week.

A few weeks ago, in Montana, a wheat farmer whom I know near Fort Benton, in Chouteau County, finished harvesting this year's hard-red spring-wheat crop. He and his family drive a John Deere 60 series STS combine that they bought for more than $225,000, a couple of years ago. STS stands for the "single-tine separator" system that the combine uses for threshing and separating. The combine's rotor technology yields a smooth, free-flowing crop stream, giving the farmer higher ground speeds and increased throughput capacity. This Fort Benton wheat farmer harvests 5 acres and 220 bushels of wheat in half an hour.

What the Ethiopian farmer can do in a week, the Montana farmer can do in 6 minutes.

There are a lot of reasons for the difference: land, climate, seed quality, farming skills. But one big difference between the productivity of farmers in Ethiopia and the productivity of farmers in Montana is their tools—their physical capital.

Capital distinguishes the modern age. Capital is the most important reason why the average American earns about $40,000 a year and the average sub-Saharan African earns about $600 a year. Capital makes American workers more productive and more competitive.

This is my fifth address to the Senate on competitiveness. Starting this summer, I spoke on competitiveness generally. I spoke on the role of education in competitiveness. I spoke on the role of trade in competitiveness. I spoke on the role of controlling health-care costs in competitiveness. And today, I wish to speak about the role of capital and savings in competitiveness.

Capital means financial wealth—especially that used to start or maintain a business. Many economists think of capital as one of three fundamental factors of production, along with land and labor.

Capital and the productivity that it engenders set apart developed economies from the developing world. With capital investment, the construction worker uses a backhoe, instead of a shovel. With capital investment, the accountant uses a calculator, instead of an abacus. With capital investment, the office worker uses a personal computer, instead of a pencil.

In the late 1950s, there were about 2,000 computers in the world. Each of these computers could process about 10,000 instructions per second.

Today, there are about 300 million computers. Each of them can process several hundred-million instructions per second.

In less than 50 years, the world's raw computing power has increased four-billion-fold. This sustained increase in productivity is unparalleled in history. Capital investment in information technology made it possible.

In 1960, capital investment in information technology was about 1 percent of our economy. By 1980, investment in IT increased to 2 percent of our economy. By 2000, investment in IT increased to 6 percent of our economy.

These are slow, single-digit increases in investment. But look at the revolutions that they ignited.

This information technology investment contributed to a new era of American worker productivity and competitiveness. That productivity continues today. In the mid-1990s, when the benefits of IT investment kicked in, American workers began producing nearly 4 percent more per hour. As increased productivity surged through the economy, the standard of living improved for the Nation.

Capital made possible this unprecedented productivity. Investment made possible this capital. And savings made possible this investment. Savings is the seed corn for productivity growth.

National savings fuels investment. Investment provides capital to our workers. Capital ignites productivity. And productivity makes our economy accelerate.

Savings is what is left of income after consumption. National savings collects the surpluses of private households, businesses, and governments. When workers put part of their salaries into 401(k) plans, that adds to national savings. When companies hold on to their excess earnings and profits, that too adds to national savings. And when the government runs a budget surplus, that public sector savings adds to the national pool of savings, as well.

The three elements of national savings—household savings, corporate savings and public savings—are fundamental to economic competitiveness. Savings lets us invest in new factory equipment, machines, or tools. Savings lets us invest in high-technology innovations. Savings lets us invest in human, physical, and intellectual capital.

But America's level of national savings is dwindling. The decline of America's savings demands action.

At the end of last year, net national savings stood at just under 2 percent of gross domestic product. That is less than $2 for every $100 that our Nation earns. This is down more than 70 percent since 2000. No other industrialized country in the world has such a low national savings rate.

If we break down national savings into its component parts, we can see why national savings has fallen off. First the good news: Corporate savings has held steady—even increased—over the past decade. But the good news ends there.

Personal savings—what American households are contributing to the Nation's savings—has fallen dramatically. Just 10 years ago, Americans saved about $4 of every $100 that our economy produced. By the end of 2004, we were saving just 99 cents. And today? The recent data show that personal savings has fallen even further, below zero.

In July, for every $100 of disposable income that Americans generated, we spent that $100, plus 60 cents more.

Rather than saving, American households are borrowing. In the 1980s, total household debt equaled about 70 percent of a year's aftertax income. By 2004, household debt equaled 107 percent of aftertax income.

And the bad news gets worse. As American households fish pennies out of the Nation's piggy bank, there is a growing hole at the bottom. The public sector is draining national savings as the huge Federal budget deficits grow.

In just 4 years, the Federal Government's contribution to national savings has gone from a positive contribution of more than 2 percent of the economy, to a drain of more than 3 percent. Instead of contributing $2 for every $100 the economy earns, the Federal Government takes out $3 dollars. Government deficits are the chief cause of our abysmal national savings rate.

With national savings so low, how has America's economy remained an engine of growth?

We find the answer in Japan, Europe, China, and even the developing world.

Americans have stopped saving. But the rest of the world has not.

Today, Americans turn to foreign lenders for our savings. The rest of the world has become America's creditor, happily lending their savings to our Government, corporations, and households. Fully 80 percent of the world's savings come to America. The world's largest economy has become the world's largest debtor.

This is a big change. Between 1950 and the early 1980s, our foreign borrowing was balanced. Some years we borrowed from foreigners. And other years we lent. But for most years, we remained a net creditor.

Since then, our situation has dramatically reversed. We now depend on foreigners to fuel our economy.

Look at foreign and domestic investment flows. Last year, our net borrowing from foreign lenders totaled nearly $700 billion. This year, our net foreign borrowing could well exceed $800 billion.

This kind of borrowing adds up. As recently as 1985, America had zero net foreign debt. Today, America's net foreign debt is the size of nearly 30 percent of our economy.

The last time that we had this level of foreign debt, Grover Cleveland lived in the White House. The last time that we had this level of foreign debt, 18 percent of Americans were unemployed, violent railroad strikes shook the Nation, and a deep depression gripped the world economy.

What is worse, soon, the ratio of foreign debt to GDP will hit 50 percent. In 7 years, the ratio will hit 100 percent.

This is unprecedented, not just for the United States. It is unprecedented for any modern industrialized country.

We welcome foreign investment in America. Our economy's openness to the world's capital has helped keep our economy strong. Foreign investment fuels our economy and creates good American jobs.

But if we continue to become increasingly dependent on foreign capital, then we will have to pay the piper.

First, continued borrowing means an ever-growing claim on our Nation's assets. The more that foreigners lend to America, the more dividend and interest payments they will collect—not Americans but them.

In 2005, for the first time since these data were recorded, America will pay more on foreigners' investments in America than American investors earn on their investments abroad. This year, these payments could amount to $30 billion. By 2008, these payments could rocket to more than $260 billion.

That would be a quarter of a trillion dollars paid out that would not boost our productivity. That quarter of a trillion dollars would increase foreign countries' standard of living, not ours.

That would be a quarter of a trillion dollars simply paying on our existing debt. More and more, we would have to borrow new amounts from foreign sources to pay back funds that we had already borrowed.

And that would be a quarter of a trillion dollars of behavior that one associates with a Third World economy, not the United States of America.

Second, foreigners are increasingly not investing their savings in America's productive sectors, but in U.S. Government securities. Foreigners are frequently buying our Government securities as part of schemes to manipulate currency markets and subsidize their exports. Those schemes further hurt our competitiveness and our future standard of living.

That is, they are not investing in plants and equipment, they are investing in our securities so they can accomplish other objectives and goals.

When 80 percent of the world savings flows to one country, the world economy is unbalanced. When 80 percent of the world savings flows to just the United States of America, that is a big imbalance.

This imbalance creates dangerous problems and distortions in the U.S. economy and throughout the world.

Eventually, the pendulum will swing back. The world economy will return to equilibrium. Foreign investors will decide to rebalance their portfolios. They will reduce their lending to America. America will have to pay more for its borrowing. Interest rates will rise. This rebalancing could cause severe dislocations in our economy.

We can steer clear of some of these costs. But we can do so only if we consider them now and do what we can to secure our economy from sudden and difficult adjustments later.

Where do we look for solutions?

America must increase its own national savings. We must finance more of our own investment.

We must create a reliable and stable pool of investment funding to fulfill our investment needs. This saving will also make us more profitable in the long run. We will gain the returns on capital investment here. We will not send them abroad.

We will continue to welcome foreign savings to our shores. But America will have a higher stock of self-financed investment.

How do we do this? First, we must plug the biggest leak in our national savings pool: the federal budget deficit. The federal government continues to run huge deficits. Prior to 2003, the record deficit was $290 billion in 1992. But in 2003, the government set a new record deficit of $375 billion dollars. In 2004, the government set an even higher record deficit of $412 billion dollars. This year, the government is projected to run a deficit of more than $300 billion dollars. The last 3 years have produced the 3 largest deficits in the Nation's history.

Now with the immense costs of Hurricane Katrina, Goldman Sachs now predicts that the deficits for the next 2 years will once again be about $400 billion. That would be 2 more years of deficits once again approaching record levels. Each year's deficit adds up.

These deficits increase our national debt. At the end of fiscal year 2001, the government's debt held by the public was $3.3 trillion. By the end of this month, economists project that debt held by the public will rise to $4.6 trillion. This would be an increase of 40 percent in just 4 years.

There are times when deficits are appropriate. If the economy is in a recession, net borrowing by the federal government can help to restore prosperity and job growth. But with the economy humming along now, huge deficits no longer serve Americans well. Instead, these large deficits divert domestic and international savings away from productive economic sectors. These productive sectors need savings to invest in innovative capital goods that can boost productivity, help our economy to grow, and improve our Nation's living standards.

We must be honest about our spending needs today and in the future. Budget forecasts for the near-term that neglect the costs of war and of neglect upcoming reductions in revenues—such as reform of the alternative minimum tax—serve no one but cynical political strategists. And the retirement of the baby boom generation beginning in 2008 will put enormous long-term pressure on the federal budget through increased Social Security, Medicaid, and Medicare spending. We must own up to these long-run problems.

Once we define the problem honestly, we must find ways to solve it.

First, we must restore the pay-as-you-go rules for both entitlement spending and tax cuts. We are stuck in a hole. We have to stop digging. We must pay for any new spending or tax cuts that we enact.

Until 2003, tough pay-as-you-go rules governed the Congressional budget process. But these rules expired in 2003. And a virtually meaningless alternative has taken their place. We must restore strong and meaningful pay-go rules.

Second, we must reduce the annual tax gap. As much as $350 billion of taxes went unpaid in 2001. Since then, the government has collected only $55 billion of that 2001 shortfall. These huge gaps occur every year. We cannot afford this tax gap.

Third, we must eliminate wasteful and unnecessary spending. For example, the Inspector General at the Department of Health and Human Services recently discovered that the government had paid nearly $12 million in benefits to recipients in Florida who had already died.

Fourth, we must eliminate wasteful and unfair tax breaks such as abusive tax shelters and corporate tax loopholes.

Finally, we must slow the growth in healthcare costs. We cannot rein in budget deficits without controlling the growth in healthcare costs. The private sector cannot sustain its current healthcare cost growth. And neither can the public sector. We cannot clamp down on healthcare costs in the public sector alone. Providers will just shift healthcare costs to the private sector. Fortunately, solutions that contain private sector healthcare costs will likely also help contain public sector healthcare costs, as well.

Taking these five steps would go a long way towards reducing Federal budget deficits and increasing national savings.

Increasing private savings is more complicated. We cannot adopt pay-as-you-go rules for families. Instead, we have to provide families with the tools that they need to develop their own growth plan.

The first tool is financial education. Too few Americans know how to develop a family budget. And too few know how to assess the risk of an adjustable rate mortgage when interest rates are rising.

We need to provide our children, and their parents and grandparents, with the tools that they need to make good financial decisions—to have more savings and less debt.

Programs such as "Stash Your Cash"—a program to teach young people the basics of finance, saving, and investing—are a good start.

As part of "Stash Your Cash," this summer, 15 pigs—each one 4 feet tall and 750 pounds—appeared in the streets of Washington. And it was not just another political statement.

The colorful animals on street corners were oversized piggy banks. Local middle school students and artists painted each one.

"Stash Your Cash" gets to kids early. It teaches them financial vocabulary, how to create a budget, and how and why they should save for the future. It teaches middle-school students that creating a budget helps them understand where their money goes, ensures that they do not spend more than they earn, finds uses for money to achieve goals, and helps them set aside money for the future.

We can all benefit from these lessons. Savings is vital for our children's and our families' financial future. And what is vital for our families is vital for our country.

Second, we need to make it easier to save.

The most successful savings programs are payroll-deduction savings through employer-sponsored 401(k) plans. We can make these programs even more successful by encouraging employers to enroll eligible employees automatically. Employees would opt out of saving instead of opting in. Without automatic enrollment, just two-thirds of eligible employees contribute to a 401(k) plan. With automatic enrollment, participation jumps to over 90 percent. The largest increases are among younger and lower-income employees.

Only half of private sector workers have a 401(k) or similar plan available to them. We need to bring payroll-deduction retirement savings to the other half.

Who is that other half? Part-time workers, those who put in less than 1,000 hours a year, do not have to be covered by 401(k) plans. Small employers are less likely to offer 401(k) plans, or similar arrangements, to their workers. And lower-income workers are less likely to have a plan available than moderate- and higher-income workers.

We have a voluntary pension system. We should not change that. But we can make savings opportunities available to more workers without forcing employers to provide more benefits.

Third, we need to make incentives for saving more progressive. Like many tax incentives, our current savings incentives give more bang-for-the-buck to those in the higher tax brackets. Our income taxes go to just the opposite.

In 2001, we took an important step toward fairness by creating the Saver's Credit. The Saver's Credit helps low-to-moderate-income taxpayers to save by providing a credit of up to half of the first $2,000 that they contribute to an IRA or 401(k) plan. More than 5 million taxpayers claimed this credit in 2001. It works. But it will expire after 2006. We must extend it and we must expand it to cover those with no income tax liability.

In ancient times, people viewed the toil of farming as a curse. The ancient text tells how when man left the Garden of Eden, he heard God say:

> Cursed be the ground because of you;
> By toil shall you eat of it
> All the days of your life:
> By the sweat of your brow
> Shall you get bread to eat,
> Until you return to the ground—
> For from it you were taken.

But now, increased investment, capital, and productivity have made it so that we may hear the blessing with which Moses blessed the children of Israel on the plains of Moab, across the River Jordan:

> The Lord will give you abounding prosperity in . . . the offspring of your cattle, and the produce of your soil in the land that the Lord swore to your fathers to assign to you. The Lord will open for you His bounteous store, the heavens, to provide rain for your land in season and to bless all your undertakings. You will be creditor to many nations, but debtor to none.

From ancient times, the sages recognized that the terms "prosperity" and "debtor" rarely apply to the same country.

Let us return to being a country whose saving provides the seed corn that brings those blessings of "abounding prosperity."

Let us seek the blessings of being "creditor to many nations, but debtor to none."

And let us do the work that we need to do to see that "[t]he Lord will [continue]. . . to bless all [the] undertakings" of this great Land.

I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

Mr. STEVENS. Mr. President, there have been so many legislative fellows and interns requesting to have seats on the floor, I am not sure there will be room for any regular staff soon. So I am going to start refusing to agree to floor privileges unless we are sure that there is going to be space for those staff who are assigned to work with members of the committee on this bill.

It is our hope we will be able to get to a vote on the Harkin amendment soon. I want to make a short statement, and that is, we have had some information from the Department of Defense.

May we go back on the bill now? We are back on the bill automatically?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I call the attention of my colleagues to the fact that the money for Iraq and Afghanistan is in a reserve account in this bill and, theoretically, it should have started being available this Saturday. It will only be available when this bill is signed into law by the President.

Sometime during the first quarter, operating accounts for day-to-day operation costs—operation and maintenance for the Army, for the Marine Corps, and for the training efforts of Iraqis—are in the reserve account and will not be available. It is imperative we get this bill to the President so it can be signed to make the money available by the middle of November.

Increased fuel costs are putting pressure on operating accounts. We all know what it costs us when we pull up to a gas station and fill up a tank. It costs just as much or more to fill up the tanks in Iraq and Afghanistan for those people who are in the air and on the ground. That money is not going to be available unless we approve this bill.

One of the things that bothers me is that there is money in this bill to finance continued production of the C-130Js. That production contract is planned for mid-November, but there is no money available now. It will not be available until the 2006 bill is signed. There are a whole series of things in this bill that are designed to take the pressure off of the way the funding is being carried out at the Department of Defense. The ability to finance the improvised explosive device task force initiatives will be constrained unless that $50 billion portion of this bill is passed.

So I urge the Senate to help us get this bill through as quickly as possible. I know that is sort of difficult now with the recesses that are coming up, but very clearly we are starting to get amendments that are not germane to this bill, and I hope that will not go on.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I and the Senator from Hawaii join in asking the clerks in both cloakrooms that they would send out a notice that we intend to move for third reading if there is no amendment presented within an hour.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I discussed this with the distinguished floor managers.

First, parliamentary inquiry: Is the Harkin amendment now the pending business?

The PRESIDING OFFICER. It is the pending question.

Mr. LEAHY. I thank the Chair.

Mr. President, I ask unanimous consent that it be in order to set aside that amendment so the distinguished Senator from Missouri and I could offer an amendment, and that upon the completion of action or the setting aside, whichever transpires first, it be in order to return to the Harkin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1901

Mr. LEAHY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. BOND, proposes an amendment numbered 1901.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate $1,300,000,000 for Additional War-Related Appropriations for National Guard and Reserve Equipment for homeland security and homeland security response equipment)

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "NATIONAL GUARD AND RESERVE EQUIPMENT", $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. LEAHY. Mr. President, so Members will know, this amendment adds $1.3 billion in emergency funding for National Guard equipment to the supplemental portion of the fiscal year 2006 Defense appropriations bill. The funding is set aside for the National Guard to buy much needed items for homeland security and natural disaster response.

Hurricane Katrina exposed glaring deficiencies in the equipment available for the National Guard to respond to such disasters. After Hurricane Katrina, we had barely sufficient levels of trucks, tractors, communication, and miscellaneous equipment that is necessary to respond to the overwhelming scale of this storm. If we have another hurricane or, God forbid, a large-scale terrorist attack, our National Guard is not going to have the basic level of resources to do the job right.

As we know, in every one of our 50 States, we have seen in our career times where the National Guard was called upon to help. The National Guard Chief, LTG Steven Blum, recently noted that the Guard has only about 35 percent of what is officially required to respond to hurricanes, natural disasters, or possible terrorist attacks at home.

Yesterday, in an appearance in the House of Representatives, General Blum noted that Guard members responded to this disaster with insufficient and outdated communications. General Blum noted we are going to need at least—a staggering amount—$7 billion to procure the communications, trucks, medical supplies, and machinery necessary to respond to future disasters.

We knew, even before that hearing, that without any doubt there is an immediate need for at least $1.3 billion. We have to procure essential equipment such as a family of medium tractor vehicles, new SINCGARS radios, night-vision goggles, and other equipment.

I ask unanimous consent that a recent report from the National Guard on these critical needs be printed in the RECORD.

EXECUTIVE SUMMARY

National Guard units that deployed to combat since September 11th have been the best trained and equipped force in American History. $4.3 billion has been invested to provide those units with the very best, state-of-the-art equipment available in the world today.

This is an unprecedented demonstration of the DoD commitment to ensure that no soldier or aiman, regardless of component (Active, Guard, or Reserve), goes to war ill-equipped or untrained. With the help of the US Congress, this was accomplished over a two-year period. It is a reality for National Guard overseas combat deployments.

Now, the senior leadership of the DoD is extending the same level of commitment to the National Guard, the nation's first military responders in time of domestic need.

The DoD has a comprehensive reset plan that recognizes the National Guard's critical role in Homeland Defense and support to Homeland Security operations. This will take time and resources. I am confident that a real sense of urgency exists to make this a reality for America.

Communications equipment, tactical vehicles and trucks and engineer equipment are the National Guard's highest equipment priorities.

H. STEVEN BLUM, LTG, USA,
Chief, National Guard Bureau.

Mr. LEAHY. Mr. President, we got into this situation for two reasons:

First, unfortunately, with all the other needs of this country, we have traditionally underfunded the National Guard's equipment level. Second, much of the equipment the Guard does have is being used in the ongoing war effort in Iraq, Afghanistan, and in our needs across the Middle East and Central Asia. We all know there is no prospect that we are going to see it again back in the United States any time soon.

The distinguished senior Senator from Missouri, Senator BOND, and I cochair the Senate National Guard Caucus. On September 13, the two of us wrote the President to urge that the administration deal with this problem immediately. We want to demonstrate by our letter that this is not a partisan issue, it is a national issue.

We asked the President include the $1.3 billion in the next supplemental spending bill to deal with Hurricane Katrina. But we can't wait for the President to request the funding. We have to act now. The date this next supplemental spending bill will be submitted is still uncertain. We don't know when it is going to be submitted. But with this Defense appropriations bill, we have billions of dollars in emergency funding. Much of that emergency funding, rightly so, will go toward ensuring that our men and women abroad have the right tools to do their jobs. We should do that. But it is just as reasonable and necessary that we add emergency funding to deal with the equipment needs of our troops at home.

Certainly in the last couple of months, we have seen probably at no other time how much that equipment is needed, and we know there will be other occasions.

I praise Senator STEVENS and Senator INOUYE for including so much equipment money for the Guard in supplemental baseline bills. While most of that new equipment will go toward the Guard's overseas warfighting needs, our Guard and Reserve have a greater percentage and a greater activity than at any time in decades, and they need the help. The funding we are now asking for takes a big step forward.

I have worked with them closely. Of course, I want to see the amendment accepted. I will, of course, ask for a vote, if we can't reach such agreement.

I know the distinguished Senator from Alaska and the distinguished Senator from Hawaii have spent even more years in this body than I have, and they worked closely to help our National Guard. Senator BOND and I have done our best to fashion a reasonable and necessary piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to join wholeheartedly my National Guard Caucus cochairman, the distinguished Senator from Vermont, in urging the Senate to adopt these emergency appropriations for our National Guard.

We have had a lot of talk about emergency responders and people wondered. Did this group do their job? Did that group do their job? As Governor of Missouri for 8 years, I saw the National Guard respond, and respond fully, to every natural disaster we had. We had floods, we had tornadoes, we had some other civil disorders, and the Guard responded. They responded with the equipment they needed.

Since that time, I have served in the Senate as cochairman of the National Guard. I have seen the Guard continue to respond to State emergencies time after time after time. When they have been called upon to go abroad as part of the national defense mission, they have done so extremely well.

Unfortunately, the men and women of the National Guard, those vital citizen soldiers who volunteer to serve their country, have not been well resourced. It appears when equipment is available the Pentagon obviously takes care, first, of the active. In this situation, we have seen a tremendous drain on equipment—not just from emergencies around the country but from the National Guard's participation and contribution of equipment to our overseas mission. As a result, the equipment readiness in critical areas of the National Guard has fallen to about 34 percent. We are asking the men and women of the Guard to go into situations—whether they be overseas military situations or a vital rescue mission such as New Orleans—without the equipment.

Our Guard, along with others, responded and responded promptly to the disaster of the gulf coast. They were in Louisiana. They went proudly. We sent an engineer battalion from Jefferson Barracks in Missouri. They went down there, and they performed admirably. They had one set of trucks, one set of communications equipment, and one set of night vision goggles. The need was great, and they asked for a second of the National Guard engineering units to be deployed. We had to refuse, not because we did not have the personnel ready—we did not have the trucks, we did not have the communication equipment. We absolutely could not respond in that situation because of a lack of equipment.

When we read the stories about the National Guard's participation, one gets a better understanding of how effective and how responsive the National Guard is.

As the Senator from Vermont said, we have requested that an emergency appropriation be added to the supplemental. I join with him today in asking the Senate to approve as an emergency appropriations measure the money we need. This money is critically important. It includes trucks. The big trucks the National Guard has can drive through flood areas. They can rescue people. They can also go in war zones. They need night vision goggles. You may think night vision goggles are necessary primarily in war. Think about going into New Orleans, which has lost all of its power, all of its lighting, and you are trying to find people who are in grave personal danger because of the rising floodwaters. You need the night vision goggles to see them. Most importantly, think about communications. How do they work with other units, other Federal units, other State units, when they are on a civil mission? When they are under control of the local officials who have the responsibility, who have the local command, how do they communicate with them? They cannot in too many instances.

That is why this particular appropriation is so important that we begin resourcing our Guard. We can all be very proud of the Guard in our States. We do not have every Member of the Senate as a member of the National Guard Caucus, but I have not found a Member of this Senate who is not extremely proud of his or her National Guard. They know when the chips are down, when lives are in danger, the Guard can and will respond. The Guard comes to our defense regularly. The very least we can do is make sure we support the Guard when they go in. Not giving them the equipment they need is not an answer. We are not going to send them into harm's way without the equipment to do their job.

This is an important amendment. This is a large sum. We, obviously, are very much aware of the needs. This is a pressing need, and the emergencies and the wartime situation we are in compel a response to the needs of the Guard.

I thank my colleague from Vermont for offering this, and I urge my colleagues to join in seeing that the National Guard gets the appropriation resources they need. I thank the managers of the bill.

I yield the floor.

Mr. LEAHY. I thank the distinguished Senator from Missouri. I was going to suggest that if the Senator from Alaska and the Senator from Hawaii want to accept the amendment, we could actually get some significant business done right here.

While they are thinking about this, I must say there are few people in this Senate more senior than I, but certainly the Senator from Hawaii is much more senior, the Senator from Alaska is much more senior. They are only two of five people senior to me, and they want a quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, one of the minor procedural problems we have around here with an emergency clause is this has to go through several layers of clearance. It is not a higher pay grade, it is a different pay grade, it is a different responsibility. The distinguished floor managers are working on that. We have the budget committees and others who have to act on it.

I appreciate very much the work of Chairman STEVENS and Senator INOUYE. I hope we will be able to resolve this very shortly. We have two of the best leaders in the Senate handling this bill. Whatever needs to be done I assure my colleagues will be done.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is the Harkin amendment the pending amendment?

The PRESIDING OFFICER. The Leahy amendment is pending.

AMENDMENT NO. 1886

Mr. STEVENS. I ask unanimous consent the Leahy amendment be set aside and the Harkin amendment be brought before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. We have had some conversations about this amendment. It is an amendment that raises the subject of the way the Government is going to approach the great problems associated with Asian flu. Under the circumstances, it has been my recommendation that we take this amendment to conference because then the subject will be in this bill. If the agencies involved can come together with an appropriate plan and request for money, we would then be able to do this in conference.

Although I have had some question about this amendment, we have discussed this now with the author of the amendment. As I indicated to him, if it would pass, I would cosponsor, and I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 1886) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. The pending amendment is the Leahy amendment?

The PRESIDING OFFICER. The Leahy amendment.

Mr. STEVENS. Is that the Leahy-Bond amendment?

The PRESIDING OFFICER. It is.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I clarify with the desk that I am shown on the Leahy amendment; it is the Leahy-Bond amendment?

The PRESIDING OFFICER. The Senator is listed as a cosponsor.

Mr. BOND. I thank the Chair.

NOMINATION OF JOHN ROBERTS

Mr. President, while I have the floor, I will reflect a moment on the vote we took earlier today. This vote has such weight because of its place in our system of government. The Supreme Court is a final voice on the extent of the rights guaranteed by the Constitution, the demarcation of power between the legislative and executive branch of Government, and the division of power reserved for the Federal Government and the governments of the individual States. As a Member of this legislative body and in a former life as a State Governor, I am acutely aware of the importance of the lines and the consequences when they are broached.

As a Member of the Senate, I do not welcome decisions overturning legislative acts that I support, but I frequently work with my colleagues to reject efforts to meddle in State affairs. As a Governor attempting to guide my State, I had to labor through many burdens placed in our way, the State's way, by an intrusive Federal Government.

The judicial branch of our Government—most notably the Supreme Court—has been designated by the Constitution as the branch to maintain these divisions of power and referee the tensions between our governments. After observing Judge Roberts during the days of hearings before the Committee on the Judiciary, I am convinced the power that comes with the vote of a Supreme Court Justice will be in wise and capable hands.

Throughout the strenuous sessions, Judge Roberts' intelligence, patience, and temperament were on full display. Judge Roberts made a convincing case through words and demeanor that he will approach his responsibility with modesty and humility.

Also, as Judge Roberts repeatedly reminded his inquisitors, he is not a politician. I commend him on his willingness to remind my colleagues that he was not before Congress to compromise or give hints on how he might vote on a hypothetical case in exchange for confirmation votes; rather, he confirmed repeatedly that the Constitution will be his guide to these questions.

I suspect that some of my colleagues have come to rely on the judiciary to advance changes that have no support in the duly elected member of our legislature, State and national; hence, their frustration with Judge Roberts.

Judge Roberts has clearly defined views of the role of the judiciary and the role of the legislature, and they do not appear to be blurred. As Judge Roberts put it so well:

> If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, "Let's take all the hard issues and give them over to the judges." That would have been the farthest thing from their mind.

As did the Founders, I do not believe State and National legislative bodies are incapable of settling tough and contentious issues. I do not believe it is benevolent or admirable for judges to remove questions from the public realm because they are divisive. Judge Roberts has shown the modesty and respect to refrain from that path.

Judge Roberts also has made it clear he finds no place for reflection on the public attitudes and legal documents of foreign lands in the consideration of constitutional questions. They do not and should not offer any guidance as to the words and the meaning of our own Constitution.

During his testimony, Judge Roberts displayed a respect for the Constitution and the rule of law as the principles that should guide him when ruling on a case. His view of the role of the judiciary is very consistent with my own.

Finally, I believe President Bush has executed his duties in a responsible manner that will serve our Nation well. He interviewed many distinguished and qualified judges and attorneys in the country. He consulted with Members of the Senate. After careful and thoughtful deliberation, President Bush returned to the Senate the name of John Roberts. I am very pleased today that 78 Members of the Senate agreed and confirmed him to the Supreme Court.

Mr. President, I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. MURRAY are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for 6 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ALEXANDER are printed in today's RECORD under "Morning Business.")

AMENDMENT NO. 1901

Ms. LANDRIEU. Mr. President, I ask unanimous consent to be added as a cosponsor of the Bond-Leahy amendment regarding additional funding for the Guard and Reserve.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. This is relative to the extraordinary work that they did in Hurricanes Katrina and Rita and the extraordinary work that our Guard does throughout the Nation. In fact, as I speak, I am sure they are on the ground for this unfolding tragedy in California with the fires. I am not able to speak more fully at this time but I wanted to register my support for the amendment and will speak later tonight. I understand this amendment may be accepted. I thank my colleagues for their great support at this time of obvious need. The people of Louisiana and the gulf coast are grateful.

I yield the floor.

AMENDMENT NO. 1901, AS MODIFIED

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment before the Senate is now the Leahy-Bond amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I have a modification at the desk. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "NATIONAL GUARD AND RESERVE EQUIPMENT", $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (109th Congress).

Mr. STEVENS. There was one problem. The number of the Congress has been changed.

The PRESIDING OFFICER. The amendment is so modified.

Mr. STEVENS. I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1901, as modified.

The amendment (No. 1901), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, is there a pending amendment before us?

The PRESIDING OFFICER. There is not.

AMENDMENT NO. 1908

Mr. DURBIN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, and Mr. BINGAMAN, proposes an amendment numbered 1908.

Mr. DURBIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

At the appropriate place, insert the following:

SEC. ___. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2005".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, this amendment has been offered before and agreed to before. Unfortunately, it has not been enacted into law. It does very well on the floor of the Senate. It just doesn't do very well in conference committee. For some reason, when it gets to a conference committee, it is usually removed. I hope this will be an exception because I think what we are talking about with this amendment is something that most Senators on both sides of the aisle would agree with.

The premise behind this amendment is as follows: If you are willing to serve in the Guard or Reserve and if you are willing, when activated, to leave your job and your family behind to risk your life for America, we should do our best as a nation to stand behind you. That is it.

How do we stand behind the men and women of the Guard and Reserve when they are activated to serve in Iraq and Afghanistan? In a variety of ways. Communities come forward, churches, friends, community groups help the family of a soldier who is overseas. But there is one other thing that happens that is as important, if not more. Many times that activated Guard or Reserve member faces a cut in pay. They have a good job. They have been activated. They have to serve for a year or more. They are being paid less during the time they are serving our country. So we encourage employers across America to stand behind their employees. If your employee is activated, stand behind your employee. Make up the difference in their pay.

It turns out that hundreds of corporations across America have said that is the right thing to do. That is the patriotic thing to do. Yes, we will stand behind the men and women activated into the Guard and Reserve. We will make up the difference in pay so that their families back home have financial peace of mind that they can pay the mortgage, the utility bills, keep the family together while that soldier is risking his life overseas.

We think so highly of these companies for their patriotism and dedication to our soldiers that we have created a Web site at the Department of Defense. You can go to it. It is a site that congratulates these employers for their devotion and allegiance to our troops.

Unfortunately, there is one employer that refuses to do this. It turns out it is the largest single employer of all the Guard and Reserve who are being activated. One employer that refuses, despite this Web site, despite all these speeches, one employer that refuses to stand behind the soldiers who were activated in the Guard and Reserve and to make up the difference in pay if they are paid less when they are activated than they were paid in civilian life. Who is this deadbeat employer that won't listen to these calls for patriotic responsibility to the men and women in uniform? What employer in America, after all that these soldiers have been through, will not stand behind them and make up the difference in pay? That employer is the Federal Government of the United States.

One out of 10 Guard and Reserve serving today are Federal employees. The Federal Government refuses to make up the difference in pay for those who have had a cut in pay because they are risking their lives for America.

I have offered this amendment time and again. I don't understand why it gets killed in conference committee every time I offer it. So many Senators come to the floor and say what a great idea it is. Yet when it goes to conference committee, it doesn't survive. This amendment brings the Federal Government into the 21st century and into line with countless other major employers. So many of America's top companies do the right thing for members of the National Guard and Reserve. So many of these are good patriotic corporate citizens in our private sector. But in the public sector, 24 State governments, including my home State of Illinois, provides the same income protection for their State government workers. Counties do it, cities do it, villages do it at great sacrifice, and we thank them for that.

This amendment simply allows the Federal Government to catch up with the times, to match what other major employers are already doing, and to provide the same type of income protection for our Federal Government civilian employees who also serve in the Guard and Reserve.

I propose this amendment because it is not clear that a real opportunity to offer it will ever come on the Department of Defense authorization bill this year.

The Senate is on record as supporting this measure. We have passed it on three previous occasions. Two of those occasions were amendments to appropriations bills, such as the one before us.

This is the same language as reported out of the Governmental Affairs Committee last Congress, except this version does not include any retroactivity provision. Though I personally support that, this amendment doesn't go that far.

The Congressional Budget Office has confirmed that this measure has a cost but not a budget score. It is not retroactive. It is prospective only and subject to available appropriations. The funds to provide this differential pay to these Federal employees in the Guard and Reserve can come from funds already appropriated to the agencies for salaries. Twenty-four State governments do this. We have letters from those States attesting to the fact that the benefit has required no additional appropriations.

Many of my colleagues on both sides of the aisle have supported this measure in the past, and I thank them from the bottom of my heart for standing with our men and women in uniform.

Let me show data which is illustrative of what we are facing.

Recent data from the Department of Defense's newest "Status of Forces Survey of Reserve Components" tells us that 51 percent of reservists lose income during mobilization, and 11 percent lose more than $2,500 per month.

So in addition to the sacrifice of being separated from their family, risking their lives in service to their country, many of them are taking substantial cuts in pay.

The new "Status of Forces Survey of Reserve Components" also reveals that income loss is one of the top factors cited by National Guard and Reserve components as reasons they might choose to stop serving in Reserve components. This is not only an injustice that we in the Federal Government are not making up the pay differential, it, in fact, is one of the reasons some in the Reserve and Guard say they are not going to re-up. We cannot retain their good services to our country because of the economic sacrifice which that service creates.

The Department of Defense operates a program called Employer Support of Guard and Reserve—ESGR for short—which recognizes and pays tribute to those patriotic, outstanding employers who go beyond the legal minimum job protections in support of their workers who are citizen soldiers. ESGR operates this Web site which lists 900 companies, nonprofits, and State and local governments which offer this pay differential for mobilized workers. Search our Government Web site all you will, but you will not find the Federal Government on the list. We do not provide the same benefit to these men and women in service to our country as these other employers.

The number of employers providing this type of support to their workers in the National Guard and Reserve has grown steadily, and we owe them a great debt of gratitude for the love of country and devotion to our men and women in uniform, but the Federal Government is still not one of those employers.

I think this measure is long overdue. The Federal Government should not be lagging behind major corporations and roughly half of the governments of the States of the United States in terms of the quality of support for the men and women in the Guard and Reserve.

We should be a leader, not a follower. We should set the example right now with this amendment. We can fix this problem, and we can do it quickly.

Let me briefly make a few points for the minority of my colleagues who might continue to have reservations about this concept.

This measure does not bust the budget. Certainly, it results in some expenditures, but the money to make up for any lost income by these mobilized Federal workers is drawn from the funds already previously appropriated to the same agency the workers were serving in before they were activated. The money is already there. State governments that provide similar benefits report that they require no additional appropriations to meet this responsibility.

Second, this measure is not additional pay for military service. Reservists continue to receive the same military pay for the same military job. Any differential pay they receive from their Federal civilian employer is separate and apart from that and is simply intended to keep such employees financially whole while they are away. It is a reflection of the value they provided to their Federal agency before they were mobilized and a reflection of the value they will provide again when they return.

The military pay a reservist gets during mobilization is for the military role he or she performs and is utterly unchanged by this amendment.

Third, the wisdom of this amendment is readily understandable by the entire force, whether Active Duty or Reserve. Some people ask how to explain to an Active-Duty soldier or his or her family why a Reserve soldier sharing the same foxhole—to use an old colloquialism—performing the same duties, is allowed to draw both military pay as well as the lost portion of their civilian income. This is easy to explain and easy to understand.

Unlike Active component troops, Reserve component troops structure their lives and make their financial commitments based on their regular civilian income. Their house payments, their car payments, the kids' tuition payments—everything in their financial picture is based on the income of a civilian life. When that income disappears during mobilization and is replaced by lower military income, the family suffers a real hardship.

The Active component family may not suffer that hardship. They understood going in what the parameters of their family budgets were. Allowing a Federal civilian employer to alleviate this hardship for their workers, as many private employers already do, makes clearly explainable and understandable sense.

Soldiers take care of one another. No troop wants to see his buddy struggle or suffer problems with their family. Certainly, no Active-Duty soldier wants that Reserve soldier standing by his side helping him to fight this war to be distracted by financial hardship back home.

Let me tell you who endorses this legislation: the American Legion, the National Military Family Association, the Reserve Officers Association, the National Guard Association of the United States, and the Enlisted Association of the National Guard of the United States.

The reason to support this measure is simple and straightforward: the Federal Government cannot and should not do less for its employees in the Guard and Reserve than other major employers in America. It is time for the U.S. Government to be an employer which is as supportive of our troops as Sears, IBM, Home Depot, General Motors, and 24 State governments. They have already passed similar legislation. They have already made a commitment to our troops. How can we commend all these other employers who go the extra mile to support our troops while we fail to do so? Can we hold them up as examples and not be an example ourselves? I think the answer is no.

What we can do is adopt this amendment. I invite all my colleagues to come together once more to adopt the Reservist Pay Security Act, and I urge my colleagues on the Appropriations Committee, when this amendment is adopted, for goodness' sake and for the sake of these soldiers, don't kill it in conference committee. Stand by these soldiers all the way through the process. For years now, these soldiers have been shortchanged. It is time for us to make a difference in their lives and make a commitment to these great men and women.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

At this moment, there is not a sufficient second.

Mr. DURBIN. Mr. President, I withdraw that request and ask for the adoption of the pending amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1908.

The amendment (No. 1908) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, for the information of Senators, there will be no further action on the Defense appropriations bill tonight.

MORNING BUSINESS

Mr. STEVENS. I ask unanimous consent that we go into a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUING RESOLUTION

Mr. BYRD. Mr. President, here we go again, yes, here we go again. The fiscal year ends tomorrow at midnight. Only two of the annual appropriations bills required to fund the Federal Government have been sent to the President. This is deja vu all over again.

As a result, the Congress is rushing through the stopgap money measure called a continuing resolution in order to prevent a massive shutdown of the departments and agencies of the Federal Government.

Is this the way to run a government? This is no way to run a government.

The appropriations process is a very simple process, in reality. The President sends his recommendations to the

Congress in the form of a budget, usually in early February. Subsequently, the House formulates reports, debates and passes 11 annual appropriations bills. To its credit, the House has done exactly that. It has done its job.

What is wrong with the Senate?

I commend the chairman of the Appropriations Committee, Mr. COCHRAN. Yes, I commend him. With his steady leadership, the Senate Appropriations Committee has formulated and reported all of the annual appropriations bills. Eight of those appropriations bills have been passed by the Senate. Four appropriations bills are now pending in the Senate. This includes the Defense appropriations bill, the Transportation-Treasury appropriations bill, Labor-Health and Human Services-Education appropriations bill, and the District of Columbia appropriations bill, which is likely to be added to the Transportation appropriations bill in order to conform to the House version.

That is where we stand today.

What is the problem?

Regrettably, the Senate Leadership has not seen fit to bring three of our appropriations bills to the floor. This is not the fault of the chairman of the Appropriations Committee. He has called upon the leadership, as did I, to give the appropriations bills high priority in the scheduling of floor time.

The Labor-HHS-Education appropriations bill, the Transportation-Treasury appropriations bill, and the District of Columbia appropriations bill were approved by our Appropriations Committee over 2 months ago. I simply do not understand why the leadership is dragging its feet! Why not debate legislation that will fund critical investments in our schools, in our healthcare systems, and for our Nation's transportation infrastructure? Are Senators not going to have the opportunity to debate bills that provide over $211 billion?

We need to debate each of these funding bills individually. We need to conference them individually with our House counterparts—not just consider them as sub-parts of a large omnibus package. That is what I believe the chairman of the Appropriations Committee wants, and that is what I, too, would like to see happen. I urge my colleagues to work toward that goal.

It is unfortunate that most of the regular programs of the departments and agencies of Government will limp into the new fiscal year, which begins—when? this Saturday, the day after tomorrow, under the terms and conditions of a very restrictive continuing resolution. Here we are in the midst of one of the largest natural disasters to hit the United States, and only two regular appropriations bills have been enacted. One would think that the Congress would want to enact all of the annual appropriations bills before the beginning of the fiscal year so that the Federal agencies can hit the road running on October 1st and deal with the problems confronting the American people. Instead, we are enacting a very restrictive stop-gap measure that merely prevents the Government from shutting down. What a shame. It is very unfortunate that the House majority refused to fix the problem created by the continuing resolution for the Community Services Block Grant program, which provides critical healthcare and nutrition services to the neediest Americans. It is very unfortunate that, as we approach winter with fuel prices expected to grow dramatically, this continuing resolution reduces funding for the Low Income Home Energy Assistance Program.

In conclusion, I am disappointed that the appropriations bills have not been enacted on a timely basis. Having said that, I urge my colleagues to support the continuing resolution. We have no other choice.

I urge the leadership to call up the remaining appropriations bills, debate them, and send them to conference with the House. We have an obligation to the American people to get our work done. Debate and deliberation is what the Senate is supposed to be about—debate and deliberation and amending. The American people expect us to debate these bills and to protect the power of the purse and, thereby, protect their hard-earned tax dollars. These matters should not be swept under a carpet somewhere. More, not less, transparency is needed in debating appropriations bills. The Congress should have completed action on all the appropriations bills—not just two—on all the appropriations bills before the end of the fiscal year tomorrow night. Failing that, we should enact eleven individual, fiscally responsible annual appropriations bills before the termination of this continuing resolution on November 18th.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

IN REMEMBRANCE OF SAM VOLPENTEST

Ms. CANTWELL. Mr. President, I rise today to commemorate and pay tribute to the life of a great Washingtonian, a great American, and someone that I know even in the Nation's Capital will be remembered for his great contributions. Yesterday, I learned of the death of Sam Volpentest, a resident of Washington State, who lived to be 101-year-old.

Sam has continued to play a leadership role in our State. We were all proud of the fact that we all attended his 100th birthday party last year and that for the last several months he has continued to play a vital role in the State of Washington on important economic issues.

I am proud to say that Sam was a friend, and I am grateful for his mentorship and his wisdom. My thoughts are with his family and the larger Tri-City community that mourn his loss. This is a man who had a list of unending accomplishments and literally touched thousands of lives of his fellow citizens. He changed the course of history in Washington State and left his mark on this Nation's history, as well.

Sam's legacy was one of generosity, of leadership, of commitment, of inspiration—important lessons for Washingtonians to still benefit from.

My remarks today cannot justify the significance of his contribution. Sam moved with his family from Seattle to the Tri-Cities in 1949 and went into business as a tavern owner. The Tri-Cities was just at the beginning the epicenter of the nuclear age, a sleepy little town in Richmond that sprung to life when the Hanford site was selected in 1943 as the location of the Manhattan Project, plutonium production activities as part of President Roosevelt's strategy to win World War II. The Manhattan Project transformed the entire region from literally an agriculture and fishing economy centered on the Columbia River into a Federal booming town. It changed the course of our State and Nation's history.

Central Washington was booming, and Sam thought it was the right place for a salesman like him and his family; so he went to work right away on community and business issues.

It was his vision for the community that continued to push the community and the representatives who came here to Washington and those in Washington, DC, to further see the future in Washington State.

Hanford had grown due to the Federal investment in the Manhattan Project and later in support of the Cold War. At that time, Sam, a former salesman and tavern owner, found himself rubbing shoulders with the likes of Senators Jackson and Magnuson, and stories about Sam, Scoop, and Maggie are numerous and legendary.

I think this picture shows that even at that time, with my predecessors, Senator Warren Magnuson and Senator Scoop Jackson, Sam Volpentest even back then was right in the thick of things. The fact that he still consulted with Senator MURRAY and me up until the last several months showed his dedication to what this country needed to be focused on.

In 1956, Sam decided that Richland, WA—one of the Tri-Cities surrounding

Hanford—looked too much like a construction camp. That is because it was a community that literally sprang up overnight out in the desert. Sam wanted that community to continue to grow.

The N-Reactor was one of the most critical investments in the Tri-Cities, with Sam Volpentest's fingerprints on it. The Hanford site evolved as our Nation's nuclear needs changed. Sam's efforts helped America stay in the lead during the nuclear age, put Americans to work, improved the lives of those living in central Washington, and it played an incredible role for our country.

In the mid-1960s, as the nuclear age transitioned, Sam saw the writing on the wall: the Tri-Cities would need to evolve with it. As Hanford's nuclear weapons material production activities began to slow, Sam's vision drove him to change his strategy as well.

I come back to a critical point I want to say. In the 1940s, as World War II raged in Asia, Europe, and North Africa, my State responded to the Federal Government's call. As Federal investment grew during the early days of the Manhattan Project, this remote area of our State responded with the energy infrastructure that was so critical in helping launch the nuclear age. This world's first large-scale production nuclear reactor, the B Reactor, located in our State, played an incredibly vital role.

The reason I emphasize that is because Sam realized that once that goal was achieved, the region needed to keep playing an important role in our national security issues, and that was through the contributions of its workforce and materials needed throughout our time period post-World War II.

Our contribution and Sam's continuing contribution was to make sure the Federal investment and cleanup work at Hanford was actually achieved. Sam knew that the Tri-Cities had a lot to offer our Nation, but he knew that the economy needed to have diversity and that cleanup was part of it. So what did Sam do? He went about convincing Federal officials, private investment, and other resources to come to Hanford and explore more efficient ways to clean up the waste, and not just at our site in Washington State but around the world.

Sam's vision led to a larger vision that has leveraged the workforce in the State of Washington. Those efforts led to the establishment of one of our National Laboratories, the Pacific Northwest National Lab in the Tri-Cities. Today, Federal research dollars spur research and development in countless scientific areas—from proteomics research, nuclear materials cleanup, biofuels, and many more.

Sam did not just want to get the work done; he wanted the workforce and the community to be safe. Sam worked to further the economic development and success of his community through a variety of government and community organizations.

One of his most important projects was helping the business community get access to small business contracts that were being part of the Federal work commissioned at Hanford. Some of the most notable projects Sam Volpentest is responsible for in the Tri-Cities in Washington State are a six-story Federal building in Richland, the inception of the Pacific Northwest National Laboratory, three freeways, twin bridges over the Columbia River, the N-Reactor Hanford Generating Plant, the Fast Flux Test Facility, the Life Sciences Laboratory and the Environmental Molecular Sciences Laboratory, the Hanford House/Red Lion Hotel, the Iowa Beef Processing Plant, and Sam's namesake, the Volpentest HAMMER Training and Education Center.

This training center is probably one of Sam's greatest accomplishments because it still today provides Hanford workers with real-time training in safety and response. The training facility now has trained countless first responders from governments all over our country and all over the world on how to respond to safety incidents from a more robust public participation. Sam's efficiency at this training facility gives those who are first responders the on-the-job-training they need.

Sam was often asked when he was going to retire—for example, whether it would be at age 65 or 75. He said: Why would I want to do that? Don't retire. Look to the future. Ask what you can do for your community that has been so good to you. Get out there and do something. And even if you do it for free, it will make you feel great afterward.

That was Sam Volpentest, a great Washingtonian, a great member of our country. We will miss "Mr. Tri-Cities," and we will try to live up to his legacy of accomplishment and continue to bring about a good cooperative relationship between a key part of Washington State, the great Tri-Cities, and our Federal Government, in making sure the Volpentest legacy continues.

I yield the floor, Mr. President.

AMENDING THE CONTINUING RESOLUTION

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thought the CR—the continuing resolution, as it is known around this place—was going to be laid down tonight. I guess it will not be laid down until tomorrow. But I will be offering an amendment the first thing in the morning on behalf of myself and a number of other cosponsors: Mr. KOHL, Mr. JEFFORDS, Mr. LEVIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, and Ms. CANTWELL. I think by tomorrow morning there are going to be a lot more on this list.

It is basically a very simple amendment. All it says is:

> Notwithstanding section 101 of this joint resolution, amounts are provided for making payments under the "Community Services Block Grant Act" at a rate not less than the amounts made available for such Act in fiscal year 2005.

Well, what that means is that this amendment, then, will continue the community services block grants at last year's level.

Now, you might say: Well, wait a minute. Isn't that what a continuing resolution does, it continues everything at last year's level?

Well, we have a continuing resolution the likes of which I have never seen. I have not seen it in the last 10 years. I have asked my staff to go back 20 years or so to see if we had something like it.

Here is what the House has done. They have sent us a continuing resolution that continues funding either at last year's level or at the House budget level, whichever is lower—whichever is lower. Now, what you will find out in there is that there are cuts in education, cuts to a whole lot of things. But most of those cuts do not take effect until next year. Education money goes out next summer. So for the continuing resolution, from now until—what?—November 18, I think it is, or something like that—a couple months—they will not be hit. But there will be a 50-percent cut in the Community Services Block Grants, which means by Saturday they will be cut 50 percent—right now.

Now, the occupant of the Chair, a former distinguished Governor of Virginia, I know he knows about the community services block grants. They do a lot in his State, as they do in our States: the Low Income Home Energy Assistance Program, housing, Head Start, transportation for the elderly, job search, all kinds of things, even helping low-income people apply for the earned income tax credit. There are a whole host of things done by Community Services Block Grants. It will be cut 50 percent, not next year, Saturday, Sunday. It will be a 50-percent cut immediately.

Now, I am going to read it into the RECORD this evening. I am sorry I have to keep the distinguished Senator in the chair for a little while tonight, but I think it is important for people to understand what we are doing here.

If this were just affecting programs like education next year—we are going to fix that by November, granted. But this is now. This happens now. The poorest of the poor in our country are going to get hit Saturday, Sunday, Monday, because of the wording of that continuing resolution, with a 50-percent cut, including victims of Hurricane Katrina, children all across the country.

We just had the mayor of Baton Rouge here the other day, Kip Holden. He was up here asking for more money for community services block grants. When he found out from my staff what the continuing resolution did in cutting it 50 percent, he couldn't believe it. He said they have been invaluable in assisting Katrina evacuees, getting things done that FEMA could not. He was up here pleading for more funding for community services block grants. He said it was beyond belief that Congress would be cutting this program at a time when it is most urgently needed. But that is exactly what the Congress will do if it passes this CR.

Once again, we are 1 day from the end of the fiscal year. Like an irresponsible schoolchild, the Congress has not completed its homework. It has finished 2 of the 11 appropriations bills. Why do we find ourselves once again in this sorry state of disarray? Consider the Labor-Health and Human Services appropriations bill, which is the bill that funds community services block grants. Under the very capable leadership of our distinguished chairman, Senator ARLEN SPECTER, our subcommittee did its job in a timely, orderly manner. We passed the Senate Labor-Health and Human Services-Education appropriations bill 2½ months ago, July 14. But once it left our committee, it seemed to disappear into a black hole. It hasn't been brought up on the floor. It is not even scheduled to be brought up on the floor. This is the bill that funds the community services block grants.

We didn't cut it. It was bipartisan. Republicans and Democrats on the subcommittee and on the full Committee on Appropriations voted to continue the funding for community services block grants at last year's level. Here we are, 1 day away from yet another end-of-fiscal-year train wreck.

Like actual train wrecks, this one will have real human casualties and victims, real hardship. This has not been done before. I know no one is here. There are no more votes tonight. Senators have all gone home. But I will be back on this floor tomorrow. We get 30 minutes tomorrow morning, 30 minutes to do something to protect the poorest of the poor, those who have no one to fight for them, those who rely upon our community service agencies out there to help them get through a tough time, to provide the Low Income Heating Energy Assistance Program. Even in Virginia, as well as Iowa, up in the northern part of the country, cold weather is starting to set in. It is in the 30s at night. Pretty soon it will get down to freezing, in October and November. We are going to need to get LIHEAP money out to these people. How are we going to do it when we have cut funding 50 percent? We are not supposed to speak about the other body here, but what could have been on their minds in doing something like this?

Now we are going to bring this up tomorrow. I assume the leadership is going to want us to rubberstamp it, a continuing resolution that will mandate drastic cuts to these vital services for the poorest of the poor, rubberstamp it, get it out of here, 30 minutes of debate tomorrow. We will talk about it. We will rubberstamp it, and we will get on our planes and go home. We are comfortable. We are going to be able to afford heat. We will be able to afford food for our families. We don't have anything to worry about. We make a lot of money around here. Eighty percent of this place is filled with millionaires. That is fine. We are comfortable.

Think about those who are not so comfortable. We are going to see devastating cuts. I mentioned serving victims of Hurricane Katrina. One hundred seventy-one thousand people, estimated not by me but by those involved with the evacuees, 171,000 people are being served under the community services block grants right now. It is 50 percent, this weekend—not next year, now—a 50-percent cut now. I don't know if people understand this. Poor people are going to suffer.

For the record, in fiscal year 2005, the CSBG was funded at $637 million, $636.6 million, to be accurate. The House provided $320 million for next year. Therefore, under this continuing resolution, which says you either take last year's level or the House level, whichever is less, that is what you do. Well, the House level is $320 million, a 50-percent cut.

I have a chart that shows the funding levels for community services block grants. In each of the last 3 years, it has been cut. The last time it was raised was in the fiscal year from 2001 to 2002 to $650 million. Ever since then, in fiscal years 2003, 2004, and 2005, it was cut from 650 to 645 to 642 to 636.6. Now they want to cut it in half. What is interesting about this chart is they want to cut it to 320 million. That is the level it was at in 1986. That is how much we provided in 1986 for the community services block grants.

I ask unanimous consent that this chart be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMUNITY SERVICES BLOCK GRANT APPROPRIATIONS HISTORY

[In millions]

FY 2005	$636.6
FY 2004	642.0
FY 2003	645.8
FY 2002	650.0
FY 2001	600.0
FY 2000	527.7
FY 1999	500.0
FY 1998	489.7
FY 1997	489.6
FY 1996	389.6
FY 1995	389.6
FY 1994	385.5
FY 1993	372.0
FY 1992	360.0
FY 1991	349.4
FY 1990	323.0
FY 1989	318.6
FY 1988	325.5
FY 1987	335.0
FY 1986	320.6
FY 1985	335.0
FY 1984	316.8
FY 1983	341.7
FY 1981	394.3

Mr. HARKIN. We are saying to the poorest in our country: We are going to take you back to 1986.

I have a modest proposal. Why don't we take our Tax Code and move it back to 1986? Whatever people were paying in taxes, we will move everything back to then. How would the most comfortable in our society, the wealthiest, the richest, like that? I rather doubt that that would be something you would ever accomplish around here. Yet for the poorest people in our country, we can take them back to 1986.

I have been here 30 years. I have never seen anything like this: 170,000 victims of Hurricane Katrina; in Texas, 72,000 evacuees have been served by this program; in Louisiana, more than 43,000 hurricane victims. Almost all the community action agencies in the impacted area were up and running by the second day after the storm. They were finding shelter, feeding people, clothing people, getting them medical attention. Now they are helping victims find employment. Community action agencies have been actively working with faith-based organizations all across the gulf coast to provide relief services. I mentioned what the mayor of Baton Rouge said. He was up here wanting to get more money for community services block grants. What does he get hit in the face with? Not only are you not getting more, they are cutting you in half. He couldn't believe it.

Nationwide, this cut would eliminate or disrupt essential services for some 6.5 million low-income people, including nearly 2 million children. A majority of rural outreach centers will be closed, denying entire rural communities access to services. Many of the one-stop neighborhood centers in suburban and urban areas would also be shut down.

Here is a chart that gives you an idea of what this 50-percent cut means. I mentioned 6.5 million people, 2 million kids. Communities will lose 21 million CSBG-supported volunteers. These are the volunteers the CSBG people pull together to do things. These are volunteers who want to, for example, volunteer their time to drive some elderly, low-income people to a community health center. These are good people, many of them church based, who volunteer their time to drive people to a meal site for a senior citizen meal. They volunteer their time to take low-income kids to a Head Start Program, for example. They are volunteers doing good things, but they need someone to pull it together, organize it, manage it, and get the transportation. That is what CSBG does. So we are going to cut it by 50 percent.

These volunteers are going to say: I would like to volunteer my time to drive these elderly, but you don't have any vehicle for me. Who is setting up the time? Who is making sure they are going to be there when I get there? No one. As a result, we are going to lose all these wonderful volunteers.

Private food banks all over the Nation rely on space, refrigerators, and transportation supported by CSBG. Think about all of the food banks all over America that are already being stressed to the limit. They are supported by the community services block grants. Now we are going to cut them in half. What happens to the space, what happens to the refrigerators, the transportation? Several million Americans will lose nutritional services and emergency food—not next year; this is not prospective. This is next week. The Low Income Home Energy Assistance Program is administered by CSBG. This cut will reduce staff in half, while home heating costs are expected to rise 50 to 70 percent. Cold weather is coming. Heating costs are going up. Cut CSBG.

That is something we can be proud of right? We can be proud of what we are doing here. What a shame.

These cuts are callous, ill advised, and they are cruel. This is cruel. I have no other way to say it. They are cruel. It couldn't come at a worse time. We know the rate of poverty is going up. Winter is coming on. We have had a couple of disasters, Rita and Katrina. What we are saying is, guess what, we are going to pull the rug out from underneath you. We are going to hurt you a little bit more. Maybe the House didn't know what they were doing. Maybe they didn't know this was in there. I don't know. What my amendment does is, it simply continues the level at last year's level. It ought to be increased by all rights. We know the number of Americans living in poverty has increased in each of the last 4 years. The purchasing power of community services block grants continues to decline. Each year, about 1 million more people qualify for community services block grant services. There is not any money to meet their needs right now. As bad as this is, the picture I am painting, right now community service agencies provide services to only 1 in 5 people in poverty; with $636 million, 1 in 5 are served. Now we are going to take that down even more.

I don't understand why the majority party in this Congress again and again proposes to slash programs from those who have the least in our society while adamantly insisting that tax cuts for the most fortunate are untouchable and sacrosanct. We can't touch them.

We all recognize that after 4 years of tax cuts, war and emergency spending, budget deficits are out of control. We all know this must be addressed, including with appropriate spending cuts. But what I don't understand is why we are asking the poor to bear the lion's share of the burden when it comes cutting the funding. Why are they on the front line? Why are they being cut this weekend? I object to repeated efforts by the majority party in this Congress to try to balance the budget on the backs of the poor. Even before Katrina struck, the majority party was already planning to slash food stamps by $3 billion and Medicaid by $10 billion. Katrina stopped that.

But who is the target of spending cuts? The poor, those who rely on Federal programs for health, education, disability, and veterans benefits.

Last week, a group of House Republicans launched what they call Operation Offset. They insist that all of the tax cuts of the last 4 years are off limits and untouchable, including the huge tax cuts for the most privileged and wealthy people in our society. Instead, Operation Offset would pay for Katrina recovery by slashing programs for the least fortunate among us, including deep cuts in Medicare, cuts in Medicaid, cuts to the School Lunch Program, cuts to the Children's Health Insurance Program, cuts in college aid, needy students, and on and on.

In short, with the leadership in this Congress, tax reductions for the rich are sacred and cannot be touched, while programs for the poor are fair game for deep cuts. I object. I object to this. I believe the clear majority of Americans reject this approach also. It offends their sense of fairness and equity.

This has to stop, and this is the place to stop it on this continuing resolution. We have to stop this one. This is so unconscionable. I don't know how anyone could ever feel good about this or feel we have done our job.

It is unconscionable, it is drastic, and it is cruel to cut the community services block grants in this manner.

I know what people are going to say tomorrow. They are going to come out here and say: Well, the House passed the continuing resolution and they have gone home. If my amendment is adopted, why, it has to go back to the House and they went home, and we will be accused of shutting down the Government.

Mr. President, I am sorry. The House of Representatives can come back on Palm Sunday. On Palm Sunday, they can come back to vote on the Terri Schiavo situation. Regardless of what you think about it, right or wrong, I am saying, if they can call the House back for that, if they can do that, they can call the House back to protect the poorest in our society from the cuts in the CSBG. We can pass it in the Senate, call the House back, and they can vote on it. We would not be shutting the Government down. If the House does not want to come back, they will be shutting the Government down. We are supposed to put a knife in the backs of the poorest in our country because the House did this? They can come back. We ought to force them to come back. We ought to force them to do what is right.

It is up to us in this body to have the correct response. We have to seize this opportunity and correct the misplaced priorities of the last 5 years and correct this one.

Last week, September 15, President Bush in New Orleans said:

> We have a duty to confront poverty with bold action.

Let me repeat that. You may not have gotten it the first time. President Bush said on September 15:

> We have a duty to confront poverty with bold action.

OK, so what we are going to do is pass a continuing resolution that cuts community services block grants by 50 percent—starting this weekend—that service the poor in our country. They are going to cut it by 50 percent. I guess that is pretty bold action. I guess they are going to confront poverty with bold action: yes, they are going to make more poor people. We have a duty to confront poverty with bold action.

I wonder if the President knows this. I wonder if anyone around the President has told him what the House did. I wonder if he is saying: Yes, that is the thing to do. Is the President okaying this? Has he sent word to the House that this is perfectly fine with him, that this comports with what he said last week?

I would like to hear from the President on this one. I would like to hear if he supports cutting community services block grants by 50 percent.

I would like to quote from a letter I recently received from a number of faith-based groups urging Congress to drop plans on the budget reconciliation to cut CSBG. I want to talk about it because it is appropriate to this. The group said the budget:

> continues to ask our Nation's working poor to pay the cost of a prosperity in which they may never share. It is clear that programs, such as Medicaid and the Food Stamp Program that are slated for cuts by Congress, will, in fact, have greater burdens placed on them as a result of Hurricane Katrina. These programs represent the deep and abiding commitment of the Nation to care for the least among us.

I could not have said it better. As we look for ways to assist the least among us, we should not hesitate to ask the most among us to help share some of the burden. We need to restore this funding.

I said I was going to give an example of who is hit by this. I have two other letters. One is from Ozark Action, West Plains, MO; Ozark Community Action Partnership:

The result of a Continuing Resolution as proposed, which would be the reduction of CSBG funds by 50 percent, Ozarks Action, Inc., located in rural southern Missouri (Douglas, Howell, Ozark, Oregon, Texas and Wright counties), would be faced with reducing its current staffing levels by 50 percent. As a result many of the services to low-income families would become unattainable.

Currently we have staff located in 10 communities on a full time basis in each of these six counties. The reduction would mean that 5 [full time employees] would be reduced. The issue then becomes which of the six counties no longer will be served or will have significantly reduced services.

In addition to serving the resident low-income population in this high poverty service area, these ten staff carry out the function of providing services to those individuals that have come to the area as a result of the two devastating hurricanes (Rita and Katrina). . . .

CSBG staff also conducts LIHEAP services for both the Energy Assistance program as well as providing the emergency energy services.

I did not mention that. Sometimes low-income people, especially elderly, get caught with the first or second cold snap. They have not thought ahead, and maybe they don't have enough oil in the tank. They need some help right away. They don't have credit, and they don't have money. The community services block grants provide for that, to get them enough fuel oil, heating oil—whatever it might be—to get them through that snap. They say:

This in and of itself will put a large burden on the State to provide adequate service to those in need of energy assistance.

Mr. President, I ask unanimous consent that this letter from Ozark Action, Inc., be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OZARK ACTION, INC.,
West Plains, MO.

The result of a Continuing Resolution as proposed, which would be the reduction of CSBG funds by 50%, Ozarks Action, Inc., located in rural Southern Missouri (Douglas, Howell, Ozark, Oregon, Texas and Wright counties), would be faced *with reducing its current staffing levels by 50%*. As a result many of the services to low-income families would be unattainable.

Currently we have staff located in 10 communities on a full time basis in these six counties. The reduction would mean that about 5 fte's would be reduced. The issue then *becomes which of the six counties no longer will be served* or *will have significantly reduced services*.

In addition to serving the resident low-income population in *this high poverty service area*, these ten staff carry out the function of providing services to those individuals that have come to the area as a result of the two devastating Hurricanes (Rita and Katrina). In Howell County, which has seen approximately 15 to 20 evacuee families, Ozark Action is operating as the clearing house and information hub for needs and services. This service would no longer be available with such steep reductions as a result of staff cost. Just in this past five days we have had three additional families move to the area and we believe that as families decided to move further north after deciding that returning home will not be an option or limited option in the future, we will see another wave of individuals moving to the area.

CSBG staff also conducts LIHEAP services for both the Energy Assistance program as well as providing the emergency energy services. This in and of itself will put a large burden on the state to provide adequate service and coverage for those in need of energy assistance.

Additionally, one of the remaining staff conducts Earn Income Tax credit returns from the period of January 1 through April 30th. This would have a major impact on those who receive EITC and will reduce the available income that these individuals receive through the EITC program.

CSBG Funds are used also, in a variety of ways, to support other agency programs where their own funding is inadequate. All such support would of necessity cease.

Sincerely;

BRYAN ADCOCK,
Executive Director, OAI.

Mr. HARKIN. Mr. President, I have another letter from East Missouri Action, again outlining what is going to happen here:

In the event that a continuing resolution is passed which would effectively fund CSBG at the FY-06 House appropriations level—

A cut of 50 percent—

serious cuts in services provided to low-income families in Southwest Missouri would occur. . . .

In-home visits will no longer be a priority. This will require more volunteers for clients who are home bound. Other catalytic activities such as life skills training workshops will be scaled back if not totally eliminated.

[East Missouri Action Agency] serves as the point of service for most other helping organizations in seven of our eight counties. . . . Families will be referred to other helping agency with little or no follow-up . . . we will not have the staff to effectively work with them.

I ask unanimous consent that this letter from the East Missouri Action Agency also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EAST MISSOURI ACTION AGENCY, INC.

BOLLINGER, CAPE GIRARDEAU, IRON, MADISON, PERRY, ST. FRANCOIS, STE. GENEVIEVE, & WASHINGTON COUNTIES

IMPACT OF CONTINUING RESOLUTION AT HOUSE FY06 FUNDING LEVEL

In the event that a continuing resolution is passed which would effectively fund CSBG at the FY-06 House appropriations level, serious cuts in services currently provided to low-income families of Southeast Missouri would occur.

1. Working with families and individuals in one-on-one case management fashion to help them achieve self-sufficiency and providing projects to assist them in this effort will have to be eliminated. The remaining resources will have to be expended doing only emergency services.

2. EMAA serves as the point of service for most other helping organizations in seven of our eight counties. EMAA serves as the clearinghouse and screener for emergency services throughout the county. There will be no time for discussion of the underlying causes of the emergency situation with these families. Families will be referred to the other helping agency with little or no follow-up. Partnerships with these other organizations will be in jeopardy because we will not have the staff to effectively work with them.

3. As just recently seen with Hurricane Katrina, EMAA was one of hundreds of CAAs which mobilized relief efforts even before several of the national charitable organizations and the Federal Government itself mobilized. CAAs have always had the flexibility to rise to the need in these situations, however, with this cut, that ability is gone.

4. Community Change projects such as, resource development, poverty awareness & education, housing development, community gardening, emergency service coordination networks, leadership development, childcare development, and other projects to improve the community at large will be greatly scaled back due to the lack of funding.

5. In-home visits will no longer be a priority. This will require more volunteers for clients who are home bound. Other catalytic activities such as life skills training workshops will be scaled back if not totally eliminated. If we do not receive a special grant for income tax assistance, we may have to discontinue the VITA income tax assistance project which leveraged $1.4 million in our eight county area for 2004. If we do not provide this free income tax assistance for the low income families in Southeast Missouri, for-profit vendors will, which will reduce the benefit to the families even more.

Mr. HARKIN. Mr. President, people say, What do community services block grants do? Here are some of their activities: Parenting education to 175,000 Head Start families, helping people be good parents; transportation for elderly Americans to medical appointments, which I mentioned earlier, such as the community health centers; home ownership counseling for the low income, how they might be able to afford and pay for their own home; mentoring and counseling for at-risk youth; in-home chore services for homebound elderly. Think about that. Domestic violence services. I mentioned refrigerators and transportation services for food banks; transitional housing for homeless families. You wonder what happens to homeless families? Community service action agencies find them transitional housing and especially now with winter coming on. Lead inspection programs, screening homes for lead-based paint, and we know how devastating that is on low-income children. Food stamp outreach, going out to make sure low-income people know they are eligible for food stamps, that they do not have to go hungry.

Community services block grant networks, let me talk about who these people are. Their local networks were made up of 1,090 local eligible entities, of which 88 percent were Community Action Agencies.

The local agencies use CSBG funding for their core operations developing and for developing and coordinating programs to fight poverty in 99 percent of the counties in the United States.

Who are the participants? Who are served? Twenty-two percent of all persons in poverty—I said about 1 out of 5; we are going to make it even lower than that—more than 15 million individuals who were members of almost 6 million low-income families.

Data provided by 4 million families show that more than 2.7 million had incomes at or below the poverty guideline. Think about this. Of these, 1.1 million families were "severely poor" with incomes below 50 percent of the poverty guideline. That means for a family of 4, we are talking about less than $7,000, probably $7,500 a year; 1.1 million families with less than $7,000 a year. That is who is being served by the community services block grant.

Another 1.6 million families had incomes between 50 percent and 100 percent of the poverty guideline; almost 1.7 million working poor families who relied on wages or unemployment insurance and collectively made up 44 percent of all program participants; nearly 430,000 families were TANF, Temporary Assistance to Needy Families; twenty-two percent of TANF monthly caseloads are CSBG clients; and about 1.4 million families are headed by single mothers.

These program serve more than 3.7 million children in poverty, 1.8 million adults who had never completed high school, 1.1 million people who were disabled, 3 million who lack health care.

That is who is served. I just mentioned all the programs that serve these people.

In my own State of Iowa, northwest Iowa, northeast Iowa, southwest Iowa, they are talking about how much they are going to have to cut back. In a five-county area in northwest Iowa, services at seven outreach centers which assist over 10,000 each year, have been scaled back. This is a 50-percent cut. This is not phony stuff. This is real. In a seven-county area in northeast Iowa, the Community Action Agencies already had to reduce office and staff hours in eight family service offices due to reductions in CSBG funding over the last 2 years. With a 50-percent reduction in CSBG, the family services staff will likely be reduced from 16 full and part-time individuals to 7 individuals employed less than 40 hours a week. That is to serve a seven-county area in northeast Iowa.

In Iowa, this is the time of the year temperatures are starting to drop and food supplies are running short as gardens stop producing. I think I just picked the last tomato off my tomato plant last week.

Without staff to take and process applications and provide assistance, the LIHEAP program year starts October 1. That is what. Saturday? That is Saturday. The LIHEAP program year starts October 1. Saturday.

In northeast Iowa, the CAA there faces an inability to ensure that those in poverty will continue to receive home heating assistance and food assistance. If CSBG is reduced—this is southeast Iowa—by 50 percent, the agency will have to reduce staff and close one very rural outreach center. That will mean clients who need emergency assistance for food, utilities, disconnect notices would have to drive about 45 miles to apply for assistance. These are people who probably do not even have transportation. They do not own cars.

The centers—I am reading here from the report—are terribly busy with the increase in the number of families coming to the outreach centers because they have been evicted, about to become homeless, have a disconnect notice from their utilities or their utilities have already been disconnected.

President Bush, September 15, 2005:

> We have a duty to confront poverty with bold action.

I hope someone in the bowels of the White House is listening to a little bit of my remarks. They do not have to buy it all. I hope they listen to a little bit of it. I hope that something will click up in one of those heads in the White House and say: Wait a minute. Is Harkin right? Could this possibly be happening? He must be wrong. He is just up there doing his thing. But just in case, we better check on it. I hope somebody at the White House is saying, maybe we ought to check on this.

When they check, they will find out I am right. What the House has sent us will cut it 50 percent starting Saturday, and it will have these effects. One may say, Oh, no, it will not, but it will.

That is why I have not come out on the floor to bemoan the CR for the cuts in education because we are going to fix that. The money for education does not go out until next summer. We have time to take care of that. The other cuts that are in the CR, we can take care of that. I would not go on like this if it was just education because we are going to have time to fix it later on. That is not what I am talking about. I am talking about something that is right now, needs the money now, the money goes out now, not next year—now, October 1. October 1, they will be cut 50 percent just like that. There is no carryover money. There is not a lot of money sitting someplace that they can carry over.

We have already cut this program, as I said, in each of the last 3 years. This Senate—well, I should say the Appropriations Committee, I cannot say the Senate, the Appropriations Committee passed it at last year's level, bipartisan, Republicans and Democrats.

I hope someone in the White House may have picked up on this. I hope they are going to check it, and I hope one of them will say: We cannot leave our boss hanging out there. Our boss said this and our boss meant it.

I believe he did mean it. But he probably does not know.

The President is busy. I am not faulting him for that. He probably does not know what the House did.

I would like to believe that if this person in the White House who may have listened to this or picked up on it and checked out and found out that that is exactly what the CR does, the continuing resolution does, they will get to someone higher up the food chain to get to the President to let him know about this, and maybe the President will get on the phone and he will call the leadership and say: You have to do this. You have to adopt this amendment. You cannot leave me hanging out there having said this and then turn around and expect me to sign a continuing resolution that cuts the poorest of the poor.

That is what we would be saying. He said that last week. Now he is going to get something and he has to sign it. I would hope the President might get on the phone or at least have his Chief of Staff or somebody do it and tell them we have to fix this. If it means the House of Representatives comes back on Friday afternoon or Friday evening or Saturday morning to fix it, so be it.

So they are going to be a little uncomfortable—oh, my goodness. I assume some Congressmen have probably gotten on a plane, and they went someplace, they have gone home. My goodness, they will have to get on an airplane—not at their expense. The Government will pay for it. They do not have to pay anything for it. They have to go to an airport, get on an airplane, fly back to Washington, put on a suit and tie and go back to the House floor and correct this. I know it is a terrible burden. It is a terrible thing to ask of someone making $160,000 a year, or whatever we make around here now.

Well, I jest, tongue in cheek. It is not too much to ask. They should do it, and the President should tell them to do it. Come back here and fix this. Do not leave him hanging out there having said that last week.

Heaven forbid that we should have the House come back and work on a Friday. My, my, work on a Friday? Whoever heard of such a thing? The working poor work on Friday. Or maybe they have to come back Saturday and fix it, Saturday morning or Friday night. Poor people work at night. They are working two jobs.

No, I am sorry, I do not mind making Members of the House uncomfortable if they have to get on a plane or come back to the House and fix this. That is a small price to pay to make sure that we live up to what the President said a week ago. This is not even bold action. This is continuing to do what we have been doing in the last year. It is not too much to ask. It is time that we made the comfortable a little bit uncomfortable so we can give some comfort to those who are uncomfortable.

We will be voting on this tomorrow. I hope that Senators will not be swayed by this. "Well, we cannot do this because the House has gone home." Well, let us comfort the uncomfortable. Let us tell the poorest of the poor we are not going to leave them in the lurch, we are not going to cut them by 50 percent, and let us have them come back and fix this tomorrow night. They can do it.

I appreciate the indulgence of the occupant of the chair for allowing me to talk about my amendment because I will not have much time in the morning. I only have 30 minutes. Some other people may want to talk. I know no one is here. I hope some people may be watching and taking heed of this. I will be back tomorrow morning, in a more succinct manner, obviously, to lay out this case on why we have to adopt an amendment to keep the community services block grants at last year's level.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, it is my understanding that the Senator from Iowa, Senator HARKIN, has come to the floor to offer an amendment that makes reference to the community services block grant funding and the possibility that if we pass a continuing resolution without adequately funding this program, communities all across America will be denied some basic funds they need.

I have made a point, as I travel around my State of Illinois, of asking village presidents and mayors and leaders how this money is used. It turns out to be money that is essential for many programs. It is one of the most unusual programs in that there is such a wide variety of things that are done with these dollars by communities, from afterschool programs for children at risk to programs for senior citizens that are essential for their well-being.

I am sorry I wasn't here earlier to join with Senator HARKIN, but I come to the floor in support of his effort. America can do better. We can make certain that we fund these essential programs so that the vulnerable across America are not left behind. If we focus on this, as we should have before Hurricane Katrina—and we will in the future—it is going to be a stronger nation.

I want to make sure my voice is added to that of Senator HARKIN in support of this valuable program.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REIMBURSING CHARITABLE WORK

Mr. ALEXANDER. Mr. President, earlier this week the Washington Post reported that the Federal Emergency Management Agency was making plans to "reimburse churches and other organizations that have opened their doors to provide shelter, food and supplies to survivors of hurricanes Katrina and Rita."

I understand FEMA's good intentions here, but we need to be very careful. There may be extraordinary circumstances when FEMA may need to rent buildings that might happen to belong to a church or mosque or synagogue. And I understand that under both Presidents George W. Bush and Bill Clinton, there have been appropriate ways to provide charitable choice and to fund faith-based organizations. I support that. I am currently working with Senators on both sides of the aisle on our Health, Education, Labor, and Pensions Committee on legislation to help all of Katrina's 372,000 displaced schoolchildren, including some who are enrolled in private and even religious schools. But the kind of reimbursement described in the Washington Post article makes me want to waive three yellow flags and two red ones.

One obvious concern is constitutional. The first amendment says that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Paying churches for work they choose to undertake as churches raises obvious questions. That is not my major concern. My major concern is making sure that we honor what it has always meant in America to be a volunteer, to be charitable, and to respect our religious traditions.

When Jesus fed the loaves and the fishes to the multitude of 5,000, he didn't send the bill to Caesar. As Americans with a strong religious tradition, we believe in helping our neighbors. In the book of Mark, Jesus tells us to "love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength" and to "love their neighbor as thyself." This idea of loving and caring for our neighbors is not limited to Christianity. Jesus himself drew the commands to love God and love our neighbor from the Old Testament in Deuteronomy and Leviticus. I don't ever remember reading: "Love God, love your neighbor, and send the bill to Washington for the expenses."

From pioneer days, volunteering and helping our neighbors has been an essential part of the American character. No other country in the world has anything similar to what we have in their traditions. They do not give as we give. They do not have that same spirit. It is one of the things that makes this a unique country. Our forefathers would be dumbfounded to think that if a neighbor's barn burned down and the community joined together to rebuild it, that they would expect a check from Washington, DC to pay them back.

In that same Washington Post article, Reverend Robert E. Reccord of the Southern Baptist Convention helped put this in balance when he said:

> Volunteer labor is just that: volunteer. We would never ask the government to pay for it.

At my church in Nashville, Westminster Presbyterian, where I am an elder, we took up a collection for the victims of Katrina and raised about $80,000 in cash. We then filled up the parlor in the church with other things that we were told they needed in southern Mississippi. We loaded up a truck with diapers and Clorox and other necessities, and our associate pastor went down there with that truck for a few weeks to help people in need. Are we now supposed to send the Federal Government a bill for the food and the supplies and three weeks of the pastor's salary? Of course not. No one in our church expects that, nor should they.

So churches and synagogues and mosques and religious organizations that are being good neighbors aren't looking for a Government handout. They are looking to lend a hand. We should respect them. We should thank them. We should honor them. They are performing an invaluable service. We encourage them by providing tax incentives for charitable giving. But we should also remember that virtue is often its own reward and that some rewards are in heaven, and we should be very careful before we start reimbursing churches for their charity.

I ask unanimous consent that the article from the Washington Post to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, September 27, 2005]

FEMA Plans To Reimburse Faith Groups for Aid—As Civil Libertarians Object, Religious Organizations Weigh Whether To Apply

(By Alan Cooperman and Elizabeth Williamson)

After weeks of prodding by Republican lawmakers and the American Red Cross, the Federal Emergency Management Agency said yesterday that it will use taxpayer money to reimburse churches and other religious organizations that have opened their doors to provide shelter, food and supplies to survivors of hurricanes Katrina and Rita.

FEMA officials said it would mark the first time that the government has made large-scale payments to religious groups for helping to cope with a domestic natural disaster.

"I believe it's appropriate for the federal government to assist the faith community because of the scale and scope of the effort of how long it's lasting," said Joe Becker, senior vice president for preparedness and response with the Red Cross.

Civil liberties groups called the decision a violation of the traditional boundary between church and state, accusing FEMA of trying to restore its battered reputation by playing to religious conservatives.

"What really frosts me about all this is, here is an administration that didn't do its job and now is trying to dig itself out by making right-wing groups happy," said the Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State.

FEMA officials said religious organizations would be eligible for payments only if they operated emergency shelters, food distribution centers for medical facilities at the request of state or local governments in the three states that have declared emergencies—Louisiana, Mississippi and Alabama. In those cases, "a wide range of costs would be available for reimbursement, including labor costs incurred in excess of normal operations, rent for the facility and delivery of essential needs like food and water," FEMA spokesman Eugene Kinerney said in an e-mail.

For churches, synagogues and mosques that have taken in hurricane survivors, FEMA's decision presents a quandary. Some said they were eager to get the money and had begun tallying their costs, from electric bills to worn carpets. Others said they probably would not apply for the funds, fearing donations would dry up if the public came to believe they were receiving government handouts.

"Volunteer labor is just that: volunteer," said the Rev. Robert E. Reccord, president of the Southern Baptist Convention's North American Mission Board. "We would never ask the government to pay for it."

When Hurricane Katrina devastated New Orleans and the Gulf Coast, religious charities rushed in to provide emergency services, often acting more quickly and efficiently than the government. Relief workers in the stricken states estimate that 500,000 people have taken refuge in facilities run by religious groups.

In the days after the disaster, house Majority Leader Tom DeLay (R-Tex.) and other Republicans complained that FEMA seemed reluctant to pay church groups. "There are tons of questions about what is reimbursable, what is not reimbursable," DeLay said Sept. 13, noting that Houston alone had "500 or 600 churches that took in evacuees, and they would get no reimbursement."

Becker said he and his staff at the Red Cross also urged FEMA to allow reimbursement of religious groups. Ordinarily, Becker said, churches provide shelter for the first days after a disaster, then the Red Cross takes over. But in a storm season that has stretched every Red Cross shelter to the breaking point, church buildings must for the first time house evacuees indefinitely.

Even so, Lynn, of Americans United for Separation of Church and State, said that federal reimbursement is inappropriate.

"The good news is that this work is being done now, but I don't think a lot of people realize that a lot of these organizations are actively working to obtain federal funds. That's a strange definition of charity," he said.

Lynn added that he accepts the need for the government to coordinate with religious groups in a major disaster, but not to "pay for their good works."

"We've never complained about using a religious organization as a distribution point for food or clothing or anything else," Lynn said. But "direct cash reimbursements would be unprecedented."

FEMA outlined the policy in a Sept. 9 internal memorandum on "Eligible Costs for Emergency Sheltering Declarations." Religious groups, like secular nonprofit groups, will have to document their costs and file for reimbursement from state and local emergency management agencies, which in turn will seek funds from FEMA.

David Fukitomi, infrastructure coordinator for FEMA in Louisiana, said that the organization has begun briefings for potential applicants in the disaster area but that it is too early to know how many will take advantage of the program.

"The need was so overwhelming that the faith-based groups stepped up, and we're trying to find a way to help them shoulder some of the burden for doing the right thing," he said, adding that "the churches are interested" but that "part of our effort is getting the local governments to be interested in being their sponsor."

A spokeswoman for the Salvation Amy said it has been in talks with state and federal officials about reimbursement for the 76,000 nights of shelter it has provided to Katrina survivors so far. But it is still unclear whether the Salvation Army will qualify, she said.

The Rev. Flip Benham, director of Operation Save America, an antiabortion group formerly known as Operation Rescue, said, "Separation of church and state means nothing in time of disaster: you see immediately what a farce it is."

Benham said that his group has been dispensing food and clothing and that "Bibles and tracts go out with everything we put out." In Mendenhall, Miss., he said, he preached to evacuees while the mayor directed traffic and the sheriff put inmates from the county jail to work handing out supplies.

Yet Benham said he would never accept a dime from the federal government. "The people have been so generous to give that for us to ask for reimbursement would be like gouging for gas," he said. "That would be a crime against heaven."

For some individual churches, however, reimbursement is very appealing. At Christus Victor Lutheran Church in Ocean Springs, Miss., as many as 200 evacuees and volunteer workers have been sleeping each night in the sanctuary and Sunday School classrooms. The church's entrance hall is a Red Cross reception area and medical clinic. As many as 400 people a day are eating in the fellowship hall.

Suzie Harvey, the parish administrator, said the church was asked by the Red Cross and local officials to serve as a shelter. The church's leadership agreed immediately, without anticipating that nearly a quarter of its 650 members would be rendered homeless and in no position to contribute funds. "This was just something we had to do," she said. "Later we realized we have no income coming in."

Harvy said the electric bill has skyrocketed, water is being used round-the-clock and there has been "20 years of wear on the carpet in one month.' When FEMA makes money available, she said, the church definitely will apply.

REMEMBRANCES OF SAM VOLPENTEST

Mrs. MURRAY. Mr. President, I rise this evening to share the very sad news that Sam Volpentest—a name many of us in Congress know well—passed away last night at the age of 101.

Here in our Nation's Capital, Sam was a near constant fixture—always searching for new ways to help his beloved community of the Tri-Cities to move forward.

To fully appreciate Sam's contributions, you have to understand something about the geography and history of my State. The Tri-Cities—which are Richland, Pasco, and Kennewick—are located on the Columbia River in the southeastern region of Washington State.

From the Hanford nuclear facility, to the pristine beauty of the last free-flowing stretch of the Columbia River, to the many varied agricultural and business challenges, the Tri-Cities are diverse and very unique.

Located across the Cascade Mountains from Seattle and other population centers, it could be pretty easy for these three communities to have their needs overlooked.

Well, Sam made sure that never happened.

Whenever something important was happening in the Tri-Cities, I could always count on Sam to show up in my Senate office to share it with me, even if I didn't know he was coming.

I vividly remember many years ago when the chair of the Energy Committee cut funding for the construction of HAMMER. HAMMER is a world-class training facility located in Richland, WA.

Well, I like to think I am always on top of the issues affecting my home State, but Sam kept me on my toes. I showed up at my office one morning at about 7:30 a.m. Guess who was already there, standing there, waiting for me outside my door. Sam Volpentest.

Although Sam may have only had about an inch or two on me, that man's passion could move mountains. And on that day, his passion was for building HAMMER.

Well, I didn't want to mess with Sam, so I marched right into that Energy Committee chairman's office, and I fought side by side with Sam to restore those cuts. And we won.

I was proud to stand with Sam at the HAMMER groundbreaking ceremony in July of 1995. Sam was 91 years young at that time. I still have that shovel on display in my office as a reminder of what we can all do if we have passion and heart, and if we work together.

Just look at HAMMER today. It is a first-rate facility that keeps Hanford workers safe.

HAMMER has created jobs. It has created economic opportunities and development, and it has the potential now to be a Homeland Security training center for first responders across the country.

Our entire country owes Sam a debt of gratitude for all he has done for so many people.

During my years in the Senate, I have worked with a lot of people. But no one—no one—has come close to matching Sam's energy, his commitment, and his success.

Sam has been a role model to me and to all of us who want to spend our lives giving something back to the communities we care about most. I thank him for helping me be a better representative for all the people of my home State.

Sam was a one-person Chamber of Commerce. He was a visitor's center and he was a cheerleading squad all wrapped into one. Sam Volpentest was the heart and soul of the Tri-Cities. He was one of a kind. Sam will be dearly missed, but he will not be forgotten.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 31, 2002, Patrick Vogrich a State-funded caregiver, bludgeoned his disabled client Larry Rap to death with a hammer in an apartment outside of Chicago, IL. The apparent motivation for the attack began when Mr. Rap ran into Mr. Vogrich with his wheelchair. According to police, Mr. Vogrich was convicted of murder on November 19, 2002.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SEQUENTIAL REFERRAL REQUEST—INTELLIGENCE AUTHORIZATION ACT FOR FY 2006

Mr. WARNER. Mr. President, I ask unanimous consent that my letter to the majority leader dated September 29, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, September 29, 2005.

Senator BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Pursuant to paragraph 3(b) of S. Res. 400 of the 94th Congress, as amended, I request that the Intelligence Authorization Act for Fiscal Year 2006, as just reported by the Select Committee on Intelligence, be sequentially referred to the Committee on Armed Services for a period of 10 days. This request is without prejudice to any request for an additional extension of five days, as provided for under the resolution. Moreover, the amended resolution provides that the period of referral does not begin to run until the committee to which the bill is referred receives the bill, "in its entirety and including annexes." Thus, the 10 days of initial referral will not begin to run until the Committee on Armed Services receives the classified annex to the bill, as well as the bill and report.

I request that I be consulted with regard to any unanimous consent or time agreements regarding this bill.

With kind regards, I am

Sincerely,

JOHN WARNER,
Chairman.

NATIONAL HISPANIC HERITAGE MONTH

Mr. FEINGOLD. Mr. President, we are currently observing National Hispanic Heritage Month, a time when many members of the Latino community and the country at large remember and celebrate the profound contributions of Hispanic culture that are woven into the great cultural fabric of America. National Hispanic Heritage Month is celebrated between September 15 and October 15, to coincide with the Independence Day anniversaries of nations throughout Latin America. In 1968, President Lyndon Johnson's proclamation of National Hispanic Heritage Month was authorized by Congress. In 1988, the recognition was expanded to a month-long celebration.

America is home to nearly 41 million Latinos, including a thriving population in my home state of Wisconsin. This month, we should take the time to embrace the many important contributions throughout American history of American Latinos that affect all of our everyday lives. This month we celebrate the historic efforts of Cesar Chavez, Jaime Escalante, Roberto Hernandez, Henry Cisneros, Ellen Ochoa and Roberto Clemente, to name just a few. We celebrate their work to break down barriers and create bridges for future generations.

But as we celebrate Hispanic heritage, it is also time to address the challenges that face the Hispanic community, such as access to education and health care, fair working conditions, racial profiling and, for many, an ability to keep their family together while working to become legal, permanent residents of this great country. I am a strong supporter of the SOLVE Act, introduced by Senators KENNEDY and MCCAIN, that would help keep many Latino families together while their petitions for permanent legal residency are processed. The legislation would help hard-working Hispanics and others become legalized citizens and would offer a new temporary worker program.

While we work to improve the immigration system, we must enhance the education of Latino students. Many Latino students face social, economic, and language barriers that can prevent them from receiving the top-quality education they, like all American students, deserve. We must increase funding for English proficiency programs, programs to help low-income students attend college, and programs to help parents involve themselves in their children's education. It must be a priority for Congress to ensure equal education for all so the Hispanic community can continue to flourish and contribute to American culture.

In closing, I express my hope that the 109th Congress begins to address these and other pressing priorities for Latinos across the country. We should not limit our celebration of National Hispanic Heritage Month to saluting the achievements of Hispanics, we also need to make sure that we act on the educational, health, labor and other needs of all Americans of Hispanic heritage.

WATER TECHNOLOGY AND INTERNATIONAL AID

Mr. DOMENICI. Mr. President, fresh water is a substance that we as Americans assume will be available when and where we want it. However, the disruption of water and wastewater services following Hurricane Katrina and Hurricane Rita has shown how fragile those assumptions can be. The resulting fear, panic and instability are what we rarely experience in this Nation. However, as we look around the globe, those same fears, sense of panic, and sense of instability is a daily occurrence for over 1 billion people across the globe who have little or no hope for a speedy resolution of their concerns.

We must help solve the expanding problems of insufficient clean drinking water and inadequate wastewater treatment. These are matters of international importance for several reasons. First, we are a member of an increasingly international economy, and the expansion or contraction of economies the world over affects our industry and economy. Furthermore, disease knows no borders and can spread through water. Most importantly, we care about the well being of others. All these national policy goals are intimately related to adequate water and wastewater treatment across the world.

There are many ways that we can help address this world-wide problem. However, lasting solutions require that local individuals and institutions have the capacity to maintain and expand their own services.

This point has been hammered home by a report to be released by the Center for Strategic and International Studies and Sandia National Laboratories today. The report reinforces what any organization addressing international water issues already knows: the local community must accept, embrace, maintain and take responsibility for the solution to their water issues. There are several initiatives in place in our country that are helping local communities across the globe in this regard.

The Department of Energy National Laboratories have tested tools and techniques for improving our domestic capacity in the desert southwest. The labs have shared that information with institutions around the globe to help strengthen local capacity.

As an example, Sandia National Laboratories' efforts to create new technologies to address major U.S. water issues are being applied to critical water issues in the strategically important Middle East. Ongoing interactions with Iraq, Jordan, Libya and Israel are helping address water safety, security and sustainability issues with technologies in water management modeling, water quality monitoring and desalination.

Sandia is also working to rebuild Iraq's science and technology capacity in collaboration with the Arab Science and Technology Foundation and the Departments of Energy and State. Just last week in Amman, Jordan, Sandia co-hosted a meeting where proposals developed by Iraqi scientists and their international collaborators were reviewed and presented to international funding agencies. Two such proposals for improving water resources management in Iraq were presented by Sandia staff and their Iraqi counterparts.

Separately, Sandia is working with the United Nations Educational, Scientific, and Cultural Organization to develop a proposed planning framework for water management in Iraq. This framework will utilize an advanced water management model developed at Sandia coupled with training of Iraqi water managers and scientists. This proposed framework is expected to be presented to Iraq's Ministry of Water in November.

In other areas, Sandia has reached a preliminary agreement with the Royal Scientific Society, RSS, in Jordan to pilot test a new technology for real-time collaborative development of water management models over the Internet. This technology will enable U.S. and Jordanian water experts to jointly assemble, test and deploy water management models, working in real time while half a world apart. Sandia has also developed a proposal with the Jordanians to pilot test real-time water quality monitoring technology utilizing Sandia's chem-lab-on-a-chip technology.

In Libya, Sandia is working on a program with the Departments of Energy and State to refocus former Libyan weapons scientists on development of peaceful technologies that will enable Libya to develop a strong, internationally-engaged economy. Water is a very high priority for the Libyans, and they are reconfiguring their former weapons development laboratory into a facility they have named the Renewable Energy and Water Desalination Research Center. Sandia is helping identify desalination technologies for use in Libya, with particular attention to technologies for treating the brackish water that is produced as a by-product of pumping oil and gas.

Further, Israeli water experts came to Sandia in 2003 to learn about water security. The trip led to a series of visits between Israeli water security experts, the Environmental Protection Agency's National Homeland Security Research Center, and Sandia. These interactions resulted in a collaborative proposal to test Sandia's real-time, chem-lab-on-a-chip water quality monitoring technology in Israel's water supply system.

Congress helped develop these tools by allowing the Department of Energy Laboratories to use part of their resources for laboratory directed research and development. In the case of Sandia, these seed funds have produced sensor technologies to test water for contaminants and terror agents, numerical models to help groups jointly manage and plan for the future and reduce conflict, water treatment technologies that may reduce costs and make impaired water available for beneficial uses, and tools to detect and respond to terrorist attacks in our municipal drinking water systems. These seed projects have then been extended and are coming to fruition under direct funding we have provided through the Department of Energy, DOE.

The work at Sandia National Laboratory does not represent a comprehensive list of all the achievements within the DOE. In fact, twelve of our national laboratories, all of whom have worked to expand and protect water supplies in some way, have worked jointly for three years to develop an outline of the ways water and energy resources are inter-related. These institutions are now working under DOE direction to develop a report to Congress on this interdependency, which I believe will help us determine which programs will most effectively ensure sufficient water supplies to support our energy needs and sufficient energy supplies to meet our water needs.

Additionally, these national laboratories are now working with both Federal and non-Federal institutions around the U.S. to develop a technology development roadmap. This effort will clearly identify our highest priority investments in research, development and commercialization so we can expand our nations' water supplies.

The success of these investments led us to authorize a new DOE program as part of the Energy Policy Act of 2005. That program is broad. I believe that overall it will help resolve problems related to water just as we are working to resolve our energy supply problems. I am particularly interested in the technology development aspects of the program and therefore plan to introduce a bill soon to instruct the DOE to focus attention on technology development and commercialization. A similar bill was introduced last Congress in partnership with Members from the House, and I have high hope that working together we can pass legislation this Congress.

I must note that DOE efforts are not the only activities that can assist the U.S. in addressing international water issues. The Bureau of Reclamation has a 30-year history of developing desalination technologies that have a significant international impact. The Bureau's reputation and capabilities in this area cannot be underestimated, and I hope the administration will develop a long-term strategy for use and expansion of those resources. Further, I have supported the Office of Naval Research's efforts to develop mobile water treatment technology for our troops. This technology has proven its worth by being deployed to Mississippi in the aftermath of Hurricane Katrina.

Additionally, my colleague and friend, Majority Leader FRIST, introduced legislation this spring entitled the "Safe Water Currency for Peace Act of 2005", S.492, which directs the Department of State to develop a cohesive international water development policy and then to begin to implement that strategy. This policy effort holds strong promise for the future of water as well.

I believe and remain a champion of the need to look ahead, to see the future of water supplies in this nation and the world and to actively prepare for that future. I have said before, and I still believe, that there is no more important or essential substance to us than water. It is the source from which life springs. It also has the potential to be the source of incredible conflict at both local and international levels. Fresh water supplies are coming under pressure all over the globe. Seriously confronting this problem before it leads to tremendous burdens on this nation and the world is an endeavor as worthwhile as any I can contemplate. The need is great. The goal is good. The initiatives I have discussed today, and others like them, can help us confront this problem.

AVIAN INFLUENZA

Mr. BIDEN. Mr. President, I am pleased to support and cosponsor Senator HARKIN's amendment aimed at enhancing our capability to combat an avian flu pandemic. This amendment provides absolutely crucial funding for key items that will clearly be needed to fight off this menace: a substantial stockpile of the only antiviral medication effective against H5N1 flu; expansion of the ability of our State and local public health departments, which are the first line of defense against flu, to meet the threat; increased global surveillance for dangerous pathogens to pick up the first signs of a spreading epidemic, a priority issue that Senator FRIST and I have worked on for several years; improving our country's infrastructure for vaccine manufacture, which is sorely deficient; and money for communication and outreach, so we can have everybody prepared and on the same page.

We are all concerned about preparation for bioterrorist attacks. Smallpox, anthrax, plague, and other pathogens may be coming down the road at some point. But the public health experts tell us that H5N1 avian flu has already started down the road. It is not in the U.S. yet, and the scientists don't know when it might get here, but it is heading in our direction. The avian flu virus is spreading throughout Asia, carried by migratory waterfowl with a worldwide reach. The virus is continuously changing and adapting, heading toward the human-to-human transmission capability that could trigger a pandemic.

And we do know from the first 100 human cases, which have been limited so far to Southeast Asia, that this stuff is really lethal, with a case-fatality rate approaching 50 percent. By contrast, the deadly 1918 Spanish flu that killed millions of people had a case-fatality rate of only 2 percent. We're talking about a threat to this Nation as big as any we have faced.

Fortunately, we have a good idea of the measures we need to take to mitigate the impact of avian flu. But these measures cost money and have a significant lag time before they can be put in place. Many of these measures require resources only available in foreign countries. We don't know how much time we have got, and we have got to get moving on this right now. We really can't wait weeks and months for the "right" appropriation bill, for some "advisory committee" to finish its work, or for the completion of a "comprehensive" antiterror plan. The responsible, prudent move is to act now, to start putting in place the countermeasures that we know will work if implemented in time. The old philosopher who said that "an ounce of prevention is worth a pound of cure" may not have known anything about RNA viruses, but that advice would seem quite applicable to our current situation.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2005 budget through September 13, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95.

The estimates show that current level spending is over the budget resolution by $3.145 billion in budget authority and over the budget resolution by $101 million in outlays in 2005. Current level for revenues is $447 million above the budget resolution in 2005.

Since my last report for fiscal year 2005 dated September 20, 2005, the Congress has cleared and the President has signed the TANF Emergency Recovery and Response Act of 2005, Public Law 109-68, that increased budget authority for fiscal year 2005.

I ask unanimous consent that the accompanying letter and material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2005 budget and are current through September 23, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2005 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 on Table 2).

Since my last letter, dated September 15, 2005, the Congress has cleared and the President has signed the TANF Emergency Recovery and Response Act of 2005 (P.L. 109-68) that increased budget authority for fiscal year 2005.

The effects of the action listed above are detailed in the enclosed reports.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over/under (−) resolution
ON-BUDGET:			
Budget Authority	1,996.6	1,999.7	3.1
Outlays	2,023.9	2,024.0	0.1
Revenues	1,483.7	1,484.1	0.4
OFF-BUDGET:			
Social Security Outlays	398.1	398.1	0
Social Security Revenues	573.5	573.5	0

Note: * = less than $50 million.

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81.8 billion in budget authority and $32.1 billion in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2 of Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions:[1]			
Revenues	n.a.	n.a.	1,484,024
Permanents and other spending legislation	1,109,476	1,070,500	n.a.
Appropriation legislation	1,298,963	1,369,221	n.a.
Offsetting receipts	−415,912	−415,912	n.a.
Total, enacted in previous sessions:	1,992,527	2,023,809	1,484,024
Enacted This Session:			
Authorizing Legislation:			
Surface Transportation Extension Act of 2005 (P.L. 109–14)	16	0	0
TANF Extension Act of 2005 (P.L. 109–19)	81	45	0
Surface Transportation Extension Act of 2005, Part II (P.L. 109–20)	15	0	0
Surface Transportation Extension Act of 2005, Part III (P.L. 109–35)	3	0	0
Surface Transportation Extension Act of 2005, Part IV (P.L. 109–37)	5	0	0
Surface Transportation Extension Act of 2005, Part V (P.L. 109–40)	2	0	0
Energy Policy Act of 2005 (P.L. 109–58)	0	0	40
Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (P.L. 109–59)	1,562	8	0
TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68)	5,067	0	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13)[2]	−1,058	4	41
Interior Appropriations Act, 2006 (P.L. 106–54)	1,500	120	0
Total, enacted this session:	7,193	177	81
Total Current Level[2, 3]	1,999,720	2,023,986	1,484,105
Total Budget Resolution	2,078,456	2,056,006	1,483,658
Adjustment to budget resolution for emergency requirements[4]	−81,881	−32,121	n.a.
Adjusted Budget Resolution	1,996,575	2,023,885	1,483,658
Current Level Over Adjusted Budget Resolution	3,145	101	447
Current Level Under Adjusted Budget Resolution	n.a.	n.a.	n.a.

Notes: n.a. = not applicable; P.L. = Public Law.

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (P.L. 109–7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109–8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $83,140 million in budget authority and $33,034 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13), $10,500 million in budget authority and $350 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–61), and $51,800 in budget authority and $25 million in outlays from the the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–62).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[4] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

Source: Congressional Budget Office.

FARM AID'S 20TH ANNUAL CONCERT

Mr. HARKIN. Mr. President, on Sunday, September 18, just outside of Chicago, Farm Aid staged its 20th annual concert, playing to a sell-out crowd of more than 28,000. Over the years, Farm Aid has raised more than $27 million to fund national, State and local efforts of various kinds to support and strengthen family farm agriculture and rural communities.

The first Farm Aid concert, on September 22, 1985, was organized by a great American who is richly acquainted with the heart and soul of rural America, Willie Nelson. Originally conceived as a way to raise money to help struggling farm families, the first Farm Aid concert also served to highlight the crucial challenges facing family farms and rural communities.

I have vivid memories of that first Farm Aid concert 20 years ago. I remember getting on the train in Carroll, IA, west of Ames, and riding it all the way to Champaign, IL. That was a trainload of people with high hopes and good spirits. But more important, that train was packed with people who understood firsthand the severity of the farm crisis, and who had a deep, passionate commitment to doing something about it. We spent the train trip discussing ideas for turning the situation around, and by the time we arrived in Champaign, we were fired up to push for big changes.

The mid-1980s were a tumultuous time for rural America. In my own State of Iowa, the economic devastation experienced by family farms and small towns was the worst since the Great Depression. As in the 1930s, the human toll of the crisis was poignant and profound. There were many tens of thousands of people who had spent their lives working hard and playing by the rules, but who were losing their farms, their homes and their livelihoods. That affected me personally, as it did most Iowans and people all across America. And like so many others, I was convinced that we needed new ideas and better policies to save America's family farm agriculture and to revitalize our rural economy.

The first Farm Aid concert drew a tremendous amount of national and even international attention to the crisis in rural America. Farm Aid opened people's eyes to the plight of family farms and small towns. It helped farm families directly and it led to policy changes that have made a positive difference.

Family farms and rural communities are still struggling, and so Farm Aid is as important as ever. And in that same spirit, this year's concert highlighted and helped support a special Farm Aid Family Farm Disaster Fund to provide aid to farm families and rural communities that have been devastated by hurricanes across the gulf region, drought in the Midwest or other natural disasters elsewhere. In the tremendous response to the hurricanes, we have seen the same outpouring of concern and compassion by the American people that has supported Farm Aid over the years.

I salute Willie Nelson, John Mellencamp, Neil Young, Dave Matthews and all the others who have devoted themselves to making Farm Aid a success in helping family farms and rural communities throughout the years—including David Senter, Carolyn Mugar and Corky Jones. I wish them and Farm Aid many more successful years supporting family farms and rural communities and raising awareness of their vital importance to us all.

EMERGENCY COMMUNICATIONS

Mr. KERRY. Mr. President, today the Commerce Committee was scheduled to conduct an afternoon hearing regarding emergency communications. I regret that the hearing was postponed, and I hope and expect that the session will be quickly rescheduled. The events of September 11, 2001, uncovered a fundamental weakness in our communications system. We learned the hard way that in a time of crisis—when communication is most important—our first responders could not communicate at a basic level. Now, some 4 years later, Katrina has showed we have not fixed the problem. One of the biggest problem facing police, fire and first responders in the gulf coast was that the communications system was knocked off line. It was remarkable to watch as the television news crews had better luck communicating than our first responders. As the disaster unfolded, emergency officials repeatedly cited communications failures as a major obstacle to the disaster response effort.

So despite the good work of the 9/11 Commission and the hard work of national and local officials, we find that the system is not hardened against terror or nature, and we remain dangerously vulnerable. Like all of my colleagues, I want a system that will work when we need it most. Frankly, there is not much good in an emergency communications system that doesn't work in emergencies. We must push ahead with the DTV transition so that new spectrum is made available and new technologies can come online. The Federal Government must commit the time, resources, training, technology, and leadership to create a national and truly interoperable communications system. It is a national job to ensure capability across regions, among rescues units, and up and down chain of command.

I also believe we should deploy a redundant emergency communications system that, with a flick of switch, will operate during times of crisis when the main system is disabled. I have introduced a bill to address this immediate need. S. 1703 requires experts at the Department of Homeland Security and the Federal Communications Commission evaluate the feasibility and cost of deploying an emergency communications system. The agencies will evaluate all reasonable options, including satellites, wireless and terrestrial-based systems. They will evaluate all available public and private resources that could provide such a system and submit a report to Congress detailing the findings.

The DHS is then authorized to request appropriations to implement the system. Congress would then be in position to put in place whatever programs and funding are needed to get the job done. We have myriad day-to-day communications issues to address. I am mindful of these needs. As was pointed out by a witness in the Commerce Committee's morning hearing, we have major problems with "operability" within a particular agency that must be addressed before we can seriously tackle "interoperability"—communicating across jurisdictions and among different agencies.

However, we must also take steps to address an immediate crisis. We must ensure that we can respond in emergency situations with an eye toward building a reliable, redundant system for the long term. It is my hope that the Congress will consider this proposal, and other relevant proposals, before we recess for the year. I look forward to working with my colleagues in that regard.

PRESIDENT URIBE'S APPOINTMENT OF A CABINET-LEVEL ADVISOR ON AFRO-COLOMBIAN ISSUES

Mr. OBAMA. Mr. President, I rise today to call attention to an important step towards progress for Afro-descendants in Colombia, and an important opportunity for Afro-descendants throughout Latin America.

I wish to commend the work of my colleagues in the Congressional Black Caucus on this issue, as well as the tireless efforts of nongovernmental organizations and religious groups both here and in Colombia.

This August, President Uribe of Colombia created a cabinet-level position on Afro-Colombian issues, and appointed an Afro-Colombian to fill the post. The creation of this position is especially significant because it signals both a recognition of the severity of the situation of Afro-descendants in Colombia and a willingness to address these inequalities.

At the same time, many of us recognize that this is only a first step and much more needs to be done.

I will be monitoring the progress of this office very closely in the coming months, and I especially look forward to the development of President Uribe's Committee on Civil Rights and Sustainable Development for Afro-Colombians.

It is my hope that this institution will have the resources and mandate to do an effective job of bringing some measure of equality and justice to a marginalized segment of Colombian society. It is my hope that this will encourage other governments in Latin America to consider taking additional measures to address racial discrimination, as well as economic and social marginalization, faced by Afro-descendants in their countries.

In the wake of Hurricane Katrina, our own country is being awakened to a great divide in our midst. As we struggle with troubling intersections of race and class, and how we have failed the most vulnerable members of our population, I hope we will be able to take a moment to reflect on similar struggles in places such as Colombia, Ecuador, Brazil and Venezuela.

While I realize that Colombia continues to face many challenges—from human rights to narco-trafficking—I wanted to bring some good news, that is often overlooked, about the country of Colombia to the attention of the Senate. I applaud these efforts.

TRIBUTE TO SIMON WIESENTHAL

Mr. CORZINE. Mr. President, I rise today to pay tribute to Simon Wiesenthal, the moral conscience of our generation and of generations to come. I was proud to cosponsor the resolution authored by my friend and colleague, Senator SCHUMER, that passed the Senate by unanimous consent, commemorating Mr. Wiesenthal's life and accomplishments.

Mr. Wiesenthal died on Tuesday, September 20, 2005, at the age of 96. After surviving internment in 12 Nazi concentration camps, Mr. Wiesenthal took on a mission for the world—to ensure that through the crucible of the Holocaust we acknowledge and understand our common humanity.

Simon Wiesenthal's name has become synonymous with the term "Nazi hunter," the man responsible for bringing more than 1,100 Holocaust collaborators to justice. But as the noted author, Robert Lifton, has said, what defined Wiesenthal "wasn't so much his identifying particular Nazi criminals, . . . it was his insisting on an attitude of confronting what happened and constantly keeping what happened in mind and doing so at times when a lot of people would have preferred to forget."

Simon Wiesenthal constantly made sure that we understood the Holocaust was not a discrete event relegated to a particular time and place, but that it was, and is, emblematic of the depths to which humanity can descend and the heights to which it can soar.

Simon Wiesenthal survived the Nazi death camps through what some might call luck, some might call random acts of kindness or just indifference, or what some might call miracles. Whatever the reason, fathomable or unfathomable, Wiesenthal became our guide on a painful and essential journey through memory and consciousness, an examination of what we are and what we should be. That is a journey that is never-ending by definition—it was not for him and should not be for us.

He was a detective searching for criminals, and he was a philosopher seeking after truth and justice. He found and helped find many criminals. His search for truth and justice is passed on to us and to our children. It lives on in the Simon Wiesenthal Center in Los Angeles, home to the Museum of Tolerance. It lives on in our assumption of responsibility.

Mr. Wiesenthal died in his sleep at his home in Vienna, Austria, his body at peace, his spirit among us.

THE PONTIFICAL VISIT OF HIS HOLINESS ARAM I

Mrs. BOXER. Mr. President, I take this opportunity to recognize the Pontifical Visit of His Holiness Aram I, Catholicos of the Great House of Cilicia, to my home State of California in October, 2005.

The Catholicos represents the Great House of Cilicia, an historic Armenian religious center established in 1441. The Catholicosate was relocated to Antelias, Lebanon following the atrocities of the Armenian Genocide, which included destruction of houses of worship in Cilicia. Today, His Holiness

Aram I represents hundreds of thousands of Armenian American Christians, as well as Armenians across the Near East. The Armenian faith is 1,700 years old and it is significant that Armenia was the first nation to officially adopt Christianity as a state religion in 301 AD.

The Catholicos' spiritual, cultural and educational influence extends well beyond the Armenian people. His Holiness Aram I, who holds a Master of Divinity, a Master of Sacred Theology, a Ph.D., and several honorary degrees, has authored numerous articles and texts in Armenian, English and French, some of which have been translated into other languages. The Catholicos has worked to strengthen interfaith relations between Christian and Muslim communities. In 1974, the Catholicos was one of the founding members of the Middle East Council of Churches.

His Holiness Aram I was elected as Moderator of the Central and Executive Committees of the World Council of Churches, WCC, a renowned organization which represents over 400 million Christians worldwide. The WCC brings together over 340 churches and denominations in more than 100 countries throughout the world. The Catholicos is the first Orthodox, first Middle Easterner and youngest person to hold this position and his unanimous re-election as Moderator in 1998 was exceptional in the history of the WCC.

During his trip to California, which is titled "Towards the Light of Knowledge," the Catholicos will visit churches as well as educational and cultural institutions in Los Angeles, Fresno and San Francisco. This momentous visit was initiated by His Eminence, Archbishop Moushegh Mardirossian of the Western Prelacy of the Armenian Apostolic Church of America to commemorate the 90th Anniversary of the Armenian Genocide and the 1600th Anniversary of the creation of the Armenian alphabet.

I am honored to recognize this milestone visit to California by a distinguished Armenian and world leader. I wish both the Catholicos and the Armenian community in California a renewed sense of purpose and inspiration from this visit.

ALPHA KAPPA ALPHA SORORITY, INC.

Mrs. CLINTON. Mr. President, I am proud to pay tribute to Alpha Kappa Alpha Sorority, Incorporated, America's first Greek-letter organization established by black college women.

On Thursday, September 22, 2005, I had the pleasure of spending time with nearly one hundred members of this remarkable organization, including Representative Sheila Jackson Lee and AKA's International President, Linda White. I have long been aware of the rich history and tremendous contributions made to our Nation by Alpha Kappa Alpha and the other eight Black Greek Letter Organizations and I was particularly delighted to participate in AKA's event entitled "The Spirit, Let's Share it and Connect," which focused on the many ways in which AKA contributes to our communities.

In 1908, Alpha Kappa Alpha Sorority was founded at Howard University in Washington, DC, by Ethel Hedgeman Lyle, who envisioned AKA as a source of social and intellectual enrichment for its members. Over the past century, AKA has evolved into a nationwide organization of college-trained women working to improve the socioeconomic conditions in their cities, States and countries throughout the world.

Alpha Kappa Alpha's achievements are the result of volunteer service that captures the organization's core values. Each year, a National Program theme is constructed around one of AKA's five "targets": Education, the Black Family, Health, Economics and the Arts. This year's target is Education, with the Signature Program of the administration being "The Ivy Reading AKAdemy," a reading initiative focused on early learning and mastery of basic reading skills by the end of third grade. All AKA chapters are required to implement an after school reading initiative for students in kindergarten through third grade. Across the United States there are nine such federally funded demonstration sites in low-performing, economically deprived, innercity schools.

AKA has made several significant contributions to the black community and to American society over all over the past century. These efforts have included a wide range of issues, including among them election reform and health care and education initiatives. For example, in 1983 AKA launched a massive registration drive designed to increase black voter registration by 25 percent by the November 1984 elections. In 1999, AKA was awarded a $50,000 grant from the United States Department of Transportation to promote increased seatbelt use and vehicle passenger safety in the minority community. That same year, AKA established a funded partnership with the United States Department of Health and Human Services to promote women's health. Just 4 years ago, AKA raised over $25,000 for sickle cell anemia. In 2002, AKA built and dedicated nine AKAdemies in South Africa and contributed $25,000 to the National Council of Negro Women's Mortgage Liquidation Fund.

In addition to advancing these services, AKA maintains a focus on improving the quality of life for its members. AKA cultivates and encourages high scholastic and ethical standards; promotes unity and friendship among college women; alleviates problems facing girls and women; maintains a progressive interest in college life and serves over 170,000 women in the United States, the Caribbean, Europe, and Africa. Its distinguished alumni include national civic leaders such as astronaut Mae Jamison, author Toni Morrison, poet Maya Angelou, Coretta Scott King, Rosa Parks, and the late Judge Constance Baker Motley. I was deeply saddened to learn of the death of Judge Constance Baker Motley earlier this week. A champion of civil rights and a giant of the legal profession, she will be remembered for her lasting contributions to American jurisprudence and to our larger society. I am certain that the women of AKA join me in mourning her passing, grateful and heartened by the fact that the civil rights movement existed in large part because of the efforts of their friend in sisterhood.

I am privileged and proud to have a special bond with the remarkable women of Alpha Kappa Alpha, Incorporated and am honored to share with my colleagues the many reasons we should all admire and thank the members of this organization for their long-lasting and unwavering commitment to improving the lives of so many.

40TH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Mr. KENNEDY. Mr. President, 40 years ago today, President Lyndon Johnson signed landmark legislation into law creating the Foundation on the Arts and Humanities. I was privileged to be one of the cosponsors of this measure, which created the National Endowment for the Arts and the National Endowment for the Humanities and bring a new nationwide focus to the creative community across America in the fields of literature and history, the visual arts, and the performing arts.

Throughout these four decades, the Endowments have provided impressive leadership in enhancing the cultural life of the Nation. The budget for the two agencies is relatively small, but they have distributed Federal grants to a wide range of deserving educational and cultural organizations in communities in all parts of the country.

The best of our cultural heritage has broad appeal to peoples everywhere. The scholarship, the history, and the arts of America are admired around the world. Each generation of scholars and artists has much to share with the rest of the world, and with the generations to come as well. The important role of the Endowments is to support the museums, the galleries, and the theaters in our communities, and assist them in presenting these artistic achievements so that audiences, students and scholars can study them, and learn from them.

Down through the ages, the arts have inspired generations after generations with their beauty, tolerance and understanding. They enable individuals to reach beyond their own experience and know something of other peoples and other cultures. In this shrinking world, it is even more important to respect our neighbors, and build cultural bridges to reach out to one another in our shared world. The arts and humanities offer indispensable opportunities to achieve this important goal.

The Endowments help disseminate the creative work being done at the local level. In Massachusetts, we are privileged to have an extraordinary range of cultural institutions that document the story of our Commonwealth from its earliest days to the present. We are very proud of the cultural landmarks that tell of our history, so that future generations too will understand the challenges that faced the Pilgrim settlers in Plymouth, the struggle for independence that began in Boston Harbor and at Concord Bridge, the harrowing era of one stop on the Underground Railroad, the rugged life in the fishing community of New Bedford, and the early years of the China trade.

So, too, in every other State in our Nation, the story is told of discovery, development and achievement, the continuing story of the American journey.

The important task of the Endowments is to honor and preserve this legacy. Over the past four decades, they have compiled an impressive record of vital support for both the arts and humanities. The Arts Endowment has funded major arts exhibitions, dance tours by large national companies, and performances by smaller regional companies. The Humanities Endowment has provided vital research and educational support in colleges and universities across the country. It has supported a national effort to preserve important documents, brittle books and important artifacts. Its public programs have underwritten brilliant documentaries on topics ranging from the story of the Civil War to the story of baseball.

These two great Endowments have amply fulfilled the early hope that they could improve the quality of the arts and humanities and expand their reach, and we in Congress are very proud of all they have accomplished.

There have been times of controversy and criticism as well, but the Endowments have clearly earned the bipartisan respect and support that they now enjoy. The arts and humanities are an essential part in the life of the Nation and in all of our lives, and the Endowment's mission is to ensure that they always will be.

I commend the current chairmen of the Humanities Endowment and the Arts Endowment, Bruce Cole and Dana Gioia. They follow in impressive footsteps of their illustrious predecessors, through Republican and Democratic administrations alike. We are grateful for all that they and their outstanding staff members do each day to fulfill their important mission.

It is gratifying on this 40th anniversary of the creation of the National Foundation on the Arts and Humanities to recognize their superb record of achievement, and I congratulate all those who have done so much to make it so.

ADDITIONAL STATEMENTS

MASSACHUSETTS BEST COMMUNITY WINNERS

• Mr. KERRY. Mr. President, I am honored to recognize three outstanding Massachusetts communities, each of which has been chosen by America's Promise as one of the "100 Best Communities for Young People" in this Nation. The communities of Barnstable County, Brockton, and Cambridge, have demonstrated outstanding civic leadership for our children. Community leaders, businesses, teachers and Government officials work together in these communities to give their children both the tools and the opportunities they need to succeed. I am very proud that such exemplary communities can be found in my home State.

Barnstable has an impressive record of civic involvement. Not only are community leaders active in the lives of their youth, but they encourage their children to participate in community activities. Over 40 percent of the households in Barnstable have young people participating in community service, and this is, in large part, a reflection of the extensive programs in area high schools such as Junior State of America, Mentoring, Peer Leaders, and National Honor Society. In the Barnstable middle school communities, initiatives such as Schools for Success, which works with underachieving youth in the Barnstable Middle School to improve academic achievement and social skills, have evolved and flourished. The community involvement extends outside of the school systems as well with organizations such as Children's Cove, a program run by the Barnstable County district attorney's office, the State department of social service, and Cape Cod Health Care, together with other community partners to assist children who have experienced sexual abuse.

In Brockton, successful community organizations work tirelessly to provide their children with every opportunity to learn, grow, and remain both physically and mentally healthy. The Brockton After Dark program organizes several different activities each weeknight at seven locations across the city, including basketball games, open swim time, tennis, soccer, performing arts, and open mike nights. By keeping vulnerable youth off the streets, the program contributed to a significant drop in crime. The Target Outreach initiative directs at-risk youth to positive alternatives offered by the Boys & Girls Clubs by recruiting children to club activities as a diversion to gang activities. In its first 2 years, the program far surpassed its enrollment goal. In 2004–2005, 179 members of the Brockton High School Key Club, a partner in Brockton's Promise, completed 3,800 hours of community service in Brockton. Together, the mayor, the district attorney and the chief of police have organized successful Kids Road Races, youth field trips to the local Brockton Rox baseball game, and much more.

The city of Cambridge has also illustrated its dedication to improving the quality of life for its youth and their families. In 1997, Cambridge introduced the Agenda for Children, which consisted of more than 50 meetings with over 600 community members to bring the city's health, human services, schools, police, and library departments together with nonprofit providers and the Cambridge Community Foundation to help improve the quality of life for its youth. In addition, the Neighborhood Service Project provides youth with an opportunity to work with their peers targeting a variety of issues from teen pregnancy to multiculturalism. The Cambridge Prevention Coalition, partnering with other organizations, has developed a Peer Leadership Program which creates teen leaders mobilized around substance abuse issues. All in all, Cambridge has over 150 programs within the city limits attending to the needs and services of youth and their families.

What I have given here is just a small sampling of the incredible programs occurring in the Commonwealth. I applaud these three cities on their recognition by America's Promise; encourage them to continue their great work and I hope other communities will follow their example.•

IN REMEMBRANCE OF MILDRED LIGHT ALDRIDGE

• Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to Mildred Light Aldridge, an educator and administrator for many years and the wife of the late Reverend Dr. Avery Aldridge, who passed away at the age of 77 on September 22, 2005. She was an important member of the Flint community, and she will be sorely missed by many.

Mildred Light Aldridge was born in 1928 in Earle, AR. She received her bachelor's of art degree in elementary education from the University of Michigan-Flint and her master's degree in guidance and counseling from Eastern Michigan University. She taught on the elementary school level and worked as a guidance counselor in several middle schools before serving as principal of the Doyle Ryder Community School until her retirement in 1986. After retirement, she remained active by founding and serving as the director of the Eagle's Nest Child Care and Development Center. She also served for the past 23 years as an instructor of the adult ladies fellowship class at Foss Avenue Baptist Church.

Mildred Light Aldridge participated in various civic and community organizations, including the Flint Chapters of the NAACP and the Urban League, the Visually Impaired Center of Flint, and on the advisory board of the Mott Community College Foundation. She was also affiliated with the National Association of Elementary School Principals and the Flint Congress of School Administrators. In addition, Dr. Aldridge held honorary doctorate degrees from Arkansas Baptist College and Selma University.

Dr. Aldridge is mourned by many in the Flint community and is survived by her two children, Derrick Aldridge and Karen Aldridge-Eason, and by her 10 grandchildren. This is, indeed, a great loss to all who knew her, and I know my colleagues will join me in paying tribute to the life of Mildred L. Aldridge.•

TRIBUTE TO JOHN DEERING AND HIS "TESTAMENT" SCULPTURE

• Mr. PRYOR. Mr. President, nearly half a century ago, Arkansas experienced one of its darkest moments. As nine African-American students fought to integrate Central High School, they were accosted by students, threatened by parents and forsaken by local leaders. It took an intervention by President Dwight Eisenhower to bring desegregation to this public school.

But in the 48 years since this event my State has seen brighter days, most recently on August 30, 2005, when I was proud to be present for the unveiling of "Testament," a sculpture of the Little Rock Nine depicting the nine brave students on their journey to claim an equal education.

"Testament" is a tribute by John Deering, one of Little Rock's own, to those students and the courage they demonstrated that day. The life-sized sculpture depicts the nine students as they were in 1957: Equally brave, scared, determined. It is the largest bronze statue in Arkansas and the first monument honoring the civil rights movement on the grounds of a Southern State capitol. During the 40th anniversary of the desegregation, John came up with the idea for the sculpture. With approval from the Little Rock Nine Foundation, John created the work with his wife Kathy and studio partner Steve Scallion. The sculpture has been 7 years in the making and now stands proudly in Little Rock.

I would like to recognize John for this sculpture and his contributions to journalism and the arts. As the editorial cartoonist for the Arkansas Democrat-Gazette, John has earned numerous local and national accolades. He has been recognized by the Arkansas Press Association with the Best Editorial Cartoonist Award seven times in his career and in 1996 he won the illustrious Berryman Award from the National Press Foundation. His editorial cartoons are nationally syndicated, as is his comic strip "Strange Brew," allowing readers throughout the country to share in his humor.

But make no mistake, John is serious about his cartoons, and the artistry is as important to him as the jokes. His dedication to artistry has translated to other mediums, including painting and sculpture. John has works displayed throughout the country. "Testament" is not the first monument he has sculpted for Arkansas. In 1987, John created a life-size sculpture of an American soldier for the Arkansas Vietnam Veterans Memorial, which I consider both poignant and powerful.

When the "Testament" sculpture was unveiled, the Little Rock Nine once again stood together in solidarity. An emotional moment for those brave men and women, it was also a moving event for John as 7 years of private work was finally put on public display. As this sculpture stands on Arkansas' capitol grounds, it serves as a testament to the Little Rock Nine, as well as Arkansas' past and future. I applaud John for his valuable artistic contribution to Arkansas and the nation and I hope that this statue will serve as a lasting reminder of the difficulties and triumphs of the civil rights movement for generations to come.•

TRIBUTE TO JOHN H. JOHNSON

• Mr. PRYOR. Mr. President, today, I pay tribute to the life and legacy of John H. Johnson. John was a pioneer whose monumental works in publishing and generous acts of philanthropy have had profound influence on the lives of millions, both inside and outside Arkansas.

John's life story is one we can all learn from and admire. Raising himself up from poverty to the top of the business world, he is proof that hard work and determination can create success. Born the grandson of slaves in a one-room house in Arkansas City in 1918, John went on to become the first African American to be named to Forbes' list of the 400 wealthiest Americans.

The founder, publisher and chairman of Johnson Publishing company—the largest African-American owned publishing company in the world—John's magazines, Ebony and Jet, are the number one African-American magazine and newsweekly respectively. Ebony currently has a circulation of 1.7 million and a monthly readership of over 11 million, while Jet has a readership of over 8 million weekly, and both publications continue to lead the way in African-American journalism. Linda Johnson Rice, John's daughter, currently serves as President and CEO of her father's company and I wish her the best in building on her father's success.

Awarded the Presidential Medal of Freedom in 1996—the highest honor this Nation bestows on civilians—John's life was full of accomplishments and accolades. John was recognized with the Magazine Publisher's Association publisher of the year award, the Black Journalists' Lifetime Achievement Award and the Wall Street Journal/Dow Jones Entrepreneurial Excellence Award. He has been inducted into the Advertising Hall of Fame, the National Business Hall of Fame and, in 2001, he became the first African American inducted into the Arkansas Business Hall of Fame. During his life, John was also appointed to various posts by Presidents Kennedy, Johnson and Nixon and served on the boards of corporations ranging from Dillard Department Stores to the Chrysler Corporation to Twentieth Century Fox Film.

But John's influence extends beyond the business world. He helped change race relations in this country, both with his publications and activism. In 1955, John made history when he published the unedited photographs of the mutilated body of Emmett Till, the 14-year-old murder victim who was viciously beaten, shot and then drowned in Mississippi for allegedly whistling at a white woman. The pictures, intended to show the reality of the Jim Crow South, helped spark the Civil Rights Movement.

As far as John went in life, he was not one to forget his roots. Raised in poverty in Arkansas by his mother, John has spent much of life giving back to his community and state. John's dedication to education and improving the lives of children has been one of his greatest passions and the results of his work will be felt in Arkansas for decades to come. In May, Arkansas City and the University of Arkansas at Pine Bluff dedicated the John H. Johnson Cultural and Educational Museum. The museum contains memorabilia, printed materials and videos about John's life, which will serve as an inspiration to our children as they strive to succeed. There are also plans in the works for the John H. Johnson Delta Cultural and Entrepreneurial Learning Center in Arkansas City, as well as a related academic complex in Pine Bluff. These facilities will undoubtedly be an asset to the university and provide valuable education opportunities for the students of Arkansas.

John H. Johnson's legacy will live on and continue to influence the State of

Arkansas, and the Nation, for many years. Through his publications, activism and generosity, John has left an indelible mark on society. He was a trailblazer and his contributions to our Nation are immeasurable. I join all of Arkansas in saluting the memory of John H. Johnson.●

HONORING JUDGE CONSTANCE BAKER MOTLEY

● Mr. SALAZAR. Mr. President, I rise to honor and celebrate the remarkable life and legacy of Judge Constance Baker Motley, a trailblazer for civil rights who dedicated her life to advancing the American values of justice and equality for all.

Judge Motley was born and raised in New Haven, CT at a time when women and minorities were denied the right to an equal education, and employment, housing and voting rights. Despite remarkable odds, Judge Motley decided at the age of 15 that she would be an attorney. Although she was discouraged by many, Judge Motley remarked that she was "the kind of person who would not be put down."

Judge Motley graduated from Columbia Law School in 1946 and joined the legal staff of the NAACP Legal Defense and Education Fund, Inc. It was there that for nearly 20 years, Judge Motley orchestrated the legal challenge to the "separate but equal doctrine," culminating in the Supreme Court victory in Brown v. Board of Education that guaranteed equal educational opportunities for all Americans. In addition to the seminal decision in Brown, Judge Motley argued the 1957 school desegregation case in Little Rock, AR that led President Eisenhower to call in federal troops to protect nine black students at Central High School. During Judge Motley's tenure at the NAACP, she successfully argued numerous cases desegregating restaurants and recreational facilities in Southern cities and cases overturning the convictions of the Reverend Fred Shuttlesworth and countless others who engaged in nonviolent sit-ins and protests of discriminatory practices.

In 1965, Judge Motley became the first woman to be elected president of the Borough of Manhattan where she continued to advocate for the rights of women, minorities and the poor. In 1966, President Johnson appointed Judge Motley to the United States District Court for the Southern District of New York. With her appointment, Judge Motley became the first African-American woman appointed to the Federal judiciary, where she served until 1986 when she assumed senior status.

Judge Motley's dedication and commitment to justice and equality changed our Nation for the better and paved the way for women, minorities and the poor to enjoy the rights and privileges guaranteed by our constitution. Judge Motley stood tall in the face of great adversary for what was right. We all stand taller because of her life and because she was the kind of person who would not be put down.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NOTIFICATION REGARDING THE PROPOSED USE OF PUBLIC SAFETY FUNDS PROVIDED TO THE DISTRICT OF COLUMBIA PURSUANT TO TITLE I OF THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005, PUBLIC LAW 108-335—PM 24

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations:

To the Congress of the United States:

Consistent with title I of the District of Columbia Appropriations Act, 2005, Public Law 108-335, I am notifying the Congress of the proposed use of $10,151,538 provided in title I under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia." This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH,

THE WHITE HOUSE, *September 29, 2005.*

MESSAGES FROM THE HOUSE

At 9:37 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment.

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

The following enrolled bills, previously signed by the Speaker of the House, were signed yesterday, September 28, 2005, by the President pro tempore (Mr. STEVENS):

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3667. An act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station".

H.R. 3767. An act to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the "Jacob L. Frazier Post Office Building".

At 6:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

At 7:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 68. Joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-4039. A communication from the Assistant Administrator and Chief Information Officer, Office of Environmental Information, Environmental Protection Agency, transmitting, pursuant to law, a report relative to reducing the burden and streamlining program operations of the Toxic Release Inventory (TRI) Program; to the Committee on Environment and Public Works.

EC-4040. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Commercial and Inherently Governmental Activities Inventories; to the Committee on Environment and Public Works.

EC-4041. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Ogden City Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions" (FRL No. 7961-7) received September 18, 2005; to the Committee on Environment and Public Works.

EC-4042. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri, Correction" (FRL No. 7969-6) received September 18, 2005; to the Committee on Environment and Public Works.

EC-4043. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New York; Revised Motor Vehicle Emissions Budgets for 1990 and 2007 using MOBILE6" (FRL No. 7968-1) received September 18, 2005; to the Committee on Environment and Public Works.

EC-4044. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; Minnesota" (FRL No. 7969-7) received September 18, 2005; to the Committee on Environment and Public Works.

EC-4045. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL No. 7968-3) received September 18, 2005; to the Committee on Environment and Public Works.

EC-4046. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Nonattainment Area to Attainment" (FRL No. 7973-5) received on September 18, 2005; to the Committee on Environment and Public Works.

EC-4047. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone" (FRL No. 7972-9) received on September 18, 2005; to the Committee on Environment and Public Works.

EC-4048. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Illinois; Lake Calumet PM-10 Redesignation and Maintenance Plan" (FRL No. 7973-2) received on September 18, 2005; to the Committee on Environment and Public Works.

EC-4049. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Illinois; Lyons Township PM-10 Redesignation and Maintenance Plan" (FRL No. 7972-7) received on September 18, 2005; to the Committee on Environment and Public Works.

EC-4050. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)" (FRL No. 7971-8) received on September 18, 2005; to the Committee on Environment and Public Works.

EC-4051. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units" (FRL No. 7971-9) received on September 18, 2005; to the Committee on Environment and Public Works.

EC-4052. A communication from the Secretary of Commerce, transmitting, the report of a draft bill "to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for the fiscal years 2006 through 2010"; to the Committee on Commerce, Science, and Transportation.

EC-4053. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report entitled "The Status of U.S. Fisheries" for 2004; to the Committee on Commerce, Science, and Transportation.

EC-4054. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Packaging, Handling, and Transportation" (RIN2700-AD16) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4055. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Head of Contracting Activity (HCA) Change for NASA Shared Services Center (NSSC)" (RIN2700-AD13) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Report to accompany H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109-141).

By Mr. ROBERTS, from the Select Committee on Intelligence, without amendment:

S. 1803. An original bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 109-142).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 1725. A bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nominations beginning with Salvatore A. Angellela and ending with Scott E. Wuesthoff, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Air Force nomination of Maj. Gen. Stephen R. Lorenz to be Lieutenant General.

Air Force nomination of Maj. Gen. Gary L. North to be Lieutenant General.

Air Force nomination of Lt. Gen. Duncan J. McNabb to be General.

Air Force nomination of Maj. Gen. Frank G. Klotz to be Lieutenant General.

Air Force nomination of Maj. Gen. Douglas M. Fraser to be Lieutenant General.

Air Force nomination of Lt. Gen. John F. Regni to be Lieutenant General.

Air Force nomination of Col. Richard J. Tubb to be Brigadier General.

Army nominations beginning with Brig. Gen. James P. Eggleton and ending with Col. Blake E. Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 2005.

Air Force nomination of Col. James S. Goodwin to be Brigadier General.

Air Force nomination of Col. Roger F. Clements to be Brigadier General.

Air Force nomination of Lt. Gen. Daniel P. Leaf to be Lieutenant General.

Army nomination of Lt. Gen. William S. Wallace to be General.

Army nomination of Col. Philip Volpe to be Brigadier General.

Army nomination of Brig. Gen. Eric B. Schoomaker to be Major General.

Army nomination of Brig. Gen. Michael H. Sumrall to be Major General.

Army nomination of Col. Errol R. Schwartz to be Brigadier General.

Army nomination of Col. James R. Joseph to be Brigadier General.

Army nomination of Maj. Gen. Anne E. Dunwoody to be Lieutenant General.

Army nomination of Col. John E. Cornelius to be Brigadier General.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Thomas L. Lutz to be Colonel.

Air Force nomination of Bruce A. Ellis, Jr. to be Lieutenant Colonel.

Air Force nominations beginning with Anselmo Feliciano and ending with Dake S. Vahovich, which nominations were received by the Senate and appeared in the Congressional Record on July 28, 2005.

Air Force nomination of Merrick E. Krause to be Colonel.

Air Force nomination of Anthony E. Barbarisi to be Lieutenant Colonel.

Air Force nominations beginning with Wesley A. Ardt and ending with Russell F. Zakolski, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Air Force nominations beginning with John M. Allen and ending with Wallace M. Yovetich, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Air Force nomination of Sean D. McClung to be Major.

Air Force nominations beginning with John M. Andrew and ending with Martin E. France, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Air Force nominations beginning with Christina A. Austinsmith and ending with Andrew S. Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Peter D. Guzzetti and ending with Terry M. Larkin, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Army nomination of Dennis J. Wing to be Colonel.

Army nominations beginning with Kelvin L. George and ending with Deborah A. Roberts, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Army nominations beginning with Janice E. Bruno and ending with David P. Sheridan, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Army nomination of William C. Dickey to be Lieutenant Colonel

Army nomination of Laura T. Wells to be Major.

Army nominations beginning with William R. Everett and ending with Peter D.P. Vint, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Stanley A. Bloustine and ending with Terry D. Neville, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Dario A. Barrato and ending with David L. Jarratt, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jerry Broman and ending with Franklin E. Tuttle, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with David A. Accetta and ending with Peter J. Ziomek, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Lynette M. Arnhart and ending with Daniel E. Zalewski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with David M. Abbinanti and ending with Martin A. Zybura, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Mary E. Abrams and ending with x1195, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nomination of Ronald J. Whalen to be Major.

Army nomination of Vaughn C. Wilhite to be Major.

Army nominations beginning with Cyle R. Richard and ending with Thomas J. Steinbach, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Michael I. Allen and ending with Matthew S. Wysocki, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jacqueline B. Chen and ending with Moises Soto, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jean M. Brady and ending with Meshelle A. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Roman B. Reyes and ending with Christopher Van Winkle, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nomination of Anthony T. Febbo to be Major.

Army nominations beginning with Michael L. Howe and ending with Karl F. Suhr, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Johnathan T. Ball and ending with Daniel M. Krumrei, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nomination of Danielle N. Bird to be Major.

Army nominations beginning with Ryan J. Allowitz and ending with Mark A. Vance, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Eric D. Aguila and ending with Gary H. Wynn, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Marine Corps nomination of James R. Waris to be Lieutenant Colonel.

Marine Corps nomination of Richard T. Ostermeyer to be Lieutenant Colonel.

Navy nomination of Jeanene L. Torrance to be Commander.

Navy nominations beginning with James M. Carrasco and ending with Lisa M. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Charlie C. Biles and ending with William G. Willis, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Steven R. Barstow and ending with Mark S. Winward, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Robert P. Anselm and ending with Andrew T. Wilkes, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Arturo A. Aseo and ending with Jeffrey D. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Joel D. Bashore and ending with Meredith L. Yeager, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Joseph H. Becht and ending with Calvin Zhao, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Maria C. Alberto and ending with Ladawn J. White, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Domingo B. Alinio and ending with Christopher R. Zegley, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Miguel A. Aguilera, Jr. and ending with Gordon J. Zubrod, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with James W. Adkisson III and ending with Michael A. Zurich, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Jack F. Dalrymple, Jr. and ending with Fred R. Wilhelm III, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Ohene O. Gyapong and ending with Kevin R. Stephens, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Bruce W. Beam and ending with Sean P. Yemm, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Sheila T. Asbury and ending with James V. Walsh, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Khary A. Bates and ending with Aaron J. Zielinski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Thanongdeth T. Chinyavong and ending with William E. Wren, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Richard S. Ardolino and ending with Benjamin D. Zittere, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Jamie W. Achee and ending with Holly A. Yudisky, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Brian M. Aker and ending with Ronald E. Yun, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with David L. Aamodt and ending with Thomas A. Zdunczyk, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Martin C. Holland and ending with John M. Woo, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Kim Kendrick, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development.

*Keith A. Nelson, of Texas, to be an Assistant Secretary of Housing and Urban Development.

*Darlene F. Williams, of Texas, to be an Assistant Secretary of Housing and Urban Development.

*Keith E. Gottfried, of California, to be General Counsel of the Department of Housing and Urban Development.

*David H. McCormick, of Pennsylvania, to be Under Secretary of Commerce for Export Administration.

*Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade.

*Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

*Darryl W. Jackson, of the District of Columbia, to be an Assistant Secretary of Commerce.

*Emil W. Henry, Jr., of New York, to be an Assistant Secretary of the Treasury.

*Patrick M. O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself, Mr. Leahy, Mrs. Feinstein, and Mr. Feingold):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 1790. A bill for the relief of Mr. Anton Dodaj, Mrs. Gjyljana Dodaj, Franc Dodaj, and Kristjan Dodaj; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Mrs. Lincoln):

S. 1791. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. Bayh):

S. 1792. A bill to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself, Mr. Specter, Mr. Nelson of Nebraska, Mr. Harkin, and Mr. Rockefeller):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself and Mr. Obama):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Ms. Cantwell, Mr. Leahy, Mr. Corzine, Mrs. Murray, Mr. Salazar, Mr. Reed, and Ms. Mikulski):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. Leahy, Mr. Dayton, Mr. Dodd, and Mr. Corzine):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE:

S. 1797. A bill to provide for Congressional authority with respect to certain acquisitions, mergers, and takeovers under the Defense Production Act of 1950; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORZINE (for himself, Mr. Johnson, Mr. Lautenberg, and Ms. Stabenow):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. Voinovich, Mr. Akaka, Mr. Biden, Mr. Dorgan, Mr. Durbin, Mr. Harkin, Mrs. Murray, Mr. Sarbanes, Mr. Schumer, and Mr. Warner):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. Rockefeller, and Mr. Bunning):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

By Mr. REED (for himself, Mr. Allard, Ms. Collins, Mr. Sarbanes, Mr. Bond, Mrs. Murray, Mr. Chafee, Ms. Mikulski, Mr. Dodd, Mr. Akaka, Mr. Schumer, Mr. Corzine, Mrs. Clinton, and Ms. Landrieu):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

By Mr. ROBERTS:

S. 1803. An original bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on Armed Services pursuant to Section 3(b) of S. Res. 400, 94th Congress, as amended by S. Res. 445, 108th Congress, for a period not to exceed 10 days of session.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. McCain, Mr. Hagel, Mr. Lugar, and Mr. Brownback):

S. Res. 260. A resolution calling for free and fair parliamentary elections in the Republic of Azerbaijan; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. Durbin, Mr. Reid, Mr. Obama, Mrs. Boxer, and Mr. Jeffords):

S. Res. 261. A resolution expressing the sense of the Senate that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself, Mr. Rockefeller, Mr. Hatch, Mr. Baucus, Ms. Snowe, Mr. Bingaman, Mr. Crapo, Mrs. Lincoln, Mr. DeWine, Mr. Reed, Mr. Allen, Mr. Kohl, Mr. Specter, Mr. Levin, Mr. Voinovich, Mr. Byrd, Mrs. Dole, Ms. Mikulski, Mr. Shelby, Ms. Collins, Mr. Sarbanes, Mr. Graham, Mr. Reid, Mr. Coleman, Ms. Stabenow, Mr. Santorum, and Mr. Durbin):

S. Con. Res. 55. A concurrent resolution expressing the sense of the Congress regarding the conditions for the United States to become a signatory to any multilateral agreement on trade resulting from the World Trade Organization's Doha Development Agenda Round; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. CRAIG, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 559

At the request of Mr. BIDEN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mrs. FEINSTEIN), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 576

At the request of Mr. BYRD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 595

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 637

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 927

At the request of Mr. CORZINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 927, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 1190

At the request of Mr. SALAZAR, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1417

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1419, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1516

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1516, a bill to reauthorize Amtrak, and for other purposes.

S. 1570

At the request of Mr. ROBERTS, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1570, a bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes.

S. 1689

At the request of Mr. KYL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1689, a bill to state the policy of the United States on international taxation.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1692

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 1692, a bill to provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1770

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1770, a bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1787

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1787, a bill to provide bankruptcy relief for victims of natural disasters, and for other purposes.

S.J. RES. 25

At the request of Mr. TALENT, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S.J. Res. 25. a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 25

At the request of Mr. TALENT, the name of the Senator from South Carolina (Mr. GRAHAM) was withdrawn as a cosponsor of S. Con. Res. 25. a concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 53. a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

S. RES. 256

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 256. a resolution honoring the life of Sandra Feldman.

AMENDMENT NO. 1534

At the request of Mr. DEWINE, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1534 intended to be proposed to S. 1042. an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense. for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces. and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 1789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Personal Data Privacy and Security Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

Sec. 101. Fraud and related criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 102. Organized criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 103. Concealment of security breaches involving sensitive personally identifiable information.
Sec. 104. Aggravated fraud in connection with computers.
Sec. 105. Review and amendment of Federal sentencing guidelines related to fraudulent access to or misuse of digitized or electronic personally identifiable information.

TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT. UNAUTHORIZED. OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

Sec. 201. Grants for State and local enforcement.
Sec. 202. Authorization of appropriations.

TITLE III—DATA BROKERS

Sec. 301. Transparency and accuracy of data collection.
Sec. 302. Enforcement.
Sec. 303. Relation to State laws.
Sec. 304. Effective date.

TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—Data Privacy and Security Program

Sec. 401. Purpose and applicability of data privacy and security program.
Sec. 402. Requirements for a personal data privacy and security program.
Sec. 403. Enforcement.
Sec. 404. Relation to State laws.

Subtitle B—Security Breach Notification

Sec. 421. Right to notice of security breach.
Sec. 422. Notice procedures.
Sec. 423. Content of notice.
Sec. 424. Risk assessment and fraud prevention notice exemptions.
Sec. 425. Victim protection assistance.
Sec. 426. Enforcement.
Sec. 427. Relation to State laws.
Sec. 428. Study on securing personally identifiable information in the digital era.
Sec. 429. Reporting on risk assessment exemption.
Sec. 430. Authorization of appropriations.
Sec. 431. Reporting on risk assessment exemption.
Sec. 432. Effective date.

TITLE V—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

Sec. 501. General Services Administration review of contracts.
Sec. 502. Requirement to audit information security practices of contractors and third party business entities.
Sec. 503. Privacy impact assessment of government use of commercial information services containing personally identifiable information.
Sec. 504. Implementation of Chief Privacy Officer requirements.

SEC. 2. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentially of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to insure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term "affiliate" means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term "business entity" means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) IDENTITY THEFT.—The term "identity theft" means a violation of section 1028 of title 18, United States Code, or any other similar provision of applicable State law.

(5) DATA BROKER.—The term "data broker" means a business entity which for monetary

fees, dues, or on a cooperative nonprofit basis, currently or regularly engages, in whole or in part, in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information primarily for the purposes of providing such information to nonaffiliated third parties on a nationwide basis on more than 5,000 individuals who are not the customers or employees of the business entity or affiliate.

(6) DATA FURNISHER.—The term "data furnisher" means any agency, governmental entity, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof, that serves as a source of information for a data broker.

(7) PERSONAL ELECTRONIC RECORD.—The term "personal electronic record" means data associated with an individual contained in a database, networked or integrated databases, or other data system that holds sensitive personally identifiable information of that individual and is provided to non-affiliated third parties.

(8) PERSONALLY IDENTIFIABLE INFORMATION.—The term "personally identifiable information" means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(9) PUBLIC RECORD SOURCE.—The term "public record source" means any agency, Federal court, or State court that maintains personally identifiable information in records available to the public.

(10) SECURITY BREACH.—

(A) IN GENERAL.—The term "security breach" means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to sensitive personally identifiable information.

(B) EXCLUSION.—The term "security breach" does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(11) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term "sensitive personally identifiable information" means any information or compilation of information, in electronic or digital form that includes:

(A) An individual's name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Information that relates to—

(aa) the past, present, or future physical or mental health or condition of an individual;

(bb) the provision of health care to an individual; or

(cc) the past, present, or future payment for the provision of health care to an individual.

(II) Home address or telephone number.

(III) Mother's maiden name, if identified as such.

(IV) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique electronic identification number, user name, or routing code in combination with the associated security code, access code, or password.

(v) Any other information regarding an individual determined appropriate by the Federal Trade Commission.

(B) A financial account number or credit or debit card number in combination with the required security code, access code, or password.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 101. FRAUD AND RELATED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1030(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(D) information contained in the databases or systems of a data broker, or in other personal electronic records, as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005;".

SEC. 102. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting "section 1030(a)(2)(D)(relating to fraud and related activity in connection with unauthorized access to personally identifiable information," before "section 1084".

SEC. 103. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1039. Concealment of security breaches involving sensitive personally identifiable information

"(a) Whoever, having knowledge of a security breach and the obligation to provide notice of such breach to individuals under title IV of the Personal Data Privacy and Security Act of 2005, and having not otherwise qualified for an exemption from providing notice under section 422 of such Act, intentionally and willfully conceals the fact of such security breach which causes economic damages to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of subsection (a), the term 'person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1039. Concealment of security breaches involving personally identifiable information.".

(c) ENFORCEMENT AUTHORITY.—The United States Secret Service shall have the authority to investigate offenses under this section.

SEC. 104. AGGRAVATED FRAUD IN CONNECTION WITH COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1030 the following:

"§ 1030A. Aggravated fraud in connection with computers

"(a) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly obtains, accesses, or transmits, without lawful authority, a means of identification of another person may, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of up to 2 years.

"(b) CONSECUTIVE SENTENCES.—Notwithstanding any other provision of law, should a court in its discretion impose an additional sentence under subsection (a)—

"(1) no term of imprisonment imposed on a person under this section shall run concurrently, except as provided in paragraph (3), with any other term of imprisonment imposed on such person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identifications was obtained, accessed, or transmitted;

"(2) in determining any term of imprisonment to be imposed for the felony during which the means of identification was obtained, accessed, or transmitted, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

"(3) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section.

"(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of paragraphs (2) through (7) of section 1030(a).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

"1030A. Aggravated fraud in connection with computers.".

SEC. 105. REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES RELATED TO FRAUDULENT ACCESS TO OR MISUSE OF DIGITIZED OR ELECTRONIC PERSONALLY IDENTIFIABLE INFORMATION.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of using fraud to access, or misuse of, digitized or electronic personally identifiable information, including identity theft or any offense under—

(1) sections 1028, 1028A, 1030, 1030A, 2511, and 2701 of title 18, United States Code; or

(2) any other relevant provision.

(b) REQUIREMENTS.—In carrying out the requirements of this section, the United States Sentencing Commission shall—

(1) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(A) the serious nature of the offenses and penalties referred to in this Act;

(B) the growing incidences of theft and misuse of digitized or electronic personally identifiable information, including identity theft; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address violations of the sections amended by this Act to—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this Act;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves—

(A) the online sale of fraudulently obtained or stolen personally identifiable information;

(B) the sale of fraudulently obtained or stolen personally identifiable information to an individual who is engaged in terrorist activity or aiding other individuals engaged in terrorist activity; or

(C) the sale of fraudulently obtained or stolen personally identifiable information to finance terrorist activity or other criminal activities;

(6) make any necessary conforming changes to the Federal sentencing guidelines to ensure that such guidelines (including its policy statements) as described in subsection (a) are sufficiently stringent to deter, and adequately reflect crimes related to fraudulent access to, or misuse of, personally identifiable information; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission may, as soon as practicable, promulgate amendments under this section in accordance with procedures established in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that Act had not expired.

TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 201. GRANTS FOR STATE AND LOCAL ENFORCEMENT.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice may award a grant to a State to establish and develop programs to increase and enhance enforcement against crimes related to fraudulent, unauthorized, or other criminal use of personally identifiable information.

(b) APPLICATION.—A State seeking a grant under subsection (a) shall submit an application to the Assistant Attorney General for the Office of Justice Programs of the Department of Justice at such time, in such manner, and containing such information as the Assistant Attorney General may require.

(c) USE OF GRANT AMOUNTS.—A grant awarded to a State under subsection (a) shall be used by a State, in conjunction with units of local government within that State, State and local courts, other States, or combinations thereof, to establish and develop programs to—

(1) assist State and local law enforcement agencies in enforcing State and local criminal laws relating to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(2) assist State and local law enforcement agencies in educating the public to prevent and identify crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(3) educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information with State and local law enforcement officers and prosecutors, including the use of multi-jurisdictional task forces.

(d) ASSURANCES AND ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall provide assurances to the Attorney General that the State—

(1) has in effect laws that penalize crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information, such as penal laws prohibiting—

(A) fraudulent schemes executed to obtain personally identifiable information;

(B) schemes executed to sell or use fraudulently obtained personally identifiable information; and

(C) online sales of personally identifiable information obtained fraudulently or by other illegal means;

(2) will provide an assessment of the resource needs of the State and units of local government within that State, including criminal justice resources being devoted to the investigation and enforcement of laws related to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(3) will develop a plan for coordinating the programs funded under this section with other federally funded technical assistant and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading "Violent Crime Reduction Programs, State and Local Law Enforcement Assistance" of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

(e) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 90 percent of the total cost of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this subsection.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 2006 through 2009.

(b) LIMITATIONS.—Of the amount made available to carry out this title in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(c) MINIMUM AMOUNT.—Unless all eligible applications submitted by a State or units of local government within a State for a grant under this title have been funded, the State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this title not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this title, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

(d) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this title, the Attorney General may use amounts made available under this title to make grants to Indian tribes for use in accordance with this title.

TITLE III—DATA BROKERS

SEC. 301. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access, use, compilation, distribution, processing, analyzing, or evaluation of sensitive personally identifiable information.

(b) LIMITATION.—Notwithstanding any other paragraph of this title, this section shall not apply to—

(1) brokers engaging in interstate commerce for any offered product or service currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (f) of this section under the Fair Credit Reporting Act (Public Law 91–508), or the Gramm-Leach Bliley Act (Public Law 106–102);

(2) data brokers engaging in interstate commerce for any offered product or service currently in compliance with the requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and implementing regulations;

(3) information in a personal electronic record held by a data broker if—

(A) the data broker maintains such information solely pursuant to a license agreement with another business entity; and

(B) the business entity providing such information to the data broker pursuant to a license agreement either complies with the provisions of this section or qualifies for this exemption; and

(4) information in a personal record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to non-affiliated third parties.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, clearly and accurately disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained for disclosure to third parties in the ordinary course of business in the databases or systems of the data broker at the time of the request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under

paragraph (1) shall also include guidance to individuals on the processes and procedures for demonstrating and correcting any inaccuracies.

(d) Creation of an Accuracy Resolution Process.—A data broker shall develop and publish on its website timely and fair processes and procedures for responding to claims of inaccuracies, including procedures for correcting inaccurate information in the personal electronic records it maintains on individuals.

(e) Accuracy Resolution Process.—

(1) Information from a public record source.—

(A) In general.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information, and the data broker determines that such information is derived from a public record source, the data broker shall determine within 30 days whether the information in its system accurately and completely records the information offered by the public record source.

(B) Data broker actions.—If a data broker determines under subparagraph (A) that the information in its systems—

(i) does not accurately and completely record the information offered by a public record source, the data broker shall correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) does accurately and completely record the information offered by a public record source, the data broker shall—

(I) provide such individual with the name, address, and telephone contact information of the public record source; and

(II) notify such individual of the right to add for a period of 90 days to the personal electronic record of the individual maintained by the data broker notice of the dispute under subsection (f).

(2) Investigation of disputed information not from a public record source.—If the completeness or accuracy of any nonpublic record source disclosed to an individual under subsection (c) is disputed by the individual and such individual notifies the data broker directly of such dispute, the data broker shall, before the end of the 30-day period beginning on the date on which the data broker receives the notice of the dispute—

(A) investigate free of charge and record the current status of the disputed information; or

(B) delete the item from the individuals data file in accordance with paragraph (8).

(3) Extension of period to investigate.—Except as provided in paragraph (4), the 30-day period described in paragraph (1) may be extended for not more than 15 additional days if a data broker receives information from the individual during that 30-day period that is relevant to the investigation.

(4) Limitations on extension of period to investigate.—Paragraph (3) shall not apply to any investigation in which, during the 30-day period described in paragraph (1), the information that is the subject of the investigation is found to be inaccurate or incomplete or a data broker determines that the information cannot be verified.

(5) Notice identifying the data furnisher.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed by the individual, a data broker shall provide upon the request of the individual, the name, business address, and telephone contact information of any data furnisher who provided an item of information in dispute.

(6) Determination that dispute is frivolous or irrelevant.—

(A) In general.—Notwithstanding paragraphs (1) through (4), a data broker may decline to investigate or terminate an investigation of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or irrelevant, including by reason of a failure by the individual to provide sufficient information to investigate the disputed information.

(B) Notice.—Not later than 5 business days after making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a data broker shall notify the individual of such determination by mail, or if authorized by the individual, by any other means available to the data broker.

(C) Contents of notice.—A notice under subparagraph (B) shall include—

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(7) Consideration of individual information.—In conducting any investigation with respect to disputed information in the personal electronic record of any individual, a data broker shall review and consider all relevant information submitted by the individual in the period described in paragraph (2) with respect to such disputed information.

(8) Treatment of inaccurate or unverifiable information.—

(A) In general.—If, after any review of public record information under paragraph (1) or any investigation of any information disputed by an individual under paragraphs (2) through (4), an item of information is found to be inaccurate or incomplete or cannot be verified, a data broker shall promptly delete that item of information from the individual's personal electronic record or modify that item of information, as appropriate, based on the results of the investigation.

(B) Notice to individuals of reinsertion of previously deleted information.—If any information that has been deleted from an individual's personal electronic record pursuant to subparagraph (A) is reinserted in the personal electronic record of the individual, a data broker shall, not later than 5 days after reinsertion, notify the individual of the reinsertion and identify any data furnisher not previously disclosed in writing, or if authorized by the individual for that purpose, by any other means available to the data broker, unless such notification has been previously given under this subsection.

(C) Notice of results of investigation of disputed information from a nonpublic record source.—

(i) In general.—Not later than 5 business days after the completion of an investigation under paragraph (2), a data broker shall provide written notice to an individual of the results of the investigation, by mail or, if authorized by the individual for that purpose, by other means available to the data broker.

(ii) Additional requirement.—Before the expiration of the 5-day period, as part of, or in addition to such notice, a data broker shall, in writing, provide to an individual—

(I) a statement that the investigation is completed;

(II) a report that is based upon the personal electronic record of such individual as that personal electronic record is revised as a result of the investigation;

(III) a notice that, if requested by the individual, a description of the procedures used to determine the accuracy and completeness of the information shall be provided to the individual by the data broker, including the business name, address, and telephone number of any data furnisher of information contacted in connection with such information; and

(IV) a notice that the individual has the right to request notifications under subsection (f).

(D) Description of investigation procedures.—Not later than 15 days after receiving a request from an individual for a description referred to in subparagraph (C)(ii)(III), a data broker shall provide to the individual such a description.

(E) Expedited dispute resolution.—If by no later than 3 business days after the date on which a data broker receives notice of a dispute from an individual of information in the personal electronic record of such individual in accordance with paragraph (2), a data broker resolves such dispute in accordance with subparagraph (A) by the deletion of the disputed information, then the data broker shall not be required to comply with subsections (e) and (f) with respect to that dispute if the data broker provides to the individual, by telephone or other means authorized by the individual, prompt notice of the deletion.

(f) Notice of Dispute.—

(1) In general.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed and unless there is a reasonable ground to believe that such dispute is frivolous or irrelevant, an individual may request that the data broker indicate notice of the dispute for a period of—

(A) 30 days for information from a nonpublic record source; and

(B) 90 days for information from a public record source.

(2) Compliance.—A data broker shall be deemed in compliance with the requirements under paragraph (1) by either—

(A) allowing the individual to file a brief statement setting forth the nature of the dispute under paragraph (3); or

(B) using an alternative notice method that—

(i) clearly flags the disputed information for third parties accessing the information; and

(ii) provides a means for third parties to obtain further information regarding the nature of the dispute.

(3) Contents of statement.—A data broker may limit statements made under paragraph (2)(A) to not more than 100 words if it provides an individual with assistance in writing a clear summary of the dispute or until the dispute is resolved.

(g) Additional Requirements.—The Federal Trade Commission may exempt certain classes of data brokers from this title in a rulemaking process pursuant to section 553 of title 5, United States Code.

SEC. 302. ENFORCEMENT.

(a) Civil Penalties.—

(1) Penalties.—Any data broker that violates the provisions of section 301 shall be subject to civil penalties of not more than $1,000 per violation per day, with a maximum of $15,000 per day, while such violations persist.

(2) Intentional or willful violation.—A data broker that intentionally or willfully violates the provisions of section 301 shall be subject to additional penalties in the amount of $1,000 per violation per day, with a maximum of an additional $15,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a data broker to which this title applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this title, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this title;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 303. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 301, relating to individual access to, and correction of, personal electronic records held by databrokers.

SEC. 304. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act and shall be implemented pursuant to a State by State rollout schedule set by the Federal Trade Commission, but in no case shall full implementation and effect of this title occur later than 1 year and 180 days after the date of enactment of this Act.

TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—Data Privacy and Security Program

SEC. 401. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the privacy, security, confidentiality, integrity, storage, and disposal of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States persons is subject to the requirements for a data privacy and security program under section 402 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to—

(1) financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this Act by 1 or more Federal or State functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations; or

(2) "covered entities" subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(d) SAFE HARBOR.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 402 if the business entity complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

SEC. 402. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—Unless otherwise limited under section 401(c), a business entity subject to this subtitle shall comply with the following safeguards and any others identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, to protect the privacy and security of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of personal electronic records;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of personal electronic records; and

(C) protect against unauthorized access to use of personal electronic records that could result in substantial harm or inconvenience to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access; and

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations).

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to this section, section 401, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIME LINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 403. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 401 or 402 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $35,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 401 or 402 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $35,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this subtitle; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 404. RELATION TO STATE LAWS.

(a) IN GENERAL.—No State may—

(1) require an entity described in section 401(c) to comply with this subtitle or any regulation promulgated thereunder; and

(2) require an entity in compliance with the safe harbor established under section 401(d), to comply with any other provision of this subtitle.

(b) EFFECT OF SUBTITLE A.—Except as provided in subsection (a), this subtitle does not annul, alter, affect, or exempt any person subject to the provisions of this subtitle from complying with the laws of any State with respect to security programs for sensitive personally identifiable information, except to the extent that those laws are inconsistent with any provisions of this subtitle, and then only to the extent of such inconsistency.

Subtitle B—Security Breach Notification

SEC. 421. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach maintained by the agency or business entity that contains such information, notify any resident of the United

States whose sensitive personally identifiable information was subject to the security breach.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach containing such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Noting in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following—

(A) the discovery by the agency or business entity of a security breach; and

(B) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(2) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this subtitle, including evidence demonstrating the necessity of any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification may be delayed upon the written request of the law enforcement agency.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a law enforcement agency provides written notification that further delay is necessary.

SEC. 422. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 421 shall not apply to an agency if the head of the agency certifies, in writing, that notification of the security breach as required by section 421 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—The head of an agency may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which a head of an agency issues a certification under paragraph (1), the certification, accompanied by a concise description of the factual basis for the certification, shall be immediately provided to the Congress.

(b) RISK ASSESSMENT EXEMPTION.—An agency or business entity will be exempt from the notice requirements under section 421, if—

(1) a risk assessment concludes that there is no significant risk that the security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment;

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 421 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if the information subject to the security breach includes, in addition to an account number, sensitive personally identifiable information.

SEC. 423. METHODS OF NOTICE.

An agency, or business entity shall be in compliance with section 421 if it provides:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity; or

(B) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—If more than 5,000 residents of a State or jurisdiction are impacted, notice to major media outlets serving that State or jurisdiction.

SEC. 424. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 423, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn—

(i) what types of sensitive personally identifiable information the agency or business entity maintained about that individual or about individuals in general; and

(ii) whether or not the agency or business entity maintained sensitive personally identifiable information about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 429, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 425. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 1,000 individuals under section 421(a), the agency or business entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices.

SEC. 426. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency required to give notice under section 421 shall also give notice to the United States Secret Service if the security breach impacts—

(1) more than 10,000 individuals nationwide;

(2) a database, networked or integrated databases, or other data system associated with the sensitive personally identifiable information on more than 1,000,000 individuals nationwide;

(3) databases owned by the Federal Government; or

(4) primarily sensitive personally identifiable information of employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1)(A) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code; and

(B) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(2) the attorney general of each State affected by the security breach.

(c) 30-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under this section shall be delivered without unreasonable delay, but not later than 30 days after discovery of the events requiring notice.

SEC. 427. CIVIL REMEDIES.

(a) PENALTIES.—Any agency, or business entity engaged in interstate commerce, that violates this subtitle shall be subject to a fine of—

(1) not more than $1,000 per individual per day whose sensitive personally identity information was, or is reasonably believed to have been, acquired by an unauthorized person; or

(2) not more than $50,000 per day while the failure to give notice under this subtitle persists.

(b) EQUITABLE RELIEF.—Any agency or business entity that violates, proposes to violate, or has violated this subtitle may be enjoined from further violations by a court of competent jurisdiction.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c-1(b)(1)) is amended by inserting ", or evidence that the consumer has received notice that the consumer's financial information has or may have been compromised," after "identity theft report".

(e) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(1) enjoin such act or practice;

(2) enforce compliance with this subtitle;

(3) obtain damages—

(A) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(B) punitive damages, if the violation is willful or intentional; and

(4) obtain such other relief as the court determines to be appropriate.

SEC. 428. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State, or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any agency or business entity in a practice that is prohibited under this subtitle, the State, as parens patriae on behalf of the residents of the State, or the State or local law enforcement agency on behalf of the residents of the agency's jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle;

(C) obtain damages, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) intervene in an action brought under subsection (a)(2); and

(3) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a data broker for violation of any provision of this subtitle.

SEC. 429. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification of a security breach, except as provided in section 424(b).

SEC. 430. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 431. REPORTING ON RISK ASSESSMENT EXEMPTION.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 422(b) and the response of the United States Secret Service to those notices.

SEC. 432. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

TITLE V—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 501. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title IV of this Act; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

SEC. 502. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking "and" after the semicolon;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 3 of the Personal Data Privacy and Security Act of 2005) and ensuring remedial action to address any significant deficiencies.".

SEC. 503. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking "or"; and

(2) in subparagraph (A)(ii), by striking the period and inserting "; or"; and

(3) by inserting after clause (ii) the following:

"(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005).".

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal department or agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal department or agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title IV of this Act; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information.

(B) requiring a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(c) LIMITATION ON PENALTIES.—The penalties under paragraph (3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) INDIVIDUAL SCREENING PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, commencing one year after the date of enactment of this Act, no Federal department or agency may use commercial databases or contract with a data broker to implement an individual screening program unless such program is—

(A) congressionally authorized; and

(B) subject to regulations developed by notice and comment that—

(i) establish a procedure to enable individuals, who suffer an adverse consequence because the screening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(ii) ensure that Federal and commercial databases that will be used to establish the identity of individuals or otherwise make assessments of individuals under the system will not produce a large number of false positives or unjustified adverse consequences;

(iii) ensure the efficacy and accuracy of all of the search tools that will be used and ensure that the department or agency can make an accurate predictive assessment of those who may constitute a threat;

(iv) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(v) establish sufficient operational safeguards to reduce the opportunities for abuse;

(vi) implement substantial security measures to protect the system from unauthorized access;

(vii) adopt policies establishing the effective oversight of the use and operation of the system; and

(viii) ensure that there are no specific privacy concerns with the technological architecture of the system; and

(C) coordinated with the Terrorist Screening Center or any such successor organization.

(2) DEFINITION.—As used in this subsection, the term "individual screening program"—

(A) means a system that relies on personally identifiable information from commercial databases to—

(i) evaluate all or most individuals seeking to exercise a particular right or privilege under Federal law; and

(ii) determine whether such individuals are on a terrorist watch list or otherwise pose a security threat; and

(B) does not include any program or system to grant security clearances.

(e) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency use of data brokers or commercial databases containing personally identifiable information, including the impact on privacy and security, and the extent to which Federal contracts include sufficient provisions to ensure privacy and security protections, and penalties for failures in privacy and security practices.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

SEC. 504. IMPLEMENTATION OF CHIEF PRIVACY OFFICER REQUIREMENTS.

(a) DESIGNATION OF THE CHIEF PRIVACY OFFICER.—Pursuant to the requirements under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199) that each agency designate a Chief Privacy Officer, the Department of Justice shall implement such requirements by designating a department-wide Chief Privacy Officer, whose primary role shall be to fulfill the duties and responsibilities of Chief Privacy Officer and who shall report directly to the Deputy Attorney General.

(b) DUTIES AND RESPONSIBILITIES OF CHIEF PRIVACY OFFICER.—In addition to the duties and responsibilities outlined under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108-447; 118 Stat. 3199), the Department of Justice Chief Privacy Officer shall—

(1) oversee the Department of Justice's implementation of the requirements under section 603 to conduct privacy impact assessments of the use of commercial data containing personally identifiable information by the Department;

(2) promote the use of law enforcement technologies that sustain privacy protections, and assure that the implementation of such technologies relating to the use, collection, and disclosure of personally identifiable information preserve the privacy and security of such information; and

(3) coordinate with the Privacy and Civil Liberties Oversight Board, established in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in implementing paragraphs (1) and (2) of this subsection.

Mr. LEAHY. Mr. President, today we reintroduce the Specter-Leahy Personal Data Privacy and Security Act of 2005.

Earlier this year, Senator SPECTER and I introduced a comprehensive bill to bring urgently needed reforms to protect Americans' privacy and to secure their personal data. Chairman SPECTER has shown great leadership on this issue, and I appreciate his dedication to solving these challenging problems through his willingness to work together to enhance this legislation as we have deemed appropriate. Since initial introduction of our bill, we have worked with Senator FEINSTEIN and other members of the Judiciary Committee to address areas of concern and to perfect the bill. We have also worked closely with a wide variety of stakeholders and experts in these issues, which has also improved the bill.

I especially thank Senator FEINSTEIN for her dedication and resolve to address these difficult data security and privacy concerns. I commend her input and leadership, and I am pleased that she is joining as an original cosponsor of this revised bill. I also thank Senator FEINGOLD for his commitment to ensuring that the government also acts responsibly in its use of our personal information and appreciate his support as an original cosponsor. This is a good bill—carefully calibrated to help remedy the problems we set out to address—and I look forward to continuing our efforts to pass effective legislation.

We have teamed together and applied our collective wisdom to sort through these issues with care and precision. We took the time needed to develop well-balanced, focused legislation that provides strong protections where necessary, and that offers strong penalties and consequences as disincentives for those who fail to protect Americans' most personal information.

Reforms like these are long overdue. As we look toward the end of the year, these necessary reforms should be included in our domestic priorities so that we can achieve some positive changes in areas that affect the everyday lives of Americans.

First our bill requires data brokers to let people know what sensitive personal information they have about them, and to allow people to correct inaccurate information. These principles have precedent from the credit report context, and we have adapted them in a way that makes sense for the data brokering industry. This is a simple matter of fairness.

Second, we would require companies that have databases with sensitive personal information on Americans to establish and implement data privacy and security programs. In the digital age, any company that wants to be trusted by the public must earn that trust by vigilantly protecting the databases they use and maintain which contain Americans' private data. They also have a responsibility in the next link in the security chain, to make sure that contractors hired to process data are adequately vetted to keep the personal information in these databases secure. This is increasingly important as Americans' personal information more and more is outsourced for processing overseas and beyond U.S. laws.

Third, our bill requires notice when sensitive personal information has been compromised. The American people have a right to know when they are at risk because of corporate failures to protect their data, or when a criminal has infiltrated data systems. The notice rules in our bill were carefully crafted to ensure that the trigger for notice is tied to "significant risk of harm" with appropriate checks-and-balances, in order to make sure that companies do not underreport. We also recognize important fraud prevention techniques that already exist. But our priority has been to make sure that victims have critical information as a roadmap that offers the assistance necessary to protect themselves, their families and their financial well-being.

Finally, our bill addresses the government's use of personal data. We are living in a world in which our government increasingly is turning to the private sector to get personal data the government could not legally collect on its own without oversight and appropriate protections. This bill would place privacy and security front and center in evaluating whether data brokers can be trusted with government contracts that involve sensitive information about the American people. It would require contract reviews that include these considerations, audits to ensure good practice, and contract penalties for failure to protect data privacy and security.

This legislation meets other key goals. It provides tough monetary and criminal penalties for compromising personal data or failing to provide necessary protections. This creates an incentive for companies to protect personal information, especially when there is no commercial relationship between individuals and companies using their data. We also would authorize an additional $100 million over four years to help state law enforcement agencies fight misuse of personal information.

This is a solid bill—a comprehensive bill—that not only deals with the need to provide Americans notice when they have already been hurt, but that also deals with the underlying problem of lax security and lack of accountability in dealing with the public's most personal and private information.

I commend Senator SPECTER for his leadership on this emerging problem. Senator FEINSTEIN and Senator FEINGOLD have long recognized the importance of data privacy and security, and I appreciate their support in this effort and on this bill. Other members on the Commerce Committee, such as Senator NELSON and Senator CANTWELL, and on the Banking Committee, have also taken great strides in these areas as well, and we look forward to working closely with them to pass legislation this year.

By Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. HARKIN and Mr. ROCKEFELLER):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator SPECTER to introduce legislation that is important to a number of rural communities located in over half of the States. Our legislation will ensure that over 50 mostly rural airports will not see an 85 percent reduction in their annual grant from the Federal Aviation Administration's Airport Improvement Program.

I think all Senators are well aware of the wide-ranging impact the tragic events of September 11, 2001, have had throughout our economy. One of the hardest hit industries has been commercial aviation, which is continuing to feel the effects in terms of higher costs and loss of passengers. Nowhere has the decline in commercial aviation been felt more than in small and rural communities.

All across America, small communities already face growing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently depends on the quality of their airports and the availability of scheduled air service. For small communities, airports often provide the critical link to the national and international transportation system.

Ensuring small communities have the resources they need to preserve this vital airport infrastructure in rural areas is the purpose of our bill.

Under current formulae for distributing Federal funds, every airport that has more than 10,000 annual passenger boardings is guaranteed an entitlement grant from the FAA's AIP of at least $1 million per year. These are called "primary" airports. Airports with less than 10,000 annual boardings receive $150,000. Unfortunately, there are a handful of primary airports that have had their annual boardings drop below 10,000 as a result of the effects of 9/11. One of these airports is the Roswell International Air Center in my State of New Mexico.

For the passed two years, Congress has permitted these so called "virtual primary" airports to retain their full $1 million entitlement, even though their annual boardings had dropped below the 10,000 threshold as a direct result of 9/11. This two-year waiver was included in section 146 of the Vision 100 aviation reauthorization act. (P.L. 108-176).

Unfortunately, based on preliminary boarding data for 2004, there are still about 50 primary airports that have not yet regained their previous boarding levels. As a result, these airports will face a cut in their annual entitlement in FY2006 from $1 million to $150,000.

I ask unanimous consent that a list of these likely virtual primary airports for fiscal year 2006 be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIKELY VIRTUAL PRIMARY AIRPORTS FOR FY2006

Alaska—Fort Yukon, Gustavus, Haines, Iliamna, Kodiak, Metlakatla, Skagway, Merrill Field* and Manokotak*.
California—Imperial, Santa Rosa, Visalia.
Connecticut—Groton-New London.
Florida—Naples.
Georgia—Athens.
Iowa—Burlington, Fort Dodge.
Illinois—Belleville, Quincy.
Indiana—Lafayette.
Kansas—Garden City, Salina.
Kentucky—Owensboro.
Maine—Rockland*.
Massachusetts—Worcester.
Michigan—Alpena, Escanaba.
Minnesota—Grand Rapids, Hibbing.
Montana—Sidney-Richland*.
North Carolina—Hickory, Pinehurst/Southern Pines.
Nebraska—Grand Island, Kearney, Scottsbluff.
New Hampshire—Lebanon.
New Mexico—Roswell.
Ohio—Youngstown/Warren.
Oregon—Pendleton.
Pennsylvania—Altoona, Bradford, Brookville, Lancaster, and Reading*.
Rhode Island—Block Island, Westerly.
Tennessee—Jackson.
Utah—Cedar City.
Virginia—Weyers Cave.
Washington—Anacortes, Moses Lake, and Port Angeles*.
West Virginia—Clarksburg*.
Wyoming—Laramie.

*These primary airports where above 10,000 boardings in CY2003 but could lose their $1 million AIP entitlement based on the preliminary CY2004 enplanements.

List compiled from preliminary FAA data.

The good news is a number of airports that were virtual primary airports in fiscal year 2005 have seen their annual boardings increase back above 10,000 per year. However, for this handful of airports that were still below 10,000 boardings in 2004, I believe it is appropriate that they have another year to regain their status as primary airports and not suffer the loss of 85 percent of their fiscal year 2006 annual entitlement grant for airport improvement projects.

Thus, our bill provides a simple one year extension of the existing law to preserve the airports' current level of federal funding and give these mostly rural communities a little breathing room while the airline industry recovers from the effects of 9/11.

I ask unanimous consent that a letter and resolution from the City of Roswell and the text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

CITY OF ROSWELL,
Roswell, NM, September 21, 2005.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The purpose of this correspondence is to, on behalf of the City of Roswell, request your assistance on an extremely important matter. Your time, as well as that of your staff, particularly Dan Alpert, has been and will continue to be most appreciated.

Attached is a resolution passed by our City Council on Thursday, September 8th pertaining to the pending loss of our annual $1 mil entitlement funds. Unless there is action involving extending the passenger boarding enplanement waiver as suggested, the City will only be eligible for $150,000 to use for airport improvements beginning with the FY 06 Budget. As far as we know we are the only Airport affected in the State of New Mexico, a fact that may have been mentioned to you by Councilor Judy Stubbs when she visited with you recently.

Our request of you is that if you can influence, beginning with the Senate Commerce and Transportation Committee, an amendment to the FY 06 Budget to extend the enplanement waiver through the FY 07 Budget, we would be most grateful. Suffice is to say, the loss of almost $900,000 each year will be devastating to our Airport and our economy

As is the case every time we approach you for assistance, we are grateful for your concern and whatever assistance you feel you can provide us.

Thank you again.

Sincerely,

BILL B. OWEN,
Mayor.

RESOLUTION NO. 05–27

A RESOLUTION SUPPORTING AN EXTENSION FOR PASSENGER BOARDING ENPLANEMENTS

Whereas, annual Federal entitlements under the Airport Improvemnt Program are based on passenger boarding: and

Whereas, in the wake of 9/11, a number of airports, including the Roswell International Air Center, saw a dramatic drop in passenger boardings; and

Whereas, current Federal legislation provides airports that have over 10,000 annual boardings $1 million per year, and airports with boardings less than 10,000 annually $150,000; and

Whereas, in November 2001, the President signed P.L. 107-71 which allowed airports that had suffered declines in passenger boardings to use the greater of either the 2000 or 2001 boardings in calculating their FY2003 entitlements; and

Whereas, the Roswell International Air Center is one of over 50 airports in the United States that benefitted from P.L. 107-71, retaining its annual $1 million entitlement, even when passenger boardings dropped below 10,000; and

Whereas, Congress extended the exception for two additional years, FY2004 and FY2005 (P.L. 108-176, sec. 146); and

Whereas, Roswell International Air Center enplanements are increasing and coming close to 10,OOO and Now, Therefore be it

Resolved, The City of Roswell seeks the continued support from the New Mexico Congressional Delegation to persuade the Senate Commerce and Transportation Committee to extend the exception through FY2007 and encourages the citizens of Roswell and Eastern New Mexico to support the local air service. Further be it

Resolved by the governing body of the City of Roswell, New Mexico, the Roswell City Council, to support whatever means and energy is necessary to extend the passenger boarding enplanement waiver through FY2007.

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF APPORTIONMENTS.

Section 47114(c)(1)(F) of title 49, United States Code, is amended by striking "and 2005" each place it appears in the heading and inserting ", 2005, and 2006".

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve: to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategic Gasoline and Fuel Reserve Act of 2005".

SEC. 2. STRATEGIC GASOLINE AND FUEL RESERVE.

(a) IN GENERAL.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(1) by redesignating part E (42 U.S.C. 6251 et seq.) as part F;

(2) by redesignating section 191 (42 U.S.C. 6251) as section 199: and

(3) by inserting after part D (42 U.S.C. 6250 et seq.) the following:

"PART E—STRATEGIC GASOLINE AND FUEL RESERVE

"SEC. 191. DEFINITIONS.

"In this part:

"(1) GASOLINE.—The term 'gasoline' means regular unleaded gasoline.

"(2) RESERVE.—The term 'Reserve' means the Strategic Gasoline and Fuel Reserve established under section 192(a).

"SEC. 192. ESTABLISHMENT.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall establish, maintain, and operate a Strategic Gasoline and Fuel Reserve.

"(b) NOT COMPONENT OF STRATEGIC PETROLEUM RESERVE.—The Reserve is not a component of the Strategic Petroleum Reserve established under part B.

"(c) CAPACITY.—The Reserve shall contain not more than—

"(1) 40,000,000 barrels of gasoline; and

"(2) 7,500,000 barrels of jet fuel.

"(d) RESERVE SITES.—

"(1) SITING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall determine not less than 3 Reserve sites, and not more than 5 Reserve sites, throughout the United States that are regionally strategic.

"(2) OPERATION.—The Reserve sites described in paragraph (1) shall be operational not later than 2 years after the date of enactment of this Act.

"(e) SECURITY.—In establishing the Reserve under this section, the Secretary shall obtain the concurrence of the Secretary of Homeland Security with respect to physical design security and operational security.

"(f) AUTHORITY.—In carrying out this part, the Secretary may—

"(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities and storage services;

“(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

“(3) acquire by purchase, exchange, lease, or other means gasoline and fuel for storage in the Reserve;

“(4) store gasoline and fuel in facilities not owned by the United States; and

“(5) sell, exchange, or otherwise dispose of gasoline and fuel from the Reserve, including to maintain—

“(A) the quality or quantity of the gasoline or fuel in the Reserve; or

“(B) the operational capacity of the Reserve.

“(g) FILL DATE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall complete the process of filling the Reserve under this section by March 1, 2008.

“(2) EXTENSIONS.—The President may extend the deadline established under paragraph (1) if—

“(A) the President determines that filling the Reserve within that deadline would cause an undue economic burden on the United States; and

“(B) the President receives approval from Congress.

“SEC. 193. RELEASE OF GASOLINE AND FUEL.

“(a) IN GENERAL.—The Secretary shall release gasoline or fuel from the Reserve only if—

“(1) the President finds that there is a severe fuel supply disruption by finding that—

“(A) a regional or national supply shortage of gasoline or fuel of significant scope and duration has occurred;

“(B) a substantial increase in the price of gasoline or fuel has resulted from the shortage;

“(C) the price increase is likely to cause a significant adverse impact on the national economy; and

“(D) releasing gasoline or fuel from the Reserve would assist directly and significantly in reducing the adverse impact of the shortage; or

“(2)(A) the Governor of a State submits to the Secretary a written request for a release from the Reserve that contains a finding that—

“(i) a regional or statewide supply shortage of gasoline or fuel of significant scope and duration has occurred;

“(ii) a substantial increase in the price of gasoline or fuel has resulted from the shortage; and

“(iii) the price increase is likely to cause a significant adverse impact on the economy of the State; and

“(B) the Secretary concurs with the findings of the Governor under subparagraph (A) and determines that—

“(i) a release from the Reserve would mitigate gasoline or fuel price volatility in the State;

“(ii) a release from the Reserve would not have an adverse effect on the long-term economic viability of retail gasoline or fuel markets in the State and adjacent States; and

“(iii) a release from the Reserve would not suppress prices below long-term market trend levels.

“(b) PROCEDURE.—

“(1) RESPONSE OF SECRETARY.—The Secretary shall respond to a request submitted under subsection (a)(2) not later than 5 days after receipt of the request by—

“(A) approving the request;

“(B) denying the request; or

“(C) requesting additional supporting information.

“(2) RELEASE.—The Secretary shall establish procedures governing the release of gasoline or fuel from the Reserve in accordance with this subsection.

“(3) REQUIREMENTS.—

“(A) ELIGIBLE ENTITY.—In this paragraph, the term ‘eligible entity’ means an entity that is customarily engaged in the sale or distribution of gasoline or fuel.

“(B) SALE OR DISPOSAL FROM RESERVE.—The procedures established under this subsection shall provide that the Secretary may—

“(i) sell gasoline or fuel from the Reserve to an eligible entity through a competitive process; or

“(ii) enter into an exchange agreement with an eligible entity under which the Secretary receives a greater volume of gasoline or fuel as repayment from the eligible entity than the volume provided to the eligible entity.

“(c) CONTINUING EVALUATION.—The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures established under this section.

“SEC. 194. REPORTS.

“(a) GASOLINE AND FUEL.—Not later than 45 days after the date of enactment of this section, the Secretary shall submit to Congress and the President a plan describing—

“(1) the acquisition of storage and related facilities or storage services for the Reserve, including the use of storage facilities not currently in use or not currently used to capacity;

“(2) the acquisition of gasoline and fuel for storage in the Reserve;

“(3) the anticipated methods of disposition of gasoline and fuel from the Reserve;

“(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

“(5) efforts that the Department will take to minimize any potential need for future drawdowns from the Reserve; and

“(6) actions to ensure the quality of the gasoline and fuel in the Reserve are maintained.

“(b) NATURAL GAS AND DIESEL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to Congress a report describing the feasibility of creating a natural gas and diesel reserve similar to the Reserve under this part.

“SEC. 195. STRATEGIC GASOLINE AND FUEL RESERVE FUND.

“(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ‘Strategic Gasoline and Fuel Reserve Fund’ (referred to in this section as the ‘Fund’), consisting of—

“(1) such amounts as are appropriated to the Fund under subsection (b);

“(2) such amounts as are appropriated to the Fund under section 196; and

“(3) any interest earned on investment of amounts in the Fund under subsection (d).

“(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to amounts collected as receipts and received in the Treasury from the sale, exchange, or other disposition of gasoline or fuel from the Reserve.

“(c) EXPENDITURES FROM FUND.—On request by the Secretary and without the need for further appropriation, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to carry out activities under this part, to remain available until expended.

“(d) INVESTMENT OF AMOUNTS.—

“(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

“(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

“(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

“(A) on original issue at the issue price; or

“(B) by purchase of outstanding obligations at the market price.

“(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

“(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

“(e) TRANSFERS OF AMOUNTS.—

“(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

“(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

“SEC. 196. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as are necessary to carry out this part, to remain available until expended.”.

SEC. 3. CONFORMING AMENDMENTS.

The table of contents for title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 note) is amended by striking the matter relating to part D and inserting the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.
“Sec. 182. Authority.
“Sec. 183. Conditions for release; plan.
“Sec. 184. Northeast home heating oil reserve account.
“Sec. 185. Exemptions.
“Sec. 186. Authorization of appropriations.

“PART E—STRATEGIC GASOLINE AND FUEL RESERVE

“Sec. 191. Definitions.
“Sec. 192. Establishment.
“Sec. 193. Release of gasoline and fuel.
“Sec. 194. Reports.
“Sec. 195. Strategic Gasoline and Fuel Reserve Fund.
“Sec. 196. Authorization of appropriations.

“PART F—EXPIRATION

“Sec. 199. Expiration.”.

By Mr. JOHNSON (for himself, Ms. CANTWELL, Mr. LEAHY, Mr. CORZINE, Mrs. MURRAY, Mr. SALAZAR, Mr. REED, and Ms. MIKULSKI):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

Mr. JOHNSON. Mr. President, today I am joined by several of my colleagues in the Senate to introduce the Social Security COLA Protection Act of 2005. This legislation will provide some relief to seniors from rising Medicare premiums, and ensure that their Social

Security cost-of-living-adjustments or COLAs are made available for other essential needs such as food and housing.

I first thank Senators CANTWELL, LEAHY, CORZINE, MURRAY, SALAZAR, REED and MIKULSKI in joining me in this effort. Last Congress several colleagues joined Senator Daschle and myself to introduce a similar bill. Representative HERSETH in the House has introduced the companion bill today, and I thank her as well for her leadership on this and other important issues to seniors in South Dakota.

In my home State, 1 in 6 people are Medicare beneficiaries. That represents 16 percent of our total State population. Many of these individuals live on modest fixed incomes and have to pay close attention to the checks they write and the groceries they buy every month. The seniors of my State are people that worked very hard all of their lives, as farmers, small business owners, teachers and parents. In old age, all they are hoping for is an opportunity to live out their years with a basic level of comfort and certainty.

Unfortunately, as the cost of health care continues to rise at alarming rates, it becomes more and more difficult for seniors to have a sense of security during their retirement years. According to the Kaiser Family Foundation, U.S. spending on health care was approximately $1.7 trillion in 2003, almost two and a half times the $696 billion spent in 1990. That $1.7 trillion represents over 15 percent of the gross domestic product. While spending did level off in 2004, according to an analysis by the Center for Health System Change, overall health spending growth outpaced overall economic growth by 2.6 percent in 2004.

Increases in health care costs hit the pocketbooks of every American. Recently the Centers for Medicare and Medicaid Services or CMS announced that the Medicare Part B premiums, which pay for seniors' doctor visits and other nonhospital services, will rise 13 percent in 2006. The 2006 increase will mark the third year in a row that beneficiaries will be subjected to a rise in their premiums of more than 10 percent.

These premium increases will come at the same time that many Medicare beneficiaries will start to pay an additional premium for the Part D prescription drug program. Those premiums will range, averaging from $20 to $35 a month. Both Part D and Part B premiums will be taken from a senior's Social Security check.

While seniors can expect a modest increase in their Social Security COLA every year, that increase has not kept up with the pace of increased health care costs and specifically Medicare premium costs. This is unfortunate, and does force many seniors to have to face the harsh reality every year that their fixed income is shrinking as their health costs go up. This October we should learn the Social Security COLA for 2006, and I fear that the combination of a modest increase and increased costs for participating in Medicare Part D are going to be difficult to adjust to for many seniors in South Dakota.

This is why I have introduced the Social Security COLA Protection Act of 2005, which will mandate that no more than 25 percent of a senior's COLA be absorbed by the increase in Medicare premiums. This is important legislation that will protect the financial security of many retirees in my home State and across the country. I thank all of the Members who have introduced this bill with me today and urge the rest of my colleagues to join me in this effort.

By Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, along with my colleagues, Senators LEAHY, DAYTON, DODD and CORZINE, I am introducing legislation that, if adopted, will protect and even save the lives of victims of domestic or sexual violence and their families. This bill, the Security and Financial Empowerment (SAFE) Act, addresses the impact of domestic and sexual violence that extends far beyond the moment the abuse occurs.

I am introducing this legislation today as a tribute to Paul and Sheila Wellstone, who were such champions for victims of domestic violence. Senator Wellstone and I first introduced this legislation together in 1998. Paul's desk was just behind me here on the Senate floor. I can still see him behind me waving his arms and making the case for people who have no voice.

Not long ago, domestic violence was considered a family problem, and many victims had nowhere to turn for help.

Today, thanks to the Violence Against Women Act (VAWA) we have made great progress in fighting these violent crimes. I worked to help pass this landmark legislation in 1994 and I am proud to be a part of reauthorizing it this year. But although VAWA has been a great success in coordinating victims' advocates, social service providers and law enforcement professionals to meet immediate challenges, there is still work to be done.

As someone who has spent my entire public life working with victims and experts to fight domestic violence, I am offering this bill based on what these courageous individuals have told me they need. Financial insecurity is a major factor in ongoing domestic violence. Too often, victims who are not economically self sufficient are forced to choose between protecting themselves and their children and keeping a roof over their heads. It is critical that we help guarantee the economic security of victims of domestic or sexual violence so that they can provide permanent safety for themselves and their families and so that they are not forced, because of economic dependence, to stay in an abusive relationship.

In order to do this, we must ensure that victims of domestic or sexual violence can seek the help they need without the fear of losing their jobs. Too many victims have been fired for missing work in order to find shelter or get a court restraining order, even after receiving permission from their employers. Today, a woman can use the Family and Medical Leave Act to care for a sick or injured spouse, but she cannot use that act to seek protection from her abuser. The SAFE Act will allow victims to take time off from work without penalty in order to make court appearances, seek legal assistance, and get help with safety planning. For too many victims, access to these essential services can mean the difference between life and death.

Unfortunately, some victims of domestic or sexual violence are forced to leave their jobs and relocate to protect themselves and their families. We must ensure the continued financial security of these victims through the use of unemployment benefits. Currently, a woman can receive unemployment benefits if she leaves her job because her husband must relocate. But if that same woman is fleeing her husband's abuse, in many States she cannot receive the same benefits. Currently, 28 States and the District of Columbia provide some type of unemployment assistance to victims of domestic or sexual violence. Our bill will ensure that assistance is available in every State, so that no woman has to make the tragic choice of risking her safety to protect her livelihood.

Moreover, victims must not be made silent by the fear of discrimination in employment and insurance. Punishing victims for circumstances beyond their control is wrong and only helps abusers in their efforts to control their victims. Denying a woman employment because she is a victim of domestic violence robs her of the economic security she needs to escape a dangerous relationship. Making insurance coverage decisions based on a history of abuse only encourages women to lie about their victimization and avoid seeking help until it is too late. The SAFE Act prohibits discrimination in employment and insurance based on domestic or sexual violence, to ensure that victims are never punished for their abusers' crimes.

Sadly, domestic violence and poverty are inextricably linked, and many victims of domestic or sexual violence are also recipients of Temporary Aid to Needy Families (TANF). Work requirements in this program often punish victims who must take time off to protect themselves and their children. In 1996, Senator Paul Wellstone and I offered an amendment to TANF called the Family Violence Option, which allows States to adjust TANF work requirements for victims of domestic violence. The SAFE act will strengthen the Family Violence Option, in order to protect some of the most economically vulnerable victims.

Despite the great progress that has been made, domestic violence is still a serious problem in our country. Domestic violence is the leading cause of injury to women, and over 5.3 million incidents occur every year. Domestic or sexual violence also continues to have severe economic consequences, costing businesses between 3 and 5 billion dollars each year in lost productivity. The SAFE Act will help victims to escape dangerous situations and prevent abuse from occurring. This will not only protect the lives of countless victims, it will allow them to be more productive members of the economy.

I am proud of the guidance we've received from advocates in crafting this legislation. I want to thank them for their efforts and their commitment to breaking the cycle of violence. I want to particularly acknowledge the efforts of the advocates in Washington State who have provided invaluable input in drafting this legislation. The support and leadership of our communities will help us take this critical next step in passing SAFE.

For victims of domestic violence, an abusive relationship can seem like a hopeless situation. Through VAWA, we have already provided new hope to millions of these victims. The SAFE Act is the crucial next step in ending the cycle of abuse. I urge my colleagues to support this bill and provide victims and their families with the tools they need for productive, independent and most importantly, safe futures.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Security and Financial Empowerment Act" or the "SAFE Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 101. Purposes.
Sec. 102. Entitlement to emergency leave for addressing domestic violence, dating violence, sexual assault, or stalking.
Sec. 103. Existing leave usable for addressing domestic violence, dating violence, sexual assault, or stalking.
Sec. 104. Emergency benefits.
Sec. 105. Effect on other laws and employment benefits.
Sec. 107. Conforming amendment.
Sec. 108. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 201. Purposes.
Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

Sec. 301. Short title.
Sec. 302. Purposes.
Sec. 303. Prohibited discriminatory acts.
Sec. 304. Enforcement.
Sec. 305. Attorney's fees.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Discriminatory acts prohibited.
Sec. 404. Insurance protocols for subjects of abuse.
Sec. 405. Reasons for adverse actions.
Sec. 406. Life insurance.
Sec. 407. Subrogation without consent prohibited.
Sec. 408. Enforcement.
Sec. 409. Effective date.

TITLE V—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

Sec. 501. National clearinghouse and resource center on domestic and sexual violence in the workplace grant.

TITLE VI—SEVERABILITY

Sec. 601. Severability.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Domestic violence crimes account for approximately 15 percent of total crime costs in the United States each year.

(2) Violence against women has been reported to be the leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health and financial security.

(3) According to a recent study by the National Institutes of Health and Centers for Disease Control and Prevention, each year there are 5,300,000 non-fatal violent victimizations committed by intimate partners against women. Female murder victims were substantially more likely than male murder victims to have been killed by an intimate partner. About ⅓ of female murder victims, and about 4 percent of male murder victims, were killed by an intimate partner.

(4) According to recent government estimates, approximately 987,400 rapes occur annually in the United States, 89 percent of the rapes perpetrated against female victims. Since 2001, rapes have actually increased by 4 percent.

(5) Approximately 10,200,000 people have been stalked at some time in their lives. Four out of every 5 stalking victims are women. Stalkers harass and terrorize their victims by spying on the victims, standing outside their places of work or homes, making unwanted phone calls, sending or leaving unwanted letters or items, or vandalizing property.

(6) Employees in the United States who have been victims of domestic violence, dating violence, sexual assault, or stalking too often suffer adverse consequences in the workplace as a result of their victimization.

(7) Victims of domestic violence, dating violence, sexual assault, and stalking are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimizations, and are, therefore, in need of legal protection.

(8) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. About 36,500 individuals, 80 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1993 through 1999. Half of all female victims of violent workplace crimes know their attackers. Nearly 1 out of 10 violent workplace incidents are committed by partners or spouses. Women who work for State and local governments suffer a higher incidence of workplace assaults, including rapes, than women who work in the private sector.

(9) Homicide is the leading cause of death for women on the job. Husbands, boyfriends, and ex-partners commit 15 percent of workplace homicides against women.

(10) Studies indicate that between 35 and 56 percent of employed battered women surveyed were harassed at work by their abusive partners.

(11) According to a 1998 report of the Government Accountability Office, between ¼ and ½ of domestic violence victims surveyed in 3 studies reported that the victims lost a job due, at least in part, to domestic violence.

(12) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

(13) Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

(14) More than ½ of women receiving welfare have been victims of domestic violence as adults and between ¼ and ⅓ reported being abused in the last year.

(15) Victims of intimate partner violence lose 8,000,000 days of paid work each year, the equivalent of over 32,000 full-time jobs and 5,600,000 days of household productivity.

(16) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

(17) More than 35 percent of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

(18)(A) According to the National Institute of Justice, crime costs an estimated $450,000,000,000 annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, which harms the Nation's productivity and drains the Nation's resources.

(B) Violent crime accounts for $426,000,000,000 per year of this amount.

(C) Rape exacts the highest costs per victim of any criminal offense, and accounts for $127,000,000,000 per year of the amount described in subparagraph (A).

(19) Violent crime results in wage losses equivalent to 1 percent of all United States earnings, and causes 3 percent of the Nation's medical spending and 14 percent of the Nation's injury-related medical spending.

(20) The Bureau of National Affairs has estimated that domestic violence costs United States employers between $3,000,000,000 and $5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs those employers between $5,800,000,000 and $13,000,000,000 annually.

(21) United States medical costs for domestic violence have been estimated to be $31,000,000,000 per year.

(22) Surveys of business executives and corporate security directors also underscore the heavy toll that workplace violence takes on women, businesses, and interstate commerce in the United States.

(23) Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.

(24) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs.

(25) Only 28 States have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances, and none of the laws explicitly cover victims of sexual assault or stalking.

(26) Only 6 States provide domestic violence victims with leave from work to go to court, to the doctor, or to take other steps to address the domestic violence in their lives, and only Maine provides such leave to victims of sexual assault and stalking.

(27) No States prohibit employment discrimination against all victims of domestic violence, sexual assault, or stalking. Five States have limited protections against such discrimination for some victims under certain circumstances.

(28) Employees, including individuals participating in welfare to work programs, may need to take time during business hours to—

(A) obtain orders of protection;

(B) seek medical or legal assistance, counseling, or other services; or

(C) look for housing in order to escape from domestic violence.

(29) Victims of domestic violence, dating violence, sexual assault, or stalking have been subjected to discrimination by private and State employers, including discrimination motivated by stereotypic notions about women and other discrimination on the basis of sex.

(30) Domestic violence victims and third parties who help them have been subjected to discriminatory practices by health, life, disability, and property and casualty insurers, and employers who self-insure employee benefits, who have denied or canceled coverage, rejected claims, and raised rates based on domestic violence. Although some State legislatures have tried to address those practices, the scope of protection afforded by the laws adopted varies from State to State, with many failing to address the problem comprehensively. Moreover, Federal law prevents States from protecting the almost 40 percent of employees whose employers self-insure employee benefits.

(31) Existing Federal law does not explicitly—

(A) authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities;

(B) address the eligibility of victims of domestic violence, dating violence, sexual assault, or stalking for unemployment compensation;

(C) prohibit employment discrimination against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking; or

(D) prohibit insurers and employers who self-insure employee benefits from—

(i) discriminating against domestic violence victims and those who help them in determining eligibility for coverage, rates charged, and standards for payment of claims; or

(ii) disclosing information about abuse and the location of the victims through insurance databases and other means.

SEC. 3. DEFINITIONS.

In this Act, except as otherwise expressly provided:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(2) COURSE OF CONDUCT.—The term "course of conduct" means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(3) DATING VIOLENCE.—The term "dating violence" has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(4) DOMESTIC VIOLENCE.—The term "domestic violence" has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(5) DOMESTIC VIOLENCE COALITION.—The term "domestic violence coalition" means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the domestic violence programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of domestic violence intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out domestic violence programs within a State, territory, political subdivision, or area under Federal authority.

(6) ELECTRONIC COMMUNICATIONS.—The term "electronic communications" includes communications via telephone (including mobile phone), computer, e-mail, video recorder, fax machine, telex, or pager.

(7) EMPLOY; STATE.—The terms "employ" and "State" have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(8) EMPLOYEE.—

(A) IN GENERAL.—The term "employee" means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)).

(B) BASIS.—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

(9) EMPLOYER.—The term "employer"—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(10) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(11) FAMILY OR HOUSEHOLD MEMBER.—The term "family or household member", used with respect to a person, means a spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit as the person.

(12) PARENT; SON OR DAUGHTER.—The terms "parent" and "son or daughter" have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(13) PERSON.—The term "person" has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(14) PUBLIC AGENCY.—The term "public agency" has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) PUBLIC ASSISTANCE.—The term "public assistance" includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

(16) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(17) REPEATEDLY.—The term "repeatedly" means on 2 or more occasions.

(18) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(19) SEXUAL ASSAULT.—The term "sexual assault" has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(20) SEXUAL ASSAULT COALITION.—The term "sexual assault coalition" means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the sexual assault programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of sexual assault intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out sexual assault programs within a State, territory, political subdivision, or area under Federal authority.

(21) STALKING.—The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person, or the person's spouse, parent, or son or daughter, or any other person who regularly resides in the person's household, if the conduct causes the specific person to have such distress or fear.

(22) VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The term "victim of domestic violence, dating violence, sexual assault, or stalking" includes a person who has been a victim of domestic violence, dating violence, sexual assault, or stalking and a person whose family or household member has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(23) VICTIM SERVICES ORGANIZATION.—The term "victim services organization" means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, dating violence, sexual assault, or stalking, or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or an organization providing assistance through the legal process.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 101. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment leave, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce;

(6) to further the goals of human rights and dignity reflected in instruments such as the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(7) to accomplish the purposes described in paragraphs (1) through (6) by—

(A) entitling employed victims of domestic violence, dating violence, sexual assault, or stalking to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic violence, dating violence, sexual assault, or stalking may take leave from work to address domestic violence, dating violence, sexual assault, or stalking, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, dating violence, sexual assault, or stalking to the employee or the employee's family or household member;

(B) obtaining services from a victim services organization for the employee or the employee's family or household member;

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, dating violence, sexual assault, or stalking or ensure economic security; or

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, dating violence, sexual assault, or stalking.

(2) PERIOD.—An employee may take not more than 30 days of leave, as described in paragraph (1), in any 12-month period.

(3) SCHEDULE.—Leave described in paragraph (1) may be taken intermittently or on a reduced leave schedule.

(b) NOTICE.—The employee shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

(c) CERTIFICATION.—

(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requests the certification, that—

(A) the employee or the employee's family or household member is a victim of domestic violence, dating violence, sexual assault, or stalking; and

(B) the leave is for 1 of the purposes enumerated in subsection (a)(1).

(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

(A) a sworn statement of the employee;

(B) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(C) a police or court record; or

(D) other corroborating evidence.

(d) CONFIDENTIALITY.—All information provided to the employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(1) requested or consented to by the employee in writing; or

(2) otherwise required by applicable Federal or State law.

(e) EMPLOYMENT AND BENEFITS.—

(1) RESTORATION TO POSITION.—

(A) IN GENERAL.—Except as provided in paragraph (2), any employee who takes leave under this section for the intended purpose of the leave shall be entitled, on return from such leave—

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(B) LOSS OF BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

(i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(3) MAINTENANCE OF HEALTH BENEFITS.—

(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

(i) the employee fails to return from leave under this section after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than—

(I) the continuation of, recurrence of, or onset of an episode of domestic violence, dating violence, sexual assault, or stalking, that entitles the employee to leave pursuant to this section; or

(II) other circumstances beyond the control of the employee.

(C) CERTIFICATION.—

(i) ISSUANCE.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) CONTENTS.—An employee may satisfy the certification requirement of clause (i) by providing to the employer—

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(III) a police or court record; or

(IV) other corroborating evidence.

(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii), shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(C) PUBLIC AGENCY SANCTIONS.—It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual (including retaliation in any form or manner) with respect to the amount, terms, or conditions of public assistance of the individual because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual—

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

(i) the individuals; or

(ii) the individuals and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any affected individual shall terminate—

(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer liable under subparagraph (A),

unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under this subsection not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of subsection (f), such action may be brought within 3 years after the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(4) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to affected individuals; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(5) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

(6) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer or public agency to an individual, for harm suffered relating to the individual's experience of domestic violence, dating violence, sexual assault, or stalking, pursuant to any other Federal or State law, including a law providing for a legal remedy.

(7) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Library of Congress, the authority of the Secretary under this subsection shall be exercised by the Librarian of Congress.

(8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(A) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), subparagraph (B) shall apply.

(B) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided in the case of a violation of chapter 63 of title 5, United States Code, in that title to an employing agency, in chapter 12 of that title to the Merit Systems Protection Board, or in that title to any person alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this subsection provides in the case of a violation of subsection (f) to that agency, that Board, or any person alleging a violation of subsection (f), respectively, against an employee who is such an individual.

(9) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 106(d), the President shall ensure that any public agency that violates subsection (f)(1)(C), or subsection (f)(2) by discriminating as described in subsection (f)(1)(C), shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(A)(i) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(ii) the interest on the amount described in clause (i); and

(B) such equitable relief as may be appropriate.

SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 102.

SEC. 104. EMERGENCY BENEFITS.

(a) IN GENERAL.—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 102.

(b) ELIGIBILITY.—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

(c) TIMING.—

(1) APPLICATIONS.—An individual seeking emergency benefits under subsection (a) from a State shall submit an application to the State.

(2) BENEFITS.—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

(d) CONFORMING AMENDMENT.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

"(l) AUTHORITY TO PROVIDE EMERGENCY BENEFITS.—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 104 of the Security and Financial Empowerment Act, to individuals who take leave pursuant to section 102 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.".

SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

(1) greater leave benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title; or

(2) leave benefits for a larger population of victims of domestic violence, dating violence, sexual assault, or stalking (as defined in such law, agreement, program, or plan) than the victims of domestic violence, dating violence, sexual assault, or stalking covered under this title.

(b) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

SEC. 106. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 102(f)(1)(C), or section 102(f)(2) due to discrimination described in section 102(f)(1)(C). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

SEC. 107. CONFORMING AMENDMENT.

Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by inserting "title I or III of the Security and Financial Empowerment Act," before "or the provisions".

SEC. 108. EFFECTIVE DATE.

This title and the amendment made by this title take effect 180 days after the date of enactment of this Act.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 201. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to laying and collecting taxes, providing for the general welfare, and regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of such victimization and participate in the criminal and civil justice processes without fear of adverse economic consequences;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, loss of employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate the ability of women to participate in employment and interstate commerce;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in unemployment insurance, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil

and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination; and

(5) to accomplish the purposes described in paragraphs (1) through (4) by providing unemployment insurance to those who are separated from their employment as a result of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING PROVISIONS.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304 of the Internal Revenue Code of 1986 (relating to approval of State unemployment compensation laws) is amended—

(1) in subsection (a)—

(A) in paragraph (18), by striking "and" at the end;

(B) by redesignating paragraph (19) as paragraph (20); and

(C) by inserting after paragraph (18) the following new paragraph:

"(19) compensation shall not be denied where an individual is separated from employment due to circumstances resulting from the individual's experience of domestic violence, dating violence, sexual assault, or stalking, nor shall States impose additional conditions that restrict the individual's eligibility for or receipt of benefits beyond those required of other individuals who are forced to leave their jobs or are deemed to have good cause for voluntarily separating from a job in the State; and"; and

(2) by adding at the end the following new subsection:

"(g) CONSTRUCTION.—For purposes of subsection (a)(19)—

"(1) DOCUMENTATION.—In determining eligibility for compensation due to circumstances resulting from an individual's experience of domestic violence, dating violence, sexual assault, or stalking—

"(A) States shall adopt, or have adopted, by statute, regulation, or policy a list of forms of documentation that may be presented to demonstrate eligibility; and

"(B) presentation of any one of such forms of documentation shall be sufficient to demonstrate eligibility, except that a State may require the presentation of a form of identification in addition to the written statement of claimant described in paragraph (2)(G).

"(2) LIST OF FORMS OF DOCUMENTATION.—The list referred to in paragraph (1)(A) shall include not less than 3 of the following forms of documentation:

"(A) An order of protection or other documentation issued by a court.

"(B) A police report or criminal charges documenting the domestic violence, dating violence, sexual assault, or stalking.

"(C) Documentation that the perpetrator has been convicted of the offense of domestic violence, dating violence, sexual assault, or stalking.

"(D) Medical documentation of the domestic violence, dating violence, sexual assault, or stalking.

"(E) Evidence of domestic violence, dating violence, sexual assault, or stalking from a counselor, social worker, health worker, or domestic violence shelter worker.

"(F) A written statement that the applicant or the applicant's minor child is a victim of domestic violence, dating violence, sexual assault, or stalking, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic violence, dating violence, sexual assault, or stalking.

"(G) A written statement of the claimant.

"(3) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING DEFINED.—The terms 'domestic violence', 'dating violence', 'sexual assault', and 'stalking' have the meanings given such terms in section 3 of the Security and Financial Empowerment Act.".

(b) UNEMPLOYMENT COMPENSATION PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Such methods of administration as will ensure that—

"(A) applicants for unemployment compensation and individuals inquiring about such compensation are adequately notified of the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

"(B) claims reviewers and hearing personnel are adequately trained in—

"(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act); and

"(ii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined) to ensure that—

"(I) requests for unemployment compensation based on separations stemming from domestic violence, dating violence, sexual assault, or stalking (as so defined) are reliably screened, identified, and adjudicated; and

"(II) full confidentiality is provided for the individual's claim and submitted evidence; and".

(c) TANF PERSONNEL TRAINING.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by adding at the end the following new paragraph:

"(8) CERTIFICATION THAT THE STATE WILL PROVIDE INFORMATION TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—A certification by the chief officer of the State that the State has established and is enforcing standards and procedures to—

"(A) ensure that applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of—

"(i) the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

"(ii) assistance made available by the State to victims of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act);

"(B) ensure that case workers and other agency personnel responsible for administering the State program funded under this part are adequately trained in—

"(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as so defined);

"(ii) State standards and procedures relating to the prevention of, and assistance for individuals who experience, domestic violence, dating violence, sexual assault, or stalking (as so defined); and

"(iii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined);

"(C) if a State has elected to establish and enforce standards and procedures regarding the screening for and identification of domestic violence pursuant to paragraph (7), ensure that—

"(i) applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of options available under such standards and procedures; and

"(ii) case workers and other agency personnel responsible for administering the State program funded under this part are provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

"(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 202(d)(2) of the Security and Financial Empowerment Act).".

(d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING TRAINING GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is authorized to award—

(A) a grant to a national victim services organization in order for such organization to—

(i) develop and disseminate a model training program (and related materials) for the training required under section 303(a)(4)(B) of the Social Security Act, as added by subsection (b), and under subparagraphs (B) and, if applicable, (C)(ii) of section 402(a)(8) of the such Act, as added by subsection (c); and

(ii) provide technical assistance with respect to such model training program; and

(B) grants to State, tribal, or local agencies in order for such agencies to contract with eligible entities to provide State, tribal, or local case workers and other State, tribal, or local agency personnel responsible for administering the temporary assistance to needy families program established under part A of title IV of the Social Security Act in a State or Indian reservation with the training required under subparagraphs (B) and, if applicable, (C)(ii) of such section 402(a)(8).

(2) ELIGIBLE ENTITY DEFINED.—For purposes of paragraph (1)(B), the term "eligible entity" means an entity—

(A) that is—

(i) a State or tribal domestic violence coalition or sexual assault coalition;

(ii) a State or local victim services organization with recognized expertise in the dynamics of domestic violence, dating violence, sexual assault, or stalking whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, such as a rape crisis center or domestic violence program; or

(iii) an organization with demonstrated expertise in State or county welfare laws and implementation of such laws and experience with disseminating information on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and

(B) that—

(i) has demonstrated expertise in both domestic violence and sexual assault, such as a joint domestic violence and sexual assault coalition; or

(ii) will provide the required training in partnership with an entity described in clause (i) or (ii) of subparagraph (A) in order to comply with the dual domestic violence and sexual assault expertise requirement under clause (i).

(3) APPLICATION.—An entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such form and manner, and containing such information as the Secretary specifies.

(4) REPORTS.—

(A) REPORTS TO CONGRESS.—The Secretary shall annually submit a report to Congress on the grant program established under this subsection.

(B) REPORTS AVAILABLE TO PUBLIC.—The Secretary shall establish procedures for the dissemination to the public of each report submitted under subparagraph (A). Such procedures shall include the use of the Internet to disseminate such reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There are authorized to be appropriated—

(i) $1,000,000 for fiscal year 2007 to carry out the provisions of paragraph (1)(A); and

(ii) $12,000,000 for each of fiscal years 2008 through 2010 to carry out the provisions of paragraph (1)(B).

(B) THREE-YEAR AVAILABILITY OF GRANT FUNDS.—Each recipient of a grant under this subsection shall return to the Secretary any unused portion of such grant not later than 3 years after the date the grant was awarded, together with any earnings on such unused portion.

(C) AMOUNTS RETURNED.—Any amounts returned pursuant to subparagraph (B) shall be available without further appropriation to the Secretary for the purpose of carrying out the provisions of paragraph (1)(B).

(e) EFFECT ON EXISTING LAWS, ETC.—

(1) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides greater unemployment insurance benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title.

(2) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any more restrictive State or local law, collective bargaining agreement, or employment benefits program or plan.

(f) EFFECTIVE DATE.—

(1) UNEMPLOYMENT AMENDMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—

(i) IN GENERAL.—If the Secretary of Labor identifies a State as requiring a change to its statutes, regulations, or policies in order to comply with the amendments made by this section (excluding the amendment made by subsection (c)), such amendments shall apply in the case of compensation paid for weeks beginning after the earlier of—

(I) the date the State changes its statutes, regulations, or policies in order to comply with such amendments; or

(II) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for at least 25 calendar days after such date;

except that in no case shall such amendments apply before the date that is 180 days after the date of enactment of this Act.

(ii) SESSION DEFINED.—In this subparagraph, the term "session" means a regular, special, budget, or other session of a State legislature.

(2) TANF AMENDMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (c) shall take effect on the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendment made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such amendment on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the "Victims' Employment Sustainability Act".

SEC. 302. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting the civil and economic rights of victims of domestic violence, dating violence, sexual assault, or stalking, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 303. PROHIBITED DISCRIMINATORY ACTS.

(a) IN GENERAL.—An employer shall not fail to hire, refuse to hire, discharge, or harass any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner), and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner), because—

(1) the individual involved—

(A) is or is perceived to be a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for, a criminal or civil court proceeding relating to an incident of domestic violence, dating violence, sexual assault, or stalking of which the individual, or the family or household member of the individual, was a victim; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking, regardless of whether the request was granted; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic violence, dating violence, sexual assault, or stalking against the individual, or the individual's family or household member.

(b) DEFINITIONS.—In this section:

(1) DISCRIMINATE.—The term "discriminate", used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public

assistance, includes not making a reasonable accommodation to the known limitations of an otherwise qualified individual—

(A) who is a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) who is—

(i) an applicant or employee of the employer (including a public agency) that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 603(e)(2)); or

(ii) an applicant for or recipient of public assistance from a public agency; and

(C) whose limitations resulted from circumstances relating to being a victim of domestic violence, dating violence, sexual assault, or stalking;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

(2) QUALIFIED INDIVIDUAL.—The term "qualified individual" means—

(A) in the case of an applicant or employee described in paragraph (1)(B)(i), an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(B)(ii), an individual who, with or without reasonable accommodation, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking.

(4) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include—

(i) the nature and cost of the reasonable accommodation needed under this section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

SEC. 304. ENFORCEMENT.

(a) CIVIL ACTION BY INDIVIDUALS.—

(1) LIABILITY.—Any employer that violates section 303 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

(C) such punitive damages, up to 3 times the amount of actual damages sustained, as the court described in paragraph (2) shall determine to be appropriate; and

(D) such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more individuals described in section 303.

(b) ACTION BY DEPARTMENT OF JUSTICE.—The Attorney General may bring a civil action in any Federal or State court of competent jurisdiction to recover the damages or equitable relief described in subsection (a)(1).

(c) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this section, in the case of the Library of Congress, the authority of the Secretary under this section shall be exercised by the Librarian of Congress.

(d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(1) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), paragraph (2) shall apply.

(2) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided (in the case of a violation of section 2302(b)(1)(A) of title 5, United States Code) in title 5, United States Code, to an employing agency, the Office of Special Counsel, the Merit Systems Protection Board, or any person alleging a violation of such section 2302(b)(1)(A), shall be the powers, remedies, and procedures this section provides in the case of a violation of section 303 to that agency, that Office, that Board, or any person alleging a violation of section 303, respectively, against an employee who is such an individual.

(e) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 306(d), the President shall ensure that any public agency that violates section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance, shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(1)(A) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(B) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(2) such equitable relief as may be appropriate.

SEC. 305. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting "the Victims' Employment Sustainability Act," after "title VI of the Civil Rights Act of 1964,".

SEC. 306. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management, after consultation under the Office of Special Counsel and the Merit Systems Protection Board, shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Victims of Abuse Insurance Protection Act".

SEC. 402. DEFINITIONS.

In this title:

(1) ABUSE.—The term "abuse" means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, or psychological trauma.

(B) Attempting to engage in or engaging in rape, sexual assault, or involuntary sexual intercourse.

(C) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(D) Subjecting another person to false imprisonment or kidnapping.

(E) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) HEALTH CARRIER.—The term "health carrier" means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

(3) INSURED.—The term "insured" means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, the term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(4) INSURER.—The term "insurer" means any person, reciprocal exchange, inter insurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third-party administrators. The term includes employers who provide or make available employment benefits through an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(3)). The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(5) POLICY.—The term "policy" means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(6) SUBJECT OF ABUSE.—The term "subject of abuse" means—

(A) a person against whom an act of abuse has been directed;

(B) a person who has prior or current injuries, illnesses, or disorders that resulted from abuse; or

(C) a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 403. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse or has incurred or may incur abuse-related claims:

(1) Denying, refusing to issue, renew, or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance coverage for losses or denying a claim, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(b) PROHIBITION ON LIMITATION OF CLAIMS.—No insurer may, directly or indirectly, deny or limit payment to an insured who is a subject of abuse if the claim for payment is a result of the abuse.

(c) PROHIBITION ON TERMINATION.—

(1) IN GENERAL.—No insurer or health carrier may terminate health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for an extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986.

(2) PAYMENT OF PREMIUMS.—Nothing in paragraph (1) shall be construed to prohibit the insurer from requiring that the subject of abuse pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insured of the health carrier.

(3) EXCEPTION.—An insurer may terminate group coverage to which this subsection applies after the continuation coverage period required by this subsection has been in force for 18 months if it offers conversion to an equivalent individual plan.

(4) CONTINUATION COVERAGE.—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) USE OF INFORMATION.—

(1) LIMITATION.—

(A) IN GENERAL.—In order to protect the safety and privacy of subjects of abuse, no person employed by or contracting with an insurer or health benefit plan may (without the consent of the subject)—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions, or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction; or

(ii) disclose or transfer information relating to an applicant's or insured's mailing address or telephone number or the mailing address and telephone number of a shelter for subjects of abuse, unless such disclosure or transfer—

(I) is required in order to provide insurance coverage; and

(II) does not have the potential to endanger the safety of a subject of abuse.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to limit or preclude a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents, and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing this title when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 405. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the applicant or insured who is the subject of abuse of the specific reasons for the action in writing. For purposes of this section, reference to general underwriting practices or guidelines shall not constitute a specific reason.

SEC. 406. LIFE INSURANCE.

Nothing in this title shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 408. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—Any act or practice prohibited by this title shall be treated as an unfair and deceptive act or practice pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and the Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title, including issuing a cease and desist order granting any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive relief and compensatory damages.

(b) PRIVATE CAUSE OF ACTION.—

(1) IN GENERAL.—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this title may maintain an action against the insurer in a Federal or State court of original jurisdiction.

(2) RELIEF.—Upon proof of such conduct by a preponderance of the evidence in an action described in paragraph (1), the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses.

(3) STATUTORY DAMAGES.—With respect to compensatory damages in an action described in paragraph (1), the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.

SEC. 409. EFFECTIVE DATE.

This title shall apply with respect to any action taken on or after the date of enactment of this Act.

TITLE V—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

SEC. 501. NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT.

(a) AUTHORITY.—The Attorney General may award a grant in accordance with this section to a private, nonprofit entity or tribal organization that meets the requirements of subsection (b), in order to provide for the establishment and operation of a national clearinghouse and resource center to provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic violence, dating violence, sexual assault, or stalking, to aid in their efforts to develop and implement appropriate responses to domestic violence, dating violence, sexual assault, or stalking to assist those victims.

(b) Applications.—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

(1) information that demonstrates that the applicant—

(A) has nationally recognized expertise in the area of domestic violence, dating violence, sexual assault, or stalking and a record of commitment to reducing, and quality responses to reduce, domestic violence, dating violence, sexual assault, or stalking; and

(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant awarded under this section; and

(2) a plan to maximize, to the extent practicable, outreach—

(A) to employers (including private companies, and public entities such as public institutions of higher education and State and local governments) and labor organizations in developing and implementing appropriate responses to assist employees who are victims of domestic violence, dating violence, sexual assault, or stalking; and

(B) to advocates described in subsection (a), in developing and implementing appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(c) Use of Grant Amount.—

(1) In general.—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information on and assistance concerning appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(2) Responses.—Responses referred to in paragraph (1) may include—

(A) providing training to promote a better understanding of appropriate assistance to victims of domestic violence, dating violence, sexual assault, or stalking;

By Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Medicare Do Not Call Act, to prohibit private insurance companies from telemarketing their Medicare prescription drug and Medicare Advantage plans to Medicare beneficiaries. I am very pleased to be introducing this bill along with my colleagues, Senators JOHNSON and LAUTENBERG. I thank my colleagues for their support of this important legislation.

Beginning this Saturday, October 1, private insurance plans offering Medicare prescription drug coverage will begin marketing their products to Medicare beneficiaries.

Depending on which Medicare region they live in, beneficiaries will be confronted with selecting from as many as 20 stand-alone prescription different plans. In New Jersey, beneficiaries will choose among 17 different plans. Under current law, these plans can both send mail to and call seniors and people with disabilities who are eligible to enroll in the Medicare Part D benefit. As a result, in addition to being flooded with mail, our seniors and disabled will be flooded with phone calls.

I am extremely concerned that permitting plans to telemarket creates great potential for unscrupulous individuals and businesses to defraud this vulnerable population. Even if the plans themselves are honest brokers, it may be difficult for a senior or disabled beneficiary to distinguish between who is honest and who is not.

I am very concerned that such individuals may seize the opportunity to take advantage of this vulnerable population. Unless we act now, there will be an endless potential for fraud and identity theft within the Medicare Part D plan.

Beneficiaries are already confused about what their rights are with respect to the new prescription drug benefit. A senior who is told that she must provide her Social Security or credit card number to a telemarketer in order to obtain Medicare prescription drug coverage may feel compelled to do so, lest she forgo her opportunity to obtain prescription drug coverage.

Concerns about telemarketing fraud against seniors are very real. The Department of Justice estimates that telemarketing crooks cheat one out of six consumers every year, resulting in costs to Americans of $40 billion a year. Americans over 65, our Nation's seniors, are the primary target of these scams.

At a time when identity theft is at an all time high, the Federal government should take every precaution available to protect the American public. We should not permit government-sponsored programs, such as the Medicare prescription drug program, to engage in telemarketing. The best way to prevent such fraud from occurring is to prohibit telemarketing of any and all Medicare sponsored prescription drug products. The Medicare Do Not Call Act will do just that. My legislation imposes serious criminal penalties on unscrupulous individuals and companies that seek to defraud Medicare beneficiaries through telemarketing appeals. We must do everything we can to protect this vulnerable population.

The bottom line is that telemarketing simply is not necessary to educate seniors about their prescription drug options. My legislation permits insurance companies who are contacted by beneficiaries to discuss plan options with them. As beneficiaries talk to trusted friends and organizations and read over the literature about the different drugs plans, they can then contact plans to discuss their options further. My legislation does not stop beneficiaries from speaking to these companies; it simply prohibits these companies from making the initial 'cold call' to beneficiaries.

I deeply believe that the Federal government has a responsibility to do everything in its power to prevent telemarketing fraud. Permitting drug plans to telemarket to seniors and people with disabilities may provide a source of information to these individuals; however, because each plan wants to sell their own products, telemarketers may not provide the most objective information about a beneficiary's options.

There are better ways to educate seniors and disabled about the prescription drug benefit. The Medicare Do Not Call Act provides additional resources—$2 per Medicare beneficiary—to the State Health Insurance Counseling and Assistance Programs (SHIPs) to provide counseling and enrollment assistance services to Medicare beneficiaries. SHIPs provide valuable objective information to beneficiaries and can provide tremendous assistance in helping beneficiaries select the plan that best suits their needs.

I urge all of my colleagues to join me in supporting this legislation. By prohibiting these un-invited calls we can protect seniors and other Medicare beneficiaries from fraudulent intentions and ensure that this complicated transition within the Medicare program be as straightforward, and safe, as possible.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Do Not Call Act".

SEC. 2. TELEMARKETING PROHIBITED.

(a) Prescription Drug Plans.—Section 1860D-4(a) of the Social Security Act (42 U.S.C. 1395w-104(a)) is amended by adding at the end the following new paragraph:

"(5) Prohibition on telemarketing.—

"(A) In general.—A PDP sponsor offering a prescription drug plan shall be prohibited from conducting outbound call telemarketing (as defined in subparagraph (B)) for the purpose of soliciting enrollment into such a plan under this part.

"(B) OUTBOUND CALL TELEMARKETING DEFINED.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of this paragraph, the term 'outbound call telemarketing' means a telephone call initiated by a telemarketer—

"(I) to induce the purchase of goods or services; or

"(II) to solicit a charitable contribution.

"(ii) CATALOG MAILINGS NOT INCLUDED IN DEFINITION OF OUTBOUND CALL TELEMARKETING.—Such term does not include—

"(I) the mailing of a catalog; or

"(II) the receipt or return of a telephone call initiated by a customer in response to such mailing.".

(b) MEDICARE ADVANTAGE ORGANIZATIONS.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w-21(h)) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON TELEMARKETING.—A Medicare Advantage organization offering a Medicare Advantage plan shall be prohibited from conducting outbound call telemarketing (as defined in section 1860D-4(a)(5)(B)) for the purpose of soliciting enrollment into such a plan under this part.".

(c) CRIMINAL PENALTIES FOR FRAUDULENT TELEMARKETING.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(g) Whoever knowingly and willfully engages in deceptive or abusive telemarketing acts or practices (as defined in part 310.3 and part 310.4, respectively, of title 16, Code of Federal Regulations), or makes any false statement or representation of a material fact while conducting outbound call telemarketing (as defined in section 1860D-4(a)(5)(B)) with respect to a prescription drug plan offered by a PDP sponsor under part D of title XVIII, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of such title, or who falsely alleges to be conducting outbound call telemarketing (as so defined) with respect to either such a plan, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 3. INCREASED FUNDING FOR STATE HEALTH INSURANCE COUNSELING AND ASSISTANCE PROGRAMS.

(a) IN GENERAL.—There are hereby appropriated to the Secretary of Health and Human Services (in this Act referred to as the "Secretary") an amount equal to $2 multiplied by the total number of individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). Such funds shall—

(1) be used by the Secretary to award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-4); and

(2) remain available until expended.

(b) ALLOCATION OF GRANT FUNDS.—The Secretary shall ensure that funds appropriated under this section are allocated to States in an amount equal to the proportion of the number of residents in the State that are eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in relation to the total number of individuals eligible for such benefits under such title.

SEC. 4. INFORMING BENEFICIARIES OF THE HHS TIPS HOT-LINE.

The Secretary shall take appropriate measures to inform individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of the availability and confidentiality of the hotline maintained , by the Inspector General of the Department of Health and Human Services for the reporting of fraud, waste, and I abuse in the medicare program.

By Ms. MIKULSKI (for herself, Mr. VOINOVICH, Mr. AKAKA, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. HARKIN, Mrs. MURRAY, Mr. SARBANES, Mr. SCHUMER, and Mr. WARNER):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is very important to me, very important to my constituents in Maryland and very important to government workers and retirees across the Nation. I am reintroducing a bill to modify a cruel rule of government that is unfair and prevents current workers from enjoying the benefits of their hard work during retirement. My bill has bipartisan support and had 29 cosponsors last year. With this strong bipartisan support, I hope that we can correct this cruel rule of government this year.

Under current law, a Social Security spousal benefit is reduced or entirely eliminated if the surviving spouse is eligible for a pension from a local, State or Federal Government job that was not covered by Social Security. This policy is known as the Government Pension Offset.

This is how the current law works. Consider a surviving spouse who retires from government service and receives a government pension of $600 a month. She also qualifies for a Social Security spousal benefit of $645 a month. Because of the Pension Offset law, which reduces her Social Security benefit by 2/3 of her government pension, her spousal benefit is reduced to $245 a month. So instead of $1,245, she will receive only $845 a month. That is $400 a month less to pay the rent, purchase a prescription medication, or buy groceries. I think that is wrong.

My bill does not repeal the government pension offset entirely, but it will allow retirees to keep more of what they deserve. It guarantees that those subject to the offset can keep at least $1,200 a month in combined retirement income. With my modification, the 2/3 offset would apply only to the combined benefit that exceeds $1,200 a month. So, in the example above, the surviving spouse would face only a $30 offset, allowing her to keep $1,215 in monthly income.

Unfortunately, the current law disproportionately affects women. Women are more likely to receive Social Security spousal benefits and to have worked in low-paying or short-term government positions while they were raising families. It is also true that women receive smaller government pensions because of their lower earnings, and rely on Social Security benefits to a greater degree. My modification will allow these women who have contributed years of important government service and family service to rely on a larger amount of retirement income.

Why do we punish people who have committed a significant portion of their lives to government service? We are talking about workers who provide some of the most important services to our community—teachers, firefighters, and many others. Some have already retired. Others are currently working and looking forward to a deserved retirement. These individuals deserve better than the reduced monthly benefits that the Pension Offset currently requires.

Government employees work hard in service to our Nation, and I work hard for them. I do not want to see them penalized simply because they have chosen to work in the public sector, rather than for a private employer, and often at lower salaries and sometimes fewer benefits. If a retired worker in the private sector received a pension, and also received a spousal Social Security benefit, they would not be subject to the Offset. I think we should be looking for ways to reward government service, not the other way around. I believe that people who work hard and play by the rules should not be penalized by arcane, legislative technicalities.

Frankly, I would like to repeal the offset altogether. But, I realize that budget considerations make that unlikely. As a compromise, I hope we can agree that retirees who have worked hard all their lives should not have this offset applied until their combined monthly benefit, both government pension and Social Security spousal benefit, exceeds $1,200.

I also strongly believe that we should ensure that retirees buying power keeps up with the cost of living. That's why I have also included a provision in this legislation to index the $1,200 amount to inflation so retirees will see their minimum benefits increase along with the cost of living.

The Social Security Administration recently estimated that enacting the provisions contained in my bill will have a minimal long-term impact on the Social Security Trust Fund—about 0.01 percent of taxable payroll.

I urge my colleagues to join me in this effort and support my legislation to modify the Government Pension Offset. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Pension Offset Reform Act".

SEC. 2. LIMITATION ON REDUCTIONS IN BENEFITS FOR SPOUSES AND SURVIVING SPOUSES RECEIVING GOVERNMENT PENSIONS.

(a) INSURANCE BENEFITS.—Section 202(k)(5)(A) of the Social Security Act (42 U.S.C. 402(k)(5)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of "; and

(2) by inserting "exceeds the amount described in paragraph (6) for such month," before "if ".

(b) AMOUNT DESCRIBED.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

"(6) The amount described in this paragraph is, for months in each 12-month period beginning in December of 2005, and each succeeding calendar year, the greater of—

"(A) $1,200; or

"(B) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law).".

(c) LIMITATIONS ON REDUCTIONS IN BENEFITS.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)), as amended by subsection (b), is amended by adding at the end the following:

"(7) For any month after December 2005, in no event shall an individual receive a reduction in a benefit under paragraph (5)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such paragraph as in effect on December 1, 2005.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2005.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. BUNNING):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation that would re-authorize the New Markets Tax Credit for five additional years. I'd like to thank the Senator from West Virginia, JAY ROCKEFELLER, for cosponsoring this legislation, as well as Senator JIM BUNNING. Their strong support is appreciated, and this program will help revitalize many communities all across America.

The New Markets Tax Credit was enacted in December 2000 as part of the Community Renewal Tax Relief Act and offers a seven-year, 39 percent Federal credit made through investment vehicles known as Community Development Entities (CDEs). CDEs combine private investment dollars with capital raised through the incentive to make loans to or investments in businesses in low-income communities.

In its brief period of existence, the New Markets Tax Credit has had a tremendous success in strengthening and revitalizing communities. In Maine, Coastal Enterprises, Inc. issued a $31.5 million long-term NMTC loan to Katahdin Forest Management, which provided additional working capital for two large pulp and paper mills. These investments resulted in the direct employment of 650 people and potential jobs for another 200. The Katahdin Project has helped to diversify the area economy through the development of new, high-value wood processing enterprises and recreational tourism.

CDEs have also invested in a new child care facility on Chicago's west side, the first new supermarket and shopping center in inner-city Cleveland in 30 years and a new aerospace facility in rural Oklahoma.

All of these projects demonstrate the revitalization and strengthening of communities that the Credit is helping to make possible. In only 3 years, CDEs have raised $2 billion of capital for direct investment in economically distressed communities across the Nation. This impressive activity over a short period of time points to the need and opportunity for such investment in low-income communities.

Unfortunately, as effective as the New Markets Tax Credit has been, demand for the incentive has far exceeded supply. In fact, the average demand in the first three rounds was a staggering 10 times the amount of available credits. The Treasury Department awarded the first round of $2.5 billion in tax credits in March 2003, a second round of $3.5 billion in May 2004, and a third round worth $2 billion in May 2005.

Despite the track record of the New Markets Tax Credit and continued demand for the incentive, it will expire at the end of 2007. Congress must reauthorize this Credit to ensure investment capital continues to flow to our most disadvantaged communities. Our bill renews this valuable incentive for 5 additional years, through 2012, with an annual credit volume of $3.5 billion per year, adjusted for inflation.

It is critical that Congress act to renew the New Markets Tax Credit. It is a modest incentive that clearly works for our most vulnerable communities. I look forward to working with Finance Committee Chairman GRASSLEY to re-authorize the Credit and to ensure that it includes all areas of the country, including rural areas underserved by traditional investments.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Markets Tax Credit Reauthorization Act of 2005".

SEC. 2. EXTENSION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 45D(f) of the Internal Revenue Code of 1986 (relating to new markets tax credit) is amended to read as follows:

"(1) IN GENERAL.—There is a new markets tax credit limitation of $3,500,000,000 for each of calendar years 2008 through 2012.".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) of such Code is amended by striking "2014" and inserting "2019".

(b) INFLATION ADJUSTMENT.—Subsection (f) of section 45D of such Code is amended by inserting at the end the following new paragraph:

"(4) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any calendar year beginning after 2008, the dollar amount in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING RULE.—If a dollar amount in paragraph (1), as increased under subparagraph (A), is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

By Mr. REED (for himself, Mr. ALLARD, Ms. COLLINS, Mr. SARBANES, Mr. BOND, Mrs. MURRAY, Mr. CHAFEE, Ms. MIKULSKI, Mr. DODD, Mr. AKAKA, Mr. SCHUMER, Mr. CORZINE, Mrs. CLINTON, and Ms. LANDRIEU):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I introduce, along with Senators ALLARD, COLLINS, SARBANES, BOND, MURRAY, CHAFEE, MIKULSKI, DODD, AKAKA, SCHUMER, CORZINE, LANDRIEU, and CLINTON, the Community Partnership to End Homelessness Act of 2005 (CPEHA). This legislation would reauthorize and amend the housing titles of the McKinney-Vento Homeless Assistance Act of 1987. Specifically, our bill would realign the incentives behind the Department of Housing and Urban Development's homelessness assistance programs to accomplish the goals of preventing and ending long-term homelessness.

During the past several weeks, stark pictures of the reality faced by many in the wake of Hurricane Katrina have made more of the country aware of the day-to-day pressures faced by those who are homeless. Unfortunately, as many as 3.5 million Americans experience homelessness each year. Ten to 20 percent are homeless for long periods of time. Many of these Americans have severe disabilities. Many have worn a uniform for our country, with the Veterans Administration estimating that at least 500,000 veterans experience homelessness over the course of a year. Statistics regarding the number of children who experience homelessness are especially troubling. More than one million children experience homelessness each year; that is one in ten poor children in the United States. We have learned that children who are homeless are in poorer health, have developmental delays, and achieve less in school than children who have homes.

Many of those who are homeless have a simple problem—they cannot afford housing. Using the most recent census data, 56 percent of extremely low-income families are paying more than half their income for housing. Between 1990 and 2000, shortages of affordable housing for these families worsened in 44 of the 50 States. In 2000, it was estimated that 4.6 million units of low-income housing would need to be created in order to take care of this problem. As rents have soared and affordable housing units have disappeared from the market during the past five years, even more working Americans have been left unable to afford housing.

So why should the Federal Government work to help prevent and end homelessness? Simply put, we cannot afford not to solve this problem. Homelessness leads to untold costs, including expenses for emergency rooms, jails and shelters, foster care, detoxification, and emergency mental health treatment. It has been almost twenty years since the passage of the McKinney-Vento Homeless Assistance Act of 1987, and we have learned a lot about the problem of homelessness since then.

There is a growing consensus on ways to help communities break the cycle of repeated and prolonged homelessness. If we combine Federal dollars with the right incentives to local communities, we can end long-term homelessness. This bipartisan legislation will do just that. It will reward communities for initiatives that prevent homelessness, promote the development of permanent supportive housing, and optimize self-sufficiency.

The Community Partnership to Help End Homelessness Act of 2005 will set us on the path to meeting an important national goal. I hope my colleagues will join us in supporting this bill and other homelessness prevention efforts.

Mr. President, I ask unanimous consent that the text of the Community Partnership to Help End Homelessness Act of 2005 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Partnership to End Homelessness Act of 2005".

SEC. 2. FINDINGS AND PURPOSE.

Section 102 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301) is amended to read as follows:

"SEC. 102. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds that—

"(1) the United States faces a crisis of individuals and families who lack basic affordable housing and appropriate shelter;

"(2) assistance from the Federal Government is an important factor in the success of efforts by State and local governments and the private sector to address the problem of homelessness in a comprehensive manner;

"(3) there are several Federal Government programs to assist persons experiencing homelessness, including programs for individuals with disabilities, veterans, children, and youth;

"(4) homeless assistance programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals and families to permanent housing and stability, and optimizing their self-sufficiency;

"(5) States and units of general local government receiving Federal block grant and other Federal grant funds must be evaluated on the basis of their effectiveness in—

"(A) implementing plans to appropriately discharge individuals to and from mainstream service systems; and

"(B) reducing barriers to participation in mainstream programs, as identified in—

"(i) a report by the Government Accountability Office entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999; or

"(ii) a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

"(6) an effective plan for reducing homelessness should provide a comprehensive housing system (including permanent housing and, as needed, transitional housing) that recognizes that, while some individuals and families experiencing homelessness attain economic viability and independence utilizing transitional housing and then permanent housing, others can reenter society directly and optimize self-sufficiency through acquiring permanent housing;

"(7) supportive housing activities include the provision of permanent housing or transitional housing, and appropriate supportive services, in an environment that can meet the short-term or long-term needs of persons experiencing homelessness as they reintegrate into mainstream society;

"(8) homeless housing and supportive services programs within a community are most effective when they are developed and operated as part of an inclusive, collaborative, locally driven homeless planning process that involves as decision makers persons experiencing homelessness, advocates for persons experiencing homelessness, service organizations, government officials, business persons, neighborhood advocates, and other community members;

"(9) homelessness should be treated as a symptom of many neighborhood, community, and system problems, whose remedies require a comprehensive approach integrating all available resources;

"(10) there are many private sector entities, particularly nonprofit organizations, that have successfully operated outcome-effective homeless programs;

"(11) Federal homeless assistance should supplement other public and private funding provided by communities for housing and supportive services for low-income households;

"(12) the Federal Government has a responsibility to establish partnerships with State and local governments and private sector entities to address comprehensively the problems of homelessness; and

"(13) the results of Federal programs targeted for persons experiencing homelessness have been positive.

"(b) PURPOSE.—It is the purpose of this Act—

"(1) to create a unified and performance-based process for allocating and administering funds under title IV;

"(2) to encourage comprehensive, collaborative local planning of housing and services programs for persons experiencing homelessness;

"(3) to focus the resources and efforts of the public and private sectors on ending and preventing homelessness;

"(4) to provide funds for programs to assist individuals and families in the transition from homelessness, and to prevent homelessness for those vulnerable to homelessness;

"(5) to consolidate the separate homeless assistance programs carried out under title IV (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, the shelter plus care program, and the rural homeless housing assistance program) into a single program with specific eligible activities;

"(6) to allow flexibility and creativity in re-thinking solutions to homelessness, including alternative housing strategies, outcome-effective service delivery, and the involvement of persons experiencing homelessness in decision making regarding opportunities for their long-term stability, growth, well-being, and optimum self-sufficiency; and

"(7) to ensure that multiple Federal agencies are involved in the provision of housing, health care, human services, employment, and education assistance, as appropriate for the missions of the agencies, to persons experiencing homelessness, through the funding provided for implementation of programs carried out under this Act and other programs targeted for persons experiencing homelessness, and mainstream funding, and to promote coordination among those Federal agencies, including providing funding for a United States Interagency Council on Homelessness to advance such coordination.".

SEC. 3. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by striking the period at the end and inserting the following: "whose mission shall be to develop and coordinate the implementation of a national strategy to prevent and end homelessness while maximizing the effectiveness of

the Federal Government in contributing to an end to homelessness in the United States.";

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by striking "(16)" and inserting "(19)"; and

(ii) by inserting after paragraph (15) the following:

"(16) The Commissioner of Social Security, or the designee of the Commissioner.

"(17) The Attorney General of the United States, or the designee of the Attorney General.

"(18) The Director of the Office of Management and Budget, or the designee of the Director.";

(B) in subsection (c), by striking "annually" and inserting "2 times each year"; and

(C) by adding at the end the following:

"(e) ADMINISTRATION.—The Assistant to the President for Domestic Policy within the Executive Office of the President shall oversee the functioning of the United States Interagency Council on Homelessness to ensure Federal interagency collaboration and program coordination to focus on preventing and ending homelessness, to increase access to mainstream programs (as identified in a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000) by persons experiencing homelessness, to eliminate the barriers to participation in those programs, to implement a Federal plan to prevent and end homelessness, and to identify Federal resources that can be expended to prevent and end homelessness.";

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (8), (9), and (10), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

"(1) not later than 1 year after the date of enactment of the Community Partnership to End Homelessness Act of 2005, develop and submit to the President and to Congress a National Strategic Plan to End Homelessness;";

(C) in paragraph (5), as redesignated by subparagraph (A), by striking "at least 2, but in no case more than 5" and inserting "not less than 5, but in no case more than 10"; and

(D) by inserting after paragraph (5), as redesignated by subparagraph (A), the following:

"(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of multi-year plans to end homelessness at State, city, and county levels;

"(7) develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);"; and

(4) by striking section 208 (42 U.S.C. 11318) and inserting the following:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"Of any amounts made available for any fiscal year to carry out subtitles B and C of title IV, $3,000,000 shall be allocated to the Assistant to the President for Domestic Policy within the Executive Office of the President to carry out this title.".

SEC. 4. HOUSING ASSISTANCE GENERAL PROVISIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle A—General Provisions";

(2)(A) by redesignating section 401 (42 U.S.C. 11361) as section 403; and

(B) by redesignating section 402 (42 U.S.C. 11362) as section 406;

(3) by inserting before section 403 (as redesignated in paragraph (2)) the following:

"SEC. 401. DEFINITIONS.

"In this title:

"(1) CHRONICALLY HOMELESS.—

"(A) IN GENERAL.—The term 'chronically homeless', used with respect to an individual or family, means an individual or family who—

"(i) is homeless;

"(ii) has been homeless continuously for at least 1 year or has been homeless on at least 4 separate occasions in the last 3 years; and

"(iii) in the case of a family, has an adult head of household with a disabling condition.

"(B) DISABLING CONDITION.—As used in this paragraph, the term 'disabling condition' means a condition that is a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

"(2) COLLABORATIVE APPLICANT.—

"(A) IN GENERAL.—The term 'collaborative applicant' means an entity that—

"(i) is a representative community homeless assistance planning body established or designed in accordance with section 402;

"(ii) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

"(iii) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

"(B) STATE AND LOCAL GOVERNMENTS.—Notwithstanding the requirements of subparagraph (A), the term 'collaborative applicant' includes a State or local government, or a consortium of State or local governments, engaged in activities to end homelessness.

"(3) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

"(A) satisfies section 422 (including containing the information described in subsections (a) and (c) of section 426); and

"(B) is submitted to the Secretary by a collaborative applicant.

"(4) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

"(5) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to receive directly grant amounts under that subtitle.

"(6) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

"(7) HOMELESS INDIVIDUAL WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

"(i)(I) is expected to be long-continuing or of indefinite duration;

"(II) substantially impedes the individual's ability to live independently;

"(III) could be improved by the provision of more suitable housing conditions; and

"(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse;

"(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

"(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

"(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

"(8) LEGAL ENTITY.—The term 'legal entity' means—

"(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code;

"(B) an instrumentality of State or local government; or

"(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

"(9) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

"(10) NEW.—The term 'new', used with respect to housing, means housing for which no assistance has been provided under this title.

"(11) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating—

"(A) transitional housing or permanent housing under this title with respect to—

"(i) the administration, maintenance, repair, and security of such housing;

"(ii) utilities, fuel, furnishings, and equipment for such housing; or

"(iii) conducting an assessment under section 426(c)(2); and

"(B) supportive housing, for homeless individuals with disabilities or homeless families that include such an individual, under this title with respect to—

"(i) the matters described in clauses (i), (ii), and (iii) of subparagraph (A); and

"(ii) coordination of services as needed to ensure long-term housing stability.

"(12) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse treatment services.

"(13) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes permanent supportive housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

"(14) PERMANENT HOUSING DEVELOPMENT ACTIVITIES.—The term 'permanent housing development activities' means activities—

“(A) to construct, lease, rehabilitate, or acquire structures to provide permanent housing;

“(B) involving tenant-based and project-based flexible rental assistance for permanent housing;

“(C) described in paragraphs (1) through (4) of section 423(a) as they relate to permanent housing; or

“(D) involving the capitalization of a dedicated project account from which payments are allocated for rental assistance and operating costs of permanent housing.

“(15) PRIVATE NONPROFIT ORGANIZATION.—The term ‘private nonprofit organization’ means an organization—

“(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

“(B) that has a voluntary board;

“(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

“(D) that practices nondiscrimination in the provision of assistance.

“(16) PROJECT.—The term ‘project’, used with respect to activities carried out under subtitle C, means eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

“(17) PROJECT-BASED.—The term ‘project-based’, used with respect to rental assistance, means assistance provided pursuant to a contract that—

“(A) is between—

“(i) a project sponsor; and

“(ii) an owner of a structure that exists as of the date the contract is entered into; and

“(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

“(18) PROJECT SPONSOR.—The term ‘project sponsor’, used with respect to proposed eligible activities, means the organization directly responsible for the proposed eligible activities.

“(19) RECIPIENT.—Except as used in subtitle B, the term ‘recipient’ means an eligible entity who—

“(A) submits an application for a grant under section 422 that is approved by the Secretary;

“(B) receives the grant directly from the Secretary to support approved projects described in the application; and

“(C)(i) serves as a project sponsor for the projects; or

“(ii) awards the funds to project sponsors to carry out the projects.

“(20) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(21) SERIOUSLY MENTALLY ILL.—The term ‘seriously mentally ill’ means having a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

“(22) STATE.—Except as used in subtitle B, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(23) SUPPORTIVE HOUSING.—The term ‘supportive housing’ means housing that—

“(A) helps individuals experiencing homelessness and families experiencing homelessness to transition from homelessness to living in safe, decent, and affordable housing as independently as possible; and

“(B) provides supportive services and housing assistance on either a temporary or permanent basis, as determined by the identified abilities and needs of the program participants.

“(24) SUPPORTIVE SERVICES.—The term ‘supportive services’—

“(A) through the end of the final determination year (as described in section 423(a)(6)(C)(iii)), means the services described in section 423(a)(6)(A), for both new projects and projects receiving renewal funding; and

“(B) after that final determination year, means the services described in section 423(a)(6)(B), as permitted under section 423(a)(6)(C), for both new projects and projects receiving renewal funding.

“(25) TENANT-BASED.—The term ‘tenant-based’, used with respect to rental assistance, means assistance that allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

“(A) in a particular structure or unit for not more than the first year of the participation; and

“(B) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A).

“(26) TRANSITIONAL HOUSING.—The term ‘transitional housing’ means housing, the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

“SEC. 402. COLLABORATIVE APPLICANTS.

“(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area, or designated for a geographic area by the Secretary in accordance with subsection (d), to lead a collaborative planning process to design and evaluate programs, policies, and practices to prevent and end homelessness.

“(b) MEMBERSHIP OF ESTABLISHED COLLABORATIVE APPLICANT.—A collaborative applicant established under subsection (a) shall be composed of persons from a particular geographic area who are—

“(1) persons who are experiencing or have experienced homelessness (with not fewer than 2 persons being individuals who are experiencing or have experienced homelessness);

“(2) persons who act as advocates for the diverse subpopulations of persons experiencing homelessness;

“(3) persons or representatives of organizations who provide assistance to the variety of individuals and families experiencing homelessness; and

“(4) relatives of individuals experiencing homelessness;

“(5) government agency officials, particularly those officials responsible for administering funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

“(6) 1 or more local educational agency liaisons designated under section 722(g)(1)(J)(ii), or their designees;

“(7) members of the business community;

“(8) members of neighborhood advocacy organizations; and

“(9) members of philanthropic organizations that contribute to preventing and ending homelessness in the geographic area of the collaborative applicant.

“(c) ROTATION OF MEMBERSHIP OF ESTABLISHED OR DESIGNATED COLLABORATIVE APPLICANT.—The parties establishing or designating a collaborative applicant under subsection (a) shall ensure, to the extent practicable, that the collaborative applicant rotates its membership to ensure that representatives of all agencies, businesses, and organizations who are described in paragraphs (1) through (9) of subsection (b) and invested in developing and implementing strategies to prevent and end homelessness are able to participate as decisionmaking members of the collaborative applicant.

“(d) EXISTING PLANNING BODIES.—The Secretary may designate an entity to be a collaborative applicant if such entity—

“(1) prior to the date of enactment of the Community Partnership to End Homelessness Act of 2005, engaged in coordinated, comprehensive local homeless housing and services planning and applied for Federal funding to provide homeless assistance; and

“(2) ensures that its membership includes persons described in paragraphs (1) through (9) of subsection (b).

“(e) TAX EXEMPT ORGANIZATIONS.—An entity may be established or designated to serve as a collaborative applicant under this section without being a legal entity. If a collaborative applicant is a legal entity, the collaborative applicant may only receive funds directly from the Secretary under this title, and may only apply for funds to conduct the activities described in section 423(a)(7).

“(f) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

“(g) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

“(h) DUTIES.—A collaborative applicant shall—

“(1)(A) design a collaborative process, established jointly and complied with by its members, for evaluating, reviewing, prioritizing, awarding, and monitoring projects and applications submitted by project sponsors under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to ensure that the entities involved further the goal of preventing and ending homelessness, and optimizing self-sufficiency among individuals and families experiencing homelessness, in the geographic area involved;

“(B)(i)(I) review relevant policies and practices (in place and planned) of public and private entities in the geographic area served by the collaborative applicant to determine if the policies and practices further or impede the goal described in subparagraph (A);

“(II) in conducting the review, give priority to the review of—

“(aa) the discharge planning and service termination policies and practices of publicly funded facilities or institutions (such as health care or treatment facilities or institutions, foster care or youth facilities, or juvenile or adult correctional institutions), and entities carrying out publicly funded programs and systems of care (such as health care or treatment programs, the programs of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), child welfare or youth programs, or juvenile or adult correctional programs), to ensure that such a discharge or termination does not result in immediate homelessness for the persons involved;

“(bb) the access and utilization policies and practices of the entities carrying out mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B), to ensure that persons experiencing homelessness are able to access and utilize the programs;

“(cc) local policies and practices relating to zoning and enforcement of local statutes, to ensure that the policies and practices allow reasonable inclusion and distribution in the geographic area of special needs populations and families with children and the facilities that serve the populations and families;

“(dd) policies and practices relating to the school selection and enrollment of homeless children and youths (as defined in section 725) to ensure that the homeless children and youths, and their parents, are able to exercise their educational rights under subtitle B of title VII; and

“(ee) local policies and practices relating to the placement of families with homeless children and youths (as so defined) in emergency or transitional shelters, to ensure that the children and youths are placed as close as possible to their school of origin in order to facilitate continuity of, and prevent disruption of, educational services; and

“(III) in conducting the review, determine the modifications and corrective actions that need to be taken, and by whom, to ensure that the relevant policies and practices do not stimulate, or prolong, homelessness in the geographic area;

“(ii) inform the appropriate entities of the determinations described in clause (i); and

“(iii) at least once every 3 years, prepare for inclusion in any application reviewed by the collaborative applicant, and submitted to the Secretary under section 422, the determinations described in clause (i), in the form of an exhibit entitled ‘Assessment of Relevant Policies and Practices, and Needed Corrective Actions to End and Prevent Homelessness’; and

“(C) if the collaborative applicant designs and carries out the projects, design and carry out the projects in such a manner as to further the goal described in subparagraph (A);

“(2)(A) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, that recipients and project sponsors who are funded by grants received under subtitle C implement and maintain an outcome-based evaluation of their projects that measures effective and timely delivery of housing or services and whether provision of such housing or services results in preventing or ending homelessness for the persons that such recipients and project sponsors serve; and

“(B) request that States and local governments who distribute funds under subtitle B submit information and comments on the administration of activities under subtitle B, to enable the collaborative applicant to plan and design a full continuum of care for persons experiencing homelessness;

“(3) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, outcome-based evaluation of the homeless assistance planning process of the collaborative applicant to measure the performance of the collaborative applicant in preventing or ending the homelessness of persons in the geographic area of the collaborative applicant;

“(4) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

“(5)(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

“(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

“(i) CONFLICT OF INTEREST.—No member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

“(j) HOMELESS MANAGEMENT INFORMATION SYSTEM.—

“(1) IN GENERAL.—In accordance with standards established by the Secretary, each collaborative applicant shall ensure consistent participation by project sponsors in a community-wide homeless management information system. The collaborative applicant shall ensure the participation for purposes of collecting unduplicated counts of individuals and families experiencing homelessness, analyzing patterns of use of assistance provided under subtitles B and C for the geographic area involved, implementing an effective information and referral system, and providing information for the needs analyses and funding priorities of collaborative applicants.

“(2) FUNDS.—A collaborative applicant may apply for funds under this title to establish, continue, carry out, or ensure consistent participation by project sponsors in a homeless management information system, if the applicant is a legal entity.”;

(4) by inserting after section 403 (as redesignated in paragraph (2)) the following:

“SEC. 404. TECHNICAL ASSISTANCE.

“(a) TECHNICAL ASSISTANCE FOR PROJECT SPONSORS.—The Secretary shall make effective technical assistance available to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties that are potential project sponsors, in order to implement effective planning processes for preventing and ending homelessness, to optimize self-sufficiency among individuals experiencing homelessness and to improve their capacity to become project sponsors.

“(b) TECHNICAL ASSISTANCE FOR COLLABORATIVE APPLICANTS.—The Secretary shall make effective technical assistance available to collaborative applicants to improve their ability to carry out the provisions of this title, and to design and execute outcome-effective strategies for preventing and ending homelessness in their geographic areas consistent with the provisions of this title.

“(c) RESERVATION.—The Secretary may reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to make available technical assistance under subsections (a) and (b).

“SEC. 405. PERFORMANCE REPORTS AND MONITORING.

“(a) IN GENERAL.—A collaborative applicant shall submit to the Secretary an annual performance report regarding the activities carried out with grant amounts received under subtitles B and C in the geographic area served by the collaborative applicant, at such time and in such manner as the Secretary determines to be reasonable.

“(b) CONTENT.—The performance report described in subsection (a) shall—

“(1) describe the number of persons provided homelessness prevention assistance (including the number of such persons who were discharged or whose services were terminated as described in section 422(c)(1)(B)(ii)(I)(bb)), and the number of individuals and families experiencing homelessness who were provided shelter, housing, or supportive services, with the grant amounts awarded in the fiscal year prior to the fiscal year in which the report was submitted, including measurements of the number of persons experiencing homelessness who—

“(A) entered permanent housing, and the length of time such persons resided in that housing, if known;

“(B) entered transitional housing, and the length of time such persons resided in that housing, if known;

“(C) obtained or retained jobs;

“(D) increased their income, including increasing income through the receipt of government benefits;

“(E) received mental health or substance abuse treatment in an institutional setting and now receive that assistance in a less restrictive, community-based setting;

“(F) received additional education, vocational or job training, or employment assistance services;

“(G) received additional physical, mental, or emotional health care;

“(H) were children under the age of 18 during the year at issue, including the number of—

“(i) children who were not younger than 2 and not older than 4, or were infants or toddlers with disabilities (as defined in section 632 of the Individuals with Disabilities Education Act (20 U.S.C. 1432));

“(ii) children described in clause (i) who were enrolled in preschool or were receiving services under part C of such Act (20 U.S.C. 1431 et seq.);

“(iii) children who were not younger than 5 and not older than 17;

“(iv) children described in clause (iii) who are enrolled in elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)); and

“(v) children under the age of 18 who received child care, health care, mental health care, or supplemental educational services; and

“(I) were reunited with their families;

“(2) estimate the number of persons experiencing homelessness, including children under the age of 18, in the geographic area served by the collaborative applicant who are eligible for, but did not receive, services, housing, or other assistance through the programs funded under subtitles B and C in the prior fiscal year;

"(3) indicate the accomplishments achieved within the geographic area that involved the use of the grant amounts awarded in the prior fiscal year, regarding efforts to coordinate services and programs within the geographic area;

"(4) indicate the accomplishments achieved within the geographic area to—

"(A) increase access by persons experiencing homelessness to programs that are not targeted for persons experiencing homelessness (but for which persons experiencing homelessness are eligible), including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B); and

"(B) prevent the homelessness of persons discharged from publicly funded institutions or systems of care (such as health care facilities, child welfare or other youth facilities or systems of care, institutions or systems of care relating to the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and juvenile or adult correctional programs and institutions);

"(5) describe how the collaborative applicant and other involved public and private entities within the geographic area will incorporate their experiences in the prior fiscal year into the programs and process that the collaborative applicant and entities will implement during the next fiscal year, including describing specific strategies to improve their performance outcomes;

"(6) assess the consistency and coordination between the programs funded under subtitles B and C in the prior fiscal year and the Consolidated Plan;

"(7) include updates to the exhibits described in section 402(h)(1)(B)(iii) that were included in applications—

"(A) submitted under section 422 by collaborative applicants; and

"(B) approved by the Secretary;

"(8) for each project sponsor funded by the collaborative applicant through a grant under subtitle C—

"(A) include a performance evaluation (which may include information from the reports described in subsection (a) and section 422(c)(1)(B)(vii)) of each project carried out by the project sponsor, based on the outcome-based evaluation measures described in section 402(h)(2)(A), the measurements described in section 423(a)(7), and the evaluation plan for the project described in section 426(b)(8) and resulting from the monitoring described in sections 402(h)(1)(A) and 426(c)(3); and

"(B) include a report, resulting from a survey, audit or evaluation conducted under section 402(h)(5)(B), detailing whether the project sponsor has carried out the recordkeeping and reporting requirements of section 402(h)(5); and

"(9) provide such other information as the Secretary finds relevant to assessing performance, including performance on success measures that are risk-adjusted to factors related to the circumstances of the population served.

"(c) Waiver.—The Secretary may grant a waiver to any collaborative applicant that is unable to provide information required by subsection (b). Such collaborative applicant shall submit a plan to provide such information within a reasonable period of time.

"(d) Monitoring by the Secretary.—

"(1) Collaborative applicants.—Each year, the Secretary shall—

"(A) ensure that each collaborative applicant has complied with the requirements of subsection (b)(8) and section 402(h)(5);

"(B) require each collaborative applicant receiving funds under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the collaborative applicant under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

"(C) for a selected sample of collaborative applicants receiving funds under subtitle C—

"(i) ensure that each selected collaborative applicant has satisfactorily carried out the recordkeeping and reporting requirements of subsections (a) and (b), section 426(c)(3), and, if applicable, section 426(c)(6); and

"(ii) survey, audit, or evaluate the financial records of each selected collaborative applicant receiving funds under subtitle C to carry out section 423(a)(7)(A), using Federal auditors.

"(2) Project sponsors.—Each year, the Secretary shall select a sample of project sponsors and shall conduct a performance evaluation of each project of each selected project sponsor funded under subtitle C, using the outcome-based evaluation measures developed by the appropriate collaborative applicant in accordance with section 402(h)(2)(A) and including the measurements described in section 423(a)(7).

"(e) Action by Secretary.—Based on the information available to the Secretary, including information obtained pursuant to subsections (b) and (d), the Secretary may adjust, reduce, or withdraw amounts made available (or that would otherwise be made available) to collaborative applicants, or take other action as appropriate (including designating another body as a collaborative applicant, or permitting other collaborative entities to apply directly for grants under subtitle C), except that amounts already properly expended on eligible activities under this title may not be recaptured by the Secretary."; and

(5) by inserting after section 406 (as redesignated in paragraph (2)) the following:

"SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out title II and this title $1,600,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007, 2008, 2009, and 2010.".

SEC. 5. EMERGENCY SHELTER GRANTS PROGRAM.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking section 412 (42 U.S.C. 11372) and inserting the following:

"SEC. 412. GRANT ASSISTANCE.

"The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 414.

"SEC. 412A. AMOUNT AND ALLOCATION OF ASSISTANCE.

"(a) In General.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally not more than 15 percent of such amount for activities described in section 414.

"(b) Allocation.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 414, in consultation with the collaborative applicants.";

(2) in section 413(b) (42 U.S.C. 11373(b)), by striking "amounts appropriated" and all that follows through "for any" and inserting "amounts appropriated under section 407 and made available to carry out this subtitle for any";

(3) by striking section 414 (42 U.S.C. 11374) and inserting the following:

"SEC. 414. ELIGIBLE ACTIVITIES.

"(a) In General.—Assistance provided under section 412 may be used for the following activities:

"(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

"(2) The provision of essential services, including services concerned with employment, health, or education, family support services for homeless youth, alcohol or drug abuse prevention or treatment, or mental health treatment, if such essential services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this subtitle would complement the provision of those essential services.

"(3) Maintenance, operation insurance, provision of utilities, and provision of furnishings.

"(4) Efforts to prevent homelessness, such as the provision of financial assistance to families who have received eviction notices or notices of termination of utility services, if—

"(A) the inability of such a family to make the required payments is due to a sudden reduction in income;

"(B) the assistance is necessary to avoid the eviction or termination of services;

"(C) there is a reasonable prospect that the family will be able to resume the payments within a reasonable period of time; and

"(D) funds appropriated for the assistance will not supplant funding for homelessness prevention activities from other sources (other funds made available under this Act).

"(b) Limitation.—Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle may be used for activities under subsection (a)(4)."; and

(4) by repealing sections 417 and 418 (42 U.S.C. 11377, 11378).

SEC. 6. HOMELESS ASSISTANCE PROGRAM.

Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle C—Homeless Assistance Program";

(2) by striking sections 421 through 423 (42 U.S.C. 11381 et seq.) and inserting the following:

"SEC. 421. PURPOSES.

"The purposes of this subtitle are—

"(1) to promote the implementation of activities that can prevent vulnerable individuals and families from becoming homeless;

"(2) to promote the development of transitional and permanent housing, including low-demand housing;

"(3) to promote access to and effective utilization of mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B) and programs funded with State or local resources; and

"(4) to optimize self-sufficiency among individuals experiencing homelessness.

"SEC. 422. COMMUNITY HOMELESS ASSISTANCE PROGRAM.

"(a) Projects.—The Secretary shall award grants to collaborative applicants to carry out homeless assistance and prevention projects, either directly or by awarding funds to project sponsors to carry out the projects.

"(b) Notification of Funding Availability.—The Secretary shall release a Notification of Funding Availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for the fiscal year.

"(c) Applications.—

"(1) Submission to the Secretary.—To receive a grant under subsection (a), a collaborative applicant shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing—

"(A) the information described in subsections (a) and (c) of section 426; and

"(B) other information that shall—

"(i) describe the establishment (or designation) and function of the collaborative applicant, including—

"(I) the nomination and selection process, including the names and affiliations of all members of the collaborative applicant; or

"(II) all meetings held by the collaborative applicant in preparing the application, including identification of those meetings that were public; and

"(III) all meetings between representatives of the collaborative applicant, and persons responsible for administering the Consolidated Plan;

"(ii) outline the range of housing and service programs available to persons experiencing homelessness or imminently at risk of experiencing homelessness and describe the unmet needs that remain in the geographic area for which the collaborative applicant seeks funding regarding—

"(I) prevention activities, including providing assistance in—

"(aa) making mortgage, rent, or utility payments; or

"(bb) accessing permanent housing and transitional housing for individuals (and families that include the individuals) who are being discharged from a publicly funded facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated;

"(II) outreach activities to assess the needs and conditions of persons experiencing homelessness, including significant subpopulations of such persons, including individuals with disabilities, veterans, victims of domestic violence, homeless children and youths (as defined in section 725), and chronically homeless individuals and families;

"(III) emergency shelters, including the supportive and referral services the shelters provide;

"(IV) transitional housing with appropriate supportive services to help persons experiencing homelessness who are not yet able or prepared to make the transition to permanent housing and independent living;

"(V) permanent housing to help meet the long-term needs of individuals and families experiencing homelessness; and

"(VI) needed supportive services, including services for children;

"(iii) prioritize the projects for which the collaborative applicant seeks funding according to the unmet needs in the fiscal year for which the applicant submits the application as described in clause (ii);

"(iv) identify funds from private and public sources, other than funds received under subtitles B and C, that the State, units of general local government, recipients, project sponsors, and others will use for homelessness prevention, outreach, emergency shelter, supportive services, transitional housing, and permanent housing, that will be integrated with the assistance provided under subtitles B and C;

"(v) identify funds provided by the State and units of general local government under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

"(vi) explain—

"(I) how the collaborative applicant will meet the housing and service needs of individuals and families experiencing homelessness in the applicant's community; and

"(II) how the collaborative applicant will integrate the activities described in the application with the strategy of the State, units of general local government, and private entities in the geographic area over the next 5 years to prevent and end homelessness, including, as part of that strategy, a work plan for the applicable fiscal years;

"(vii) report on the outcome-based performance of the homeless programs within the geographic area served by the collaborative applicant that were funded under this title in the fiscal year prior to the fiscal year in which the application is submitted;

"(viii) include any relevant required agreements under subtitle C;

"(ix) contain a certification of consistency with the Consolidated Plan pursuant to section 403;

"(x) include an exhibit described in section 402(h)(1)(B)(iii) and prepared by the collaborative applicant in accordance with that section; and

"(xi) contain a certification that project sponsors for all projects for which the collaborative applicant seeks funding through the grant will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals experiencing homelessness.

"(2) Consideration.—In outlining the programs and describing the needs referred to in paragraph (1)(A)(ii), the collaborative applicant shall take into account the findings and recommendations of the most recently completed annual assessments, conducted pursuant to section 2034 of title 38, United States Code, of the Department of Veterans Affairs medical centers or regional benefits offices whose service areas include the geographic area described in paragraph (1)(A)(ii).

"(3) Announcement of awards.—The Secretary shall announce, within 4 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

"(4) Obligation, distribution, and utilization of funds.—

"(A) Requirements for obligation.—

"(i) In general.—Not later than 9 months after the announcement referred to in paragraph (3), each recipient of a grant announced under paragraph (3) shall, with respect to a project to be funded through such grant, meet, or cause the project sponsor to meet, all requirements for the obligation of funds for such project, including site control, matching funds, and environmental review requirements, except as provided in clause (ii).

"(ii) Acquisition, rehabilitation, or construction.—Not later than 15 months after the announcement referred to in paragraph (3), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under paragraph (3) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

"(iii) Extensions.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient shall meet or cause a project sponsor to meet the requirements described in clause (i) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, or completing the technical submission requirements for the project.

"(B) Obligation.—Not later than 45 days after a recipient meets or causes a project sponsor to meet the requirements described in subparagraph (A), the Secretary shall obligate the funds for the grant involved.

"(C) Distribution.—A recipient that receives funds through such a grant—

"(i) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

"(ii) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

"(D) Expenditure of funds.—The Secretary may establish a date by which funds made available through a grant announced under paragraph (3) for a homeless assistance and prevention project shall be entirely expended by the recipient or project sponsors involved. The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

"(d) Notification of Pro Rata Estimated Need Amounts.—

"(1) Notice.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the Notice of Funding Availability for the grants, of the pro rata estimated need amount under this subtitle for the geographic area represented by the collaborative applicant.

"(2) Amount.—

"(A) Basis.—Such estimated need amount shall be based on a percentage of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year that is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) for the prior fiscal year that—

"(i) was allocated to all metropolitan cities and urban counties within the geographic area represented by the collaborative applicant; or

"(ii) would have been distributed to all counties within such geographic area that are not urban counties, if the 30 percent portion of the allocation to the State involved (as described in subsection (d)(1) of that section 106) for that year had been distributed among the counties that are not urban counties in the State in accordance with the formula specified in that subsection (with references in that subsection to nonentitlement areas considered to be references to those counties).

"(B) RULE.—In computing the estimated need amount, the Secretary shall adjust the estimated need amount determined pursuant to subparagraph (A) to ensure that—

"(i) 75 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated to the metropolitan cities and urban counties that received a direct allocation of funds under section 413 for the prior fiscal year; and

"(ii) 25 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated—

"(I) to the metropolitan cities and urban counties that did not receive a direct allocation of funds under section 413 for the prior fiscal year; and

"(II) to counties that are not urban counties.

"(C) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

"(D) AUTHORITY OF SECRETARY.—The Secretary may increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

"(e) APPEALS.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of the Community Partnership to End Homelessness Act of 2005, the Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to an application for funding.

"(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by collaborative applicants, entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), homeless planning bodies not designated by the Secretary as collaborative applicants.

"(f) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines is worthy, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

"SEC. 423. ELIGIBLE ACTIVITIES.

"(a) IN GENERAL.—The Secretary may award grants to qualified collaborative applicants under section 422 to carry out homeless assistance and prevention projects that consist of 1 or more of the following eligible activities:

"(1) Construction of new housing units to provide transitional or permanent housing.

"(2) Acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter.

"(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

"(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based or project-based rental assistance.

"(5) Payment of operating costs for housing units assisted under this subtitle.

"(6)(A) Through the end of the final determination year (as described in subparagraph (C)(iii)), the supportive services described in section 425(c), for both new projects and projects receiving renewal funding.

"(B) After that final determination year, for both new projects and projects receiving renewal funding, services providing job training, case management, outreach services, life skills training, housing counseling services, and other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.

"(C)(i) Not later than 30 days after the end of the fiscal year in which the date of enactment of the Community Partnership to End Homelessness Act of 2005 occurs (referred to in this paragraph as the 'initial year'), the Government Accountability Office, after consultation with the congressional committees with jurisdiction over the services referred to in this pararaph, shall determine—

"(I) the amount of Federal funds (other than funds made available under this subtitle) that were made available to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'outside supportive services amount') for that initial year; and

"(II) the amount of Federal funds made available under this subtitle to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'subtitle B supportive services amount') for that initial year.

"(ii) Not later than 30 days after the end of the third full fiscal year after that date of enactment and of each subsequent fiscal year (referred to in this paragraph as the 'determination year') until the final determination year described in clause (iii), the Government Accountability Office, after consultation with the committees described in clause (i), shall—

"(I) determine the outside supportive services amount for that determination year;

"(II) calculate the increase in the outside supportive services amount, by subtracting the outside supportive services amount for the initial year from the outside supportive services amount for that determination year;

"(III) make—

"(aa) a positive determination that the increase is greater than or equal to the subtitle B supportive services amount for the initial year; or

"(bb) a negative determination that that increase is less than that amount; and

"(IV) submit a report regarding that determination year, and containing the positive or negative determination, to the Secretary.

"(iii) On receipt of such a report regarding a determination year that contains a positive determination, the Secretary may publish a notice in the Federal Register, containing a proposed order that subparagraph (B) shall apply for subsequent fiscal years, and seeking public comment for a period of not less than 60 days. At the end of the comment period, the Secretary may issue a final order that subparagraph (B) shall apply for subsequent fiscal years. If the Secretary issues that final order, the determination year shall be considered to be the final determination year for purposes of this subparagraph.

"(iv) If the Secretary does not issue a final order under clause (iii), subparagraph (A) shall apply for the fiscal year following the determination year.

"(7)(A) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to planning, administering grand awards for, monitoring, and evaluating projects, and ensuring compliance with homeless management information system requirements described in section 402(j)(2), for which the collaborative applicant may use not more than 6 percent of the total funds made available through the grant. A project sponsor receiving funds from the collaborative applicant may use not more than an additional 5 percent of the total funds made available through the grant for such administrative costs.

"(B) For purposes of this paragraph, monitoring and evaluating shall include—

"(i) measuring the outcomes of the homeless assistance planning process of a collaborative applicant for preventing and ending homelessness;

"(ii) the effective and timely implementation of specific projects funded under this subtitle, relative to projected outcomes; and

"(iii) in the case of a housing project funded under this subtitle, compliance with appropriate standards of housing quality and habitability as determined by the Secretary.

"(8) Prevention activities (for which a collaborative applicant may use not more than 5 percent of the funds made available through the grant), including—

"(A) providing financial assistance to individuals or families who have received eviction notices, foreclosure notices, or notices of termination of utility services if, in the case of such an individual or family—

"(i) the inability of the individual or family to make the required payments is due to a sudden reduction in income;

"(ii) the assistance is necessary to avoid the eviction, foreclosure, or termination of services; and

"(iii) there is a reasonable prospect that the individual or family will be able to resume the payments within a reasonable period of time;

"(B) carrying out relocation activities (including providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or rental assistance for not more than 3 months) for moving into transitional or permanent housing, individuals, and families that include such individuals—

"(i) who lack housing;

"(ii) who are being discharged from a publicly funded acute care or long-term care facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated; and

"(iii) who have plans, developed collaboratively by the public entities involved and the individuals and families, for securing or maintaining housing after any funding provided under this subtitle is utilized; and

"(C) providing family support services that promote reunification of—

"(i) youth experiencing homelessness, with their families; and

"(ii) children or youth involved with the child welfare or juvenile justice systems, with their parents or guardians.

"(b) Eligibility for Funds for Prevention Activities.—To be eligible to receive grant funds under section 422 to carry out the prevention activities described in subsection (a)(8), an applicant shall submit an application to the Secretary under section 422 that shall include a certification in which—

"(1) the relevant public entities in the geographic area involved certify compliance with subsection (c); and

"(2) the publicly funded institutions, facilities, and systems of care in the geographic area certify that the institutions, facilities, and systems of care will take, and fund directly, all reasonable measures to ensure that the institutions, facilities, and systems of care do not discharge individuals into homelessness.

"(c) Supplement, Not Supplant.—Funds appropriated under section 407 and made available for prevention activities described in subsection (a)(8) shall be used to supplement and not supplant other Federal, State, and local public funds used for homelessness prevention.

"(d) Use Restrictions.—

"(1) Acquisition, rehabilitation, and new construction.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

"(2) Other activities.—A project that consists of activities described in any of paragraphs (3) through (8) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

"(3) Conversion.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the collaborative applicant involved to carry out instead a project for the direct benefit of low-income persons, and the collaborative applicant determines that the initial project is no longer needed to provide transitional or permanent housing, the collaborative applicant may recommend that the Secretary approve the project described in the request and authorize the recipient or project sponsor to carry out that project. If the collaborative applicant is the recipient or project sponsor, it shall submit such a request directly to the Secretary who shall determine if the conversion of the project is appropriate.

"(e) Incentives To Create New Permanent Housing Stock.—

"(1) Awards.—

"(A) In general.—In making grants to collaborative applicants under section 422, the Secretary shall make awards that provide the incentives described in paragraph (2) to promote the creation of new permanent housing units through the construction, or acquisition and rehabilitation, of permanent housing units, that are owned by a project sponsor or other independent entity who entered into a contract with a recipient or project sponsor, for—

"(i) chronically homeless individuals and chronically homeless families; and

"(ii) nondisabled homeless families.

"(B) Limitation.—In awarding funds under this subsection, the Secretary shall not award more than 10 percent of the funds for project sponsors or independent entities that propose to serve nondisabled homeless families.

"(2) Assistance.—

"(A) Individuals with disabilities.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for individuals and families described in paragraph (1)(A)(i), shall also receive, as part of the grant, incentives consisting of—

"(i) funds sufficient to provide not more than 10 years of rental assistance, renewable in accordance with section 428;

"(ii) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

"(iii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

"(B) Nondisabled homeless families.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for nondisabled homeless families, shall also receive incentives consisting of—

"(i) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

"(ii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

"(3) Eligible applicants.—To be eligible to receive a grant under this subtitle to carry out activities to create new permanent housing stock for individuals and families described in paragraph (1), an applicant shall be a collaborative applicant as described in this subtitle, a private nonprofit or for profit organization, a public-private partnership, a public housing agency, or an instrumentality of a State or local government.

"(4) Location.—To the extent practicable, a collaborative applicant that receives a grant under this subtitle to create new permanent housing stock shall ensure that the housing is located in a mixed-income environment.

"(5) Definition.—In this subsection, the term 'nondisabled homeless family' means a homeless family that does not have an adult head of household with a disabling condition, as defined in section 401(1)(B).

"(f) Repayment of Assistance and Prevention of Undue Benefits.—

"(1) Repayment.—If a recipient (or a project sponsor receiving funds from the recipient) receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

"(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 100 percent of the assistance; or

"(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

"(2) Prevention of undue benefits.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient (or the project sponsor receiving funds from the recipient) who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient (or a project sponsor receiving funds from the recipient) from unduly benefitting from such sale or disposition.

"(3) Exception.—A recipient (or a project sponsor receiving funds from the recipient) shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

"(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons; or

"(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle.";

(3) in section 425 (42 U.S.C. 11385), by striking subsection (c) and inserting the following:

"(c) Services.—Subject to section 423(a)(6), supportive services may include such services as—

"(1) establishing and operating a child care services program for families experiencing homelessness;

"(2) establishing and operating an employment assistance program, including providing job training;

"(3) providing outpatient health services, food, and case management;

"(4) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

"(5) providing outreach services, life skills training, and housing search and counseling services;

"(6) providing assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

"(7) providing legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

"(8) providing—

"(A) transportation services that facilitate an individual's ability to obtain and maintain employment;

"(B) income assistance;

"(C) health care; and

"(D) other supportive services necessary to obtain and maintain housing; and

"(9) providing other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.";

(4) in section 426 (42 U.S.C. 11386)—

(A) in subsection (a)—

(i) in paragraph (1), by striking "Applications" and all that follows through "shall" and inserting "Applications for assistance under section 422 shall";

(ii) in paragraph (2)—

(I) by striking subparagraph (B) and inserting the following:

"(B) a description of the size and characteristics of the population that would occupy housing units or receive supportive services assisted under this subtitle;"; and

(II) in subparagraph (E), by striking “in the case of projects assisted under this title that do not receive assistance under such sections,”; and

(iii) in paragraph (3), in the last sentence, by striking “recipient” and inserting “recipient (or a project sponsor receiving funds from the recipient)”;

(B) by striking subsections (b) and (c) and inserting:

“(b) Selection Criteria.—The Secretary shall award funds to collaborative applicants, and other eligible applicants that have been approved by the Secretary, by a national competition based on criteria established by the Secretary, which shall include—

“(1) the capacity of the applicant based on the past performance and management of the applicant;

“(2) if applicable, previous performance regarding homelessness prevention, housing, and services programs funded in any fiscal year prior to the date of submission of the application;

“(3) the plan by which—

“(A) access to appropriate permanent housing will be secured if the proposed project does not include permanent housing; and

“(B) access to outcome-effective supportive services will be secured for residents or consumers involved in the project who are willing to use the services;

“(4) if applicable, the extent to which an evaluation for the project will—

“(A) use periodically collected information and analysis to determine whether the project has resulted in enhanced stability and well-being of the residents or consumers served by the project;

“(B) include evaluations obtained directly from the individuals or families served by the project; and

“(C) be submitted by the project sponsors for the grant, to the collaborative applicant, for review and use in assessments, conducted by the collaborative applicant, consistent with the duty of the collaborative applicant to ensure effective outcomes that contribute to the goal of preventing and ending homelessness in the geographic area served by the collaborative applicant;

“(5) the need for the type of project proposed in the geographic area to be served and the extent to which prioritized programs meet unmet needs;

“(6) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

“(7) demonstrated coordination with the other Federal, State, local, private, and other entities serving individuals experiencing homelessness in the planning and operation of projects, to the extent practicable;

“(8) the extent to which the membership of the collaborative applicant involved represents the composition described in section 402(b) and the extent of membership involvement in the application process; and

“(9) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

“(c) Required Agreements.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

“(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

“(2) to conduct an ongoing assessment of access to mainstream programs referred to in subsection (b)(4);

“(3) to monitor and report to the Secretary the progress of the project;

“(4) to develop and implement procedures to ensure—

“(A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through the project; and

“(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

“(5) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

“(6) if a collaborative applicant receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(7), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles; and

“(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.”;

(C) in subsection (d), in the first sentence, by striking “recipient” and inserting “recipient or project sponsor”;

(D) by striking subsection (e);

(E) by redesignating subsections (f), (g), and (h), as subsections (e), (f), and (g), respectively;

(F) in subsection (f) (as redesignated in subparagraph (E)), in the first sentence, by striking “recipient” each place it appears and inserting “recipient or project sponsor”;

(G) by striking subsection (i); and

(H) by redesignating subsection (j) as subsection (h);

(5)(A) by repealing section 429 (42 U.S.C. 11389); and

(B) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 431 and 432, respectively; and

(6) by inserting after section 426 the following:

“SEC. 427. ALLOCATION AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

“(a) Purpose.—The Secretary shall promote—

“(1) permanent housing development activities for—

“(A) homeless individuals with disabilities and homeless families that include such an individual; and

“(B) nondisabled homeless families; and

“(2) prevention activities described in section 423(a)(8).

“(b) Definition.—In this section, the term ‘nondisabled homeless family’ means a homeless family that does not include a homeless individual with a disability.

“(c) Annual Portion of Appropriated Amount Available.—

“(1) Disabled homeless individuals and families.—

“(A) In general.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used for activities to develop new permanent housing, in order to help create affordable permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

“(B) Calculation.—In calculating the portion of the amount described in subparagraph (A) that is used for activities described in subparagraph (A), the Secretary shall not count funds made available to renew contracts for existing projects (in existence as of the date of the renewal) under section 428.

“(2) Prevention activities.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not more than 5 percent of the sums described in paragraph (1) shall be used for prevention activities described in section 423(a)(8).

“(d) Funding for Acquisition, Construction, and Rehabilitation of Permanent or Transitional Housing.—Nothing in this Act shall be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

“SEC. 428. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

“(a) In General.—Of the total amount available for use in connection with this subtitle, such sums as may be necessary shall be designated for the purpose of renewing expiring contracts for permanent housing, within the account referred to as the ‘Homeless Assistance Grants Account’ on the date of enactment of the Community Partnership to End Homelessness Act of 2005.

“(b) Renewals.—Such sums shall be available for the renewal of contracts for a 1-year term for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the date of enactment of the Community Partnership to End Homelessness Act of 2005). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of demonstrated need for the project and the compliance of the entity carrying out the project with appropriate standards of housing quality and habitability as determined by the Secretary.

“(c) Construction.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

“SEC. 429. MATCHING FUNDING.

“(a) In General.—A recipient of a grant (including a renewed grant) under this subtitle shall make available contributions, in cash, in an amount equal to not less than 25 percent of the Federal funds provided under the grant.

“(b) Application.—Subsection (a) shall not apply in the case of a grant for activities consisting of the payment of operating costs associated with permanent housing renewal grants described in section 428 that fund the operation of permanent housing—

“(1) for individuals or families whose incomes are 50 percent or less of the median income for an individual or family, respectively, in the geographic area involved; and

“(2) that receives no Federal or State funds from a source other than this subtitle.

"SEC. 430. APPEAL PROCEDURE.

"(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the Consolidated Plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

"(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

"(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.".

SEC. 7. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—Subtitles D, E, F, and G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., 11403 et seq., and 11408 et seq.) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.—Section 2066(b)(3)(F) of title 38, United States Code and section 506(a) of the Public Health Service Act (42 U.S.C. 290aa-5(a)) are amended by striking "Interagency Council on the Homeless" and inserting "United States Interagency Council on Homelessness".

(2) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act, as redesignated in section 4(2), is amended—

(A) by striking "current housing affordability strategy" and inserting "Consolidated Plan"; and

(B) by inserting before the comma the following: "(referred to in that section as a 'comprehensive housing affordability strategy')".

(3) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended by adding at the end the following:

"(d) PERSONS EXPERIENCING HOMELESSNESS.—References in this Act to homeless individuals (including homeless persons) or homeless groups (including the homeless) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.".

SEC. 8. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of enactment of this Act.

Mr. BOND. Mr. President, I rise today to express my support for the Community Partnership to End Homeless Act of 2005. I am proud to be an original co-sponsor of this legislation because I believe that this bill will greatly assist the Nation's efforts on ending the long-standing tragedy of homelessness. I applaud the hard work of the chairman and ranking member of the Senate Banking Committee's Housing and Transportation Subcommittee, Senators ALLARD and REED for developing this important legislation.

As a former member of the Banking Committee, former chair of the VA-HUD and Independent Agencies Appropriations Subcommittee, and now the current chair of the Transportation, Treasury, the Judiciary, HUD, and Related Agencies (TTHUD) Appropriations Subcommittee, the issue of homelessness has been one of my main priorities. During my tenure on those subcommittees, I have learned a great deal about the causes of homelessness. The causes are varied ranging from the lack of affordable housing to mental or physical ailments to unforeseen economic problems.

The good news is that since the Congress first created the McKinney-Vento Homeless Assistance Act in 1987, there has been a great deal of research on homelessness and new approaches have been developed to solve homelessness. The most significant finding is the importance of permanent housing in ending homelessness. Due to this finding, I included a provision in the fiscal year 1999 VA-HUD and Independent Agencies Appropriations Act that required HUD to spend at least 30 percent of the homeless assistance grant funds on permanent housing.

Re-focusing HUD on permanent housing was something that senators on both sides of the aisle strongly and rightfully support. The 30 percent permanent housing set-aside requirement was established because HUD was not producing enough housing for homeless people. This was a problem because HUD is the only federal agency that provides permanent housing.

By 1998, just prior to the enactment of the 30 percent set-aside, only 13 percent of HUD homeless grant funds were being spent on permanent housing. Therefore, the 30 percent set-aside was created to re-balance HUD's homeless programs so that permanent housing was being provided. And, the set-aside has not hurt funding for supportive services since we have continually increased the HUD homeless account and the Administration has worked with other agencies, such as HHS and VA, to ensure that they are providing services to homeless people. In the Senate's fiscal year 2006 TTHUD bill, we have provided a $174 million increase over fiscal year 2005 for the HUD homeless account.

The focus on permanent housing was backed by sound research that demonstrated the cost-effectiveness of this approach. By focusing on permanent housing and especially those who were chronically homeless, HUD's programs became correctly focused on those most needy of this assistance, such as disabled homeless veterans. For those reasons, I am extremely pleased and supportive of the bill's provision that requires HUD to use at least 30 percent of funds for permanent housing activities. This provision is probably the most important piece of this legislation.

In addition to the permanent housing requirement, I strongly support the bill's provisions that require outcome-based performance evaluations, promote access to mainstream resources for supportive services, and consolidate HUD's competitive grant programs. I especially support the bill's efforts to encourage localities and grantees to participate and use the Homeless Management Information System (HMIS), which was initiated by Senator MIKULSKI and me in the fiscal year 2001 VA-HUD and Independent Appropriations Act. I am proud that the vast majority of continuum-of-care grantees have implemented the HMIS. This system is absolutely critical for developing an unduplicated count of homeless people and an analysis of their patterns of use of federal assistance programs.

This is a strong bill supported by members on both sides of the aisle. I hope that the Senate and the Congress can pass important legislation because this bill will help eliminate the tragedy of homelessness. I urge my colleagues to support this bill.

By Mr. ENZI:

S. 1802. All to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

Mr. ENZI. Mr. President I rise to introduce the Pension Flexibility in Natural Disasters Act of 2005. The bill provides appropriate waivers, suspensions or exemptions from the provisions of title I of the Employee Retirement Income Security Act of 1974, as amended, with respect to individual account plans affected by Hurricane Katrina or Rita.

Hurricanes Katrina and Rita have brought terrible devastation in the gulf coast. Not only have so many homes in Louisiana, Mississippi, Alabama and Texas been destroyed but many businesses have been destroyed as well.

Any business that maintains a pension or retirement plan for their workers is subject to certain reporting, disclosure and fiduciary provisions of ERISA as well as being subject to the pertinent provisions of the Internal Revenue Code. ERISA sets up many requirements and deadlines that businesses simply cannot meet due to the devastation of their businesses and the destruction of all of their records.

This bill postpones reporting requirements for businesses that have been adversely affected by storms in these presidentially-declared disaster areas. It also will facilitate getting individuals access to their retirement savings in the form of hardship loans or distributions by allowing plan fiduciaries flexibility in making those distributions in view of these terrible disasters.

I hope my colleague will join me in supporting this important bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Flexibility in Natural Disasters Act of 2005".

SEC. 2. AUTHORITY TO THE SECRETARY OF LABOR, SECRETARY OF THE TREASURY, AND THE PENSION BENEFIT GUARANTY CORPORATION.

The Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall exercise their authority under section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986 to postpone certain deadlines by reason of the Presidentially declared disaster areas in Louisiana, Mississippi, Alabama, Texas, and elsewhere, due to the effect of Hurricane Katrina or Rita. The Secretaries and the Executive Director of the Corporation shall issue guidance as soon as is practicable to plan sponsors and participants regarding extension of deadlines and rules applicable to these extraordinary circumstances. Nothing in this section shall be construed to relieve any plan sponsor from any requirement to pay benefits or make contributions under the plan of the sponsor.

SEC. 3. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON OF THE PRESIDENTIALLY DECLARED DISASTER CAUSED BY HURRICANE KATRINA OR RITA.

(a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In the case of any pension plan which is an individual account plan, or any participant or beneficiary, plan sponsor, administrator, fiduciary, service provider, or other person with respect to such plan, affected by Hurricane Katrina or Rita, or any service provider or other person dealing with such plan, the Secretary of Labor may, notwithstanding any provision of title I of the Employee Retirement Income Security Act of 1974, prescribe, by notice or otherwise, a waiver, suspension, or exemption from any provision of such title which is under the regulatory authority of such Secretary, or from regulations issued under any such provision, that such Secretary determines appropriate to facilitate the distribution or loan of assets from such plan to participants and beneficiaries of such plan.

(b) EXEMPTION FROM LIABILITY FOR ACTS OR OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EXEMPTION.—No person shall be liable for any violation of title I of the Employee Retirement Income Security Act of 1974, or of any regulations issued under such title, based upon any act or omission covered by a waiver, suspension, or exemption issued under subsection (a) if such act or omission is in compliance with the terms of the waiver, suspension, or exemption.

(c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION, OR EXEMPTION.—Notwithstanding any provision of the plan to the contrary and to the extent provided in any waiver, suspension, or exemption issued by the Secretary of Labor pursuant to subsection (a), no plan shall be treated as failing to be operated in accordance with its terms solely as a result of acts or omissions which are consistent with such waiver, suspension, or exemption.

(d) EXPIRATION OF AUTHORITY.—This section shall apply only with respect to waivers, suspensions, or exemptions issued by the Secretary of Labor during the 1-year period following the date of the enactment of this Act.

(e) DEFINITIONS.—Terms used in this section shall have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 4. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

Section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) is amended by inserting ", under any regulation issued thereunder, or under any plan provision" after "under this Act".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 260—CALLING FOR FREE AND FAIR PARLIAMENTARY ELECTIONS IN THE REPUBLIC OF AZERBAIJAN

Mr. BIDEN (for himself, Mr. MCCAIN, Mr. HAGEL, Mr. LUGAR, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 260

Whereas the Republic of Azerbaijan is scheduled to hold elections for its parliament, the Milli Majlis, in November 2005;

Whereas Azerbaijan has enjoyed a strong relationship with the United States since its independence from the former Soviet Union in 1991;

Whereas international observers monitoring Azerbaijan's October 2003 presidential election found that the pre-election, election day, and post-election environments fell short of international standards;

Whereas the International Election Observation Mission (IEOM) in Baku, Azerbaijan, deployed by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, found that there were numerous instances of violence by both members of the opposition and government forces;

Whereas the international election observers also found inequality and irregularities in campaign and election conditions, including intimidation against opposition supporters, restrictions on political rallies by opposition candidates, and voting fraud;

Whereas Azerbaijan freely accepted a series of commitments on democracy, human rights, and the rule of law when that country joined the OSCE as a participating State in 1992;

Whereas, following the 2003 presidential election, the Council of Europe adopted Resolution 1358 (2004) demanding that the Government of Azerbaijan immediately implement a series of steps that included the release of political prisoners, investigation of election fraud, and the creation of public service television to allow all political parties to better communicate with the people of Azerbaijan;

Whereas, since the 2003 presidential election, the Government of Azerbaijan has taken some positive steps by releasing some political prisoners and working to create public service television;

Whereas the United States supports the promotion of democracy and transparent, free, and fair elections consistent with the commitments of Azerbaijan as a participating State of the OSCE;

Whereas the United States is working with the Government of Azerbaijan, the political opposition, civil society, the OSCE, the Council of Europe, and other countries to strengthen the electoral process of Azerbaijan through diplomatic efforts and nonpartisan assistance programs, including support for international and domestic election observers, voter education and election information initiatives, training for candidates and political parties, and training for judges and lawyers on the adjudication of election disputes;

Whereas the Government of the United States has awarded a contract to conduct exit polling throughout Azerbaijan;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and opportunity to exercise their civil and political rights, free from intimidation, undue influence, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties; and

Whereas the establishment of a transparent, free and fair election process for the 2005 parliamentary elections is an important step in Azerbaijan's progress toward full integration into the democratic community of nations: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the Government of the Republic of Azerbaijan to hold orderly, peaceful, and free and fair parliamentary elections in November 2005 in order to ensure the long-term growth and stability of the country;

(2) calls upon the Government of Azerbaijan to guarantee the full participation of opposition parties in the upcoming elections, including members of opposition parties arrested in the months leading up to the November 2005 parliamentary elections;

(3) calls upon the opposition parties to fully and peacefully participate in the November 2005 parliamentary elections, and calls upon the Government of Azerbaijan to create the conditions for the participation on equal grounds of all viable candidates;

(4) believes it is critical that the November 2005 parliamentary elections be viewed by the people of Azerbaijan as free and fair, and that all sides refrain from violence during the campaign, on election day, and following the election;

(5) calls upon the Government of Azerbaijan to guarantee election monitors from the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), Azeri political parties, representatives of candidates, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unimpeded access to all aspects of the election process;

(6) supports recommendations made by the Council of Europe on amendments to the Unified Election Code of Azerbaijan, specifically to ensure equitable representation of opposition and pro-government forces in all election commissions;

(7) urges the international community and domestic nongovernmental organizations to provide a sufficient number of election observers to ensure credible monitoring and reporting of the November 2005 parliamentary elections;

(8) recognizes the need for the establishment of an independent media and assurances by the Government of Azerbaijan that freedom of the press will be guaranteed; and

(9) calls upon the Government of Azerbaijan to guarantee freedom of speech and freedom of assembly.

SENATE RESOLUTION 261—EXPRESSING THE SENSE OF THE SENATE THAT THE CRISIS OF HURRICANE KATRINA SHOULD NOT BE USED TO WEAKEN, WAIVE, OR ROLL BACK FEDERAL PUBLIC HEALTH, ENVIRONMENTAL, AND ENVIRONMENTAL JUSTICE LAWS AND REGULATIONS, AND FOR OTHER PURPOSES

Mr. KERRY (for himself, Mr. DURBIN, Mr. REID, Mr. OBAMA, Mrs. BOXER, and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 261

Whereas Hurricane Katrina made landfall in the Gulf Region on August 29, 2005, destroying property, causing massive floods, and resulting in more than $35,000,000,000 in insured property losses and over 1,000 deaths;

Whereas expeditiously rebuilding those areas affected by Hurricane Katrina and providing the victims of the storm with normalcy and relief must be the top priorities for Congress;

Whereas Secretary of Homeland Security Michael Chertoff recently commented, "We are going to have to clean probably the greatest environmental mess we have ever seen in the country as a result of Hurricane Katrina";

Whereas Hurricane Katrina demonstrates the connection between the health and safety of communities and the health of natural resources;

Whereas many of the hardest hit areas in New Orleans and the Gulf Coast from Hurricane Katrina were low-income and minority communities already facing decades of environmental injustices;

Whereas at least 9 major oil spills, and scores of smaller oil and hazardous substance spills, leaks, and other releases have occurred;

Whereas 60 underground storage tanks, hazardous waste storage facilities, and industrial facilities, and 5 Superfund sites in New Orleans were hit by Hurricane Katrina, yet monitoring reported to date has only been conducted at a handful of sites for a limited number of contaminants;

Whereas nearly 1,000 drinking-water systems were disabled or impaired because of power outages or structural damage, many people have been told to boil their water, and safe drinking water may not be available for the entire population for years to come;

Whereas the Environmental Protection Agency's initial water quality tests found that flood water in New Orleans contains 10 times more E. Coli bacteria than the Agency considers safe for human contact and lead concentrations that exceed drinking water standards, and the mix of contaminants poses a serious disease risk to those wading through the filthy water;

Whereas proper implementation and enforcement of Federal public health and environmental regulations are necessary to protect human health, especially among vulnerable populations, and are necessary in times of emergency to ensure that the response to a disaster does not exacerbate the initial impact;

Whereas major industrial facilities and toxic waste sites disproportionately impact low-income individuals, minorities, children, the elderly, and all underserved communities;

Whereas more than 1 in 4 Americans, including 10,000,000 children, live within 4 miles of a Superfund site, which poses serious public health issues when sites are not cleaned up adequately and in a timely manner;

Whereas the health of low-income and minority communities continues to suffer, largely because of the cumulative impact of all sources of pollution on public health in the acute impact area and the failure to consider cumulative impacts upon siting of new industrial facilities and cleanup of existing toxic communities;

Whereas the addition of poor environmental protection and enforcement to existing health vulnerabilities has only exacerbated the conditions in these communities, which often suffer from higher rates of illness and death in comparison with middle-class, suburban, and more affluent communities;

Whereas Federal public health and environmental laws provide many opportunities to address environmental risks and hazards in minority and low-income communities if applied and implemented;

Whereas Executive Order 12898 states that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations;

Whereas in 2005, the Congress passed and President Bush signed into law (Public Law 109-54) language prohibiting the Environmental Protection Agency from using appropriated funds to work in contravention of Executive Order 12898 and further delay the implementation of this Order, which is critical to achieving environmental and health equity across all community lines;

Whereas environmental cleanup of affected areas must be done in an effective and timely manner to ensure the victims of Hurricane Katrina can return to their homes without enduring preventable environmental or health risks; and

Whereas weakening, waiving, and rolling back Federal public health and environmental protections would further threaten the heavily-damaged area of the Gulf Coast, negatively impact the public health of the already most-affected communities, and put public health and the environment at greater future risk at the expense of all communities: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the crisis of Hurricane Katrina and other such disasters should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations;

(2) State, local, and regional authorities must retain their authority for compliance and permitting of industrial and other facilities, and their role in enforcing and implementing monitoring and cleanup regulations;

(3) testing, monitoring, cleanup, and recovery in the region hit by Hurricane Katrina and other areas of national emergency—

(A) should be completed in a manner designed to protect public health and the environment and ensure habitability of the region and mitigate against the effects of future storms; and

(B) should be carried out in compliance with Executive Order 12898; and

(4) the Federal rebuilding of communities and the economy of the Gulf Region should be a model of the integrated, diverse, and sustainable society that all people in the United States desire and deserve.

SENATE CONCURRENT RESOLUTION 55—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE CONDITIONS FOR THE UNITED STATES TO BECOME A SIGNATORY TO ANY MULTILATERAL AGREEMENT ON TRADE RESULTING FROM THE WORLD TRADE ORGANIZATION'S DOHA DEVELOPMENT AGENDA ROUND

Mr. CRAIG (for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Ms. SNOWE, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. DEWINE, Mr. REED, Mr. ALLEN, Mr. KOHL, Mr. SPECTER, Mr. LEVIN, Mr. VOINOVICH, Mr. BYRD, Mrs. DOLE, Ms. MIKULSKI, Mr. SHELBY, Ms. COLLINS, Mr. SARBANES, Mr. GRAHAM, Mr. REID, Mr. COLEMAN, Ms. STABENOW, Mr. SANTORUM, and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 55

Whereas members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round);

Whereas the Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement);

Whereas the WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the "basic concepts, principles and effectiveness" of the Antidumping Agreement and the Subsidies Agreement;

Whereas in section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to "preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies";

Whereas the countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws;

Whereas chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of "zeroing" in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury;

Whereas United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed;

Whereas trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy;

Whereas the United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology;

Whereas United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950;

Whereas many industries critical to United States national security are at severe risk from unfair foreign competition; and

Whereas the Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of "zeroing" in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further "balancing modifications" or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1882. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1883. Mr. CONRAD (for himself, Mr. Baucus, Mr. Salazar, Mr. Enzi, Mr. Thomas, and Mr. Burns) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1884. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1885. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1886. Mr. HARKIN (for himself, Mr. Obama, Mr. Reid, Mr. Kennedy, Mr. Durbin, Mr. Bayh, Mr. Dodd, Mr. Schumer, Mr. Reed, Mr. Biden, Mr. Stevens, and Mrs. Murray) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1887. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1888. Mr. SALAZAR (for himself, Mr. Reed, and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1889. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1890. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1891. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1892. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1893. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1894. Mr. STEVENS (for Mr. Grassley (for himself and Mr. Baucus)) proposed an amendment to the bill S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

SA 1895. Mr. BINGAMAN (for himself and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1896. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1897. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1898. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1899. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1900. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1901. Mr. LEAHY (for himself, Mr. Bond, Mr. Talent, and Ms. Landrieu) proposed an amendment to the bill H.R. 2863, supra.

SA 1902. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1903. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1904. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1905. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1906. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1907. Mr. DeWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the

Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1908. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CHAFEE, and Mr. KERRY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1909. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1910. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1912. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1913. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1914. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1915. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1916. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1917. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1918. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1919. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1920. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1882. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. . (a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount appropriated by this title under the heading "AIRCRAFT PROCUREMENT, AIR FORCE" is hereby increased by $218,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by this title under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", as increased by subsection (a), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ–1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ–1 Ground Control Stations, spares, and signals intelligence packages.

(c) OFFSET.—(1) The amount appropriated by this title for the Iraq Freedom Fund is hereby reduced by $218,500,000.

(2) The reduction under paragraph (1) shall not be from amounts available for classified programs or from amounts available for the Joint IED Defeat Task Force.

(d) CONTINGENCY OPERATIONS.—The amount made available by subsection (a) is designated as making supplemental appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SA 1883. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. SALAZAR, Mr. ENZI, Mr. THOMAS, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTER-CONTINENTAL BALLISTIC MISSILE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) MOSCOW TREATY DEFINED.—In this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

SA 1884. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

SA 1885. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) In General.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called "special category resident".

(b) Prohibition on Construction of Facilities.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) Construction of Prior Use of Funds.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

SA 1886. Mr HARKIN (for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, Mr. REED, Mr. BIDEN, Mr. STEVENS, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page , at the appropriate place at the end of Title 9, insert the following:

TITLE .

SECTION 101.

(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Centers for Disease Control and Prevention $3,913,000,000 for activities relating to the avian flu epidemic during the fiscal year ending September 30, 2006, which shall be available until expended.

(b) Of the amount appropriated under subsection (a)—

(1) $3,080,000,000 shall be for the stockpiling of antivirals and necessary medical supplies;

(2) $33,000,000 shall be for global surveillance relating to avian flu;

(3) $125,000,000 shall be to increase the national investment in domestic vaccine infrastructure including development and research;

(4) $600,000,000 shall be for additional grants to state and local public health agencies for emergency preparedness, to increase funding for emergency preparedness centers, and to expand hospital surge capacity; and

(5) $75,000,000 shall be for risk communication and outreach to providers, businesses, and to the American public.

(c) The amount appropriated under subsection (a)—

(1) is designated as an emergency requirement pursuant to section 402 of H.R. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

(d) This title shall take effect on the date of enactment of this Act.

SA 1887. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) Renaming of Death Gratuity Payable for Deaths of Members of the Armed Forces.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking "have a death gratuity paid" and inserting "have fallen hero compensation paid".

(2) In section 1476(a)—

(A) in paragraph (1), by striking "a death gratuity" and inserting "fallen hero compensation"; and

(B) in paragraph (2), by striking "A death gratuity" and inserting "Fallen hero compensation".

(3) In section 1477(a), by striking "A death gratuity" and inserting "Fallen hero compensation".

(4) In section 1478(a), by striking "The death gratuity" and inserting "The amount of fallen hero compensation".

(5) In section 1479(1), by striking "the death gratuity" and inserting "fallen hero compensation".

(6) In section 1489—

(A) in subsection (a), by striking "a gratuity" in the matter preceding paragraph (1) and inserting "fallen hero compensation"; and

(B) in subsection (b)(2), by inserting "or other assistance" after "lesser death gratuity".

(b) Clerical Amendments.—

(1) Such subchapter is further amended by striking "**Death Gratuity:**" each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting "**Fallen Hero Compensation:**".

(2) The table of sections at the beginning of such subchapter is amended by striking "Death gratuity:" in the items relating to sections 1474 through 1480 and 1489 and inserting "Fallen hero compensation:".

(c) General References.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

SA 1888. Mr. SALAZAR (for himself, Mr. REED, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c), by adding at the end the following new paragraphs:

"(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

"(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4)) which is—

"(A) held in the United States or any of its territories or commonwealths;

"(B) governed by the International Paralympic Committee; and

"(C) sanctioned by the United States Olympic Committee."; and

(2) in subsection (d)—

(A) by inserting "(1)" before "The Secretary"; and

(B) by adding at the end the following new paragraph:

"(2) Not more than $1,000,000 may be expended in any fiscal year to provide support for events specified under paragraph (5) of subsection (c).".

SA 1889. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "Research, Development, Test and Evaluation, Army", $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

SA 1890. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "Research, Development, Test and Evaluation, Army", $2,000,000 may be made available for weapons and munitions advanced technology for the advanced lightweight silicon switch for the electromagnetic gun system.

SA 1891. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "Research, Development, Test and Evaluation, Navy", $3,000,000 may be made available for acoustic search sensors for power upgrades to Navy buoys.

SA 1892. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) In General.—None of the funds appropriated or otherwise made available by this

Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment.

(b) Definitions.—As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

SA 1893. Ms. LANDRIEU submitted an amendment to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Implementation of IMT-2000 3G Communications Capabilities.—

(1) Additional amount for operation and maintenance, air force.—The amount appropriated by title II under the heading "Operation and Maintenance, Air Force" is hereby increased by $10,000,000.

(2) Availability of amount.—Of the amount appropriated or otherwise made available by title II under the heading "Operation and Maintenance, Air Force", as increased by paragraph (1), $10,000,000 may be available to the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) Implementation of IMT-2000 3G Communications Capabilities.—

(1) Additional amount for other procurement, air force.—The amount appropriated by title III under the heading "Other Procurement, Air Force" is hereby increased by $20,000,000.

(2) Availability of amount.—Of the amount appropriated or otherwise made available by title III under the heading "Other Procurement, Air Force", as increased by paragraph (1), $20,000,000 may be available to the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(3) Construction of amount.—The amount available under paragraph (2) for the purpose set forth in that paragraph is in addition to any other amounts available in this Act for that purpose.

SA 1894. Mr. STEVENS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; as follows:

At the end, add the following:

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) Exclusion Under Medicare Beginning in 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting "and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)" after "agents)".

(b) Restriction Under Medicaid.—

(1) In general.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.".

(2) Effective date.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) Clarification of no effect on determination of base expenditures.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting ", including drugs described in subparagraph (K) of section 1927(d)(2)" after "1860D–2(e)".

SA 1895. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Air Force", up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

SA 1896. Mr. DAYTON submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Additional Amount for Operation and Maintenance, Defense-Wide.—The amount appropriated by title II under the heading "Operation and Maintenance, Defense-Wide" is hereby increased by $120,000,000.

(b) Availability for Child and Family Assistance Benefits.—Of the amount appropriated by title II under the heading "Operation and Maintenance, Defense-Wide", as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 may be available for childcare services for families of members of the Armed Forces.

(2) $20,000,000 may be available for family assistance centers that primarily serve members of the Armed Forces and their families.

(c) Offset.—

(1) In general.—Subject to paragraph (2), the amount appropriated or otherwise made available by this Act for the Missile Defense Agency is hereby reduced by $120,000,000.

(2) Limitation.—The reduction in paragraph (1) shall not be derived from amounts appropriated or otherwise made available by this Act for the Missile Defense Agency and available for missile defense programs and activities of the Army.

SA 1897. Mr. SANTORUM submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) Additional Amount for Research, Development, Test, and Evaluation for the Army.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 shall be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) Offset.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts for Information Technology Initiatives.

SA 1898. Mr. SANTORUM submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 379, after line 22, add the following:

SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) Disposal Authorized.—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) Certain Sales Authorized.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

SA 1899. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) FUNDING FOR PARTICIPATION OF VET CENTERS IN TRANSITION ASSISTANCE PROGRAMS.—Of the amounts appropriated or otherwise made available by this Act, up to $10,000,000 shall be used for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces.

(b) VET CENTERS DEFINED.—In this section, the term "Vet centers" means centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

SA 1900. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116.(a) Notwithstanding any other provision of law, not later than 60 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces is made, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that includes the following:

(1) An assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United States have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of Defense and Department of State to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards.

(3) A description of the procedures of the Department of Defense and Department of State that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of Defense and Department of State to ensure the coordination of such training efforts.

(5) The number of trained security personnel needed in Afghanistan, an explanation of how such number was determined, and a schedule for providing such personnel to Afghanistan.

(6) A description of the methods that will be used by the Government of Afghanistan to maintain and equip such personnel when the such training is completed.

(7) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) Not less frequently than once each year the Secretary of Defense, in conjunction with the Secretary of State, shall submit a report to the appropriate congressional committees that describes the progress made to meet the goals and schedules set out in the report required by subsection (a).

(c) In this section the term "appropriate congressional committees" means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

SA 1901. Mr. LEAHY (for himself, Mr. BOND, Mr. TALENT, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "NATIONAL GUARD AND RESERVE EQUIPMENT", $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 1902. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

REPORT

SEC. . Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Armed Services and the Committee on Appropriations with the following information—

(a) Whether records of civilian casualties in Afghanistan and Iraq are kept by United States Armed Forces, and if so, how and from what sources this information is collected, where it is kept, and who is responsible for maintaining such records.

(b) Whether such records contain (1) any information relating to the circumstances under which the casualties occurred and whether they were fatalities or injuries; (2) if any condolence payment, compensation or assistance was provided to the victim or to the victim's family; and (3) any other information relating to the casualties.

SA 1903. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. APPLICATIONS FOR IMPACT AND AID PAYMENT.

Notwithstanding paragraphs (2) and (3) of section 8005(d) of Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)(2) and (3), the Secretary of Education shall treat as timely filed, and shall process for payment, an application under section 8002 or section 8003 of such Act (20 U.S.C. 7702, 7703) for fiscal year 2005 from a local educational agency—

(1) that, for each of the fiscal year 2000 through 2004, submitted an application by the date specified by the Secretary of Education under section 8005(c) of such Act for the fiscal year;

(2) for which a reduction of more than $1,000,000 was made under section 8005(d)(2) of such Act by the Secretary of Education as a result of the agency's failure to file a timely application under section 8002 or 8003 of such Act for fiscal year 2005; and

(3) that submits an application for fiscal year 2005 during the period beginning on February 2, 2004, and ending on the date of enactment of this Act.

SA 1904. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 222, after line 12, insert the following:

SEC. 8114. None of the funds made available in this Act may be used to procure goods or services, through a contract or subcontract (at any level) under a contract, from a Communist Chinese military company: *Provided*, That for purposes of this section, the term "Communist Chinese military company" has the meaning given that term in section 1237(b)(4) of the Strom Thurmond National Defense Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).

SA 1905. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) CODIFICATION OF REPORTING REQUIREMENT.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection: '(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.'.

(c) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13), is amended by striking 'under section 1967(c)(1)(A) of title 38'.

(d) FUNDING.—Funding shall be provided out of existing funds.

SA 1906. Mr. FEINGOLD submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) IN GENERAL.—The Secretary of Defense, acting through the Chairman of the National Security Education Board, shall, during the 3-year period beginning on the date of enactment of this Act, carry out a pilot program to establish a civilian linguist reserve corps, comprised of United States citizens with advanced levels of proficiency in foreign languages, who would be available, upon request from the President, to perform translation and other services or duties with respect foreign languages for the Federal Government.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2393), shall—

(1) identify several foreign languages in which proficiency by United States citizens is critical for the national security interests of the United States and the relative importance of such proficiency in each such language;

(2) identify United States citizens with advanced levels of proficiency in each foreign language identified under paragraph (1) who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for securing the performance of the services and duties referred to in subsection (a) by the citizens identified under paragraph (2); and

(4) invite individuals identified under paragraph (2) to participate in the civilian linguist reserve corps.

(c) CONTRACT AUTHORITY.—In establishing the civilian linguist reserve corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot program established under this section, the Secretary shall conduct a study of the best practices to be utilized in establishing the civilian linguist reserve corps, including practices regarding—

(1) administrative structure;

(2) languages that will be available;

(3) the number of language specialists needed for each language;

(4) the Federal agencies that may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the next 2 years, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a civilian linguist reserve corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of a civilian linguist reserve corps.

(f) FUNDING.—Of the amount appropriated under the heading "Operation and Maintenance, Defense-Wide" in title II, $3,100,000 shall be available to carry out the pilot program under this section.

SA 1907. Mr. DEWINE submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 167, between lines 6 and 7, insert the following:

(c) ADDITIONAL DEATH GRATUITY.—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e) of title 10, United States Code (as added by section 1013(b) of Public Law 109–13), the eligible survivors of such decedent shall receive, in addition to the death gratuity available to such survivors under section 1478(a) of such title, an additional death gratuity of $150,000 under the same conditions as provided under such section 1478(e).

SA 1908. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CHAFEE and Mr. KERRY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the "Reservists Pay Security Act of 2005".

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

"(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(3) the term 'basic pay' includes any amount payable under section 5304.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

SA 1909. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, NAVY", $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1910. Mr. ALEXANDER submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) an inventory of the number and type of Department of Defense facilities that use ground source heat pumps;

(2) an estimate of the number and type of Department of Defense facilities that will use ground source heat pumps during the following 5 years;

(3) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(4) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(5) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 1911. Ms. SNOWE submitted an amendment to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $9,000,000 shall be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative to meet Department of Defense supply shortages and surge demands for parts and equipment.

SA 1912. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $360,800,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, as increased by paragraph (1)—

(A) $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b) BALLISTICS ENGINEERING PROGRAM.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—

(A) IN GENERAL.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities is hereby increased by $5,000,000.

(B) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities, as increased by subparagraph (A), $5,000,000 may be available for the implementation of the ballistics engineering program established under paragraph (2).

(2) BALLISTICS ENGINEERING PROGRAM.—

(A) ESTABLISHMENT.—The Secretary of Defense shall create a collaborative ballistics engineering program at two major research institutions.

(B) PURPOSE.—The purpose of the program established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

SA 1913. Mr. BAYH submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ENFORCEMENT AND LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—ENFORCEMENT

"SEC. 801. ADMINISTRATIVE ENFORCEMENT.

"(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsections (b), (c), and (d), compliance with the provisions of this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

"(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

"(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

"(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

"(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

"(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

"(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

"(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).

"(c) PRIVATE CAUSE OF ACTION.—A servicemember, dependent, or other person protected by a provision of this Act may commence an action in a district court of the United States, or in a State court of competent jurisdiction, to seek enforcement of the protection afforded by such provision.

"(d) CONSTRUCTION OF ENFORCEMENT.—

"(1) ENFORCEMENT BY FTC.—The enforcement of the provisions of this Act by the Federal Trade Commission pursuant to subsection (a) shall be in addition to any other enforcement of such provisions by the Department of Justice, private cause of action, or other mechanism afforded by State law.

"(2) CONSTRUCTION OF REMEDIES.—The remedies for violations of the provisions of this Act provided for under subsections (a), (b), and (c) are in addition to any other remedies for violations of such provisions under Federal or State law.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

"TITLE VIII—ENFORCEMENT

"Sec. 801. Administrative enforcement.".

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

SEC. ___. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial entry training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial entry training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

SEC. . SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1914. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading "OTHER PROCUREMENT, NAVY", up to $2,000,000 may be made available for the Surface Sonar Dome Window Program.

SA 1915. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", up to $1,000,000 may be made available for the Test Exploitation for Knowledge Discovery Toolkit.

SA 1916. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to $2,000,000 may be made available for the Critical Area Protection Systems High Resolution Situational Awareness Program.

SA 1917. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading "OTHER PROCUREMENT, AIR FORCE", up to $1,500,000 may be made available for the Halvorsen Loader.

SA 1918. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading "RESEARCH, DEFENSE, TEST AND EVALUATION, DEFENSE-WIDE", up to $1,000,000 may be made available for the Florida Supply Chain Program.

SA 1919. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $1,000,000 may be made available for the Miami Children's Hospital Pediatric Brain Tumor and Neurological Disease Institute.

SA 1920. Mr. CHAMBLISS submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading "ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES", $400,000 shall be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 29, 2005, at 9:30 a.m., in open session to receive testimony on United States military strategy and operations in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 29, 2005, at 11:45 a.m., to conduct a vote on the nomination of Mr. Keith E. Gottfried, of California, to be General Counsel of the U.S. Department of Housing and Urban Development; Mr. Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service; Mr. Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary of Commerce; Ms. Kim Kendrick, of the District of Columbia, to be Assistant Secretary of Housing and Urban Development; Mr. Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade; Mr. David H. McCormick, of Pennsylvania, to be Under Secretary of Commerce for Export Administration; Mr. Keith A. Nelson, of Texas, to be Assistant Secretary of Housing and Urban Development; Ms. Darlene F. Williams, of Texas to be Assistant Secretary of Housing and Urban Development; Mr. Emil Henry Jr., of New York, to be Assistant Secretary for Financial Institutions; and Mr. Patrick O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 29, 2005, at 10 a.m., on Communications in Disaster, in SD 562.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 29, 2005, at 9:30 a.m. to hold a hearing on pending treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 29, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

Agenda

I. Nominations

Timothy Flanigan, to be Deputy Attorney General; and Susan Neilson, to be U.S. Circuit Judge for the Sixth Circuit.

II. Bills

S. 1088, Streamlined Procedures Act of 2005; Kyl, Cornyn, Grassley, Hatch.

S. Personal Data Privacy and Security Act of 2005; Specter, Leahy, Feinstein, Feingold.

S. 751, Notification of Risk to Personal Data Act; Feinstein, Kyl.

S. 1326, Notification of Risk to Personal Data Act; Sessions.

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses; Hatch, Biden, Schumer.

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005; Grassley, Kyl, Cornyn.

S. 1699, Stop Counterfeiting in Manufactured Goods Act; Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold.

S. 1095, Protecting American Goods and Services Act of 2005; Cornyn, Leahy.

H.R. 683, Trademark Dilution Revision Act of 2005; Smith-TX.

S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005; Feingold, Leahy, Durbin, Kennedy, Feinstein.

S. 443, Antitrust Criminal Investigative Improvements Act of 2005; DeWine, Kohl, Leahy.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to meet to conduct a hearing on "Judicial Nominations" on Thursday, September 29, 2005, at 2 p.m. in the Dirksen Senate Office Building room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, September 29, 2005, for a committee hearing to consider the following nominations: 1. William F. Tuerk, Under Sec for Memorial Affairs, VA 2. Robert J. Henke, Asst Sec for Management, VA 3. John M. Molino, Asst Sec of Policy and Planning, VA 4. Lisette M. Mondello, Asst Sec of Public and Intergovernmental Affairs, VA 5. George J. Opfer, Inspector General, VA

The hearing will take place in Room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Thursday, September 29, 2005, at 9:30 a.m., for a hearing entitled "The Defense Travel System: Boon or Boondoggle?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Special Committee on Aging to authorized to meet Thursday, September 29, 2005 from 10 a.m. in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Thursday, September 29, 2005, at 2:30 p.m. to hold a hearing on U.S.-Japan Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, September 29, 2005, at 3 p.m. for a hearing regarding "GSA II: The Procurement Process from Start to Finish."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jonathan Epstein, a legislative fellow in the office of Senator BINGAMAN, during consideration of this H.R. 2863 appropriations for the Department of Defense for fiscal year 2006 and any votes thereupon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that Susan Ball be granted the privilege of the floor during consideration of the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Mr. David Bann, a detailee with Senator GREGG's office, during consideration of the fiscal year 2006 Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Donnie Walker, a fellow serving in Senator COCHRAN's office, be granted the privilege of the floor during the duration of the consideration of fiscal year 2006 Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy CDR Shawn Grenier, be granted the privilege of the floor during consideration of H.R. 2863.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that Douglas Thompson, a Navy fellow in his office, be granted floor privileges during the consideration of H.R. 2863, the fiscal year 2006 Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Mr. Andrew Schulman, a legislative fellow on Senator DOMENICI's staff, be given floor privileges for the duration of the debate on H.R. 2863.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF NOMINATION

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the nomination of Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade, be referred jointly to the Committee on Finance and Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1802

Mr. FRIST. I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will please report the bill by title.

The legislative clerk read as follows:

A bill (S. 1802) to provide for appropriate waivers, suspensions or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974, with respect to individual account plans affected by Hurricane Katrina or Rita.

Mr. FRIST. I ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR FRIDAY, SEPTEMBER 30, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, September 30. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow is the last day of the fiscal year. During tomorrow's session, we will need to pass the continuing resolution, which is at the desk. Tomorrow morning, we will turn to that joint resolution and we expect a rollcall vote. We hope to have that vote by 10:15 in the morning. Senators should adjust their schedules accordingly.

After we complete the continuing resolution tomorrow, we will return to the Defense appropriations bill. Senators will be able to offer amendments at that time. On Friday, we will update all Members as to next week's schedule.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:26 p.m., adjourned until Friday, September 30, 2005 at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 2005:

NATIONAL CREDIT UNION ADMINISTRATION

GIGI HYLAND, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2011, VICE DEBORAH MATZ, RESIGNED.

FEDERAL TRADE COMMISSION

J. THOMAS ROSCH, OF CALIFORNIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2005, VICE THOMAS B. LEARY, TERM EXPIRED.

UNITED NATIONS

MARGARET SPELLINGS, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-THIRD SESSION OF THE GENERAL CONFERENCE OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

THE JUDICIARY

JAMES HARDY PAYNE, OF OKLAHOMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE STEPHANIE K. SEYMOUR, RETIRED.

CONFIRMATION

Executive nomination confirmed by the Senate Thursday, September 29, 2005:

SUPREME COURT OF THE UNITED STATES

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE CHIEF JUSTICE OF THE UNITED STATES.

HOUSE OF REPRESENTATIVES—*Thursday, September 29, 2005*

The House met at 10 a.m.

The Reverend Kevin Gormley, Pastor, St. Peter Church, Marshall, Missouri, offered the following prayer:

God, Creator of all life, we bow our heads and ask Your guidance to carry out the awesome responsibilities we have before us. May we be at peace among ourselves and at peace individually with the decisions we have made. As we serve here in the hallowed House, keep us aware that we have our family house demanding our time and attention.

We celebrate the 60th year since the end of World War II. President Harry S Truman, from my great State of Missouri, had to make tough decisions at a difficult time in our country's history. He started his presidency by making the prayer of Solomon his own prayer:

"God, give me the wisdom I need to rule Your people with justice and to know the difference between good and evil. Otherwise, how can I lead this great people of Yours?"

Father, may we who are leaders and all the leaders in this great Nation turn to You for guidance and listen to Your response as we seek a lasting peace in our troubled world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Nebraska (Mr. TERRY) come forward and lead the House in the Pledge of Allegiance.

Mr. TERRY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1235. An act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemembers and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

INTRODUCING THE REVEREND FATHER KEVIN GORMLEY

(Mr. SKELTON asked and was given permission to address the House for 1 minute.)

Mr. SKELTON. Mr. Speaker, it is my privilege today to introduce to my House colleagues our guest chaplain, Father Kevin Gormley, pastor of the St. Peter Catholic Church in Marshall, Missouri. Father Gormley was born in Ireland and studied for the priesthood at All Hallows College and Seminary in Dublin. Following his ordination in 1964, Father Gormley came to the United States. Since that time, he has spent 41 years serving in the parishes of Central Missouri where he is widely known, highly respected, and very much loved. Father Gormley became an American citizen in 1975. In July, 2000, he became the pastor of St. Peter Catholic Church in Marshall, Missouri where he currently serves and resides.

Father Gormley also serves as pastor of Holy Family Church, Sweet Springs, Missouri, and as the administrator of St. Peter School. Father Gormley also serves the community as a member of the Ministry of Alliance and as the Catholic Chaplain for the Marshall Habitation Center.

I thank Chaplain Coughlin for his kind invitation to Father Gormley to offer the opening prayer, and would like to thank Father Gormley for traveling to our Nation's capital to be with us today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minutes on each side.

FISCAL RESPONSIBILITY

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, these past few weeks have tested our Nation's emergency response system, our compassion, and the Congress' ability to set spending priorities.

One thing is clear, Republicans are still the party of fiscal responsibility which has helped grow the economy and bolster jobs. In fact, over the past 2 years, our Nation has created millions of jobs, the unemployment level has dropped dramatically, and our economy has grown.

Like families, we make tough decisions. Over the past year, we terminated 98 programs which will save taxpayers over $4.3 billion. But given our new challenges, I am pleased that the House will exercise oversight of disaster expenditures to ensure that the funds are being spent properly by implementing several checks and balances: Sending investigators to the gulf to monitor disaster expenditures, convening dozens of hearings to hear from officials at all levels of government on how funds are utilized, and mandating weekly reports on expenditures, and conducting audits and investigation on disaster assistance.

While I hope we will do more to cut spending and provide accountability, we all know that the Democratic plan is simply to spend, spend, and spend some more.

EXPIRING MEDICARE PROGRAM NEEDS URGENT CONSIDERATION

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, I want to bring to the attention of the House a matter that really needs urgent consideration. There are 160,000 elderly and disabled Americans who depend on Medicare part B, a program called the QI program, qualified individual. That program is due to expire on Friday. That program, that benefit, pays Medicare part B benefits to people with incomes that are 120 percent to 135 percent of the Federal poverty level. How that translates is that people who are making less than $1,092 per month as an individual or $1,459 per couple, they are due to lose their benefit which, for some people, would be almost 10 percent of their income. The Medicare part B insurance program covers medical services like physician service, lab service, durable medical equipment, outpatient and home health visits. We have a bipartisan bill sponsored by myself and the gentleman from Ohio (Mr. LATOURETTE), H.R. 3800. We have to act

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in the next 24 hours to save the financial condition for 160,000 elderly and disabled Americans.

ENERGY SECURITY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, over the past several years, we have all gained firsthand experience on the effects of America's outdated energy system with gas prices going up and down. Atlanta, my home, has seen gas prices anywhere from $3 to $6 a gallon. The results of Hurricanes Katrina and Rita show all of us how terribly dependent we are on foreign sources of oil.

This is a large and complex issue and not a challenge easily solved. Our recently adopted new national energy policy will put us on the right track, but more is needed. It is critical that we address some of the systemic failures that have kept us dependent on others for energy and kept us from aggressively developing a reliable alternative source. While our economy expanded over the past decades, our ability to refine oil actually decreased. Since 1981, we have lost over half of our refineries. The most dynamic Nation in the world has not built a new refinery in 25 years. We are more dependent now on foreign oil than ever before.

We must move away from foreign fuel sources and move toward a solution that maximizes alternative fuel. Mr. Speaker, energy independence is not just energy security, it is national security.

MORE MONEY FOR GUARD EQUIPMENT NOW

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, about 2 years ago, I traveled to Fort Hood, Texas, to see my Guard unit before their deployment to Iraq. I was surprised to see that they were using radios that their families had bought for them at a place called GI Joe's, a good store in Oregon in the Northwest. But the point is they did not have the equipment they needed, they could not train on the equipment they were going to use in Iraq, and now it turns out that that equipment is not available in the United States of America to the National Guard.

Yesterday, Lieutenant General Steven Blum, chief of the National Guard Bureau, said he has about 34 percent of what is needed for the National Guard for equipment for homeland security, for emergencies, disasters or terrorist attacks. Thirty-four percent. He has radios, he said, that cannot communicate with the Army radios because they are Korean War vintage radios. This is an embarrassment for this country. This administration must give the Guard the tools it needs. We don't have to talk about a bigger role for the active duty military. We need to give the National Guard, who does not have problems with posse comitatus and other things, who performed admirably in this disaster, the tools they need for future disasters.

More money for Guard equipment now.

HURRICANE SAFETY ON THE CAPE VINCENT AND CAPE VICTORY

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, as the howling winds and incessant rain from the "Lady of the Gulf—Rita" moved closer to southeast Texas, 90 percent of the population in my district evacuated, but the first responders in Beaumont and other towns were worried about where to ride out the looming summer storm and potential floods.

Docked in the Port of Beaumont were the Cape Vincent, helmed by Captain David Scott, and the sister ship Cape Victory, with Captain Kevin Brooks. These two massive vessels transport military cargo to Iraq and Afghanistan.

The captains and the mayor, Guy Goodson, met briefly. The plan: Use the ships. The ships were loaded with first responders and police cars, fire trucks, ambulances, city dump trucks, front end loaders and even police helicopters. The expert ship crews coolly but quickly took little time in safely securing our first responders and their equipment. Tugs in the port operated during the howling hurricane winds to secure the ships.

In this operation, there was no senseless red tape, no forms were filled out, no committees met, and no permission from bureaucrats was sought. The people of Texas appreciate Captain Brooks and Captain Scott and their crews for, as we say in Texas, "Gittin' 'er done."

GAMING INDUSTRY AND TAX BREAKS

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, when Hurricane Katrina hit the gulf coast, homes and businesses were destroyed and people were left with nothing. To help those in Louisiana and Mississippi return home and go back to work, the gulf coast region must be rebuilt. The gaming industry will invest billions of dollars as it rebuilds the gulf region, making it an essential part of restoring employment, economic growth and tax revenue. Congress must not withhold incentives to rebuild from any employer that provides good jobs and tax revenue if we want to revive the economy of this region.

There is a movement in Congress led by the self-righteous anti-gaming police to single out the gaming industry and prohibit it from receiving needed tax incentives to rebuild. I did not see any Members of Congress, and certainly not FEMA officials, handing out paychecks to out-of-work employees in the gulf coast region. I did see CEOs of gaming companies standing there in the muck up to their ankles handing out checks to their employees.

Contrary to the biased view of some, the gaming industry should be fairly and equally like any other business when Congress develops legislation to help rebuild this region. The gaming companies remain committed to the communities and the people in the affected regions.

☐ 1015

IMMIGRATION REFORM

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, we need comprehensive immigration reform. Specifically, we need reform to support those who enforce our laws, instead of rewarding those who break them. The United States may need a temporary worker program, but definitely not an amnesty program. Our immediate need is more border patrol agents and diligent cooperation from local and State law enforcement agencies.

The repercussions of poor immigration enforcement have a ripple effect across our entire Nation; and, indeed, an estimated 376,000 illegal immigrants are putting a tremendous financial strain on my State of Georgia. Every day we put off debating and passing comprehensive reform allows more opportunities for illegal immigrants to break our laws and cross our borders.

Mr. Speaker, illegal immigration is not a victimless crime, and I request my colleagues' support for real immigration reform.

QUESTIONING OF THE RESPONSE TO HURRICANE KATRINA AND HURRICANE RITA

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask to remove my name from H.R. 3824 if the report has not yet been filed. If it has been filed, I would ask that it be placed in the RECORD that if the manager's amendment is not approved, I will be voting "no" on H.R. 3824.

Let me say, Mr. Speaker, I also want to add to the questioning of the response dealing with Hurricane Katrina and Hurricane Rita. I think it is imperative that committees of the House, particularly the Committee on Homeland Security, move forward with questioning how those who were in desperate need were responded to and how the chain of command performed.

The question was always who was in charge. I raise the question as well, whether there was sensitivity or sensibilities in contracting with the cruise line, $246 million, to house individuals who had already been in water beyond belief. I would ask that that be investigated because those cruise ships are now sitting empty, and we are paying $1,000 a week for empty cruise ships.

ADVERSITY REVEALS CHARACTER

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, a determined enemy abroad, catastrophe and political upheaval at home, these are times, as Thomas Paine wrote, that try men's souls.

But adversity does not create character. Adversity reveals character; and like the great Nation we serve, the character of this Republican majority under Speaker Dennis Hastert is strong, courageous, and will do the work the American people sent us here to do.

We will support the war on terror through to victory. We will rebuild our coastline with fiscal responsibility. We will close our borders and end our dependence on foreign oil. We will do this because the character of this Congress reflects the character of America, and that character is strong.

AMERICAN PARITY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, I find the debate over how we are going to pay for the reconstruction and revitalization of the gulf coast ironic because in the past few years this body has allocated nearly $400 billion for the war in Iraq, without a peep, just a rubber-stamp Congress.

We have added $3 trillion to our national debt with annual deficits at $400 billion as far as the eye can see.

This has become the Congress known for hot checks. Yet when this Congress faces a tab for rebuilding America and American lives that is less than half of what we have spent in Iraq, suddenly everyone here is wearing green eye shades.

In Iraq, we have spent millions to rebuild the Sweet Water Canal System, rebuilding and repairing the levee system; and here in America, we cut the levee construction down in Louisiana by 80 percent.

Tuesday's Christian Science Monitor reported that the National Guard's response to Katrina was hampered by a lack of equipment because two-thirds of that equipment is in Iraq.

We need a new direction with new priorities. We need a Congress that is going to put some checks and balances and not act like a rubber stamp.

In the coming weeks, I intend to reintroduce the American Parity Act, a bill to ensure that, as we rebuild Iraq, we ensure that we also rebuild America.

This Congress cannot have one set of books, one set of priorities for Iraq, and another one for the American people.

PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 470 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 470

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed ninety minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Resources now printed in the bill, it shall be in order to consider as an original bill an amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005. That amendment in the nature of a substitute shall be considered as read. All points of order against that committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 470 is a rule providing for consideration of H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005. The rule provides for 90 minutes of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Resources and waives all points of order against consideration of the bill.

House Resolution 470 provides that, in lieu of the amendment recommended by the Committee on Resources now printed in the bill, the amendment in the nature of a substitute consisting of the text of the Committee on Resources print dated September 26 shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute.

House Resolution 470 makes in order only those amendments printed in the Committee on Rules report accompanying the resolution. The rule provides that amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Lastly, the resolution waives all points of order against amendments printed in the report and provides one motion to recommit, with or without instruction.

Mr. Speaker, the Threatened and Endangered Species Recovery Act is one of the most important bills we will consider on species recovery and property rights this year. I commend the gentleman from California (Chairman POMBO) and other members of the Committee on Resources and their staffs who have worked hard to bring this legislation to this point. The result of their efforts is a solid bipartisan bill that updates key parts of the Endangered Species Act and provides enhanced protection for property owners.

For people of the rural West where I live, there are few more important matters than modernization of the ESA. Unfortunately, some of the most well-known examples of the ESA problems have occurred in my region of the country, the Pacific Northwest.

For example, Mr. Speaker, the Northwest timber industry was decimated by the listing of the spotted owl 15 years ago, only to discover that today, the spotted owls have actually been endangered and displaced by other owls. Imagine if we had emphasized recovery then. How many family-wage jobs would have been saved and how many more spotted owls would we have today?

Four years ago, water to family farms in the Klamath Basin in Oregon was cut off in the name of the sucker fish, when everyone knew there were other measures that would truly help species recover without bankrupting businesses and families. Every summer, in excess of $3 million is being spent per listed salmon. Mr. Speaker, let me repeat that. Every summer in excess of $3 million per salmon is spent to spill water over dams, even though science and common sense tells us that there are better ways of species recovery.

This is all the result of the Endangered Species Act becoming too driven by litigation and conflict. Simply put, this act is broken, and it is in need of updating.

If we put off modernizing the ESA, it is not just the people of my region that will suffer. It is also the animals and plants that the ESA is supposed to protect that are the victims. ESA's record of recovery of listed species is abysmal. Less than 1 percent of the species listed under the act have actually been recovered. According to the Fish and Wildlife Service, only 6 percent of the species are categorized as recovering. Each year, Federal agencies are spending more on paperwork, process, court cases, and lawyers and less on real on-the-ground recovery efforts. We, frankly, must reverse this trend.

The Threatened and Endangered Species Recovery Act puts the priority where it should be, on recovery. This bill will require agencies to complete recovery plans within 2 years of listing. These plans will require the identification of lands important for species recovery, in lieu of the cumbersome and litigation-driven critical habitat process.

In addition, the bill authorizes collaborative recovery teams made up of a diverse group of stakeholders, including people with conservation expertise as well as those whose livelihoods are affected by environmental policies. Again, there is a fundamental shift here from confrontation and litigation to cooperation and recovery. It is long overdue.

This legislation also offers important new tools for encouraging voluntary participation in species recovery efforts by private property owners. The ESA is currently written with its emphasis on punitive measures and regulation serves as a disincentive for any private property owner to provide habitat for a listed species.

This legislation provides "no surprises" protections for land holders entering into habitat conservation plans with the government. In addition, this bill offers financial aid to those whose property has been restricted for conservation purposes. After all, species recovery is a national goal that benefits all Americans, and the cost of that effort should not fall solely on the shoulders of land holders.

Another important improvement in the ESA that this bill would provide is strengthening the science and data used in decision-making. This legislation puts the emphasis on objectively quantifiable and peer-reviewed science. Stronger science and ESA information will result in our limited Federal resources going to where they will do the most good, while reducing instances of drastic Federal actions being taken on poor or limited data. These are the things that we should all be able to agree upon.

H.R. 3824 is a solid bipartisan bill that will do much to bring this important law up to date. I again commend my colleagues for their hard work on this legislation, and I urge my colleagues to support both the rule, House Resolution 470, and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes, and I yield myself such time as may consume.

□ 1030

Mr. Speaker, today, this House stands at a very important crossroad. We are faced with a decision that will have severe consequences for years to come. On one side, we have this bill, the Threatened and Endangered Species Act, facing off on the other side against sound, science-based environmental policy.

The Republican leadership had a unique opportunity to provide us with a carefully constructed bill, one that strengthens current protections for endangered species while also finding the necessary balance between property rights and environmental concerns. But, instead, the bill that we have before us essentially guts the Endangered Species Act. It is as simple as that, and it certainly comes as no surprise.

In 1994, many Republicans were elected to this body promising to repeal the Endangered Species Act. There are dozens of news stories describing rallies and press conferences held by opponents of the Endangered Species Act. For many who now sit on the Committee on Resources, including the distinguished chairman, eliminating the Endangered Species Act was almost a singular campaign issue. Ten years after the Republicans took control of the House, they may be one step closer to repealing one of the most successful environmental laws in the history of the country.

Dismantling the Endangered Species Act has also been a top priority of the Bush administration. One of the sad realities of the Republican control of our government is their absolute contempt for the environment. Since they have taken control of the Congress, they have been rolling back environmental protections nonstop. This bill, unfortunately, falls into that tradition.

Make no mistake about it, Mr. Speaker, this bill is not about fixing the Endangered Species Act, it is about gutting it. In fact, just months ago, legislation was drafted and subsequently circulated by the Chair of the Committee on Resources that would have completely eliminated endangered species protections over the next 10 years. Fortunately, that bill failed to ever come before the committee for consideration.

Instead, here we are with their next best thing, or should I say the next worst thing, H.R. 3824. While this legislation does not go as far as to formally repeal the Endangered Species Act, it burdens the current system with a weakened mandate, limited funding, and minimal protections.

Now, let us be clear about what we are debating here today. The bill before us is a major first step toward complete elimination of the Endangered Species Act. For proof, we only have to look at the Endangered Species Act itself. Over 30 years ago, the Endangered Species Act was signed into law by President Richard Nixon, and in the years that followed, it became renowned as one of our Nation's most successful, effective, and vital conservation laws.

The Endangered Species Act alone has been credited with saving hundreds of species from extinction, most notably the Florida manatee, the California condor, and the bald eagle. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today.

The current Endangered Species Act did this by banning hazardous pesticides, like DDT; protecting natural habitats and instituting and enforcing a science-based decision-making process. But the benefits of the Endangered Species Act extend far beyond protections for any one or group of endangered plants or animals. In fact, there are clear economic benefits to this law.

Each year, hunting, fishing, and wildlife watching bring in over $100 billion in revenue. These industries alone employ 2.6 million people each year. For example, the reintroduction of the gray wolf into Yellowstone National Park 10 years ago increased revenues in adjacent local communities by $10 million annually. Imagine the impact the bill before us could have on local economies that depend on recreation and ecotourism for jobs and tax revenues. It could be devastating.

H.R. 3824 takes us back to the bad old days and completely repeals protections against the use of hazardous pesticides, and removes one of the most important parts of the Endangered Species Act, the protection of critical habitat. No alternative is provided, and in the end, the U.S. Fish and Wildlife Service is left in an unenforceable and nonbinding mandate.

Finally, Mr. Speaker, this bill creates an endless slush fund for private developers. This is one of the most shocking proposals I think I have seen. We do not pay power plants not to violate clean air laws, nor provide incentives for businesses to comply with the minimum wage standards. But under this bill, we would pay landowners to not break the law.

What is the cost of this sweetheart deal? According to the Congressional Budget Office, the full price tag of this deal could reach $2.7 billion over the next 5 years. That amounts to an additional $118 million in the first year alone.

So contrary to what the proponents of H.R. 3824 will say today, this is really a new entitlement for developers and other business interests. It allows direct spending that will not only be expensive, but will drain the resourses from other important environmental programs.

With the largest deficit in American history, with mounting costs from the recent hurricanes, and with the war still raging in Iraq and Afghanistan, is this the right time to open a slush fund that will funnel millions of dollars to developers and businesses, while undoubtedly resulting in the extinction of unique animals and habitats across this country?

I hope that my colleagues on both sides of the aisle will take a close look at this legislation and recognize it is not our only option.

Yes, the Endangered Species Act could benefit from revisions. Everybody will agree with that. But this bill is not the answer. And it is for this reason that I would urge my colleagues to support the Miller-Boehlert substitute, and I commend my colleagues for their hard bipartisan work.

Together, they have drafted a substitute that protects private landowners from unnecessary government regulation while also preserving current initiatives that have proven successful. On a smaller scale, a similar approach has been overwhelmingly successful in my home State of Massachusetts. In 1985, the piping plover, a small shore bird, was in steep decline. There were approximately 130 pairs remaining in the United States. But in just 14 years, they have made a dramatic comeback, and this was largely the result of coordinated efforts between conservationists and private land managers.

Mr. Speaker, I am not the only one who feels this way about H.R. 3824. Environmental and animal rights groups strongly oppose this bill, and so do many of the Nation's leading editorial pages: The New York Times, The Boston Globe, The Los Angeles Times, The Seattle Post Intelligencer, The Idaho Falls Post Register, to name a few, all oppose scrapping the Endangered Species Act. But I want to read from the hometown newspaper of the first President Bush and the gentleman from Texas (Mr. DELAY), The Houston Chronicle:

"After 32 years of success, the Endangered Species Act may need streamlining and adjustment to the realities of the continued development of rural areas of the country. It should not be destroyed and replaced with a law that would give all the advantages to business interests and allow the Secretary of the Interior to play God with the Nation's biodiversity."

The Miller-Boehlert amendment is proposed to modernize responsibly the Endangered Species Act. It is clear that times have changed since President Nixon signed this bill into law. But the challenge is to update the Endangered Species Act responsibly, and H.R. 3824 does not do that. A vote for this bill is a vote to repeal the Endangered Species Act. A vote for this bill is a vote to once again threaten national treasures like the bald eagle, the grey wolf, the Florida manatee, and the piping plover with extinction, and I would urge my colleagues to oppose this bill.

Mr. Speaker, I submit herewith for the RECORD the editorial I quoted from earlier:

AN ENDANGERED ACT

[From the Houston Chronicle, Aug. 12, 2005]

Since President Richard Nixon signed it in 1973, the Endangered Species Act has prevented the extinction of hundreds of species of American plants and animals, restoring many to sizable populations. In the process of designating 1,370 species eligible for protection, the act also has generated court battles by opponents who chafed at restrictions on commercial development of essential habitat.

Backed by land development and agricultural interests, as well as the Bush administration, several members of Congress are pushing legislation that would gut what some consider the most important environmental law in U.S. history. U.S. Rep. Richard Pombo, R-Calif., who chairs the House Resources Committee, has offered a draft bill that would replace the Endangered Species Act and cancel all agreements to protect threatened species.

Environmentalists charge that Pombo's bill eliminates any provision to help species recover from near extinction and effectively forbids the designation of critical habitats on virtually all federal land. The existing law requires that species be protected if they are endangered in a significant portion of their range. Pombo's draft narrows that requirement to species threatened throughout their range.

This month the U.S. Fish and Wildlife Service adopted similar reasoning when it proposed the removal of the pygmy owl in Arizona from the list of threatened species because healthy populations exist in Mexico. Under President Clinton the agency had proposed designation of 1.2 million acres in the state as critical habitat. Under the Pombo standard, animals such as the grizzly bear, bald eagle and timber wolf, with large populations in Alaska, would not have qualified for protection in other parts of the United States.

Polls consistently have found that Americans strongly support the act's protections for threatened wildlife. The Supreme Court recently refused to hear a challenge to enforcement of the act brought by developers in a dispute involving the endangered Kretschmarr Cave mold beetle in Texas.

Pombo's bill would allow the secretary of the interior to determine what scientific evidence is relevant in deciding if a species is endangered and give the secretary the power to overturn decisions by federal biologists and wildlife managers. It would saddle agencies with massive paperwork and create an appeals process that could be launched by any person affected by an agency decision or habitat conservation plan.

After 32 years of success, the Endangered Species Act may need streamlining and adjustment to the realities of the continued development of rural areas of the country. It should not be destroyed and replaced with a law that would give all the advantages to business interests and allow the secretary of the interior to play God with the nation's biodiversity.

When Congress returns from its summer recess, Texas representatives and Sens. Kay Bailey Hutchison and John Cornyn should insist that any changes to the Endangered Species Act be aimed at improving its effectiveness. Texans are justly proud of the vast array of wildlife that thrives in protected forests, mountains and marshes across the state. Let's make sure that natural treasure is preserved for the benefit of future generations.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. BISHOP), a valued member of the Committee on Rules.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased that both sides of the aisle have recognized the need of some modifications in the Endangered Species Act.

I would like to, Mr. Speaker, introduce you to a man by the name of John Gochnauer. John Gochnauer was the shortstop for the Cleveland Indians in 1902 and 1903. In 1902, playing full-time at shortstop for the Indians, he hit a paltry .185 and committed a whopping 48 errors in that position. Nonetheless, he came back the next year to play for them in 1903, where he once again, full-time player, hit .185, and this time set a major league record, which has yet to be broken, of committing 98 errors as shortstop, which means out of every five times, he touched the ball, he booted or threw it away once.

The Endangered Species Act has established 1,300 species for preservation and has been able to preserve 12 of them, giving that act a batting average of .010, if you round up. Whereas John Gochnauer hit .185, the Endangered Species Act is hitting .009, which means the Endangered Species Act is the most inept program we have in the Federal Government. The Endangered Species Act is the John Gochnauer of Federal programs.

The reason is quite simple. The Endangered Species Act creates more harm than it does good. Because if you are a good steward of the land, your practices which create and preserve habitat make you then open to government control and government regulations and produce an attitude of distrust and hatred.

The Endangered Species Act is not there to prevent development or to change land use. It actually penalizes the practices that help in the process, which is one of the reasons why this bill before us recognizes that, and especially in 13(d), a section that is in the bill but not in the substitute. It is there to provide grants to encourage cooperation to solve the problem, not to encourage people running away from the fear of the Federal Government's control.

I think that is probably one of the reasons why this bill is one of those unique bills to come before this body in which a majority of both parties in committee voted to support this particular bill. This bill is indeed one of modifications. It is a modification.

I want to introduce you to one other person. I will call him Jim, simply because I do not want to give the full name. Jim should today be a middle-aged person with a family, running a business, and living a healthy life in California. But in 1995, in California, there was a levee that was in need of repair. On that levee they found 43 bushes. The bushes were not part of the Endangered Species Act, but a beetle who could potentially live in those bushes was, even though no beetle was found in those 43 bushes that grew up on that levee after it was built. Nonetheless, a mitigation plan was mandated, even though the directors of the levee said that it would weaken the levee. Sure enough, 1 year later, that levee broke. Five hundred homes were destroyed and three lives were taken, including Jim's.

Mr. Speaker, the record of the Endangered Species Act over the decades here has been one of jobs lost, of property restricted, of homes destroyed and, sadly, of human lives lost. That is why it desperately needs modification. The bill before us does that type of modification.

Mr. McGOVERN. Mr. Speaker, I appreciate the comments of my colleague on the Committee on Rules, the gentleman from Utah, but he uses statistics very selectively.

Let me cite a more important statistic, and that is more than 1,800 species currently protected by the Act are still with us. Only nine have been declared extinct. That is an astonishing success rate of more than 99 percent. So this has been a successful Act.

I will also provide for the RECORD an article that appeared in the Salt Lake Tribune by Ben Long, who is a contributor to the Writers on the Range, a Service of High Country News, who has written a great article about how the Endangered Species Act succeeds with flying colors.

[From the Salt Lake Tribune, Sept. 24, 2005]

SPECIES ACT SUCCEEDS WITH FLYING COLORS

(By Ben Long)

The Endangered Species Act—which is being reviewed by Congress this week—is a soaring success. Just look up.

Look skyward for a while and you might spy an American bald eagle. Hundreds of them live in my home state of Montana. Across the United States, the bald eagle is a living, flying example of what works about the Endangered Species Act.

Rep. Richard Pombo, R-Calif., is spearheading the effort to change the landmark, 30-year old anti-extinction law. "The act isn't working to recover species now," Pombo said in a recent speech in Washington state. "At the same time it has caused a lot of conflicts."

Pombo evidently spends too much time inside his stuffy Washington office. If he got out in the forests and rivers more, he might know the story of the bald eagle.

The American symbol was listed as endangered in 1978. That year, surveys turned up only 12 bald eagle nests in all of Montana. Then, environmental laws such as the Endangered Species Act and a federal ban on the pesticide DDT kicked in. They protected the birds from chemical poisoning, destruction of habitat and needless, wasteful killing.

The results were gradual, but dramatic. By 2005, the number of bald eagle nests in Montana multiplied to 300 nests—25 times the number before the bird was included on the endangered species list.

That's just one state. Eagles were similarly successful in other states as well. In 1999, the bald eagle's status was upgraded from "endangered" to "threatened." If trends continue, they will soon be officially recovered and all America will celebrate:

Today, Montana is one of the top 10 eagle-producing states in the United States. In a recent winter, I watched more than 30 eagles clean up a carcass in a rancher's back pasture. Bald eagle congregations have been tourist attractions at places like Canyon Ferry and Libby dams, where they feed on fish in the winter.

No matter how many times I see a bald eagle on the wing, I am taken aback by its beauty—and thankful for the Endangered Species Act.

Conflicts over endangered species make headlines. Success happens in quiet obscurity. But over time, the successes are dramatic indeed.

Gray wolves are another Endangered Species Act success story in the northern Rockies. Wiped out by over-zealous predator control a century ago, wolves began trickling back into Montana in the 1980s. Now, there are hundreds of wolves in western Montana, and more in neighboring Idaho and Wyoming.

Because Montana stepped up to the plate and agreed to manage these animals for the future, the federal U.S. Fish and Wildlife Service recently handed wolf management over to the Montana Department of Fish, Wildlife and Parks. This is evidence of the flexibility built into the law.

While I don't like to see any animal needlessly wasted, I respect that ranchers need to protect their stock to make a living. The Endangered Species Act has allowed wildlife managers to kill problem wolves—even wipe out entire packs that made a habit of killing livestock.

We humans now dominate planet Earth. We share a responsibility not to push species into extinction. For 30 years, the Endangered Species Act has helped keep America the rich and beautiful land we love. My 17-month-old son loves watching finches and chickadees at the feeder outside our kitchen window. He will grow up also watching bald eagles, some perching on a snag close to our backyard.

What a change. When I was a kid, the only eagle I ever saw was on the back of a quarter.

Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, there are some seeds for potential bipartisan agreement. We do need to reauthorize, update, and improve Endangered Species Act. I think there is some fair consensus on that. But we also do not want to go to a time where we have the next passenger pigeon, for instance, where we extirpate a species forever. That is a long time. I wore my eagle tie today in the hope that we will continue to protect the bald eagle, the symbol of our country.

There are some serious problems with the bill that was unveiled last week, hastily pushed through the Committee on Resources, and further changed last evening by a manager's amendment which few have seen. Among them, and one that has to give pause to this body as we wrestle with how we are going to pay for Hurricane Katrina and other essential things here, and how much money is being borrowed in the name of future generations, is a section regarding compensation.

Now, I had hoped to offer an amendment to say that we would compensate people for foregoing the usual historic and accustomed use. If you grow timber and you cannot cut the trees, you get compensated for the trees. If you ranch and you cannot graze the cattle, you get paid the value of the area on which you cannot graze your cattle. If you grew a crop and there is some sort of restriction and you cannot grow that crop, then you would be compensated.

But the bill goes so far beyond that. It is extraordinary. It goes to speculative, proposed, possible, potential use.

This is going to create a wonderful new market for speculators. If people across America thought that this was going to become law as written, which it will not, it will be changed dramatically after the Senate acts, if they do act, they would be out right now purchasing, on a speculative basis, or getting options on property that in any way was restricted by the Endangered Species Act. Because they could say, well, it is true that was a tree farm, but actually I was going to build a destination resort on that tree farm. And my destination resort would have provided me with a profit of $1 million a year for the next 30 years. Please pay me $30 million. And the government has 180 days to come up with that money.

Now, there is a low-ball estimate for this new entitlement, and who knows how they came up with it, but they are saying, oh, no, it will only be $5 million to $10 million a year. Come on, only $5 million to $10 million a year? This is going to be hundreds of millions, if not billions a year of a new entitlement. And, remember, the compensation is in an amount no less than the fair market value.

☐ 1045

So taxpayers are going to be obligated to borrow money for speculative, possible potential future profits, and maybe even a little on top of that because the Secretary cannot compensate less than the fair market value. It does not say that the Secretary is restricted to the fair market value; if the Secretary feels generous, borrow more money and pay more than the fair market value. It is binding only on the Secretary as I understand in the new manager's amendment.

So the taxpayers are on the hook; but if the property owner says my speculative value was $2 million profit a year for the next 30 years, then that person could go to court. But the government could not go to court to say wait a minute, this is crazy, you really were not going to make $2 million a year on a destination resort on that tree farm. We will compensate you for the loss of harvest of the trees, but we are not going to pay for that speculative value.

I cannot believe that any Member of this House is going to open the doors to the Treasury so wide for potential speculation. That is not compensating landowners for usual, historic, and customary use. If that amendment had been allowed, I think many more Members could support this bill; but that amendment was not allowed here in the House of Representatives today.

There will be only one substitute and a manager's amendment, no other amendments are allowed: This is a perfect bill. After all, it was just introduced last week. It had no hearings. It was marked up one day in committee, and now it has been changed further by a manager's amendment last night which no one has seen. It is a perfect bill, and no amendment should be allowed here on the floor, but we are going to put the taxpayers on the hook for billions of dollars.

Mr. HASTINGS of Washington. Mr. Speaker, I would advise the gentleman from Oregon that his amendment during the markup in the Rules Committee was not offered by either side to be voted on.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science.

Mr. BOEHLERT. Mr. Speaker, to my distinguished colleague from Utah for whom I have great respect, I point out that the infield for the Cleveland Indians has improved significantly since his reference. In fact, at shortstop they have a very able player, and they are hot in the middle of a pennant race. That assurance to the gentleman is very important, as is this assurance: both bills offer landowners technical assistance, but it is only the bipartisan substitute that allows the Secretary to give priority to smaller landowners who cannot afford expensive consultants.

Having said that, I rise in strong support of the rule and in strong opposition to the base bill which we hope with a substitute, the bipartisan substitute, to improve substantially and make it a product worthy of the support of the entire House.

But, frankly, we should not be having this debate today. The current version of the bill was not available until Monday afternoon. Everyone concerned with endangered species both inside and outside of government has been scrambling to understand what is H.R. 3824. The Congressional Research Service, a bunch of outside groups that we look to for some advice and counseling, they are scrambling. There has not been enough time for Members to fully digest the bill or work out any differences. I do not think that it should go forward in this manner. There is no reason for this rush except to limit discussion and maybe confuse us as we try to understand the full implications.

The other body is not exactly about to rush to judgment with a measure on the floor. We should not be dealing with the most fundamental rewrite of an environmental statute in 15 years in this manner. There are so many areas of agreement that we have, let us find common ground. I urge opposition to the base bill and strong support for the bipartisan substitute amendment.

Mr. McGOVERN. Mr. Speaker, just for the record, I want to make it clear that the gentleman from Oregon did offer his amendment before the Committee on Rules. It was amendment No. 5 last night. Again, we believe his amendment should have been made in order.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, this bill represents a new low. Wasteful drilling in the Arctic and dismantling the Clean Air Act are bad enough, but now the Republican majority wants to weaken the Endangered Species Act, weaken it by handing out subsidies to oil and gas companies and land speculators for not killing endangered species, meaning taxpayers will be giving money to these land developers for simply following the law or for taking a risk by making a big investment in land so they can sell it at a higher price.

What next? Will taxpayers be asked to foot the bill to pay companies to follow other laws of the land?

Mr. Speaker, I know we can do better. Protecting our endangered species is never easy, but if we do not do it right, if we do not depend on sound science, if instead we yield to greed and politics, there is no second chance. I urge my colleagues to vote against the bill and protect the environment for our children and their children and vote for the bipartisan substitute.

Mr. HASTINGS of Washington. Mr. Speaker, for clarification, I acknowledge that the gentleman from Oregon sent his amendment to the Committee on Rules. My point was during the markup of the rule, there was no attempt on the other side to amend the rule to make his amendment in order.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST), a member of the Committee on Resources.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am in strong support of this rule. I also want to compliment the chairman of the Committee on Resources. He has been in Congress for seven terms. He has worked very hard on the things that he believes in. He has been relentlessly patient to deal with a number of issues that have affected his district and those in the western areas of the United States, and he has presented to us today a bill that will reform, refine, and reauthorize the Endangered Species Act.

Now, I do not agree with everything in the chairman's bill or his approach, but I want to state here this morning that I respect his courage and his relentless patience to take years to bring something to the floor that he believes in.

The substitute which I support, and I hope my colleagues in this body will support, is not a whole lot different than the base bill. We went through the base bill hour after hour, members and staff; and we changed a few words here and there that we feel will present the approach to protecting endangered species in the appropriate way. Most people who are concerned about the Endangered Species Act either are concerned because, like the chairman here from the Committee on Rules stated this morning, if you see a dam and it creates deep water and you can get your barges down with your grain, you appreciate the fact that the dam is there. So you have some concern about that.

Or if you are downstream and you want more coho salmon and you believe the dam is degrading the habitat for coho salmon or other species of salmon, you are less likely to appreciate the dam; but both sides look at the Endangered Species Act as either reducing their economic viability or reducing species viability. I think we need to do a number of things that we have done in the substitute. We have taken the words out of the base bill. We create a scientifically acceptable procedure, look on page 2 of the substitute, methods, practices and procedures that are acceptable science.

We have made a requirement for making a determination for what species are listed. Look at page 4 of the substitute, five specific criteria before you can list that species. We are reviewing all species every 5 years to see if the change of status is there, page 5. We repeal the critical habitat requirement in the base bill and replace it with a slightly different recovery plan.

The recovery plan has a number of significant and important elements: a time frame for that recovery plan; objective measurable criteria; a description of where the site should be, and the emphasis is on Federal land and not private land; and an estimate of the cost and time it will take to recover that species. Look on page 20.

There are a number of changes that we have made here to the gentleman from California (Mr. POMBO) which I think improves on the bill. Support the substitute.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I rise in strong opposition to both the rule and the bill. No matter how the proponents of the bill classify putting soft words and talking about it being reasonable or a compromise, it does not make it so. This is less about reform of the ESA and protecting species, and more about making it easier for the exploitation of the environment.

We have been in a state of stalemate for a number of years because the goal has not been reasonable refinement. There are things we could do right now to make the Endangered Species Act more efficient, more effective, for instance, adequately funding the enforcement and conservation mechanisms. But the goal was not modest reform and improvement; it was a radical adjustment.

The batting average analogy of my friend from Utah simply misses the point. It is not about just the species that have been restored. It is the protection that has been extended across America to make it possible that we are not losing environmental ground, and given the environmental circumstances, that is no easy task.

I have literally watched it work in my own backyard. I have an urban creek that flows 26 miles through the heart of my congressional district. The salmon listing under the Endangered Species Act prompted action by four local cities and two counties. We were able to come forward with an innovative streamlining agreement to meet the standards necessary to comply with the Endangered Species Act and move quickly through the permitting process. We have been able to make progress. I have seen it work when people are committed to doing so.

There are many troubling aspects of this legislation. Putting in the hands, we have seen in this administration, of political appointees really perverting the decisionmaking in the name of science, these are not people that I think we ought to turn this over to willy-nilly.

But the most troubling part of the legislation is found in the new entitlement program contained in section 14. It goes far beyond paying people to obey the law, far beyond compensating for loss of customary use. It actually would create a perverse incentive for developers to propose the most environmentally destructive projects possible in order to get higher payment from the government. If you think we have litigation under the Endangered Species Act now, wait until you see people coming forward right and left with bizarre proposals for development seeking compensation for things that were never customary uses.

It is not only an unfunded mandate. It is providing a form of environmental blackmail and promotes endless legal battles. I urge my colleagues to reject the rule and this radical rollback of the Endangered Species Act.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I rise today in support of the rule and in strong support of the underlying bill. The Endangered Species Act is a law with good intentions, but it has spun wildly out of control with tragic consequences for average Americans.

The northern California district I represent has been ground zero for some of the worst examples of the human impacts of this law gone awry. In 2001, a community of family farmers in the Klamath Basin of northern California and southern Oregon had their entire water supply shut off to prevent a perceived threat to two species of listed fish.

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Families who for generations had worked the soil to produce food for our Nation were literally left high and dry. To add insult to injury, it was later determined that that decision was not scientifically justified.

Several years ago a levee protecting one of the communities I represent had deteriorated, and the Army Corps of Engineers predicted that in the event of high water, there would be a significant threat to human life. For nearly 7 years, local officials tried to repair that levee, Mr. Speaker, but those repairs were stymied because of the Endangered Species Act. Those delays had tragic consequences. The levee did break, just as the Corps predicted. Tragically, three people drowned.

Mr. Speaker, the impact of this inflexible law have been real and devastating. The reforms proposed by this common sense legislation are long overdue.

I commend the gentleman from California (Mr. POMBO) on his good work and urge my colleagues to support it.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I would like to address my comments to the Members who do have serious concerns about the Endangered Species Act who have had frustrations from their citizens about its application, but still believe that we ought to have a workable Act, and I want to suggest that voting for this bipartisan substitute and "no" on the Pombo bill will really satisfy their needs for five reasons.

Reason number one, the substitute bill will make a significant change to reduce the amount of frustration that landowners feel by moving the listing process of habitat from the time of listing to a time of the development of the recovery plan. And the reason this will alleviate much frustration by landowners is it will allow these services to make a more acute and scientifically sound judgment where this land needs to be listed for habitat and will relieve significant frustration of landowners.

Second, the substitute will make sure that we try to use public land first when we try to protect habitat to take care of these species.

Third, and importantly, it will have a conservation grant program to allow the use of federal funds to help private landowners who will agree to use their lands to help in the preservation of these species.

These are three very significant changes to the Environmental Protection Act which will help property owners avoid some of the frustration that now exist while still moving forward with the purposes of this Act.

But we then need to vote "no" on the underlying bill for these two reasons: First, the underlying bill is a massive entitlement program that could be subject to massive fraud because the language is so loose and so speculative, we would be expecting the American taxpayers to shell out literally millions of dollars on highly speculative developments. When a developer comes in there, buys up land that is used for a wheat field and says he wants to put in a strip club or a casino, American taxpayers, under the underlying bill, would now have to pay entitlement funds where there is no money in this bill appropriated to do it, or even especially authorized for these highly speculative enterprises. Why should the taxpayers have to pay for this flim-flam type of speculation?

And, by the way, nowhere in American law is any taxpayer required in any jurisdiction in this country to do that right now. This is a radical change which exposes the taxpayers to millions of dollars of loss that is not required by the U.S. Constitution and makes no common sense.

And second and lastly, very importantly, the underlying bill provides no enforceable protection for the habitat of these species. Sure, it says that the agencies have to draw these maps, but what is a map if they do not have to follow the map? Five reasons. Members can vote for this with honor, go home and tell their constituents this they have relieved their frustration and protected these species and protected the taxpayers. Respect for the taxpayers and respect for God's creatures at the same time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Speaker, I would first like to congratulate the gentleman from California for the great work he has done in getting the Endangered Species Act reform to the floor. This is a very controversial issue, and he and the committee should be commended for working to address some of the real problems in the current law.

There are a couple of provisions for which I have been a strong proponent, and I am pleased that the chairman has agreed to include them in the manager's amendment.

My first amendment is a commonsense one aimed at empowering electricity consumers with the "right to know" what they are paying for. This amendment simply seeks to provide "sunshine" and transparency to the way our Federal Government does business.

Specifically, the provision requires that each of the Power Marketing Administrations, the Bonneville Power Administration, Western Area Power Administration, Southwestern Power Administration, and the Southeastern Power Administration, to include costs related to the Endangered Species Act in their customers' monthly electricity billings.

In the Pacific Northwest alone, the Bonneville Power Administration accounts for 46 percent of the region's electricity sales and 75 percent of the transmission lines.

Bonneville Power's rates have risen 46 percent since 2001, due in main part to the Endangered Species Act's impact on the Columbia/Snake hydropower system. The Agency spends an average of $500 million per year on ESA compliance. To whom are these costs passed on to? Of course, the electricity ratepayers.

The point of all this, Mr. Speaker, is that few Pacific Northwest consumers have a notion of the amount of money of their monthly bills that goes directly towards the Endangered Species Act compliance, nor do they or other end-user consumers of the other Power Marketing Administrations. It is estimated that as much as one third of the power bill from the BPA is devoted to salmon recovery, but no one knows for sure.

I get a bill once a month from the power company that includes all sorts of information about tips on conserving energy and warnings on how to keep me from electrocuting myself, but nowhere does it detail what I am paying for. How much is for generating power, and how much is for transmission costs and how much is for the ESA?

I would like to thank the chairman for including language in the bill that consolidates jurisdiction of the Endangered Species Act management of species under one agency. During my first term in Congress, I introduced legislation that did just that, and I am pleased to see the concept is finally moving forward.

NOAA Fisheries originally was part of the Department of Interior until 1970, when NOAA was created under the Department of Commerce to address federal management of commercial and tribal fisheries. This was prior to the enactment of the Endangered Species Act of 1973. Now the Agency's mission of managing commercial and tribal harvests of salmon and recovering endangered species are in conflict.

NOAA Fisheries and the Fish and Wildlife Service have differing processes for handling and permitting thousands of activities that must undergo federal conciliation under the ESA and competing science on how best to manage the species. It would be better for the species and for cost-effective government management to have one process that works.

Consolidation of agencies managing the ESA will eliminate duplication and allow scarce Federal resources to be focused on achieving the true objective of the Endangered Species Act, the recovery of species through science-based management.

I encourage Members to support the rule, the manger's amendment, and the bill and oppose the Miller-Boehlert substitute that lacks all the property rights protection that the Committee on Resources has worked so hard to restore. I thank the chairman for his leadership on this issue, and I look forward to the passage of this bill.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I would like to thank the gentleman from Massachusetts for yielding me this time.

I am put in the unenviable position today, as a lifelong Democrat, to have to stand and oppose the Democratic position on this rule.

As I have sat here and listened to the debate on the rule, I simply do not feel that some of the statements by my colleagues are accurately reflecting what is in the bill as it currently is written. It is simply untrue that this bill allows skyscrapers to be built on the prairie to endanger species. We are not going to be using taxpayer dollars to promote strip clubs or casinos, as one of my colleagues said. It is simply not true.

The reality is that under the Endangered Species Act, most of the provisions of the Act, as it currently stands, will be in place. What we are talking about is compensating farmers if their land is taken away, and if they want to continue to farm and under the Act we have to protect a species, the farmer will be compensated for the right that has been taken away. That is a longstanding right of this country, to be compensated when government takes one's property.

We had a vote recently on this floor of over 400 Members who said exactly that in one of the eminent domain cases that was recently challenged, when the Supreme Court took someone's property.

We have a longstanding tradition here of protecting personal property rights but not when it comes to the Endangered Species Act. In my State, the Fish and Wildlife Service said that 4.7 million acres of California had to be set-aside for the red-legged frog. 1.7 million acres for vernal pools and fairy shrimp. This is not a new entitlement program. This is compensating landowners when their property is taken away.

Those in support of the substitute have been distributing a handout, and in the substitute it says virtually everything that the gentleman from California (Mr. POMBO) and I and others have written and coordinated on. In fact, about 90 percent of this bill was written by Democratic staff. I will say that, frankly, that does not happen in this House very often where there is a bipartisan attempt to come to an agreement.

There is 10 percent disagreement on this bill, and virtually what that 10 percent disagreement is, is whether or not people are going to be compensated when their land is taken and the fact that there has been a new focus, according to some of my colleagues, of putting the onus of this bill mainly on to public lands. Well, the reality is most of the endangered species, in fact, 90 percent of the endangered species, are on private lands. So that provision that is in the substitute simply will not work.

I urge my colleagues to reject the challenge to the rule, to support the rule, and to support the underlying bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I thank him for his very important work on this vital piece of legislation.

I rise to support the rule and the underlying legislation and to begin by praising the gentleman from California (Mr. POMBO), the very distinguished chairman, for all of the effort that he has put in to assembling a bipartisan compromise on this.

I will say I am somewhat disturbed with what I just heard from the gentleman from California (Mr. CARDOZA) that 90 percent of this legislation was, in fact, crafted by Democratic staff. But I will say that if it embraces the core Republican goals that the gentleman from California (Mr. POMBO) is pursuing, I still will be supportive of it. But I think that that is demonstration of the fact that we are working in a bipartisan way and the gentleman from California (Mr. POMBO) has demonstrated his willingness to do just that.

When I think about the long struggle which the gentleman from California (Mr. POMBO) has been involved in for a decade to try to bring about reform of the Endangered Species Act, I think back to one of the challenges that we have in Southern California, and the gentleman from California (Mr. CALVERT), who has worked long and hard on this, represents part of Riverside County, and I recounted up in the Committee on Rules yesterday the fact that dealing with the Stephens' kangaroo rat, an endangered species, we had conflicting directives that came from government.

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The fire department in Riverside County said you should clear the brush away from your homes to ensure that you do not face the threat of fire. The County of Riverside said to comply with the Endangered Species Act we would be jeopardizing the Stephens' kangaroo rat's life. And, by the way, the Stephens' kangaroo rat had been found in great numbers later in Texas, but we would jeopardize that if you did clear the brush away from your home.

What happened? To their benefit, many people who followed the directive of the fire department, their homes were saved; and, of course, those who did not tragically lost their homes because of fire.

We right now in Southern California are dealing with tremendous fire problems in that area; and, frankly, I do believe that the kind of reform that is going to be assembled in a bipartisan way on the Endangered Species Act will go a long way toward preserving property and to make sure that we diminish the kind of threat that does exist out there.

Recovery efforts, coupled with compensation for private property, that is a big part of what this effort is about. I congratulate, again, the gentleman from California (Mr. POMBO); and I know the gentleman from California (Mr. CARDOZA) has been working very hard on this, obviously, because he has had a lot of impact, as he just outlined.

Mr. Speaker, I think that we can come with, I hope, a very, very strong vote from both Democrats and Republicans for both the rule and the underlying legislation. I thank again my friend for his efforts on this.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time, and I also thank him for his excellent presentation on the rule.

Mr. Speaker, I rise in opposition to the rule. Once again the folks running this place have made a mockery of the legislative process. This bill was put on a rocket docket so that no one knows what is in it. Look at how we have proceeded here.

First of all, last week, just a short 10 days ago, we first saw the bill. Some of the members of the committee did not even see it until Tuesday. Unveiled on Monday, and did not see it until Tuesday. Democrats and Republicans not knowing what is in the bill. On Wednesday, we had hearings, 2 short days later. We only had four witnesses and several hours of hearings; and the crucial witness in this case, the administration witness, would not even take a position on the bill.

Here is the agency that for 30 years has administered the bill, with the scientists, with the expertise, and the administration witness walks in and says, We do not know. We do not have an idea. Just go ahead.

We could have taken the time, I say to the gentleman from California (Chairman POMBO), to travel the country, to reach out and find out what was working with this law and what was not working and crafted a bipartisan bill. But that is not what we have here today.

After we had that hearing with four witnesses, the very next day, rather than waiting a day or two and seeing how the hearing went and what the reaction was, we marked up the bill and reported it out of committee. So at the end of the week we thought we had one bill. Well, last night in the Committee on Rules, there were major changes to the bill again in the manager's amendment.

So what the gentleman from California just said about the Democrats writing the bill, sure, we contributed some of the language, but the manager's amendment makes significant changes in this bill; and the things that we are really fighting over, we may have contributed 90 percent, but the things we are fighting over in the 10 percent are huge things at stake: this huge giveaway to big developers, major changes in the environmental laws. Those were written by others in the bill.

So this bill is an abomination. It has made mockery of the legislative process. I urge my colleagues to defeat the rule and start once again, start once again with a process that respects this institution.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, the author of this bill, and somebody who has worked extremely hard on this for at least 12 years.

Mr. POMBO. Mr. Speaker, I thank the gentleman for yielding me time.

First of all, I want to thank the major coauthor of the bill, the gentleman from California (Mr. CARDOZA), for working with me in a bipartisan way over the last several months to craft a bipartisan solution to the problems that we have got with the Endangered Species Act.

I also would like to thank the gentleman from West Virginia (Mr. RAHALL), the ranking member on the committee, for all of the work that he put in, and that his staff put in, particularly Jim Zoia, who did yeoman's work in putting this bill together. Lori Sonken, Tod Willens, and Rob Gordon worked tirelessly to try to compromise and work out a bill that we could all be proud of, along with Hank Savage from the Office of Legislative Counsel.

We have come a long way, a long way, from where we were. This debate over endangered species has been raging across this country for years, and our effort was to throw away everything that we had tried to do in the past and put it aside and try to start again and say how do we sit down as members of the Committee on Resources and come to a solution that we can all agree with.

That is what we attempted to do. We knew that the Endangered Species Act had problems. We knew that there were things that had to be fixed, that just were not working in current law.

It is kind of ironic this morning to hear people come to the floor and talk about how radical the bill is and how quickly we moved on it. We have held over 50 hearings on the Endangered Species Act. We traveled around the country, going to places where people actually have to live with the implementation of the law and listened to them and what they told us. And we came back and we started to craft a bill.

I did not push through the bill that I wanted. I did not allow the gentleman from California (Mr. CARDOZA) or the gentleman from West Virginia (Mr. RAHALL) to push through the bill they wanted. We sat down and worked it out.

It is amazing to hear all of this stuff that is supposedly in the bill. From what I see, all of these folks are going to vote "no" on the bill and they are going to vote "no" on the substitute, because the substitute claims to be the same thing. It claims to deal with all the same issues, and in fact they use the exact same language. "Critical habitat." Both bills use identical language. "Provide certainty for landowners." Both bills use identical language. "Provide incentive for landowners." Both bills use identical language. And on and on and on.

What is the major difference? What is the major difference? In our bill, we protect the small property owners. Yes, we do. And we should. If the Federal Government steps in and takes somebody's land for a highway, we all pay for it. I do not see people running down here screaming it is an entitlement. I do not see people running down here screaming that it is a budget buster if we pay people if we take that property for a highway.

If we take it for a wildlife refuge to protect a wildlife refuge, we pay them for it, and nobody is down here screaming about it saying it is an entitlement. Nobody is down here screaming, saying it is unfair to pay somebody if you take their property for a wildlife refuge.

If you take their land for a national park, we pay them for it, and nobody is saying that is an entitlement. Nobody is saying that we are busting the budget.

But when we get to endangered species, we tell a farmer, you cannot farm part of your land, 10 percent, 20 percent, 50 percent, whatever it is, you cannot farm that part of your land, now, all of a sudden, oh, we cannot do that.

Well, we have got the responsibility to do it. If you take away somebody's private property, if you take away the use of their private property, you have to pay them for it. There is nothing wrong with that. Why you guys are so wed to the old debates and the old rhetoric, I have no idea.

We sat down as a committee and we worked out this bill. Half the Democrats that voted in the committee voted for it. It was a bill that was worked out. It is not everything I wanted; it is not everything the gentleman from California (Mr. CARDOZA) wanted. It was a compromise, a reasonable way to protect endangered species, to protect the habitat in which they need to recover; and if that does involve private property, yes, we pay them for it. And, dang it, we should.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, the gentleman from California tries to make the substitute and the bill that is on the floor sound the same; but there are major differences, and we should recognize that. First of all, let us talk about some of those differences.

The bill before us is a huge giveaway to big developers. It creates a program where the burden is on the government to disprove. It basically does not put a dollar amount in the bill, because they are afraid of the dollar amount because it is an entitlement program for landowners that want to gut the Endangered Species Act. But the estimates are 10, 20, 30, 40 billion. Who knows how much this is going to cost.

Our bill, the substitute, does not do that. It is modest. It says we should work with private landowners. It sets up a program so that the government goes out and works with those landowners to accomplish the goals of the Endangered Species Act.

The majority bill, and this is another major difference, changes the Endangered Species Act in a radical, radical way, especially with the adoption of the manager's amendment. The substitute reforms the Endangered Species Act, while protecting the core provisions of that magnificent environmental law that has been on the books for 30 years.

At the end of this, we have not respected this institution by the way we brought the bill before the floor, the way we have worked in committee to put it on a rocket docket and speed it through, speed it through this process. We need to slow down. We need to take a look at this and work in a bipartisan way.

I urge my colleagues to defeat the rule.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would again urge my colleagues to, first of all, vote "no" on the rule, and I would also urge them to vote "no" on the underlying bill. I appreciate the work that the gentleman from California (Chairman POMBO) and others have put into this bill, but the bottom line is that the underlying bill eliminates habitat protections; it abandons the commitment to recovery of endangered species; it repeals protection against hazardous pesticides; it politicizes scientific decision-making; it eliminates the vital check-and-balance of consultation; it requires the Fish and Wildlife Service to allow unfettered habitat destruction; it would require taxpayers to pay developers, oil and gas companies and other industries, for complying with the law; and it is an entitlement.

I know the chairman has kind of objected to that characterization, but that is not my characterization. It is what CBO has concluded. It is what our colleague from Illinois (Mr. KIRK) who testified yesterday on behalf of the Republican Study Committee and the Republican Tuesday Group said last night in the Committee on Rules, that this bill creates an expensive new Federal entitlement program.

Mr. Speaker, the Endangered Species Act has done a great deal to protect endangered species. Everybody agrees that there needs to be adjustments. Everybody agrees that we can come together and make those necessary adjustments. But what we object to is that the underlying bill guts the Endangered Species Act. It is a bad bill; it is bad policy. I would urge my colleagues to vote "no" on the rule and the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, there has been a lot of rhetoric thus far on the rule, and I suspect there will be a lot of rhetoric when we debate the bill; but there is one underlying thread here that needs to be mentioned. It was mentioned by the gentleman from Utah (Mr. BISHOP), the gentleman from California (Mr. CARDOZA), and the gentleman from Maryland (Mr. GILCHREST).

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That is that the Endangered Species Act needs to be updated.

I came here 10 years ago, and this is one of the big issues that was very important to my constituency when I first ran. There was talk then about amending the Endangered Species Act, but there was no agreement at all. We did get a bill out of committee. Unfortunately, it did not go any further.

But now we hear today that there is 90 percent agreement on the need to change the Endangered Species Act, but there is violent 10 percent disagreement on what those means should be. I contend that is huge, huge movement from where we have gone in 10 years. I do not know what the reasons are, but I expect the reasons are the inflammation of the existing Act.

So with that, Mr. Speaker, I urge support of the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TERRY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.J. RES. 68, CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 469 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 469

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 68) making continuing appropriations for the fiscal year 2006, and for other purposes. The joint resolution shall be considered as read. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

SEC. 2. It shall be in order at any time on the legislative day of Thursday, October 6, 2005, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this resolution.

SEC. 3. A motion to proceed pursuant to section 2908 of the Defense Base Closure and Realignment Act of 1990 shall be in order only if offered by the Majority Leader or his designee.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 469 is a rule that provides for consideration of House Joint Resolution 68, making continuing appropriations for the fiscal year 2006. This rule provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution. The rule provides one motion to recommit the joint resolution.

Additionally, the resolution provides that suspensions will be in order at any time on the legislative day of Thursday, October 6, 2005, and the Speaker or his designee shall consult the Minority Leader or her designee on any suspension considered under the rule.

Lastly, the rule provides that a motion to proceed pursuant to section 2908 of the Defense Base Closure and Realignment Act of 1990 shall be in order only if offered by the majority leader or his designee.

Mr. Speaker, I want to commend the gentleman from California (Chairman LEWIS) and the entire House Committee on Appropriations on both sides of the aisle for sticking to the timetable they laid out at the start of this legislative session. In an impressive display of bipartisanship and just sheer hard work, the House passed all 11 appropriations bills prior to the July 4 District Work Period. Since July, the Senate has returned to us only the interior and legislative branch appropriations bills, which have each been signed into law by the President. Additionally, the Senate has passed six of its remaining 10 appropriations bills. These six are awaiting closure in conference. We are now just anticipating action from the Senate on those last four appropriations bills so we can move forward, finish the appropriations process, and avoid a cumbersome omnibus funding bill.

Unfortunately, the appropriations process within the two bodies has not been completed prior to the start of the new fiscal year which, of course, begins this October 1. We must institute a continuing resolution in order to allow the government to function through November 18, 2005, while we complete consideration of the remaining appropriations bills, waiting on the Senate to complete their final actions, and for the conference committees to do their work. This rule allows consideration of the imperative funding measure.

I am most impressed with the work of the Committee on Appropriations on this continuing resolution. Throughout the appropriations process, the committee has shown its commitment to the budget resolution and to fiscal responsibility. The committee has funded programs and activities at the lowest level of the House-passed level, the Senate-passed level, or the fiscal year 2005 current rate. For agencies for which the Senate has not passed a bill by the start of a new fiscal year, the funding rate is at the lower of the House-passed level, or the fiscal year 2005 current rate.

The legislation includes language prohibiting agencies from initiating or resuming programs or procurements not funded in the fiscal year 2005, and prohibits agencies from awarding new grants and certain other forms of assistance during the period of the CR, which, of course, is through November 18 of this year.

I again congratulate the gentleman from California (Chairman LEWIS) and the gentleman from Wisconsin (Ranking Member OBEY) and the entire committee for their hard work this year. I urge Members to support this rule and the underlying CR so that we can finish the appropriations process, move down the road to responsible funding for the needs of this Nation, and avoid a cumbersome omnibus funding bill.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, this rule will allow us to debate H.J. Res. 68, a continuing resolution that will fund the Federal Government past September 30. While this is an essential procedural measure, it also represents an opportunity. Between now and November 18, when the resolution expires, Congress has a responsibility to step back and consider its priorities. The facts on the ground have changed, and our agenda here in the House must change accordingly.

I am confident that we will do right by those affected by the hurricanes, but we still need to ask ourselves where our financial and legislative duties are in response to Katrina construction, continued funding for Iraq and Afghanistan, and increasing fiscal deficit. Are we looking at the big picture? Are our priorities in line with our financial obligations? We know that because of Katrina, the victims, those displaced from their homes, are more likely to rely on medicaid. With that known expense, can we honestly reduce the funding for this responsibility and still extend tax cuts?

Mr. Speaker, we need to take care of our fellow citizens, but what we do now should not mean we pass on an unsustainable debt to future generations, especially when we know there is a way we can offset these costs. For the costs of this year's installments of the tax cuts enacted in 2001 and 2003, $225 billion this year alone, we could pay for the gulf States' recovery from Katrina. We know that we need some of these cuts, such as AMT relief, but let us at least be reasonable and put them on the table.

We must have an honest discussion about our fiscal situation. I urge my colleagues to step back and take a hard look at how we will move forward, not just this fall, but next year and the decades after that.

Mr. Speaker, I am sure that all of my colleagues have heard me talk about my granddaughter Anna, and we all have someone like her, someone we see as our future, someone that means the world to us. I believe that she will grow up to a better future. But, to do right by them, we must all step up to the plate, not as Members of one party or another, but as leaders and statesmen willing to accept the reality of our fiscal situation and make the difficult decisions.

Our priorities in the coming months should not waver from the ultimate goal.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentlewoman for her comments. I certainly agree that this debate about the budget and the appropriations process is always a debate about our future, and it is a debate about priorities. Clearly, we have had a shift in priorities since that budget resolution passed. As a State that was hit by four hurricanes last year and had the beginnings of Katrina come across our State this year, our hearts go out to our brothers and sisters on the gulf coast, and we recognize that this government has a commitment to help lift up those citizens on the gulf coast and, where appropriate, we have a Federal responsibility in the rebuilding and reconstruction process in Louisiana and Mississippi and Alabama, and a lot of other places.

So I think that that reinforces the need for us to move ahead with this continuing resolution and allow our appropriations process to work, instead of positioning ourselves to a situation where we end up with an omnibus bill that I do not think either one of us thinks is the appropriate way to go.

There is an opportunity here for us to reprioritize, using regular order, using the strength and talent that sits on our committees, and bringing about a measured approach to doing that. It is going to require offsets. The numbers that are coming out of there fluctuate wildly, and it is important that we have a handle on what those needs truly are. It is important that we recognize that had we not taken some of the steps that we have taken in the past, we would not have eliminated $100 billion off of the deficit in the last year. We would not have been in a position where revenues to the government would have actually been higher than they were as a result of the lower taxes and the growth in the economy that has come about as a result of that.

But that is a debate for another day. This is a debate about the continuing resolution and the need for us to make sure that the government does not shut down.

The House has done its work. I think we can all be very proud of our appropriators finishing their schedule before July 4, and now we are in a position, unfortunately, of being in a bit of a holding pattern, waiting on the Senate and our conference committees to do their work. But it is important for us to pass this rule and allow the CR to move ahead.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentlewoman from California for yielding me this time. Mr. Speaker, I cannot support a closed rule, although I do understand the need for prompt action on the continuing resolution. As my good friend from Florida has pointed out, the Senate's slowness in acting on appropriations bills means that the continuing resolution that we are discussing here today is necessary.

However, as we prepare to provide the funds to keep the government running, I think we need to consider the larger budgetary picture. It is essential for us to respond to the devastation brought by hurricanes Katrina and Rita but, as we do, we should consider and respond to the fiscal and economic risks we have been running.

I think there is an urgent need for both the administration and the Congress to face hard reality and not continue with budget policies based on laws that defy the laws of fiscal gravity. For too long, there has been a dearth of both presidential leadership and accountability in this area.

That is why later today, along with the gentleman from Ohio (Mr. CHABOT), the gentleman from Arizona (Mr. FLAKE), and perhaps the gentleman from Florida (Mr. PUTNAM), I will introduce a bill that I think could promote both. The bill is called the Stimulating Leadership in Cutting Expenditures Act, or the SLICE Act for short. It would do two things: First, it would authorize the President to identify specific items in Federal spending that he thinks should be cut; and second, require Congress to vote on each of those items.

The bill would apply both to appropriations and to spending items in the recently signed transportation bill. It would set deadlines for the President to propose cuts and for Congress to act on them.

Under the bill, Congress would have to vote on each proposed cut. We could not ignore those proposals, as can be done under current law, and if a majority approved the cut, it would take effect.

The President has said we should pay for responding to Katrina and Rita through spending cuts alone, but the President's own party and the majority in this House are divided on what to cut.

We may disagree on budget and tax priorities, Mr. Speaker, but one thing is certain. It is past time for a serious debate about specific proposals for ways to dig ourselves out of the deficit hole. This bill is intended to jump-start that debate.

I hope all of our colleagues will join us in this crucial effort to restore fiscal sanity to our Nation's Capital.

Mr. Speaker, Hurricanes Katrina and Rita not only brought death and destruction across a wide swath of the Gulf coast. They also delivered a blow to the Federal budget and sounded a wakeup call about the fiscal and economic risks we have been running.

A full response to these natural disasters must include more than emergency repairs, humanitarian relief, and community rebuilding. We also need to consider serious questions about the limits of government, the wisdom of wartime tax cuts, and our national capacity to look beyond short-term political priorities.

If anything good can come from these terrible storms, maybe it will be recognition by both the Bush administration and Congress that now we need to face hard reality and not continue with budget policies based on defying the laws of fiscal gravity. It's about time.

Even if Katrina and Rita had taken less destructive paths and the New Orleans levees had held, the problems would have been serious because the Federal budget was already on a dangerous course marked by tidal waves of red ink and towering piles of debt. Since 2001, the budget surplus that President Clinton and a Republican Congress bequeathed President Bush, has been erased and our country is now in debt to the tune of $8 trillion, or $25,000 for every American man, woman and child.

This was the result of several factors, of course, but the size and scope of the Bush tax cuts must bear a large part of the blame.

Several parts of those tax cuts—for example, eliminating the marriage penalty, fixing the 10 percent bracket and extending child care tax credits—were good. They gave a reasonable boost for the economy and increased the fairness of the tax laws. But having campaigned on giving back most of the budget surplus in tax cuts, President Bush insisted on much more, and Congress went along.

Many of us warned against reducing the surplus so recklessly, and urged the administration and Congress to remember the need to be ready for future emergencies. Our pleas for restraint were ignored. And then came the attacks of 9/11 and with them the need for increased spending on homeland security, a military response in Afghanistan, and a war in Iraq. The budget nosedived from surplus into deep deficit.

Even in the face of national emergency, neither the President nor Congress has seen fit to call on Americans for any sacrifice, and instead of temporarily scaling back tax cuts, the President has insisted on making them permanent even as Federal spending has skyrocketed.

So now we are putting the costs of war and everything else the government does on the national credit card—but the debt is owed not just to ourselves (as in the past), but to China, Japan and India.

Why have we allowed things to get so far out of hand?

Part of the answer is that budget and tax policy in Washington has been so captive to very partisan and extreme ideological voices that it has been hard to find common ground and moderate consensus.

Even in this time of war, extremists in the Republican Party view tax cuts as almost a religious calling, while some in my party reject any spending cuts except in defense. And the Vice President dismisses complaints by saying "deficits don't matter."

So, it not surprising that the appropriations process has not been marked by fiscal discipline. Unless the President or Congressional leaders proclaim a need for restraint, let alone sacrifice, why would Members of Congress not work to meet the transportation and infrastructure needs of their districts and seek funding for other valued purposes?

But all this cannot go on forever. Sooner or later, something has to give. And, if the result is a new sense of responsibility, sooner is better—because there is an urgent need to rethink and revise our budget policies, including both taxes and spending.

It could be that, just as they revealed the problem, Katrina and Rita can provide a catalyst to beginning that overdue job.

The President has said the Federal Government will undertake to help rebuild the communities left devastated by the storms—and has said that spending for other purposes should be reduced to offset the costs.

I have serious doubts about the adequacy of that approach, about the desirability of whatever spending cuts the President may propose, and about the readiness of Congress to seriously consider any cuts at all.

But I am hopeful that maybe at last the time has come for a serious debate about specific proposals for ways to dig ourselves out of the deficit hole.

To help begin such a serious debate, earlier this year I introduced legislation that would give the President authority to require Congress to vote, up or down, on specific appropriations items the President deemed unworthy of funding—a workable and Constitutional alternative to the line item-veto legislation that the Supreme Court struck down in 1998.

Now, I am introducing an updated version of this bill that focuses directly on the President's suggestion that disaster response costs be offset with spending cuts.

The bill is called the Stimulating Leadership In Cutting Expenditures or, "SLICE" Act.

That name fits because the bill would promote Presidential leadership and Congressional accountability on proposals to reduce other spending in order to offset the costs of responding to the recent natural disasters.

Toward that end, it would authorize the President to identify specific items of Federal spending that he thinks should be cut and would require Congress to vote on each of those items.

The bill would apply not only to regular appropriations, but also to the transportation bill that was passed and signed into law earlier this year.

The bill would establish a two-phase process: the President would have until November 1st to tell Congress which, if any, of the spending in the transportation bill should be cancelled. And he would have until the end of this year to identify any items in fiscal year 2006 appropriations bills we wants to eliminate.

In each case, if the President proposes a cut, Congress would have to vote on it—we could not ignore the proposal, as can be done under current law—and if a majority approved the cut, it would take effect.

Mr. Speaker, as our budget situation has grown worse, there has been a lot of talk about "earmarks," meaning funding allocations initially proposed by Members of Congress rather than by the Administration.

Some people are opposed to all earmarks. I am not one of them. I think Members of Congress know the needs of their communities, and that Congress as a whole can and should exercise its judgment on how tax dollars are to be spent. So, I have sought earmarks for various items that have benefited Colorado and I will continue to do so.

At the same time, I know—everyone knows—that sometimes a large bill includes some earmarked items that might not be approved if they were considered separately, because they would be seen as unnecessary, inappropriate, or excessive.

Dealing with that problem requires leadership and accountability. My bill would promote both.

Presidents are elected to lead, and only they represent the entire Nation. The bill recognizes this by giving the President the leadership role of identifying just which other spending he thinks should be cut in order to offset some of the amounts the Federal Government will be spending in response to recent natural disasters.

And, under the Constitution, it is the Congress that is primarily accountable to the American people for how their tax dollars will be spent. The bill respects and emphasizes that Congressional role by requiring a vote on each spending cut proposed by the President.

I do not know exactly which spending the President might propose to cut, so I do not know whether I would support some, all, or any of those proposals.

But I do know that we should stop wasting time in theoretical debates about whether we should make spending cuts and start debating specific proposals.

My bill is intended to get that debate started now.

For the benefit of our colleagues, here is an outline of the bill:

STIMULATING LEADERSHIP IN CUTTING EXPENDITURES (SLICE) ACT

The purpose of the bill is to facilitate Presidential leadership and Congressional accountability regarding reduction of other spending to offset the costs of responding to recent natural disasters.

The bill would amend the Budget Act to provide as follows:

The President could propose rescission of any budget authority provided in the recently passed transportation bill or an appropriations Act through special messages including draft bills to make those rescissions.

The President would have until November 1, 2005 to propose canceling spending items in the new Transportation Act and until January 1, 2006 to propose rescissions from FY 06 appropriations bills.

The House's majority leader or minority leader would be required to introduce a bill proposed by the President within two legislative days. If neither did so, any Member could then introduce the bill.

The relevant Committee would be required to report the bill within seven days after introduction. The report could be made with or without recommendation regarding its passage. If the Committee did not meet that deadline, it would be discharged and the bill would go to the House floor.

The House would debate and vote on each proposed rescission within 10 legislative days after the bill's introduction. Debate would be limited to no more than four hours and no amendment, motion to recommit, or motion to reconsider would be allowed.

If passed by the House, the bill would go promptly to the Senate, which would have no more than 10 more days to consider and vote on it. Debate in the Senate would be limited to 10 hours and no amendment or motion to recommit would be allowed.

□ 1145

Ms. MATSUI. Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker. I yield myself the balance of my time.

I applaud the gentleman's bipartisan effort to find ways to pay for these unanticipated expenses that we have come across, and I wish him the best in that effort. I think it is important that we all recognize on both sides of the aisle that offsets are going to be necessary and that we do have to reprioritize.

As the gentleman knows, the President submitted a list through the regular budget process of 150 programs to cut or eliminate earlier this year, and some of them received some attention and others received more attention than others. It is certainly a difficult proposition in this town to eliminate any program, but the President led early this year with that thought in mind and he had mixed success.

Again, recognizing the importance of your bipartisan effort and recognizing the facts that we are going to have to have these offsets, this bill, this rule that we are here to consider essentially keeps the government from shutting down while we have that debate. It appears that there is genuine broad support for the CR and for the rule, and I appreciate that.

Mr. Speaker, I thank the gentlewoman from California (Ms. MATSUI) for her work on the Rules Committee and what is essentially a broad commitment that we have to have this CR through November 18. Frankly, it is not for lack of effort on the House side. Both parties have a lot of reasons to be proud of the efforts of our appropriators and the entire House. We had a Herculean effort this summer to move these bills on schedule, move them out before July 4th, and because of Supreme Court nominations and everything else obviously the Senate has had other issues on their agenda, and we are in a holding pattern on the appropriations. Nobody wants to see the government shut down after Saturday, so it is important that we move this rule, move the underlying CR, and allow the regular order, the talent and skills that exist within this House, to work their magic as we deal with these unanticipated effects from two gulf storms, and we are not even finished with hurricane season yet.

Mr. Speaker. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

adoption of H. Res. 470, by the yeas and nays;

motion to suspend the rules on H. Res. 388, by the yeas and nays;

motion to suspend the rules on H. Con. Res. 245, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 470 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device. and there were—yeas 252. nays 171. not voting 10. as follows:

[Roll No. 502]

YEAS—252

Abercrombie
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)

Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Drake
Dreier
Duncan
Ehlers

Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley

Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon

McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce

Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—171

Ackerman
Allen
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Edwards
Emanuel

Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)

Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel

Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano

Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (CO)

Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—10

Andrews
Boswell
Culberson
Davis (FL)

Gerlach
Gutierrez
Harman
Lee

Moore (WI)
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1212

Ms. WASSERMAN SCHULTZ, Messrs. VAN HOLLEN, BAIRD, FATTAH and McINTYRE changed their vote from "yea" to "nay."

Messrs. CRAMER, BISHOP of Georgia, DAVIS of Alabama and PETERSON of Minnesota changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:.

Mr. ANDREWS. Mr. Speaker, I regret that I missed rollcall vote No. 502 today. If I had been present, I would have voted "no."

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES REGARDING JULY 2005 MEASURES OF EXTREME REPRESSION ON PART OF CUBAN GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 388.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and agree to the resolution, H. Res. 388. on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 31, not voting 9, as follows:

[Roll No. 503]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca

Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)

Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert

Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—31

Carson
Clay
Conyers
Davis (IL)
Farr
Grijalva
Hinchey
Honda
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kucinich
Lewis (GA)
McDermott
McKinney
Meeks (NY)
Miller, George
Pastor
Paul
Payne
Rush
Schakowsky
Serrano
Stark
Thompson (MS)
Towns
Velázquez
Waters
Watson
Woolsey
Wynn

NOT VOTING—9

Boswell
Culberson
Davis (FL)
Gutierrez
Harman
Kaptur
Lee
Obey
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1222

Ms. JACKSON-LEE of Texas, Mr. TOWNS and Ms. SCHAKOWSKY changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT UNITED STATES SUPREME COURT SHOULD SPEEDILY FIND USE OF PLEDGE OF ALLEGIANCE IN SCHOOLS TO BE CONSISTENT WITH CONSTITUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 245.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 245, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 383, nays 31, answered "present" 8, not voting 11, as follows:

[Roll No. 504]

YEAS—383

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave

Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—31

Ackerman
Blumenauer
Carson
Cleaver
Conyers
DeGette
Farr
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Honda
Johnson, E. B.
Jones (OH)
Lewis (GA)
Markey
McDermott
Nadler
Pastor
Payne
Schakowsky
Scott (VA)
Serrano
Stark
Towns
Velázquez
Wasserman Schultz
Waters
Watson
Waxman
Woolsey

ANSWERED "PRESENT"—8

Capuano
Green, Al
Moore (WI)
Owens
Rush
Sánchez, Linda T.
Tierney
Watt

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Gibbons
Gutierrez
Harman
Issa
Lee
Marchant
McKinney
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1231

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GIBBONS. Mr. Speaker, on rollcall No. 504 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ISSA. Mr. Speaker, I was present in the Chamber and voted "yea" on H. Con. Res. 245. However, due to a malfunction, my vote was not recorded. As the author of the legislation, you can rest assured that I am a "yea" vote.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 68 and that I may include tabular material on the same.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from California?

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 469, I call up the joint resolution (H.J. Res. 68) making continuing appropriations for the fiscal year 2006, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 68

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2006, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005 for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2005, and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

(2) The Department of Defense Appropriations Act, 2006.

(3) The Energy and Water Development Appropriations Act, 2006.

(4) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (in the House of Representatives), or the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2006 (in the Senate).

(5) The Department of Homeland Security Appropriations Act, 2006.

(6) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

(7) The Military Quality of Life and Veterans Affairs Appropriations Act, 2006 (in the House of Representatives), or the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2006 (in the Senate).

(8) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (in the House of Representatives), or the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2006 (in the Senate).

(9) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (in the House of Representatives), or the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006 (in the Senate) and the District of Columbia Appropriations Act, 2006 (in the Senate).

(b) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is the same as the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the actions of the House and the Senate, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if no amount or authority is made available or granted for the project or activity by the actions of the House and the Senate, the project or activity shall not be continued.

(c) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is different from the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lowest, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is included in the pertinent Act of only one of the Houses, the project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

(d) Whenever the pertinent Act covering a project or activity has been passed by only the House of Representatives as of October 1, 2005—

(1) the project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is funded in applicable appropriations Acts for fiscal year 2005 and not included in the pertinent Act of the House as of October 1, 2005, the project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for fiscal year 2005 at a rate for operations not exceeding the current rate and under the authority and

conditions provided in applicable appropriations Acts for fiscal year 2005.

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for (1) the new production of items not funded for production in fiscal year 2005 or prior years; (2) the increase in production rates above those sustained with fiscal year 2005 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2005.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds made available from the Iraq Freedom Fund.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2005.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (3) November 18, 2005.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that had high initial rates of operation or complete distribution of fiscal year 2005 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2006 shall not be made and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. No provision that is included in an appropriations Act listed in section 101(a), but that was not included in the applicable appropriations Act for fiscal year 2005 and by its terms is applicable to more than one appropriation, fund, or authority, shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 112. No provision that is included in an appropriations Act listed in section 101(a), and that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation, shall be effective before the date set forth in section 106(3).

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2005, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005, to be continued through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding section 106 of this joint resolution, funds shall be available and obligations for mandatory payments due on or about November 1, 2005 and December 1, 2005, may continue to be made.

SEC. 115. The provisions of, and amendments made by, sections 1011, 1012, 1013, 1023, and 1026 of Public Law 109–13 shall continue in effect, notwithstanding the fiscal year limitation in section 1011 and the provisions of sections 1012(i), 1013(e), 1023(c), and 1026(e) of that Public Law, through the earlier of (1) the date specified in section 106(3) of this joint resolution, or (2) with respect to any such section of Public Law 109–13, the date of the enactment into law of legislation that supersedes the provisions of, or the amendments made by, that section.

SEC. 116. The authorities provided by section 1306 of Public Law 107–314 shall continue in effect through the date specified in section 106(3) of this joint resolution or the date of the enactment into law of a defense authorization Act for fiscal year 2006, whichever is earlier.

SEC. 117. Section 6 of Public Law 107–57, as amended, shall be applied by substituting the date specified in section 106 of this joint resolution for "October 1, 2005", and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–447, div. D), as made applicable to fiscal year 2006 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 106(3) of this joint resolution.

SEC. 118. (a) Funds provided in section 101 of this joint resolution for "Social Security Administration-Limitation on Administrative Expenses" may be used to complete the processing of appeals received prior to July 1, 2005 under sections 1852 and 1869 of the Social Security Act, notwithstanding section 931(b) of Public Law 108–173.

(b) The Commissioner of Social Security may enter into a reimbursable agreement with the Secretary of Health and Human Services to process, during fiscal year 2006, appeals received after June 30, 2005 and prior to October 1, 2005.

SEC. 119. For the purposes of section 101 of this joint resolution, amounts obligated in fiscal year 2005 from funding provided in section 1015 of Public Law 108–173 shall be deemed to have been provided in an applicable appropriations Act for fiscal year 2005.

SEC. 120. Notwithstanding section 101 of this joint resolution, amounts are provided for "Department of Health and Human Services-Office of the Secretary-Medicare Appeals" at a rate for operations not exceeding the rate set forth for such account in title II of H.R. 3010 of the 109th Congress, as passed by the House of Representatives.

SEC. 121. Section 1015(b) of Public Law 108–173 is amended by striking "2005" and inserting "2006".

SEC. 122. The authority provided by section 2011 of title 38, United States Code, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 123. The authority provided by section 2808 of Public Law 108–136, as amended by section 2810 of Public Law 108–375, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 124. The amendment made by section 1022 of Public Law 109–13 shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 125. Funds appropriated by section 101 of this joint resolution for the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in the pertinent Acts specified in section 101(a)(8).

SEC. 126. Funds appropriated by section 101 of this joint resolution for "National Science Foundation-Research and Related Activities" may be used for Arctic and Antarctic icebreaking maintenance and operations.

SEC. 127. (a) Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" at the rate set forth for such programs and activities under title V of H.R. 3058, One Hundred Ninth Congress, as passed by the House of Representatives, and in addition, funds under "District of Columbia Funds-Enterprise and Other Funds-Capital Outlay" as included in the Fiscal Year 2006 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 6, 2005.

(b) Section 2302 of Public Law 108–11, as amended by section 336 of Public Law 108–335 shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2005".

SEC. 128. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such

Act, through the earlier of (1) the date specified in section 106(3) of this joint resolution, or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 129. Notwithstanding section 101 of this joint resolution, amounts are provided for "Department of Transportation-Federal Transit Administration-Administrative Expenses" at a rate for operations not exceeding the total of budgetary resources made available for obligation for fiscal year 2005.

SEC. 130. Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1. 2005".

SEC. 131. Amounts made available by this joint resolution for the Department of Defense that are related to amounts provided in title IX of the Department of Defense Appropriations Act, 2006, as passed by the House, or related to amounts designated as emergency requirements in previous defense appropriations Acts or supplemental appropriations Acts, are designated as appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, except that amounts so designated under this section shall not exceed $50,000,000,000.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 469, the gentleman from California (Mr. LEWIS) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume, and I hope I do not consume very much.

Mr. Speaker, I am pleased to bring to the House the continuing resolution for fiscal year 2006. The CR will run through November 18. It is a clean CR without exception. Several Members are pushing the extension of dairy programs, adding emergency spending for the Corps of Engineers, and a whole host of other ideas. We have rejected them all. These items can be addressed in the next supplemental, regular fiscal year 2006 bills, or in reconciliation. The CR will fund agencies at the lower of three levels: the House-passed level, the Senate-passed level, or fiscal year 2005 current rates.

Agencies funded in the Labor-HHS, Treasury, Transportation and Defense bills will be funded at the lower of the House-passed or current rates since the Senate will not pass these bills by October 1. The House and Senate have not passed a CR under the current framework since 1994. By returning to a traditional CR that funds the government operations at the lowest possible level, it will provide a strong motivation for this Congress to complete its work in regular order and produce individual appropriations bills and conference reports.

I want the body to know the Committee on Appropriations is strongly committed to bringing back to this floor individual conference reports for each and every bill. The committee does not support an omnibus or minibus in any form and will do everything in its power to ensure that that does not happen.

I remain committed to moving these bills individually and within the framework of the budget resolution. In order to help the Senate with the difficult process of passing the Treasury, Transportation and Labor-HHS bills, we will continue to push the lower rate, long-term continuing resolution prospect. I am convinced that this is the only way for us to get back to regular order. The House and Senate committees on appropriations are both committed to this goal.

With regard to the regular order appropriations bills, the Interior and Legislative branch conference reports have been signed into law. The Homeland Security conference concluded just this morning, and we expect to file a conference report today.

The Senate has now passed eight appropriations bills, and the ninth is expected to be completed by early next week. We have begun giving notional allocations to Energy and Water, Foreign Operations, Science, Justice, State and Commerce and Agriculture subcommittees so they can begin negotiating. We are making very good progress.

This continuing resolution is an important step toward achieving our goal of restoring regular order to the congressional appropriations process.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 13 minutes.

Mr. Speaker, I do not know quite what to say about this continuing resolution. I have a lot of notes here, most of which I will not use, but let me simply note that this is another case of the failure to effectively govern by the Republican President and the Republican majority in this Congress. We are here facing an end of the fiscal year situation 3 days from now. We have failed in the basic test of governing, and I think it is important to understand why.

Throughout the year, we on the Democratic side of the aisle, in the minority, have worked with the majority on every possible procedural issue and cooperated with them procedurally at every juncture so that we could enable this House to pass the 10 appropriation bills that are necessary to pass, even though we disagreed in most instances with the content of those bills.

When I was asked by numerous Members of my caucus and a number of members of the press why we were cooperating procedurally when we opposed the substance of many of the bills, I made it clear. I said we were cooperating because I wanted the record to show at the end of the year, when the Republican majority failed to pass its appropriation bills by the end of the year, I wanted the record to show clearly why.

Now we are here and in spite of our procedural cooperation, the Republican majority has managed to pass only two of the 10 appropriation bills under our responsibility. Why? In my view it is because the majority caucus has such a fundamental disrespect for the basic functions of government that it has sacrificed and squeezed so many education and health and veterans and other programs in order to pay for huge, supersize tax cuts for the most wealthy among us, that, in the end, they have not been able to convince their Senate colleagues to go along and go on record and endorse those cuts. So now we are faced with a stopgap funding bill which is brought to the House floor by the gentleman from California.

Normally, if Congress fails to pass its appropriation bills, then it continues funding at the existing rate until Congress can get its act together. Instead, this bill does something quite different. It says that for the time period under the continuing resolution, we will be spending at the lower of either last year or the House-passed bill or the Senate-passed bill. That results in a number of, I think, extremely inequitable realities. It, for instance, means that we are effectively cutting $800 million below last year and $400 million below the President in the field of education. It means that we are cutting essential job training programs below last year and cutting job training formula grants by $138 million.

In health care, it means that we are cutting maternal and child health care, and we are cutting rural health outreach programs. It means that we are cutting the Community Service Block Grant, a program which deals with the needs of the poorest people in this society by 50 percent. It means that we are eliminating the 10 percent increase that this House had planned for veterans health care. It means that we are cutting the FBI by $616 million below the House-passed bill. It means that we are freezing low-income heating assistance at a time when the cost of home heating for low-income Americans is going to rise by 40 to 50 percent. But it leaves intact, it leaves intact the huge, supersize tax cuts for the top 1 percent of earners in this society, people who make more than $400,000 a year.

And it leaves in place the President's edict, his unilateral edict in the wake of Hurricane Katrina, that the workers in the afflicted area who are trying to put that area back together are not even going to be allowed to get a decent prevailing wage that they would otherwise be guaranteed under Davis-Bacon. And yet while it is chiseling on the wages of those workers, it is saying to the persons who make over $400,000 a year, on average you are going to get a $32,000 tax cut.

Mr. Speaker, $32,000 is a lot more than a lot of people in this country make in a year. A huge percentage of my district makes less than that $32,000.

☐ 1245

But we are going to give an average $32,000 tax cut to the people in this society who need it least. The bill also assures the death of one part of the farm bill that was passed 3 years ago. It makes sure that the only major farm bill that is going to expire is the program that is given some financial support to the smallest farmers in this country, the MILC program.

Now, the question is being asked in this town, "How are we going to pay for Hurricane Katrina?" In my judgment, Mr. Speaker, that is the wrong question. Katrina, no matter what the eventual cost is and it is going to be large. It is going to be somewhere between $100 billion and $200 billion, I expect. Let us say it is $100 billion. That is a huge amount of money. But this economy is large enough to handle that because it is essentially a one-time bubble. Even though it will be spent out over the next 3 or 4 years, it is a one-time event, and this economy is always big enough to handle that.

But the right question to be asking is not how are we going to pay for Katrina? The right question is: "How are we going to be able to pay for the decisions already made by the Republican majority of this Congress and the White House to give away to the wealthiest people in this society, the top 1 percent, over $1 trillion in tax cuts over the next decade?" We are going to give away, in tax cuts to the top 1 percent, ten times as much as Katrina is being estimated to cost. So the right question to ask is: "What are we going to do so that we can afford to pay for the Katrinas that come along and the Iraqi War, where we have a war of choice driven by a President who misled us into that war by giving us false and misleading information?"

So if the Members vote for this continuing resolution today, they are voting to keep those giant tax cuts in place. They are voting to do not one blessed thing to deal with the long-term fiscal impact that they have on the country and, yes, will be chiseling on some of the programs that I just mentioned.

Mr. Speaker, I am going to offer a motion to recommit, which does a number of things. I am going to offer a motion to recommit, which, number one, would provide that the funding levels in this bill be at the current rate rather than the three-headed rate spelled out by the gentleman, so that we do not, even for a month, cut back on what we are doing on job training or community service block grants or low-income heating assistance or other programs like that. Second, it will ask that we treat all farm programs the same. Third, it will restore Davis-Bacon prevailing wages. It will countermand the President's unilateral edict. And that is basically what I will be asking the House to do.

Under the rules of the House, as they have been jury-rigged, under the rule of the House, if a Member of the House lodges a point of order, this motion to recommit will not be allowed to obtain a vote. But if persons on the majority side of the aisle refrain from lodging a point of order, then the House would be allowed to vote on a measure which restores equity to the farm programs, on a measure which restores equity to funding levels for all programs, and it would restore Davis-Bacon protections for workers as well. And it would also, I should add, instruct the Congress to come back with a change in the Tax Code so that we limit the size of the tax cuts for people who make over $400,000 to the size received by persons in the top 5 percent of the economy. That means they still get at least a $9,000 tax cut on average. That is not bad.

To those in the majority side of the aisle who say that we should not be doing that, I would say that does not surprise me because that represents the economic philosophy of the majority party. To those on the Democratic side of the aisle who might find it a little nerve-racking to vote to scale back tax cuts even for those well-off folks, my suggestion is if they cannot even stand up and do that, they might as well go and cross the aisle.

Mr. THOMAS. Mr. Speaker, I submit the following correspondence for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 29, 2005.

Hon. JERRY LEWIS,
Chairman, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN LEWIS: I am writing concerning H.J. Res. 68, making continuing appropriations for the fiscal year 2006, and for other purposes, which is currently scheduled for floor consideration today.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning Medicare. There are two sections within the introduced resolution that are within the authorizing jurisdiction of the Committee on Ways and Means. Section 118 of the resolution allows the Social Security Administration to continue hearing Medicare appeals pending the transfer of that authority to the Department of Health and Human Services. Secondly, Section 121 extends for one year the availability of an appropriation provided to the Centers for Medicare and Medicaid Services and the Social Security Administration under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this resolution. This is being done because of the agreement reached by our respective committees' staff. An e-mail on this issue, sent by the committee, states, "We are happy to concede your jurisdiction in this matter, and included the language solely because of OMB's [Office of Management and Budget] request that we do so. We don't believe that it prejudices any future action on your part."

I will place a copy of this letter in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. OLVER. Mr. Speaker, in the wake of Hurricanes Katrina and Rita, our country has been made brutally aware that there in fact are two Americas that exist in this country. Recently released census data shows that in 2004, 37 million people were living in poverty. In addition, this data shows that 1 in 6 children were living in poverty. Yet despite the overwhelming evidence of growing poverty rates and recent images of evacuees unable to leave New Orleans due to their economic situation, this Congress is proposing drastic cuts to Community Service Block Grants funding.

CSBG gives funding to a vast array of programs, including senior citizen congregate meal sites, home delivered meals, transportation programs, job training programs, Head Start, energy crisis assistance, housing programs, education programs, and many other programs to address the needs of low-income families and individuals.

The 50 percent cut to CSBG in the Continuing Resolution would have a devastating effect on evacuees and on low-income individuals. At a time when our country has been severely impacted by natural disasters, it is extremely urgent that Congress maintain CSBG funding at its current level so that the delivery of much needed services to low-income people is not disrupted.

We have a responsibility to ensure that all Americans have an opportunity to share in America's prosperity. It is irresponsible that we approve a Continuing Resolution that cuts funding for CSBG by 50 percent below current funding levels when there is such an obvious need for the services that this funding provides.

Mr. LANGEVIN. Mr. Speaker, I rise in opposition to H.J. Res. 68, the Continuing Appropriations Resolution for FY 2006. By funding the government at the lower of the House bill, the Senate bill, or current rate, this continuing resolution would require immediate cuts in programs that address the very problems that America's families are facing this fall—unemployment, education, health care, and emergency preparedness.

Right now, there are 7.4 million unemployed Americans—1.4 million of whom have been jobless for more than 26 weeks. Thousands more are applying for benefits in the wake of Katrina and Rita, yet this bill would cut essential Federal training and employment services below last year's level, including $138 million, or 4 percent, from job training formula grant programs. Just as students are going back to school, this legislation calls for an $800 million cut in education programs. With 45.8 million uninsured Americans, this bill fails to provide necessary assistance to the Community Health Centers that serve these very citizens. In a time when emergency preparedness should be a high priority, the bill cuts Hospital Preparedness Grants by $15 million and Public Health Preparedness Grants by $66 million.

In light of these pressing concerns for all Americans and rising defecits, we must spend our dollars wisely. Yet, we have been presented with a bill that shortchanges the very programs that promise to rebuild our workforce, educate our children and protect the health and well being of our citizens. I urge my colleagues to join me in supporting fiscal responsibility by voting against H.J. Res. 68.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). All time for debate has expired.

The joint resolution is considered read for amendment and pursuant to House Resolution 469, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. I most certainly am. Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

MOTION TO RECOMMIT HOUSE JOINT RESOLUTION 68, MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2006

Mr. OBEY moves to recommit House Joint Resolution 68 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendments:

On page 2, line 7, insert after "fiscal year 2005,", "at a rate for operations not exceeding the current rate".

On page 2, line 8, strike "would be" and insert "was made".

On page 2, line 12, strike "2006" and insert "2005".

On page 2, after line 12, insert "(2) The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2005".

On page 2, line 13, strike "(2)" and insert "(3)".

On page 2, line 14, strike "2006" and insert "2005".

On page 2, after line 14, insert "(4) The District of Columbia Appropriations Act, 2005", and renumber the succeeding subsections of section 101 accordingly.

On page 2, line 16, strike "2006" and insert "2005".

On page 2, line 18, strike "2006" and all that follows through page 2, line 21, and insert "2005".

On page 2, line 23, strike "2006" and insert "2005".

On page 3, line 3, strike "2006" and insert "2005".

On page 3, line 4, strike "Quality" and all that follows through page 3, line 8, and insert "Construction Appropriations Act, 2005".

Strike page 3, line 9 through page 3, line 13.

On page 3, line 14, strike "Housing" and all that follows through "Columbia" on page 3, line 16.

On page 3, line 17, strike "2006" and all that follows through page 3, line 22 and insert "2005".

On page 3, after line 22, insert "(11) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005".

On page 3, line 23, strike "Whenever" and all that follows through page 6, line 6 and insert "The appropriations Acts listed in subsection (a) shall be deemed to include supplemental appropriations laws enacted during fiscal year 2005.".

Strike page 9, line 9 and all that follows through page 9, line 21.

At the end of the joint resolution add the following new sections:

"SEC. . Amounts made available by this joint resolution that are related to amounts designated as emergency requirements in previous appropriations Acts, other than amounts to which section 131 applies, are hereby designated as emergency requirements pursuant to section 402 of H. Con. Res. 95 (95th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. . During fiscal year 2006, notwithstanding the proclamation by the President dated September 8, 2005 or any other proclamation issued pursuant to section 3147 of Title 40, United States Code, the provisions of subchapter IV (except section 3147) of chapter 31 of title 40, United States Code (and the provisions of all other related acts to the extent they depend upon a determination by the Secretary of Labor under section 3142 of such title, whether or not the President has the authority to suspend the operation of such provisions), shall apply to all federally-funded contracts to which such provisions would otherwise apply that are entered into on or after the date of enactment of this Act, to be performed in the jurisdictions affected by Hurricane Katrina and Hurricane Rita.

SEC. . Section 1502 (f) and (g)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2005"

SEC. . Section 201(b) of H. Con. Res. 95 (relating to revenue reconciliation in the House of Representatives) shall be applied as if "(1)" was inserted after "(b)" and the following new paragraph was added at the end:

(2) REDUCTION IN TAX CUTS FOR TAXPAYERS WITH INCOMES IN THE TOP 1 PERCENT OF THE POPULATION.—The Committee on Ways and Means shall also include in the reconciliation bill reported pursuant to paragraph (1) changes in tax laws to increase revenues by reducing or offsetting the tax reductions received during 2006 by the top 1 percent of taxpayers as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth and Tax Relief Reconciliation Act of 2003 such that the average tax cut received by that class of taxpayers equals the average tax cut resulting from those Acts for the top 5 percent of taxpayers.".

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. A point of order is reserved.

The gentleman from Wisconsin is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, very briefly, section 1 of the motion to recommit would simply provide that we fund the programs covered under the continuing resolution at the current rate rather than at the lower of either the current rate of the House-passed or the Senate-passed bill. I have already explained the impact of that on program. Section 2 would simply repeal the President's edict that workers in the Katrina-affected region would not be subject to the protections of Davis-Bacon wage protections. Section 3 would simply guarantee that the MILC program remains in force for the same length of time as other titles of the farm bill. And section 4 would require a reduction in the size of the tax cuts for taxpayers with incomes of over $400,000, as I just described in my previous remarks.

POINT OF ORDER

Mr. LEWIS of California. Mr. Speaker, I make a point of order under clause 7 of rule XVI. The instructions proposed in the motion to recommit range far beyond the subject matter of the joint resolution.

The SPEAKER pro tempore. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. OBEY. Mr. Speaker, if the rules required equity in legislation we brought to the floor, this amendment would be in order. Unfortunately, they do not; so I must reluctantly concede the point of order.

The SPEAKER pro tempore. The point of order is conceded and sustained. The motion is not in order.

The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 3824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3824.

The Chair designates the gentleman from New York (Mr. SWEENEY) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1258

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SIMPSON (Acting Chairman) in the Chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 45 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

We bring up today the Endangered Species Reform Act with the purpose of trying to deal with what some of the real issues are, what some of the real problems are that we have had and have developed over the last 30 years.

If one goes back and reads the original Endangered Species Act, it becomes difficult to be critical of specific language that is it in because the purpose of the Endangered Species Act was to, first of all, prevent species from becoming extinct but, more importantly, to recover those species. And as we look at what has happened over the intervening 30 years, we begin to realize just what problems are with the Act and the way it is being implemented today.

I came into this debate originally because I did not like the way that private property owners were treated under the implementation of the law. That became a big issue in my district and throughout much of the West. Private property owners felt threatened that they would lose their private property and that they could lose control and the ability to use their private property under the implementation of the law.

□ 1300

That became a big problem, and it is something that we began to work on, to try to have some kind of property rights protections in the law.

But the more I got into the Endangered Species Act, the more I realized the law was just not working in terms of recovering species. About 1,300 species have been listed under the Endangered Species Act. Of those 1,300, 10 have been removed because they were recovered. More species have been removed from the list because they became extinct than were recovered.

That less than 1 percent is a complete failure, so we began to really look at the law and see are species really doing better under the Endangered Species Act, and we came to the conclusion that they were not. About three-quarters of the species are either declining in population or the Fish and Wildlife Service has no idea. That is not a success.

When people talk about the act and its importance, they are right, it is important. It is something we all share in terms of preserving wildlife and preserving species. But when the law is not working, we have to respond to that and step in and reauthorize the bill, put the focus on recovery and protect private property owners.

As we have gone through this last several months, I have had the opportunity to work with the ranking member, the gentleman from West Virginia (Mr. RAHALL), and his staff; and I thank them for all of the work that they put into this bill to get us to this point. We worked extremely hard to try and find a compromise bill.

In the end, there were a few issues that we just disagreed on, there were issues we could not come to a conclusion on, but the vast majority of what is in the underlying bill was an agreement that we were able to work out and that I stand by. I believe it is good work, that it is something that is extremely important.

But I will say that, in the end, private property rights, the protection of those property owners, has to be in the final bill, because the only way this is going to work is if we bring in property owners to be part of the solution and be part of recovering those species.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from California and I have been working together for the last several months to try to find common ground on the amendments to the Endangered Species Act. As the chairman knows and many of my colleagues, I came to our discussions with the view that the ESA does not need amendment, that most of its problems could be fixed by additional appropriations or administrative changes that this administration is not willing to make.

Recognizing reality, I decided to enter into good-faith negotiations with my chairman, and that is what they were. I salute the manner in which the gentleman from California conducted himself and the manner in which his staff treated the minority during this entire process. It was a fair process; and, indeed, when we had problems, we found open communication was received from the other side of the aisle, and I appreciate that. In the end, however, we could not reach agreement.

I do not support the pending legislation, but I must admit that we have come a long way. Yet we still have differences that divide us, differences in some instances that I have yet to discover. In fact, the manager's amendment has been redrafted so many times, the latest version is still hot off the presses.

I wish the bill, because of these latest changes in the manager's amendment, were not being rushed to the House floor. I wish that the driving force was not the zeal to pass anything that could be labeled ESA reform, but instead could be labeled truly species recovery.

With a little more time to consider how much this bill is going to cost the American taxpayers, we could at least have had a chance to see how much we are going to lose in the exchange. In the last several hours, the bill passed out of the committee has completely blown apart. For example, the manager's amendment abandons the definition of jeopardizing a species we agreed upon in committee. Instead, the Secretary of the Interior will use existing regulations which allow Federal actions to proceed, even if they will reduce the likelihood of a species' survival and recovery. The survival standard is akin to keeping a patient on life support without any chance of recovery.

According to the Congressional Budget Office, if this is enacted into law, it will increase direct spending and would cost almost $3 billion to implement from the years 2006 to 2010.

So in my view, this bill offers endangered species less protection at far greater cost. Not only was fiscal responsibility thrown to the wind in this process, but we have turned back the clock to an era in which DDT was commonly known as "drop dead twice." H.R. 3824 includes a provision adopted in the Committee on Resources that would repeal the Endangered Species Act provisions that protect threatened and endangered species from the harmful impact of pesticides.

H.R. 3824 would insulate those who use pesticides from the Endangered Species Act prohibitions against killing endangered and threatened species. As long as corporations comply with Federal requirements to register pesticide users, they will have no obligation to meet the requirements in the Endangered Species Act. The economic and environmental implications of this provision are staggering.

But where the budget really leaks is from the gaping hole created by a new, potentially open-ended entitlement program for property developers and speculators. This, I might add, is where we truly broke down in our negotiations.

Section 14 would establish the dangerous precedent that private individuals must be paid to comply with an environmental law. If this language were applied to local zoning, no mayor, no city council could govern a community without fear that their decisions might drive the community into financial ruin. This section pays citizens to comply with the law. What is next, paying citizens to wear seat belts, to comply with speed limits, to pay their taxes?

This bill also contains provisions that would severely weaken the consultation process, the very heart of the ESA. Under current law, the Fish and Wildlife Service analyzes a proposed action to gauge if it is likely to place the continued existence of a species in jeopardy. The process is grounded in science and must meet reasonable criteria.

This bill, quite to the contrary of current practice, wipes away any standards for that process. It wipes away review by wildlife experts. Gone. Proponents claim this change is justified because of the service's heavy workload. Instead of fixing the problem by giving Fish and Wildlife more resources, the bill simply changes the rules and undermines species recovery.

Finally, Mr. Chairman, I oppose another provision that would further weaken the section 7 consultation requirement when applied to state cooperative agreements. Under section 10 of H.R. 3824, no additional consultations will be required once the Secretary enters into a cooperative agreement with a State. It is questionable whether consultation would ever occur, even in those situations causing jeopardy to a listed species.

These provisions, taken together, raise a whole host of questions and concerns. What is clear is that this bill will not improve species' ability to recover. Quite likely it will result in more extinctions, the loss of more of the creatures God has placed in our care. Frankly, we cannot be good stewards of His creation and pass this bill.

For these reasons, Mr. Chairman, I strongly oppose H.R. 3824. However, I have worked, as I said in the beginning, well with the gentleman from California on this bill; and I do salute his tenaciousness, his patience, and his courage in bringing this bill to the floor.

I would have preferred we keep trying to resolve our differences, but that is not the situation we are in today, so I would urge my colleagues to oppose H.R. 3824.

Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I want to thank the gentleman from California for keeping this issue on the front burner.

I have come to learn in my time in Congress that people support reform, as long as it does not change anything, and that is what we find with the endangered species reform.

I thought I was given a great honor when I first got here in the year 2001. The gentleman from Alaska (Mr. YOUNG) of the Committee on Resources put me on the study group to talk about the Endangered Species Act, to try and finally get it off the dime. The gentleman from West Virginia (Mr. RAHALL), the gentleman from Michigan (Mr. DINGELL), and the gentleman from California (Mr. GEORGE MILLER) were the Democrats; and the gentleman from Alaska (Mr. YOUNG) and the gentleman from California (Mr. POMBO) and myself were the Republicans, and, unfortunately, it took us literally 6 months to finally agree what time to meet and where.

The difficulty with the Endangered Species Act is it is failing endangered species. Anytime you start getting T-shirts and bumper stickers and jokes about a law, you know you have got a problem. I brought along a shovel today because the biggest joke in Montana is shoot, shovel, and shut up.

The problem is there are those that want to protect species. They do not want them to become extinct. They want to do the right thing. But this Congress many years ago created a disincentive to do the right thing, rather than an incentive; and if you learn anything about public administration or government, when you create a disincentive, usually you are pretty successful.

We are not saving the species we need to. We need to get off the dime. We need to finally solve this issue. Everybody recognizes it is broke. We can no longer use the excuse that it is just not exactly what we want. It is time to end the joke of shoot, shovel, and shut up.

I want to thank the gentleman from California for bringing this issue forward and finally getting off the dime and giving us an opportunity to vote for a reform package that truly does what we need to do, and that is save the species of this country.

Mr. RAHALL. Mr. Chairman I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman, I would.

Mr. HERGER. First let me say to the gentleman that I am very appreciative of his efforts here to make the ESA a better law.

Mr. Chairman, it is my understanding that the legislation would provide the President the authority to waive or expedite any provision of the act in the event of a major national disaster. I also understand that the legislation would require the Secretary to develop regulations establishing procedures for an expedited application or waiver of the act for agency actions that would be undertaken to address threats to human health or safety.

Mr. POMBO. The gentleman is correct.

Mr. HERGER. I thank the chairman.

As you know, Mr. Chairman, a terrible situation occurred in my district in Northern California several years ago where a levee that protects one of the communities I represent had deteriorated to such a point that the Corps of Engineers predicted that this degraded levee, without repair, presented a threat to human life. Regrettably, repairs to that levee were unable to proceed in a timely manner due to the lengthy consultation process, even though this very serious warning had been issued by the corps. I am sure the chairman has heard of other similar examples where the application of the Endangered Species Act has complicated or delayed urgent and targeted levee repairs from occurring when they are needed to protect people from flooding.

Mr. POMBO. Mr. Chairman, I am certainly well aware of the situation that the gentleman is speaking to. I was a Member of Congress at the time that that levee broke and tried at that point to help the gentleman to take care of that problem before it broke.

Mr. HERGER. Mr. Chairman, it is my understanding that the Secretary currently has in place emergency regulations that allow for expedited consultation in the event of an immediate threat to public safety, as, for example, when the floodwaters are rising and are feet or perhaps even inches away from breaking or breaching a levee.

Is the chairman's understanding that the intent of the legislation is to require the development of additional regulations that would allow the Secretary to expedite the application of the act for agency actions necessary to address threats to human health or safety?

Mr. POMBO. The gentleman is correct.

Mr. HERGER. Mr. Chairman, I thank the gentleman for that clarification.

Again, Mr. Chairman, I want to commend the gentleman for his leadership and years of work he has invested in making the Endangered Species Act a more responsive and effective law.

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Mr. POMBO. Mr. Chairman, I ask unanimous consent to allow the gentleman from California (Mr. CARDOZA) to have 20 minutes of my time and to control that time.

The CHAIRMAN. The gentleman is advised that the Committee of the Whole is not able to entertain such a request.

Mr. RAHALL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, in response to the last colloquy that just took place between the two gentlemen from California in regard to emergency powers that would be granted the President to waive provisions of the Endangered Species Act, I just wanted to respond that the Endangered Species Act did not get in the way in any manner whatsoever of recovery efforts in response to Hurricanes Katrina and Rita. Whatever provisions that were needed to be waived were waived under current law, without any additional authority being needed by the President.

So I just wanted to make that clear for the record that ESA did not hamper any recovery efforts for any of the most recent hurricanes.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. GRIJALVA), a distinguished member of our committee.

Mr. GRIJALVA. Mr. Chairman, today I rise in opposition to H.R. 3824.

In the 1960s, Rachel Carson's book "Silent Spring" documented the harmful effects of DDT and other pesticides on songbirds. This prompted a ban on DDT and the passage of the original Endangered Species Act. The ban on DDT, which the EPA said posed unacceptable risks to the environment and human health, saved the bald eagle and countless other species from going extinct.

Today we are considering a bill that would usher in another silent spring by eliminating the oversight for the registration of pesticides which harm wildlife and people.

H.R. 3824 contains a provision allowing EPA to consult with itself in determining the potential impacts of pesticide registration on endangered wildlife and fish, instead of consulting with the Fish and Wildlife Service or the National Marine Fisheries Service, which are the expert agencies whose mission is either in whole or in part to conserve species.

H.R. 3824 would take away the ability to stop pesticide use even when necessary to prevent extinction. Without existing checks and balances on pesticide use, the effect on wildlife could be devastating. Humans could be hurt too, because toxic pesticides are applied by farm workers that make their way into our Nation's streams, rivers, and food supply.

Pesticides poison 10,000 to 20,000 agricultural workers each year and are estimated to kill more than 67 million birds annually. But the EPA currently only requires balancing the profits from using a pesticide against the dollar value of harm caused by that pesticide. The Endangered Species Act, on the other hand, recognizes what almost all Americans believe, that no dollar amount can be placed on the extension of our Nation's treasured wildlife or on the human health of people who work in those fields.

The substitute to H.R. 3824 would leave existing law unchanged. It would leave in place current safeguards by requiring an analysis based on the health of wildlife, not the company's bottom line.

For this reason and many others, I urge my colleagues to join me in opposing this controversial bill and voting "yes" on the Miller substitute.

Mr. POMBO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GOODLATTE) having assumed the chair, Mr. SWEENEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, had come to no resolution thereon.

CONTROLLING TIME OF GENERAL DEBATE DURING FURTHER CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 3824 pursuant to H. Res. 470 that the gentleman from California (Mr. CARDOZA) may control 20 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3824.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from California (Mr. POMBO) had 36½ minutes remaining and the gentleman from West Virginia (Mr. RAHALL) had 36 minutes remaining.

Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) has 16½ minutes remaining and the gentleman from California (Mr. CARDOZA) has 20 minutes remaining.

The Chair recognizes the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when the Endangered Species Act was adopted by Congress in 1973, it was heralded as landmark use of environmental legislation for the protection and conservation of threatened and endangered species. At that time, it was clearly understood that the ultimate goal of the act was to focus Federal resources on listed species so that, in time, they could be returned to a healthy state and be removed from the list.

I fully support the goal of species protection and conservation and believe that recovery and ultimately delisting of species should be the U.S. Fish and Wildlife Service's top priority under ESA. I am in full support of the Threatened and Endangered Species Recovery Act that we are hearing today because I think it is an innovative and creative approach to ending the long-running conflict between protecting species and enforcing conservation actions on private land.

There seems to be no question that ESA is due for an update since the substitute offered by many of my colleagues eliminates critical habitat in much the same manner as H.R. 3824. For good reason, too. Currently, the system of critical habitat designations is so dysfunctional that it seems to defy logic.

For example, in 2002, the service proposed to designate 1.7 million acres as critical habitat in California and Oregon for vernal pool species. Almost one-third of the entire acreage of Merced County, where I live, would have been designated as critical habitat.

In 2003, the service proposed over 4.1 million acres in California as critical habitat for the red-legged frog. One must wonder, if it can be found on 4 million acres, then is it truly endangered; or, on the flip side, are all 4 million acres truly critical habitat?

The Threatened and Endangered Species Recovery Act will fix the problems associated with critical habitat by replacing it with a recovery plan which will shift the focus from litigation to biology and recovery; provide for greater cooperation between the service and landowners and States; establish new incentives for voluntary cooperation efforts.

Coming up with a thoughtful way to enable recovery of endangered species without costly litigation has been a top priority for me since being elected to the Congress, and I am pleased that this bill does just that. My original bill, H.R. 2933, from the 108th Congress, tied the development of a recovery plan to the designation of critical habitat. The Threatened and Endangered Species Recovery Act takes that idea one step further and elevates the recovery plan system to the primary mechanism to protect species.

I also feel compelled, however, to mention a few things that this bill does not do. This bill does not, and I repeat, does not weaken current law; it does not create a sweeping new entitlement program for landowners; it does not allow for pesticides to be used at random to harm farm workers and at-risk species; and it most definitely would not in any case allow for national treasures like the bald eagle and the grizzly bear to become extinct. That has been reported by a number of my colleagues, and it is simply not true.

In fact, I think many of my colleagues would be interested to know that my office has been inundated by representatives from so-called industry lobbyists requesting that certain provisions that were once included in this bill be put back in.

This bill is in no way a home run for anyone. In my opinion, it is a true balance between the sides, no side getting everything they want; and, when you achieve that, you usually have the best policy.

I think it is unfortunate that the media and some members of the environmental community have chosen to vilify this bipartisan legislation over the past few weeks and provide nothing but a knee-jerk negative analysis because they have already prejudged Chairman POMBO's bill as being the enemy.

Now we are here battling it out on the floor against one another, and another opportunity could be lost for us to move the ball forward together. I am proud of this bill, and I am proud of the work that Chairman POMBO and his staff have done to create a document that is truly a compromise, and it is a real shame we could not agree on these last few things.

Whether some people want to admit it or not, the ESA is not working to the best of its ability to protect the species, and it is our job as Members of Congress to do something about it. We can do better, and better is voting in favor of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, we must protect what we can never get back. We are not only protecting wildlife, but we are defending our citizens as well.

The stringent regulations in the Endangered Species Act have benefited many species in our great country. Our national symbol, the bald eagle, is one of the most profound stories of recovery in progress. The American alligator, the Peregrine falcon, and the California condor are but a few examples of species that have benefited by the provisions in the bill. According to the United States Fish and Wildlife Service, nearly half of the species that had been on the list more than 7 years were stable or improving, and those are the facts.

Mr. Chairman, H.R. 3824 is full of giveaways to large development companies and other special interests. The Pombo legislation includes provisions that require the government to use taxpayer dollars to pay developers and other special interests not to violate the Endangered Species Act, instead of creating commonsense incentive programs that would foster greater involvement in conservation efforts.

Congress should choose to send a national message regarding the mindful stewardship of our country. If not, further abuses will occur as evidenced by Governor Schwarzenegger in my own home State of California. Tuesday, the Governor fired all six members of the State Reclamation Board, an agency that oversees flood control. The board had recently become aggressive about slowing development on the flood plains.

Is the Governor's protection of developers and big landowners worth the devastation that oversight can avoid? Congress would be wise to take notice, in light of the no-bid contracts, pleas to exempt all environmental regulations in the gulf States after Katrina, and the same old companies slurping up Federal funds in egregious excess.

Mr. Chairman, the gentleman from California's bill is not the legislation we need. It would also allow the unlimited use of dangerous pesticides at the expense of the people, plants, and wildlife. This bill would repeal all Endangered Species Act provisions that regulate the use of pesticides like DDT, which nearly resulted in the extinction of the American bald eagle in the mid-20th century and decimated the California brown pelican population in my own State.

□ 1330

We must protect what we can never get back.

Mr. Chairman, I strongly urge my colleagues to defeat this bill.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I congratulate the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CARDOZA) for their outstanding work on this legislation.

This legislation will reform the 1973 Endangered Species Act so that real species recovery can be achieved while minimizing conflict with landowners, businesses, public land managers, and communities, and particularly the farmers and ranchers of America that my committee represents.

Since the gentleman from California (Mr. POMBO) introduced this bill, we have heard groups on both sides of the issue recite statistics with the intent of proving or disproving the effectiveness of the law. Well, I do not believe I can change many minds simply by pointing out that over 99 percent of the species placed on the list are still on it. I would like to make a comparison that may put this dismal success rate in perspective.

If I, for instance, ran a hospital where only one half of 1 percent of the critical patients who checked in recovered, I could hardly claim to be doing a good job. What we need is an endangered species law that not only protects the species, but allows them to recover, to expand and to get off of the endangered species list as a thriving species. This is, however, the record the Endangered Species Act has today compiled, one where only one half of 1 percent of the species have recovered.

Its proponent, nonetheless, continue to claim that that is a success. Along with its glaring shortcoming, the law contains numerous unintended consequences that have proven to be extremely harmful to landowners and local communities. In fact, landowners have come to fear the Endangered Species Act as it has evolved into a giant regulatory menace.

Under the current law, the U.S. Fish and Wildlife Service has the power to halt lawful landowner activities if an endangered species is identified on their property and it is determined their actions would take that species. The landowner and his right to use his land are then simply left to the mercy of the courts.

Private property rights are fundamental rights embodied in the Constitution, and Congress periodically needs to take steps to ensure that government is protecting them, not trampling on them.

In my own committee, the Committee on Agriculture, we have recently examined another example of the infringement of property rights through the use of eminent domain. I commend the gentleman from California (Mr. POMBO) for working with us to address that problem as well.

TESRA achieves a balance between environmental concerns and property rights protection through its compensation and cooperative conservation provisions. Through these provisions, this legislation will fairly compensate landowners when they must forego use of their property and provide varied and unique ways to work with landowners.

The bill also makes other important changes, such as doing away with the Act's emphasis on designating critical habitat by placing emphasis instead on functional recovery plans. These reforms will not only be more effective in achieving species recovery, but do so in a flexible, non-adversarial manner. I believe the protection of endangered species is exceedingly important, however, a law that forces Federal wildlife officials to simply catalog declining species while alienating landowners and discouraging good management practices is a bad thing. Support this legislation.

Failing to improve the lot of species in more than 99 cases out of 100 isn't working. TESRA is a commonsense step towards improving and modernizing the 35-year-old law, and I urge my colleagues to support this important legislation.

Mr. CARDOZA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I rise in support of H.R. 3824. This legislation is a reasonable, balanced response that I think will address many of the unintended difficulties and consequences that have arisen since the passage of the original Act.

Over 30 years have passed since that time. That has given us an awful good opportunity to see what sort of insight and experience in terms of what has worked in preserving and protecting endangered species and habitat and what just as importantly has not worked.

California faces numerous challenges in complying with the Endangered Species Act, like many parts of our country. In California, we have 293 threatened and endangered species in the State, the second largest number in the Nation. We also have 11 million acres of designated critical habitat of which 30 percent of it is privately owned. In Kern County, part of which lies in my district, we have more listed species than any other county in the State of California.

To relay an anecdotal story of which there have been many here today, in 1995, we had a Chinese immigrant farmer who, believe it or not, was jailed and prosecuted due to an accidental taking of a species on his land that he had farmed for years. As a matter of fact, his tractor had been confiscated as corroborating evidence.

As a result of that, I and others in the California legislature led a successful effort to change the law to ensure that that would not happen again.

During the committee markup last week, I successfully passed two amendments that clarify local governments' role in participating in the development of habitat conservation planning. As we know, many of the habitat conservation plans have had difficulty in their adoption. The on-the-ground information from our local governments and water agencies and land use agencies is beneficial in the crucial input in the listing process and for trying to provide recovery efforts that are successful.

Mr. Chairman, the Endangered Species Act needs improvement, and I think this bill is a step in that direction. It obviously is a work in progress, but we should understand that the dilemma that we face in America today is that while we all want to protect native plants and species, the dilemma is that our population growth has threatened the habitats for many of those plants and animals, and therein lies the dilemma.

We must continue to work on efforts that I think are included in this legislation, realizing that we are going to have to revisit them in future years.

I applaud the bipartisan efforts of the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL) and their staff for working with all the members of the committee, and the gentleman from California (Mr. CARDOZA) for addressing the problems of the original bill.

I urge my colleagues to vote for its passage.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Committee on Resources.

My amendment that I referenced a moment ago that was accepted by the committee is meant to assure that States and units of local government have fair input in the listing process for threatened and endangered species. Local governments, we know, often have the best on-the-ground information on the status of communities of plants and animals that are in the area.

This bill would formally recognize the local governments' rights to comment on the listing process and the acquisition of the best available scientific data. In many areas of California, we have water districts that are an extremely active part of the local governmental units that are involved in the species recovery process. The contributions that they make are many.

In order to understand the status and the challenges of the various species that are listed, is it the chairman's understanding that the reference to units of local government in section 8 of the bill would include water districts?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. COSTA. I yield to the gentleman from California.

Mr. POMBO. Yes, that is our intention.

Mr. COSTA. I thank the gentleman very much for that clarification.

Mr. RAHALL. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I urge my colleagues to support the Miller-Boehlert substitute.

Mr. Chairman, I rise today in support of the substitute amendment in opposition to H.R. 3824.

H.R. 3824 is being promoted as a piece of legislation that is good for business. As a senior member of both the Small Business committee and the Resources committee, I think I have an important perspective on this issue.

I would like to draw a parallel between the Endangered Species Act and landmark legislation that has been passed by Congress to protect the health and safety of workers. One could easily and logically argue, if they were so inclined, that child labor laws and occupational safety and health laws were bad for business. But we don't because we intuitively understand that supporting the very foundation of business, the people who do the work, is a long-term economic benefit for society, even though it may cost a few dollars up front.

That goes to the basic fact that practically every adult in America has worked hard at a job for a business or a corporation at some point in his or her life. All of us can easily relate to the problems caused by unfair labor practices and unsafe working conditions. However, very few of us are scientists. We are not a scientifically literate society.

I am not here to say whether that is good or bad but just to offer one explanation why we find it so difficult to grasp that the health of our environment and the continuity of all the pieces in our environment is as important to the health of our society and the strength of our economy as sound labor practices. Legislation that hurts the health of the worker is not good for business. Laws, like the one being proposed today, that undermine the very foundation of our society's well-being and economic infrastructure, are not good for business.

When we undermine the basic tenets and goals of the Endangered Species Act, we do so at our own peril. Most of us in the House were alive in the early 1960s when Rachel Carson published her book, Silent Spring. The silence of which she spoke caused by the extermination of songbirds, dying because the shells that protected their offspring shattered long before the young were ready to hatch. The eggs shattered and the next generation died because DDT weakened the structure of the eggs. The spring, once filled with the sound of songbirds, was growing ever more silent as DDT began to pervade every corner of our environment.

DDT nearly exterminated our Nation's symbol of freedom, the bald eagle, because it shattered their shells. DDT nearly exterminated the endless flocks of brown pelicans flying low over the ocean's horizon, because it shattered the shells of their young. In my lifetime, I have witnessed the near extinction of these birds. And, thank God, I have witnessed their return because we banned that chemical.

Even though the birds have returned, did we ban DDT too late, because we all know that every one of us harbors residues of DDT in our bodies, that DDT is found in our mother's milk? Or, were the eagle and the pelican sentinels, helping us to right our wrongs just in time, before they disappeared from this planet and our own bodies weakened along with, them.

The Environmental Protection Agency banned DDT a year before the ESA was passed and here we are, 35 years later, about ready to pass a so-called "ESA reform bill" that would suspend all Endangered Species Act provisions related to pesticides.

The Endangered Species Act is really about a single species—us, human beings. I am not going to be dramatic and suggest that our species faces extinction. At six and a half billion and growing, I think the human species is going to be around for a good long time. But the existence of today's young people is not the existence I remember from my youth.

Bottled water, mercury poisoning the womb, rates of asthma attacks skyrocketing, beaches closed because E.coli pollutes the water and sickens our children.

The Endangered Species Act is not about saving the tiny silvery minnow that lives in the Rio Grande and it is not about saving the spotted owl that exists in mature forests. It is about alerting us to the fact that our rivers no longer sustain fish and our forest no longer sustains birds. The Endangered Species Act sounds the five-minute buzzer for humanity and says "Watch out!" Our fellow creatures are sickening. The animals that share our water, our air, our soils are dying. Something is wrong and we better do something about it before it begins to weaken and sicken us and we have to scramble to pick up the pieces.

Let me close where I began—whether or not a drastic weakening of the Endangered Species Act is good for business. The simple cost/benefit analysis often applied to endangered species protection only reflects what can easily be given a monetary value. This highly selective economic analysis only counts what can be most easily quantified—the cost of timber not cut, the cost of water not sold, the cost of crops not sprayed with pesticide.

These economic analyses do not account for the cost if environmental protections are not put in place—an aquifer that dries up, a hillside that erodes into a river, people stricken with cancer from unsafe pesticides. It is easy to hold up the first balance sheet and say, "Business will suffer" in the same way one could say that by prohibiting the labor of children, "Business will suffer".

But the cumulative costs of a thousand cuts into the environment that sustains us as humans will be borne by everyone in society, consumers and businesses alike. Without environmental laws, our economy polluted our rivers, darkened our air, paved our wetlands, and drained our rivers. The Endangered Species Act does not take property from private entities; it protects the property, the health and the wealth of all Americans.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), the dean of the House as well as the father of the Endangered Species Act, the ranking member on the House Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I want to thank my dear friend, the gentleman from West Virginia (Mr. RAHALL), not only for his friendship, but for all the good things he has done on the matter of endangered species and other matters on nature and conservation of natural resources.

I want to pay tribute to my friend, the chairman of the committee. He has behaved in all manners in this connection with this, as he always does, as a complete gentleman. I greatly regret that we were not able to conclude our negotiations in a way which enabled us to together support this legislation. But he has made an honest effort and I want him to know of my appreciation and respect.

Having said that, endangered species is a very important piece of legislation that has worked well. It has served the Nation splendidly well. Large numbers of species which would have been extinct are saved by the fact that this has been in place. And the government now has the tools and guidelines for its behavior.

This is not new legislation. It passed in 1973. The gentleman from Alaska (Mr. YOUNG), the gentleman from Michigan (Mr. CONYERS), the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) and the gentleman from New York (Mr. RANGEL) all supported it. It passed by a heavy bipartisan vote in the House. It passed 92 to nothing in the Senate.

I would note that there are few real differences between the substitute which will be offered shortly and the legislation as it is before us. They are, however, noteworthy. I would note that the success of the Act I do not believe would be furthered by the adoption of the manager's amendment, but it would be by the substitute to be offered.

I would note that there is reason to constantly review the legislative pronouncements of the Congress and to see how it is working and what needs to be changed to make it work better and more fairly. I would note that it is working well and fairly. 56 percent of the top prescription drugs in the world contain natural compounds from plants found in the wild, many of which come from endangered plants. We have saved large numbers of animals who might otherwise have been extinct. I would note that there are also economic benefits. In a sense, we do good by doing well.

I would note that wildlife has created recreation for more than $108 billion in revenue and more than a million jobs in both the public and private sector at the local and national level.

There are problems with this. Science is the core of ESA and should remain so. H.R. 3824 regrettably changes it so that scientific data do not work in the same fashion they do and it creates new layers of bureaucracy. It also creates impacts which are supposedly related to national security, which may be important in terms of the recovery plan but not in terms of whether the animal should be listed or the species should be listed.

Economics are treated in the same way. They become a part of the decisionmaking rather than in the creation of the recovery plan. It is unfortunate that the legislation allows threatened species to dwindle until they become endangered, making the problem of recovery still more difficult.

We can and we should address the real needs of small farmers, landowners, ranchers and others; and we can do this, I believe, without allowing unlimited claims upon the Treasury. This would, I think, entail an intelligent review of this matter, something which the gentleman from California (Mr. POMBO) and I tried to do.

I would note that the President has expressed concerns in his statement of the administrative policy on September 29 and he says, "Requirements related to species recovery agreements, new statutory deadlines, new conservation and programs for private property owners provide little discretion to Federal agencies and could result in a significant budgetary impact."

So if you want fiscally and financially responsible legislation, legislation which, in fact, protects the species, which is fair to all, which makes progress and which is close to the area of the legislation but which has broad citizen support, conservation support, and does move the process forward, I would urge my colleagues to support the substitute which will be offered by my colleagues, the gentleman from California (Mr. GEORGE MILLER), and the gentleman from New York (Mr. BOEHLERT). This is the way to go.

We can continue our efforts to try in good faith as has been done by both the distinguished gentleman from West Virginia (Mr. RAHALL) and the distinguished gentleman from California (Mr. POMBO) to achieve good legislation which will again address the concerns of all while at the same time protecting and conserving species which we have no right to remove from this world.

□ 1345

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Threatened and Endangered Species Recovery Act, H.R. 3824.

I want to first of all commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for what is very commonsense, bipartisan legislation; and I want to thank the chairman and his staff for all the long hours and the hard work they have put into this bill.

The latest figures I have show that my home State of Tennessee has one of the highest numbers of listings on the endangered species list. As my colleagues can imagine, this is a very big issue in my State.

I think everyone has read and heard horror stories about ridiculous rulings that have come out over the years, very unfair rulings, under the Endangered Species Act. The burden of compliance under present law is, by far, the hardest for the smallest of our landowners.

It is a simple fact that the existing law hits the hardest on the small- and medium-size farmers and ranchers and landowners, and these are the people least able to fight it.

The wealthiest people and the biggest corporations always seem to be able to get their way. They have enough money, and compliance with the law is either a simple nuisance or just a small cost of doing business. I think, and the fact is, that the way the present law is, it drives out a lot of the competition for the big guys by getting rid of some of the little guys.

I think that anyone who approaches this legislation with a truly open mind would call this a very moderate bill. In fact, in almost any other country in the world, H.R. 3824 would be held as great environmental legislation.

The United States has made greater progress in regard to environmental protection than any other country in the world in the last 30 years. Yet there are some extremist groups that simply cannot seem to admit we have made this progress.

Right now, these groups are telling their members how terrible this legislation is. However, if we look at their mailings, they always tell their members how bad things are, and I think it is probably more related to fund-raising and money than it is to actual concern about endangered species.

If people want to both protect endangered species and not force small farmers or small landowners off their land and force them to sell to big developers or big government, then this is balanced legislation that will accomplish these goals.

Mr. CARDOZA. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for this legislation.

This legislation modernizes the Endangered Species Act, or ESA, to allow for more scientific review, better conservation plans, and to focus on a recovery process that is based on collaboration and not conflict.

After more than 3 decades, the ESA has failed. This legislation is a bipartisan effort to fix the flawed law.

Less than 1 percent of endangered species have recovered, less than 1 percent. The ESA has only helped 10 of 1,300 species listed under the law. Thirty-nine percent of the species are unknown. Twenty-one percent are declining, and they are declining, and 3 percent are extinct. This law has a 99 percent failure rate.

We need to update. We need to update and modernize the ESA to strengthen the species recovery by turning conflict into cooperation and allowing the use of sound science.

In the Inland Empire, the ESA has prevented or increased costs for freeway interchanges, economic development, and things as simple as trash removal. There are certain areas that are blighted in portions of our communities. It is like walking into a mine. You have got to watch every step that you take because you are afraid you are going to step on an endangered species.

In my district, we have two infamous endangered species. I want to point to one, the Delhi sand flower-loving fly, and of course, the other one is the kangaroo rat.

Look at this fly. If anyone were to see this fly, we would swat it. It is our first, immediate reaction, and we have always heard the buzz at night when we hear a fly. We do not stop to look at it to see if it is an endangered species. Immediately we react; we swat it.

Now, when we look at this fly, and it was buzzing around, I would swat it. What would happen if a cow swatted this fly? Would we fine the cow or the owner? It seems pretty ridiculous, I say.

ESA has many ridiculous examples. As we can see in these posters next to me, the fly costs San Bernardino County Medical Center $3 million to move the hospital about 200 feet when the fly was found in the property. That is about $600,000 per fly. Can my colleagues imagine what it would do to our communities, $600,000 to move a hospital? They reserved a certain area that is full with blight that is overlooking the hospital.

Also in my district, ambulances driving to this emergency room at Arrowhead Medical Center need to slow down so that the endangered flies will not hit their windshield. Can my colleagues imagine someone who needs emergency services cannot get to the hospital, has to slow down because they are afraid this fly might run into the windshield? That is ridiculous. It is about a life that we need to save, not a fly.

It has even been suggested that traffic be slowed down on Interstate 10. Interstate 10 goes into Palm Springs. It is a route that moves traffic back and forth. It is ridiculous. They are saying, all right, this fly only comes out between July and September. So people are suggesting when we travel on that freeway that you should reduce your speed limit from 65 to 25 miles an hour because we might endanger this fly and hit this fly. Can my colleagues imagine the traffic congestion in the area, the impact it would have in that area, on the flow of goods and others that would not be able to be moved? That is ridiculous.

The Inland Empire is indeed species rich, but we have been hit hard by jobs lost by ESA. That is why we need to take into account the human cost.

For example, in the cities of Colton and Fontana, California, a handful of flies, yes, flies are responsible. The city of Fontana alone has spent $10 million in legal fees associated with the ESA and has been forced to put aside $50 million worth of land that has been intended for development. A scrapped commercial center with a supermarket would have generated $5 million in revenue.

Can my colleagues imagine what this would have done to the area, better schools, more police officers, new fire stations, teen centers, paving the streets, fixing our potholes? Yet we have not been able to generate the kind of revenue that we need.

The ESA is related to the development that led the city to default on bonds. Will the Federal Government restore the city's credit rating? No. It has hindered us.

Imagine if endangered species suddenly thrive in the areas flooded by the hurricanes. Do we stop the hurricane construction?

This law affects more people than what we think. Think of the farmers not able to harvest their crops because an endangered species is found in the field.

Local cities have offered land for habitat, changed development plans and tried to partner in that process; but ESA, as written, will not permit that.

I support this legislation, and I think this is good legislation. I ask my colleagues also to support the passage of this.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is probably not a Member of this body that cannot get up and tell some horror story with the current administration of the Endangered Species Act. We all agree there is need for reform and change.

The previous gentleman, while not speaking to the legislation whatsoever, should take note, and he has referred to the cost to a hospital in his district that had to pay some enormous costs, but it is important to realize anytime we allow species to go extinct we lose enormous potential to understand and improve our world and to create medicines that many times can save people's lives. Nowhere is that more evident than in the world of medicine.

I have my chief of staff who has returned from the hospital, thank the Lord to many medicines that have been produced from nearly extinct species.

It has made him well and brought him to this floor, and I could go down the list. There are a number of important medicines, including possibly the next effective treatment of cancer, AIDS, or heart disease that can come from species that we are trying to protect and save on this world.

Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Washington (Mr. DICKS), ranking member on the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations and a member of my class.

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding me time.

Everybody has been talking gloom and doom about the Endangered Species Act. Let me give my colleagues a few success numbers. This comes from the National Wildlife Federation.

According to the National Research Council, the Endangered Species Act has saved hundreds of species from extinction. A study published in the "Annual Review of Ecological Semantics" calculated that 172 species would potentially have gone extinct during the period from 1973 to 1998 if Endangered Species Act protection had not been implemented.

According to the Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today. That is not a failure. That is an enormous success.

According to the U.S. Fish and Wildlife Service, of the listed species whose condition is known, 68 percent are stable or improving, and 32 percent are declining. The longer a species enjoys the Endangered Species Act protection, the more likely its condition will stabilize or improve.

Now, I just want to say something. Everybody has been saying that H.R. 3824 has been this great effort in terms of collaboration, and I respect that. I respect the way that the chairman and the gentleman from West Virginia (Mr. RAHALL) have approached this thing.

I come from the State of Washington. No part of the country has been more affected by the Endangered Species Act than the State of Washington with the spotted owl listings and the marbled murrelet listings; but I believe that this legislation, H.R. 3824, is a step backwards. It is not going to help protect these species that we want. It will hurt them.

I think that the ESA should be reformed in a responsible manner. In fact, the substitute amendment that I have cosponsored with the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. BOEHLERT), and others that will be debated later today embodies those kinds of practical reforms which still provide us the kind of potent tools necessary to prevent extinction of species and to work towards their recovery.

There are some aspects of this bill that I agree with to a point. Over time, many supporters of the ESA have come to question the way in which habitat is designated as critical in order to help species recovery. While it is vitally important that habitat be set aside, these critical habitat designations have led to much controversy.

The substitute amendment also eliminates the critical habitat designation, but replaces it with the requirement that the Interior Secretary identify specific areas that are necessary for the conservation of species and then enforce these designations.

In addition, the substitute amendment will require that Federal land be considered first for designation as habitat necessary for a species' survival and recovery before private landowners are burdened.

Another provision of this bill is one offered by my friend from Oregon, but the idea that we are not any longer going to have EPA consult on pesticides is a tragic mistake. This is enough to defeat this bill in its own right. This is a terrible mistake. Sixty-seven million birds each year die because of pesticides; and if we let this pesticide provision be enacted, it will be the most damaging thing I can think of for birds and other wildlife.

□ 1400

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, the Endangered Species Act is broken and needs to be fixed. Those are not my words, those are the words of a city counselor from Santa Barbara, California. In a hearing we had on endangered species last year, she described California as being the greenest State, Santa Barbara as being the greenest of the cities in California, and she as being the greenest of the green. She said that the Endangered Species Act is blocking people from making additions onto their homes, it is keeping the beach closed, it is stopping development in their town, and they are tired of it. They either want it eliminated or fixed.

Elimination of the Act is too extreme. The gentleman from California (Mr. POMBO), our chairman, has taken a very good stance in reforming it. In New Mexico, we have the silvery minnow. In order to keep the flow in the Rio Grand River at the level that the biologists said we had to have, we had to release storage of water that had been building up for 50 years in four different reservoirs. And storage for water like that in New Mexico is not easy to get. When we empty those, we cannot maintain the flow. So one of the most important provisions in this bill is that sound science must be used for any decision.

We also are affecting the outcome for our private property owners, and so I thank the gentleman for his hard work on this and I support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentleman from the great State of Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. Chairman, I rise today in support of this important very important reform legislation because it is an issue that is very important to me and many of my constituents in my district.

As we all know, the challenge we face in reforming the ESA is to create a balance between the important goal of conservation and preservation of our Nation's species and making sure property owners, businesses, workers and communities do not suffer unnecessarily for these efforts. Under the current structure of the Endangered Species Act, these two goals have unfortunately been at odds and have been a barrier to important economic development.

By reforming the current law, we have the opportunity to craft balanced legislation that brings all stakeholders together in common interest. I feel strongly that this legislation achieves that balance and, therefore, should be approved.

A community in my district seeking this balance is Durant, Oklahoma, which is in part of the "historic range" of the American burying beetle. The leaders of Durant have worked hard and have had success in bringing business to their area of far southeastern Oklahoma, but each year, the construction of new sites for these businesses is brought to a screeching halt, always looking for the burying beetle, but no presence of the beetle has been found for a number over years. This disruption costs the community time, money, and the potential for future job growth.

There must be a better way to balance the needs of the species and the needs of the communities. This bill provides important reform. It does not gut the law, but actually continues to provide important protections for endangered species which we all care about deeply. This reform should improve the recovery process and provide real success in saving our national treasures.

I commend the hard work of those who have brought us here today.

Mr. RAHALL. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in opposition to the Threatening Endangered Species From Recovering Act.

This legislation, as many of us know, will do nothing to improve our ability to help species recover. As a matter of fact, this legislation will repeal all Endangered Species Act provisions that protect threatened and endangered plants and wildlife from the harmful impact of pesticides.

Let us focus on this for a moment. Every schoolchild in America is aware that pesticides are threatening to birds. Our own national symbol, the bald eagle, is threatened with the provisions of this bill that would repeal the pesticides provisions that currently exist and which help protect endangered species. We would not spray pesticides on a bald eagle, would we? And if we would not do that, why would we vote for this bill? Pesticides have played a large part in the decline of many species, including the bald eagle.

The bald eagle is the symbol of our national unity. There is something about the Endangered Species Act which represents something even greater than talking about plants and wildlife. There is a recognition that plants and wildlife and human beings are all part of the same interconnected process; that we are interdependent; that we are all one. To act as though plants and wildlife and insects are just here for our use, for our commercialization, for our disposal actually rejects our own humanity. There are deeper questions here about who we are as human beings that are reflected in legislation like this.

I could talk for a while about how this bill is going to provide giveaways to developers at the expense of wildlife and endangered species. I could talk about how it is going to require the government to use taxpayer dollars to pay big developers to not violate the Endangered Species Act. I could talk about how this Threatening Endangered Species From Recovery Act would call for a tentative schedule for developing recovery plans for species that are currently protected. I could talk about all that, but I want to stress that what we are really doing here in voting for this bill is rejecting the whole idea of interdependence and interconnection; rejecting the idea of a bald eagle which stands for national unity and that we are all together.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time, and I appreciate the chairman's efforts to reach across the aisle and produce a true bipartisan bill, and I thank the gentleman from California (Mr. CARDOZA) for working on this.

If any of my colleagues have served on the Committee on Resources, as I have, you know that this is a truly bipartisan bill. The gentleman from West Virginia mentioned that everybody can find an example of how the current ESA is out of whack, and he uses that as an excuse not to move forward with a bill that reforms it. I would say that that is precisely the reason we need to reform it, because everybody can find not just one but two or three or a dozen examples in their own State of how the current law is not leading to recovery, but it is, rather, tying people up and making individuals and organizations simply pay for a regulation rather than recovery.

The purpose of this bill is to lead to the recovery of species, and that is what this is all about. My own State of Arizona has had its own issues with the Endangered Species Act. Many times, those who manage water resources have been tied up with regulation that has required them to spend money on that rather than the recovery of species. This will make it far easier to do that.

This bill will also mean a deal between a landowner and a Federal agency is a deal. So for many reasons, I would support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from California for yielding me this time, and I wish to engage the chairman of the Committee on Resources in a colloquy.

For many years, Mr. Chairman, the U.S. Army Corps of Engineers has engaged in river management practices that have harmed several species of native wildlife that live in and near the Missouri River and undermine the economic livelihood of many communities along the upper Missouri River basin. My State, and others in the upper reaches of the basin, have repeatedly endeavored to influence the decisions of the Corps as it makes critical river management decisions.

The interagency consultation provisions found in the current law are one of the few tools at our disposal. So I am concerned that the alternative procedures defined but not specified in section 12 of the Threatened and Endangered Species Act would create a way for the Corps to disregard the consultation requirement, and I want to make sure the alternative procedures provision is not designed as a way to eliminate consultation between Federal agencies.

Therefore, under the new bill, would the Corps be required to manage the Missouri River in a manner that meets current standards under the ESA?

Mr. POMBO. Mr. Chairman, will the gentlewoman yield?

Ms. HERSETH. I yield to the gentleman from California.

Mr. POMBO. Yes, they would.

Ms. HERSETH. Mr. Chairman, I thank the gentleman for recognizing my concern and clarifying the intent of the bill. I am satisfied the bill will not weaken the interagency consultation requirement, and I appreciate your consideration.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a very valued member of our Committee on Resources.

Mr. INSLEE. Mr. Chairman, I think it is appropriate to refer to the first Endangered Species Act in Genesis. "Bring out every kind of living creature that is with you, the birds, the animals, and all the creatures that move along the ground, so that they can multiply on the earth and be fruitful and increase in number upon it."

Are we acting in the spirit of Noah when we purport to vote, some may vote, for a bill that would prevent protecting the bald eagle from pesticides, when DDT almost removed it from the treasure-trove of American icons? Are we acting in the spirit of Genesis? I think Americans think we are not. When we act to remove any meaningful enforcement provisions to protect the habitat, are we acting in the spirit of Genesis? Americans think not.

What is a fish without a river? What is a bird without a tree to nest in? What is an Endangered Species Act without any enforcement mechanism to ensure their habitat is protected? It is nothing. This is not a modernization of the Act, this is a euthanization of the Act, and I will tell you why.

The underlying bill says that we are going to have these maps of habitat that will be developed, and that is a wonderful thing. And under the bill, as written, the maps will hang on the walls of these agencies in beautiful pink and blue, and the Cub Scouts and the Girl Scout Troops can come through and look at the beautiful maps. But it has one missing thing. If we pass this underlying bill, we would have removed any single legal enforcement mechanism that those maps had whatsoever. The bipartisan amendment will say that those maps have some degree of teeth.

This underlying bill is a chimera. It is a total falsehood to say it does the first thing for habitat because there is no enforcement mechanism for those maps.

I want to tell my colleagues of a woman who was in my office the other day. She wants habitat protection so she can see those salmon. And just to make sure no one thinks this is just some esoteric thing, her name is Gail and she lives in Miller Bay in Washington State, Kitsap County. She told me about the thrill of seeing the salmon going up the stream on Miller Bay, and they do that because we have an enforceable mechanism to protect habitat. She knows that if we pass this bill, we will remove the ability to protect the streams. We remove the enforcements mechanisms.

Mr. Chairman, that is why we need to do this substitute, which has a better way of identifying habitat in the recovery process so we do not have this frustration with the landowners, so we do not waste 3 years just bothering landowners and not recovering species, but we have a mechanism to get this job done.

I want to reiterate what the gentleman from Washington (Mr. DICKS) suggested. To suggest that an Act that saves 99 percent of the species from extinction is a failure is not a way to keep score. If you want to know how to do more, let us make sure that the executive branch enforces this law. Clinton listed 500. The first Bush listed 250. This administration has done zero without a court order.

Let us pass the substitute bill and reject this underlying bill. Honor creatures, honor the taxpayer, honor yourself.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. CARDOZA. Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise as a Member probably more affected by this law than anybody else in the United States Congress. I probably represent more critical habitat in the coastal counties of Monterey Bay than anybody. That is the Big Sur, Carmel, Pebble Beach, Santa Cruz region.

That critical habitat has made us a lot of money on what is watchable wildlife. Watchable wildlife is the largest business, fastest-growing business in the United States. Of all the sports in this country, watchable wildlife exceeds them all. This bill undermines the greatest economic asset we have, which is our natural things by creating a new issue on takings.

You argue the bill is broken because the administration has not been able to administer it.

□ 1415

Well, it is not the bill that is at fault; it is the United States Congress and the President of the United States that are at fault.

I am on the Committee on Appropriations, and in 2003 the Fish and Wildlife Service said it needed approximately $153 million to address the critical backlog of listings of critical habitat; yet the President only asked for $18 million. This is the way to kill an organization. You do not fund it, and say, look, the law does not work, you have a backlog.

So let us take the law. Every city councilmember, every city supervisor in the United States ought to wake up and look at this law because now they give full development rights under this law. If you do not like the way the law is, you have trees in your backyard that the government says, the community says you ought to preserve, you do not have to worry about that now because you can say that is a taking.

Pebble Beach, cut all of your cypress trees and pine trees, which are the Monterey cypress and the Monterey pines, because now instead of beautiful scenery, you can build hotels all over that land. And if they do not allow you to do that because of the trees, the government will pay you.

Mr. Speaker, guess what, the government has no money. It cannot even pay the bureaucrats that are responsible for carrying out the law. This bill is a gun to the head. This bill says if you do not grant that development, by God, government, you have to pay it. The lawyers say, government, you have no money, you better grant the request.

This is a full development rights. It is an attack on America's greatest heritage. It endangers wild and scenic species.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, in Washington everything looks perfect on paper and people hate to admit they made a mistake; but the truth of the matter is how it works in real life is completely different, and we have a responsibility to make those changes.

I strongly support this recovery act and thank the gentleman from California (Mr. POMBO) for his leadership and the gentleman from California (Mr. CARDOZA) for his hard work. My east Texas district, which was hit very hard by Hurricane Rita, is jam packed with trees. The piney woods are our heritage. They are our economy; and they provide habitat for the red cockheaded woodpecker, among other endangered species.

But for decades, responsible landowners have been afraid that the Federal Government would swoop in and take their livelihood away for the sake of this bird due simply to the outdated and unsubstantiated burdens of the Endangered Species Act.

America's farmers and ranchers and private property owners in east Texas have spent long enough fearing the Federal Government. Unfortunately, current law has created incentives for landowners to destroy species habitat to rid their properties of liability. I strongly support this measure.

Mr. CARDOZA. Mr. Chairman, I yield myself 1 minute to engage in a colloquy with the gentleman from California (Mr. POMBO).

Mr. Chairman, I believe it is critical for us to make sure we do not change the regulatory landscape on property owners regulated under existing law. These individuals, our constituents, are committed to doing what the Federal Government asked them to do in order to secure authorization to proceed with various activities. We should not require those same landowners to renegotiate what they have already agreed to under the new rules of this bill after it is enacted.

Based on that premise, I believe the Threatened and Endangered Species Recovery Act should include a grandfather clause to cover any ESA permits or approvals issued prior to the date of enactment of this bill, not just habitat conservation plans.

I would inquire, is that the intent of the gentleman from California (Mr. POMBO)?

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. CARDOZA. I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, that is the intent, yes, sir.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), a valued member of the Committee on Resources.

Mr. KIND. Mr. Chairman, I appreciate the approach that the committee is taking in trying to revamp and revise the Endangered Species Act. This has been a vitally important and successful act throughout recent decades. And while there is wide agreement here on the House floor that it should be amended and tweaked and improved on in light of past experience and modern times, we need to do it responsibly; and I believe that responsible approach is better reflected in the substitute that is being offered here today.

Unlike some in this Chamber who believe that the Endangered Species Act has been an unmitigated failure, there are countless success stories around the country. In my home State of Wisconsin, an example of how well it has worked, working with local officials and the stakeholders involved, the Higgins eye mussel has come back in the Mississippi River, which acts as a great filtration system in the river basin. The Karner blue butterfly, on the verge of extinction in Wisconsin, due to the Endangered Species Act and the recovery plan that was in place, is making a healthy comeback.

The whooping crane is making a strong comeback in the Necedah Wildlife Refuge, as has the granddaddy of them all, which has been referenced here today, the American bald eagle. If Members would like to see some bald eagles, come to western Wisconsin along the Mississippi during the spring and fall ice flows, and you will see literally thousands of them. There are new nests that are going up in habitat where they had never been found before. They are on the verge of being delisted because of their success story. EPA identified the adverse effects of DDT, Congress took action, and the bald eagle is resurging today.

And the grizzly bear that is about to be delisted in Yellowstone and portions of Montana from the threatened species list, I can personally attest to the strength of their comeback, having just been in Glacier Park in August and coming within 20 yards of a big grizzly bear and her two cubs. Fortunately, I was able to retreat, or I would have been a threatened or endangered species during that time.

The act has worked, and the point is there is a responsible approach that recognizes the bureaucratic red tape that we streamline, working with private property owners and also putting in place a strong recovery plan for species that makes more sense. That is the substitute. I encourage my colleagues to support the substitute.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I serve a very rural district, a lot of landowners. Currently, a landowner with an endangered species on his land often sees the species as a threat to his survival. That is not good for the species, and it is certainly not good for the landowner. It is not working. It is largely adversarial. H.R. 3824 provides incentives for landowners to preserve endangered species, and this will help the species, and it will help people as well.

In 1978, 50 miles of the Central Platte River in Nebraska was designated as critical habitat for whooping cranes. Only 3 to 4 percent of the whooping cranes visit the Platte River annually. The great majority of whooping cranes never see the Platte River, never visit it at all; and so many have questioned this designation because this designation has led to a cooperative agreement between Nebraska, Colorado, and Wyoming involving thousands of acres of lands, hundreds of thousands of feet of water to support critical habitat; and it is still not complete after 8 years of spending millions of dollars.

So we have case after case after case like this where this thing simply is not working well. Hopefully, applying the best available current science required by this legislation will improve this process. I think it will. I thank the gentleman from California (Chairman POMBO) for his efforts, as well as the gentleman from California (Mr. CARDOZA), and ask support for H.R. 3824.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding me this time.

I, too, come from a rural area. The two major industries in my district are agriculture and fishing. So we know the landscape and people cooperate. The present ESA, maybe it is because we are on the east coast, the present ESA bill is working fine. I know we need to tweak it because it does not work the same way all over the place, but I would urge my colleagues to support the substitute. Here are some reasons why:

In the substitute, there are specific criteria for science laid out. Members want good science; the methods, procedures, and practices are laid out. What species should be determined endangered, there are five criteria laid out on page 4 of the substitute. Members should review all species that are designated every 5 years.

We have repealed the critical habitat designations, but we have replaced it with recovery plans found on page 20 of the substitute. It has time frames and objective, measurable criteria. It has a very specific description of where that species should be recovered, and the emphasis of where that species should be recovered is not private land; it is public land. The emphasis is on public land; but whenever you go on private land, there should be some restitution, some sharing of Federal dollars with those private landowners; and 10 percent of the appropriated amount on an annual basis of this substitute will go for that very specific purpose.

What if livestock are endangered or threatened by a reintroduced species? That is taken care of. Landowners are going to be reimbursed for that lost livestock.

What about national security? Take a look at the substitute. There is a very specific exemption. Page 43 of the substitute, there is a national security exemption.

I urge my colleagues to vote for a specific, balanced ESA bill. Vote for the substitute.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the ranking member, my friend, for yielding me this time.

"Shortsighted men, in their greed and selfishness will, if permitted, rob our country of half its charm by the reckless extermination of all useful and beautiful wild things." So said Republican President Theodore Roosevelt almost 100 years ago, and how relevant his remarks are today.

If we cannot find a way to live in harmony and conserve our natural resources in a sustainable way, we humans may, too, be doomed to extinction. The Endangered Species Act is a litmus test on the degree to which we are willing to conserve our livable environment.

To date this act has succeeded. Its success rate is 99 percent. Only 7 out of 1,200 species, according to Fish and Wildlife Service, have become extinct, and they became extinct because of their status before they were listed.

There are problems with the Act that need to be addressed, but many of the changes embodied in this bill are not designed to fix the problems. They are designed to eviscerate the law. The proposal before us today will gut the law by making any recovery plan unenforceable and by creating a new compensation program for those who own land that may host a threatened or endangered species.

We are a Nation of laws and constitutional rights, but where in the Constitution does it say property rights are an immutable and an open-ended entitlement?

Where would we be as a Nation if the law did not allow reasonable government regulations of private property without payment of compensation if undertaken for the public good? That kind of regulation occurs every day in every State in every locality throughout the country. It occurs as a result of practically every regulatory statute we pass. It is a long-standing principle of the jurisprudence of our courts. But this bill turns that principle on its head, and in so doing it creates a very dangerous precedent that this body should not knowingly adopt.

Section 13 of the bill establishes a new program of conservation aid; and under this program the government must provide compensation to landowners whenever an ESA restriction prevents a particular use of property, regardless of the fact that other uses of the property remain and those uses are very valuable.

This new aid program, therefore, requires the payment of compensation to landowners even though no governmental taking of their property has occurred. And rather than compensation being required where a restriction essentially strips property of all of its valuable uses, the standard under the takings clause, which exists today, this bill requires compensation whenever a restriction prevents a single use of property.

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It is a standard for compensation that goes far beyond the standard imposed under the Constitution's "taking" clause, and it does not exist in any other Federal statute. If enacted, this bill will set a very dangerous precedent that could lead to the insertion of similar provisions in other environmental and regulatory statutes. It has to be rejected.

Mr. Chairman, as a member of the Interior, Environment, and Related Agencies Subcommittee of the Committee on Appropriations, I know that there are some problems with the implementation of this Act. The current "critical habitat" designation needs to be revised and should be established later in the process during the development of species recovery plans.

In that regard, the approach taken by the substitute put together by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Washington (Mr. DICKS) and others is the right way to go and should be adopted.

Mr. Chairman, Federal land belongs to all of us. The Endangered Species Act is a vehicle through which we can conserve our land and balance the needs of all against the short-term and destructive interests of the few. I urge my colleagues to oppose the Threatened and Endangered Species Recovery Act, but strongly support the substitute.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. PEARCE) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The Committee resumed its sitting.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman.

Mrs. CUBIN. Mr. Chairman, it has come to my attention that certain Federal agencies with permitting, licensing, and leasing authority are requiring some of my constituents to agree to stipulations in their coal leases that go beyond protecting threatened or endangered species. For example, before the Bureau of Land Management will issue a lease, they require the lessee to agree to potential modifications in the lease. These modifications can be based not only on species that are threatened or endangered, but also on species that are proposed to be listed, candidate species, and distinct population segments.

Section 10 of the bill authorizes cooperative agreements between Federal agencies and States that cover candidate species and any other species that the State and the Secretary agree is at risk of being listed as an endangered or threatened species. Is the intent of the legislation to broaden the scope of the ESA by allowing the government to regulate species that are not yet threatened or endangered by imposing new potential regulatory requirements, withholding of permits and licenses, or requiring special stipulations on Federal leases?

Mr. POMBO. Mr. Chairman, will the gentlewoman yield?

Mrs. CUBIN. I yield to the gentleman from California.

Mr. POMBO. No, Mr. Chairman. It is not in there.

Mrs. CUBIN. Mr. Chairman, reclaiming my time, I thank the chairman for his answer. That was the way that I read the bill too, and I wanted the congressional intent to be on the record.

Mr. RAHALL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Psalms 104, verses 25, 30: "In wisdom You made them all, the earth is full of Your creatures. There is the sea, vast and spacious, teeming with creatures beyond number, living things both large and small . . . When You send Your spirit, they are created and You renew the earth."

Such is the appropriate Biblical quote, I say to my colleagues, that should guide our deliberations today on this particular legislation.

Species keep people alive. In the earlier comment, I stated that there are numerous Members of this body, perhaps to the person, who could tell of horror stories involved with the administration of the current Endangered Species Act. And while some of those stories are probably valid and have their good points, the current regime, as I also previously stated, has not been working. It has not been working because it has not been adequately funded nor administered by the current administration. Funding is a problem. Funding perhaps would have solved many of these horror stories to which Members of this body refer.

But this particular legislation, as we have heard throughout the debate on this general debate and we will hear more during the amendment process, is an expensive proposition. If we could not fund the regime that exists today that implements the ESA, how, I ask, are we going to fund an even more expensive regime that is set up by the pending legislation? A compensation program to property owners that truly is going to cause us to go further into deficit spending. The legislation would increase direct spending by requiring the Secretary of the Interior to pay aid to private landowners who are prohibited from using their property under certain circumstances. That means money, I say to my colleagues. That means appropriations from this body's Committee on Appropriations, at a time when we are finding tremendous costs being imposed upon the taxpayers that was unexpected 2 or 3 months ago.

At a time when we are already cutting Bureau of Reclamation projects, western water projects, Indian programs, our national parks. Indeed, there are some in this administration that would sell our national parks and other public lands in order to address our ever-mounting deficit. This legislation will only exacerbate our deficit problems.

And as I have said and referred to in earlier responses, why should we care about critters? Those who criticize this Act refer to the supporters of the Act as being more concerned about critters than human beings. I will tell them why we should be concerned about critters, why we should care about the Endangered Species Act.

Nowhere should that care be more evident than in the world of medicine. Anytime we allow a species to go extinct, we lose enormous potential to understand and improve our world. Nearly 50 percent of all our medical prescriptions, for example, dispensed annually in our country, are derived from nature or modified to mimic natural substances. Yet we have only investigated about 2 percent of the more than 250,000 known plant species for their possible medical breakthroughs. The extinction of a single species may mean the loss of the next effective treatment for cancer, for AIDS, or for heart disease. Mold fungus led to the development of Penicillin over 50 years ago. Mold fungus, it has saved countless lives in recent generations, and it continues to do so every day. Morphine and codeine, both made from poppy plants, are among the most widely used medications in the world today. Venoms from snakes have led to important medications, including an important drug to control blood pressure.

Even insects have their value in medicine. We now know that the genes that turn out to form a heart in a fruit fly are actually the same genes that form hearts in higher animals and people.

Again, quoting from the Bible, from Ecclesiastes: "Man's fate is like that of the animals; the same fate awaits them both: As one dies, so dies the other. All have the same breath."

Mr. Chairman, at the appropriate time, I will be speaking on the manager's amendment and I will also be speaking in support of the substitute amendment that will be offered. As I said in my opening comments, I introduced these negotiations in good faith with the gentleman from California (Mr. POMBO), my chairman, because I thought there was not adequate funding to enforce the current endangered species law, and those negotiations were conducted in good faith, and we came quite close, and he will say probably that 90 percent of the current bill is a bill upon which I agree.

But at the same time, in the manager's amendment that will be coming up, there were changes made in literally the last minute that came very close to violating the good-faith negotiations that were ongoing on this legislation. I will speak to that at the proper time.

But I will say at this point that this legislation needs to be defeated, the substitute that will be offered needs to be supported, and we need to look very seriously at how we can enforce better the endangered species laws on the books today rather than the overhaul that exists in the pending legislation, and I urge defeat of the legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I thank the chairman for yielding me this time to speak on an issue that is very important to me and my constituents.

The Endangered Species Act plays a prominent role in my State of Missouri with over 25 endangered and threatened species located within the borders and nine in my district.

Mr. Chairman, the ESA is broken and needs to be fixed. Over the last 30 years, less than 1 percent of all listed species have been removed, and most of them have been removed because of poor data. I thought the intent of the ESA was to recover species and not leave them on the list indefinitely. Also, landowners seem to be getting cheated when species are identified on their property resulting in lower property values, less production and limited use. These unintended adverse impacts have resulted in a law that is hurting landowners while not recovering any species.

This is why I introduced H.R. 3300, the Endangered Species Recovery Act. I want to thank the chairman and staff for working with me to develop and incorporate this bill into the overall ESA bill. The language in section 10 of the bill creates "species recovery agreements." Basically, it is an all-inclusive incentive program that will compensate landowners for their conservation efforts. It is my hope that this provision will foster a better working relationship with landowners and the Federal Government resulting in recovery of more species. My underlying goal is to protect landowners while keeping intact the spirit of the ESA.

As part of the farming community, I have heard stories of farmers afraid to report an endangered species on their land because of the implication it would have on their property and their farming operation. "Shoot, shovel, and shut up" was often the case when a species was identified on their property. My point is that the ESA was more of a burden on landowners, and without the cooperation of landowners, species recovery, I do not think, will ever be successful.

Another reason why I chose to get involved in this debate is because of the implication this Act has on the management of the Missouri River. The Missouri River is a vital waterway for Midwest farmers, providing cheaper and more efficient transportation for their grain. The Flood Control Act of 1944 authorized the Army Corps of Engineers to maintain flood control and navigation along the river. Then came the Endangered Species Act and this all changed. The ESA seems to supersede the Flood Control Act, and now transportation along the river is unreliable. Ultimately, I would like to see the provisions in this bill fix the situation so navigation becomes more reliable.

Again, I commend the chairman on his efforts and look forward to working with him on this bill and getting it passed this afternoon.

Mr. CARDOZA. Mr. Chairman, I yield myself the balance of my time.

I want to conclude by saying I thank the gentleman from West Virginia (Mr. RAHALL) for his offering of working on this piece of legislation, and we do so in the spirit of cooperation.

I also have to say, though, that in this Chamber where we have seen lofty rhetoric for a number of years, I personally having witnessed it for 26 since I was first an intern here, I have frankly never seen the rhetoric not coincide with the reality more than in this case oftentimes.

This bill does not eviscerate the Endangered Species Act. This bill does several positive things. It establishes recovery plans based on biology. It establishes recovery habitat based on those recovery plans. It encourages landowners to cooperate with biologists in the Fish and Wildlife Service. It lets landowners get answers to their biological questions, and it compensates landowners whose land is confiscated under the original Endangered Species Act.

I ask Members for their "aye" vote.

Mr. POMBO. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, we heard about Theodore Roosevelt. Indeed, 100 years ago this year, Theodore Roosevelt created the Great Forest Reserves. He also created the Klamath Wildlife Refuge. He created the forest reserves for both the future home building needs of the country and for water, if we read his statements, and, of course, for nature as well.

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He created the wildlife refuge in the Klamath Basin to ensure that we would have healthy wildlife populations for generations to come; and, indeed, the wildlife refuge is home to the greatest concentration of bald eagles in the United States, in the lower 48.

Ninety-six years after he created that refuge, this Federal Government made a decision to shut the water off to 1,200 farm families in that basin based on the Endangered Species Act and interpreted by the government scientists without peer review, without peer review. When the National Academy of Sciences reviewed the decisions, they said the agency made mistakes in the outcome under the Endangered Species Act; and further they went on to say that those decisions put in jeopardy potentially those very species, the sucker fish in the Upper Klamath Lake and the Coho Salmon in the Klamath River. It potentially could have damaged both of those.

This act changes that. This act changes that, because we put into law for the first time really clear criteria and guidance about science. And unlike the substitute that will be offered soon, we allow a full public process, a 1-year timeline for the Secretary to further define the criteria of the science. We do not define it in the statute; we give guidance and then there will be a full public process. We require empirical data and peer review and the Secretary to have that opportunity, and peer review is certainly important. The other alternative does not do that. It sets it in standard. It is politicians writing it. Science is critical.

Let me talk about the private property rights. I believe in them. When the government says it is going to build a highway across your property, the Constitution says the government has to pay you for it. The ESA is the environmental highway across your property.

But it does not open the door as a blank check to developers to go out and pick the most sensitive wildlife habitat area in the country and say, I am going to build a $50 million hotel and casino here. Not at all.

Let us go to the law that we are proposing. Page 15, open your manuals, sub (C): "The foregone use would be lawful under State and local law and the property owner has demonstrated the property owner has the means to undertake the proposed use."

It eliminates the speculative things that people were concerned about. We heard that. This is an improvement. This clearly says that.

And there is no double-dipping. This section says you cannot come back and get a second bite at the same apple, so you have to follow State and local zoning ordinances and laws, you have to prove you are financially capable of undertaking the activity, and the government has to give you an answer when you propose to do something on your private, private, property here.

That is one of the great things about this country. We can talk about the bald eagle, and I am a big fan of them, but one of the underpinnings of our great democracy is our private property rights. In the case of the Klamath Basin, in many respects they were taken away when their water was cut off and 1,200 farm families were left destitute.

I believe in recovery, I believe in species, and I think what we are changing in this bill will build new partnerships that will bring landowners and the government together like never before, that respects the rights of private owners of property, and will actually result in increased recovery of species and habitat.

Mr. Chairman, I urge approval of the underlying bill.

Mr. ADERHOLT. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the Endangered Species Act is a well-intentioned law that has failed in its implementation. Originally billed as a way to recover and rehabilitate endangered species, it has failed at that goal.

As it has been pointed out, less than 1 percent of species listed have recovered in the entire history of the act. Almost 3 times that many still listed are believed to already be extinct. Many species that were listed in error, yet because of flaws in the act, they are still listed. This bill today will greatly improve the recovery process so that species may be restored and removed from the list.

Mr. Chairman, one of those species is the Alabama sturgeon. It was listed years ago even though it was never proven to be genetically distinct from any other sturgeon.

It's simply a regular sturgeon living in Alabama. The economic cost of its listing has been estimated at $1.5 billion.

Mr. Chairman, I and the rest of the Alabama delegation worked directly with the gentleman from California to ensure that the bill is helpful to landowners in Alabama and Southeast. The Endangered Species Act today creates an adversarial relationship between landowners and the government.

Landowners have little incentive to conserve species on their property. However, this bill will create cooperative conservation agreements between landowners and the government. It will also provide long overdue compensation to landowners whose property has been "taken" by the Endangered Species Act.

I encourage all of my colleagues to support this bill.

Mr. MENENDEZ. Mr. Chairman, I rise today in strong opposition to this bill, H.R. 3824, which would substantially weaken the essential protections we have in place for endangered plants and animals. Since being signed into law over 30 years ago, the Endangered Species Act has protected over twelve hundred species from extinction. Only nine species listed under the act have gone extinct, and five of them were later determined to be extinct by the time they were listed. Meanwhile, thanks largely to the act's protections, we have fully recovered such species as the American alligator, grey whale, and peregrine falcon, and stabilized the populations of bald eagles, sea turtles, manatees, and hundreds more. And some species, such as the California condor and red wolf, would probably be extinct without the protections of the act.

From looking at the record of the Endangered Species Act, I would say that it has been a success. A study by the Congressional Research Service has shown that 41 percent of listed species have improved their status after being listed. The act certainly has not brought every endangered or threatened species to full recovery, but many of these have only been listed a few years. Rebuilding a species takes time. The U.S. Fish and Wildlife Service reported that only 4 percent of species listed for less than 5 years have recovered by any appreciable amount. But that number jumps to 36 percent for species listed for over 10 years. The fact that so many species have yet to be fully recovered is a call for more endangered species protections, not less.

And yet less protection is exactly what this bill is giving us. It eliminates the designation of critical habitat, which is one of the most important provisions in the Endangered Species Act. A recent study showed that species with defined critical habitat are far more likely to be recovering than species without such habitat. The bill includes a number of other unfortunate provisions, but perhaps none are more unfortunate, or more mind-boggling, than the proposal to pay off developers for what they should be doing anyway—obeying the law. This bill says that if a developer wants to build something but can't do it because of the Endangered Species Act, the government must pay them for the loss of the income they would have received from the development, even when the development is economically unfeasible.

Think about this for a second. First of all, we are saying that the government will pay you for obeying the law. A power plant that doesn't install pollution control devices will be more profitable than one that does, but we don't pay off the cleaner power plant for obeying the Clean Air Act. And we certainly don't pay someone for not robbing a bank, even though it would be very profitable for them to do so. This has nothing to do with the government providing compensation for taking private land. This is about developers being encouraged to come up with incredible schemes, and then getting paid by the American taxpayer to not build them, because doing so would drive an endangered species to extinction. This is insane, and would ensure that all the money in the endangered species program would go to developer payoffs, and not species protection.

There are a number of reasons why we need to focus our resources on protecting endangered species. Wildlife means millions of dollars to local economies, both through tourism and outdoor recreation. Just in two counties in southern New Jersey alone, red knot watchers spend over $4 million a year. Nationally, sportsmen and wildlife enthusiasts spend an estimated $100 billion each year on outdoor activities. But preserving species is about more than just economic value and being good stewards of the Earth. It is also about our health. A recent study by the National Cancer Institute showed that in the past 20 years, 78 percent of new antibiotics and 74 percent of new anticancer drugs were linked to natural products. Every species that goes extinct decreases our chances of finding the next miracle drug to fight infection, Alzheimer's, cancer, or AIDS.

The substitute amendment being offered by Mr. MILLER, Mr. BOEHLERT, and others is a considerable improvement on the underlying bill. It eliminates payoffs to developers, puts more teeth into recovery plans, and ensures that scientific standards don't get watered down. It is not an ideal substitute, but it will certainly do much more for truly protecting endangered species than H.R. 3824.

The Endangered Species Act is something we should be proud of, and something we should look to tweak to improve species recovery, not gut to give egregious and unwarranted payouts to developers. I urge my colleagues to join me in defeating H.R. 3824.

Mr. ENGEL. Mr. Chairman, there is an old saying "The South will rise again!" Well, the bill before us today is proof the "Era of Big Government has come again!" Let no mistake be made, those who support this bill cannot claim to be dedicated to fiscal responsibility and smaller government. This bill blows another hole in the Federal deficit.

I oppose this sham overhaul of the Endangered Species Act. Enacted in 1973, this landmark legislation has been hugely successful in saving many species from becoming extinct and has been an important conservation tool. The Endangered Species Act must be strengthened not decimated.

Of the more than 1,800 plants and animals protected by the act, only 9 percent have been declared extinct. Those species that have survived continue to grow and flourish. Newly named, the Threatened and Endangered Species Recovery Act ignores this success and carves out loopholes in the Act that will allow developers and others to avoid the law's protections. This legislation eliminates extremely critical habitat designations, giving many species no opportunity to survive.

It is a travesty that the leadership in this House, is yet again giving business the upper hand over sensible and effective environmental protection law. Private landowners will now have no incentive to protect their land. In fact, the Federal Government will now pay landowners for merely abiding the law!

Mr. Chairman, this Act does not "modernize" or "reform" the Endangered Species Act, it guts it and should be called the landowner and developer welfare act.

Mr. THOMPSON of California. Mr. Chairman, I agree with Chairman POMBO that the Endangered Species Act is in need of reform, and the way in which critical habitat is currently administered is one of the glaring problems with the act today.

For instance, in my district the Fish and Wildlife Service recently issued a critical habitat map for an endangered species which encompasses 74,000 acres including downtowns, streets and existing apartment complexes.

However, there are aspects with this bill in its current form that concern me and unfortunately, I cannot support it at this time.

I am very concerned with section 3 of H.R. 3824 which transfers all the responsibilities for implementation of the Endangered Species Act to the Secretary of Interior. I question the agency's existing level of expertise on fishery issues and its fiscal and technical capacity to take on such a task.

I raise this as a concern also because their past actions have proven to me that they don't have the capability or understanding needed to protect listed salmon.

In 2002, the Department did not listen to warnings from NOAA Fisheries—the agency that currently manages and protects threatened and endangered salmon—and State biologists who warned months ahead of time that due to a drought and the existing management practices by the Department of Interior, there could be a fish kill on the Klamath River. Unfortunately, the Department did not listen to these warnings, and that September some 80,000 adult fish died. This fish kill had, and continues to have a catastrophic impact on my district and the fishing related communities from the Washington/Oregon border—to south of San Francisco. The immediate result was obvious, but commercial fishing season was cut in half this year due to poor salmon returns caused by the fish kill, and fishery biologists expect the fishing season throughout this region to be cut like this for years to come.

Finally, I am concerned with how quickly this bill has moved through the House. I believe the process to make these important decisions regarding the existence of a species and our livelihood needs to be open, transparent and inclusive. In 1994, Representative CARDOZA and I helped pass revisions to the California Environmental Quality Act. As you can imagine, Mr. Chairman, this process was long and difficult. However, we formed a working group which included mainstream environmental, sportsmen, agriculture and industry organizations. In the end, all parties supported this bill. Unfortunately, the reforms we are voting on today do not have that same level of endorsement. However, I strongly believe that if the process was more transparent and inclusive, we could find a balance that would be more agreeable to all parties.

In closing, I believe that the Endangered Species Act must be reformed and hope to work with you in reforming it to make it work better. However, for the reasons stated, I unfortunately cannot support this bill in its current form.

Mr. EVERETT. Mr. Chairman, I rise today as a cosponsor of H.R. 3824, the Threatened and Endangered Species Recovery Act. Alabama ranks in the top five States in the number of listed species, and passage of this legislation will move us closer to achieving the goal of protecting and recovering the Nation's threatened and endangered species by adding a layer of common sense.

The Endangered Species Act, ESA, although enacted with honorable intentions, has strayed from its original purpose of conserving plants and wildlife. Currently, there are nearly 1,300 domestic species listed as threatened or endangered. Since the enactment of the ESA, only 10 species, less than 1 percent of those listed as endangered, have been recovered. This is just one of the numerous reasons why this legislation needs updating.

Most importantly, the manager's amendment includes a significant provision that requires the Fish and Wildlife Service to consider the economic and national security impact of listing a species. This impact analysis is an important tool that provides vital information to Congress, federal agencies, states, and landowners about the potential effects of the ESA within those geographic areas deemed to be essential for the species' survival and recovery. Private property owners ought to have this information at the time a species is proposed for listing. Such timely notice serves to let everyone know whether they should be interested in the listing process and, ideally, brings them to the table to participate. I would like to thank Chairman POMBO for all his hard work on crafting this important piece of legislation, and I am very appreciative of his efforts to include this provision in his manager's amendment.

By enhancing the rights of private property owners and improving the impact analysis of the listing process, the ESA will actually work to protect endangered species. I urge all of my colleagues to support this measure.

Mr. UDALL of Colorado. Mr. Chairman, I cannot vote for this bill as it stands.

I support much of the thrust of the original bill. I support putting more emphasis on recovery plans and on steps to provide incentives for landowners and other private parties to help with recovering species. And the Resources Committee did make improvements in the original bill.

Unfortunately, though, other needed amendments were not approved—and as a result I concluded that the bill's defects were still so numerous and so serious that it should not be approved without further changes.

That was why I supported the bipartisan substitute. Had it been adopted, we would have kept the best parts of the bill as reported—including the authorization for reimbursement for livestock losses that I supported in the Resources Committee—and made the further improvements that were needed for it to deserve approval by the full House of Representatives.

Unfortunately, that did not occur, so we are left with a bill that does not include those improvements.

Proponents of the reported bill say the Endangered Species Act has led to too many lawsuits. But according to the Bush Administration's analysis of the bill as reported, "the new definition of jeopardy in the bill, as well as various statutory deadlines, may generate new litigation and further divert agency resources from conservation purposes." The substitute did not have the same problems.

Similarly, the substitute did not include the reported bill's vague provisions that would set up a new entitlement program—a program without clear boundaries that would increase federal spending to an extent that cannot be easily calculated.

Those provisions worry the Bush Administration, which has told us that they "provide little discretion to Federal agencies and could result in a significant budgetary impact."

And after reviewing the bill as reported, the nonpartisan budget watchdog group, Taxpayers for Common Sense, concluded that "This legislation is rife with loopholes and vague wording that have the potential to cost taxpayers billions of dollars, and must be revised."

I supported the bipartisan substitute because it would have made the revisions necessary to close those loopholes.

Nonetheless, while I cannot support the bill today, I am hopeful that it will be further improved as the legislative process continues and that the result will be legislation to revise the Endangered Species Act that I can support and that will deserve the support of every Member of Congress.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to request that my name be removed as a cosponsor of H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005 (TESRA).

Species conservation is an essential tenet in the effort to promote and maintain a healthy environment. Although I agree with Congressman POMBO's initiative in principle, after reviewing the legislation closely I came to the conclusion that this bill would jeopardize critical habitat protections that endangered plants and animals need to survive and recover their populations, and it would do little to protect the planet's most threatened wildlife.

As a Senior Member of the House Science Committee, I also have serious reservations that in its current form, H.R. 3824 attempts to substitute politics for sound science in decisions involving endangered species, letting expediency and profit motives influence what should be scientific decisions.

Mr. HEFLEY. Mr. Chairman, I rise in support of the legislation offered by the gentleman from California (Mr. POMBO) and would like to give you an example of why this bill is needed.

Seven years ago, the Fish and Wildlife Service contacted my office to state they were going to list the Preble's meadow jumping mouse as a threatened species.

It wasn't even a surprise. State and local authorities had known the mouse might be listed for years. And, at first, it didn't even seem like it would be that much of a problem. The mouse was a nocturnal animal that dwelt within a hundred feet of either side of streambeds.

The Front Range of the Rockies could also claim at least three government reservations—the U.S. Air Force Academy, Rocky Flats and Warren AFB in Wyoming—which offered the mouse almost untrammeled range in which to roam.

But over the course of the next seven years, the lines moved. Now the mouse's range extended beyond the stream beds, sometimes by miles. Habitat had to be protected, not only where the mouse had been found but also where it might be found if indeed a three-inch-long rodent could travel several miles to get there.

Over the past seven years, the State of Colorado spent approximately $8 million to preserve the mouse. Counties up and down the Front Range spent even more money to acquire open space and to develop habitat conservation plans, few of which, to my knowledge, were ever completed or even begun. This is not even counting the impact to private property owners, not knowing whether they could use or develop their property.

And after all this, all the money spent, all the needless planning and contention, it turned out the Fish and Wildlife Service was wrong. The Preble's meadow jumping mouse was not threatened. It wasn't even a separate subspecies. A scientist at the Denver Museum of Nature and Science stated this and the scientist whose 1954 work led to the original listing, agreed with the new data.

And so the delisting process started. Hopefully, we'll see it completed sometime in the near future though there is some evidence that Fish and Wildlife is taking its time in doing so. But meanwhile, the states of Wyoming and Colorado and its Front Range counties and cities and residents are out at least $8 million and probably more for no good reason.

After all this time and expense, nothing has been produced. That is why this bill is needed. If we are going to undertake these massive land-planning schemes, then the Feds ought to be sure of their facts. If they are going to mandate conservation planning and land set-asides, then maybe they ought to send the money along to do that. The states, counties and cities have other things they could spend their tax dollars on.

The ESA, as it currently stands, does nothing but keep attorneys and interest groups busy and needs reformed. So I say, let's try this approach. I urge your support of H.R. 3824.

Mr. ETHERIDGE. Mr. Chairman, today I rise in opposition to H.R 3824, the Threatened and Endangered Species Recovery Act. Under the Constitution, we are charged with securing this country's blessings not only for ourselves, but for our posterity. This bill turns its back on our posterity.

The Endangered Species Act has been a model for the protection and preservation of endangered species since 1973. When this legislation was first passed, many species in this country were on the brink of extinction, and many more were in severe decline. ESA is essential to safeguard our natural resources and ensure the biodiversity that is critical to a healthy environment for all species, including human beings. ESA is a great American success story that should only be altered with the greatest of care.

In the thirty years since the passage of the Endangered Species Act, we have seen an amazing turnaround in both the population numbers of species that were in decline, as well as in the significant environmental improvements that have fostered their recovery.

I acknowledge the concerns of landowners and farmers about the current law, and I agree that the current law needs to be reformed. This is why I support the Miller-Boehlert substitute bill. The substitute helps small landowners by dedicating funding for technical assistance for private property owners, and it provides conservation grants for landowners who help conserve endangered species on their property. Finally, it provides assurances that private citizens will get timely answers from the Fish & Wildlife Service regarding the status of endangered species requirements on their land. The Miller-Boehlert Substitute provides positive changes to the current ESA without reversing the progress that has been made over the past thirty years. The bipartisan substitute is not perfect legislation, but it is far superior to H.R. 3824.

H.R. 3824 was introduced just last week and was marked up without any public hearings, yet this legislation would most certainly rank as the most sweeping and significant change of environmental law in the past three decades.

I have grave concerns about provisions in the bill that give political appointees the power to remove species from the endangered list based on political decisions rather than on sound science. Habitat degradation is the leading cause of species decline, and this bill proposes to eliminate critical habitat designations. I do not understand how eliminating protected areas can result in greater protection of endangered species.

The Endangered Species Act needs an update, but we must not reverse course on significant progress and results for endangered species. We have a solemn obligation to maintain responsible stewardship of America's bounty, and this legislation would abandon that responsibility. I urge my colleagues to vote against H.R. 3824, and to vote in favor of the balanced, bipartisan substitute legislation for ESA reform.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 3824, the Threatened and Endangered Species Recovery Act.

The Republican majority has already dismantled nearly every Government program for people, and now it appears they're moving on to other species. They constantly preach that God's creations are precious, yet once again they are showing their hypocrisy that they would be so careless with the lives of God's creatures. Perhaps if some of these endangered species were in a persistent vegetative state, Republicans would come rushing to their aid. Perhaps if scientists would concede these same plants and animals were fashioned during the week of God's creating the world, the right wing would be willing to help.

The Republicans want us to believe that this bill represents a fair and balanced way to protect endangered species without infringing on property rights. Not true. This bill grants unprecedented and immeasurable subsidies to land owners rather than ensuring their fair costs are covered; so much so in fact, that the nonpartisan Congressional Budget Office cannot estimate the potential impact to the Federal budget.

This bill is nothing more than an assault on our environment. I urge my colleagues to join me, and every environmental organization on God's green Earth, in opposing this bill.

Mr. PAYNE. Mr. Chairman, I rise today to oppose the unwise, unsound, and unsubstantiated policy changes contained in H.R. 3824—misleadingly named the Threatened and Endangered Species Recovery Act of 2005.

I am deeply concerned about the elimination of all critical habitat provisions of the Endangered Species Act without any mechanism to protect habitat needed for species recovery. I am troubled by the removal of protections for "threatened" species and the weakening of endangered species recovery teams.

Moreover, I believe that sound science produces accurate data from which sound policy decisions can be made. When we choose not to respect the role of science in our regulatory decisions, we are cheating ourselves out of valuable information and we run the risk of making poor or erroneous judgments about crucial conservation decisions. By allowing a political appointee to develop a definition of "best available science" and increasing barriers to access to scientific data, I believe that this bill needlessly politicizes scientific decision-making, and I fear that we are setting ourselves up for many unsound policy choices as a result.

I am not only motivated by the harms this bill will have on the plant and animal species, but by the threat to the health and well-being of the human species as well. The pesticide provisions of this bill seem to indicate a willingness to endanger the lives of migrant and seasonal farmworkers, their families, and their children. This weakening of pesticide standards poses a serious threat to public health, and I cannot support any bill that does not take seriously the health and safety of the American public.

We also do a disservice to the American people when we are not wise stewards of their taxpayer dollars. Using those dollars to pay developers for complying with the ESA's regulations is a clear violation of the fiduciary duty with which we are all endowed.

Mr. Chairman, I would like to again voice my opposition to H.R. 3824, and I encourage all of my colleagues who care about conservation to do so as well.

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to this bill. The legislation before us today turns back the clock on 35 years of progress in responsible environmental stewardship by gutting the current Endangered Species Act and replacing it with little to preserve endangered wildlife for future generations.

Over 99 percent of the species that have been listed as threatened or endangered under current law have been saved from extinction. But had this bill been the law of the land over the last 30 years, the Fish and Wildlife Service points out that the Bald Eagle—an icon of American freedom—would exist only in our memories.

Any law that is 35 years old should be looked at with a fresh eye, and so I am supportive of attempts to update and improve the Endangered Species Act. Indeed, in my home state of Connecticut, we are concerned that oysters, a key aquaculture product, may be unnecessarily characterized as an endangered species. And so we should be willing to consider smart changes to the law.

But that is not the intent of the underlying bill. Rather, the purpose of this legislation is to remove obstacles inconvenient to special interests with whom the Republican leadership is in partnership. For this majority and their supporters—developers, the oil and gas industry—laws protecting the air and water are not a priority—they are a nuisance. As such, this legislation would eliminate conservation measures on tens of millions of acres of land around the country, the "critical habitat" of endangered species, and prevent such conservation activities in the future.

It also reveals the majority's clear disdain for sound science. Current law requires a review of all scientific and commercial data by a panel of outside scientists. This, Mr. Chairman, ensures that the peer-review process—a central tenet of sound scientific research—guides the process, not ideology and politics. Instead, this bill would allow the Secretary of the Interior to make a determination about whether a species is endangered based on "all available information"—that is to say, information that opens the door for phony science supporting special interests.

Finally, Mr. Chairman, the bill fails the fiscal responsibility test. By allowing for payments to land owners who do not develop land that is home to protected species, it actually creates a system where people and businesses—mostly big oil and gas companies—are paid for following the law. If only we were all so fortunate.

This bill is nothing more than yet another entitlement program for special interests—as always, with this majority, at the expense of the taxpayer. Little wonder that even conservative groups like Taxpayers For Common Sense have expressed their grave concerns regarding this legislation.

Mr. Chairman, the Endangered Species Act is a statement of our priorities as Americans. It is an affirmation of our belief that, just as we desire better economic opportunity for our children and future generations, so too do we hope to leave them a healthier environment. Unfortunately, the underlying bill will accomplish neither. This is simply the continuation of a decade-long assault by the majority on our clean air, our clean water and our environment. And it should be rejected.

Mr. BISHOP of New York. Mr. Chairman, I rise in support of this bipartisan substitute and in unwavering opposition to the underlying Threatened and Endangered Species Act of

2005, which does not defend endangered species as it purports, but rather protects the special interests of private industry and landowners.

I am concerned about the environmental and fiscal health of our great nation and the path chosen by many of America's leaders whose policies are painfully lacking in promoting conservation. Although Americans may debate the need to update the Endangered Species Act of 1973, TESRA is absolutely not the answer. In fact, TESRA is a step back, furthering the degradation of species and compounding man's conflict with the environment.

What exactly is the urgency by which the majority has brought this issue at this time? America is still in mourning as we enter the early stages of rebuilding the Gulf Coast and fighting a war in Iraq and Afghanistan costing our nation hundreds upon hundreds of billions of taxpayer dollars.

Particularly egregious is that TESRA will cost nearly $3 billion in new spending in just the next 4 years, which will be used not to protect threatened and endangered species, but rather the interests of private landowners.

Taxpayers should be outraged by the fiscal irresponsibility of this Congress. If we have $3 billion to give away, let's give it to families in need by renewing TANF or to expand rather than cut Pell grants so that students who wish to attend college can meet the financial demands.

In my district, hardworking families are struggling to absorb the high costs of fuel into their budget while putting food on their tables and sending their children to college.

Mr. Chairman, the narrow-vision and short-term policy decisions made by this Congress do not reflect middle-class values. At what point will a clean environment and healthy future for our children and grandchildren become a priority?

The American public deserves a future that includes true protection of our endangered species and the development of fuel sources that are clean, renewable and promote conservation and energy independence.

Mr. Chairman, I urge my colleagues to reject the underlying legislation to reform the ESA and support the bipartisan substitute.

Mr. HOLT. Mr. Chairman, I rise today to express my strong opposition to the Threatened and Endangered Species Recovery Act of 2005. Despite the deceptive title of this bill, it is a measure designed to weaken the protections secured under the landmark Endangered Species Act (ESA).

While scientists are uncertain about the exact rate of extinction, they estimate that it is probably thousands of times greater than the rate prior to human civilization. In 1973 Congress enacted the ESA to address this problem of species extinction. The ESA is a comprehensive legal measure that is used to identify and protect species that are determined to be the most at risk. Under this law, once a species is designated as either "endangered" or "threatened," powerful legal tools are available to aid in the recovery of the species and to protect its habitat. Without these strong federal protections hundreds of species including the bald eagle, grizzly bear, Florida panther, and the manatee would all be extinct.

The bill we are debating today is flawed in many ways, but I am particularly concerned with its removal of habitat protection from the Endangered Species Act. Habitat destruction, degradation, and fragmentation is the most significant cause of species extinction. This legislation blatantly ignores the integral role habitat plays in the survival of a species by eliminating the designation of "critical habitat." Without this special designation, our government's ability to recover species will be severely undermined.

It is disconcerting that some of my colleagues do not value saving our unique natural treasures, but it is appalling that they refuse to acknowledge that the Endangered Species Act is about much more than saving a unique species. It is undeniable that the world in which we live is an intricately connected environment that is suffering from human abuse and neglect. The loss of a species interrupts the life cycle of the ecosystem it was part of and alters our environment in ways far beyond this isolated event. The Endangered Species Act is a vital tool in preventing and reversing these life cycle disruptions before they ripple out and cause further damage to our natural communities.

We all agree that this law should be revisited and improvements to the law should be implemented. I understand the concerns of my colleagues that this law has been abused at the detriment of their constituents' rights. However, I believe there are ways to balance the needs of development and property rights with the need to protect the health of the environment which we all share. Instead of working towards a true compromise, we are considering legislation that is based on the fallacious premise that environmental protection requires a trade-off with private interests. It takes a very short-sighted, short term view of our world and our economy. It ignores the long term damage catering to these private interests will have on our future.

The Threatened and Endangered Species Recovery Act of 2005 severely hampers the effectiveness of the Endangered Species Act. I urge my colleagues to oppose this legislation that will result in far reaching and detrimental impacts.

Mr. HONDA. Mr. Speaker, the Endangered Species Act is a safety net for wildlife, plants and fish that are on the brink of extinction. Over its 32-year history, the Endangered Species Act has been 99 percent successful in saving species from extinction, with only 7 out of over 1,200 species having gone extinct after being listed under the Act. The number of species that have fully recovered is not as high, however, and at this point there is a recognition that the current critical habitat arrangement doesn't work, for a whole host of reasons.

I believe that any legislation amending the Endangered Species Act should include a number of critical principles. It should not weaken existing law, nor should changes be adopted that would alter the original intent of the Endangered Species Act. The Act was written to protect all plants and animals in the United States from extinction and to restore them to stable populations. Limiting protections for imperiled species now would serve only to make protection and recovery much more difficult and expensive in the future.

I also believe that habitat protections for threatened and endangered species should not be weakened. The loss of habitat is widely considered by scientists to be the primary cause of species extinction and endangerment. Preservation of habitat is an essential element to any and all efforts to protect and recover endangered species. Additionally, any amendments should maintain the mandate for the Endangered Species Act to work towards recovery. The Endangered Species Act requires not only that we protect species from extinction but also that we recover species to the point where protection is no longer needed. Merely maintaining the survival of a species contradicts the spirit and letter of the law, which is why we need to hold federal actions to the standard of recovering species.

Citizen input and oversight are vital to good Endangered Species Act decisions and management, so any changes to the Act should avoid unnecessary hurdles to public participation. It is also important to uphold the scientific process behind Endangered Species Act decisions. The scientific review of matters relating to the Endangered Species Act is already sufficiently rigorous. Adding another layer of bureaucracy would serve only to slow the process, to the detriment of both the species in question and affected citizens. Finally, I believe that while vigilant Congressional oversight is critical to the success of any law, putting an arbitrary expiration date on the Endangered Species Act would place the protection of species at the mercy of the legislative calendar.

Mr. Chairman, while I realize that the Endangered Species Act is not perfect, I believe that the version of the bill that is before us today will eliminate critical habitat without including other mechanisms to protect species' homes. Unless substantial amendments to address this and other shortcomings are passed on the floor today, I will not support H.R. 3824. I applaud the efforts of a bipartisan group of my colleagues, including Mr. MILLER, Mr. BOEHLERT, and the original author of ESA, Representative DINGELL, who have worked hard to develop an alternative bill that I am happy to support.

Mr. SMITH of Texas. Mr. Chairman, I rise in support of H.R. 3824. Reform of the Endangered Species Act is much needed. The law has adversely affected thousands of farmers, ranchers and homeowners whose private property has been taken without compensation.

Over 90 percent of endangered plant and animal species are found on private property. There should be a balance between the rights of property owners and conservation.

H.R. 3824 will allow the Secretary of Interior to compensate private property owners for the fair market value of the loss of use of their property when the Secretary concludes that the use of the property would be a taking. The compensation will be made available as aid and through a grant program. This is a fair and long-overdue process that will actually promote preservation and conservation of endangered species and at the same time protect private property rights.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in opposition to H.R. 3824. I strongly believe that this is a very sensitive issue and should be looked at very carefully. While it is important to protect and save the many precious animals of this earth, it is also important not to take the property of the many Americans who have worked hard to obtain their homes and land. This issue needs to be looked at from a bipartisan perspective and because of this I am in support of the substitute amendment offered by Mr. MILLER of California.

The Miller substitute is a responsible alternative to the Pombo bill. The amendment not only addresses the current problems in the Pombo bill, but also improves the current law. Congressmen MILLER and BOEHLERT have presented Congress with a creative, workable solution that promises better results for recovering endangered species and reducing burdens for landowners. Among other things, the substitute protects habitat for species recovery by maintaining habitat protections and puts the primary obligation for recovery on federal agencies by clearly defining "jeopardy." It also makes clear that any federal agency action that impairs species recovery will jeopardize the continued existence of the species and, therefore, is prohibited.

Furthermore, the substitute guarantees that federal agencies consult with the Fish and Wildlife Service to ensure that their actions do not jeopardize threatened and endangered wildlife. Additionally, it ensures that all newly listed species have recovery plans within 3 years and species already on the list have recovery plans within 10 years. Recovery plans will identify all areas necessary for the conservation of listed species. Prior to the development of recovery plans, the Miller substitute encourages the development of guidance that identifies particular types of activities that could negatively impact recovery. One of the most important aspects of the Miller substitute is that it provides real landowner incentives for conservation through cost sharing and technical assistance. Finally, it enhances the role of the states in helping conserve endangered species through improved cooperative agreements and greater federal-state consultation. Because of these factors, I support the Miller substitute.

Mr. POMBO. Mr. Chairman, Section 12(g) of H.R. 3824 clarifies that the operator of a water storage reservoir, water diversion structure, canal or other artificial water delivery facility is not liable for "take" of listed aquatic species that is attributable to recreational sportfishing programs managed by a State agency. Over the past several decades, the stocking of sport fish by State agencies has contributed to the decline in populations of native fish. Sport fish frequendy prey upon native fish and compete with native fish for food, breeding habitat and other essential resources. Nevertheless, State operated programs to stock these fish in river systems continue. Likewise, there are continuing adverse effects to native fish resulting from earlier State operated programs which introduced sport fish into the streams. In recent years, some federal agencies have attempted to impose the responsibility for "take" of listed native fish resulting from the presence of sport fish in the streams on operators of water storage reservoirs, canals, water diversion structures and other artificial water delivery facilities in the river basin. These operators have been faced with demands that they take on the financial burden of "mitigating" for the loss of native listed fish, even though this loss is attributable to the introduction of sport fish under programs managed by State agencies. Section 12(g) makes clear that the operators of water storage reservoirs, water diversion structures, canals and other artificial water delivery facilities are not liable for take of listed native fish under these circumstances, and are not responsible for implementing or financing mitigation measures to offset this take.

Mr. UDALL of Colorado. Mr. Chairman, I rise in strong support of this bipartisan substitute.

I am a supporter of the Endangered Species Act, but I have never rejected the idea of changing it. On the contrary, I have repeatedly said that I thought it would be possible to improve the way it was implemented.

So, I regret that I was unable to support H.R. 3824 as ordered reported by the Resources Committee.

I support much of the thrust of the original bill. I support putting more emphasis on recovery plans and on steps to provide incentives for landowners and other private parties to help with recovering species.

And the Resources Committee did make improvements in the original bill.

For example, the committee approved my amendment to retain protections for species listed as "threatened" and an amendment I offered with the gentleman from New Mexico, Mr. PEARCE, to authorize the U.S. Fish and Wildlife Service to compensate ranchers for livestock lost to an endangered predator that has been reintroduced into the wild.

Unfortunately, though, other needed amendments were not approved—and as a result I concluded that the bill's defects were still so numerous and so serious that it should not be approved without further changes.

Now, with this substitute, we can keep the best parts of the bill as reported—including the authorization for reimbursement for livestock losses—and make the further improvements that will make it into one that deserves approval by the full House of Representatives.

Like the bill as reported, the substitute, with identical language, will eliminate the critical-habitat provisions of current law that have done relatively little to protect species and so much to foster lawsuits ,and red tape.

And the substitute includes the same language as the bill as reported to codify and expand on regulations ensuring that land owners who enter into conservation agreements with the Fish and Wildlife Service won't be required to do more if circumstances beyond their control change.

But the substitute goes further than the bill as reported by requiring the government first to do as much as possible on public lands to conserve species before it acts to put that burden on private land owners. This is a very important provision that will directly benefit landowners, especially in Colorado and other States where there are extensive Federal lands.

Also, like the bill as reported the substitute includes provisions to create a new, voluntary program of incentives to landowners who implement conservation practices on their lands. Ranchers and farmers in Colorado and across the west understand the importance of protecting threatened and endangered species, and want to do what they can to help, and I strongly support providing these incentives.

But here again the substitute is better—because while both the bill as reported and the substitute include provisions for giving landowners technical assistance, only the bipartisan Substitute allows the Interior Department to give priority to smaller land owners who cannot afford expensive consultants.

Just as important, the substitute not only improves on good features of the bill as reported, it also corrects its worst flaws.

The bill as reported would weaken the protection of threatened and endangered species by making recovery plans unenforceable, by limiting the role of science, and in other ways as well. The substitute is better on these points.

In addition the substitute does not include the reported bill's language to change the current law regulating the use of pesticides. That law may need some revisions, but if so they should be made after thorough consideration and careful deliberation, rather than through a last-minute amendment in the Resources Committee, which is how this was added to the bill.

Proponents of the reported bill say the Endangered Species Act has led to too many lawsuits. But according to the Bush Administration's analysis of the bill as reported, "the new definition of jeopardy in the bill, as well as various statutory deadlines, may generate new litigation and further divert agency resources from conservation purposes." The substitute does not have the same problems.

And, finally, the substitute does not include the reported bill's vague provisions that would set up a new entitlement program—a program without clear boundaries that would increase Federal spending to an extent that cannot be easily calculated.

Those provisions worry the Bush Administration, which has told us that they "provide little discretion to Federal agencies and could result in a significant budgetary impact."

And after reviewing the bill as reported, the nonpartisan budget watchdog group Taxpayers for Common Sense concluded that "This legislation is rife with loopholes and vague wording that have the potential to cost taxpayers billions of dollars, and must be revised." I completely agree and I support the bipartisan substitute because it makes the revisions necessary to close those loopholes. For the benefit of our colleagues, I attach the full text of the letter from Taxpayers for Common Sense.

I urge the adoption of the substitute.

TAXPAYERS FOR
COMMON SENSE ACTION,
Washington, DC, September 28, 2005.

DEAR REPRESENTATIVE: Taxpayers for Common Sense (TCS), a non-partisan budget watchdog, has grave concerns regarding H.R. 3842, the Threatened and Endangered Species Recovery Act of 2005. As reported by the House, this bill would establish a new entitlement program that will not only burden taxpayers but require the creation of an unnecessary and complex Federal spending program.

TCS believes that, as written, the true fiscal impacts of this bill are impossible to calculate, but are likely to be large. H.R. 3824 establishes a policy whereby landowners could file takings claims against the government for relatively unspecific future development plans. The bill's vague language is also likely to encourage serial filers, as there is nothing to prevent landowners from collecting multiple times on the same piece of land property. Additionally, H.R. 3824 would require Federal taxpayers to pay even if the law affects only a small portion of a landowner's property and has little or no impact on the overall value of the remainder of that property. In fact, this legislation, as written, would almost always result in mandated payouts of taxpayer dollars, even if the value of the property had risen. In addition, the threshold for filing a claim and proving a taking under these new regulations would be extremely low, resulting in not only a near guaranteed payout from taxpayers to landowners, but also a likely flood of applications to take advantage of the windfall.

As we have seen countless times in the past, a loophole will always be exploited, and an enormous loophole will be exploited enormously. This legislation is rife with loopholes and vague wording that have the potential to cost taxpayers billions of dollars, and must be revised.

Sincerely,

STEVE ELLIS,
Vice President for Programs.

Ms. LEE. Mr. Chairman, today I missed rollcall vote 506, the vote on final passage for H.R. 3824. Had I been present, I would have voted "nay." I was unable to take part in this vote because I was attending a constituent funeral.

Mr. Chairman, I rise in strong opposition to H.R. 3824, which is a threat to the recovery of endangered species.

Mr. Chairman, the original Endangered Species Act was signed into law by President Nixon in 1973 with the goal of protecting species on the brink of extinction, preserving critical habitats from human development and exploitation, and safeguarding the diversity of our natural wildlife for future generations.

This bill would redefine the entire concept of the Endangered Species Act to protect the short term economic interests of western landowners and developers.

Instead of working to protect threatened or endangered species and their habitats for the benefit of everyone, the Federal Government would now be driving the extinction of countless species—and your tax dollars would be paying for it.

We've got to ask ourselves who really needs to be protected here?

Is it our planet, our future? Or is it the right of some developer to build a strip mall?

I urge my colleagues to vote against this cynical attempt to gut the endangered species act.

Mr. MEEHAN. Mr. Chairman, I rise today in opposition to the so-called "Threatened and Endangered Species Recovery Act," (TESRA). The sponsors of TESRA claim that they want to "reform" the ESA because it's not helping enough threatened and endangered species recover. In reality, it is aimed at weakening, dismantling, and rendering unenforceable the Endangered Species Act, ESA.

The original Endangered Species Act was a bipartisan effort to protect our natural heritage. Yet today, as we consider how to update and modernize that legislation, we are presented not with a truly bipartisan bill, but a massive special interest giveaway that guts ESA despite a thirty year track record of success. A vote for the passage of TESRA is a vote to abdicate responsible environmental policy and to create a new form of corporate welfare.

Since the enactment of the Endangered Species Act in 1973, tens of millions of acres of land in the United States have been managed for conservation purposes. As a result, of the 1800 species protected under ESA, we have lost only 9 to extinction. That's a 99 percent success rate on extinction prevention.

TESRA's most fundamental change abandons the basic priority of the Endangered Species Act: the commitment to species recovery. The overarching goal of ESA is to bring species back from the brink of extinction to the point where they no longer need to be given special protection. TESRA alters that mission by effectively negating the goal of species recovery. TESRA specifically eliminates the requirement that the Federal Government attempt to restore species to healthy population levels.

Furthermore, under TESRA any species recovery plan the government might conceive would be non-binding. Had ESA had these guidelines in place since 1973, the recovery of many species, including the peregrine falcon and the American alligator, would have been almost inconceivable. In the case of the alligator, recovery was so successful that we are now even able to implement controlled farming of the restored population.

There are two areas of the bill which I found particularly problematic and sought to address through amendments. My first amendment would strike language from TESRA that would turn back the clock on the scientific determination of an endangered species. My second amendment would strike language from TESRA that creates a very dangerous precedent: setting up a system where the government pays people for obeying the law.

Rather than offer these separately on the floor, I am pleased to see their substance included in the bipartisan Miller-Boehlert substitute that we will be considering today.

The use of science is of special importance in the implementation of the species protection program. Rather than using the best available science for species protection, TESRA explicitly prohibits the government from using advanced, modern scientific tools like statistical modeling that we have at our disposal today and that assist us in the implementation of ESA.

By taking away these cutting edge tools, TESRA would make it exceedingly difficult to make determinations on the status of any species whose populations are small, isolated, and scattered. The result will be a weakened and limited scientific process in decisions made under the act, more obstacles and less protection. The substitute bill restores ESA's original approach to science, which is to use the best science available to help save and recover endangered species.

My second proposed amendment addresses a trouble area in TESRA introducing a requirement that the Federal Government actually pay developers and polluters to comply with the law. This provision would have serious and widespread implications: it sets a dangerous precedent in environmental protection. This amounts to a new entitlement program that would result in a windfall for land developers and speculators—at the expense of the taxpayers and the species we seek to protect under ESA.

This provision of TESRA is part of a broader movement to treat all environmental regulation as a form of "property taking" that requires government compensation. It is a novel legal theory that would strike at the heart of virtually every piece of environmental regulation ever passed. The proposal under TESRA is particularly ripe for abuse because it sets no cap or limitations. Under TESRA, someone could purchase cheap land, announce an intention to develop on it, and then demand a check from the government compensating them for the much higher value of the developed property, all without ever even intending to break ground. The same developer could conceivably come back an unlimited number of times for an unlimited number of "projects". My amendment, the substance of which is mirrored in the Miller-Boehlert substitute, strikes this payment scheme entirely.

I strongly urge my colleagues to oppose the TESRA roll back of the Endangered Species Act and to support the bipartisan Miller-Boehlert substitute to preserve and strengthen one of the most successful pieces of environmental legislation in 30 years.

Mr. POMBO. Mr. Chairman, regarding the authority of Indian tribes under H.R. 3824, nothing in the Threatened and Endangered Species Recovery Act is intended, or shall be construed to expand, diminish or alter the authority of Indian tribes, as defined in this bill, with respect to the management of fish and wildlife on non-reservation lands.

In addition, H.R. 3824 repeals the Endangered Species Act critical habitat requirements; however, it preserves the impact analysis requirement at the time of listing. Using language similar to that now located at Endangered Species Act section 4(b)(2), 16 U.S.C. 1533(b)(2), FWS is required to analyze the economic impact and benefit of the listing determination; the impact and benefit on national security of that determination; and any other relevant impact and benefit of that determination. For each listing, the Fish and Wildlife Service analysis may conclude that there is no benefit, or it may conclude that there is a benefit, and that benefit must be based on reasonably ascertainable and calculable data. H.R. 3824 clarifies that the listing decision continues to be made solely on the basis of the criteria enumerated in section 4(a)(1).

H.R. 3824 requires, and the Resources Committee fully expects, that the Fish and Wildlife Service will perform this analysis concurrently with all listing decisions. Further, by expanding the scope of the analysis to include all consequences of the listing (rather than those attributable to critical habitat designation), the Committee expects the impact analyses under H.R. 3824 will be better and more useful than those prepared under current law. This impact analysis requirement will provide not only legal notice, but truly meaningful information concerning proposed listing decisions to all those affected, including individuals, corporations, property owners, State and local governments, the military services, and other Federal agencies. It is expected that this opportunity for greater participation by all potentially affected parties at the front end of the listing process will provide additional assurance that the Fish and Wildlife Service will adequately consider all relevant data associated with each proposal to list a species. Further, the Committee expects that the Fish and Wildlife Service will take advantage of developments that have occurred in genetics testing and other technical advances in the years since enactment of the original Endangered Species Act, to make the most scientifically sound listing decisions possible.

Mr. OTTER. Mr. Chairman, today the House of Representatives passed H.R. 3824, the "Threatened and Endangered Species Act of 2005." During floor consideration of this important measure, the distinguished Chairman of the Resources Committee, Richard Pombo, offered an en bloc amendment to the bill. This amendment, which was adopted, included my provision to require the four Power Marketing Administrations, PMAs, to list Endangered Species Act-related costs as a line-item in each of their customers' monthly billings. These agencies—the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration and the Southeastern Power Administration—market the surplus hydropower generated at Federal dams, selling this electricity to 1,450 wholesale customers throughout the Nation. These customers, in turn, provide this federally generated electricity to almost 54 million retail consumers.

The Endangered Species Act substantially impacts Federal electricity service and rates. For instance, the Bonneville Power Administration and the Western Area Power Administration experience high, double-digit compliance costs for Endangered Species Act and related statutes. During a hearing earlier this year, the House Resources Committee found that compliance played a significant role in recent rate increases and led to higher energy costs that were passed directly to consumers.

The Bonneville Power Administration spends the most of all Federal agencies to comply with the requirements of the Endangered Species Act. It also has similar responsibilities under the Northwest Power Act. Many have pushed the agency to increase the accountability of its rapidly growing fish and wildlife programs and to develop measurable performance objectives that will lead to long-term stability and recovery of certain species. The intent of this provision, however, is limited to requiring that the PMAs notify electric power customers how these programs impact their monthly electric rates.

As the bill language in Section 23 makes clear, the agency and the other PMAs shall inform their customers of all the direct and indirect costs associated with meeting Endangered Species Act and other related fish and wildlife obligations. While the PMAs have provided general costs associated with the Endangered Species Act in past years, the agencies have not provided their customers a detailed or "unbundled" explanation of these costs. This section simply gives electricity consumers the right to know how much of their monthly bills are being used to comply with the requirements of the Endangered Species Act and related programs. That enables customers to make informed decisions about their energy choices, as well as to better understand the market implications of public policies. Without such information, customers are deprived of the kind of cost signal that is essential to an efficient free-market economy.

It is my understanding that the authorizing committees expect the PMAs to provide a detailed explanation of these monthly costs in a readable and transparent format. It is important that the PMAs consult with their customers before implementing this provision. In addition, it is my understanding that the PMAs can comply with this section without hiring additional staff or upgrading computer systems since it simply involves the creation of new computer billing codes.

Mr. Chairman, in conclusion, I thank Chairman POMBO for including my provision in H.R. 3824. I look forward to working with him and my Senate colleagues in seeing this important bill enacted.

Mr. GARY G. MILLER of California. Mr. Chairman, I rise in support of H.R. 3824, a bill to bring much-needed reforms to the outdated Endangered Species Act (ESA). While I believe Congress must work to ensure its policies protect and preserve our nation's natural resources and environment, the current interpretation of the ESA has strayed significantly from the original intent of the law and done little to protect our nation's endangered species.

While the ESA has the laudable goal of preventing the extinction of species, the fact is the law is broken and has created an adverse relationship between the government and America's farmers, ranchers, and private property owners. For example, of the 1,304 species that have been listed as endangered over the last 31 years, only 12 have been de-listed, a one percent success rate. Although our understanding of what is required to protect and recover endangered species has grown and become more sophisticated, the ESA has remained a blunt set of mandates that do not reflect or accommodate these advancements. I firmly believe we must allow the states and the federal government to work together to ensure the true intent of the ESA, to help preserve and recover endangered species, can be accomplished.

H.R. 3824, the Threatened and Endangered Species Recovery Act, repairs many of the problems inherent in the ESA by requiring the use of the best scientific data in all listing decisions, replacing the broken critical habitat program with a more integrated recovery planning process, and strengthening the role of states. In addition, this bill makes great strides to ensure regulatory certainty for private property owners by providing compensation for lands vital to species rehabilitation, increasing transparency throughout the process, and encouraging voluntary conservation efforts. These provisions will help ensure that species conservation efforts take a more collaborative and less confrontational approach to protecting endangered species.

Now is the time to modernize the ESA and move forward to update this law to bring it into the 21st century. I urge my colleagues to pass this important measure to ensure the protection and recovery of America's wildlife, while balancing the needs of the communities in which we live and work.

Mr. ETHERIDGE. Mr. Chairman, today I rise in opposition to H.R 3824, the Threatened and Endangered Species Recovery Act. Under the constitution, we are charged with securing this country's blessings not only for ourselves, but for our posterity. This bill turns its back on our posterity.

The Endangered Species Act has been a model for the protection and preservation of endangered species since 1973. When this legislation was first passed, many species in this country were on the brink of extinction, and many more were in severe decline. ESA is essential to safeguard our natural resources and ensure the biodiversity that is critical to a healthy environment for all species, including human beings. ESA is a great American success story that should only be altered with the greatest of care.

In the 30 years since the passage of the Endangered Species Act, we have seen an amazing turnaround in both the population numbers of species that were in decline, as well as in the significant environmental improvements that have fostered their recovery.

I acknowledge the concerns of landowners and fanners about the current law, and I agree that the current law needs to be reformed. This is why I support the Miller-Boehlert substitute bill. The substitute helps small landowners by dedicating funding for technical assistance for private property owners, and it provides conservation grants for landowners who help conserve endangered species on their property. Finally, it provides assurances that private citizens will get timely answers from the Fish & Wildlife Service regarding the status of endangered species requirements on their land. The Miller-Boehlert Substitute provides positive changes to the current ESA without reversing the progress that has been made over the past 30 years. The bipartisan substitute is not perfect legislation, but it is far superior to H.R. 3824.

H.R. 3824 was introduced just last week and was marked up without any public hearings, yet this legislation would most certainly rank as the most sweeping and significant change of environmental law in the past 3 decades.

I have grave concerns about provisions in the bill that would give political appointees the power to remove species from the endangered list, and other drastic changes such as those which would take away critical habitat areas that have been set aside for endangered species. Habitat degradation is the leading cause of species decline, and this bill proposes to eliminate critical habitat designations. I do not understand how eliminating protected areas can result in greater protection of endangered species.

The Endangered Species Act may need an update, but we must not reverse course on significant progress and results for endangered species. We have a solemn obligation to maintain responsible stewardship of America's bounty, and this legislation would abandon that responsibility. I urge my colleagues to vote against H.R. 3824, and to vote in favor of the balanced, bipartisan substitute legislation for ESA reform.

Mr. POMBO. Mr. Chairman, regarding the Judicial jurisdiction under H.R. 3824, the United States District Court shall have jurisdiction over an action by a requestor arising over a written determination under Section 12(d) or a claim for aid under Section 13 of the Threatened and Endangered Species Recovery Act, including the determination of the documentation of the foregone use and the fair market value thereof.

Mr. Chairman, the addition of paragraph (6) to the Endangered Species Act section 7(a) is intended to preclude agency actions from being subject to section 7(a) requirements, if those actions implement or are consistent with a conservation habitat plan or agreement incorporated in a permit issued under section 10. The issuance of a section 10 permit is itself an agency action and therefore subject to section 7(a) requirements. This new paragraph allows agency actions authorized in an approved section 10 permit to transpire without having to meet further section 7(a) requirements.

Mr. PUTNAM. Mr. Chairman, the intent of Sec. 25 of H.R. 3824, the Relationship Between Section 7 Consultation and Incident Take Authorization Under Marine Mammal Protection Act of 1972 is to clarify that when regulations set forth under the Endangered Species Act conflict with regulations set forth under the Marine Mammal Protection Act during the review process for issuing dock permits, it is the regulations set forth under the Endangered Species Act that are the governing authority.

Ms. McCOLLUM of Minnesota. Mr. Chairman, I rise in strong opposition to H.R. 3824. This legislation seeks to undermine one of the most successful and visionary environmental policies, the Endangered Species Act. For 32 years, the Endangered Species Act has been a safety net for wildlife, plants, and fish that are on the brink of extinction.

Since its enactment in 1973, the Endangered Species Act has prevented the extinction of hundreds of species. In fact, 99 percent of the species listed are still with us today, and more than two-thirds of all currently listed species are improving.

Minnesotans have witnessed the success of this Act first hand. In Minnesota, the bald eagle population grew from a dwindling 380 eagles in 1981 to more than 1,400 eagles today. This is more than double the recovery goal of 600 eagles. We have seen the gray wolf population grow from 300 in 1975 to 3,020 in 2004. Again, that is more than double the recovery goal of 1,400 wolves. Minnesota is also home to the dwarf trout lily, which is found nowhere else in the world.

In April 2005, many of my constituents showed their support for endangered species during Aveda Corporation's Earth Month. In Aveda salons and stores across the country, more than 170,000 people signed petitions asking for a strong, fully funded Endangered Species Act. These petitions were delivered to the steps of the Capitol in July. The message is clear. Americans want to protect endangered species for future generations.

Unfortunately, H.R. 3824 makes it harder to protect threatened and endangered species. It repeals one of the most important parts of the act—critical habitat protection. Habitat destruction is the primary reason many animals end up on the Endangered Species List. Species with designated critical habitats recover at twice the rate of endangered species without critical habitat. Yet, this bill provides no alternative to protect the places where vulnerable species live.

This bill also creates a new corporate welfare entitlement for developers. Under this bill, the U.S. Fish and Wildlife Service would have only 180 days to review proposed developments and their impact on endangered species. If an assessment cannot be reached within this time frame, the project is allowed to proceed. If it is determined that endangered species would be harmed by the project, the Federal Government must pay the landowner the value of the proposed development. This would encourage speculative development schemes aimed at harming endangered species in order to receive windfall payments from the government. A frenzy of fraud and abuse will not help responsible landowners comply with the law, and it will not help species recover.

The use of sound science is also undermined by this bill. It gives political appointees the authority to determine the "best available science" without having to consult with recognized scientists and other experts in the field. Under this bill, the use of sophisticated scientific modeling could also be banned. This opens the door to the use of questionable science and politically-motivated findings.

This bill also repeals all Endangered Species Act provisions related to pesticides. Pesticides, such as DOT, have contributed to the decline of many species, including the American bald eagle. Under this bill, the Environmental Protection Agency can approve pesticides without considering their impact on threatened and endangered species. Given the choice between recovery and extinction, this bill appears to favor extinction.

I supported a responsible alternative aimed at recovering species. The Miller/Boehlert substitute amendment contained a more flexible timeline for consideration of projects, clarified the obligation of federal agencies, and provided real landowner incentives for conservation and species recovery. This approach responded to the legitimate concerns of landowners and sportsmen while continuing efforts to recover endangered species. Unfortunately, this amendment was not adopted.

Mr. Speaker, the Threatened and Endangered Species Recovery Act fails to protect vulnerable wildlife and plants and threatens to break the federal bank with a new open-ended entitlement for developers. I urge my colleagues to reject this bill and work together to create a strong, scientific and bipartisan Endangered Species Act.

Mr. COSTA. Mr. Chairman, I rise today to clarify the intent and importance of language in H.R. 3824 regarding the discretionary nature of recovery plans under the ESA. Language in TESRA states that, "Nothing in a recovery plan shall be construed to establish regulatory requirements." This important language will ensure that, as is currently the case, recovery plans cannot be used as a regulatory "hammer" on private landowners or others. Let me elaborate.

The ESA § 4(f) states that the Secretaries of Interior and Commerce "shall develop and implement recovery plans" for listed species, "unless . . . such a plan will not promote the conservation of the species." This responsibility has been delegated to the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries) (collectively, the Services).

Thus, as a general matter, the ESA compels the Services to develop recovery plans. While FWS and NOAA Fisheries are under a general duty to develop a recovery plan for listed species, the federal courts are in unanimous agreement that the contents of a recovery plan are discretionary with the Services. Recovery plans do not impose legal obligations or requirements on anyone—not on private landowners, not on local or state government units, and not even on the federal government itself. Rather, the case law makes clear that recovery plans are guidance documents.

For example, the 11th Circuit Court of Appeals rejected the argument of an environmental group that would have "elevate[d] the 1987 [Florida panther] recovery plan into a document with the force of law." *Fund for Animals* v. *Rice*, 85 F.3d 535, 547 (11th Cir. 1996). The 11th Circuit wrote that ESA § 4(f):

> "makes it plain that recovery plans are for *guidance purposes only*. . . . By providing general guidance as to what is required in a recovery plan, the ESA 'breathe[s] discretion at every pore.' "

Id. (emphasis supplied), citing *Strickland* v. *Morton*, 519 F.2d 467, 469 (9th Cir. 1975)).

FWS itself has taken the position that recovery plans have no binding effect. Courts have agreed with the agency's position. For example, in *Biodiversity Legal Found.* v. *Norton*, 285 F. Supp. 2d 1 (D.D.C. 2003), environmental groups argued that the recovery plan for the Cape Sable Seaside sparrow had a binding impact to compel revisions to the species' critical habitat. FWS asserted that "'the content of Recovery Plans required under ESA § 4(f) is not binding upon the Service, so cannot create a legal duty.'" Id. at 13. The district court, citing the 11th Circuit's opinion in Fund for Animals (discussed above), agreed with FWS. It ruled that the sparrow's recovery plan "was merely a guidance, which FWS had discretion to follow." Id.

Similarly, environmental groups claimed that the recovery plan for certain whale species was deficient because it failed to include substantive, mandatory requirements. The court disagreed, holding that "[c]ase law instructs that [FWS is] correct in [its] assertion that the content of recovery plans is discretionary." *Strahan* v. *Linnon*, 967 F. Supp. 581, 597 (D. Mass. 1997), *aff'd*, 187 F.3d 623 (1st Cir. 1998). The court recognized that FWS is under a statutory duty to develop a recovery plan "to the extent that it is feasible and possible," but that "requirement does not mean that the agency can be forced to include specific measures in its recovery plan." Id. at 598. Environmental groups also argued that the recovery plan for the Perdido Key beach mouse *must* include an expansion of the species' critical habitat. The court, aligned with all of the other opinions on the topic, rejected the environmentalists' argument because "the contents of the [recovery plan] are discretionary." *Morrill* v. *Lujan*, 802 F. Supp. 424, 433 (S.D. Ala. 1992).

There is a strong policy justification for finding that recovery plans are discretionary:

namely, to allow FWS to allocate its scarce resources as it sees fit. “Congress recognized that the development of recovery plans for listed species would take significant time and resources. It therefore provided in the ESA that the Secretary could establish a priority system for developing and implementing such plans. This priority system *allows the Secretary broad discretion to allocate scarce resources* to those species that he or she determines would most likely benefit from development of a recovery plan.” *Oregon Natural Resources Council, supra,* 863 F. Supp. at 1282–83 (emphasis supplied).

To conclude, in a rare show of agreement among court interpretations of the ESA, the federal judges that have addressed this point have all agreed that recovery plans are simply discretionary guidance documents, with no binding effect. It is clearly the intent of H.R. 3824 to not only remain consistent with this established line of precedent, but to codify this important fact.

The CHAIRMAN. All time for general debate has expired.

In lieu of the amendment printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005. The amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Threatened and Endangered Species Recovery Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Secretarial guidelines; State comments.
Sec. 9. Recovery plans and land acquisitions.
Sec. 10. Cooperation with States and Indian tribes.
Sec. 11. Interagency cooperation and consultation.
Sec. 12. Exceptions to prohibitions.
Sec. 13. Private property conservation.
Sec. 14. Public accessibility and accountability.
Sec. 15. Annual cost analyses.
Sec. 16. Reimbursement for depredation of livestock by reintroduced species.
Sec. 17. Authorization of appropriations.
Sec. 18. Miscellaneous technical corrections.
Sec. 19. Clerical amendment to table of contents.
Sec. 20. Certain actions deemed in compliance.

SEC. 2. AMENDMENT REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

“(2)(A) The term ‘best available scientific data’ means scientific data, regardless of source, that are available to the Secretary at the time of a decision or action for which such data are required by this Act and that the Secretary determines are the most accurate, reliable, and relevant for use in that decision or action.

“(B) Not later than one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall issue regulations that establish criteria that must be met to determine which data constitute the best available scientific data for purposes of subparagraph (A).

“(C) If the Secretary determines that data for a decision or action do not comply with the criteria established by the regulations issued under subparagraph (B), do not comply with guidance issued under section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary, do not consist of any empirical data, or are found in sources that have not been subject to peer review in a generally acceptable manner—

“(i) the Secretary shall undertake the necessary measures to assure compliance with such criteria or guidance; and

“(ii) the Secretary may—

“(I) secure such empirical data;

“(II) seek appropriate peer review; and

“(III) reconsider the decision or action based on any supplemental or different data provided or any peer review conducted pursuant to this subparagraph.”.

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

“(13) The term ‘permit or license applicant’ means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.”.

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

“(12) The term ‘jeopardize the continued existence’ means, with respect to an agency action (as that term is defined in section 7(a)(2)), that the action reasonably would be expected to significantly impede, directly or indirectly, the conservation in the long-term of the species in the wild.”.

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking “section 3(13)” and inserting “section 3(14)”.

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

“DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

“SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

“(A) The present or threatened destruction, modification, or curtailment of its habitat or range by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

“(B) Overutilization for commercial, recreational, scientific, or educational purposes.

“(C) Disease or predation.

“(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

“(E) Other natural or manmade factors affecting its continued existence.

“(2) The Secretary shall use the authority provided by paragraph (1) to determine any distinct population of any species of vertebrate fish or wildlife to be an endangered species or a threatened species only sparingly.”.

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking “best scientific and commercial data available to him” and inserting “best available scientific data”; and

(2) by inserting “Federal agency, any” after “being made by any”.

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

“(2)(A) The Secretary shall—

“(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

“(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should—

“(I) be removed from such list;

“(II) be changed in status from an endangered species to a threatened species; or

“(III) be changed in status from a threatened species to an endangered species.

“(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).”.

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 3 (16 U.S.C. 1532), as amended by section 3 of this Act, is further amended by striking paragraph (6) and by redesignating paragraphs (7) through (22) in order as paragraphs (6) through (21).

(2) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (2) of this subsection, by striking subparagraph (D).

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (2) of this subsection, by striking

"determination, designation, or revision referred to in subsection (a)(1) or (3)" and inserting "determination referred to in subsection (a)(1)".

(5) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (2) of this subsection, by striking "; and if such regulation" and all that follows through the end of the sentence and inserting a period.

(6) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting "and" after "if any"; and

(ii) by striking ", and specify any" and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking ", designations,".

(7) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking "section 4(b)(7)" and inserting "section 4(b)(6)".

(8) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking "section 4(b)(3)(B)(iii)" each place it appears and inserting "section 4(b)(2)(B)(iii)".

(9) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking "or result in the destruction or adverse modification of any habitat of such species" and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking "or result" and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking "or its critical habitat".

(10) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking "that—" and all that follows through "(i) solely" and inserting "that solely"; and

(B) by striking "; and" and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) Treatment of Petitions.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(2) of this Act, by adding at the end of subparagraph (A) the following: "The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.".

(b) Implementing Regulations.—

(1) Proposed regulations.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking ", and" and inserting a semicolon;

(ii) in clause (ii) by striking "to the State agency in" and inserting "to the Governor of, and the State agency in,";

(iii) in clause (ii) by striking "such agency" and inserting "such Governor or agency";

(iv) in clause (ii) by inserting "and" after the semicolon at the end; and

(v) by adding at the end the following:

"(iii) maintain, and shall make available, a complete record of all information concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information."; and

(B) by adding at the end the following:

"(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

"(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.".

(2) Final regulations.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

"(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

"(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

"(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.";

(B) in subparagraph (B)(i) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)";

(C) in subparagraph (B)(ii) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)"; and

(D) by striking subparagraph (C).

(3) Emergency determinations.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting "with respect to a determination of a species to be an endangered species or a threatened species" after "any regulation"; and

(B) in subparagraph (B), by striking "the State agency in" and inserting "the Governor of, and State agency in,".

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

"(3) Each determination under paragraph (2)(B) shall consider one of the following:

"(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

"(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) and (B) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

"(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

"(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).".

SEC. 8. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking "AGENCY" and inserting "SECRETARIAL";

(B) in the matter preceding paragraph (1), by striking "the purposes of this section are achieved" and inserting "this section is implemented";

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking "and" after the semicolon at the end, and by inserting after paragraph (3) the following:

"(4) the criteria for determining best available scientific data pursuant to section 3(2); and"; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking "subsection (f) of this section" and inserting "section 5"; and

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting "Comments.—" before the first sentence;

(B) by striking "a State agency" the first place it appears and inserting "a Governor, State agency, county (or equivalent jurisdiction), or unit of local government";

(C) by striking "a State agency" the second place it appears and inserting "a Governor, State agency, county (or equivalent jurisdiction), or unit of local government";

(D) by striking "the State agency" and inserting "the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively"; and

(E) by striking "agency's".

SEC. 9. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) In General.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking "subsection (a) of this section" and inserting "subsection (k)"; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

"RECOVERY PLANS AND LAND ACQUISITION

"Sec. 5. (a) Recovery Plans.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

"(b) Development of Recovery Plans.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

"(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 2 years after the date the species is listed under section 4(c).

"(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

"(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

"(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a tentative schedule for such development or revision.

"(B) A species is described in this subparagraph if—

"(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

"(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

"(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and tentative schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

"(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

"(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

"(c) Plan Contents.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

"(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

"(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including such intermediate measures as are warranted to effect progress toward achievement of the criteria.

"(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

"(iv) An identification of those specific areas that are of special value to the conservation of the species.

"(B) Those members of any recovery team appointed pursuant to subsection (d) with relevant scientific expertise, or the Secretary if no recovery team is appointed, shall, based solely on the best available scientific data, establish the objective, measurable criteria required under subparagraph (A)(i).

"(C)(i) If the recovery team, or the Secretary if no recovery team is appointed, determines in the recovery plan that insufficient best available scientific data exist to determine criteria or measures under subparagraph (A) that could achieve a determination to remove the species from the lists published under section 4(c), the recovery plan shall contain interim criteria and measures that are likely to improve the status of the species.

"(ii) If a recovery plan does not contain the criteria and measures provided for by clause (i) of subparagraph (A), the recovery team for the plan, or by the Secretary if no recovery team is appointed, shall review the plan at intervals of no greater than 5 years and determine if the plan can be revised to contain the criteria and measures required under subparagraph (A).

"(iii) If the recovery team or the Secretary, respectively, determines under clause (ii) that a recovery plan can be revised to add the criteria and measures provided for under subparagraph (A), the recovery team or the Secretary, as applicable, shall revise the recovery plan to add such criteria and measures within 2 years after the date of the determination.

"(D) In specifying measures in a recovery plan under subparagraph (A), a recovery team or the Secretary, as applicable, shall—

"(i) whenever possible include alternative measures; and

"(ii) in developing such alternative measures, the Secretary shall seek to identify, among such alternative measures of comparable expected efficacy, the alternative measures that are least costly.

"(E) Estimates of time and costs pursuant to subparagraph (A)(iii), and identification of the least costly alternatives pursuant to subparagraph (D)(ii), are not required to be based on the best available scientific data.

"(2) Any area that, immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005, is designated as critical habitat of an endangered species or threatened species shall be treated as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(3).

"(d) Recovery Teams.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams for development of recovery plans under this section.

"(2) Such regulations shall—

"(A) establish criteria and the process for selecting the members of recovery teams, and the process for preparing recovery plans, that ensure that each team—

"(i) is of a size and composition to enable timely completion of the recovery plan; and

"(ii) includes sufficient representation from constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan;

"(B) include provisions regarding operating procedures of and recordkeeping by recovery teams;

"(C) ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraphs (1)(A)(iii) and (1)(D) of subsection (c) are economically rigorous; and

"(D) provide guidelines for circumstances in which the Secretary may determine that appointment of a recovery team is not necessary or advisable to develop a recovery plan for a specific species, including procedures to solicit public comment on any such determination.

"(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

"(e) Reports to Congress.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

"(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

"(A) an assessment of any significant change in the well-being of each such species, including—

"(i) changes in population, range, or threats; and

"(ii) the basis for that assessment; and

"(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

"(f) Public Notice and Comment.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

"(g) State Comment.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency.

"(h) Consultation to Ensure Consistency With Development Plan.—(1) The Secretary shall, prior to final approval of a new or revised recovery plan, consult with any pertinent State, Indian tribe, or regional or local land use agency or its designee.

"(2) For purposes of this Act, the term 'Indian tribe' means—

"(A) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

"(B) with respect to Alaska, the Metlakatla Indian Community.

"(i) Use of Plans.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(2)(A)(i) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

"(ii) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

"(iii) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

"(B) Nothing in a recovery plan shall be construed to establish regulatory requirements.

"(j) Monitoring.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

"(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.".

(b) Recovery Plans for Species Occupying More Than One State.—Section 6 (16 U.S.C. 1535) is amended by adding at the end the following:

“(j) Recovery Plans for Species Occupying More Than One State.—Any recovery plan under section 5 for an endangered species or a threatened species that occupies more than one State shall identify criteria and actions pursuant to subsection (c)(1) of section 5 for each State that are necessary so that the State may pursue a determination that the portion of the species found in that State may be removed from lists published under section 4(c).”.

(c) Threatened and Endangered Species Incentives Program.—

(1) Agreements authorized.—Section 5 (16 U.S.C. 1534) is further amended by adding at the end the following:

“(m) Threatened and Endangered Species Incentives Program.—(1) The Secretary may enter into species recovery agreements pursuant to paragraph (2) and species conservation contract agreements pursuant to paragraph (3) with persons, other than agencies or departments of the Federal Government or State governments, under which the Secretary is obligated, subject to the availability of appropriations, to make annual payments or provide other compensation to the persons to implement the agreements.

“(2)(A) The Secretary and persons who own or control the use of private land may enter into species recovery agreements with a term of not less than 5 years that meet the criteria set forth in subparagraph (B) and are in accordance with the priority established in subparagraph (C).

“(B) A species recovery agreement entered into under this paragraph by the Secretary with a person—

“(i) shall require that the person shall carry out, on the land owned or controlled by the person, activities that—

“(I) protect and restore habitat for covered species that are species determined to be endangered species or threatened species pursuant to section 4(a)(1);

“(II) contribute to the conservation of one or more covered species; and

“(III) specify and implement a management plan for the covered species;

“(ii) shall specify such a management plan that includes—

“(I) identification of the covered species;

“(II) a description of the land to which the agreement applies; and

“(III) a description of, and a schedule to carry out, the activities under clause (i);

“(iii) shall provide sufficient documentation to establish ownership or control by the person of the land to which the agreement applies;

“(iv) shall include the amounts of the annual payments or other compensation to be provided by the Secretary to the person under the agreement, and the terms under which such payments or compensation shall be provided; and

“(v) shall include—

“(I) the duties of the person;

“(II) the duties of the Secretary;

“(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated; and

“(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given.

“(C) In entering into species recovery agreements under this paragraph, the Secretary shall accord priority to agreements that apply to any areas that are identified in recovery plans pursuant to subsection (c)(1)(A)(iv).

“(3)(A) The Secretary and persons who own private land may enter into species conservation contract agreements with terms of 30 years, 20 years, or 10 years that meet the criteria set forth in subparagraph (B) and standards set forth in subparagraph (D) and are in accordance with the priorities established in subparagraph (C).

“(B) A species conservation contract agreement entered into under this paragraph by the Secretary with a person—

“(i) shall provide that the person shall, on the land owned by the person—

“(I) carry out conservation practices to meet one or more of the goals set forth in clauses (i) through (iii) of subparagraph (C) for one or more covered species, that are species that are determined to be endangered species or threatened species pursuant to section 4(a)(1), species determined to be candidate species pursuant to section 4(b)(3)(B)(iii), or species subject to comparable designations under State law; and

“(II) specify and implement a management plan for the covered species;

“(ii) shall specify such a management plan that includes—

“(I) identification of the covered species;

“(II) a description in detail of the conservation practices for the covered species that the person shall undertake;

“(III) a description of the land to which the agreement applies; and

“(IV) a schedule of approximate deadlines, whether one-time or periodic, for undertaking the conservation practices described pursuant to subclause (II);

“(V) a description of existing or future economic activities on the land to which the agreement applies that are compatible with the conservation practices described pursuant to subclause (II) and generally with conservation of the covered species;

“(iii) shall specify the term of the agreement; and

“(iv) shall include—

“(I) the duties of the person;

“(II) the duties of the Secretary;

“(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated;

“(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given; and

“(V) terms and conditions for early termination of the agreement by the person before the management plan is fully implemented or termination of the agreement by the Secretary in the case of a violation by the person that is not remedied under subclause (IV), including any requirement for the person to refund all or part of any payments received under subparagraph (E) and any interest thereon.

“(C) The Secretary shall establish priorities for the selection of species conservation contract .agreements, or groups of such agreements for adjacent or proximate lands, to be entered into under this paragraph that address the following factors:

“(i) The potential of the land to which the agreement or agreements apply to contribute significantly to the conservation of an endangered species or threatened species or a species with a comparable designation under State law.

“(ii) The potential of such land to contribute significantly to the improvement of the status of a candidate species or a species with a comparable designation under State law.

“(iii) The amount of acreage of such land.

“(iv) The number of covered species in the agreement or agreements.

“(v) The degree of urgency for the covered species to implement the conservation practices in the management plan or plans under the agreement or agreements.

“(vi) Land in close proximity to military test and training ranges, installations, and associated airspace that is affected by a covered species.

“(D) The Secretary shall enter into a species conservation contract agreement submitted by a person, if the Secretary finds that the person owns such land or has sufficient control over the use of such land to ensure implementation of the management plan under the agreement.

“(E)(i) Upon entering into a species conservation contract agreement with the Secretary pursuant to this paragraph, a person shall receive the financial assistance provided for in this subparagraph.

“(ii) If the person is implementing fully the agreement, the person shall receive from the Secretary—

“(I) in the case of a 30-year agreement, an annual contract payment in an amount equal to 100 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement;

“(II) in the case of a 20-year agreement, an annual contract payment in an amount equal to 80 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement; and

“(III) in the case of a 10-year agreement, an annual contract payment in an amount equal to 60 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement.

“(iii)(I) If the person receiving contract payments pursuant to clause (ii) receives any other State or Federal funds to defray the cost of any conservation practice, the cost of such practice shall not be eligible for such contract payments.

“(II) Contributions of agencies or organizations to any conservation practice other than the funds described in subclause (I) shall not be considered as costs of the person for purposes of the contract payments pursuant to clause (iii).

“(4)(A) Upon request of a person seeking to enter into an agreement pursuant to this subsection, the Secretary may provide to such person technical assistance in the preparation, and management training for the implementation, of the management plan for the agreement.

“(B) Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide assistance to a person in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species for purposes of the preparation or review and approval of management plans for species conservation contract agreements under paragraph (3)(D)(iii).

“(5) Upon any conveyance or other transfer of interest in land that is subject to an agreement under this subsection—

"(A) the agreement shall terminate if the agreement does not continue in effect under subparagraph (B);

"(B) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by no later than 30 days after the date of the conveyance or other transfer and the person is determined by the Secretary to qualify to enter into an agreement under this subsection; or

"(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this subsection.

"(6) An agreement under this subsection may be renewed with the mutual consent of the Secretary and the person who entered into the agreement or to whom the agreement has been transferred under paragraph (5).

"(7) The Secretary shall make annual payments under this subsection as soon as possible after December 31 of each calendar year.

"(8) An agreement under this subsection that applies to an endangered species or threatened species shall, for the purpose of section 10(a)(4), be deemed to be a permit to enhance the propagation or survival of such species under section 10(a)(1), and a person in full compliance with the agreement shall be afforded the protection of section 10(a)(4).

"(9) The Secretary, or any other Federal official, may not require a person to enter into an agreement under this subsection as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this Act.".

(2) Subsection (e)(2) of section 7 (16 U.S.C. 1536) (as redesignated by section 11(d)(2) of this Act) is amended by inserting "or in an agreement under section 5(m)" after "section".

(d) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking "section 4(g)" and inserting "section 5(j)".

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking "section 4(f)" and inserting "section 5"; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking "section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))" and inserting "section 5 of the Endangered Species Act of 1973".

SEC. 10. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

"(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section 4(a)(1) in that State. Upon completion of consultation on the agreement pursuant to subsection (e)(2), any incidental take statement issued on the agreement shall apply to any such species, and to the State and any landowners enrolled in any program under the agreement, without further consultation (except any additional consultation pursuant to subsection (e)(2)) if the species is subsequently determined to be an endangered species or a threatened species and the agreement remains an adequate and active program for the conservation of endangered species and threatened species.

"(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

"(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

"(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

"(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

"(B) For the purposes of this paragraph, the term 'Indian tribe' means—

"(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

"(ii) with respect to Alaska, the Metlakatla Indian Community.";

(2) in subsection (d)(1)—

(A) by striking "pursuant to subsection (c) of this section";

(B) by striking "or to assist" and all that follows through "section 5(j)" and inserting "pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)"; and

(C) in subparagraph (F), by striking "monitoring the status of candidate species" and inserting "developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)"; and

(3) in subsection (e)—

(A) by inserting "(1)" before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking "at no greater than annual intervals" and inserting "every 3 years"; and

(C) by adding at the end the following:

"(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions only before—

"(A) the Secretary enters into the agreement; and

"(B) the Secretary approves any renewal of, or amendment to, the agreement that—

"(i) addresses species that are determined to be endangered species or threatened species, are not addressed in the agreement, and may be affected by the agreement; or

"(ii) new information about any species addressed in the agreement that the Secretary determines—

"(I) constitutes the best available scientific data; and

"(II) indicates that the agreement may have adverse effects on the species that had not been considered previously when the agreement was entered into or during any revision thereof or amendment thereto.

"(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

"(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

"(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

"(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.".

SEC. 11. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking "endangered species" and all that follows through the end of the sentence and inserting "species determined to be endangered species and threatened species under section 4.";

(2) in paragraph (2)—

(A) in the first sentence by striking "action" the first place it appears and all that follows through "is not" and inserting "agency action authorized, funded, or carried out by such agency is not";

(B) in the first sentence by striking ", unless" and all that follows through the end of the sentence and inserting a period;

(C) in the second sentence, by striking "best scientific and commercial data available" and inserting "best available scientific data"; and

(D) by inserting "(A)" before the first sentence, and by adding at the end the following:

"(B) The Secretary may identify specific agency actions or categories of agency actions that may be determined to meet the standards of this paragraph by alternative procedures to the procedures set forth in this subsection and subsections (b) through (d), except that subsections (b)(4) and (e) may apply only to an action that the Secretary finds, or concurs, does meet such standards, and the Secretary shall suggest, or concur in any suggested, reasonable and prudent alternatives described in subsection (b)(3) for any action determined not to meet such standards. Any such agency action or category of agency actions shall be identified, and any such alternative procedures shall be established, by regulation promulgated prior or subsequent to the date of the enactment of this Act.";

(3) in paragraph (4)—

(A) by striking "listed under section 4" and inserting "an endangered species or a threatened species"; and

(B) by inserting ", under section 4" after "such species"; and

(4) by adding at the end the following:

"(5) Any Federal agency or the Secretary, in conducting any analysis pursuant to paragraph (2), shall consider only the effects of any agency action that are distinct from a baseline of all effects upon the relevant species that have occurred or are occurring prior to the action.".

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting "permit or license" before "applicant";

(2) in paragraph (2) by inserting "permit or license" before "applicant";

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking "Promptly after" and inserting "Before";

(ii) by inserting "permit or license" before "applicant"; and

(iii) by inserting "proposed" before "written statement": and

(B) by striking all after the first sentence and inserting the following: "The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting "(A)" after "(4)";

(C) by striking "the Secretary shall provide" and all that follows through "with a written statement that—" and inserting the following: "the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

"(B) A statement described in this subparagraph—"; and

(5) by adding at the end the following:

"(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be roughly proportional to the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

"(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

"(i) must be capable of successful implementation; and

"(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.".

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) by striking "(1)";

(2) by striking paragraph (2);

(3) in the first sentence, by striking "which is listed" and all that follows through the end of the sentence and inserting "that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action."; and

(4) in the second sentence, by striking "best scientific and commercial data available" and inserting "best available scientific data".

(d) ELIMINATION OF ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsections (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n);

(2) by redesignating subsections (o) and (p) as subsections (e) and (f), respectively;

(3) in subsection (e), as redesignated by paragraph (2) of this subsection—

(A) in the heading, by striking "EXEMPTION AS PROVIDING"; and

(B) by striking "such section" and all that follows through "(2)" and inserting "such section,"; and

(4) in subsection (f), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking "is authorized" and all that follows through "of this section" and inserting "may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action,"; and

(B) by striking the second sentence.

SEC. 12. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

"(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

"(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

"(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and";

(2) in subparagraph (B) by striking "and" after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

"(v) the term of the permit is reasonable, taking into consideration—

"(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

"(II) the extent to which the plan will enhance the conservation of covered species;

"(III) the adequacy of information underlying the plan;

"(IV) the length of time necessary to implement and achieve the benefits of the plan; and

"(V) the scope of the plan's adaptive management strategy; and"; and

(3) by striking subparagraph (C) and inserting the following:

"(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be roughly proportional to the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i). This paragraph shall not be construed to limit the authority of the Secretary to require greater than acre-for-acre mitigation where necessary to address the extent of such impacts. In any case in which various terms and conditions are available, the terms and conditions shall be capable of successful implementation and shall be consistent with the objective of the applicant to the greatest extent possible.

"(4)(A) If the holder of a permit issued under this subsection for other, than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

"(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

"(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

"(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

"(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

"(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

"(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

"(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

"(ii) the Secretary provides 60 days notice of revocation to the permittee; and

"(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.".

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking "thirty" each place it appears and inserting "45".

(c) Experimental Populations.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking "For purposes" and all that follows through the end of the paragraph and inserting the following: "For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.";

(2) in paragraph (2)(B), by striking "information" and inserting "scientific data"; and

(3) in paragraph (2)(C)(i), by striking "listed" and inserting "determined to be an endangered species or a threatened species".

(d) Written Determination of Compliance.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

"(k) Written Determination of Compliance.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination that a proposed use of the owner's property that is lawful under State and local law will comply with section 9(a), by submitting a written description of the proposed action to the Secretary by certified mail.

"(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

"(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

"(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

"(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

"(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

"(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will comply with section 9(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

"(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

"(6) If the Secretary fails to provide a written determination before the expiration of the period under paragraph (5)(A) (or any extension thereof under paragraph (5)(B)), the Secretary is deemed to have determined that the proposed use complies with section 9(a).

"(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.

"(8) Any use or action taken by the property owner in reasonable reliance on a written determination of compliance under paragraph (5) or on the application of paragraph (6) shall not be treated as a violation of section 9(a).

"(9) Any determination of compliance under this subsection shall remain effective—

"(A) in the case of a written determination provided under paragraph (5)(A), for the 10-year period beginning on the date the written determination is provided; or

"(B) in the case of a determination that under paragraph (6) the Secretary is deemed to have made, the 5-year period beginning on the first date the Secretary is deemed to have made the determination.

"(10) The Secretary may withdraw a determination of compliance under this section only if the Secretary determines that, because of unforeseen changed circumstances, the continuation of the use to which the determination applies would preclude conservation measures essential to the survival of any endangered species or threatened species. Such a withdrawal shall take effect 10 days after the date the Secretary provides notice of the withdrawal to the requester.

"(11) The Secretary may extend the period that applies under paragraph (5) by up to 180 days if seasonal considerations make a determination impossible within the period that would otherwise apply.".

(e) National Security Exemption.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

"(l) National Security.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if such exemption is necessary for national security.".

(f) Disaster Declaration and Protection.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

"(m) Disaster Declaration and Protection.—(1) The President may suspend the application of any provision of this Act in any area for which a major disaster is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(2) The Secretary shall, within one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, promulgate regulations regarding application of this Act in the event of an emergency (including circumstances other than a major disaster referred to in paragraph (1)) involving a threat to human health or safety or to property, including regulations—

"(A) determining what constitutes an emergency for purposes of this paragraph; and

"(B) to address immediate threats through expedited consideration under or waiver of any provision of this Act.".

SEC. 13. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

"PRIVATE PROPERTY CONSERVATION

"Sec. 13. (a) In General.—The Secretary may provide conservation grants (in this section referred to as 'grants') to promote the voluntary conservation of endangered species and threatened species by owners of private property and shall provide financial conservation aid (in this section referred to as 'aid') to alleviate the burden of conservation measures imposed upon private property owners by this Act. The Secretary may provide technical assistance when requested to enhance the conservation effects of grants or aid.

"(b) Awarding of Grants and Aid.—Grants to promote conservation of endangered species and threatened species on private property—

"(1) may not be used to fund litigation, general education, general outreach, lobbying, or solicitation;

"(2) may not be used to acquire leases or easements of more than 50 years duration or fee title to private property;

"(3) must be designed to directly contribute to the conservation of an endangered species or threatened species by increasing the species' numbers or distribution; and

"(4) must be supported by any private property owners on whose property any grant funded activities are carried out.

"(c) Priority.—Priority shall be accorded among grant requests in the following order:

"(1) Grants that promote conservation of endangered species or threatened species on private property while making economically beneficial and productive use of the private property on which the conservation activities are conducted.

"(2) Grants that develop, promote, or use techniques to increase the distribution or population of an endangered species or threatened species on private property.

"(3) Other grants that promote voluntary conservation of endangered species or threatened species on private property.

"(d) Eligibility for Aid.—(1) The Secretary shall award aid to private property owners who—

"(A) received a written determination under section 10(k) finding that the proposed use of private property would not comply with section 9(a); or

"(B) receive notice under section 10(k)(10) that a written determination has been withdrawn.

"(2) Aid shall be in an amount no less than the fair market value of the use that was proposed by the property owner if—

"(A) the owner has foregone the proposed use;

"(B) the owner has requested financial aid—

"(i) within 180 days of the Secretary's issuance of a written determination that the proposed use would not comply with section 9(a); or

"(ii) within 180 days after the property owner is notified of a withdrawal under section 10(k)(10); and

"(C) the foregone use would be lawful under State and local law and the property owner has demonstrated that the property owner has the means to undertake the proposed use.

"(e) Distribution of Grants and Aid.—(1) The Secretary shall pay eligible aid—

"(A) within 180 days after receipt of a request for aid unless there are unresolved questions regarding the documentation of the foregone proposed use or unresolved questions regarding the fair market value; or

"(B) at the resolution of any questions concerning the documentation of the foregone use established under subsection (f) or the fair market value established under subsection (g).

"(2) All grants provided under this section shall be paid on the last day of the fiscal year. Aid shall be paid based on the date of the initial request.

"(f) Documentation of the Foregone Use.—Within 30 days of the request for aid, the Secretary shall enter into negotiations with the property owner regarding the documentation of the foregone proposed use through such mechanisms such as contract terms, lease terms, deed restrictions, easement terms, or transfer of title. If the Secretary and the property owner are unable to reach an agreement, then, within 60 days of the request for aid, the Secretary shall determine how the property owner's foregone use shall be documented with the least impact on the ownership interests of the property owner necessary to document the foregone use.

"(g) FAIR MARKET VALUE.—For purposes of this section, the fair market value of the foregone use of the affected portion of the private property, including business losses, is what a willing buyer would pay to a willing seller in an open market. Fair market value shall take into account the likelihood that the foregone use would be approved under State and local law. The fair market value shall be determined within 180 days of the documentation of the foregone use. The fair market value shall be determined jointly by 2 licensed independent appraisers, one selected by the Secretary and one selected by the property owner. If the 2 appraisers fail to agree on fair market value, the Secretary and the property owner shall jointly select a third licensed appraiser whose appraisal within an additional 90 days shall be binding on the Secretary and the private property owner. Within one year after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall promulgate regulations regarding selection of the jointly selected appraisers under this subsection.

"(h) LIMITATION ON AID AVAILABILITY.—Any person receiving aid under this section may not receive additional aid under this section for the same foregone use of the same property and for the same period of time.

"(i) ANNUAL REPORTING.—The Secretary shall by January 15 of each year provide a report of all aid and grants awarded under this section to the Committee on Resources of the House of Representatives and the Environment and Public Works Committee of the Senate and make such report electronically available to the general public on the website required under section 14.".

SEC. 14. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

"PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

"SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

"(1) each list published under section 4(c)(1);

"(2) all final and proposed regulations and determinations under section 4;

"(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

"(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

"(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

"(6) data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.".

SEC. 15. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

"ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

"SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

"(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

"(1) expenditures of Federal funds on a species-by-species basis, and expenditures of Federal funds that are not attributable to a specific species;

"(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

"(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

"(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

"(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

"(2) attest to the accuracy of such data.".

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

"(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).".

SEC. 16. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

"REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

"SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

"(b) ELIGIBILITY FOR AND AMOUNT.—Eligibility for, and the amount of, reimbursement under this section shall not be conditioned on the presentation of the body of any animal for which reimbursement is sought.

"(c) LIMITATION ON REQUIREMENT TO PRESENT BODY.—The Secretary may not require the owner of livestock to present the body of individual livestock as a condition of payment of reimbursement under this section.

"(d) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

"(e) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.".

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

"(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

"(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

"(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.".

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking "section 15" and inserting "section 18".

SEC. 18. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking "any endangered species or threatened species listed" and inserting "any species determined to be an endangered species or a threatened species"; and

(2) in subsection (b) in paragraph (1), by striking "endangered species and threatened species listed" and inserting "species determined to be endangered species and threatened species".

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking "of the Interior (hereinafter in this section referred to as the 'Secretary')";

(2) in subsection (d), by striking "Merchant Marine and Fisheries" and inserting "Resources"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking "of the Interior (hereinafter in this subsection referred to as the 'Secretary')"; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking "of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act" and inserting ", with respect to any species of fish or wildlife determined to be an endangered species under section 4";

(B) in paragraph (1)(G), by striking "threatened species of fish or wildlife listed pursuant to section 4 of this Act" and inserting "species of fish or wildlife determined to be a threatened species under section 4";

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking "of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act" and inserting ", with respect to any species of plants determined to be an endangered species under section 4"; and

(D) in paragraph (2)(E), by striking "listed pursuant to section 4 of this Act" and inserting "determined to be a threatened species under section 4";

(2) in subsection (b)—

(A) by striking "(1)" before "SPECIES" and inserting "(1)" before the first sentence;

(B) in paragraph (1), in the first sentence, by striking "adding such" and all that follows through ": *Provided*, That" and inserting "determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if"; and

(C) in paragraph (1), in the second sentence, by striking "adding such" and all that follows through "this Act" and inserting "determining such fish or wildlife species to be an endangered species or a threatened species under section 4";

(3) in subsection (c)(2)(A), by striking "an endangered species listed" and inserting "a species determined to be an endangered species";

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: "(i) are not determined to be endangered species or threatened species under section 4, and";

(5) in subsection (e), by striking clause (1) and inserting the following: "(1) are not determined to be endangered species or threatened species under section 4, and"; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: "(A) are not determined to be endangered species or threatened species under section 4, and"; and

(B) by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking "an endangered species" and all that follows through "section 4 of this Act" and inserting "an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4";

(B) by striking "section 9(a) of this Act" and inserting "section 9(a)"; and

(C) by striking "fish or wildlife listed by the Secretary as endangered" and inserting "fish or wildlife determined to be an endangered species or threatened species by the Secretary"; and

(2) in paragraph (2)—

(A) by inserting "or a threatened species" after "endangered species" each place it appears; and

(B) in subparagraph (B), by striking "listed species" and inserting "endangered species or threatened species".

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting "or threatened species" after "endangered species"; and

(2) by striking "of this Act".

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after "(f)" the following: "PRE-ACT PARTS AND SCRIMSHAW.—"; and

(2) in paragraph (2), by striking "of this Act" each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after "(g)" the following: "BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—".

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking "endangered species or threatened species listed" and inserting "species determined to be an endangered species or a threatened species".

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking "Such persons" and inserting "Such a person".

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) "SECRETARY" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the Secretary":

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) "PRESIDENT" FOR "HE".—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking "he" and inserting "the President".

(3) "SECRETARY OF THE INTERIOR" FOR "HE".—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking "he" and inserting "the Secretary of the Interior".

(4) "PERSON" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the person":

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) "DEFENDANT" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the defendant".

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO "HIM".—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking "him or the Secretary of Commerce" each place it appears and inserting "the Secretary".

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking "him" and inserting "the Secretary".

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking "him" and inserting "the Secretary".

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking "him" and inserting "the Secretary".

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking "him" and inserting "the Secretary".

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking "him" each place it appears and inserting "such person".

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking "him" and inserting "the Secretary".

(7) REFERENCES TO "HIMSELF OR HERSELF".—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking "himself or herself" each place it appears and inserting "the defendant".

(8) REFERENCES TO "HIS".—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking "his" and inserting "the".

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking "his" and inserting "the Secretary's"; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking "his periodic review" and inserting "periodic review by the Secretary".

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking "his" and inserting "the applicant's".

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking "his" and inserting "the Secretary's".

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking "his" each place it appears and inserting "such person's".

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking "his" and inserting "the Secretary's".

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking "his" and inserting "the".

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking "his" and inserting "the Secretary's";

(ii) in subsections (a)(3) and (b)(3) by striking "his or her" each place it appears and inserting "the defendant's";

(iii) in subsection (d) by striking "his" and inserting "the officer's or employee's";

(iv) in subsection (e)(3) in the second sentence by striking "his" and inserting "the person's"; and

(v) in subsection (g)(1) by striking "his" and inserting "the person's".

SEC. 19. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

"Sec. 5. Recovery plans and land acquisition."

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

"Sec. 13. Private property conservation.
"Sec. 14. Public accessibility and accountability.
"Sec. 15. Marine Mammal Protection Act of 1972.
"Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.
"Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
"Sec. 18. Authorization of appropriations.".

SEC. 20. CERTAIN ACTIONS DEEMED IN COMPLIANCE.

(a) ACTIONS DEEMED IN COMPLIANCE.—During the period beginning on the date of the enactment of this Act and ending on the date described in subsection (b), any action that is taken by a Federal agency, State agency, or other person and that complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is deemed to comply with sections 7(a)(2) and 9(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B)) (as amended by this Act) and regulations issued under section 4(d) of such Act (16 U.S.C. 1533(d)).

(b) TERMINATION DATE.—The date referred to in subsection (a) is the earlier of—

(1) the date that is 5 years after the date of the enactment of this Act; and

(2) the date of the completion of any procedure required under subpart D of part 402 of

title 50, Code of Federal Regulations, with respect to the action referred to in subsection (a).

(c) LIMITATION ON APPLICATION.—This section shall not affect any procedure pursuant to part 402 of title 50, Code of Federal Regulations, that is required by any court order issued before the date of the enactment of this Act.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 109–240. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–240.

AMENDMENT NO. 1 OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. POMBO:

Page 2, strike line 24, and all that follows through page 3, line 18, and insert the following:

"(C) In carrying out subparagraph (B), the Secretary shall undertake necessary measures to assure—

"(i) compliance with guidance issued under section 515 of the Treasury and General Government Appropriations Act of 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary;

"(ii) data consists of empirical data; or

"(iii) data is found in sources that have been subject to peer review by qualified individuals recommended by the National Academy of Sciences to serve as independent reviewers for a covered action in a generally acceptable manner.".

Page 4, strike lines 3 through 11, and redesignate the subsequent subsection accordingly.

Page 4, after line 14, insert the following:

(d) CONFORMING AMENDMENT.—Section 3 (16 U.S.C. 1532) is further amended in paragraph (18), as redesignated by subsection (a) of this section, by striking "Trust Territory of the Pacific Islands" and inserting "Commonwealth of the Northern Mariana Islands".

Page 6, after line 24, insert the following:

(d) ANALYSIS OF IMPACTS AND BENEFITS.—Section 4(a) (16 U.S.C. 1533(a)), as amended by section 4(a) of this Act, is further amended by striking paragraph (3) and inserting the following:

"(4)(A) The Secretary shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, prepare an analysis of—

"(i) the economic impact and benefit of that determination;

"(ii) the impact and benefit on national security of that determination; and

"(iii) any other relevant impact and benefit of that determination.

"(B) Nothing in this paragraph shall delay the Secretary's decision or change the criteria used in making determinations under paragraph (1).".

Page 7, line 3, before the period insert ", and redesignate paragraph (4) (as added by section 4(d) of this Act) as paragraph (3)".

Page 16, line 14, insert "(A)" after "(2)".

Page 16, after line 19, insert the following:

"(B) Nothing in this paragraph shall be construed to affect the authority of the Secretary to issue any emergency regulation pursuant to section 4(b)(6).

Page 19, line 4, after "costs" insert ", including direct, indirect and cumulative costs,".

Page 20, line 5, strike "by".

Page 24, beginning at line 3, strike "TO ENSURE CONSISTENCY WITH DEVELOPMENT PLAN".

Page 27, line 24, after "agreement" insert "from funds appropriated under section 18(a)(1)".

Page 33, after line 20, insert the following:

"(F) A species conservation contract agreement may list other Federal program payments that incidentally contribute to conservation of a listed species. The head of a Federal agency shall not use the payments for the purposes of implementing the species conservation contract agreement.

Page 39, strike line 23 and all that follows through page 40, line 2, and insert the following:

"(i) addresses or affects species that are determined to be endangered species or threatened species and the species were not addressed or the effects were not considered previously in the agreement; or

Page 43, line 12, strike ", under section 4" and insert "determined".

Page 43, line 19, strike the close quotation mark and the following period, and after line 19, insert the following:

"(6) This subsection shall not apply to any agency action that may affect any species for which a permit is issued under section 10 for other than scientific purposes, if the action implements or is consistent with any conservation plan or agreement incorporated by reference in the permit.".

Page 49, beginning at line 15, strike "offered by the Secretary pursuant to paragraph (2)(B)" and insert "required".

Page 49, line 17, after "taking" insert "or otherwise comply with the requirements of paragraph (2)(B)".

Page 49, line 18, after "proportional" insert "in extent".

Page 53, line 22, strike "requester" and insert "requestor".

Page 56, line 14, strike "10" and insert "5".

Page 56, beginning at line 15, strike "date the Secretary provides notice of the withdrawal to the requestor" and insert "date the requestor receives from the Secretary, by certified mail, notice of the withdrawal".

Page 56, line 19, insert "or biological" before "considerations".

Page 57, line 21, strike "immediate" and insert "imminent".

Page 57, after line 23, insert the following:

(g) EXEMPTION FROM LIABILITY FOR TAKE OF LISTED AQUATIC SPECIES.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

"(n) EXEMPTION FROM LIABILITY FOR TAKE OF LISTED AQUATIC SPECIES.—The operator of a water storage reservoir, water diversion structure, canal, or other artificial water delivery facility shall not be in violation of section 9(a) by reason of any take of any aquatic species listed under section 4(c) that results from predation, competition, or other adverse effects attributable to recreational fishing programs managed by a State Agency in a river basin in which the water storage reservoir, water diversion structure, canal, or other artificial water delivery facility is located.".

Page 60, line 19, strike "180" and insert "270".

Page 60, beginning at line 20, strike "unresolved questions regarding the documentation of the foregone proposed use or".

Page 60, beginning at line 25, strike "the documentation of the foregone use established under subsection (f) or".

Page 61, line 10, after "mechanisms" insert "that would benefit the species".

Page 61, line 15, after "documented" insert "to benefit the species".

Page 61, line 17, after "use" insert ", which shall not include transfer of title".

Page 62, beginning at line 7, strike "binding on the Secretary and the private property owner" and insert "the best and final offer by the Secretary".

Page 62, line 15, after "for" insert "essentially".

Page 66, strike lines 21 through 26 and insert the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—Payments under this section are subject to appropriations.".

At the end of the bill add the following:

SEC. 21. CONSOLIDATION OF PROGRAMS.

(a) TRANSFER.—The President shall, by not later than one year after the date of enactment of this Act, transfer to the Secretary of the Interior all duties, resources, and responsibilities of the Secretary of Commerce under the Endangered Species Act of 1973 existing immediately before the enactment of this Act.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Section 3 (16 U.S.C. 1532) is further amended in paragraph (15) (relating to the definition of "Secretary") by striking "or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect one year after the date of the enactment of this Act.

(c) REPORT.—No later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Commerce shall jointly submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a detailed description of the process by which the transfer of functions under the amendment made by subsection (a) shall be implemented.

(d) PRIOR DETERMINATIONS AND ACTIONS NOT AFFECTED.—This section shall not affect any determination or action by the Secretary of Commerce made or taken, respectively, under the Endangered Species Act of 1973 before the date of the enactment of this Act, except that such determinations and actions shall be treated as determinations and actions, respectively, of the Secretary of the Interior.

SEC. 22. REVIEW OF PROTECTIVE REGULATIONS.

The Secretary of the Interior shall—

(1) review regulations issued before the date of the enactment of this Act pursuant to section 4(d) of the Endangered Species Act of 1973, in order to determine whether revision of such regulations would be desirable in order to facilitate and improve cooperation with the States pursuant to section 6 of such Act; and

(2) report to the Committee on Resources of the House of Representatives and the

Committee on Environment and Public Works of the Senate regarding the findings of such review.

SEC. 23. PROVISION OF INFORMATION REGARDING COMPLIANCE COSTS OF FEDERAL POWER ADMINISTRATIONS.

(a) CUSTOMER BILLINGS.—The Administrator of the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration shall each include in monthly firm power customer billings sent to each customer information identifying and reporting such customer's share of the Federal power marketing and generating agencies' direct and indirect costs incurred by such administration related to compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and activities related to such Act.

(b) DIRECT COSTS.—In identifying and reporting direct costs, each Administrator shall include Federal agency obligations related to study-related costs, capital, operation, maintenance, and replacement costs, and staffing costs.

(c) INDIRECT COSTS.—In identifying and reporting indirect costs, each Administrator shall include foregone generation and replacement power costs.

(d) COORDINATION.—Each Administrator shall coordinate identification of costs under this subsection with the appropriate Federal power generating agencies.

SEC. 24. SURVEY OF BLM LANDS AND FOREST SERVICE LANDS FOR MANAGEMENT FOR RECOVERY OF LISTED SPECIES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) survey all lands under the administrative jurisdiction of the Bureau of Land Management and all lands under the administrative jurisdiction Forest Service immediately before the enactment of this Act, for the purpose of assessing the value of such lands for management for the recovery of any species included in a list published under section 4(c) of the Endangered Species Act of 1973 and for addition to the National Wildlife Refuge System; and

(2) make recommendations to the Congress for managing any such lands as are appropriate as part of the National Wildlife Refuge System.

(b) LIMITATION ON TRANSFERS.—The Secretary of the Interior may not transfer administrative jurisdiction pursuant to any recommendation under subsection (a)(2) except as authorized by a statute enacted after the date of the enactment of this Act.

SEC. 25. RELATIONSHIP BETWEEN SECTION 7 CONSULTATION AND INCIDENT TAKE AUTHORIZATION UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is equivalent to a section 101 incidental take authorization required under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1631 et seq.) for receiving dock building permits.

The CHAIRMAN. Pursuant to House Resolution 470, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the manager's amendment makes a number of technical changes to clarify certain provisions and address issues concerning science, the definition of "jeopardy," consolidation of ESA-related programs, and review of protective regulations. It allows actions authorized under an approved section 10 permit to be carried out without duplicative consultation. It prevents water stakeholders from being held accountable for impacts due to State actions. It requires the four Power Marketing Administrations to include ESA costs in their monthly billing statements. It directs the Secretary of the Interior to survey certain Federal lands to assess their value for a report back to Congress. It clarifies conflicting statutes to make ESA the governing statutory authority when receiving a dock-building permit.

That is the short version of what is included in the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the manager's amendment makes significant changes in the bill as it was reported from the Committee on Resources. These changes are likely to result in more species extinctions at greater loss of taxpayer dollars.

The pending legislation will increase direct spending in the discretionary funding law, which we will get into in general debate, and it could rise to more than $600 million a year, $235 million more per year than we are spending today for species conservation, according to the Congressional Budget Office.

Let me make one point perfectly clear here: the manager's amendment is not something I agreed to in my discussions with the gentleman from California (Chairman POMBO). To say that I agree with 90 percent of this bill is not an accurate description, or is an unfair way to paint the matter.

One of the points that we had reached agreement on was that there was to be a recovery-based standard of determining when Federal agency actions jeopardize the continued existence of a species. The manager's amendment drops this crucial provision. It cripples it.

While I was willing to eliminate critical habitat, it was only on the condition that we ensure that there were adequate provisions in place to encourage recovery. Without this definition, the bill will not promote recovery. We will likely see more endangered and threatened species. It is upon that ground that I oppose this manager's amendment, as well as the loosened compensation standards put in order by the manager's amendment.

It eliminates the bill's requirement that appraisals determining the market value of foregone use of property are binding on both the Secretary and the property owner. Instead, the appraisal is binding only on the Secretary, and the property owner may then go to court to seek additional compensation. That makes the current pending legislation worse, and it will increase the cost of this entitlement program to property owners and it will increase that cost to the American taxpayer.

Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to deal with the section of the manager's amendment that covers the manatees. Buried in this manager's amendment in dry language is a contest between Florida developers on the one hand and Florida manatees on the other. In this Republican Congress, guess who wins, the developers or the manatees? It is not even close.

This is an unprecedented move to exempt a single type of activity, dock-building, from a key provision of the Marine Mammal Protection Act. After losing in court, some boaters and marine contractors have come to Congress asking for special favors so they can continue their development without addressing the impacts on the endangered manatee. It is not only bad policy, but it also undermines recovery efforts by the State of Florida and the Fish and Wildlife Service.

By way of background, this section would allow those applying for dock permits to simply prove that their activities would not, quote-unquote, jeopardize, would not jeopardize the continued existence of endangered and threatened marine mammal species as mandated by the Endangered Species Act, section 7. Today, under existing law they must prove that their activities would have only a negligible impact on these species as mandated by the Marine Mammal Protection Act, section 101. This simple change in wording lowers our national standard for protection of this well-loved species. Why? Because no single dock is likely to jeopardize manatees, but a whole succession of docks is likely to do exactly that. This amendment clearly targets manatees in Florida, but we really have no idea what kind of precedent or implications this would have for other critically endangered marine mammals.

Now, it did not take long for the developers to get here. They lost a lawsuit on July 13, 2005, against the Fish and Wildlife Service in which the court found that the Marine Mammal Protection Act does in fact apply to dock-building activities that would lead to incidental take of marine mammals, and specifically manatees in Florida's inland waters. This amendment, therefore, is rushed into this particular bill, just part of the manager's amendment;

it would undermine the process that has gone on for several years that the State of Florida and the Fish and Wildlife Service have engaged in to recover manatees in Florida. It would completely short-circuit the progress made by the State and those Federal agencies.

Finally, the minority and majority have already reached agreements and passed a version of the Marine Mammal Protection Act out of the Committee on Resources, and this amendment flies directly in the face of that process.

So here is the situation: Florida developers are not pleased by a court case in July. They rush in here, they get a provision in this bill to make sure that they win and the Florida manatees lose. Bad policy, bad politics.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I thank the gentleman for yielding me this time. The interesting thing about the manager's amendment is that it takes a very bad bill and makes it even worse.

I just want to focus on one aspect of this legislation which I think would be amusing in some sense if it were not for the fact that it is an example of a kind of cynical hypocrisy in those people who call themselves fiscally conservative. The bill guts the Endangered Species Act, there is no question about that, and all the protections that are involved there; but then it creates a whole new government giveaway program for some of the Nation's richest landowners and property owners. What this bill does is add insult to injury.

If you think that you are a responsible fiscal conservative, if you do not want to create a big new government giveaway program, then you should be adamantly opposed to this legislation. You might want to even cast aside the environmental aspects of it, because if you look at the monetary implications of this and the budgetary implications of this bill, it is going to create an even bigger budget deficit in the context of this huge giveaway program.

People are using here more and more frequently the devastating impact of the two hurricanes. They want to sell off the national parks, they want to remove the safety net for millions of Americans who rely upon government services, and now they are going to make it even more difficult for this Congress to provide the kind of programs and assistance that are needed in terms of health care, education, a variety of things by passing a piece of legislation that builds an even bigger budget deficit by creating a whole new giveaway program, a new entitlement program for some of the wealthiest people in the country, some of the biggest landowners in the country.

All they have to do is come here under this legislation, just to ask for it, and it will be given to them. If you really want to conserve the fiscal integrity of this process, please vote against this bill.

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

I look forward to the gentleman's opposition to the highway bill and any new purchases of land, to the wildlife refuge system, to the park system, or any other thing that we spend money on, because he sees it as a big giveaway, a big government giveaway system.

Again, what the underlying bill does is if you step in and take habitat from a private property owner and you tell them that you restrict them and you tell them they cannot use part of their property, then we set up a system of incentives and grants.

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But, if in the end, the Secretary says your property is necessary for the recovery of an endangered species, therefore you cannot use it, we compensate them for that and we pay them for it. If we build a highway across somebody's property, even though that may increase the value of the rest of the property, we pay them for it. If we take part of their property for a wildlife refuge, even though that may increase the value of the rest of their property, we pay them for it. But, if we take their property for endangered species habitat, we tell them, you are out of luck.

Now I have guys coming down here saying, this is a big, new giveaway system, that we are going to give away things to people. No. This is a big takeaway. You are taking away from them. You have been doing it for 30 years. Now it is time to pay for it. You are taking land away from people. Every little small farmer, rancher across the country, every homeowner across the country who has had their property taken away from them should be compensated for it. You are taking away their land. There is nothing wrong with that.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, when the Contract With America was written, this provision was scored by CBO at $3.2 billion; $3.2 billion.

Mr. POMBO. Mr. Chairman, reclaiming my time, this provision was not in the Contract With America. Nobody seems to be constrained by the truth here. This is a brand-new way of dealing with compensating property owners whose land is taken. CBO scored this at $10 million. This is a brand-new way of dealing with a very real problem and assuring some kind of protection to my property owners and your property owners.

Mr. Chairman, it was just a couple of weeks ago that the Supreme Court came out with a decision where this Congress stood up and said, you cannot use eminent domain to take away private property, to take someone's house away from them and give it to another individual. And all of you ran down on the floor and said you were all in support of that.

We are going to stop the government from being able to use eminent to take away somebody's house and give it to somebody else. But, under that provision, you have to pay them for their house. Under current law, you do not have to pay when you steal somebody's property for declared habitat at this time. You guys are all fine with that. Is that because we are talking about farmers and ranchers? Is that why you do not want to pay them? But when we are talking about somebody's house, all of a sudden you want to pay them? I mean, you guys have no consistency in this whatsoever.

I believe if you take away somebody's private property, you should have to pay them for it, and that is what we are trying to do in this underlying bill. I know that some of my colleagues are just philosophically opposed to that, and God love you. But the fact of the matter is, if you take away somebody's private property, you ought to have to pay for it.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, when you do take, meaning you have no value left, then you have just compensation, was the Supreme Court decision.

Mr. POMBO. Mr. Chairman, reclaiming my time, that is not what the Constitution says. The Constitution says, nor shall private property be taken for a public use without just compensation. That is what it says. It does not say the government can step in and take 90 percent of your value and then it is okay; it does not say they can take away 30 percent of your value and that is okay.

Is the gentleman going to oppose the highway bill because we compensate people when we take their land away for a highway, even though we do not take 100 percent of the use? Why is it okay in that instance, but it is not okay when it comes to protecting habitat?

You guys talk big about wanting to protect habitat and protect species, but 90 percent of the habitat for endangered species is on private property. The only way you are going to recover species is if you bring in the property owners and have them be part of the solution. You are stopping that from happening right now under current law and in the substitute. You are wrong on this one.

We have to pay when you take away somebody's private property. That is what we have to do. That is what is in the underlying bill. I am sorry if you have a philosophical problem with paying for what you are taking.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, the part that I have trouble with is that we did not authorize any new money to fund this. You just said, take it out of the Interior Appropriations bill. Well, I want to tell you, we have not funded the Endangered Species Act properly under this administration, and if there is not any money, it is going to have to come out of somebody else's hide. It is going to be the Fish and Wildlife Service, it is going to be the Park Service; somebody is going to have to fund this, and it is going to cost a lot more than $10 million a year. That is laughable.

Mr. POMBO. Mr. Chairman how much time remains?

The CHAIRMAN. The gentleman from California (Mr. POMBO) has 3½ minutes remaining; the gentleman from West Virginia (Mr. RAHALL) has 2 minutes remaining.

Mr. POMBO. Mr. Chairman, I yield myself 30 seconds to say, this is another area where you guys are just not consistent. One of you comes down and beats us up because we are spending too much money about this massive increase in spending under this bill. Somebody else comes down and says, you do not fully fund endangered species under this bill. Either we spend too much or we do not spend enough. You cannot have it both ways. Either we spend too much or we do not spend enough, but you cannot keep coming down here and trying to make both arguments.

Mr. RAHALL. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from West Virginia (Mr. RAHALL) has the right to close.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I say to my friend from West Virginia, I appreciate all the work that he and his staff put into this bill. This was an important thing for us to go through, and I think that we produced a good bill at the end of that.

I know that there are issues in the underlying bill that we disagree on, and we probably always will. I will tell the gentleman, as we continue to work forward, I will continue to work with the gentleman as this bill moves through the process, continue to work with the gentleman and try to work out whatever differences that still exist under the bill.

The gentleman from West Virginia operated under good faith with me, I believe I did the same thing with the gentleman throughout this entire process, and I pledge to the gentleman that we will continue to work together to produce the best possible bipartisan bill we can to deliver to the President's desk.

Mr. Chairman, I yield back the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I say to my chairman, I appreciate his concluding comments there and, as I have said all along, we have negotiated in good faith, and I do want to continue that relationship that we have. Maybe we can still work on this bill together; I hope we can. But we will see as the process goes forward.

Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman has 1½ minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I would just like to correct a couple of things. First of all, this is mandatory spending we are talking about. Secondly, we do not allow the taxpayer protection in this bill that is allowed in highway cases. That is important to distinguish between the two.

Mr. Chairman, we are all in agreement. There is broad and justifiable consensus that the act is overdue for reform, but reforming the law should not be a euphemism for gutting the law, and that is exactly what the bill would do.

The list of areas of disagreement are very strong, but I would also point out that we in the substitute bill embrace many of the provisions in the base bill because they need to be addressed in a responsible way and, in many cases, we take the exact language. But section 13 is totally unacceptable. That is the big controversy; opening up an open-ended entitlement, putting the taxpayers at great risk.

I urge opposition to the base bill.

Mr. Chairman, I rise in opposition to the bill. I have no quarrel with the stated purpose of the bill—to reform the Endangered Species Act: Chairman POMBO is correct, there is broad and justifiable consensus that the Act is overdue for reform.

But "reforming" the law should not be a euphemism for "gutting" the law, and that's what this bill would do. I urge my colleagues to look beyond the descriptions of the bill and to examine the bill itself.

The most advertised feature of the bill is that it gets rid of the current "critical habitat" provisions of the law and replaces the habitat requirements with flexible, comprehensive, science-based "recovery plans." Sounds pretty good. And it would be pretty good if that were a full description of what the bill did. But what the sponsors have obscured is that, under the bill, the recovery plans are utterly unenforceable. No one ever has to abide by them. Not only that, the plans will be written through a process that guarantees delay, but does not guarantee that the best science will be used.

So is there a way to get rid of the current "critical habitat" burdens and to use recovery plans without weakening the law? Of course there is. And our Bipartisan Substitute shows how. We eliminate all the provisions of current law that require critical habitat designations just as in H.R. 3824, but we make recovery plans enforceable and we ensure that they have strong scientific basis. That's how you get real reform while still protecting real species.

It's not impossible to balance the need for reform with the need to protect species. But instead, we have a bill before us that is balanced in its rhetoric, but not in its effect.

The bill weakens just about every feature of law designed to protect species—for example, the review of federal actions to make sure they do not unduly harm species.

Now I am not trying to suggest that H.R. 3824 is all bad news. In fact, many of its provisions—the incentives for landowners to protect species, the public information requirements, the requirements to better involve the states—are largely improvements to the law. That's why our Substitute includes all those provisions, often in language identical to that in H.R. 3824. So we commend the Resources Committee for so many of the bill's provisions and we embrace them.

But there is one provision of H.R. 3824 that our Substitute does not include at all. And that's Section 13, which creates an open-ended entitlement that will open the federal treasury to provide mandatory payments to developers. This is a bad idea on philosophical and legal grounds, but this is an especially bad time to expose taxpayers to such a burden.

We don't have to endanger taxpayers in order to reform the Endangered Species Act. We don't have to make it easier for species to become extinct to reform the Endangered Species Act. All we need to do to reform the Act is to make sure that common sense isn't trumped by ideology.

I urge my colleagues of defeat H.R. 3824, which just waves the banner of reform to distract attention from its actual content. Vote instead for real reform. Vote for the Bipartisan Substitute.

Mr. RAHALL. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me this time.

I just want to say that when the gentleman talks about a taking, that is not what his legislation does. All that has to happen is that a landowner proposes a use for his property, and if that use is ruled as a taking, the landowner gets compensated. The landowner does not show that they could do that, that they could go through the city zoning, they could go through the county zoning, that they would get those permits to build those houses or whatever else he wants to do, or he could build that commercial establishment, no showing of that. Yet, under this legislation, he is entitled to compensation. Nothing has been taken, only the suggestion in the proposal on a plan.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from California (Mr. POMBO).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–240.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Acting CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 2 in the nature of a substitute offered by Mr. GEORGE MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Protective regulations.
Sec. 9. Secretarial guidelines; State comments.
Sec. 10. Recovery plans and land acquisitions.
Sec. 11. Cooperation with States and Indian tribes.
Sec. 12. Interagency cooperation and consultation.
Sec. 13. Exceptions to prohibitions.
Sec. 14. Private property conservation.
Sec. 15. Public accessibility and accountability.
Sec. 16. Annual cost analyses.
Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
Sec. 18. Authorization of appropriations.
Sec. 19. Miscellaneous technical corrections.
Sec. 20. Establishment of Science Advisory Board.
Sec. 21. Clerical amendment to table of contents.

(b) SHORT TITLE.—This Act may be cited as the "Threatened and Endangered Species Recovery Act of 2005".

SEC. 2. AMENDMENT REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

"(2) The term 'best available scientific data' means data and analyses, regardless of source, produced by scientifically accepted methods and procedures that are available to the Secretary at the time of a decision or action for which such data are required by this Act, and that meet scientifically accepted standards of objectivity, accuracy, reliability, and relevance. For the purpose of this paragraph, the term 'scientifically accepted' means those methods, procedures, and standards that are widely used within the relevant fields of science, including wildlife biology and management.".

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

"(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.".

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

"(12) The term 'jeopardize the continued existence' means to engage in an action that, directly or indirectly, makes it less likely that a threatened species or an endangered species will be brought to the point at which measures provided pursuant to this Act are no longer necessary, is likely to significantly delay doing so, or is likely to significantly increase the cost of doing so.".

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking "section 3(13)" and inserting "section 3(14)".

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(2) and inserting the following:

"DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

"SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

"(A) The present or threatened destruction, modification, or curtailment of its habitat or range, including by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

"(B) Overutilization for commercial, recreational, scientific, or educational purposes.

"(C) Disease or predation.

"(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

"(E) Other natural or manmade factors affecting its continued existence.".

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking "best scientific and commercial data available to him" and inserting "best available scientific data"; and

(2) by inserting "Federal agency, any" after "being made by any".

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

"(2)(A) The Secretary shall—

"(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

"(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should be proposed for—

"(I) removal from such list;

"(II) change in status from an endangered species to a threatened species; or

"(III) change in status from a threatened species to an endangered species.

"(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).".

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(2) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (1) of this subsection, by striking subparagraph (D).

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (1) of this subsection, by striking "determination, designation, or revision referred to in subsection (a)(1) or (3)" and inserting "determination referred to in subsection (a)(1)".

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (1) of this subsection, by striking "; and if such regulation" and all that follows through the end of the sentence and inserting a period.

(5) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting "and" after "if any"; and

(ii) by striking ", and specify any" and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking ", designations,".

(6) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking "section 4(b)(7)" and inserting "section 4(b)(6)".

(7) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking "section 4(b)(3)(B)(iii)" each place it appears and inserting "section 4(b)(2)(B)(iii)".

(8) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking "or result in the destruction or adverse modification of any habitat of such species" and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking "or result" and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking "or its critical habitat".

(9) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking "that—" and all that follows through "(i) solely" and inserting "that solely"; and

(B) by striking "; and" and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—

(1) IN GENERAL.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, by adding at the end of subparagraph (A) the following: "The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition."

(2) ADDITIONAL DATA.—Section 4(b) is further amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, in subparagraph (A) by adding at the end the following: "If the Secretary finds with respect to a petition under this subparagraph, that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the petitioned action, the Secretary, in consultation with the States, may for the purpose of seeking additional data postpone making a finding under this subsection by no more than 18 months.".

(3) PRIORITIZATION ALLOWED.—Section 4(b) is further amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, in subparagraph (B)(iii) by amending subclause (I) to read as follows:

"(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded within current fiscal year funding by higher priority pending proposals determined by the Secretary to involve species at greater risk of extinction, and".

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking ", and" and inserting a semicolon;

(ii) in clause (ii) by striking "to the State agency in" and inserting "to the Governor of, and the State agency in,";

(iii) in clause (ii) by striking "such agency" and inserting "such Governor or agency";

(iv) in clause (ii) by inserting "and" after the semicolon at the end; and

(v) by adding at the end the following:

"(iii) maintain, and shall make available, a complete record of all information not protected by copyright concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information."; and

(B) by adding at the end the following:

"(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information not protected by copyright cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

"(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.".

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

"(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

"(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

"(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.";

(B) in subparagraph (B)(i) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)";

(C) in subparagraph (B)(ii) by striking "subparagraph (A)(i)" and inserting "subparagraph (A)"; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting "with respect to a determination of a species to be an endangered species" after "any regulation"; and

(B) in subparagraph (B), by striking "the State agency in" and inserting "the Governor of, and State agency in,".

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

"(3) Each determination under paragraph (2)(B) shall consider the following as applicable:

"(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

"(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

"(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

"(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).".

SEC. 8. PROTECTIVE REGULATIONS.

Section 4(d) (16 U.S.C. 1533(d)) is amended by—

(1) inserting "(1)" before "Whenever";

(2) inserting "in consultation with the States" after "the Secretary shall"; and

(3) adding at the end the following new paragraphs:

"(2) Each regulation published under this subsection after the enactment of the Threatened and Endangered Species Recovery Act of 2005 shall be accompanied with a statement by the Secretary of the reason or reasons for applying any particular prohibition to the threatened species.

"(3) A regulation issued under this subsection after the enactment of the Threatened and Endangered Species Recovery Act of 2005 may apply to more than one threatened species only if the specific threats to, and specific biological conditions and needs of, the species are identical, or sufficiently similar, to warrant the application of identical prohibitions.

"(4) The Secretary may review regulations issued under this subsection prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005. A species afforded protections by any such regulation shall continue to be afforded those protections until such time as the Secretary shall review the regulations issued prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005 as they pertain to that species.".

SEC. 9. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking "AGENCY" and inserting "SECRETARIAL";

(B) in the matter preceding paragraph (1), by striking "the purposes of this section are achieved" and inserting "this section is implemented";

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking "and" after the semicolon at the end, and by inserting after paragraph (3) the following:

"(4) the criteria for determining best available scientific data pursuant to section 3(2); and"; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking "subsection (f) of this section" and inserting "section 5";

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting "COMMENTS.—" before the first sentence;

(B) by striking "a State agency" the first place it appears and inserting "a Governor, State agency, county (or equivalent jurisdiction), or unit of local government";

(C) by striking "a State agency" the second place it appears and inserting "a Governor, State agency, county (or equivalent jurisdiction), or unit of local government";

(D) by striking "the State agency" and inserting "the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively"; and

(E) by striking "agency's".

SEC. 10. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking "subsection (a) of this section" and inserting "subsection (k)"; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

"RECOVERY PLANS AND LAND ACQUISITION

"SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the conservation of the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

"(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

"(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 3 years after the date the species is listed under section 4(c).

"(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

"(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

"(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a schedule for such development or revision.

"(B) A species is described in this subparagraph if—

"(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

"(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

"(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

"(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

"(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

"(5) The Secretary, using the priority ranking system required under paragraph (3), shall revise such plans within 10 years after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005.

"(6) In development of recovery plans, the Secretary shall use comparative risk assessments, if appropriate, to consider and analyze the short-term and long-term consequences of alternative recovery strategies.

"(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

"(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

"(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including such intermediate measures as are warranted to effect progress toward achievement of the criteria.

"(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

"(iv) An identification of those publicly owned areas of land or water that are necessary to achieve the purpose of the recovery plan under subsection (a), and, if such species is unlikely to be conserved on such areas, such other areas as are necessary to achieve the purpose of the recovery plan.

"(B) The Secretary may at the time of listing or at any time prior to the approval of a recovery plan for a species issue such guidance as the Secretary considers appropriate to assist Federal agencies, State agencies, and other persons in complying with the requirements of this Act by identifying either particular types of activities or particular areas of land or water within which those or other activities may impede the conservation of the species.

"(C) In specifying measures in a recovery plan under subparagraph (A), the Secretary shall—

"(i) whenever possible include alternative measures; and

"(ii) in developing such alternative measures, seek to identify, among such alternative measures of comparable expected efficacy and timeliness, the alternative measures that are least costly.

"(2) In the case of any species for which critical habitat has been designated prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005, and for which no recovery plan has been developed or revised after the enactment of such Act, the Secretary shall treat the critical habitat of the species as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(4). In determining, pursuant to section 7(a)(2), whether an agency action is likely to jeopardize the continued existence of an endangered species or threatened species, the Secretary shall consider the effects of the action on any areas identified pursuant to subsection (b)(4).

"(d) RECOVERY TEAMS.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams that may advise the Secretary in the development of recovery plans under this section. The recovery teams may help the Secretary ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraph (1)(A)(iii) of subsection (c) are economically rigorous.

"(2) Such regulations shall—

"(A) establish criteria and the process for selecting the members of recovery teams that ensure that each team—

"(i) is of a size and composition to enable timely completion of the recovery plan; and

"(ii) includes sufficient representation from scientists with relevant expertise and constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan; and

"(B) include provisions regarding operating procedures of and recordkeeping by recovery teams.

"(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

"(e) REPORTS TO CONGRESS.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

"(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

"(A) an assessment of any significant change in the well-being of each such species, including—

"(i) changes in population, range, or threats; and

"(ii) the basis for that assessment; and

"(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

"(f) PUBLIC NOTICE AND COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

"(g) STATE COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State and any Indian tribe to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency and to any comments submitted by the Governor on behalf of a regional or local land use agency in the Governor's State.

"(h) INDIAN TRIBE DEFINED.—For purposes of this Act, the term 'Indian tribe' means—

"(1) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

"(2) with respect to Alaska, the Metlakatla Indian Community.

"(i) USE OF PLANS.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(2)(A) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

"(B) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

"(C) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

"(j) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

"(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking "section 4(g)" and inserting "section 5(j)".

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking "section 4(f)" and inserting "section 5"; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking "section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))" and inserting "section 5 of the Endangered Species Act of 1973".

SEC. 11. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

"(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section 4(a)(1) in that State.

"(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

"(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

"(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

"(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

"(B) For the purposes of this paragraph, the term 'Indian tribe' means—

"(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

"(ii) with respect to Alaska, the Metlakatla Indian Community.";

(2) in subsection (d)(1)—

(A) by striking "pursuant to subsection (c) of this section";

(B) by striking "or to assist" and all that follows through "section 5(j)" and inserting "pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)"; and

(C) in subparagraph (F), by striking "monitoring the status of candidate species" and inserting "developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)"; and

(3) in subsection (e)—

(A) by inserting "(1)" before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking "at no greater than annual intervals" and inserting "every 3 years"; and

(C) by adding at the end the following:

"(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions.

"(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

"(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

"(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

"(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.".

SEC. 12. INTERAGENCY COOPERATION AND CONSULTATION.

(a) Consultation Requirement.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking "endangered species" and all that follows through the end of the sentence and inserting "species determined to be endangered species and threatened species under section 4.";

(2) in paragraph (2)—

(A) in the first sentence by striking "action" the first place it appears and all that follows through "is not" and inserting "agency action authorized, funded, or carried out by such agency is not";

(B) in the second sentence, by striking "best scientific and commercial data available" and inserting "best available scientific data"; and

(C) by adding at the end the following: "In fulfilling the requirements of this paragraph, the Secretary shall take into account whether the adverse impacts to individuals of a species are outweighed by any conservation benefits to the species as a whole.".

(3) in paragraph (4)—

(A) by striking "listed under section 4" and inserting "an endangered species or a threatened species"; and

(B) by inserting ", under section 4" after "such species".

(b) Opinion of Secretary.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting "permit or license" before "applicant":

(2) in paragraph (2) by inserting "permit or license" before "applicant";

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking "Promptly after" and inserting "Before";

(ii) by inserting "permit or license" before "applicant"; and

(iii) by inserting "proposed" before "written statement"; and

(B) by striking all after the first sentence and inserting the following: "The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting "(A)" after "(4)";

(C) by striking "the Secretary shall provide" and all that follows through "with a written statement that—" and inserting the following: "the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

"(B) A statement described in this subparagraph—"; and

(5) by adding at the end the following:

"(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be no more than necessary to offset the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

"(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

"(i) must be capable of successful implementation; and

"(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.".

(c) Biological Assessments.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) in the first sentence, by striking "which is listed" and all that follows through the end of the sentence and inserting "that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action."; and

(2) in the second sentence, by striking "best scientific and commercial data available" and inserting "best available scientific data".

(d) Modification of an Endangered Species Committee Process.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsection (j);

(2) by redesignating the remaining subsections accordingly; and

(3) in subsection (o), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking "is authorized" and all that follows through "of this section" and inserting "may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action."; and

(B) by striking the second sentence.

SEC. 13. EXCEPTIONS TO PROHIBITIONS.

(a) Incidental Take Permits.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

"(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

"(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

"(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and";

(2) in subparagraph (B) by striking "and" after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

"(v) the term of the permit is reasonable, taking into consideration—

"(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

"(II) the extent to which the plan will enhance the conservation of covered species;

"(III) the adequacy of information underlying the plan;

"(IV) the length of time necessary to implement and achieve the benefits of the plan; and

"(V) the scope of the plan's adaptive management strategy; and"; and

(3) by striking subparagraph (C) and inserting the following:

"(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be no more than necessary to offset the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i).

"(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

"(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

"(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water; or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

"(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

"(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

"(F) If the Secretary determines that a conservation plan under this subsection reasonably can be expected to fail to achieve the goals specified under paragraph (2)(A)(iv), the Secretary shall, at the Secretary's expense, implement remedial conservation measures. Nothing in the preceding sentence shall be construed to allow the Secretary to require the holder of a permit issued under this subsection to undertake any additional measures without the consent of the holder.

"(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

"(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

"(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

"(ii) the Secretary provides 60 days notice of revocation to the permittee; and

"(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.".

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking "thirty" each place it appears and inserting "45".

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking "For purposes" and all that follows through the end of the paragraph and inserting the following: "For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.";

(2) in paragraph (2)(B), by striking "information" and inserting "scientific data"; and

(3) in paragraph (2)(C)(i), by striking "listed" and inserting "determined to be an endangered species or a threatened species".

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

"(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination as to whether a proposed use of the owner's property that is lawful under State and local law will require a permit under section 10(a), by submitting a written description of the proposed action to the Secretary by certified mail.

"(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

"(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

"(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

"(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

"(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

"(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will require a permit under section 10(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

"(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

"(6) At the end of each fiscal year, the Secretary shall transmit a report to the Congress listing the requests to which the Secretary did not provide a requestor a timely response under paragraph (5)(A) or (B), the status of those requests at the time of transmittal of the report, and an explanation for the circumstances that prevented the Secretary from providing any such requestor with a timely response.

"(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.".

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

"(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if the President finds that such exemption is necessary for national security.".

SEC. 14. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

"PRIVATE PROPERTY CONSERVATION PROGRAM

"SEC. 13. (a) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIREMENT.—The Secretary shall establish a Private Property Conservation Program to improve the habitat and promote the conservation, on private lands, of endangered species, threatened species, and species that are candidates to be determined to be endangered species or threatened species.

"(2) AGREEMENTS AUTHORIZED.—The Secretary may enter into an agreement with a private property owner under which the Secretary shall, subject to appropriations, make annual or other payments to the person to implement the agreement.

"(3) CONTENTS.—Any agreement the Secretary enters into under this section shall—

"(A) specify a management plan that the private property owner shall commit to implement on the property of the private property owner, including—

"(i) an identification of the species and habitat covered by the plan;

"(ii) a finding by the Secretary that the land to which the agreement applies is appropriate for the species and habitat covered by the agreement;

"(iii) a description of the activities the private property owner shall undertake to conserve the species and to create, restore, enhance, or protect habitat; and

"(iv) a description of the existing or future economic activities on the land to which the agreement applies that are compatible with the goals of the program.

"(B) specify the terms of the agreement, including—

"(i) the terms of payment to be provided by the Secretary to the private property owner;

"(ii) a description of any technical assistance the Secretary will provide to the private property owner to implement the management plan;

"(iii) the terms and conditions under which the Secretary and the private property owner mutually agree that the agreement may be modified or terminated;

"(iv) acts or omissions by the Secretary or the private property owner that shall be considered violations of the agreement, and procedures under which notice and an opportunity to remedy any violation by the private property owner shall be given;

"(v) a finding by the Secretary that the private property owner owns the land to which the agreement applies or has sufficient control over the use of such land to ensure implementation of agreement; and

"(vi) such other duties of the Secretary and of the private property owner as are appropriate.

"(4) COST SHARE.—The Secretary may provide up to 70 percent of the cost to implement the management plan under the terms of the agreement.

"(5) PRIORITY.—In entering into agreements under this section, the Secretary shall give priority to those agreements—

"(A) that apply to areas identified under section 5(c)(1)(A)(iv); and

"(B) reasonably can be expected to achieve the greatest benefit for the conservation of the species covered by the agreement relative to the total amount of funds to be expended to implement the agreement.

"(6) TECHNICAL ASSISTANCE.—Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide technical assistance to a private property owner in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species.

"(7) TRANSFER OF PROPERTY.—Upon any conveyance or other transfer of interest in land that is subject to an agreement under this section

"(A) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by not later than 30 days after the date of the conveyance or other transfer;

"(B) the agreement shall terminate if the agreement does not continue in effect under subparagraph (A); and

"(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this section.

"(8) MODEL FORM OF AGREEMENT.—Not later than 1 year after the date of the enactment of the Threatened and Endangered Species Act of 2005, the Secretary shall establish a model form of agreement that a person may enter into with the Secretary under this section.

"(9) VOLUNTARY PROGRAM.—

"(A) AGREEMENTS MAY NOT BE REQUIRED.—The Secretary, or any other Federal official, may not require a person to enter into an agreement under this section as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this or any other law.

"(B) REQUIREMENTS UNDER LAWS AND PERMITS.—None of the activities otherwise required by law or by the terms of any permit may be included in any agreement under this section.

"(10) RELATIONSHIP TO HABITAT CONSERVATION PLANS.—The Secretary may consider an agreement under this subsection that applies to an endangered species or threatened species in determining the adequacy of a conservation plan for the purpose of section 10(a)(2).

"(b) TECHNICAL ASSISTANCE PROGRAM FOR SMALL LANDOWNERS.—

"(1) IN GENERAL.—The Secretary shall establish a program to offer technical assistance to owners of private property seeking guidance on the conservation of endangered species or threatened species, or species that are candidates for being determined to be endangered species or threatened species.

"(2) ALLOWABLE ACTIVITIES.—Upon request, the Secretary may provide technical assistance to an owner of private property for the purpose of—

"(A) helping to prepare and implement a conservation agreement under subsection (a);

"(B) training the managers of private property in best practices to conserve species and create, restore, enhance, and protect habitat for species;

"(C) helping to prepare an application for a permit and a conservation plan under section 10(a); and

"(D) any other purpose the Secretary determines is appropriate to meet the goals of the program under subsection (a).

"(3) PRIORITY.—The Secretary shall give priority in offers of technical assistance to owners of private property that the Secretary determines cannot reasonably be expected to afford adequate technical assistance.

"(4) FUNDING FOR PROGRAM.—For any year for which funds are appropriated to carry out this Act, 10 percent shall be for carrying out this subsection, unless the Secretary determines for any fiscal year that a smaller percentage is sufficient and submits a report to the Congress containing the percentage and an explanation of the basis for the determination.".

SEC. 15. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

"PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

"SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

"(1) each list published under section 4(c)(1);

"(2) all final and proposed regulations and determinations under section 4;

"(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

"(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

"(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

"(6) to the extent practicable, data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.".

SEC. 16. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

"ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

"SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

"(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

"(1) expenditures of Federal funds on a species-by-species basis, and expenditures of Federal funds that are not attributable to a specific species;

"(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

"(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

"(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

"(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

"(2) attest to the accuracy of such data.".

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

"(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).".

SEC. 17. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

"REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

"SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

"(b) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

"(c) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.".

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

"(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

"(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

"(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.".

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking "section 15" and inserting "section 18".

SEC. 19. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking "any endangered species or threatened species listed" and inserting "any species determined to be an endangered species or a threatened species"; and

(2) in subsection (b) in paragraph (1), by striking "endangered species and threatened species listed" and inserting "species determined to be endangered species and threatened species".

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking "of the Interior (hereinafter in this section referred to as the 'Secretary')";

(2) in subsection (d), by striking "Merchant Marine and Fisheries" and inserting "Resources"; and

(3) in subsection (e)—

(A) in paragraph (1), by striking "of the Interior (hereinafter in this subsection referred to as the 'Secretary')"; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking "of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act" and inserting ", with respect to any species of fish or wildlife determined to be an endangered species under section 4";

(B) in paragraph (1)(G), by striking "threatened species of fish or wildlife listed pursuant to section 4 of this Act" and inserting "species of fish or wildlife determined to be a threatened species under section 4";

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking "of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act" and inserting ", with respect to any species of plants determined to be an endangered species under section 4"; and

(D) in paragraph (2)(E), by striking "listed pursuant to section 4 of this Act" and inserting "determined to be a threatened species under section 4";

(2) in subsection (b)—

(A) by striking "(1)" before "SPECIES" and inserting "(1)" before the first sentence;

(B) in paragraph (1), in the first sentence, by striking "adding such" and all that follows through ": *Provided*, That" and inserting "determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if"; and

(C) in paragraph (1), in the second sentence, by striking "adding such" and all that follows through "this Act" and inserting "determining such fish or wildlife species to be an endangered species or a threatened species under section 4";

(3) in subsection (c)(2)(A), by striking "an endangered species listed" and inserting "a species determined to be an endangered species";

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: "(i) are not determined to be endangered species or threatened species under section 4, and";

(5) in subsection (e), by striking clause (1) and inserting the following: "(1) are not determined to be endangered species or threatened species under section 4, and"; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: "(A) are not determined to be endangered species or threatened species under section 4, and"; and

(B) by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking "an endangered species" and all that follows through "section 4 of this Act" and inserting "an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4";

(B) by striking "section 9(a) of this Act" and inserting "section 9(a)"; and

(C) by striking "fish or wildlife listed by the Secretary as endangered" and inserting "fish or wildlife determined to be an endangered species or threatened species by the Secretary"; and

(2) in paragraph (2)—

(A) by inserting "or a threatened species" after "endangered species" each place it appears; and

(B) in subparagraph (B), by striking "listed species" and inserting "endangered species or threatened species".

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting "or threatened species" after "endangered species"; and

(2) by striking "of this Act".

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after "(f)" the following: "PRE-ACT PARTS AND SCRIMSHAW.—"; and

(2) in paragraph (2), by striking "of this Act" each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after "(g)" the following: "BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—".

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking "endangered species or threatened species listed" and inserting "species determined to be an endangered species or a threatened species".

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking "Such persons" and inserting "Such a person".

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) "SECRETARY" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the Secretary":

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) "PRESIDENT" FOR "HE".—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking "he" and inserting "the President".

(3) "SECRETARY OF THE INTERIOR" FOR "HE".—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking "he" and inserting "the Secretary of the Interior".

(4) "PERSON" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the person":

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) "DEFENDANT" FOR "HE".—The following provisions are amended by striking "he" each place it appears and inserting "the defendant".

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO "HIM".—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking "him or the Secretary of Commerce" each place it appears and inserting "the Secretary".

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking "him" and inserting "the Secretary".

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking "him" and inserting "the Secretary".

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking "him" and inserting "the Secretary".

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking "him" and inserting "the Secretary".

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking "him" each place it appears and inserting "such person".

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking "him" and inserting "the Secretary".

(7) REFERENCES TO "HIMSELF OR HERSELF".—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking "himself or herself" each place it appears and inserting "the defendant".

(8) REFERENCES TO "HIS".—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking "his" and inserting "the".

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking "his" and inserting "the Secretary's"; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking "his periodic review" and inserting "periodic review by the Secretary".

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking "his" and inserting "the applicant's".

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking "his" and inserting "the Secretary's".

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking "his" each place it appears and inserting "such person's".

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking "his" and inserting "the Secretary's".

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking "his" and inserting "the".

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking "his" and inserting "the Secretary's";

(ii) in subsections (a)(3) and (b)(3) by striking "his or her" each place it appears and inserting "the defendant's";

(iii) in subsection (d) by striking "his" and inserting "the officer's or employee's";

(iv) in subsection (e)(3) in the second sentence by striking "his" and inserting "the person's"; and

(v) in subsection (g)(1) by striking "his" and inserting "the person's".

SEC. 20. ESTABLISHMENT OF SCIENCE ADVISORY BOARD.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended by adding at the end the following:

"SCIENCE ADVISORY BOARD

"SEC. 19.

"(a) IN GENERAL.—Within 12 months after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary of Interior, through the Director of the United States Fish and Wildlife Service, shall establish a Science Advisory Board (in this section referred to as the 'Board') to provide such scientific advice as may be requested by the Secretary to assist in the evaluation of the use of science in implementing this Act, including in the development of policies and procedures pertaining to the use of scientific information.

"(b) COMPOSITION.—The Board shall each consist of 9 members appointed by the Secretary of the Interior from a list of nominees recommended by the National Academy of Sciences, utilizing a system of staggered 3-year terms of appointment. One member shall be elected by the members of the Board as its Chairman. Members of the Board shall be selected on the basis of their professional qualifications in the areas of ecology, fish and wildlife management, plant ecology, or natural resource conservation. Members of the Board shall not hold another office or position in the Federal Government. If a vacancy occurs on the Board due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Secretary from a group of at least 4 nominees recommended by the National Academy of Sciences. The Secretary may extend the term of a Board member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Secretary shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. The Secretary shall publish in the Federal Register the name, business address, and professional affiliations of each appointee.

"(c) COMPENSATION.—Each member of the Board shall receive per diem compensation at a rate not in excess of that fixed for GS-15 of the General Schedule as may be determined by the Secretary of the Interior.

"(d) STAFF.—Upon the recommendation of the Board, the Secretary of the Interior shall make available employees as necessary to exercise and fulfill the Board's responsibilities. ".

SEC. 21. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

"Sec. 5. Recovery plans and land acquisition."

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

"Sec. 13. Private property conservation program.
"Sec. 14. Public accessibility and accountability.
"Sec. 15. Marine Mammal Protection Act of 1972.
"Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.
"Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
"Sec. 18. Authorization of appropriations.
"Sec. 19. Science Advisory Board.".

The Acting CHAIRMAN. Pursuant to House Resolution 470, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. POMBO) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

The bipartisan substitute that we have introduced here in fact goes to fundamental and basic changes in the Endangered Species Act to both provide for the better protection of the species, but also to make this Act far more workable, far more definite in terms of the interests of landowners, the impacts and the timelines and the guidelines that will be offered to them to make this Act work. That is the spirit of the reform of the Endangered Species Act. That is not what is taking place in this underlying bill.

In the manager's amendment that was just introduced, it has been suggested now for the last several days that there is a recovery plan in the underlying bill. The manager's amendment, in fact, strikes that recovery plan in terms of its basic, fundamental necessity for the recovery of those species. So the difference between the substitute and the underlying bill is in the substitute, you will, in fact, have enforceable recovery plans where other actions have to be measured against the impacts on those recovery plans, the habitat that is developed under those recovery plans to make sure that the recovery of the species continues. That is no longer a requirement. That is no longer a requirement in the substitute bill.

That is why I would hope that people would understand that if you really want to provide for the reform, if you really want to provide for the reform of the Endangered Species Act, if you really want to make this Act more user-friendly, if you really want to have it based upon science, if you want to have the recovery based upon science, you want those determinations made with the best science, then that is what the substitute does.

There has been a bait and switch here. Up until just recently, with the adoption of the manager's amendment, you could argue that that is what the underlying bill does. But, with the new language that is introduced in the manager's amendment, that is no longer the case, and I would hope that people would understand you will not be able to provide for the kind of recovery that this Nation expects, that our constituents expect, and most Members of Congress expect with that legislation now with the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I rise today in opposition to the substitute being offered for a number of reasons.

The substitute basically takes the Pombo bill and cuts out everything that is important to my constituents, the small farmers and ranchers of the Central Valley who are being driven out of our valley through arbitrary and capricious regulatory burdens. It is my constituents who are the ones that are begging me to help them reform the Endangered Species Act, and I think this substitute leaves them behind and brings our efforts back to square one.

What I cannot support is the removal of 2 provisions that I find absolutely critical to any reforms to the ESA: mandatory landowner notification, and the conservation compensation plans for effective landowners.

□ 1515

The first issue, the landowner notification is just a no-brainer issue. Landowners deserve to know what they can and cannot do with their property and the service should be responsible for telling them.

Many of the opponents of this provision claim that landowners can simply go to court and get a decision but in reality, they cannot because the court has ruled in previous cases that unless the service tells them no directly they have no standing in court. This provision is crucial, especially to the little guy who does not have millions and millions of dollars to higher lawyers, biologists and surveyors needed to take on the service.

Mr. Chairman, these little guys deserve an answer just like the big guys do. I understand that there is a provision in the substitute that attempts to address this issue with a similar 180 day timeline. Unfortunately, there is no enforcement behind the language other than a report to Congress, and we all know what we do with reports to Congress.

The service is under a number of other time lines under ESA such as a time line for completing political opinions which they also choose to ignore. The substitute provisions would do exactly the same thing and bring us back to square one. The second is the strong private property rights section that are good in H.R. 3824. They did not seem to make the cut in the substitute. It is not a sweeping entitlement program as some would have you believe. It is a program that will fairly compensate landowners and will provide species with conservation mitigation measures that would otherwise go unprotected.

I do have to say that I am pleased that my colleagues chose to include a number of provisions from the underlying bill in the substitute. The fact that the substitute includes the same repeal of critical habit speaks volumes for the overall consensus that this Act needs to be changed and updated to reflect the evolving circumstances on the ground that have impeded the accurate critical habit designations.

But the deleted provisions from H.R. 3824 and the new definition of jeopardy, under which, frankly, I am not sure if I could mow my own lawn, will do nothing to relieve the conflict that currently exists under that ESA.

It will do nothing more than the underlying bill to recovery species, and this will simply put us back to square one.

Mr. Chairman, I have one final comment. I must correct the record. I would ask that the gentleman from Oregon (Mr. WALDEN) place back up the slide that he had from the bill which outlines that under the Pombo bill, actually, it is here, under the Pombo bill you can only become compensated for what is an allowable use for what is the current State or local regulation, under the current zoning use.

So a farmer who is plowing his field and trying to grow a crop every day, if he is denied the use of that property, he can only be compensated for the loss of his farming income and he can not claim that it could be a high rise hotel in its place. He only gets compensated for what he was currently doing on the property, and that is just simply an erroneous statement to say anything else.

Mr. Chairman, we need to defeat this substitute. We need to pass the underlying measure.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 15 minutes to the gentleman from New York (Mr. BOEHLERT) and ask unanimous consent that he be permitted to control that time.

The Acting CHAIRMAN (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the substitute. I want to thank all of our co-sponsors for their support, the gentleman from Michigan (Mr. DINGELL), the gentleman from Washington (Mr. DICKS), the gentleman from New Jersey (Mr. SAXTON), the gentlewoman from California (Mrs. TAUSCHER), the gentleman from Illinois (Mr. KIRK), the gentlewoman from California (Ms. MATSUI), the gentleman from Illinois (Mr. JOHNSON), and the gentleman from New Hampshire (Mr. BASS).

That is a pretty good sampling of Congressional centrists because there is a moderate, targeted solution. Our substitute truly reforms the Endangered Species Act without endangering any species or the American taxpayer. And that is where it differs from H.R. 3824.

But before I describe the differences, I want to emphasize the similarities. Both the bill and the substitute eliminate the current requirements for setting aside critical habitat and rely instead on recovery plans to save endangered and threatened species. They are identical. Both the bill and the substitute offer new financial incentives and legal protections to landowners to save species. Both the bill and the substitute require greater involvement of States in decisionmaking involving species. Both the bill and the substitute ensure that the public will have greater information about and a greater role in the decisionmaking.

In fact, while it is hard to quantify, I would guess about 80 to 90 percent of the language in the substitute is identical to the base bill. That is because we developed the substitute by reading through the base bill, once we could seize a copy, and by incorporating into our substitute every word of H.R. 3824 that we possibly could.

What we could not accept was language weakening the Act by, for example, making recovery plans unenforceable, sit on a shelf, gather dust or making it too easy for the Federal Government to take actions that would harm species. And most of all what we could not accept was the new mandatory spending required by this bill which would open the federal purse to developers while eliminating basic taxpayer protections.

I laid out my specific concerns for that provision during the general debate. I urge support for the substitute and opposition to H.R. 3824 as presented.

Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I rise in strong support of the substitute. It is bipartisan. It is supported by Members of Congress from every part of the country. It is not only a unique and valuable bipartisan piece of legislation, but it is one that will work.

Like the underlying bill, the substitute would repeal the current requirement that the Secretary designate critical habitat for endangered fish, wildlife and plants, before formulating a plan for species recovery. In order, however, to maintain a strong ESA, the substitute gives a strong definition of what is meant to jeopardize continued existence of the species.

Science is the core principle of ESA and we direct the Secretary to issue, and regularly revise, guidance on the acceptable scientific measures. The substitute also creates a Science Advisory Board to peer-review controversial decisions and offer other assistance when necessary.

The substitute is going to provide a helping hand to landowners; dedicated funding for technical assistance to private property owners; a conservation grants program for landowners who help conserve the species on or near their property; assurances that private citizens can get timely answers from the Fish and Wildlife Service; and reporting requirements so that we know how many applications are really going unanswered, and most importantly, why.

The substitute directs the Federal Government to work with the States on a far broader and more cooperative manner than either current law or the Committee on Resources bill.

The substitute directs the Secretary to first determine whether public lands are sufficient to protect and save the species; if we could protect the species, and save the species in our public lands, in our national forests, our national BLM lands, and in our parks and wildlife refuges, we should do so without placing the burden on private landowners.

Mr. Chairman, this amendment represents a broad bipartisan and fiscally responsible effort to move this process forward in a manner that can not only get an overwhelming vote of support in the House, but which can move on to the President's desk for signature in the same manner as the original Act.

I urge my colleagues to support the substitute, and I say that it will be not only a successful undertaking, but one which will be much more in the interests of the landowners and of the species that we are trying to protect and preserve.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, I appreciate the chairman not only yielding me time but, more especially, I appreciate all the work that he has done in this. We heard over and over in the hearings that Democrats really appreciated the way in which the gentleman reached out and started from scratch and negotiated with them. Everything was honest, open, above board and that the gentleman's example was one to be emulated by people that wanted bipartisanship.

Of course, we get to the floor and I am hearing some different things now. But nonetheless I also want to thank those Democrats who, with an open mind and with a regard for fairness, have assisted the chairman in trying to put together a good bill.

Now, it seems to me what this comes down to is a couple of differing philosophies here. On the one hand, you have a philosophy that says private property ownership rights are important and on the other says King George, before we had the revolution, did not have such a bad system. If you were a suck-up to the king, if you paid homage, kind of like the Kelo decision, you were the better friend of the government, then the government was going to treat you good. Never mind your private property rights. We will tell you how you can use your property. We will tell you what you can be compensated for and how and when.

Now, under the substitute amendment, it is pretty clear you do not get an honest answer from the government. Do my private property rights violate or infringe upon some endangered species? Will it amount to an inappropriate use?

Well, maybe it will and maybe it will not. We do not have to give you an answer, but you will have to buy a permit and then under the bill, the chairman has come up with you get a straight answer and you get it quickly. And if you do not get it within 180 days, then you have got your answer as a matter of law.

Under this substitute, all property owners can find out is if they need to be having a habitat conservation plan and if they do, well, gee, the government will help you fill out the application in begging to see what you can do with your own property. We give you a straight answer yes or no under the original bill, and that is how it should be.

The substitute amendment is going to stick the private property owners with the fees. And, boy, I tell you what, when I hear this word "entitlement" as if it is going to somebody that is not entitled to something. I tell you, entitlement has a different connotation here. But under this bill, under the original bill it is not an entitlement the way most people see it. If you own property and it is taken away from you, you cannot use it the way you want to because some Federal entity says you cannot. By golly, under our system of law, the way our Constitution is written, you ought to be compensated for it. That is America.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. GILCHREST), a valued member from the Committee on Resources.

Mr. GILCHREST. Mr. Chairman, I think we are here in some sense, past all the clutter of people articulating their most emotional feelings, is a bill set aside some 30 years ago to have an understanding about how we as Members of Congress, the government, can restore the prodigious bounty of God's creation. How do we understand nature's design? How do we use our intelligence to understand the facts behind how nature sustains itself?

Well, in the real world, well, actually, in the real world which is nature, but in the reality of the human condition, we have a lot of other little things that we have to take into consideration. How do you afford an Endangered Species Act? What do you do about private property rights? Do you get enough science? Is the recovery plan appropriate? Do you deal with farmers that have a problem with reintroduced species on the property eating their sheep or their cows?

All these things have to be taken into consideration so that we create a policy that protects private property rights, that brings individuals on those farms and that landscape into the process and helps pay for their contribution to the process, that brings Federal agencies in so they can view the landscape, not from just one small little fly or tiger beetle or some other particular species, but upon which the landscape that supports that species, supports clean water, supports clean air, supports the whole ecosystem including human beings, including us as a species.

□ 1530

We are not separate from clean water. We are not separate from clean air. We are part of nature's design. We are part of this bounty of God's creation. So how do we clarify all these different perspectives and views based on different things that happen in our districts?

Well, we come up with the best available science. We come up with the best available recovery plan. We come up with the best policy for not only the species but for private property, and we come up with the funds that are appropriate to deal with all these issues.

I would tell my colleagues that I feel strongly this is the best policy change, the best reauthorization plan that we can use to deal with the Endangered Species Act that will deal with nature's design and man's impact on nature's design, which includes private property rights, which includes reimbursements for helping to preserve endangered species, and by the way, in this substitute is a provision to pay those private property individuals.

I urge an "aye" vote on the substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank my good friend from California (Mr. GEORGE MILLER) for yielding me the time, and I join him in offering this substitute, because the bill we are considering today, H.R. 3824, will make it less likely that threatened and endangered species will recover; but today we can support this bipartisan substitute which will update and improve the Endangered Species Act.

I reject the notion, Mr. Chairman, that we cannot preserve both our natural environment for future generations while supporting strong economic growth.

Our substitute gives private property owners the opportunity to protect species on our own land while ensuring they will not face additional regulatory burden. Importantly, this substitute actually discourages the use of private land for public purposes. The substitute says if we can protect a species on public land, we should.

In some cases, private property owners will be asked to mitigate for the effects of preserving threatened and endangered species. However, we can and should provide incentives for private property owners who are complying with the law, and the substitute does just that.

The substitute strikes a careful balance between the rights of private property owners and the preservation of our natural resources.

I encourage my colleagues to join me and a bipartisan group of Members in supporting this reasonable, better substitute and opposing H.R. 3824.

Mr. POMBO. Mr. Chairman, I yield 2½ minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Chairman, in the 32 years that the Endangered Species Act has been in effect, we have learned a lot of lessons over time and seen the areas where it needs some improvement.

I believe that the gentleman from California (Chairman POMBO) and other members of the House Committee on Resources have worked very hard to come up with a piece of legislation that protects property owners' rights and improves the way that we protect and rehabilitate endangered species, and I am proud to be an original cosponsor of this legislation.

Mr. Chairman, one of the most important aspects of H.R. 3824 deals with private property owners' participation in species recovery. I believe in America it is a fundamental right to be able to own property and to be able to enjoy that property.

I visited a country back during the spring that no citizen in that country could own property or they could lease it for 25 years or 99 years; and, Mr. Chairman, I do not believe America wants to return to that fundamental time where we could not own property, we could just live on property owned by somebody else.

I believe taking property that allows somebody an option not to be able to use their property how they intended, property they used their hard-earned money to purchase is fundamentally wrong.

Specifically, H.R. 3824 will provide certainty for private property owners by allowing landowners to request a written determination as to whether their land use activities will violate the take prohibitions of section 9.

It will also compensate private property owners for the fair market value for foregone use of their property where the Secretary has determined that the use of that property would constitute a take under section 9.

I believe we should protect our endangered species but not at the expense of our private landowners.

Mr. Chairman, there is a better way to protect endangered species; and I believe it is H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005.

I encourage my colleagues to vote "no" on the Miller substitute amendment and "yes" on the final passage of H.R. 3824.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. SAXTON), an informed and valued member of the Committee on Resources.

Mr. SAXTON. Mr. Chairman, I rise in strong support of the bipartisan substitute.

Mr. Chairman, the Endangered Species Act is one of our most farsighted and important conservation laws. For more than 30 years, the Endangered Species Act has sounded the alarm and saved wildlife that we humans have driven toward extinction. Today, we have wolves in Yellowstone, manatees in Florida, and sea otters in California, largely because of the act.

In the southern part of New Jersey, we have bald eagles, timber rattlesnakes, and barred owls because of the protections provided by the Endangered Species Act; and by protecting their habitat, we have protected our own habitat.

I am concerned that the provisions contained in H.R. 3824 would profoundly alter the act and the process. It contains costly, highly problematic, vague new procedures and ill-conceived tradeoffs that will undermine our ability to conserve fish and wildlife for future generations.

Consequently, I join with my colleagues to offer the responsible, bipartisan Miller-Boehlert substitute that reforms the law, answers the concerns of landowners, States, and sportsmen while improving the ability to achieve timely recovery of threatened and endangered fish, wildlife, and plants.

Our amendment provides a creative, workable solution that promises better results for recovering endangered species and reducing burdens on landowners.

The most important tool needed to halt the decline and recover threatened and endangered species is effective habitat protection. H.R. 3824 fails to protect habitat. The bipartisan amendment has strong provisions to do that.

By contrast, our substitute provides a better way of protecting habitat necessary for recovery, with a true focus on recovering species.

There is broad consensus in Congress to reform the Endangered Species Act, Mr. Chairman; but it is vital that in doing so we maintain the integrity of the act and our ability to conserve these species for future generations. The Miller-Boehlert amendment will do just that, and I urge my colleagues to support the substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, the substitute would be a great improvement for the current Endangered Species Act. It would treat landowners much as we do under the Conservation Reserve Program; but the underlying bill would be a disaster for taxpayers, a new entitlement.

The Secretary shall pay no less than fair market value. I guess the Secretary, if they are feeling good that day, could pay more than fair market value with taxpayers' money, borrowed money; and it does not require the historic, usual, or custom use.

Take a piece of remote farm land, propose a huge development on it; it does not have to be proven to be economically viable. You proposed it; you were going to build 5,000 houses; you were going to make $1,000, $2,000, $5,000 on each house. You would have to be compensated for that. You do not have to prove that this is economically viable, and sequential owners would get that right. You then sell it to your next door neighbor; they can make the same claim. They sell it to the guy down the street, they can make the same claim, on and on and on.

What an incredible new, speculative market, helping the housing bubble, I guess; but this is going to kill the taxpayers and the Federal Treasury. You should vote for the substitute. It will improve the Endangered Species Act.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I very much wanted to support the substitute amendment that we are debating this afternoon.

I have the utmost respect for the gentleman from California (Mr. GEORGE MILLER). Both he and I have been afforded the opportunity to spend some time together in the wonderful Sierra Nevada mountains, and I know how much respect and pride he has for America's natural resources. I share it as well.

But there are three areas as it relates to the proposed substitute amendment that I find to be very problematic and important to the constituents that I represent that have had difficulty with this act over the years.

First of all, the definition as it relates to property rights I think is lacking and needs to be worked on in an important way.

Second, as it relates to the discussion of jeopardy to species, it is so vague. How it would be applied to section 7 and other aspects of the measure, I do not believe it is clear and could indicate further need for litigation, which is the current problem and part that we are trying to solve. I just do not believe that the jeopardy definitions under the current proposed substitute amendment could work as they currently are drafted.

Finally, this is very important and I mentioned it in my comments in supporting the bill: there are no clear definitions as it relates to takings for farmers and ranchers, not just in California but throughout the country. Farmers and ranchers, I would maintain, are, in many cases, one of the last bastions of protection for habitat. I mean, think about it. They really want to farm, and they want to be able to maintain their ranches. When we have growth areas throughout the country, like in California, those farms and those ranches are one of the last hedges to urban sprawl and uncontrolled growth. Therefore, having no clear definitions for takings, I think, is critical.

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me time.

The time is insufficient, not only to explain my position, but also the time for consideration of this bill has been insufficient.

Thirty-two years ago, we passed a bill that a Republican President, Richard Nixon, signed to protect and conserve species in danger of extinction. Unfortunately, though, the underlying bill, which has been fast-tracked since its introduction, would substantially undermine the Endangered Species Act. That is what this is about.

For example, this bill would undermine the ability of the responsible Federal agencies to ably perform their oversight roles, and it fails to recognize the importance of sound science to species recovery and restoration.

The bill also creates a fiscally irresponsible, open-ended entitlement program that effectively pays landowners to comply with the law.

In contrast, the bipartisan substitute offered by the gentleman from California (Mr. GEORGE MILLER) has a far more reasoned approach.

It ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize species. It strengthens the definition of what constitutes jeopardy and requires the Secretary to ensure that proposed recovery plans identify and include areas necessary for species survival.

I urge support of the substitute and opposition to the underlying bill.

Mr. Chairman. Thirty-two years ago, Congress passed and a Republican President—Richard Nixon—signed the Endangered Species Act to protect and conserve species in danger of extinction.

Today, there are 1,268 species listed as endangered or threatened in the United States, including 26 in the State of Maryland.

This law is not perfect, but it has been very successful. Roughly 40 percent of listed species have witnessed the stabilization or growth of their populations.

And, less than one percent have been declared extinct since the law's enactment.

The fact is, this law has enabled the very survival of some of our most vulnerable species—including the bald eagle, the gray wolf, the California condor, and the whooping crane.

Unfortunately, though, the underlying bill—which has been fast-tracked since its introduction last week—would substantially undermine the Endangered Species Act.

For example, this bill would undermine the ability of the responsible Federal agencies—the Departments of Commerce and Interior—to ably perform their oversight roles, and it fails to recognize the importance of sound science to species recovery and restoration.

The bill also creates a fiscally irresponsible, open-ended entitlement program that effectively pays landowners to comply with the law.

In contrast, the bipartisan substitute offers a far more reasoned approach.

It ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize species. It strengthens the definition of what constitutes jeopardy and requires the Secretary to ensure that proposed recovery plans identify and include areas necessary for species survival.

The substitute also creates conservation programs that would provide technical and financial assistance to landowners committed to efforts that protect species.

Mr. Chairman, we have a responsibility to protect our environment—as well as the diverse forms of life that share it.

The bipartisan substitute will help us achieve the goal. I urge my colleagues to support it.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLITTLE).

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Mr. DOOLITTLE. Mr. Chairman, I rise to oppose the substitute and to support the underlying bill.

Mr. Chairman, it has been represented that this legislation is going to cost billions of dollars potentially, and for that reason we should reject it in the fiscal crisis in which we currently live. I just say to you that the CBO, which makes the estimates on everything we do around here, the official word for the Congress to act, projects that the cost would be small over the 5 years. Indeed, and I quote, "would likely total less than $10 million." That was the CBO cost estimate to H.R. 3824.

Fiscal conservatives like myself and Grover Norquist of Americans For Tax Reform support this important legislation. Nothing could be more conservative or more right than a vote for private property. So please vote "no" to Miller-Boehlert and "yes" to final passage.

I might also note, as a representative of one of the districts that has vast amounts of property in the mountains and so forth, that a lot of small property owners, people who want to use their property, have that ability compromised by the cloud that is placed over their property once they get word of a threatened or endangered species. The bill of the gentleman from California (Mr. POMBO) makes it certain and provides a process for compensation. Otherwise, a small property owner is faced with a big question mark. I call it a cloud. It is like a cloud on your title and it is not easily resolved. It can cost you many, many thousands of dollars and a great deal of worry.

The Pombo legislation eliminates this terrible burden we place on small property owners. Please vote "no" on the Miller-Boehlert amendment and "yes" for final passage on the Pombo legislation.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time and for his tremendous work on this legislation.

I applaud my colleagues here today for offering this amendment in the nature of a substitute. It goes a long way in making meaningful reforms to the Endangered Species Act without hollowing the fundamental goals of America's flagship wildlife conservation efforts. While there have been successes in species recovery since enactment of the 32-year-old Endangered Species Act, most would agree that it is in need of real reform to make it more effective in species recovery, less demanding on some landowners, and less prone to lawsuits and bureaucracy.

However, pushing the problematic and prohibitively expensive H.R. 3824, the Threatened and Endangered Species Recovery Act through the legislative process has left a sour taste in many of our mouths because it removes the enforceable protections for species recovery and creates the entitlement program for private landowners.

At a time when our country is still coping with the cost of the wars in Iraq and Afghanistan, and most recently with Hurricanes Katrina and Rita, one has to wonder why a rewrite of the Endangered Species Act that includes an entitlement program is even a consideration. This substitute will improve the recovery of more species, put back into place needed enforcement of species recovery plans, and it will do all of this and much more without creating an entitlement program.

This bipartisan substitute is a more pragmatic solution, and I urge my colleagues on both sides of the aisle to support it.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I rise in support of the underlying amendment, because in the middle of the night, the manager's amendment removed the NOAA fisheries provision in the Interior.

Mr. Chairman, I rise in opposition to H.R. 3824, the Threatened and Endangered Species Recovery Act, as it is currently drafted.

Mr. Chairman, once again California leads the Nation: This time it is for the number of listings for threatened and endangered species. California has more than twice the species listed as any other State.

My home on the Central Coast in the 17th district has more habitat where both endangered plants and animals have lived with commercial farming and ranching. The same climate that produces over three billion dollars annually in agriculture farm gate also is home to the tar plant in Santa Cruz and the California condor in Big Sur.

Another example is the Big Sur area of California where you can find redwoods from northern California growing next to the yucca of southern California.

I recognize the need for some "tune-ups" in the ESA, unfortunately, H.R. 3824 takes a meat axe approach when what we need is a scalpel.

The Endangered Species Act is one of America's most important and successful environmental laws. As one of the pillars of environmental law, it has brought public attention to the impact of human activities on our Nation's wildlife that contributes so much beauty and delight to life as well as growing economic development in environmental tourism.

But it also goes beyond that to declare the preservation of such species as the American bald eagle and the California condor, that glide on the thermals along the Big Sur coastline, a national priority.

While opponents of the law complain that it has restored healthy populations of only 16 of the more than 1,800 species on its endangered list, dozens of other species have dramatically increased their populations because of the law's protection.

Without the ESA these species could easily have succumbed to extinction as corporations and developers decided the fate of their habitats.

That's no small accomplishment. What's more, only nine endangered plants and animals have been lost. We cannot forget that robust biodiversity is absolutely necessary to a healthy human environment.

Ninety-eight percent of the species protected under the Endangered Species Act are still alive today, and many are stable or improving. Without the Endangered Species Act, wildlife such as the bald eagle, American alligator, California condor, Florida panther and many other animals that are part of America's natural heritage could have disappeared from the planet years ago. The Endangered Species Act works because it safeguards the places where endangered animals and plants live.

With the recent discovery of the once thought to be extinct Ivory-billed woodpecker in Arkansas and the Mount Diablo Buckwheat in California, I think this is an opportune moment to highlight the success of many of our conservation efforts. For example, in my home State of California, I am especially proud of the conservation and management efforts that have helped significantly restore populations of California condor, the Southern sea otter, the winter run Chinook salmon, the Least Bell's Vireo songbird, the California Brown Pelican, and the California gray whale.

Mr. Chairman, it is fitting that Congress is moving to reauthorize ESA on Sea Otter Awareness Week since the sea otters are a success story in my district. While the Southern Sea Otter still has a long way to go before being delisted, the increased numbers of sea otters along my district shoreline have greatly contributed to our tourism economy. Studies show sea otters draw tourists to my district where they spend money on lodging, restaurants and other merchandise.

The dramatic turnaround realized by the once thought extinct Southern sea otter is a result of two critical protection laws—the ESA and the Marine Mammal Protection Act, the Southern sea otter population grew from less than 100 otters in the 1930's to the present total of 2,800. Scientists maintain that it will take 3,100 otters to make a population stable enough to even consider removing them from the Endangered Species list and many threats remain. As reauthorization of the ESA moves forward this week in the House, I will fight to keep it strong enough to successfully overcome these threats to the Southern sea otter.

Despite success stories, like this we need to be aware that more needs to be done. At this time, more than 1,000 species in the U.S. and abroad, are designated as "at risk" for extinction. One small step is to increase awareness about the seriousness of the circumstances facing many of these endangered species and educating the public about these species.

I know the ESA has it's problems and the proponents of this legislation have brought many of those cases to light today.

Any law that has been on the books for as long as the Endangered Species Act will have issues—Some of these issues deal with inadequate funding, and some with the law itself.

I agree we need to tweak and update the current law, to make changes, but we do not need to completely rewrite this critical protection legislation.

Mr. Chairman, I want to use the rest of my time to discuss a specific provision to move the National Oceanic and Atmospheric Administration's ESA responsibilities to the Department of Interior.

This is an awful idea, and it should have been vetted within the Resources committee before being brought to the floor.

As you know, many of our constituents across the country care deeply about, whales, salmon, and sea turtles. Taking ESA responsibilities away from the experts at NOAA, will put these animals at further risk.

Giving jurisdiction of the ocean animals, whose survival is most at risk, to an agency without ocean expertise is ludicrous. Taking ESA responsibilities from NOAA will split jurisdiction on marine animals, creating a management nightmare and further fracturing our marine management.

For example, Pacific salmon will be a management nightmare. Fish in one river that arrive in spring will be managed by the Department of Commerce, while fish that arrive in that same river during fall will be managed by the Department of Interior. To make things more complicated, who will manage these fish when they are all mixed together in the ocean? Will the fishermen have to choose from two sets of fishing regulations, one from the Department of Commerce and the other from the Department of Interior?

As the Pew and US Commissions on Ocean Policy recommended, we need to consolidate our ocean management under one roof, Specifically the National Oceanic and Atmospheric Administration in the Department of Commerce, to be effective. Further splitting our ocean management is only going to create more problems.

Mr. Chairman, let's not send the message that this Congress is more interested in private property development than in the common good of America the beautiful, from sea to shining sea.

The action this House takes today is a step in the long process to reauthorizing the Endangered Species Act. I urge my colleagues not to take the meat axe approach but to support the bipartisan Miller/Boehlert substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I will support the bipartisan substitute amendment by my colleagues, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. BOEHLERT) because it is an honest effort to make it a better alternative that does not include the most egregious parts of the underlying bill.

I would, however, just make one point. I take modest exception to the implication that was made from the other side of the aisle that somehow the Endangered Species Act and environmental legislation had something to do with the tragedy we witnessed unfurl in the Katrina-affected region. The GAO presented a report yesterday saying that the delays in the project, that none of the changes are believed to have had any role in the levee breaches. And, in fact, Corps officials believe that the flooding would have been worse if the original proposed design had been built. That was presented to Congress yesterday by the GAO.

This is contentious enough, Mr. Chairman, so it would be nice if we could stick to the facts and not make implications that somehow the environmental legislation had anything to do with that tragedy. Knowledgeable people understand that in the long run environmental legislation, had it been enforced and applied uniformly, would have made things better.

Mr. Chairman, I submit for the RECORD the GAO report I just referred to.

LAKE PONTCHARTRAIN AND VICINITY HURRICANE PROTECTION PROJECT

WHAT GAO FOUND

Congress first authorized the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection Project in the Flood Control Act of 1965. The project was to construct a series of control structures, concrete floodwalls, and levees to provide hurricane protection to areas around Lake Pontchartrain. The project, when designed, was expected to take about 13 years to complete and cost about $85 million. Although federally authorized, it was a joint federal, state, and local effort.

The original project designs were developed based on the equivalent of what is now called a fast-moving Category 3 hurricane that might strike the coastal Louisiana region once in 200–300 years. As GAO reported in 1976 and 1982, since the beginning of the project, the Corps has encountered project delays and cost increases due to design changes caused by technical issues, environmental concerns, legal challenges, and local opposition to portions of the project. As a result, in 1982, project costs had grown to $757 million and the expected completion date had slipped to 2008. None of the changes made to the project, however, are believed to have had any role in the levee breaches recently experienced as the alternative design selected was expected to provide the same level of protection. In fact, Corps officials believe that flooding would have been worse if the original proposed design had been built. When Katrina struck, the project, including about 125 miles of levees, was estimated to be from 60–90 percent complete in different areas with an estimated completion date for the whole project of 2015. The floodwalls along the drainage canals that were breached were complete when the hurricane hit.

The current estimated cost of construction for the completed project is $738 million with the federal share being $528 million and the local share $210 million. Federal allocations for the project were $458 million as of the enactment of the fiscal year 2005 federal appropriation. This represents 87 percent of the federal government's responsibility of $528 million with about $70 million remaining to complete the project. Over the last 10 fiscal years (1996–2005), federal appropriations have totaled about $128.6 million and Corps reprogramming actions resulted in another $13 million being made available to the project. During that time, appropriations have generally declined from about $15–20 million annually in the earlier years to about $5–7 million in the last three fiscal years. While this may not be unusual given the state of completion of the project, the Corps' project fact sheet from May 2005 noted that the President's budget request for fiscal years 2005 and 2006, and the appropriated amount for fiscal year 2005 were insufficient to fund new construction contracts. The Corps had also stated that it could spend $20 million in fiscal year 2006 on the project if the funds were available. The Corps noted that several levees had settled and needed to be raised to provide the level of protection intended by the design.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Chairman, I appreciate the opportunity to stand here and speak about this particular substitute. As it was brought to the Committee on Rules last night, I noticed that it has been consistently called the "bipartisan substitute." It does have eight cosponsors that are bipartisan. But I would note that the actual bill itself has 95 co-sponsors and it has four times as many Democrats on the bill itself as the so-called "bipartisan substitute." So I would like to speak a bit about the bipartisan bill that is actually before us as well.

I have one of my good constituents, Mr. Child, who bought 500 acres of land and found an endangered species on it. The snail. The problem is not that the snail was on it. The problem is he also had 11 geese, and the Federal Government threatened to sue him at the rate of $50,000 for every snail the geese happened to consume. This meant that the Federal Government went in there and captured all 11 geese, forced them to vomit to find out how many snails were actually consumed by the geese.

This gives us some idea why a small private property owner, as soon as he finds an endangered species, the goal is to get rid of the endangered species. And the problem is not the big guys. The problem is that 90 percent of the habitat for endangered species is on private property. Our goal, if we are really serious about trying to preserve endangered species of all kinds, is to get control and cooperation with small private property owners.

The main bill does that by providing a grant program for the cooperation, whereas the substitute eliminates that provision. It puts us backwards to the same old process of trying to threaten and intimidate, which does not work. That is why the recovery rate is so abysmally low with the Endangered Species Act. In fact, it moves us somewhat backwards by weakening scientific standards and creating potential for more litigation.

We have agencies like the U.S. Fish and Wildlife Service which year after year is bankrupt by rampant litigation. This means they have little money and little funds left for actual recovery of species. What we need to do is to make sure that we are engaging the private property owners so that they assist and work in cooperation with the Federal Government. You cannot do that by supporting both the substitute and the main bill.

Mr. POMBO. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. GALLEGLY), a member of the Committee on Resources.

Mr. GALLEGLY. Mr. Chairman, I appreciate the opportunity to stand in strong opposition to the substitute and in strong support of the underlying bill. Unfortunately, I may not be able to stay for the vote because there are fires in my district and my neighborhood is being evacuated.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for his extraordinary leadership on behalf of the American people in terms of the air they breathe, the water they drink, in protecting God's beautiful gift to us, this beautiful legacy that we have in our environment, and I commend the ranking member, the gentleman from West Virginia (Mr. RAHALL), for his leadership as well. He has been a champion as well in this area.

Mr. Chairman, I rise in opposition to this legislation which would critically undermine protections for our Nation's endangered species. I support the bipartisan substitute that the gentleman from New York (Mr. BOEHLERT) is putting forth with the gentleman from California (Mr. GEORGE MILLER), and commend them for this good proposal because it provides common sense proposals to strengthen the Endangered Species Act, and yet give a common sense enforcement to it.

I rise as House Democratic leader, of course, in support of the substitute, but I also rise as a mother and as a grandmother; mother of five and grandmother of five. My husband always says I just like to know how long into a speech it is before you start talking about your grandchildren. But we teach our grandchildren, and I did teach my children when they were little, that everything in nature is connected and that there is a reason, a balance to it all, this beautiful web of life that is nature. Today's bill of course in this debate points out what value we place on that.

With the passage of the first Endangered Species law in 1966 and the modern Endangered Species Act in 1973, Congress made a commitment to future generations of Americans, at that time that would be our children, my grandchildren. We made a commitment to maintain the web of life and preserve the myriad species that form an essential part of our natural heritage. We must keep that commitment for the sake of our children and our grandchildren.

The Endangered Species Act is a safety net for wildlife, fish and plants that are on the brink of extinction. When other environmental laws have not provided enough protection, the Endangered Species Act is there to give endangered species one last chance to survive. Of the 1,800 species protected by the law, only nine species have been declared extinct. An impressive achievement.

Earlier in the debate, I heard the gentleman from Washington (Mr. DICKS) speaking, and I see he is still in the Chamber, and I thank him for his very enlightening presentation about how many species have been saved during the life of this law. That was very inspiring and encouraging. The safety net saved our majestic national symbol, the bald eagle, and the peregrine falcon. It saved the Florida manatee, the grizzly bear, the southern sea otter, sea turtles, and many other animals and plants, all important in the balance of nature.

On the floor of the House, week after week, month after month, the Republican leadership pushes through legislation shredding the safety net for children, for veterans, for the elderly, for the poor, for the sick and the disabled, so it comes as no surprise today that they bring a bill that will shred the safety net for the endangered plants and animals. This is really unfortunate, because, again, it all relates to the balance of nature.

We find these words from the psalms: "How many are your works, O Lord! In wisdom you made them all; the earth is full of your creatures. There is the sea, vast and spacious, teeming with creatures beyond number, living things both large and small." In wisdom God has made them all "living both things both large and small," and in wisdom we should preserve and protect them.

We have yet to learn the roles that many creatures play in the web of life, and we are yet to discover the practical effects many species may bring to humankind. One example in California is the Pacific forest yew. Once considered virtually useless, a trash tree, became extremely valuable as the source for the anti-cancer drug Taxol. Many of us have dear friends or family members whose chances of survival have been increased by the use of Taxol.

The bill we consider today is loaded with provisions that will make it harder to preserve endangered species. It undermines sound science by directing the Secretary of the Interior, a political appointee, to issue regulations locking in a static definition of specific acceptable scientific data. It repeals all protections from pesticides, it drops the requirement for other Federal agencies to consult with wildlife experts at the Fish and Wildlife Service or the fisheries experts at the National Marine Fisheries Service. It establishes an extraordinarily new entitlement program for developers and speculators that requires taxpayers to pay them unlimited amounts of money, and the list goes on and on.

Reasonable people agree that there are ways to improve the Endangered Species Act. Many people who care very, very much about the environment, about the balance of nature, about the web of life have concerns about the enforcement. I think that is why it is important for Congress to be very clear what our intent is, so that intention of Congress and that clarity of our voices here will give guidance to those who enforce the law so that is the implementation and the execution of it is not in a way that is so risk averse as to be counterproductive.

We can do better than the current law, but it is hard to do worse than the legislation being proposed by the gentleman from California (Mr. POMBO). That is why my colleague, the gentleman from California (Mr. GEORGE MILLER), joined by a group of Members and also the gentleman from New York (Mr. BOEHLERT), taking the lead on the Republican side, have developed a substitute to this bill that gives landowners assistance and incentives to protect endangered species, strengthens the science behind the Endangered Species Act, and requires improved coordination with the States.

☐ 1600

I urge my colleagues to strengthen the Endangered Species Act by voting for a bipartisan substitute and opposing the underlying bill, and in doing so, to truly, as Members of Congress, show our children that we mean it when we say that we all know that everything in nature is connected and it is important to maintain the balance, the web of life.

In Isaiah in the Old Testament, we are told that to minister to the needs of God's creation, and that includes our beautiful environment, is an act of worship. To ignore those needs is to dishonor the God who made us.

Let us minister to the needs of God's creation. Let us support the substitute and oppose the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of the Miller-Boehlert substitute amendment because I believe we will not have a world to live in if we continue our neglectful ways.

The Endangered Species Act has been a guiding force for the preservation of species threatened with extinction for over 30 years. It is vitally important that we not alter it in any way that could result in the protection it provides from being compromised.

The Endangered Species Act is working. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the ESA have been prevented from going extinct, and 68 percent are stable or improving; but the recovery plans in place may need 50 years to restore these to relative abundance.

The amendment would prevent the creation of a mandatory entitlement program for private property owners which is likely to be hugely expensive.

The substitute also restores the role of science in the Endangered Species Act. The underlying bill appears to give the opinions of individuals without any scientific expertise equal standing with those of scientists and repeals protections against hazardous pesticides.

I oppose H.R. 3824 and any efforts to weaken the Endangered Species Act. I support the Miller-Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I would like to thank the chairman of the full committee, the gentleman from California (Mr. POMBO). I rise in opposition to the substitute amendment and in support of the underlying bill. I would like to congratulate the gentleman from California (Mr. POMBO) on many, many years of hard work on this issue.

I have to say, I am astonished to be here today. By my count, the number of Democrats who voted for the underlying bill in committee was greater than the number of Democrats who voted against it. The minority leader just told us that reasonable people can agree that the Endangered Species Act can be improved. I think that is the fundamental starting place, and it is nice to be debating the substitute, because we are talking about a fundamentally defective process.

On the other hand, the underlying bill is a good bill. The substitute has some great defects. In the first place, it raises the regulatory bar. It makes it more difficult. In the second place, the substitute does nothing to provide straightforward answers to property owners. In other words, the fundamental problems, which have caused such division in America, are not dealt with in the substitute bill. They do not provide compensation to a landowner.

If you are a landowner and the town or the State or country builds a highway, the land gets condemned and you get paid for the land. We need to have some kind of a compensatory process, and we do not have that in the substitute bill.

The substitute bill replaces the dysfunctional critical habitat concept with something far worse. They talk about lands necessary for recovery. What that is, I do not know that we can figure that out until we have done a lot of litigation and have been through a great deal of pain in America.

The substitute removes the incentives and creates a voluntary program. And a landowner, after he volunteers, could get 70 percent of his costs back for participating in the program. It does not give him any grants or any contractual rights. It does not pay him for the cost. I urge support of the underlying bill and opposition to the substitute amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I rise in support of the substitute amendment. It will significantly improve the species recovery which is an important part of our negotiating process that led us up to this bill on the floor today.

It will assist landowners in their efforts to conserve species. The substitute will also include a statutory definition of jeopardy that will ensure that Federal agency actions do not diminish recovery. That is a very important part of giving up the critical habitat designation, that we have an improved consultation process and an improved definition of what constitutes jeopardy.

Mr. Chairman, I urge strong support of this bipartisan substitute and, again, opposition to the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I would respectfully disagree with the minority leader that this bill is not Republicans versus Democrats. This is largely east versus west with western Democrats supporting the underlying bill and eastern Republicans opposing.

For me, I would quote from the House Republican majority Committee on the Budget that warned that the underlying legislation "creates a new entitlement program."

This spring, moderates of the Republican Tuesday Group and conservatives of the Republican Study Committee worked together to put forward budget reforms to end deficit spending. The heart of our reform was a prohibition against new entitlement spending. Entitlement spending already makes up two-thirds of all Federal spending. Our deficit, because of Hurricane Katrina and related costs, will top over $500 billion this year; and I do not believe that we can afford a new entitlement program.

I would urge our chairman to reform the provisions in the bill, to keep the spending within the budget, and make it subject to appropriations. The grant portion of this bill that compensates landowners is responsible. The mandated spending portion of the bill is not responsible.

CBO warns that in their score of this bill both costs and litigation will go up under the bill. Following CBO's fiscal advice, I would urge adoption of the more fiscally responsible substitute.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in opposition to the substitute and in favor of the underlying bill.

An amendment offered by the gentleman from California (Mr. RADANOVICH) in committee, which was accepted without objection, will allow local officials to perform vital work needed to prevent the potential threat of catastrophic flooding. I rise in opposition because this needed amendment is stripped out of the substitute.

We know how complex Federal bureaucracy can be, but in times of emergency nothing is more important than human health and safety. My disaster declaration and protection provision in this bill must be preserved.

When critical levee repairs are needed to protect human life, time is of the essence. Appropriate action to repair levees must be done quickly and cannot be delayed by cumbersome paperwork and bureaucracy. The ESA must be made flexible enough to allow timely repair and maintenance of levees before disaster strikes. Any efforts to improve ESA must include this provision which recognizes protecting the public from impending danger must take priority.

The amendment that I offered recognizes that when critical repair, reconstruction, or improvements to levee systems are needed, the Federal Government should not be an impediment to targeted, urgent public safety work that must happen.

The amendment that we offered frees local agencies from lengthy processes only for those projects where critical repairs are needed to avoid the loss of human life due to natural disaster. Current agency regulations only allow for an expedited consultation in a Presidentially declared disaster area for levee repair, but they only allow that after flood waters have topped or broken through levees and devastated the communities that they are designed to protect.

The amendment that we offered in committee is narrowly tailored to give local flood protection officials the same flexibility to make needed repairs; but importantly, it does so before the onset of deadly flooding.

It is ironic that the Fish and Wildlife Service and NOAA Fisheries have recently implemented emergency procedures enabling them to expedite the otherwise lengthy consultation process that has to occur before the reconstruction of levees and other flood protection infrastructure ravaged by Hurricane Katrina. Thank God they did implement these procedures, because time is of the essence.

Remarkably, however, these emergency guidelines are only invoked after disaster strikes. There is no provision under existing law that allows for emergency measures to be taken prior to the onset of danger. The Federal Government will only expedite vital repair work that will protect people from deadly floodwaters if they first suffer the calamity that we are trying to avoid.

My colleague advised in California back in 1990 and 1991, the Corps of Engineers warned the community that their levees needed repair work. It took 6 years. Tragically, right as they got approval, a flood occurred and three people lost their lives. We must not allow this kind of avoidable tragedy to happen again.

The amendment that we offered reflects the commonsense notion that local flood protection districts should not have to haggle with Federal agencies for more than 6 years to repair a levee, particularly when that levee has been designated as posing a potential threat to human life. For that reason, I stand opposed to the substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, reforming the Endangered Species Act is long overdue. Today the House has an opportunity to enact significant improvements to ESA that restore balance and protections to species as well as landowners.

One of the most effective ways to protect species habitat is through development of habitat conservation plans. The bill improves and encourages habitat conservation plans by codifying the no-surprise policy and eliminating unnecessary red tape that required multiple consultations regarding already approved actions.

These important provisions will free up limited government and landowner resources and ultimately improve conservation of species habitat by encouraging more habitat conservation plans.

My district in California is home to a large comprehensive habitat conservation plan both in Riverside and Orange counties. In fact, the West Riverside County Multi-Species Conservation Plan is the largest in the Nation covering over 1 million acres of land. The plan cost tens of millions of dollars to develop, years to put into effect, and will cost upward of $1 billion to implement. Once fully implemented, 500,000 acres in western Riverside County will be set aside for species habitat.

It is our responsibility to ensure when landowners and local authorities undertake an extensive planning like that back in my district, the Federal Government lives up to its part of the agreement. This bill does just that and removes unnecessary regulatory burdens that do nothing to benefit the species.

I just discovered in the Miller-Boehlert substitute that the habitat conservation plans that we put a lot of time in to work out in Southern California may be put at risk. That would be very, very difficult for areas that spent large amounts of money to put this into effect, not to mention time. I want to make sure that we defeat the substitute, and I thank the gentleman from California (Mr. POMBO) for working with me to include language that improves habitat conservation plans.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. MARKEY) for the purpose of a unanimous consent request.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Boehlert-Miller substitute and against the underlying bill.

A major factor forcing threatened and endangered species towards extinction is the loss and deterioration of habitat necessary for survival. We cannot expect a species to recover without first ensuring that it has the habitat in which to do so.

The Majority has just presented us with this manager's amendment to the underlying bill that would delete not only the protections and enforceability afforded under the designation of critical habitat but also the broader habitat protection provided by the jeopardy definition.

We have arrived at a situation where the underlying bill will offer no enforceable protection for the habitat that endangered species need to survive, but will only create a blizzard of unenforceable bureaucratic paperwork which, in the words of Shakespeare, would be "full of sound and fury but signifying nothing."

The Boehlert-Miller substitute would retain the enforceable protections for habitat provided under a strong jeopardy definition and I urge its adoption.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, what possible reason is there for taxpayers to have to pay three, four times for the same protection of endangered species?

Under the bill as written, the taxpayer would have to pay a landowner once for the privileges of not building the casino. That landowner could then sell it to his brother. The taxpayer has to pay his brother a second time for the anti-cancer drug Taxol. Many of us have dear friends or family members whose chances of survival have been increased by the use of Taxol.

The bill we consider today is loaded with provisions that will make it harder to preserve endangered species. It undermines sound science by directing the Secretary of the Interior, a political appointee, to issue regulations locking in a static definition of specific acceptable scientific data. It repeals all protections from pesticides, it drops the requirement for other Federal agencies to consult with wildlife experts at the Fish and Wildlife Service or the fisheries experts at the National Marine Fisheries Service. It establishes an extraordinarily new entitlement program for developers and speculators that requires taxpayers to pay them unlimited amounts of money, and the list goes on and on.

Reasonable people agree that there are ways to improve the Endangered Species Act. Many people who care very, very much about the environment, about the balance of nature, about the web of life have concerns about the enforcement. I think that is why it is important for Congress to be very clear what our intent is, so that intention of Congress and that clarity of our voices here will give guidance to those who enforce the law so that is the implementation and the execution of it is not in a way that is so risk averse as to be counterproductive.

We can do better than the current law, but it is hard to do worse than the legislation being proposed by the gentleman from California (Mr. POMBO). That is why my colleague, the gentleman from California (Mr. GEORGE MILLER), joined by a group of Members and also the gentleman from New York (Mr. BOEHLERT), taking the lead on the Republican side, have developed a substitute to this bill that gives landowners assistance and incentives to protect endangered species, strengthens the science behind the Endangered Species Act, and requires improved coordination with the States.

□ 1600

I urge my colleagues to strengthen the Endangered Species Act by voting for a bipartisan substitute and opposing the underlying bill, and in doing so, to truly, as Members of Congress, show our children that we mean it when we say that we all know that everything in nature is connected and it is important to maintain the balance, the web of life.

In Isaiah in the Old Testament, we are told that to minister to the needs of God's creation, and that includes our beautiful environment, is an act of worship. To ignore those needs is to dishonor the God who made us.

Let us minister to the needs of God's creation. Let us support the substitute and oppose the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of the Miller-Boehlert substitute amendment because I believe we will not have a world to live in if we continue our neglectful ways.

The Endangered Species Act has been a guiding force for the preservation of species threatened with extinction for over 30 years. It is vitally important that we not alter it in any way that could result in the protection it provides from being compromised.

The Endangered Species Act is working. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the ESA have been prevented from going extinct, and 68 percent are stable or improving; but the recovery plans in place may need 50 years to restore these to relative abundance.

The amendment would prevent the creation of a mandatory entitlement program for private property owners which is likely to be hugely expensive.

The substitute also restores the role of science in the Endangered Species Act. The underlying bill appears to give the opinions of individuals without any scientific expertise equal standing with those of scientists and repeals protections against hazardous pesticides.

I oppose H.R. 3824 and any efforts to weaken the Endangered Species Act. I support the Miller-Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I would like to thank the chairman of the full committee, the gentleman from California (Mr. POMBO). I rise in opposition to the substitute amendment and in support of the underlying bill. I would like to congratulate the gentleman from California (Mr. POMBO) on many, many years of hard work on this issue.

I have to say, I am astonished to be here today. By my count, the number of Democrats who voted for the underlying bill in committee was greater than the number of Democrats who voted against it. The minority leader just told us that reasonable people can agree that the Endangered Species Act can be improved. I think that is the fundamental starting place, and it is nice to be debating the substitute, because we are talking about a fundamentally defective process.

On the other hand, the underlying bill is a good bill. The substitute has some great defects. In the first place, it raises the regulatory bar. It makes it more difficult. In the second place, the substitute does nothing to provide straightforward answers to property owners. In other words, the fundamental problems, which have caused such division in America, are not dealt with in the substitute bill. They do not provide compensation to a landowner.

If you are a landowner and the town or the State or country builds a highway, the land gets condemned and you get paid for the land. We need to have some kind of a compensatory process, and we do not have that in the substitute bill.

The substitute bill replaces the dysfunctional critical habitat concept with something far worse. They talk about lands necessary for recovery. What that is, I do not know that we can figure that out until we have done a lot of litigation and have been through a great deal of pain in America.

The substitute removes the incentives and creates a voluntary program. And a landowner, after he volunteers, could get 70 percent of his costs back for participating in the program. It does not give him any grants or any contractual rights. It does not pay him for the cost. I urge support of the underlying bill and opposition to the substitute amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I rise in support of the substitute amendment. It will significantly improve the species recovery which is an important part of our negotiating process that led us up to this bill on the floor today.

It will assist landowners in their efforts to conserve species. The substitute will also include a statutory definition of jeopardy that will ensure that Federal agency actions do not diminish recovery. That is a very important part of giving up the critical habitat designation, that we have an improved consultation process and an improved definition of what constitutes jeopardy.

Mr. Chairman, I urge strong support of this bipartisan substitute and, again, opposition to the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I would respectfully disagree with the minority leader that this bill is not Republicans versus Democrats. This is largely east versus west with western Democrats supporting the underlying bill and eastern Republicans opposing.

For me, I would quote from the House Republican majority Committee on the Budget that warned that the underlying legislation "creates a new entitlement program."

This spring, moderates of the Republican Tuesday Group and conservatives of the Republican Study Committee worked together to put forward budget reforms to end deficit spending. The heart of our reform was a prohibition against new entitlement spending. Entitlement spending already makes up two-thirds of all Federal spending. Our deficit, because of Hurricane Katrina and related costs, will top over $500 billion this year; and I do not believe that we can afford a new entitlement program.

I would urge our chairman to reform the provisions in the bill, to keep the spending within the budget, and make it subject to appropriations. The grant portion of this bill that compensates landowners is responsible. The mandated spending portion of the bill is not responsible.

CBO warns that in their score of this bill both costs and litigation will go up under the bill. Following CBO's fiscal advice, I would urge adoption of the more fiscally responsible substitute.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in opposition to the substitute and in favor of the underlying bill.

An amendment offered by the gentleman from California (Mr. RADANOVICH) in committee, which was accepted without objection, will allow local officials to perform vital work needed to prevent the potential threat of catastrophic flooding. I rise in opposition because this needed amendment is stripped out of the substitute.

We know how complex Federal bureaucracy can be, but in times of emergency nothing is more important than human health and safety. My disaster declaration and protection provision in this bill must be preserved.

When critical levee repairs are needed to protect human life, time is of the essence. Appropriate action to repair levees must be done quickly and cannot be delayed by cumbersome paperwork and bureaucracy. The ESA must be made flexible enough to allow timely repair and maintenance of levees before disaster strikes. Any efforts to improve ESA must include this provision which recognizes protecting the public from impending danger must take priority.

The amendment that I offered recognizes that when critical repair, reconstruction, or improvements to levee systems are needed, the Federal Government should not be an impediment to targeted, urgent public safety work that must happen.

The amendment that we offered frees local agencies from lengthy processes only for those projects where critical repairs are needed to avoid the loss of human life due to natural disaster. Current agency regulations only allow for an expedited consultation in a Presidentially declared disaster area for levee repair, but they only allow that after flood waters have topped or broken through levees and devastated the communities that they are designed to protect.

The amendment that we offered in committee is narrowly tailored to give local flood protection officials the same flexibility to make needed repairs; but importantly, it does so before the onset of deadly flooding.

It is ironic that the Fish and Wildlife Service and NOAA Fisheries have recently implemented emergency procedures enabling them to expedite the otherwise lengthy consultation process that has to occur before the reconstruction of levees and other flood protection infrastructure ravaged by Hurricane Katrina. Thank God they did implement these procedures, because time is of the essence.

Remarkably, however, these emergency guidelines are only invoked after disaster strikes. There is no provision under existing law that allows for emergency measures to be taken prior to the onset of danger. The Federal Government will only expedite vital repair work that will protect people from deadly floodwaters if they first suffer the calamity that we are trying to avoid.

My colleague advised in California back in 1990 and 1991, the Corps of Engineers warned the community that their levees needed repair work. It took 6 years. Tragically, right as they got approval, a flood occurred and three people lost their lives. We must not allow this kind of avoidable tragedy to happen again.

The amendment that we offered reflects the commonsense notion that local flood protection districts should not have to haggle with Federal agencies for more than 6 years to repair a levee, particularly when that levee has been designated as posing a potential threat to human life. For that reason, I stand opposed to the substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, reforming the Endangered Species Act is long overdue. Today the House has an opportunity to enact significant improvements to ESA that restore balance and protections to species as well as landowners.

One of the most effective ways to protect species habitat is through development of habitat conservation plans. The bill improves and encourages habitat conservation plans by codifying the no-surprise policy and eliminating unnecessary red tape that required multiple consultations regarding already approved actions.

These important provisions will free up limited government and landowner resources and ultimately improve conservation of species habitat by encouraging more habitat conservation plans.

My district in California is home to a large comprehensive habitat conservation plan both in Riverside and Orange counties. In fact, the West Riverside County Multi-Species Conservation Plan is the largest in the Nation covering over 1 million acres of land. The plan cost tens of millions of dollars to develop, years to put into effect, and will cost upward of $1 billion to implement. Once fully implemented, 500,000 acres in western Riverside County will be set aside for species habitat.

It is our responsibility to ensure when landowners and local authorities undertake an extensive planning like that back in my district, the Federal Government lives up to its part of the agreement. This bill does just that and removes unnecessary regulatory burdens that do nothing to benefit the species.

I just discovered in the Miller-Boehlert substitute that the habitat conservation plans that we put a lot of time in to work out in Southern California may be put at risk. That would be very, very difficult for areas that spent large amounts of money to put this into effect, not to mention time. I want to make sure that we defeat the substitute, and I thank the gentleman from California (Mr. POMBO) for working with me to include language that improves habitat conservation plans.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. MARKEY) for the purpose of a unanimous consent request.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Boehlert-Miller substitute and against the underlying bill.

A major factor forcing threatened and endangered species towards extinction is the loss and deterioration of habitat necessary for survival. We cannot expect a species to recover without first ensuring that it has the habitat in which to do so.

The Majority has just presented us with this manager's amendment to the underlying bill that would delete not only the protections and enforceability afforded under the designation of critical habitat but also the broader habitat protection provided by the jeopardy definition.

We have arrived at a situation where the underlying bill will offer no enforceable protection for the habitat that endangered species need to survive, but will only create a blizzard of unenforceable bureaucratic paperwork which, in the words of Shakespeare, would be "full of sound and fury but signifying nothing."

The Boehlert-Miller substitute would retain the enforceable protections for habitat provided under a strong jeopardy definition and I urge its adoption.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, what possible reason is there for taxpayers to have to pay three, four times for the same protection of endangered species?

Under the bill as written, the taxpayer would have to pay a landowner once for the privileges of not building the casino. That landowner could then sell it to his brother. The taxpayer has to pay his brother a second time for the same project. His brother could sell it to his cousin, and the taxpayer would have to pay a third time for the same casino. This is a failure in drafting. Reject this bill.

□ 1615

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, first of all, to respond to my colleague from Washington, a simple deed restriction takes care of that. They do not go through this and pay and pay and pay and pay. They put it in the deed when they cut the deal, and they pay fair and just compensation for taking somebody's property. That would be stupid to do that over and over. They do that in the deed, and that is a restriction that carries with the property.

Let me talk about a couple of the differences between these two plans and why I support the underlying Pombo bill. Among other things, section 10, page 18, they give 3 years, the government, to come up with a recovery plan. Our plan says 2 years. So if they want to recover species, we say get it done in 2 years with the recovery plan; they say 3.

If my colleagues want to talk about spending, they create a new science board. GS15s, section 20 in the bill, $1 million a year. CBO says we will compensate private property owners to the tune of maybe $6 million in the first 5 years. That is all they score out. This, $1 million a year for bureaucrats, and private property owners are left carrying their own costs. That is not fair and right in America.

So if the Members want bigger bureaucracy, pay GS15s here in Washington, a total of $1 million combined over the year, and they get just as much as we are talking about trying to help out the private property owners.

And if they ask the government for some sort of safe harbor for entering into a habitat conservation program, basically they get back a written determination under our provision that prevents them from being prosecuted, from the government's coming back and double-timing them, saying, yes, go ahead and we will not prosecute if you do everything you said you were going to do. Under the alternative, as I read it, whatever they do, they would have to get an incidental take permit and then they still do not have any kind of protection from the government's coming back again after them.

So what we are trying to do is create cooperative partnerships with private landowners through new conservation programs and give certainty over 10-, 20-, and 30-year periods to recover species and set up recovery programs that would come together in 2 years, not 3, and provide for compensation when somebody loses their farm or a portion thereof just as if a highway ran through it.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CARDOZA), co-author of the underlying bill.

Mr. CARDOZA. Mr. Chairman, I rise at this point to make a clarification and to, again, speak to my opposition to the substitute.

The first clarification is that when the Fish and Wildlife Service compensates an owner for a restriction on his property, it is done through a deed restriction or a fee title. So this claim that subsequent owners can make the same claims against the Fish and Wildlife Service is simply inaccurate. When they buy an easement, they buy a perpetual easement unless the Secretary were to make a mistake, and, simply, that is just not the way we do it in law currently.

The second point, and the main objection that I have to the substitute goes to the fundamental fifth amendment protection under the Constitution that says that when we take someone's property, we compensate them for it. And that is what the Pombo bill does, and that is what the substitute does not do.

I would ask my colleagues to cast an "aye" vote on the underlying bill and oppose the substitute.

The Acting CHAIRMAN (Mr. SIMPSON). The Chair advises Members that the gentleman from California (Mr. GEORGE MILLER) has 3½ minutes remaining, the gentleman from New York (Mr. BOEHLERT) has 3 minutes remaining, and the gentleman from California (Mr. POMBO) has 4 minutes remaining.

The Chair would further advise that the order of closing is the gentleman from New York (Mr. BOEHLERT), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from California (Mr. POMBO).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

This all boils down to a principal difference. There are a number of differences, but a principal difference. The substitute does not have the controversial section 13 in it; the base bill does.

Here is something that could actually happen under section 13. A developer could buy a parcel of land knowing that part of it could not be used because of the presence of endangered species. The developer then could request permission to build, say, a hotel on the property without doing much more than outlining the proposal on the back of an envelope. The developer would not even have to try to get necessary State permits or local zoning variances before submitting a claim.

When the Federal Government says that the hotel could not be built, that developer could get a payment from the government based upon what his appraiser said it was worth without providing much evidence that the project was realistic or serious. Then the developer could propose to build a landfill on the same site and go through the same process again and get money from the government again. Then the developer could propose to build a store on the same site and get money from the government again because the store could not be built.

In the meantime, the developer could proceed with the same project on other portions of the property, make substantial profits on his property, and never have that affect the steady stream of payments coming from the government from what was always known to be a problematic site.

This is no exaggeration, and it shows how right the provision is for abuse. The bill puts the taxpayers at risk. That is why the same concerns that we have expressed to our colleagues on the floor today have been expressed by the administration in the Statement of Administration Policy, which is otherwise supportive of the bill, in part because of the provisions that we also have in our substitute. The Statement of Administration Policy warns: "The new conservation aid program for private property owners provides little discretion to Federal agencies and could result in a significant budgetary impact . . . The bill would affect direct spending. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending." We want to help exercise responsible restraint by eliminating section 13.

Mr. Chairman, there is no doubt about it. The Endangered Species Act has to be revisited. That is the responsible thing to do. The Committee on Resources has put a lot of hard work into and has come up with a product that, in many respects, is just wonderful, necessary. That is why we embrace the product. But section 13 is absolutely, totally unacceptable for a whole lot of very good reasons, and it is unacceptable to the taxpayers of America because, boy, does this impose a burden on them.

I urge support for the substitute. It is responsible. It is bipartisan. It is thoughtful. It eliminates section 13. It provides more opportunity for good science. It emphasizes the need of small property owners, and we want to help them.

Mr. Chairman, I yield back the balance of my time.

Mr. GEORGE MILLER of Florida. Mr. Chairman, I yield myself the balance of my time.

I thank the gentleman from New York (Mr. BOEHLERT), the cosponsor of this legislation, and all the rest of the cosponsors for their support of this amendment. I want to thank all of my colleagues who joined in this debate today, and I think that it is important that we adopt this substitute.

Earlier the gentleman from California (Mr. CARDOZA) got up on the floor, and he was upset that somebody had said that the underlying bill would eviscerate the Endangered Species Act. Yesterday, that statement would have been true. He had a right to be upset. But today when the manager's amendment was offered and was accepted, the Endangered Species Act was eviscerated and let me tell you why: Because the bill, prior to that amendment, contained this language: The term to jeopardize the continued existence means, with respect to any agency action, that action reasonably that would be expected to significantly impede directly or indirectly the conservation long-term of the species in the wild. That language was struck in the manager's amendment when you struck on page 4, strike lines 3 through 11 and redesignate.

The point is this, there is now no statutory protection in law if this bill is passed for the protection of this species because there is no standard of jeopardy. That was not true last night, it was not true this morning, but it is true this afternoon. You can shake your head until the cows come home. The fact of the matter is, that is what took place in this amendment. So the evisceration is now complete because there is no standard in the bill for jeopardy.

Ladies and gentlemen, it is important that we accept this amendment, this bipartisan substitute, because this is our last best chance to hold on to what this Nation holds dear, and that is the protection and the diversity of the species that inhabit this Nation, and the effort that we have made as a Nation to make sure that our actions and governmental actions, and the actions of others, do not destroy and bring to extinction these species.

Those protections that we have provided since the inception of this act when the gentleman from Michigan (Mr. DINGELL) and the gentleman from Wisconsin (Mr. OBEY) and others were here to support it, those protections have served this Nation well. We have a chance today to have a commonsense reform of that effort. Yes, this act should be changed; it is 30 years old, and we are about to do that with this substitute, because we provide the balance for the protection of these species and the protection of the landowners. What we do not do is what they do in the underlying bill; that, if a landowner has a proposal and a notion of how he might want to use his or her land, the Secretary then has to make a determination of whether or not a take might be possible.

No take is required. The Secretary makes no scientific study, makes no scientific investigation, just makes a determination. Does the landowner sue on that? Does the government sue to protect themselves? Then, if the Secretary says so, the landowner is compensated no longer by fair appraisals, because appraisals only bind the Secretary, they do not bind the landowner. Pretty soon, the U.S. Attorney is going to have to go in to protect the treasury of the United States because, as the gentleman from Illinois (Mr. KIRK) pointed out, this is a new entitlement with direct spending. That is why the Bush administration says that it will generate new litigation, further divert agency resources, and have significant budgetary impact, because that is what they have done.

That is why the substitute provides you the means by which to reform, streamline, and make more efficient the Endangered Species Act at the same time, while protecting not only the landowners, but also protecting the taxpayers of this Nation from a raid on their Treasury when, in fact, no take has taken place.

We all share the gentleman from California's concerns and beliefs that, when your land is taken, you should be reimbursed; when your land is not taken, you should not be reimbursed.

I ask support of the Boehlert/Miller substitute.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

Well, GEORGE, we have come a long ways. We have come a long ways, because, as you know, I have been working on this since I got here, and when I first started, all I heard was there is nothing wrong with the act that a little bit more money would not solve. Here we are today, everybody saying that there is problems with the law and we have to fix it. So we have come a long ways, and I am being attacked for spending more money under the act on the reauthorization.

First of all, I wanted to respond to your comments on jeopardy. We stay with current law. That is what is in the bill, is current law. We stay with current law. We had a different definition in the bill originally, and that caused the administration to say that it would result in new litigation, so we said we will stay with current law; and that eviscerates the act, staying with current law that they have so dutifully defended.

I have heard here today that the underlying bill guts, eviscerates, euthanizes, is unreasonable, and then I get a handout that talks about how much the substitute is like the base bill. When it comes to critical habitat, both bills use identical language. When it comes to providing certainty for landowners, both bills contain identical language. When it comes to providing incentives for landowners, both bills contain identical language, and on and on and on, about how much alike the bills are; and yet they gut, eviscerate, euthanize, and they are unreasonable.

The gentleman from New York (Mr. BOEHLERT) I think is right about this: The real difference between the two bills is how private property rights is protected.

The gentleman from West Virginia (Mr. RAHALL) and I spent months debating the meaning of a word, and we finally came pretty close to getting a bill put together. The substitute represents, I think, a step back in the negotiations in that everything that you wanted that you did not get, you put in the substitute; change the words a little bit so that they really do not mean anything. There is no protection for private property owners. I remember 10 years ago, I introduced a bill on endangered species, and one of the major provisions in that bill was to utilize public lands, and I got ripped over it because 90 percent of the species have their habitat on private land. You cannot just put the focus on public lands. You cannot. But if it is going to work, if we are truly going to put the focus on recovery, if we are truly going to try to bring these species back from the brink and do the responsible thing, private property owners have to be part of the solution.

We hear a lot of horror stories about things that have happened in my district and Mr. CARDOZA's district and Mr. COSTA's district and Mr. BACA's district, in your district, Mr. MILLER.

☐ 1630

If you do not do something to protect the property owners, those stories are never going to stop. The act has been a failure in recovering species. Now we can all agree.

When it comes to protecting private property owners, regardless of what all the hot rhetoric is, what the underlying law says is that if you meet State and local zoning laws, if you go through the process of getting that approval, then you have something. If you are a farmer farming your land and they tell you that you cannot farm your land anymore, you can get compensated for agriculture land.

If you are a developer who has gone through the process, gotten your land zoned and they tell you you cannot use it, then that is what you get compensated for. But once land has that restriction on it, whoever buys it cannot come back again and say they want something else, because they know it is restricted.

So this argument is totally out of line and off base. We protect private property owners. That is what leads to recovery. The substitute just does not.

Vote against the substitute, support the base bill, and let us move on with some decent legislation.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. SIMPSON). The Chair would advise all Members that it is improper to walk in front of a Member in the well who has the floor.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in opposition to the Threatened

Endangered Species Act, the so-called "reform" that will dismantle our Nation's most fundamental wildlife protection law and in support of the bipartisan Miller, Boehlert, Dingell, Gilchrest, Dicks, Saxton, Tauscher, Kirk Substitute. I am disappointed at the missed opportunity for the House to strike a real balance in the protection of rare species facing extinction and landowners from future government constraints.

While I agree that the current Endangered Species Act, ESA, needs improvements and updating, the controversial bill before us today does little to improve the current ESA. Among other things, the Threatened and Endangered Species Act would remove the federal protection of critical habitats that are necessary for the recovery of a species. I also find it extremely disturbing that my colleagues are so intent on establishing an entirely new entitlement program to pay landowners for compliance at the taxpayers' expense at the same time they are working so hard to privatize entitlement programs like Medicare and Social Security.

I believe there is more we can do to support the goals of the ESA. That is why I support the bipartisan substitute amendment offered by Representative GEORGE MILLER and Representative SHERWOOD BOEHLERT. This compromise amendment would proactively conserve species using both real science standards and conservation incentives for landowners. This amendment maintains several provisions in the underlying bill, but would, among other things, take a more comprehensive approach to recovery plans and create an advisory board to provide scientific advice to the Interior Department about applying the best science when enforcing endangered species law.

It took decades for many of our Nation's species to reach the point of extinction. It is unrealistic to propose that there will be a quick fix to the recovery of animals and plants facing decline. For over 30 years, the ESA has been a work in progress. Now is not the time to turn back the clock on wildlife protection.

Environmental preservation is about self-preservation and about the land we are leaving our children. As Members of Congress, as responsible citizens, I urge my colleagues to join me in supporting real reforms to the ESA by supporting the bipartisan substitute amendment and rejecting the underlying bill.

Mr. KIND. Mr. Chairman, the Endangered Species Act remains an enduring testament to the importance the American people place on preserving plant and animal species for future generations. That sentiment was reflected in President Richard Nixon's words during his signing of the Act on December 28, 1973 when he said, "Nothing is more priceless and more worthy of preservation than the rich array of animal life with which our country has been blessed. It is a many-faceted treasure, of value to scholars, scientists, and nature lovers alike, and it forms a vital part of the heritage we all share as Americans."

I am also reminded of the wisdom of my recently passed friend and hero, Senator Gaylord Nelson, who said, "We must recognize that we're all part of a web of life around the world. Anytime you extinguish a species, the consequences are serious." Thankfully today, citizens can see firsthand in every State the progress being made in bringing wildlife back from the brink of extinction.

For example, In Wisconsin, for the first time since its 1991 listing as an endangered species, the winged mapleleaf mussel, a species found only in a small area of the St. Croix River, have been found to be slowly rebuilding their numbers. Another success of the ESA is the Karner blue butterfly. Although 99 percent or more of the Karner blue butterfly's range has been destroyed, Wisconsin helped bring the species back using a conservation plan that takes into account the butterfly's entire life cycle. The State's project, which involves 38 public and private partners, began after the butterfly was listed as endangered in 1992. Lastly, perhaps best known, is that bald eagles are increasing in Wisconsin, where 645 pairs occupied territories in 1997, up from 358 in 1990. In fact, since eagles are relatively numerous in Wisconsin, the State has donated them to other areas from which they have vanished, including to the Nation's Capital—Washington, DC.

I mention these successes because many of the comments made on the floor today cast ESA as an unmitigated failure. I don't believe that is the case at all; and the scientific journal, Ecology Letters, recently published a study of the status of threatened and endangered species that showed more than half on the list for 5 years or more have either stabilized or are improving.

That said, I agree with my friend and colleague, Congressman JOHN DINGELL, author of the original ESA in 1973, that this landmark bill could use an update—that it could be and should be strengthened in ways that cuts bureaucratic red tape, broadens stakeholder participation, and most importantly better facilitates the revival of more threatened and endangered species.

Mr. Chairman, the bipartisan substitute does a substantially better job in these areas. For instance, it is widely agreed the ESA has done a good job in preventing the extinction of many species but it has been less successful in bringing about "the recovery of listed species to levels where protection under the Act is no longer necessary." I believe it is crucial the legislation provides for the development of strong, comprehensive recovery plans within a short period of time after a species is listed as threatened or endangered.

The Boehlert substitute, like the base bill, would repeal the current requirement that the Secretary designate "critical habitat" for endangered fish, wildlife, and plants before formulating a plan for species recovery. But it adds crucial language requiring the Secretary to identify—during a 3-year recovery planning process—lands that are necessary for the conservation of the species—first on public lands and then, if necessary, on private lands.

I also agree that private landowners have been required by ESA to individually shoulder too much of the burden. More than two-thirds of threatened and endangered species reside on private lands where the Endangered Species Act is least effective. It is imperative landowners be regarded as part of the solution and given the tools and incentives necessary to engender their help and support. I believe we should have at least considered expanding the Habitat Conservation Plan Land Acquisition Program in H.R. 3824 which has proven itself effective in reducing conflicts between the conservation of threatened and endangered species and land development and use. That, unfortunately, is not in the base bill.

Instead, H.R. 3824 provides a new, uncapped entitlement program in Section 13 that will only plunge our Nation's finances deeper in the red, and then prohibits common-sense steps that could at least provide some protection to the taxpayer. For example, under H.R. 3824 the government can be forced to pay out repeated claims for different proposals to use the exact same piece of property. These claims don't even need to be backed up by proof of compliance with State or local land use laws. And instead of lessening the number of ESA related lawsuits, even CBO has stated this provision is likely to increase the amount of litigation.

In contrast, the Boehlert substitute would establish a land owner incentive program that would operate much like a Farm Bill conservation program, with 70 percent cost sharing. From EQIP it adds language that would require the Secretary to maximize the conservation benefit for every dollar expended, put Federal money where it will do the most good. A technical assistance program would be established, and the safe harbor regulations would be codified.

Mr. Chairman, I urge my colleagues to support the responsible, bipartisan Boehlert substitute that answers the concerns of landowners, States, and sportsmen, while improving the ability to achieve timely recovery of endangered and threatened fish, wildlife, and plants. Let's mend it in light of past experience and the demands of modern times, but let's do it responsibly—support the substitute.

Mr. BLUMENAUER. Mr. Chairman, I rise in reluctant support of this amendment. I have serious concerns about the changes to the current Endangered Species Act being discussed today, both in the underlying bill and this amendment. I am especially frustrated that both bills repeal the critical habitat provisions of the ESA, which are crucial to the recovery of species. I plan to vote against final passage of any legislation that repeals this important provision.

But I will support the bipartisan substitute amendment by my colleagues Mr. MILLER and Mr. BOEHLERT because it is an honest effort to present an alternative. It does not include the most egregious parts of H.R. 3824 which make a mockery of science and conservation.

Ms. ESHOO of California. Mr. Chairman, I rise to oppose the Pombo bill and in support of the reforms in the substitute amendment offered by Representatives GEORGE MILLER and SHERWOOD BOEHLERT.

The Endangered Species Act is a cornerstone of environmental protection. I'm very proud that one of my predecessors in the Congress, Pete McCloskey, was a leader in enacting this bipartisan law.

After more than 30 years, it's worth reevaluating and updating this law to better meet its objectives. I understand some of the frustrations that constituents have with the current law, but I don't think we should throw "the baby out with the bathwater" as the underlying bill would do.

While critics rightfully point out that we need to do more to help endangered species recover so they can be removed from the endangered list, the fact is the Endangered Species Act has been highly successful, with 99 percent of species listed under the ESA being saved from extinction.

I have very deep concerns about the bill before us today.

First, the bill requires the Federal Government to pay developers' costs in complying with the Endangered Species Act whenever even a portion of a property is impacted. There's no limit on the compensation payments that would be paid. The Congressional Budget Office has said this is a new entitlement that will increase spending by billions of dollars and establish a dangerous precedent. Imagine, for example, the Federal Government paying a factory owner for the costs of complying with the Clean Air Act when a decision is made to expand the plant. That's the principle this bill will establish. It's an extraordinary mistake.

Second, the bill removes protections against the use of hazardous pesticides. It's estimated that 67 million birds die each year from the effects of pesticides. These protections must be kept in place. One of the reasons the Endangered Species Act was adopted in the first place was to address declines in the population of the bald eagle caused by DDT.

Third, the bill strips the National Oceanic and Atmospheric Administration of its role in administering the Endangered Species Act, transferring it to the Department of Interior with no assurance whatsoever that this agency will have the resources or the expertise to take on this responsibility.

Fourth, the bill reduces the role of science by ending the current requirement that Federal agencies consult with wildlife biologists before undertaking actions that might harm endangered species.

The Miller-Boehlert Substitute makes great sense if we want to capitalize on the successes and the lessons of the last 30-plus years.

The substitute will repeal the current requirement that the Secretary designate "critical habitat" for endangered fish, wildlife, and plants *before* formulating a plan for species recovery. Instead, the substitute requires real habitat recovery efforts to conserve rare and threatened fish and wildlife. It ensures that recovery plans include the best possible science and that they're enforceable.

The substitute directs the Secretary to first determine whether public lands are sufficient to protect and save the endangered species before taking other measures that will impact private landowners.

The substitute will help small landowners who may not have the resources to comply with the Act. It will provide dedicated funding for technical assistance for these private property owners and establish a conservation grants program for landowners who help conserve the species on or near their property. It contains requirements that private citizens get timely answers from ESA enforcement agencies and insists on reporting requirements so that we know how many applications are really going unanswered.

The reforms in the substitute make sense and they should be adopted. The base text should be rejected.

The ACTING CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 216, not voting 11, as follows:

[Roll No. 505]

AYES—206

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Petri
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu
Wynn

NOES—216

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Fattah
Gutierrez
Harman
Hobson
Lee
Paul
Payne
Towns

□ 1653

Ms. GRANGER, Mr. BRADY of Texas, and Mr. ADERHOLT changed their vote from "aye" to "no."

Mr. RANGEL changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. SIMPSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, pursuant to House Resolution 470, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. POMBO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 3824 will be followed by 5-minute votes on passage of H.J. Res. 68 and suspending the rules and agreeing to H. Con. Res. 178.

The vote was taken by electronic device, and there were—ayes 229, noes 193, not voting 11, as follows:

[Roll No. 506]

AYES—229

Abercrombie
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)
Young (FL)

NOES—193

Ackerman
Allen
Andrews
Baird
Baldwin
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Fitzpatrick (PA)
Foley
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Fattah
Gutierrez
Harman
Hobson
Lee
Paul
Payne
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised that two minutes remain in this vote.

☐ 1712

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FATTAH. Mr. Speaker, a prior commitment kept me from voting on H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005. If present, I would have voted "yea" for the Democratic amendment offered by MILLER, DINGELL, DICKS, TAUSCHER, BOEHLERT, GILCHREST, and SAXTON. Please let the record reflect that I would voted "nay" on final passage of H.R. 3824.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1778. An act to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

CONTINUING APPROPRIATIONS FISCAL YEAR 2006

The SPEAKER pro tempore. The pending business is the vote on passage of House Joint Resolution 68 on which the yeas and nays are ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 348, nays 65, not voting 20, as follows:

[Roll No. 507]

YEAS—348

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—65

Baldwin
Blumenauer
Boucher
Brady (PA)
Capps
Capuano
Carson
Clay
Conyers
Costello
Crowley
DeFazio
DeGette
DeLauro
Doyle
Emanuel
Farr
Filner
Ford
Frank (MA)
Green (WI)
Grijalva
Hinchey
Holt
Honda
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Larson (CT)
Lewis (GA)
Markey
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
Meehan
Miller, George
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Pastor
Ryan (OH)
Ryan (WI)
Sanders
Schakowsky
Scott (VA)
Stark
Tierney
Udall (NM)
Velázquez
Waters
Watt
Weiner
Woolsey
Wu

NOT VOTING—20

Berman
Boswell
Brady (TX)
Buyer
Culberson
Cummings
Davis (FL)
Delahunt
English (PA)
Fattah
Gallegly
Gutierrez
Harman
Hobson
Lee
Miller, Gary
Paul
Payne
Petri
Towns

□ 1720

Mr. LARSON of Connecticut and Mr. CROWLEY changed their vote from "yea" to "nay."

Mr. VISCLOSKY and Ms. JACKSON-LEE of Texas changed their vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING THE NEED TO PURSUE RESEARCH INTO CAUSES, TREATMENT AND CURE FOR IDIOPATHIC PULMONARY FIBROSIS

The SPEAKER pro tempore (Mr. THORNBERRY). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 178, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 178, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 32, as follows:

[Roll No. 508]

YEAS—401

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)

Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—32

Ackerman
Berman
Boswell
Cardoza
Culberson
Cummings
Davis (FL)
Delahunt
DeLay
Doolittle
Emerson
Fattah
Gallegly
Gutierrez
Harman
Hobson
Kilpatrick (MI)
Lee
Lofgren, Zoe
Lynch
McNulty
Miller (FL)
Miller, Gary
Miller, George
Paul
Payne
Petri
Ros-Lehtinen
Scott (GA)
Shadegg
Stark
Towns

☐ 1730

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, due to a family illness, I was absent from this Chamber today.

I would like the RECORD to show that, had I been present, I would have voted "nay" on rollcall votes Nos. 502 and 506. I would have also voted "yea" on rollcall votes Nos. 503, 505, 507 and 508.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal reasons require my absence from legislative business following 5:10 p.m. today, Thursday, September 29, 2005. Had I been present, I would have voted "aye" on H.J. Res. 68, making continuing appropriations for fiscal year 2006 (rollcall No. 507); and "aye" on H. Con. Res. 178, recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes (rollcall No. 508).

CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes:

CONFERENCE REPORT (H. REPT. 109-241)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360) "making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $79,409,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That, not more than 180 days from the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives an integrated immigration enforcement strategy to reduce the number of undocumented aliens by ten percent per year based on the most recent United States Census Bureau data.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

For necessary expenses of the Office of Screening Coordination and Operations, $4,000,000.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $168,835,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $19,405,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $297,229,000; of which $75,756,000 shall be available for salaries and expenses; and of which $221,473,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days from the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded by the "Office of the Chief Information Officer", or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: Provided further, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 180 days from the date of enactment of this Act, a report that has been approved by the Office of Management and Budget and reviewed by the Government Accountability Office that includes: (1) an enterprise architecture, (2) an Information Technology Human Capital Plan, (3) a capital investment plan for implementing the enterprise architecture, and (4) a description of the information technology capital planning and investment control process.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. et seq.), $255,495,000, to remain available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended: Provided, That of the total amount made available under this heading, $159,658,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,826,323,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $163,560,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: Provided further, That of the total amount provided, $10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives all required reports related to air and marine operations: Provided further, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: Provided further, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $456,000,000, to remain available until expended, of which not less than $320,000,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds made available under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $400,231,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $270,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $35,000,000 shall be available for the San Diego sector fence; $35,000,000 shall be available for Tucson sector tactical infrastructure; and $26,000,000 shall be available for the Advanced Training Center.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,740 (2,000 for replacement only) police-type vehicles; $3,108,499,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,000,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $6,000,000 shall remain available until expended: Provided further, That of the amounts appropriated, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a national detention management plan, including the use of regional detention contracts and alternatives to detention.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $487,000,000, shall be available until expended *for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.*

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $40,150,000, to remain available until expended: Provided, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,607,386,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $3,605,438,000 shall be for screening operations, of which $175,000,000 shall be available only for procurement of checked baggage explosive detection systems and $45,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $1,001,948,000 shall be for aviation security direction and enforcement presence: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,617,386,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2007: Provided further, That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by section 44923(h) of title 49 United States Code, or from appropriations authorized under section 44923(i)(1) of title 49 United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: Provided further, That heads of Federal agencies and commissions shall not be exempt from Federal passenger and baggage screening: Provided further, That reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for these purposes: Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $36,000,000, to remain available until September 30, 2007.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Vetting and Credentialing, $74,996,000, to remain available until September 30, 2007.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $510,483,000, to remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $5,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives: (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and reduce long-term costs; and (2) a detailed expenditure plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: Provided further, That these plans shall be submitted no later than 60 days from the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $686,200,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); and recreation and welfare; $5,492,331,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

In addition, of the funds appropriated under this heading in Public Law 108–11 (117 Stat. 583), $15,103,569 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,141,800,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $18,500,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $20,000,000 shall be available until September 30, 2010, to increase aviation capability; of which $65,000,000 shall be available until September 30, 2008, for other equipment; of which $31,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $73,500,000 shall be available for personnel compensation and benefits and related costs; and of which $933,100,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2007 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within the Deepwater appropriation under this heading; a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets; and the earned value management system gold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That *the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—*

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $15,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,750,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,208,310,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,389,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,500,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: Provided further, That of the total amount appropriated, not less than $2,500,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, $16,079,000: Provided, That not to exceed $7,000 shall be for official reception and representation expenses.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

For necessary expenses for the Office for Domestic Preparedness, $5,000,000.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,501,300,000, which shall be allocated as follows:

(1) $550,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(2) $1,155,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $765,000,000 shall be for use in high-threat, high-density urban areas: Provided, That $25,000,000 shall be available until expended for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack, and that these determinations shall not be delegated to any Federal, State, or local government official: Provided further, That the Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives the threat to each designated tax exempt grantee at least 3 full business days in advance of the announcement of any grant award;

(B) $175,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on risk and threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(C) $5,000,000 shall be for trucking industry security grants;

(D) $10,000,000 shall be for intercity bus security grants;

(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $346,300,000, for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the proceeding proviso shall not apply to grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: Provided further, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for Domestic Preparedness certified training, as needed: Provided further, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office for Domestic Preparedness shall issue the final National Preparedness Goal no later than December 31, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office for Domestic Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005: Provided *further, That the Government Accountability Office shall review the validity of the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds, and report to the Committees on Appropriations of the Senate and the House of Representatives on the findings of its review by November 17, 2005: Provided further, That within seven days from the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the threat and risk methodology and factors that will be used to allocate discretionary grants funded under this heading.*

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $655,000,000, of which $545,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $110,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $185,000,000: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by 15 U.S.C. 2201 et seq. and 6 U.S.C. 101 et seq., $44,948,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $625,499,000, of which $542,157,000 shall remain available until September 30, 2007.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $2,000,000, to remain available until expended: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, $221,240,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities, $204,058,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount made available under this heading, $20,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,770,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed $40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed $10,000,000 for mitigation actions under section 1323 of such Act; and not to exceed $99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2006, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $660,148,000 for commissions and taxes of agents; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $40,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $50,000,000, to remain available until expended: Provided, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $115,000,000: Provided, That the Director of United States Citizenship and Immigration Services shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days from the date of enactment of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $194,000,000, of which up to $42,119,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $88,358,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,099,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $1,420,997,000, to remain available until expended: Provided, That of the total amount provided under this heading, $23,000,000 is available to select a site for the National Bio and Agrodefense Facility and perform other pre-construction activities to establish research capabilities to protect animal and public health from high consequence animal and zoonotic diseases in support of Homeland Security Presidential Directives 9 and 10: Provided further, That of the amount provided under this heading, $318,014,000 shall be for activities of the Domestic Nuclear Detection Office, of which $125,000,000 shall be for the purchase and deployment of radiation portal monitors for United States ports of entry and of which no less than $81,000,000 shall be for radiological and nuclear research and development activities: Provided further, That excluding the funds made available under the preceding proviso for radiation portal monitors, $144,760,500 of the total amount made available under this heading for the Domestic Nuclear Detection Office shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan for the Domestic Nuclear Detection Office: Provided further, That the expenditure plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

(e) Hereafter, notwithstanding any other provision of law, notifications pursuant to this section or any other authority for reprogramming or transfer of funds shall be made solely to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the "Department of Homeland Security Working Capital Fund", except for the activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network: Provided, That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic *and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.*

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. The Secretary of Homeland Security shall take all actions necessary to ensure that the Department of Homeland Security is in compliance with the second proviso of section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and House of Representatives biweekly beginning on October 1, 2005, on any reasons for non-compliance: Provided, That, furthermore, the Secretary shall take all possible actions, including the procurement of certified systems to inspect and screen air cargo on passenger aircraft, to increase the level of air cargo inspected beyond that mandated in section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and the House of Representatives every six months on the actions taken and the percentage of air cargo inspected at each airport.

SEC. 514. Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

SEC. 515. For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 517. Hereafter, notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(d) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(e) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 521. None of the funds appropriated by this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 522. None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

SEC. 523. The Department of Homeland Security processing and data storage facilities at the John C. Stennis Space Center shall hereafter be known as the "National Center for Critical Information Processing and Storage".

SEC. 524. The Secretary, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 525. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: Provided, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

SEC. 526. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: Provided, That no funding can be obligated for the next phase of production until the Committees on Appropriations of the Senate and the House of Representatives have been fully briefed on the results of the prototype phase and agree that the program should move forward.

SEC. 527. (a) From the unexpended balances of the United States Coast Guard "Acquisition, Construction, and Improvements" account specifically identified in the Joint Explanatory Statement (House Report 108–10) accompanying Public Law 108–7 for the 110–123 foot patrol boat upgrade, the Joint Explanatory Statement (House Report 108–280) accompanying Public Law 108–90 for the Fast Response Cutter/110–123 foot patrol boat conversion, and in the Joint Explanatory Statement (House Report 108–774) accompanying Public Law 108–334 for the Integrated Deepwater System patrol boats 110-123 foot conversion, $78,630,689 are rescinded.

(b) For necessary expenses of the United States Coast Guard for "Acquisition, Construction, and Improvements", an additional $78,630,689, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and accelerated design and production of the Fast Response Cutter.

SEC. 528. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

SEC. 529. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared pursuant to paragraph (5) of such section.

SEC. 530. No funding provided by this or previous appropriation Acts shall be available to *pay the salary of any employee serving as a contracting officer's technical representative (COTR) or anyone acting in a similar or like capacity who has not received COTR training.*

SEC. 531. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration "Aviation Security" and "Administration" in fiscal years 2004 and 2005 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems: Provided, That these funds shall be subject to section 503 of this Act.

SEC. 532. Not later than 60 days from the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a survey of all ports of entry in the United States and designate an airport as a port of entry in each State that does not have a port of entry.

SEC. 533. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable the city to repair and upgrade all damaged and undamaged elements of the Carnegie Library in the City of Paso Robles, California, which was damaged by the 2003 San Simeon earthquake, so that the library is brought into conformance with all local code requirements for new construction: Provided, That the appropriate Federal share shall apply to approval for this project.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program costs for the damage to canals and wooden flumes, which was incurred during a 1996 storm and subsequent mudslide in El Dorado County, California, to the El Dorado Irrigation District, based on fifty percent of the costs of the Improved Project for the Mill Creek to Bull Creek tunnel proposed in a November 2001 Carleton Engineering Report: Provided, That the appropriate Federal share shall apply to approval for this project.

SEC. 535. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable replacement of research and education materials and library collections and for other non-covered losses at the University of Hawaii Manoa campus, Hawaii, resulting from an October 30, 2004, flood event.

SEC. 536. Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended by striking "the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))," and inserting "the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm,".

SEC. 537. Using funds made available in this Act, the Secretary of Homeland Security shall provide that each office within the Department that handles documents marked as Sensitive Security Information (SSI) shall have at least one employee in that office with authority to coordinate and make determinations on behalf of the agency that such documents meet the criteria for marking as SSI: Provided, That not later than December 31, 2005, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives: (1) Department-wide policies for designating, coordinating and marking documents as SSI; (2) Department-wide auditing and accountability procedures for documents designated and marked as SSI; (3) the total number of SSI Coordinators within the Department; and (4) the total number of staff authorized to designate SSI documents within the Department: Provided further, That not later than January 31, 2006, the Secretary shall provide to the Committees on Appropriations of the Senate and the House of Representatives the title of all DHS documents that are designated as SSI in their entirety during the period October 1, 2005, through December 31, 2005: Provided further, That not later than January 31 of each succeeding year, starting on January 31, 2007, the Secretary shall provide annually a similar report to the Committees on Appropriations of the Senate and the House of Representatives on the titles of all DHS documents that are designated as SSI in their entirety during the period of January 1 through December 31 for the preceding year: Provided further, That the Secretary shall promulgate guidance that includes common but extensive examples of SSI that further define the individual categories of information cited under 49 CFR 1520(b)(1) through (16) and eliminates judgment by covered persons in the application of the SSI marking: Provided further, That such guidance shall serve as the primary basis and authority for the marking of DHS information as SSI by covered persons.

SEC. 538. For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (Division B of Public Law 109–13), $40,000,000, to remain available until expended: Provided, That of the funds provided under this section, $34,000,000 may not be obligated or allocated for grants until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an implementation plan for the responsibilities of the Department of Homeland Security under the REAL ID Act of 2005 (Division B of Public Law 109–13), including the proposed uses of the grant monies: Provided further, That of the funds provided under this section, not less than $6,000,000 shall be made available within 60 days from the date of enactment of this Act to States for pilot projects on integrating hardware, software, and information management systems.

SEC. 539. For activities related to the Department of Homeland Security Working Capital Fund, subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note), is amended by striking "October 1, 2005" and inserting "October 1, 2006".

SEC. 540. For fiscal year 2006 and thereafter, notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: Provided, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended.

SEC. 541. A person who has completed a security awareness training course approved by or operated under a cooperative agreement with the Department of Homeland Security using funds made available in fiscal year 2006 and thereafter or in any prior appropriations Acts, who is enrolled in a program recognized or acknowledged by an Information Sharing and Analysis Center, and who reports a situation, activity or incident pursuant to that program to an appropriate authority, shall not be liable for damages in any action brought in a Federal or State court which result from any act or omission unless such person is guilty of gross negligence or willful misconduct.

SEC. 542. Of the unobligated balances available in the "Department of Homeland Security Working Capital Fund", $15,000,000 are rescinded.

SEC. 543. Of the unobligated balances from prior year appropriations made available for Transportation Security Administration "Aviation Security", $5,500,000 are rescinded.

SEC. 544. Of funds made available for the United States Coast Guard in previous appropriations Acts, $6,369,118 are rescinded, as follows: (1) $499,489 provided for "Coast Guard, Acquisition, Construction, and Improvements" in Public Law 105–277; (2) $87,097 provided for "Coast Guard, Operating Expenses" in Public Law 105–277; (3) $269,217 provided for "Coast Guard, Acquisition, Construction, and Improvements" in Public Law 107–87; (4) $8,315 provided for "Coast Guard, Acquisition, Construction, and Improvements" in Public Law 106–69; and (5) $5,505,000 for "Coast Guard, Acquisition, Construction, and Improvements" in Public Law 108–90.

SEC. 545. Of the unobligated balances from prior year appropriations made available for the "Counterterrorism Fund", $8,000,000 are rescinded.

SEC. 546. Of the unobligated balances from prior year appropriations made available for Science and Technology "Research, Development, Acquisition, and Operations", $20,000,000 are rescinded.

SEC. 547. SECURITY SCREENING OPT-OUT PROGRAM. Section 44920 of title 49, United States Code, is amended by adding at the end the following:

"(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

"(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator's decision not to submit an application; and

"(2) any act of negligence, gross negligence, or intentional wrongdoing by—

"(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

"(B) employees of the Federal Government providing passenger and property security screening services at the airport.

"(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.".

SEC. 548. The weekly report required by Public Law 109–62 detailing the allocation and obligation of funds for "Disaster Relief" shall include: (1) detailed information on each allocation, obligation, or expenditure that totals more than $50,000,000, categorized by increments of not larger than $50,000,000; (2) the amount of credit card purchases by agency and mission assignment; (3) obligations, allocations, and expenditures, categorized by agency, by State, and for New Orleans, and by purpose and mission assignment; (4) status of the Disaster Relief Fund; and (5) specific reasons for all waivers granted and a description of each waiver: Provided, that the detailed information required by paragraph (1) shall include the purpose; whether the work will be performed by a governmental agency or *a contractor, and, if the work is to be performed by a contractor, the name of the contractor, the type of contract let, and whether the contract is sole-source, full and open competition, or limited competition.*

This Act may be cited as the "Department of Homeland Security Appropriations Act, 2006".

And the Senate agree to the same.

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOBLE,
ERNEST J. ISTOOK, JR.,
RAY LAHOOD,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSÉ E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
CHET EDWARDS,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE DOMENICI,
RICHARD SHELBY,
LARRY CRAIG,
ROBERT F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment. The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 109–79 and Senate Report 109–83 should be complied with unless specifically addressed to the contrary in the conference report and statement of managers. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined that the House report and Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further,, in a number of instances, House Report 109–79 and Senate Report 109–83 direct agencies to report to the Committees by specific dates. In those instances, and unless alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than February 10, 2006.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this report.

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $79,409,000 instead of $113,139,000 as proposed by the House and $124,620,000 as proposed by the Senate. Funding shall be allocated as follows:

Immediate Office of the Secretary	$2,393,000
Immediate Office of the Deputy Secretary	1,132,000
Chief of Staff	4,103,000
Executive Secretary	4,131,000
Office of Policy	20,713,000
Office of Public Affairs	8,312,000
Office of Legislative and Intergovernmental Affairs	6,325,000
Office of General Counsel	11,267,000
Office of Civil Rights and Liberties	13,000,000
Citizenship and Immigration Services Ombudsman	3,652,000
Privacy Officer	4,381,000
Total	$79,409,000

DHS REORGANIZATION

Since March 2005, the Department of Homeland Security (DHS) has been conducting an internal review of its policies, operations and organizational structure, known as the "Second Stage Review". On July 13, 2005, the Department announced a major reorganization that reflects the findings of this review. A budget amendment was submitted on July 21, 2005, requesting the appropriations structure be modified for fiscal year 2006 to reflect this reorganization proposal. For the most part, the conferees have complied with these requests. The conferees concur with the Department's decision to abolish the Office of the Under Secretary for Border and Transportation Security (BTS); BTS functions have been merged into other offices and component agencies throughout the Department. The conferees have agreed to split the Directorate of Information Analysis and Infrastructure Protection into two new components—Analysis and Operations and the Preparedness Directorate—and move all State and local grants and associated activities to the new Preparedness Directorate. The conferees concur with the Secretary's recommendation to transfer the Federal Air Marshals to the Transportation Security Administration. Finally, the conferees have included and expanded the roles and responsibilities of the Office of Policy. A more detailed discussion of this reorganization is contained under statement of managers language for each impacted office.

NEW STAFF

The conferees agree to provide funding to support a total of seven new full-time equivalents (FTEs) requested in the budget, including one FTE in the Office of Policy to represent the United States at the European Union, two FTEs in Office of General Counsel, and four FTEs in the Privacy Office. The conferees have approved additional new FTEs for the Office of Security and the Office of National Capital Region Coordination elsewhere in this statement of managers, reflecting changes recommended as a result of the Secretary's organizational restructuring plan submitted on July 13, 2005. The remaining FTEs requested in the budget have been denied due to a large number of unfilled positions in these individual offices. Except for the Privacy Office and the representative to the European Union, the conferees believe full-year funding is not necessary for salaries of employees who are not yet on-board. The conferees have provided half-year funding for new staff in fiscal year 2006.

The conferees, in agreeing to the Secretary's organizational restructuring plan submitted on July 13, 2005, have moved additional staff from other agencies within the Department to various offices within the Office of the Secretary and Executive Management. These changes are discussed separately in each office.

ANNUAL BUDGET JUSTIFICATIONS

For fiscal year 2007, the conferees direct that the Congressional budget justifications for all departmental offices be submitted in the same level of detail as the detailed table contained in the back of this report and in the accompanying classified annex. These justifications should include detailed data and explanatory statements in support of each appropriations request, including tables that detail each departmental office program, project, and activity for fiscal years 2006 and 2007. All funding and staffing changes for each individual office must be highlighted and explained, including separate discussions for personnel, compensation, and benefits; travel; training; and other services. The classified budget documents must be submitted at the same time as the unclassified budget. The justifications must be in compliance with section 1105(a) of title 31, including explicit information by appropriations account program, project, and activity on all reimbursable agreements and all uses of the Economy Act for each fiscal year. The budget justifications shall include a table identifying the last year that authorizing legislation was provided by Congress for each program, project, or activity; the amount of the authorization; and the appropriation in the last year of authorization. Finally, in accordance with section 6025 of Public Law 109–13, the Department is required to submit a complete budget justification for the Working Capital Fund.

OFFICE OF POLICY

The conferees agree to provide $20,713,000 instead of $8,770,000 as proposed by the House and $7,258,000 as proposed by the Senate. The Secretary submitted a new organizational restructuring plan on July 13, 2005, which included major changes to the Office of Policy; the conference agreement reflects these changes. The conferees include the activities of the Special Assistant to the Secretary—Private Sector; Office of Immigration Statistics; 18 FTEs from the Office of the Under Secretary for BTS; and three FTEs from the Directorate of Information Analysis and Infrastructure Protection. The conferees have denied funding for the Operational Integration staff as part of this office or any other entity within DHS.

STOLEN PASSPORTS

The conferees direct the Secretary to report on Departmental actions to prevent and stop the use of stolen passports, as directed in House Report 109–79, under the Office of the Under Secretary for Border and Transportation Security.

OFFICE OF SECURITY

Funding for the Office of Security is provided within the Under Secretary for Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF NATIONAL CAPITAL REGION COORDINATION

Funding for the Office of National Capital Region Coordination is provided within the Preparedness Directorate, Management and Administration account as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

The conferees agree to provide $6,325,000 instead of $5,500,000 as proposed by the House and $5,400,000 as proposed by the Senate. As proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, six FTEs are transferred from the Office of State and Local Government Coordination and Preparedness, Management and Administration account, to the Office of Legislative Affairs for intergovernmental coordination activities. Within the funds provided, $5,400,000 is for legislative affairs and $925,000 is for intergovernmental operations.

OPERATIONAL INTEGRATION STAFF

The conferees agree to provide no funding for the Operational Integration staff, as proposed by the Senate instead of $7,495,000 as proposed by the House. The conferees note the new Office of Policy will perform many of the proposed activities of the Operational Integration staff. For those few functions not adequately covered by the new Policy Office, the conferees include three new FTEs within Analysis and Operations. These additional staff shall be located within the Homeland Security Operations Center to coordinate departmental activities.

OFFICE OF THE PRIVACY OFFICER

The conferees agree to provide $4,381,000 for the Office of the Privacy Officer as proposed by the House instead of $3,981,000 as proposed by the Senate. This funding will support the hiring of four new FTEs. The conferees concur with House report language requiring the Secretary to instruct all DHS entities to respond to information and document requests from the Privacy Officer within the requested time frame.

OFFICE OF CIVIL RIGHTS AND CIVIL LIBERTIES

The conferees agree to provide $13,000,000 for the Office of Civil Rights and Civil Liberties and direct this office to hire ten additional staff to fulfill requirements of the Intelligence Reform and Terrorism Prevention Act (Public Law 108–458), as discussed in the Senate report.

REPORTING REQUIREMENTS

While DHS has made progress in submitting reports to the Committees on Appropriations, there are many that are still overdue. DHS is to improve its responsiveness to Congress and better monitor the status of reports requested in this statement of managers and previous House and Senate reports. For reports that cannot be issued by the due date, the conferees direct DHS to inform the Committees in a timely manner, explain the reason for the delay, and seek the concurrence of the Committees on a new issuance date.

IMMIGRATION ENFORCEMENT

Both the House and Senate reports highlighted the alarming statistics regarding our Nation's broken immigration system. In the context of threats facing our Nation, the disturbing growth in our illegal alien population shows immigration enforcement and border control are not succeeding. The conferees agree with the Sense of the Senate proviso expressed in section 519 of the Senate bill, which recognizes the reality of terrorists taking advantage of inadequate security along our border with Mexico, and the need for the Government of Mexico to improve border and security policies on its side of the border. The conferees include bill language directing the Secretary to develop a comprehensive immigration enforcement strategy that results in reducing the number of undocumented aliens in the United States by ten percent per year and direct that the strategy be in accordance with House Report 109–79. The funding is not contingent on the submission of this strategy to Congress as proposed by the House. Further, the conferees direct the report on the internal transport of illegal aliens requested in House Report 109–79 from the Under Secretary of Border and Transportation Security be included in the comprehensive immigration enforcement strategy report.

The conferees direct the Secretary to assume responsibility for the joint report between DHS and the U.S. Department of Justice on reducing absconders required by Senate Report 109–83, and submit the report not later than February 10, 2006.

CARGO CONTAINER SECURITY

The report submitted by the Department on June 9, 2005, was late and did not fully respond to directions of the statement of managers accompanying the conference report (H. Report 108–774) on the fiscal year 2005 Department of Homeland Security Appropriations Act (P.L. 108–334). The Department is directed to conduct the review again and submit a new report that fully complies with those requirements as soon as possible, but no later than February 10, 2006.

TRANSPORTATION SECURITY

In September 2005, the Department submitted its integrated strategic transportation security plan. With the recent events in London, it is even more critical the Department quickly begin to implement strategies outlined in this plan. The conferees direct the Secretary to update the Committees on Appropriations every six months on what progress has been made to enhance transportation security as outlined in the plan. The first update is due March 1, 2006.

GENERAL AVIATION SECURITY

The Secretary, in coordination with the Secretary of Transportation, shall submit a report to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Government Affairs; and the House Committee on Homeland Security no later than 120 days from the date of enactment of this Act on the vulnerability posed to high-risk areas and facilities from general aviation aircraft that could be stolen or used as a weapon against those areas. Such areas to be considered include those with critical transportation infrastructure, nuclear facilities, military bases, and other highly populated areas with similarly situated critical infrastructure. The report shall include: an analysis of what security vulnerabilities exist at general aviation airports that would permit a general aviation aircraft to be stolen and used as a weapon; whether existing security precautions to prevent breaches of flight lines, perimeters, and aircraft are sufficient; and any additional security measures that could increase the security of general aviation aircraft and airports.

CHEMICAL SECURITY

The conferees are pleased by the Department's recent endorsement of mandatory security requirements for the chemical sector and believe enforceable Federal standards to protect against a terrorist attack on chemical facilities within the United States are necessary. Despite testimony from the Director of Central Intelligence that the chemical industrial infrastructure is vulnerable to a terrorist attack, no federal security measures have been established for the chemical sector. The Department has concluded that, from a regulatory perspective, the existing patchwork of authorities does not permit the effective regulation of the chemical industry. Yet, no legislation has been proposed by the Department to give it such authority. The conferees direct the Secretary to submit a report to the Committees on Appropriations by February 10, 2006, on the resources needed to implement mandatory security requirements for the Nation's chemical sector and to create a system for auditing and ensuring compliance with the security standards. The report should also include a description of the security requirements and any reasons why the requirements should differ from those already in place for chemical facilities that operate in a port zone.

AWARDING OF GRANTS

Consistent with the Senate report, the conferees direct the Department to submit a report by February 10, 2006, providing an expedited schedule for award of grant funds made available by this Act, and for any prior year funds that remain unobligated. For those grant funds awarded after March 30, 2006, the conferees direct the Department to submit a detailed explanation for the delay.

QUADRENNIAL HOMELAND SECURITY REVIEW

The conferees agree there are benefits for the Department of Homeland Security in conducting a Quadrennial Homeland Security Review similar to the quadrennial reviews conducted by the Department of Defense. The conferees encourage the Department to conduct such a review consistent with the terms and conditions listed in section 523(a) through (c) of the Senate bill. The review should be submitted to the House and Senate Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than September 30, 2008.

DATA MINING

The conferees continue to be concerned with the Department's possible use or development of data-mining technology and direct the DHS Privacy Officer to submit a report consistent with the terms and conditions listed in section 528 of the Senate bill.

WORKFORCE DIVERSITY

The conferees urge the Department to make every reasonable effort to ensure diversity in its workforce, procurement, and research partnerships. The conferees also urge the Department to strive to create partnerships and participation in the Centers of Excellence program by historically black colleges and universities, Hispanic-serving institutions, Alaska Native serving institutions and tribally-controlled colleges.

BORDER AND TRANSPORTATION SECURITY REPORTING

The conferees agree to eliminate the requirement set forth in the House report for the Under Secretary for Border and Transportation Security (BTS) to report on the roles and responsibilities of BTS agencies.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

The conferees agree to provide $4,000,000 for the management and administration of the Office of Screening Coordination and Operations. The conferees do not agree to transfer United States Visitor and Immigrant Status Indicator Technology, Secure Flight, or any other program activities to this office. These activities are to remain separate and distinct and are funded under other appropriations in this Act.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

The conferees agree to provide $168,835,000 instead of $49,984,000 as proposed by the House and $146,322,000 as proposed by the Senate. Funding shall be allocated as follows:

Under Secretary for Management	$1,687,000
Office of Security	51.278.000
Business Transformation Office	1,880,000
Office of the Chief Procurement Officer	9,020,000
Office of the Chief Human Capital Officer	38,900,000
Office of the Chief Administrative Officer	66,070,000
Total	$168,835,000

NEW STAFF

The conferees agree to provide funding to support a total of 71 new full-time equivalents (FTEs), including 60 FTEs in the Office of Security, ten FTEs in the Office of Administration and one FTE for the Office of the Chief Human Capital Officer. Funding was not provided for the one new FTE requested by the Under Secretary for Management. The conferees believe full-year funding is not necessary for salaries of employees who are not yet on-board and instead have provided half-year funding for the new staff in fiscal year 2006.

BUSINESS TRANSFORMATION OFFICE

The conferees agree to provide $1,880,000 for the Business Transformation Office instead of $948,000 as proposed by the House and $920,000 as proposed by the Senate. Funding levels reflect a transfer of seven FTEs from the Under Secretary for Border and Transportation Security, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF THE CHIEF PROCUREMENT OFFICER

The conferees agree to provide $9,020,000 for the Office of the Chief Procurement Officer. As discussed in the Senate report, the conferees direct the Chief Procurement Officer to use the increased funding to hire and train qualified procurement officers, to report on the number of procurement officers in the Department, including each organization, for fiscal years 2004, 2005, and proposed for 2006, and to provide an assessment of the adequacy of the numbers and training of those personnel.

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

The conferees agree to provide $38,900,000 instead of $61,951,000 as proposed by the House and $61,996,000 as proposed by the Senate. Within the funds provided, $8,900,000 is for salaries and expenses and $30,000,000 is for the new human resource management system, known as MAX-HR. As discussed in the Senate report, the conferees direct the Department to submit a report on the progress made to implement the MAX-HR system. In addition to the total funding available and needed for this program by year, the report shall list all contract obligations and expenditures by contractor by year, along with the purpose of the contract.

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

The conferees agree to provide $66,070,000 instead of $66,356,000 as proposed by the House and $66,801,000 as proposed by the Senate. Within the funds provided, $40,000,000 is for salaries and expenses and $26,070,000 is to consolidate and integrate headquarter operations at the Nebraska Avenue Complex (NAC).

Of the $26,070,000 provided for the NAC, $8,300,000 is for security enhancements, $10,257,000 is for tenant improvements, $3,400,000 is for capital improvements, and $4,113,000 is for campus-wide design and construction costs. The conferees agree to language included in the Senate report directing the Department to update the Committees on Appropriations regularly on the physical consolidation and planned expenditures for the NAC, as well as its plans for a permanent headquarters. These updates should occur as frequently as necessary but not less than quarterly.

OFFICE OF IMMIGRATION STATISTICS

Funding for the Office of Immigration Statistics is provided within the Office of the Secretary and Executive Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF SECURITY

The conferees agree to provide $51,278,000 as proposed by the House instead of $55,278,000 as proposed by the Senate. The conferees agree to move the Office of Security to the Office of the Under Secretary for Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

SENSITIVE SECURITY INFORMATION

The conferees agree to include a general provision (section 537) on Sensitive Security Information (SSI) as proposed by the House. The conferees are concerned that because of insufficient management controls, information that should be in the public domain may be unnecessarily withheld from public scrutiny. The conferees require the Secretary to ensure that each appropriate office has an official with the clear authority to designate documents as SSI and to provide clear guidance as to what is SSI material and what is not. Designation means an original determination made by a limited number of appointed officials pursuant to 49 CFR §1520.5(b(1)-(16)). The conferees direct the Secretary to report to the Committees not later than January 3, 2006, the titles of all documents that are designated by DHS as SSI in their entirety during the period beginning October 1, 2005, and ending December 31, 2005, and a full-year report each year thereafter.

CLASSIFIED AND SECURITY SENSITIVE DOCUMENTS

The conferees direct the Office of Security to ensure the Department's classified and security sensitive documents clearly identify, paragraph-by-paragraph, which paragraphs contain classified information and which do not. This is consistent with actions taken by other federal agencies.

UNOBLIGATED BALANCES

The conferees direct the Under Secretary for Management to submit a report listing all funds transferred to the Department when it was formed that remain unobligated, the purpose for which the funds were appropriated, the reason the funds remain unobligated, and the Department's plans for the use of these funds, as discussed in the Senate report.

WORKING CAPITAL FUND

The conferees agree to include a provision (section 542) that rescinds $15,000,000 from the Department's Working Capital Fund (WCF) instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate.

The conferees direct the Department to use the WCF plan submitted on April 11, 2005, as the base document for funding decisions in fiscal year 2006. The Committees on Appropriations shall be notified and must approve any deviations from that plan. In addition, section 6024 of Public Law 109-13 excludes funding of the Homeland Secure Data Network (HSDN) within the WCF. The conferees continue to support this position and have provided adequate funding for HSDN within the Office of the Chief Information Officer. The WCF should not be used to supplement HSDN without notification and approval of the Committees.

OFFICE OF THE CHIEF FINANCIAL OFFICER

The conferees agree to provide $19,405,000 instead of $18,505,000 as proposed by the House and $18,325,000 as proposed by the Senate. Funding levels reflect a transfer of seven FTEs from the Under Secretary for Border and Transportation Security, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

MONTHLY REPORTING REQUIREMENTS

The Department is directed to submit a monthly budget execution report that includes: the total obligational authority appropriated (new budget authority plus unobligated carryover), undistributed obligational authority, amount allotted, current year obligations, unobligated authority (the difference between total obligational authority and current year obligations), beginning unexpended obligations, year-to-date costs, and year end unexpended obligations. This budget execution information is to be provided at the level of detail shown in the tables displayed at the end of this report for each Departmental component and the Working Capital Fund. This report must be submitted to the Committees on Appropriations no later than 45 days after the close of each month.

OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $297,229,000 for the Office of the Chief Information Officer (CIO) instead of $303,700,000 as proposed by the House and $286,540,000 as proposed by the Senate. Funding shall be allocated as follows:

Salaries and Expenses	$75,756,000
Information Technology Services	83,444,000
Human Resources	21,000,000
Emerge2	18,000,000
Information Technology Support	44,444,000
Security Activities	19,000,000

Terrorist watch list integration	10,000,000
Information Security and Infrastructure	9,000,000
Wireless Program	86,000,000
Replace legacy border components	16,000,000
New investments in radio infrastructure—borders	52,000,000
Infrastructure optimization and upgrade	18,000,000
Homeland Secure Data Network	33,029,000
Total	297,229,000

INFORMATION TECHNOLOGY INVESTMENTS

The conferees are concerned with the lack of coordination within the Department regarding its information technology (IT) activities. In the interest of fully leveraging and optimizing the potential contribution of IT investments in meeting the homeland security mission while controlling IT investment costs, maintaining schedules, and delivering capabilities, it is critical DHS clearly articulate its objectives and needs. In addition, the conferees are disappointed that, for the last two years, major portions of the IT activities have not been properly displayed in the budget. The conferees direct the CIO to follow the Committees' direction regarding the content and format of appropriations justifications found within the Office of the Secretary for all IT investments.

The conferees agree to include bill language requiring the Department to submit an expenditure plan within 60 days from the date of enactment of this Act for all IT projects funded through the CIO, or funded by multiple components of the Department through reimbursable agreements. This expenditure plan shall also include a detailed program assessment of the scope; total estimated cost; cost by year; and the schedule for completion, including significant milestones, for each individual project funded for fiscal year 2006 for information technology services, security activities, and wireless programs.

The conferees direct the CIO to provide a report by February 10, 2006, to include: an update of the information technology system inventory dated September 15, 2005; the status and timeline of security certifications for each system; the status of aligning each system with an appropriate investment portfolio; and the status of identifying the systems and/or applications that will migrate to the National Center for Critical Information Processing and Storage during fiscal year 2006.

The conferees agree to include bill language requiring the Department to report on the enterprise architecture and other strategic planning; an Information Technology Human Capital Plan, to include an inventory of current IT work force knowledge and skills, a gap analysis of any shortfalls, and a plan for addressing any shortfalls; a capital investment plan for implementing the enterprise architecture; and a description of the IT capital planning and investment control process. The report must be reviewed and approved by the Office of Management and Budget, reviewed by the Government Accountability Office, and delivered to the Committees within 180 days of enactment of this Act.

The conferees are aware the Department plans to consolidate DHS component agency data centers into two primary data centers. Consistent with section 888 of Public Law 107-296, the conferees instruct the Department to implement the consolidation plan in a manner that shall not result in a reduction to the Coast Guard's Operations System Center mission or its government-employed or contract staff levels.

The conferees have included funding of $33,029,000 for the Homeland Secure Data Network (HSDN) within this account as proposed by the Senate. Other accounts that formerly had resources requested for the HSDN have been reduced accordingly.

Within the total for Information Technology Services, the conferees agree to provide $13,255,000 for Geospatial activities; $2,500,000 for Solutions Engineering; $4,500,000 for Enterprise Applications Delivery; $2,000,000 for e-Gov Initiatives; $5,500,000 for Program Management Support; $1,500,000 for Comsec Modernization; and $3,000,000 for Smartcard Activities. The conferees agree to provide no funding for the MedaData Center of Excellence or the Applied Technology program.

ANALYSIS AND OPERATIONS

The conferees agree to provide $255,495,000 for Analysis and Operations (A&O). The conferees establish this new appropriation in response to the Secretary's organizational restructuring plan submitted on July 13, 2005, and include resources previously provided under the Directorate of Information Analysis and Infrastructure Protection (IAIP) and the Office of the Under Secretary for Border and Transportation Security. The conferees direct the Department to submit a detailed expenditure plan describing the intended use of this funding. This plan shall be provided no later than 60 days from the date of enactment of this Act. The conference recommendation includes sufficient funding to complete distribution of National Weather Service all-hazards radios to schools on a priority basis as proposed by the Senate.

The conferees reduce funding for IAIP Management and Administration transferred to this account based on a continuing large number of vacancies. The Secretary shall submit to the Committees on Appropriations no later than February 10, 2006, a report that identifies staffing and other resource requirements that reconciles the Department's intelligence mission responsibilities under the various Acts and executive orders.

OFFICE OF INSPECTOR GENERAL

The conferees agree to provide $83,017,000 for the Office of Inspector General as proposed by the House and the Senate.

PORT SECURITY

The conferees direct the Inspector General to review the steps the Department has taken to comply with recommendations contained in the Inspector General's report on port security grants (OIG-05-10). This report should be submitted to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Government Affairs; and the House Committee on Homeland Security no later than February 10, 2006.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished the Office of the Under Secretary for Border and Transportation Security (BTS), instead of $8,617,000 as proposed by the House and $9,617,000 as proposed by the Senate. Funding for the functions currently performed by this office is included under other appropriations in this Act and is identified accordingly.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

The conferees agree to provide $340,000,000 as proposed by the Senate instead of $390,000,000 as proposed by the House. Of these funds, $86,000,000 is available for program management and operations, and $159,658,000 is subject to the requirements of a detailed expenditure plan.

In the statement of managers accompanying the conference report on Public Law 108-334, the Department was directed to submit a report by January 14, 2005, on the status of efforts between the Departments of Homeland Security and Justice to achieve real-time interoperability between the Integrated Automated Fingerprint Identification System and the Automated Biometric Identification System. The Committees on Appropriations did not receive the report until August 22, 2005. The conferees direct the cost and schedule estimate referred to in the report be completed no later than November 20, 2005, so the results can be incorporated into the fiscal year 2006 United States Visitor and Immigrant Status Indicator Technology (US-VISIT) expenditure plan and the fiscal year 2007 President's Budget.

The conferees are encouraged by the Department's announcement of its plans to migrate the US-VISIT program to a ten-fingerprint system—a major step toward full interoperability. The Department is directed to work with the Department of State and report expeditiously on what resources it will need and what actions it will take to achieve this goal.

Finally, the conferees direct that US-VISIT adhere to the most stringent standards in developing and testing its system plans prior to their being deployed or made operational.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The conferees agree to provide $4,826,323,000 for Customs and Border Protection (CBP), instead of $4,885,544,000 as proposed by the House and $4,922,600,000 as proposed by the Senate. This includes: $1,796,464,000 for border security between ports of entry, including 1,000 additional Border Patrol Agents and $79,496,000 to annualize the cost of 500 Border Patrol Agents funded in Public Law 109-13; $63,024,000 for inspection and detection technology investments, including $1,018,000 to continue the in-bond container security study; $4,000,000 for the Immigration Advisory Program; $500,000 to continue steel tariff training; $54,268,000 for the Customs-Trade Partnership Against Terrorism; $7,000,000 for the FAST program; $14,000,000 for the SENTRI and NEXUS programs; $9,134,000 for the Advanced Training Center; not less than $163,560,000 for the salaries and expenses for the Office of Air and Marine Operations, including $5,000,000 for additional staff, equipment and operations, $5,500,000 for a new

Montana Northern Border airwing, and $17,000,000 to cover salaries and expenses associated with the integration of former Border Patrol pilots. Funding was decreased by $12,725,000 from the President's request to reflect that enforcement of forced child labor laws is now a responsibility of Immigration and Customs Enforcement, and by $49,651,000 to reflect all funding for procurement, operations and maintenance of aircraft and marine vessels is included in the Air and Marine Interdiction, Operations, Maintenance, and Procurement appropriation. The conferees make $10,000,000 unavailable for obligation until a detailed five year plan for air and marine operations is submitted to the Committees on Appropriations. No funding is provided in this account for radiation portal monitors. The conferees do not include a rescission of $14,400,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Border Security Inspections and Trade Facilitation	$655,000,000
Border Security and Control Between Ports of Entry	590,000,000
Subtotal, Headquarters Management and Administration	1,245,000,000
Border Security Inspections and Trade Facilitation:	
Inspections, Trade and Travel Facilitation at Ports of Entry	1,262,269,000
Harbor Maintenance Fee Collection (Trust Fund)	3,000,000
Container Security Initiative	138,790,000
Other International Programs	8,629,000
Customs-Trade Partnership Against Terrorism/Free and Secure Trade (FAST)/SENTRI/NEXUS	75,268,000
Inspection and Detection Technology Investments	63,024,000
Automated Targeting Systems	28,253,000
National Targeting Center	16,697,000
Other Technology Investments, Including Information Technology	1,018,000
Training	24,351,000
Subtotal, Border Security Inspections and Trade Facilitation	1,621,299,000
Border Security and Control Between Ports of Entry:	
Border Security and Control	1,742,977,000
America's Shield Initiative	31,284,000
Training	22,203,000
Subtotal, Border Security and Control Between Ports of Entry	1,796,464,000
Air and Marine Operations, Salaries and Expenses	163,560,000
Total, Salaries and Expenses	$4,826,323,000

CONTAINER SECURITY

The conferees concur with the requirement, as detailed in the House report, for a report on how non-intrusive inspection technology system selection, use, and financing for the Container Security Initiative (CSI) could be improved, as well as the Senate report requirement on relations with CSI host nations, to include: steps to explain CSI targeting to host governments; coordination with the State Department; options for withdrawal from uncooperative CSI host nations; and actions taken on Government Accountability Office recommendations for CSI improvement. The conferees direct the Commissioner to submit both reports not later than February 10, 2006.

TRAINING

The conferees concur with the Senate report regarding sixth training day compensation.

EXPEDITED REMOVAL

The conferees are aware the Department has announced a plan to expand its expedited removal program, following success in reducing the overall cost of detention housing for other than Mexican nationals in the Laredo and Tucson sectors, in reducing the number of aliens released on their own recognizance, and in increasing deterrence. The conferees direct the Department to report not later than February 10, 2006, on Border Patrol costs associated with the expanded expedited removal program.

BORDER CROSSING CARDS

The conferees endorse Senate report language requesting a report on Border Crossing Cards and card scanners.

ENFORCEMENT OF TRADE REMEDIES LAW

The conferees have ensured that, of the amounts provided within this account, sufficient funds are available to enforce the antidumping authority contained in section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c).

The conferees direct CBP to continue to work with the Department of Commerce, the Department of Treasury, the Office of the United States Trade Representative, and all other relevant agencies, to provide semiannual reports on its efforts to collect past due amounts and to increase current collections. Furthermore, by June 30, 2006, CBP is to provide the Committees on Appropriations with an update of its report submitted on July 7, 2005, describing interagency efforts to create a coordinated plan to increase antidumping and countervailing duty collections, particularly related to cases involving unfairly traded Asian imports. The report should break out the non-collected amounts for fiscal years 2004 and 2005, by order and claimant, along with a description of the specific reasons for the non-collection with respect to each order.

The conferees direct CBP to confirm that it has completed all of the initiatives, processes, and procedures identified in its February 2005 report to the Committees on Appropriations (including Attachment 1) regarding implementation of the recommendations that were contained in the U.S. Treasury Department Office of the Inspector General report on the Continued Dumping and Subsidy Offset Act. Further, the conferees direct CBP to implement the five recommendations for executive action contained in the GAO report (GAO–05–979) dated September 2005. If those processes and procedures have not been completed, CBP is directed to provide an explanation as to why they have not been completed, and a deadline for when they will be completed. This includes the deadlines for implementing the processes and procedures for verification, including, in particular, the development of the sampling methodology to validate the claimed amount; the testing plan; and all accompanying aspects of verification.

AMERICA'S SHIELD INITIATIVE

The conferees have not provided the requested increase of $19,800,000 for America's Shield Initiative (ASI). At this time, the conferees understand the Department is reviewing the entire planning process for ASI and may suspend all major procurement action until it has resolved fundamental questions about scope and architecture, and possibly its relation to overall, nationwide border domain security and awareness. The conferees expect to be kept informed of the results of this review before the Department proceeds with any significant action and concur with House reporting requirements. The conferees encourage program managers to explore the use of commercial, airborne, off-the-shelf wireless technology as it develops this program.

AGRICULTURAL INSPECTIONS

The conferees direct the Department, in coordination with the U.S. Department of Agriculture, to submit a report by February 10, 2006, providing the information requested in Senate Report 109–83 concerning reduced agricultural inspection levels.

TEXTILE TRANSSHIPMENT ENFORCEMENT

Section 352 of the Trade Act of 2002 authorizes funding for Customs Service textile transshipment enforcement, and specifies how the funds be spent. The conferees include $4,750,000 to continue this effort and direct CBP to report not later than February 10, 2006, on obligating these funds, as well as those appropriated in fiscal years 2004 and 2005. The report should include staffing levels in fiscal years 2003–2006, differentiated by position, as authorized in section 352 of the Trade Act of 2002, and include a five-year enforcement plan. The report should also describe how CBP has redeployed its workforce previously assigned to enter and monitor quota information now that quotas have expired.

TOBACCO IMPORTS

The conferees endorse the requirements set forth in both the House and Senate reports regarding tobacco product imports and direct the Department to comply with them.

AUTOMATION MODERNIZATION

The conferees agree to provide $456,000,000 instead of $458,009,000 as proposed by both the House and the Senate. This amount includes funding for the Automated Commercial Environment (ACE), the Integrated Trade Data System (ITDS), and the costs of the legacy Automated Commercial System. This funding includes not less than $320,000,000 for ACE and ITDS, of which $16,000,000 is for

ITDS, and all of which remains subject to approval of an expenditure plan.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $400,231,000 instead of $347,780,000 as proposed by the House and $320,580,000 as proposed by the Senate. This includes: $15,000,000 for palletized sensor systems for P–3 long range tracker aircraft; $16,000,000 for P-3 service life extension; $14,000,000 for manned, covert surveillance aircraft; $12,800,000 for the Montana Northern Border air branch; $20,000,000 for replacement of Border Patrol helicopters; $10,180,000 for unmanned aerial vehicles; $19,471,000 for operations and maintenance of legacy Border Patrol aircraft and marine vessels; and $2,000,000 to begin work on a North Dakota air wing.

P–3 AIRCRAFT

The conferees recognize the CBP P-3 fleet is a critical asset in both homeland security and drug interdiction missions. As CBP implements a service life extension program for its P–3 aircraft, the conferees encourage CBP to adopt the most cost-effective long-term solution for the maximum life extension of its P-3 fleet. In addition, the conferees are aware the U.S. Navy and most nations who fly the P-3 have made service life assessments of their aircraft. The conferees believe CBP should undertake similar assessments to document the airworthiness and structural life remaining in the CBP fleet and direct the Commissioner to incorporate the results of such a service life assessment into the modernization plan.

UNMANNED AERIAL VEHICLES

The conferees agree to provide $10,180,000 for unmanned aerial vehicles, as requested by the President and proposed by both the House and Senate, which may be deployed between ports of entry on the Southwest Border.

CBP AIR PROGRAM

The conferees are aware that the Commissioner plans to combine air operations of the Office of Air and Marine Operations and the Office of Border Patrol into "CBP Air", and the conference agreement adjusts the budget accordingly. The conferees direct the Department to implement fully the recommendations in GAO report GAO–05–543 and, as integration proceeds, to consult with the Committees on Appropriations before making any changes in the nature and level of support for legacy air missions.

STRATEGIC PLAN, MODERNIZATION AND RECAPITALIZATION

The conferees remind the Department that detailed information requested in previous conference reports has yet to be provided. With CBP air integration under way, it is essential Congress receive information to understand the status and requirements of the CBP air and marine programs. The conferees withhold $10,000,000 from the CBP Salaries and Expenses appropriation until the Committees on Appropriations receive a five-year strategic plan for CBP Air (and marine, if complete) that addresses missions, structure, operations, equipment, facilities and resources, including deployment and command and control requirements. This report is to include a modernization plan, including milestones and funding required to recapitalize its fleet and operations, as well as a detailed staffing plan showing current on-board positions, annual targets, and a timetable with associated costs to achieve full staffing to meet all mission requirements.

NATIONAL AVIATION CENTER

The conferees understand the Oklahoma City National Aviation Center has augmented its pilot training with computer-based instructions and simulation, which has increased training efficiency while decreasing costs. The conferees direct the Department to continue this approach.

NORTHERN BORDER AIRWINGS

The conferees believe remaining gaps in air patrol coverage of the Northern Border should be closed as quickly as possible and include $2,000,000 for the initial site assessment, facilities evaluation, lease preparation and other activities associated with the fifth Northern Border airwing in Grand Forks, North Dakota. The conferees direct the Department to include in its fiscal year 2007 budget request the resources necessary to establish the airwing.

CONSTRUCTION

The conferees agree to provide $270,000,000 instead of $93,418,000 as proposed by the House and $311,381,000 as proposed by the Senate. This includes: $81,963,000 for facilities to accommodate 1,000 additional Border Patrol Agents; $35,000,000 for the San Diego fence construction project; $35,000,000 for tactical infrastructure projects in the Tucson sector; and $26,000,000 for the Advanced Training Center. The conferees direct CBP to provide a spending plan and a revised master plan to the Committees on Appropriations that reflects this funding.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The conferees agree to provide $3,108,499,000 for Immigration and Customs Enforcement (ICE) Salaries and Expenses, instead of $3,064,081,000 as proposed by the House and $3,052,416,000 as proposed by the Senate. This includes an additional $90,000,000 for additional bedspace capacity, including corresponding support positions; $42,000,000 for additional criminal investigator positions; $35,000,000 to annualize new positions and programs funded in Public Law 109–13; $9,000,000 for Immigration Enforcement Agents to support civil and administrative investigations; $16,000,000 for additional fugitive operations teams; $18,000,000 to expand the Institutional Removal Program; $10,000,000 to expand Alternatives to Detention, including the Intensive Supervision Appearance Program; $1,000,000 to increase the speed, accuracy and efficiency of immigration enforcement information currently being entered into the National Criminal Information Center database; $5,000,000 for the Cyber Crimes Center; $15,770,000 for enforcement of laws against forced child labor, as offset by a reduction in Customs and Border Protection, Salaries and Expenses; $5,000,000 for implementation of section 287(g) of the Immigration and Nationality Act; $10,000,000 for the worksite enforcement program; and $2,000,000 for transfer to the U.S. Department of Justice for the Legal Orientation Program. The conferees make $5,000,000 unavailable for obligation until the Committees on Appropriations receive a national detention management plan as described in the House report. The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Personnel Compensation and Benefits, Services and other	$123,600,000
Headquarters Managed IT investment	133,104,000
Subtotal, Headquarters Management and Administration	256,704,000
Legal Proceedings	130,181,000
Investigations:	
Domestic Operations	1,195,050,000
International Operations	101,918,000
Subtotal, Investigations	1,296,968,000
Intelligence	50,970,000
Detention and Removal:	
Detention and Removal Operations	1,013,329,000
Transportation and Removal	135,000,000
Fugitive Operations	102,881,000
Institutional Removal Program	93,969,000
Alternatives to Detention	28,497,000
Subtotal, Detention and Removal	1,373,676,000
Total, Salaries and Expenses	3,108,499,000

IMMIGRATION ENFORCEMENT AGENTS

The conferees agree with the House report noting that a vast majority of immigration law violations are under enforced, and that it would be beneficial to significantly enhance the enforcement of civil immigration violations. The conferees therefore include $9,000,000 for 100 Immigration Enforcement Agents (IEAs), who will work under the supervision of ICE special agents and concentrate their efforts on civil and administrative actions, permitting ICE special agents to concentrate their efforts on criminal investigations and longer term cases. The conferees direct the Department to submit a plan for the expanded use of IEAs for these purposes not later than December 1, 2005, and a status report not later than November 1, 2006, on the operation and impact of the increase in IEA positions.

EXPEDITED REMOVAL AND DETENTION SPACE

The conferees are aware ICE expects a bedspace funding shortfall owing to lower Breached Bond funds and increased bedspace costs. The conferees provide $35,000,000 to cover fiscal year 2006 costs associated with ICE initiatives funded in Public Law 109–13, and therefore expect the Department will not divert $32,000,000 provided in that Act for bedspace to annualize personnel costs. The conferees direct the Department to submit quarterly reports on the fee estimates.

The conferees understand the Department has determined expanding the expedited removal program will require a greater proportion of funding for removal and related costs, and therefore relatively less for bedspace. The conferees direct the Department to report within 30 days from enactment of this Act on the total number of beds to be funded in fiscal year 2006, by funding source, and the fiscal year 2006 spend plan for expedited removal. Further, the Department is directed to include bedspace utilization and funding obligations in its regular immigration enforcement reporting to the Committees on Appropriations.

TEXTILE TRANSSHIPMENT ENFORCEMENT

Section 352 of the Trade Act of 2002 authorizes funding for Customs Service textile transshipment enforcement, and specifies how the funds be spent. The conferees include $4,750,000 to continue this effort and direct ICE to report not later than February 10, 2006, on obligating these funds, as well as those appropriated in fiscal years 2004 and 2005. The report should include staffing levels in fiscal years 2003-2006, differentiated by position, as authorized in section 352 of the Trade Act of 2002, and include a five-year enforcement plan.

IMMIGRATION ENFORCEMENT AND DETENTION STATISTICS

The conferees'concur with the immigration enforcement and detention reporting requirements identified in the House and Senate reports, and direct ICE to submit them on a quarterly basis beginning February 10, 2006.

STATE AND LOCAL SUPPORT FOR IMMIGRATION ENFORCEMENT

The conferees support the "287(g) program" to cross-designate State and local law enforcement officers to perform limited immigration enforcement functions, and provide $5,000,000 in support of this program, including training participants, as authorized. The conferees encourage the Department to be more proactive in encouraging State and local governments to participate in this program. The conferees fully support the 287(g) program and view it as a powerful force multiplier to better enforce immigration laws and, consequently, to better secure the homeland.

LEGAL ORIENTATION PROGRAM

The conferees include $2,000,000 for the Legal Orientation Program, to be transferred to the U.S. Department of Justice, Executive Office for Immigration Review (EOIR). The Office of Management and Budget is directed to include future funding for this program in funding requests for EOIR.

FEDERAL PROTECTIVE SERVICE

The conferees agree to provide $487,000,000 as proposed by both the House and the Senate.

AUTOMATION MODERNIZATION

The conferees agree to provide $40,150,000 as proposed by the House instead of $50,150,000 as proposed by the Senate. These funds may not be obligated until the Committees on Appropriations receive and approve an expenditure plan, which includes a requirement for an independent verification and validation.

CONSTRUCTION

The conferees provide $26,546,000 as proposed by both the House and Senate.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

The conferees agree to provide $4,607,386,000 instead of $4,591,612,000 as proposed by the House and $4,452,318,000 as proposed by the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $1,990,000,000 from aviation user fees, as authorized. The following table specifies funding by budget activity:

Screening Workforce:	
Privatized screening	$139,654,000
Passenger screeners—personnel, compensation and benefits	1,520,000,000
Baggage screeners—personnel, compensation, and benefits	884,000,000
Subtotal, Screener Workforce	2,543,654,000
Screener Training and Other:	
Screener training	88,004,000
Passenger screener—other	23,752,000
Checked baggage screener—other	118,591,000
Tort claims	4,000,000
Representation funds	3,000
Model workplace	2,400,000
Hazardous materials disposal	9,800,000
Subtotal, Screener Training and Other	246,550,000
Human Resource Services	207,234,000
Checkpoint Support	165,000,000
Explosive Detection Systems:	
EDS/ETD purchase	175,000,000
EDS/ETD installation	45,000,000
EDS/ETD maintenance and utilities	200,000,000
Operation integration	23,000,000
Subtotal, Explosive Detection Systems	443,000,000
Total, Screening Operations	3,605,438,000
Aviation Direction and Enforcement:	
Aviation regulation and other enforcement	222,416,000
Airport management, information technology and support	686,032,000
Federal flight deck officer and flight crew training	30,500,000
Air cargo	55,000,000
Foreign and domestic repair stations	3,000,000
Airport perimeter security	5,000,000
Subtotal, Aviation Direction and Enforcement	1,001,948,000
Total, Aviation Security	4,607,386,000

STAFFING LEVELS

The conferees agree to continue longstanding bill language that caps the full-time equivalent screener workforce at 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 full-time equivalent screeners by the end of fiscal year 2006. The conferees recognize TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain aviation security and customer service.

PRIVATIZED SCREENING AIRPORTS

The conferees agree to provide $139,654,000 as proposed by the House instead of $146,151,000 as proposed by the Senate. If additional airports are not interested in privatization, or airports currently under this program decide to begin using federal screeners resulting in the need for less funding in fiscal year 2006 to support the current privatized screening airports, TSA is directed to notify the Committees on Appropriations ten days prior to these changes occurring. After that time period has expired, TSA shall adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under the screening partnership program (SPP).

PASSENGER AND BAGGAGE SCREENERS, PERSONNEL, COMPENSATION AND BENEFITS

The conferees agree to provide $1,520,000,000 for passenger screening and $884,000,000 for baggage screening activities for both federal screeners as well as any contracts awarded under SPP for all airports other than the six current privatized screening airports. The conferees agree TSA needs the flexibility to manage the SPP without the need for reprogramming actions for each individual contract and direct TSA to provide the Committees on Appropriations with advance notice ten days before an announcement is made an airport has been selected under SPP or if an airport has decided to begin using federal screeners. At the time the contract is awarded, TSA shall notify the Committees and adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under SPP.

RONALD REAGAN WASHINGTON NATIONAL AIRPORT

The conferees agree to include bill language that provides reimbursement for security services and related equipment and supplies in support of general aviation access to Ronald Reagan Washington National Airport as proposed by the Senate. These reimbursements shall be credited to the "Aviation Security" appropriation and be available until expended for only those purposes.

PASSENGER PROCESSING TIMES

Several airports are experiencing unusually large peak volumes associated with international, charter, and scheduled service. Many domestic travelers arriving at the same airport concourse as international flyers are often held up from proceeding to their final destinations because of slow processing times for these international visitors. The conferees direct TSA, in cooperation with Customs and Border Protection, to examine these unique situations, find appropriate solutions, and report back to the Committees on Appropriations no later than February 10, 2006.

CHECKPOINT SUPPORT

The conferees agree to provide $165,000,000 instead of $157,461,000 as proposed by the House and $172,461,000 as proposed by the Senate. This funding should be used to accelerate the testing, procurement, installation, and deployment of new checkpoint technologies. TSA should test these new technologies and equipment at airports using both federal and non-federal screeners. TSA shall submit the report originally requested in fiscal year 2005 on testing and deploying emerging technologies to screen passengers and carry-on baggage to the Committees on Appropriations as expeditiously as possible.

STANDARDS FOR CHECKPOINT TECHNOLOGIES

The conferees recommend TSA work with the National Institute of Standards and Technology to develop standards for checkpoint technologies, as discussed in the Senate report.

EXPLOSIVE DETECTION SYSTEMS INSTALLATION

The conferees agree to provide a total of $295,000,000 for explosive detection systems (EDS) installation, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $45,000,000 in this Act. This funding is sufficient to fulfill the federal commitment for the eight Letters of Intent and to install next-generation EDS machines at airports nationwide. The conferees have modified bill language proposed by the Senate clarifying the federal government's cost under a Letter of Intent shall be 75 percent for any medium and large hub airport and 90 percent for any other airports. The conferees also include bill language to permit the Secretary to distribute this funding to enhance aviation security and fulfill the federal commitment to Letters of Intent. The conferees encourage TSA to pursue innovative financing solutions to improve the baggage screening process, as discussed in the House report.

EXPLOSIVE DETECTION SYSTEMS PROCUREMENT

The conferees agree to provide $175,000,000 instead of $170,000,000 as proposed by the House and $180,000,000 as proposed by the Senate. Of these funds, $45,000,000 shall be made available to procure next-generation explosive detection systems, including in-line systems, which have been tested, certified, and piloted. The conferees expect these new systems to replace explosive trace detection systems as much as possible as they are considerably less costly to operate.

EXPLOSIVE DETECTION SYSTEMS MAINTENANCE COSTS

The conferees are concerned about the skyrocketing costs of maintaining explosive detection systems and direct the Government Accountability Office to report by April 2006 on the reasons for past cost increases, including TSA contracting practices. This report is to recommend actions TSA might take to control these costs in the future.

REMOTE BAGGAGE SCREENING

The conferees are aware of TSA's participation with airports and airlines in pilots at various airports around the country to evaluate off-site baggage check-in models. The conferees encourage TSA to widely test remote baggage screening, including coupling off-site check in with off-site screening within the airport grounds at secure sort facilities before the baggage is introduced into the terminal and other critical airport infrastructure.

MULTI-COMPARTMENTAL BINS

The conferees direct TSA to develop a plan to research, test, and potentially implement multi-compartmental bins to screen passenger belongings at security checkpoints.

SCREENING EXEMPTIONS

The conferees agree to retain bill language proposed by the Senate that does not allow heads of federal agencies and commissions to be exempt from passenger and baggage screening.

AVIATION REGULATION AND ENFORCEMENT

The conferees agree to provide $222,416,000 as proposed by the House instead of $230,000,000 as proposed by the Senate.

AVIATION MANAGEMENT, INFORMATION TECHNOLOGY AND SUPPORT

The conferees agree to provide $686,032,000 instead of $655,597,000 as proposed by the House and $748,370,000 as proposed by the Senate. Within the funds provided, $243,662,000 is for management and support staff and $442,370,000 is for information technology.

FEDERAL FLIGHT DECK OFFICER AND FLIGHT CREW TRAINING

The conferees agree to provide $30,500,000 instead of $29,000,000 as proposed by the House and $32,000,000 as proposed by the Senate. Within the funds provided, $27,000,000 is for federal flight deck officer training and $3,500,000 is for voluntary flight crew training.

AIR CARGO

The conferees agree to provide $55,000,000 instead of $60,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. Within the funds provided, $10,000,000 is for hiring 100 additional regulatory inspectors and associated travel costs, and $5,000,000 is to enhance the automated indirect air carrier maintenance system and known shipper data base, as well as for security threat assessments and pending air cargo rulemaking activities.

In addition to the funds provided to TSA for air cargo, the conferees provide $30,000,000 to the Science and Technology (S&T) Directorate to conduct three cargo screening pilot programs testing different concepts of operation. TSA is to cooperate with S&T on this effort.

The conferees direct TSA to work with other DHS components to develop technologies that will move TSA forward to achieving 100-percent screening of air cargo on passenger aircraft.

GENERAL AVIATION

The conferees concur with the House report supporting the Airport Watch program.

AIRPORT PERIMETER SECURITY

The conferees agree to provide $5,000,000 for airport perimeter security pilots. While funding has been provided for this work in the past, the conferees are aware of a variety of innovative technologies that may reduce security weaknesses and vulnerabilities in airports throughout the United States. This funding should be awarded competitively.

SURFACE TRANSPORTATION SECURITY

The conferees agree to provide $36,000,000 as proposed by the House and the Senate. Funding is provided as follows:

Enterprise staff	$24,000,000
Hazardous materials truck tracking and training	4,000,000
Rail inspectors and canines	8,000,000
Total	36,000,000

RAIL SECURITY INSPECTORS AND CANINES

The conferees are very disappointed with TSA's reluctance to quickly hire rail inspectors and deploy canine units at transit systems nationwide. Although these activities were funded in fiscal year 2005, TSA does not have a full contingent of rail inspectors on board and only announced the deployment of canine teams on September 27, 2005. This is unacceptable. The conferees direct TSA to report to the Committees on Appropriations no later than February 10, 2006, on the deployment of the 100 rail security inspectors and canine teams funded in fiscal year 2005 and any new inspectors or canine teams planned for fiscal year 2006.

TRANSPORTATION VETTING AND CREDENTIALING

The conferees agree to provide a direct appropriation of $74,996,000 as proposed by the Senate instead of $84,294,000 as proposed by the House. In addition, the conferees anticipate TSA will collect $180,000,000 in fees. Funding is provided as follows:

Direct Appropriations:	
Secure flight	$56,696,000
Crew vetting	13,300,000
Screening administration and operations	5,000,000
Total, direct appropriations	74,996,000
Fee Collections:	
Registered traveler	20,000,000
Transportation worker identification credential	100,000,000
Hazardous materials	50,000,000
Alien flight school (by transfer from DOJ)	10,000,000
Total, fee collections	180,000,000

SECURE FLIGHT

The conferees agree to provide $56,696,000 as proposed by the Senate instead of

$65,994,000 as proposed by the House. TSA has failed to provide a fully justified cost estimate for this program for fiscal year 2006 or achieve initial operational capability with two airlines on August 19, 2005, as originally planned. At this time, TSA does not have a revised schedule and milestones. The conferees have reduced funding for Secure Flight accordingly.

The conferees support the additional layer of aviation security that will be provided through the Secure Flight program. However, delays in obtaining Passenger Name Record data from air carriers needed for testing have postponed initial operating capability of the system. The conferees encourage TSA to commence rulemaking proceedings, and, if necessary, issue a security directive at the earliest possible date to require air carriers to release data necessary for operational tests expected to commence shortly.

The conferees agree to include and modify a general provision (section 518) which directs the Government Accountability Office (GAO) to continue to evaluate DHS and TSA actions to meet the ten elements listed in section 522 of Public Law 108-334 and to report to the Committees on Appropriations either incrementally or when all elements have been satisfied. The provision also prohibits the use of commercial data.

On July 22, 2005, GAO reported TSA did not adequately disclose the use of personal information during Secure Flight testing, violating the Privacy Notice. The conferees are concerned with the recent GAO findings, giving further credence for GAO to continue reviewing the Secure Flight program.

TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees agree to include a general provision (section 526) directing the Department to develop a personalization system that is centralized and that uses an existing government card production facility for these purposes as proposed by the House, consistent with direction issued in previous years. TSA may not move into the next phase of production until the Committees on Appropriations have been fully briefed on the results of the prototype phase and agree the program should move forward. Because of the deep interest in this program, beginning on January 1, 2006, and quarterly thereafter, TSA shall submit reports on the progress of meeting the goals established for the Transportation Worker Identification Credential (TWIC) program.

SCREENING ADMINISTRATION AND OPERATIONS

The conferees agree to provide $5,000,000 for screening administration and operations as proposed by both the House and the Senate. The conferees direct that none of the funds may be used to augment the Secure Flight program and expect funds to be used to support other transportation vetting and credentialing programs that are user fee funded, such as TWIC, alien flight school, and hazardous materials. The conferees are aware these fee-funded programs have carryover balances from previous fiscal years that may be used to augment administrative and operational needs.

TRANSPORTATION SECURITY SUPPORT

The conferees agree to provide $510,483,000 instead of $541,008,000 as proposed by the House and $491,873,000 as proposed by the Senate. Funding is provided as follows:

Intelligence	$21,000,000
Headquarters Administration	279,391,000
Information Technology	210,092,000
Total, Transportation Security Support	510,483,000

SPENDING AND DEPLOYMENT PLANS

The conferees agree to include bill language to require TSA to submit 60 days from the date of enactment of this Act a plan to the Committees on Appropriations detailing: the optimal deployment plan for explosive detection equipment at the Nation's airports on a priority basis, either in-line or to replace explosive trace detection machines; and an expenditure plan for explosive detection systems procurement and installation on an airport-by-airport basis for fiscal year 2006. The conferees have requested this information for the past two years in report language and TSA has repeatedly ignored these requests. The conferees include bill language withholding $5,000,000 from obligation until this plan is received.

FEDERAL AIR MARSHALS

The Secretary's organizational restructuring plan submitted on July 13, 2005, recommended moving the appropriation for the Federal Air Marshals (FAMs) from Immigration and Customs Enforcement to TSA. The conferees concur with this recommendation and agree to provide $686,200,000 for FAMs instead of $698,860,000 as proposed by the House and $678,994,000 as proposed by the Senate. Within this total, $613,400,000 is for management and administrative expenses, $70,800,000 is for travel and training, and $2,000,000 is to implement the air-to-ground communications system. Funding is available for one year as proposed by the Senate.

STAFFING

The conferees have fully funded the new staff requested; however, funding has been provided for half a year, consistent with actions taken elsewhere in the Department because of the time it takes to hire new employees. A classified report on the status of hiring and training new Federal Air Marshals shall be submitted to the Committees on Appropriations no later than February 10, 2006.

AIRPORT LAW ENFORCEMENT

The conferees direct FAMs to submit a report, in conjunction with the fiscal year 2007 budget, that details a proposal to expand its mission beyond the aircraft and enter the airport security arena, including surveillance in the airport environment and airport-related investigations. The report should elaborate on these expanded responsibilities and the potential impact to FAMs mission, to include: the types of investigations that would be conducted in airports; the potential tangible benefits of FAMs conducting surveillance in an airport; whether this expansion would merit and require the conversion of air marshals to 1811 status; a timeframe for implementation; statistical distribution of workload hours between airport and aircraft missions; additional FTE required; additional costs associated with an enhanced airport mission; additional training requirements; and how an expanded FAMs mission would interrelate with the numerous law enforcement agencies that are currently conducting airport security operations. FAMs shall not move forward with this proposal until the report has been submitted and reviewed by the Committees on Appropriations.

AIR-TO-GROUND COMMUNICATIONS

The conferees agree to provide $2,000,000 for the air-to-ground communications program. The conferees are aware of FAMs working with Science and Technology (S&T), the Federal Communications Commission, and the Federal Aviation Administration to implement an airborne communications system in 2006. The conferees consider this a critical security program and direct FAMs, in conjunction with S&T, to brief the Committees on Appropriations quarterly on its progress.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

The conferees agree to provide $5,492,331,000 instead of $5,500,000,000 as proposed by the House and $5,476,046,000 as proposed by the Senate. Within this amount, $1,200,000,000 is available for defense-related activities as proposed by both the House and the Senate. Further, within this total, $15,450,000 is provided for command, control, communications, computer intelligence, surveillance and reconnaissance (C4ISR) follow-on costs; $10,000,000 is provided as an increase for the Area Security Maritime Exercise Program; $12,000,000 is provided as an increase to implement the May 13, 2005, decision by the Commandant to restructure the Mariner Licensing and Documentation Program; and an additional $4,000,000 above the amounts enacted in fiscal year 2005 is included for C-130J operations. No funding is provided for radiological/nuclear detection and one-time reinvestment costs due to inadequate budget justifications for these activities. The conferees agree to rescind $15,103,569 in unobligated balances from funds provided for port security assessments at tier one ports due to successful completion of this program. Funding for operating expenses shall be allocated as follows:

Military Pay and Related Costs:	
Military pay and allowances	$2,315,270,000
Military health care	580,647,000
Permanent change of station	108,901,000
Subtotal, Military Pay and Related Costs	3,004,818,000
Civilian Pay and Benefits	531,497,000
Training and Recruiting:	
Training and Education	83,554,000

Recruiting	93,576,000
Subtotal, Training and Recruiting	177,130,000
Operating Funds and Unit Level Maintenance:	
Atlantic Command	169,188,000
Pacific Command	177,894,000
1st District	47,166,000
7th District	58,076,000
8th District	39,134,000
9th District	28,431,000
13th District	20,238,000
14th District	14,575,000
17th District	23,951,000
Headquarters directorates	257,550,000
Headquarters managed units	120,000,000
Other activities	767,000
Subtotal, Operating Funds and Unit Level Maintenance	956,970,000
Centrally Managed accounts	185,000,000
Intermediate and Depot Level Maintenance:	
Aeronautical maintenance	230,636,000
Electronic maintenance	101,408,000
Civil/ocean engineering/short facilities maintenance	160,024,000
Vessel maintenance	144,848,000
Subtotal, Intermediate and Depot Level Maintenance	636,916,000
Total, Operating Expenses	5,492,331,000
Rescission, Port Security Assessments (P.L. 108–11)	−15,103,569
Total, Operating Expenses	5,477,227,431

RESPONSIVENESS TO CONGRESS

The conferees are disappointed and frustrated with the Coast Guard's poor responsiveness to Committee direction. For this reason, the conferees note reductions to the budget request for operating expenses are directed at the Coast Guard's senior management and not its field units. The conferees recognize the sacrifices of Coast Guard field personnel and have provided the full amount requested in the fiscal year 2006 budget request to support operational units.

POLAR ICEBREAKING

Both the House and Senate approved the transfer of $47,500,000 in polar icebreaking funding from the Coast Guard to the National Science Foundation (NSF) as requested in the budget. The conferees encourage the Coast Guard, NSF, and the Executive Office of the President to finalize a long-term strategy for polar icebreaking. The conferees direct the Coast Guard to pursue a sustainable cost sharing agreement with the NSF for unanticipated and extraordinary maintenance of the polar icebreakers.

OCCUPATIONAL SAFETY AND HEALTH RISKS

The conferees understand the Coast Guard is currently evaluating technologies to determine how to minimize occupational safety and health risks to Coast Guard personnel. Due to concerns about increasing burdens on Coast Guard personnel, the conferees direct the Coast Guard to report on the status of such evaluations to the Committees on Appropriations no later than 60 days from the date of enactment of this Act.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferees agree to provide $12,000,000 as proposed by both the House and the Senate.

RESERVE TRAINING

The conferees agree to provide $119,000,000 as proposed by both the House and the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferees agree to provide $1,141,800,000 instead of $798,152,000 as proposed by the House and $1,141,802,000 as proposed by the Senate. Funding is provided as follows:

Vessels and Critical Infrastructure:	
Response boat medium	$18,500,000
Vessels and Critical Infrastructure	18,500,000
Aircraft:	
Covert Surveillance Aircraft	10,000,000
Armed helicopter equipment	10,000,000
C–130J Missionization	—
Subtotal, Aircraft	20,000,000
Integrated Deepwater System:	
Aircraft:	
Maritime patrol aircraft	68,000,000
Unmanned Aerial Vehicles (UAVs)	40,000,000
HH–60 sustainment projects	37,000,000
HC–130 sustainment projects	11,000,000
HH–65 re-engining	133,100,000
Subtotal, Aircraft	289,100,000
Surface Ships:	
National security cutter, construction	368,000,000
Offshore patrol cutter, development	108,000,000
Fast Response Cutter, long-lead items and development	7,500,000
Short Range Prosecutor program and IDS small boats	700,000
Medium Endurance Cutter program and legacy surface ship sustainment	25,000,000
Subtotal, Surface Ships	509,200,000
C4ISR	44,000,000
Logistics	18,800,000
System engineering and management	37,000,000
Government program management	35,000,000
Subtotal, Integrated Deepwater System	933,100,000
Other Equipment:	
Rescue 21	41,000,000
Automatic Identification System	24,000,000
High frequency recap	—
Subtotal, Other Equipment	65,000,000
Shore Facilities and Aids to Navigation:	
Renovate USCGA Chase Hall barracks	15,000,000
Replace multi-mission building-Group LIS	10,000,000
Construct breakwater-Station Neah Bay	2,800,000

Waterway aids to navigation infrastructure	3,900,000
Subtotal, Shore Facilities and Aids to Navigation	31,700,000
Personnel and Related Support:	
Direct personnel costs	73,000,000
AC&I core	500,000
Subtotal, Personnel and Related Support	73,500,000
TOTAL	1,141,800,000

DEEPWATER

The conferees agree to provide $933,100,000 for the Integrated Deepwater System instead of $500,000,000 as proposed by the House and $988,600,000 as proposed by the Senate. The conferees are troubled by the progress of the Deepwater program. In response to the post-9/11 rebaselining requirements set forth within Public Law 108–334, the Coast Guard responded by missing deadlines, submitting inadequate information, and taking what was a straightforward acquisition program and turning it into a confusing plan that did not sufficiently explain how the Coast Guard intends to manage what is now a $24,000,000,000, 25-year effort. The conferees are supportive of Deepwater and want to see tangible progress in the modernization of the Coast Guard's fleet. However, the conferees are frustrated with the Coast Guard's inadequate justification and poor planning for Deepwater resources.

The conferees include a new provision directing the Coast Guard to submit a review of the Revised Deepwater Implementation Plan in conjunction with the President's fiscal year 2007 budget request. This report shall include: a detailed explanation of any changes to the plan for fiscal year 2007; a detailed, annual performance comparison of Deepwater assets to pre-Deepwater legacy assets in terms of operations and maintenance costs, operational availability (including mean time between failure and mean time to restore), mission performance, and crewing; a status report of legacy assets, including modernization progress, operational availability, and the projected, remaining service life of each class of legacy Deepwater asset; a comprehensive explanation of how the Coast Guard is accounting for the costs of legacy assets in the Deepwater program; an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within Deepwater's appropriation (such as the missionization of the C–130Js, the 179-foot Cyclone class cutters, and the airborne use of force outfitting of the HH60s and HH65s); a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets including rotational crewing for each asset utilizing such crewing and qualification training for commanding officers and petty officers in charge of Deepwater patrol boats; and the earned value management system gold card data, including data for all the factors in this system, for each asset being procured under Deepwater, including C4ISR and C–130J missionization.

The conferees acknowledge the Coast Guard's assertion that the accuracy of a Revised Deepwater Implementation Plan beyond five years is based upon numerous, unpredictable variables such as national security priorities and resource constraints. Therefore, the conferees believe the acquisition schedule for the duration of the plan will likely undergo significant modifications in five-year increments. The Coast Guard has also pointed to five-year increments, beginning in 2011, as benchmarks for measuring the performance of Deepwater assets as an entire system of systems, vice a fleet of non-integrated assets. For these reasons, the conferees have included a new provision directing the Coast Guard to submit a comprehensive review of the Revised Deepwater Implementation Plan every five years beginning in fiscal year 2011. This plan shall include a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027.

As Deepwater progresses, the conferees recognize there must be a methodical transition between the acquisition phase of the program and the integration of new assets into Coast Guard operations. The conferees believe diligent management of this transition is central to ensuring the effectiveness of the Deepwater program as well as the operational readiness of the Coast Guard. To address this concern, the conferees direct the Coast Guard to conduct an operational gap analysis for all Deepwater assets and provide an action plan on how the revised Deepwater plan addresses the shortfalls between current operational capabilities and operational requirements, as specified in the revised, post-9/11 Mission Needs Statement approved on January 24, 2005. This report should apply advanced analytical methods for forecasting future needs, as required in the Senate report, and should be submitted concurrently with the Coast Guard's fiscal year 2007 budget request.

PATROL BOATS

The conferees are very concerned about the availability and performance of the Coast Guard's patrol boat fleet. The 110-foot Island Class patrol boats are currently experiencing major maintenance problems as well as technological obsolescence and the planned patrol boat replacement under Deepwater—the Fast Response Cutter (FRC)—is several years away from sea trials and production. The Coast Guard's patrol boat needs are further stressed given the termination of the 110-to-123 conversion program that was intended to bridge the gap between the phase-out of the 110 and the deployment of the FRC. To address this critical issue and looming shortfall in patrol boat mission hours, the conferees agree to include a provision (section 527) rescinding unobligated funds in the amount of $78,630,689 appropriated for 110-to-123 conversions in fiscal years 2003, 2004, and 2005 and re-appropriating the funds for the service life extension of Island Class patrol boats and the design, production, and long lead materials of the FRC. The conferees direct the Coast Guard to provide a patrol boat availability report to the Committees on Appropriations no later than February 10, 2006, which includes: an expenditure plan for the 110 service life extension program; a detailed explanation of the FRC's accelerated design and production that includes the application of the funds provided by this Act; and a mission hour and operational availability report for each 110 foot and 123 foot patrol boat in service.

COVERT MANNED SURVEILLANCE AIRCRAFT

The conferees do not include a rescission of $13,999,000 in prior appropriations for the purchase of covert manned surveillance aircraft as proposed by the Senate. The conferees direct the Coast Guard to move forward with this procurement and agree to provide $10,000,000 for sensor procurement and installation as proposed by the House.

RESCUE 21

Due to high unobligated balances and extensive program delays, the conferees agree to provide $41,000,000 for Rescue 21 instead of $91,000,000 as proposed by the House and $81,000,000 as proposed by the Senate.

ALTERATION OF BRIDGES

The conferees agree to provide $15,000,000 as proposed by both the House and Senate. Within this total, funds shall be allocated as follows:

Chelsea Street Bridge in Chelsea, Massachusetts	$2,500,000
Canadian Pacific Railroad Bridge in La Crosse, Wisconsin	2,000,000
Fourteen Mile Bridge, Mobile, Alabama	6,000,000
Galveston Railway Bridge, Galveston, Texas	2,500,000
Burlington Northern Santa Fe Bridge in Burlington, Iowa	1,000,000
Elgin, Joliet, and Eastern Railway Company Bridge, Morris, Illinois	1,000,000
Total	15,000,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The conferees agree to provide $17,750,000 instead of $18,500,000 as proposed by the Senate. The House proposed $17,000,000 within the Science and Technology Directorate. The conferees expect the Commandant of the Coast Guard to continue to coordinate with the Under Secretary for Science and Technology on research and development activities.

RETIRED PAY

The conferees agree to provide $1,014,080,000 as proposed by both the House and the Senate.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

The conferees agree to provide $1,208,310,000 instead of $1,228,981,000 as proposed by the House and $1,188,638,000 as proposed by the Senate. This includes: $2,500,000, to remain available until September 30, 2007, for Secret

Service costs related to National Special Security Events; $39,600,000 to support investigations of electronic crimes; and $7,889,000 for activities relating to the National Center for Missing and Exploited Children, including $2,389,000 for forensic support. Funds shall be allocated as follows:

Protection:	
Protection of persons and facilities	$576,316,000
National Special Security Event Fund	2,500,000
Protective intelligence activities	56,215,000
White House mail screening	16,365,000
Subtotal, Protection	651,396,000
Field operations:	
Domestic field operations	238,888,000
International field office administration, operations and training	20,968,000
Electronic crimes special agent program and electronic crimes task forces	39,600,000
Subtotal, Field operations	299,456,000
Administration:	
Headquarters, management and administration	203,232,000
National Center for Missing and Exploited Children	7,889,000
Subtotal, Administration	211,121,000
Training:	
Rowley Training Center	46,337,000
Total, Salaries and Expenses	1,208,310,000

NATIONAL SPECIAL SECURITY EVENTS

The conferees agree to provide $2,500,000 for the costs associated with National Special Security Events (NSSEs), instead of $10,000,000 as proposed by the House and no funds as proposed by the Senate. When combined with an unobligated balance of $2,329,000 from fiscal year 2005 appropriations, a total of $4,829,000 is available for NSSEs; funds appropriated in this Act for this purpose are made available through September 30, 2007. The conferees are aware of additional funds available through the Counterterrorism Fund, which may be made available for this purpose. The conferees are disappointed with the Secret Service's lack of budgetary planning for the costs associated with security operations for NSSEs. Despite the considerable growth in size, complexity, and cost of NSSEs since their inception, the Secret Service has not effectively managed the resource impact of these events. The conferees prohibit the obligation of funds provided under this heading until the Committees on Appropriations receive a current NSSE budget model, as described in the House report.

WORKLOAD REBALANCING

The conferees note the unacceptably high workload of personnel that has resulted from the significant increase in the scope of the Secret Service's dual mission. An average overtime rate of 80 hours per special agent per month has arisen from a constantly evolving, post-9/11 threat environment; a three-fold increase in the number of protectees since 9/11; proliferation of identity theft and electronic crime; the occurrence of increasingly complex NSSEs; and support of Departmental missions such as critical infrastructure protection and cyber security. The conferees believe current workload conditions are unsustainable and direct the Secret Service to submit a workload rebalancing report as described within the House report no later than February 10, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $3,699,000 as proposed by both the House and Senate.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $16,079,000 for management and administration of the Preparedness Directorate. Included in this amount is $13,187,000 for the Office of the Under Secretary for Preparedness; $2,000,000 for the Office of the Chief Medical Officer, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005; and $892,000 for the Office of National Capital Region Coordination, including half year funding for two new staff. The conferees encourage the Office of National Capital Region Coordination to detail these personnel to the Homeland Security Operations Center if appropriate and necessary.

The conferees establish this new account in response to the Secretary's organizational restructuring plan submitted on July 13, 2005, and include resources previously provided under the Office of the Under Secretary for Information Analysis and Infrastructure Protection (IAIP); the Office of the Under Secretary for Border and Transportation Security; the Office of State and Local Government Coordination and Preparedness; and the Office of National Capital Region Coordination previously funded in the Office of the Secretary and Executive Management.

The conferees understand the newly created Preparedness Directorate will assess and prioritize policies and operations to enhance preparedness for a natural disaster or terrorist attack. The conferees direct this Directorate to work with the Director of Federal Emergency Management Agency to continue an all-hazard approach for preparation, response and recovery to any type of disaster.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

The conferees agree to provide $5,000,000 for Office for Domestic Preparedness (ODP) salaries and expenses.

STATE AND LOCAL PROGRAMS

The conferees agree to provide $2,501,300,000 instead of $2,831,400,000 as proposed by the House and $2,714,300,000 as proposed by the Senate. State and Local Programs funding is allocated as follows:

State Formula Grants:	
State Homeland Security Grant Program	$550,000,000
Law Enforcement Terrorism Prevention	400,000,000
Subtotal, State Formula Grants	950,000,000
Discretionary Grants:	
High-Threat, High-Density Urban Area	765,000,000
Rail and Transit Security	150,000,000
Port Security	175,000,000
Buffer Zone Protection Plan	50,000,000
Intercity Bus Security	10,000,000
Trucking Security	5,000,000
Subtotal, Discretionary Grants	1,155,000,000
Commercial Equipment Direct Assistance Program	50,000,000
National Programs:	
National Domestic Preparedness Consortium	145,000,000
National Exercise Program	52,000,000
Metropolitan Medical Response System	30,000,000
Technical Assistance	20,000,000
Demonstration Training Grants	30,000,000
Continuing Training Grants	25,000,000
Citizen Corps	20,000,000
Evaluations and Assessments	14,300,000
Rural Domestic Preparedness Consortium	10,000,000

Subtotal, National Programs	346,300,000
Total, State and Local Programs	2,501,300,000

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a "local unit of government."

The conferees expect ODP to continue all current overtime reimbursement practices. The conferees continue bill language prohibiting the use of funds for construction, except for Port Security, Rail and Transit Security, and the Buffer Zone Protection Plan grants. Bill language is included, however, to allow State Homeland Security Grant Program (SHSGP), Law Enforcement Terrorism Prevention Program (LETPP), and High-Threat, High-Density Urban Area grants to be used for minor perimeter security projects and minor construction or renovation of necessary guard facilities, fencing, and related efforts, not to exceed $1,000,000 as deemed necessary by the Secretary. The conferees further agree that the erection of communication towers, which are included in a jurisdiction's interoperable communications plan, does not constitute construction for the purposes of this Act.

In addition, the conferees include bill language requiring the Government Accountability Office (GAO) to review the validity of the threat and risk factors, and the application of those factors in the allocation of funds provided to ODP, and to report to the Committees on Appropriations by November 17, 2005, on the results of this review. The Department is required to provide GAO with the necessary information within seven days of enactment of this Act to ensure that this review does not impact the allocation of grants to state and local entities. Further, the conferees direct GAO to review the validity of the threat and risk factors used to allocate discretionary grants, including a project-by-project analysis of grants to non-profit organizations, in fiscal years 2003, 2004, and 2005, and report to the Committees on Appropriations by May 5, 2006, on the results of this review.

The conferees are concerned with the length of time, some in excess of three years, which certain State and local jurisdictions take to fully expend grant funds. The conferees direct the Department to report, by February 10, 2006, on the status of all open grants made prior to fiscal year 2003, including the specific reasons why the grant dollars have not yet been expended. Further, the report should include recommendations on actions being taken to ensure grant funds are spent in a timely manner and include an update on the execution of recommendations of the Task Force on State and Local Homeland Security Funding Report, dated June 2004.

The conferees agree that for State Formula Grants and High-Threat, High-Density Urban Areas grants, application kits shall be made available within 45 days after the start of fiscal year 2006, states shall have 90 days to apply after the grant is announced, and ODP shall act on an application within 90 days of its receipt. The conferees further agree that no less than 80 percent of these funds shall be passed by the state to local units of government within 60 days of the state receiving funds. Not to exceed three percent of grant funds may be used for administrative expenses.

STATE FORMULA GRANTS

The conferees agree to provide $550,000,000 for SHSGP instead of $800,100,000 as proposed by the House. The Senate proposed $1,538,000,000 for State and Local Assistance, combining SHSGP and High-Threat, High-Density Urban Area Grants into a single account. The conferees also provide $400,000,000 for LETPP as proposed by both the House and Senate.

DISCRETIONARY GRANTS

The conferees agree to provide $1,155,000,000 instead of $1,190,000,000 as proposed by the House. The Senate proposed $1,538,000,000 for State and Local Assistance, combining SHSGP and High-Threat, High-Density Urban Area Grants into a single appropriation, and provided $365,000,000 for Transportation and Infrastructure Grants in a separate appropriation. Of the funds provided, $765,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas, including $25,000,000 for grants to non-profit organizations determined by the Secretary to be at high risk of international terrorist attacks as proposed by the Senate. The Secretary may not delegate this determination authority and must certify the threat to each grantee three days prior to the announcement of a grant award. The conferees believe the Secretary should consider, as it relates to the grant allocation methodology, tourism destinations that attract tens of millions of visitors annually as potentially high risk targets.

Despite the consolidation of select transportation and infrastructure security grant award functions, Transportation Security Administration (TSA) and Infrastructure Protection and Information Security (IPIS) shall retain operational subject matter expertise of these grants and will be fully engaged in the administration of related grant programs.

PORT SECURITY

The conferees agree to provide $175,000,000 instead of $150,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. The conferees direct ODP to ensure all port security grants are coordinated with the state, local port authority, and the Captain of the Port so all vested parties are aware of grant determinations and that limited resources are maximized. The conferees encourage the Secretary to consider the proximity of existing liquefied natural gas facilities and liquefied petroleum vessels among the risk factors when deciding eligibility for port security grant funding.'

RAIL AND TRANSIT SECURITY

The conferees agree to provide $150,000,000 as proposed by the House instead of $100,000,000 as proposed by the Senate. ODP shall continue to work with TSA to develop a robust rail and transit security program and with the Science and Technology Directorate (S&T) on the identification of possible research and design requirements for rail and transit security.

The conferees are concerned by a recent ODP risk assessment that highlights the need for redundant transit operation control abilities in the national capital region to maintain federal government continuity of operations. The conferees direct ODP to submit a report no later than February 10, 2006, on the steps that may be taken to ensure this deficiency is addressed.

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM

The conferees agree to provide $50,000,000 as proposed by both the House and Senate. The conferees concur with both the House and Senate report language on the Commercial Equipment Direct Assistance Program.

The conferees encourage ODP to work with the Department of Defense (DOD) to ensure promising technologies, such as skin decontamination kits currently in use by DOD, are made available on the commercial market for purchase by state and local agencies responsible for homeland security.

NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $145,000,000 as proposed by the Senate instead of $125,000,000 as proposed by the House. This funding shall be allocated in accordance with the Senate report.

METROPOLITAN MEDICAL RESPONSE SYSTEM

The conferees agree to provide $30,000,000 instead of $40,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

TECHNICAL ASSISTANCE

The conferees agree to provide $20,000,000 as proposed by both the House and Senate. The conferees recognize the importance of interoperable communications standards, which are critical to the Department's efforts to improve communications nationally. The conferees direct the Under Secretary for Science and Technology (S&T) to expedite the development of these standards, and coordinate with ODP to ensure ODP's technical assistance program incorporates these standards, as appropriate, and as spelled out in the Memorandum of Agreement between S&T and ODP.

The conferees note there is no existing capability for real-time exchange of information at the regional or interstate levels regarding equipment and supplies inventory, readiness, or the compatibility of equipment. The conferees encourage ODP to review the use of logistic centers to consolidate State and local assets, provide life-cycle management and maintenance of equipment, allow for easy identification and rapid deployment during an incident, and allow for the sharing of inventories across jurisdictions.

DEMONSTRATION TRAINING GRANTS

The conferees agree to provide $30,000,000 as proposed by the Senate instead of $35,000,000 as proposed by the House. The conferees are concerned, while terrorism prevention is a national priority, little is being done to create prevention expertise in our nation's first responders. Without well developed terrorism prevention plans, state and local agencies lack a key piece in the fight against terrorism. The conferees encourage ODP to create a terrorism prevention certificate training program that will enable graduates to help their communities or organizations develop the necessary terrorism prevention plans.

CONTINUING TRAINING GRANTS

The conferees agree to provide $25,000,000 as proposed by the Senate instead of $30,000,000 as proposed by the House.

CITIZEN CORPS

The conferees agree to provide $20,000,000 instead of $40,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. Mobilizing communities and citizens to assist law enforcement in preventing acts of terrorism is as important as preparing communities and citizens to respond to a terrorist incident. The conferees are aware of the work the Citizen Corps has done in partnership with the National Crime Prevention Council (NCPC) in organizing comprehensive community planning. The conferees encourage ODP to continue to emphasize prevention in all of its programs and to work with the NCPC.

RURAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $10,000,000 as proposed by the House. The Senate included no similar provision. The conferees direct ODP to continue the development of specialized and innovative training curricula for rural first responders and ensure the coordination of such efforts with existing ODP training partners.

INTEROPERABLE COMMUNICATIONS

The conferees concur with the Senate report language regarding interoperable communication implementation plans.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE

The conferees concur with the House report language regarding Homeland Security Presidential Directive 8 implementation; however, ODP shall issue the final National Preparedness Goal no later than December 31, 2005, and complete the National Preparedness Assessment and Reporting System no later than September 30, 2006.

EMERGENCY MEDICAL SERVICES

The conferees are very concerned with the lack of first responder grant funding being provided to the Emergency Medical Services (EMS) community. The conferees direct ODP to require state and local governments to include EMS representatives in planning committees as an equal partner and to facilitate a nationwide EMS needs assessment. The conferees do not mandate that a certain percentage of grant funds be allocated to any one type of first responders. However, the conferees direct ODP to evaluate how much money goes to EMS providers and to require an explanation from any state not providing at least ten percent of its grant funding to EMS providers to better train and equip them to provide critical life-saving assistance in the event of a chemical, biological, radiological, or explosive event.

CATASTROPHIC PLANNING

The conferees note the tragic events in the wake of Hurricane Katrina indicate the importance of preparation and having plans in place to deal with catastrophic events. It is imperative all states and Urban Area Security Initiative grantees ensure there are sufficient resources devoted to putting in place plans for the complete evacuation of residents, including special needs groups in hospitals and nursing homes, or residents without access to transportation, in advance of and after such an event, as well as plans for sustenance of evacuees.

The conferees direct the Secretary to report on the status of catastrophic planning, including mass evacuation planning in all 50 states and the 75 largest urban areas by February 10, 2006. The report should include certifications from each state and urban area as to the exact status of plans for evacuations of entire metropolitan areas in the state and the entire state, the dates such plans were last updated, the date exercises were last conducted using the plans, and plans for sustenance of evacuees.

ELIGIBILITY

The conferees urge the Department to work with state and local governments to ensure regional authorities, such as port, transit, or tribal authorities are given due consideration in the distribution of State Formula Grants.

RAPID DECONTAMINATION PREPAREDNESS

The conferees are concerned with the lack of planning and preparation for a rapid decontamination response in the event of a large scale biological or chemical attack. The conferees direct ODP, in consultation with S&T, the Environmental Protection Agency, and other relevant federal agencies, to report, not later than February 10, 2006, on the feasibility and plan for establishing a regionally based, pre-positioned rapid response capability for the decontamination of biological and chemical agents based on technologies that meet the decontamination standards for those agents.

EFFECTIVENESS SURVEY

The conferees direct the Secretary to comply with section 522 of the Senate bill with regard to a survey of state and local government emergency officials.

FIREFIGHTER ASSISTANCE GRANTS

The conferees agree to provide $655,000,000 instead of $650,000,000 as proposed by the House and $665,000,000 as proposed by the Senate. Of this amount, $110,000,000 shall be for firefighter staffing, as authorized by section 34 of the Federal Fire Prevention and Control Act of 1974, instead of $75,000,000 as proposed by the House and $115,000,000 as proposed by the Senate.

The conferees are concerned by the Department's proposed shift in grant focus from all-hazards to placing a priority on terrorism, and the proposed deletion of several eligible activities, specifically, wellness and fitness programs, emergency medical services, fire prevention programs, public education programs, and modifications of facilities for health and safety of personnel. The Department shall continue the current practice of funding applications according to local priorities and those established by the United States Fire Administration (USFA), continue direct funding of grants to fire departments, continue the peer review process for determining funding awards, reinstate all previously eligible funding areas, and include the USFA during grant administration. The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108-169, the United States Fire Administration Reauthorization Act of 2003.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

The conferees agree to provide $185,000,000 instead of $180,000,000 as proposed by the House and $190,000,000 as proposed by the Senate. The conferees agree Emergency Management Performance Grants (EMPGs) are vital to state and local emergency management systems. The Department shall continue funding personnel expenses without a limit and continue current grant administrative practices, including grant allocation and a focus on all-hazards, in a manner identical to fiscal year 2005. The conferees agree ODP shall continue to include the Federal Emergency Management Agency (FEMA) subject matter experts in the review of EMPG applications, determinations of eligibility, and making award determinations. Furthermore, the conferees expect FEMA regional emergency managers' relationship with state and local governments to continue and expect ODP to work with all State Administrating Agencies to ensure funds reach the emergency management communities as quickly as possible.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide for the receipt and expenditure of fees collected, as authorized by Public Law 105-276 and as proposed by both the House and Senate. The conferees move these programs from the Emergency Preparedness and Response Directorate to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan dated July 13, 2005.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

The conferees agree to provide $44,948,000 for the United States Fire Administration and Training. Of this amount, $4,507,000 is for the Noble Training Center. The conferees move these programs from the Emergency Preparedness and Response Directorate to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan dated July 13, 2005. The conferees concur with Senate report language on the preparedness of local fire departments; however, the report shall be provided by March 1, 2007, instead of February 18, 2006.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

The conferees agree to provide $625,499,000 for infrastructure protection and information security (IPIS) programs. The conferees move IPIS programs from Information Analysis and Infrastructure Protection (IAIP), Management and Administration and Evaluations and Assessments, to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005. Funding is allocated as follows:

Management and Administration	$83,342,000
Critical Infrastructure Outreach and Partnership	112,177,000
Critical Infrastructure Identification and Evaluation	68,500,000
National Infrastructure Simulation and Analysis Center	20,000,000
Biosurveillance	14,100,000
Protective Actions	91,399,000
Cyber Security	93,349,000
National Security/Emergency Preparedness Telecommunications	142,632,000
Total	625,499,000

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $83,342,000 for Management and Administration. The conferees have reduced Management and Administration funding based on a continuing large number of personnel vacancies. The conferees do not believe the IPIS will reach its fully authorized full-time equivalent levels by the end of fiscal year 2005 and have reduced fiscal year 2006 funding accordingly.

CRITICAL INFRASTRUCTURE OUTREACH AND PARTNERSHIP

The conferees agree to provide $112,177,000 instead of $62,177,000 as proposed by the House and $126,592,000 as proposed by the Senate. Included in this amount is $50,000,000 for the National Center for Critical Information Processing and Storage (NCCIPS) for data center services for critical infrastructure information, including development, operations, and maintenance of the Center. The conferees direct a report, no later than February 10, 2006, on the progress of further developing NCCIPS.

CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION

The conferees agree to provide $68,500,000 instead of $77,173,000 as proposed by the House and $59,903,000 as proposed by the Senate. Included in this amount is $7,500,000 for the Comprehensive Review directed in the House Report 109–79 and $20,000,000 for the National Asset Database.

CHEMICAL FACILITY SECURITY

The conferees direct the Secretary to complete vulnerability assessments of the highest risk chemical facilities in the United States by December 2006. In determining which facilities to assess, the Secretary should give preference to facilities that, if attacked, pose the greatest threat to human life and the economy. The conferees also direct the Department to complete a national security strategy for the chemical sector by February 10, 2006.

NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER (NISAC)

The conferees agree to provide $20,000,000 instead of $16,000,000 as proposed by the House and $21,000,000 as proposed by the Senate. The conferees agree that Sandia and Los Alamos National Laboratories shall continue to develop the NISAC and be the lead entities in securing the Nation's critical infrastructure.

CYBER SECURITY

The conferees agree to provide $93,349,000, including $30,000,000 to continue National cyber security exercises and outreach. The conferees strongly support cyber partnerships among federal, state, local agencies, and the private sector that demonstrate the ability to transfer technologies from federal laboratories and package them into tools, training, and technical assistance to meet and enhance the demands of federal, state, and local end users. Included in the amount provided is the budget request level for United States Computer Emergency Readiness Team operations.

COUNTERTERRORISM FUND

The conferees agree to provide $2,000,000 instead of $10,000,000 as proposed by the House and $3,000,000 as proposed by the Senate. The conferees expect the Secretary to provide written notification to the Committees on Appropriations upon the designation of a National Special Security Event. The written notification shall include the following information: location and date of the event, federal agencies involved in the protection and planning of the event, the estimated federal costs of the event, and the source of funding to cover the anticipated expenditures.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

The conferees agree to provide $221,240,000 instead of $227,747,000 as proposed by the House and $220,747,000 as proposed by the Senate. Within these funds, the conferees agree to provide $4,306,000 for the office of the Director of the Federal Emergency Management Agency (FEMA) and $5,000,000 for the Document Management Support Program.

The conferees are concerned with administrative actions being taken to close FEMA's Pacific Area Office (PAO). The PAO provides the primary federal response to disasters throughout the Pacific Islands. Given the PAO's proximity to the other Pacific Islands within Region IX and the specialized knowledge of its staff on the islands' geography and cultures, the conferees direct FEMA to continue to operate the PAO.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

The conferees agree to provide $204,058,000 instead of $249,499,000 as proposed by the House and $193,899,000 as proposed by the Senate. No funding is provided for Nuclear Incident Response as proposed by the Senate. Within these funds, the conferees agree to provide $20,000,000 for catastrophic planning. The conferees do not agree to rescind $9,600,000 as proposed by the Senate. Within the funds provided for catastrophic planning, the conferees agree FEMA shall reimburse non-governmental organizations with cooperating agency responsibilities under the Department's National Response Plan (NRP) and Catastrophic Incident Annex/Supplement (CIA/S) for planning activities required by the NRP–CIA/S, provided costs do not exceed $5,000,000. Further, the Secretary is directed to include these costs in future budget submissions. The conferees concur with Senate bill language encouraging acquisition of an integrated mobile medical system.

The conferees are aware FM broadcast radio infrastructure and public television stations are moving forward with several Integrated Public Alert and Warning System programs towards a national alert and warning policy and architecture and encourage FEMA to support these efforts.

URBAN SEARCH AND RESCUE

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $20,000,000 for urban search and rescue instead of $7,000,000 as proposed by the House and $30,000,000 as proposed by Senate. The conferees direct the Secretary to provide a report by February 10, 2006, on the total costs in fiscal years 2005, 2006, and proposed for 2007 to operate and train the 28 Urban Search and Rescue teams, the cost to maintain the first equipment cache, the cost to maintain the second equipment cache, the cost to replace expiring drugs, the costs to replace/repair equipment that has been used in training or actual disasters, and all other costs of the program. The report should include state, local and Federal costs and an assessment of the appropriate share for each level of government.

NATIONAL INCIDENT MANAGEMENT SYSTEM

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $22,000,000 for the National Incident Management System (NIMS) as proposed by the House. The conferees direct FEMA to use no less than $10,000,000 to continue to implement NIMS nationwide, with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

EMERGENCY STRUCTURES

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $4,000,000 for emergency structures as proposed by the House. The Department is strongly encouraged to begin to utilize structures that can be stacked for economical shipping and storage, expanded during assembly to increase useable space, and returned to their original dimensions when disassembled. The structures should also be suitable to address infrastructure needs, such as offices, schools, medical centers, and other public buildings, and sturdy enough to ensure multiple reuse in future deployments. The conferees believe this innovative and higher quality structure should provide substantial cost-savings over time to the federal government through effective multiple reuse, and will enhance current response and recovery activities well beyond the semi-disposable products currently being used. The conferees direct FEMA to commence this new activity immediately and to ensure emergency housing and infrastructure requirements are submitted with their fiscal year 2007 budget request.

MASS EVACUATIONS

The conferees recognize that state and local governments must develop multi-state and multi-jurisdictional plans in the event that a mass evacuation takes place from an urban area to neighboring rural areas. The conferees direct the Department, through the Catastrophic Disaster Planning Program, to develop coordinated guidelines for state and local governments as they develop mass evacuation plans. Plans should include, where appropriate, the pre-positioning of items that will be required during a mass evacuation, such as food, water, medicine and interoperable communications equipment. The Department is encouraged to consider the need for such pre-positioned equipment in allocating first responder funds.

CRISIS COUNSELING

The conferees understand the Crisis Counseling Program, funded to provide mental health services for first responders who responded to the attacks of 9/11 ended September 30, 2005. Further, the conferees understand New York City will provide similar services to those who continue to need services. In order to ensure first responders continue to receive mental health and other services, the conferees direct FEMA to provide a report on the transition of these services from federal to city administration by February 10, 2006.

PUBLIC HEALTH PROGRAMS

The conferees agree to provide $34,000,000 as proposed by both the House and Senate.

DISASTER RELIEF

The conferees agree to provide $1,770,000,000 instead of $2,000,000,000 as proposed by the House and $1,920,000,000 as proposed by the Senate. The conferees concur with House report language on Disaster Relief Fund overpayments; however, the report shall be provided by June 1, 2006, instead of March 15, 2006.

The conferees agree the Secretary shall provide clear, concise, and uniform guidelines for the reimbursement to any county or government entity affected by a hurricane on the costs of hurricane debris removal.

The conferees agree the Secretary shall submit to the Committees on Appropriations a report describing any changes to federal emergency preparedness and response policies and practices as a result of the Inspector General's report (OIG–05–20) related to Hurricane Frances.

The conferees agree that, not later than 90 days from the date of enactment of this Act, the Secretary shall issue new guidelines to prohibit inspectors from entering into a contract for the sale of any house or household item he or she inspected. The guidelines shall apply to those performing inspections that determine eligibility for assistance from FEMA.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The conferees agree to provide $567,000 for administrative expenses as proposed by both the House and Senate. Gross obligations for the principal amount of direct loans shall not exceed $25,000,000 as proposed by both the House and Senate.

FLOOD MAP MODERNIZATION FUND

The conferees agree to provide $200,000,000 as proposed by both the House and Senate. The conferees recognize the importance of the Flood Map Modernization Program to state and local governments. When allocating federal flood mapping modernization funds, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the Mississippi River Delta region, and the participation of the state in leveraging non-federal contributions. The conferees further direct FEMA to recognize and support those states that integrate the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, transportation planning and disaster response. The conferees recognize the usefulness of updated flood maps in state planning, and encourage this efficient use of federal dollars. This is in addition to direction contained in the House and Senate reports.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $36,496,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $40,000,000 for severe repetitive loss property mitigation expenses pursuant to section 1361A of the National Flood Insurance Act (NFIA) of 1968; $10,000,000 for flood mitigation activities pursuant to section 1323 of the NFIA; and up to $99,358,000 for other flood mitigation activities, of which up to $40,000,000 is available for transfer to the National Flood Mitigation Fund. The conferees further agree on limitations of $55,000,000 for operating expenses, $660,148,000 for agents' commissions and taxes, and $30,000,000 for interest on Treasury borrowings.

The conferees believe that, while the new flood mitigation programs targeted at repetitive loss properties will strengthen the solvency of the National Flood Insurance Fund in the long-term, it is important to manage the short-term health of the Fund as well. Therefore, the conferees direct FEMA, in the execution of these programs, to manage the Fund in the most appropriate manner in order to maintain solvency.

NATIONAL FLOOD MITIGATION FUND

The conferees agree to provide $40,000,000 by transfer from the National Flood Insurance Fund as proposed by the House instead of $28,000,000 as proposed by the Senate.

NATIONAL PREDISASTER MITIGATION FUND

The conferees agree to provide $50,000,000 instead of $150,000,000 as proposed by the House and $37,000,000 as proposed by the Senate. The conferees are concerned with the current large unobligated balances in the National Predisaster Mitigation Fund. The conferees understand FEMA intends to obligate $118,000,000 of carryover funding in fiscal year 2005 and the remaining $130,000,000 by the end of fiscal year 2006. The conferees support the Predisaster Mitigation program but are concerned by the very slow pace of implementation and the obligation of the funds.

EMERGENCY FOOD AND SHELTER

The conferees agree to provide $153,000,000 as proposed by both the House and Senate.

TITLE IV—RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The conferees agree to provide $115,000,000, instead of $120,000,000 as proposed by the House and $80,000,000 as proposed by the Senate. The conference agreement includes $80,000,000 for backlog elimination, as well as $35,000,000 to support the U.S. Citizenship and Immigration Services (CIS) information technology transformation effort and convert immigration records into digital format. Current estimates of fee collections are $1,774,000,000, for total resources available to CIS of $1,889,000,000. The conferees direct that, of these collections, not to exceed $5,000 shall be for official reception and representation expenses. The conferees do not require the Department to report on facility needs for CIS.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

Backlog Reduction Initiatives (Direct Appropriations):	
Contracting Services (Backlog reduction)	$70,000,000
Other (Backlog reduction)	10,000,000
Digitization and Information Technology Transformation	35,000,000
Subtotal, Backlog Reduction Initiatives	115,000,000
Adjudication Services (fee accounts):	
Pay and Benefits	657,000,000
Operating Expenses:	
District Operations	349,000,000
Service Center Operations	250,000,000
Asylum, Refugee and International Operations	74,000,000
Records operations	66,000,000
Subtotal, Adjudication Services	1,396,000,000 ERR
Information and Customer Services (fee accounts):	
Pay and Benefits	80,000,000
Operating Expenses.	
National Customer Service Center	47,000,000
Information Services	14,000,000
Subtotal, Information and Customer Services	141,000,000
Administration (fee accounts):	
Pay and Benefits	44,000,000
Operating expenses	193,000,000
Subtotal, Administration	237,000,000
Total, U.S. Citizenship and Immigration Services	1,889,000,000

INFORMATION TECHNOLOGY MODERNIZATION

The conferees include $35,000,000 to support the information technology transformation process at CIS. The conferees direct CIS to refrain from obligating any of the funds until the Committees on Appropriations have received and approved a detailed spending plan, complete with project milestones, and reflecting compliance with DHS and OMB guidelines for information technology investments.

SPANISH LANGUAGE PROGRAMS

The conferees are aware CIS programs such as the National Customer Service Center provide nationwide telephone assistance to customers calling from within the United States about immigration services and benefits; information is available in English and Spanish. The conferees encourage CIS to continue to support programs that provide Spanish-speaking residents with information and assistance related to naturalization and citizenship.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide $194,000,000 as proposed by the House and the Senate. This amount includes the funds requested in the budget and an additional $10,638,000 to meet the increased training needs of the Border Patrol and Immigration and Customs Enforcement.

The conferees are concerned with the lack of use of the Cheltenham, Maryland, training site. The conferees direct the Department to provide a report on the utilization rates of this facility and make recommendations on how it intends to improve usage no later than February 10, 2006.

The conferees do not provide authority to assess pecuniary liability against employees and students.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $88,358,000 as proposed by the Senate instead of $64,743,000 as proposed by the House. The increase from the budget request includes $44,327,000 for renovation and construction needs at the Artesia, New Mexico, training center and $3,395,000 for construction at the Glynco, Georgia, training center.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished Information Analysis and Infrastructure Protection (IAIP), Management and Administration, instead of $190,200,000 as proposed by the House and $168,769,000 as proposed by the Senate. Funding for the functions currently performed by IAIP are included under other appropriations in this Act, and are identified accordingly.

ASSESSMENTS AND EVALUATIONS

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished IAIP, Assessments and Evaluations, instead of $663,240,000 as proposed by the House and $701,793,000 as proposed by the Senate. Funding for the functions currently performed by IAIP are included under other appropriations in this Act, and are identified accordingly.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $81,099,000 for management and administration as proposed by the Senate instead of $81,399,000 as proposed by the House. This amount includes $6,479,000 for the immediate Office of the Under Secretary and $74,620,000 for other salaries and expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

The conferees agree to provide $1,420,997,000 for research, development, acquisition, and operations instead of $1,208,597,000 as proposed by the House and $1,372,399,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Biological Countermeasures	$380,000,000
Chemical Countermeasures	95,000,000
Explosives Countermeasures	44,000,000
Threat and Vulnerability, Testing and Assessment	43,000,000
Conventional Missions	80,000,000
Rapid prototyping program	35,000,000
Standards	35,000,000
Emerging Threats	8,000,000
Critical Infrastructure Protection	40,800,000
University Programs/Homeland Security Fellowship Programs	63,000,000
Counter MANPADS	110,000,000
Safety Act	7,000,000
Cyber Security	16,700,000
Interoperability and Compatibility	26,500,000
Research and Development Consolidation	99,897,000
Radiological and Nuclear Countermeasures	19,086,000
Domestic Nuclear Detection Office	318,014,000
Total, Research, Development, Acquisition, and Operations	1,420,997,000

TECHNOLOGY DEVELOPMENT AND TRANSFER

The conferees do not provide separate funding for Technology Development and Transfer as proposed by the House.

BIOLOGICAL COUNTERMEASURES

The conferees agree to provide $380,000,000 for Biological Countermeasures instead of $360,000,000 as proposed by the House and $384,300,000 as proposed by the Senate. The conferees agree to provide $23,000,000 to select a site and other pre-construction activities for the National Bio and Agrodefense Facility.

AIR CARGO

Based on recommendations in Science and Technology's (S&T) system engineering study of civil aviation security, the conferees direct $30,000,000 be used to conduct three cargo screening pilot programs—one at an all cargo airport facility and two at passenger cargo airports (top twenty in size)—to test different concepts of operation, as described in the House report. The conferees expect S&T to utilize TSA airport management staff to manage the oversight and day-to-day operations of these pilot programs to the greatest extent possible. One of the pilots should test whether a significant amount of cargo can be screened in the terminal using existing checked baggage security infrastructure. The conferees also expect S&T to locate these pilots at airport or airline facilities willing to contribute both physical space and other resources to this effort. The conferees direct S&T to begin all pilots in fiscal year 2006, to report on the initial results of the pilots every six months after initiation of the first pilot, and to report on the final results four months after the last pilot is completed.

RADIOLOGICAL AND NUCLEAR COUNTERMEASURES

The conferees agree to provide $19,086,000 for Radiological and Nuclear Countermeasures as proposed by the House instead of $226,000,000 as proposed by the Senate for Incident Management and Recovery, and Attribution and Forensics on Contaminated Evidence. Funding for all other Radiological and Nuclear portfolio activities is transferred to the Domestic Nuclear Detection Office.

DOMESTIC NUCLEAR DETECTION OFFICE

The conferees agree to provide $318,014,000 for the Domestic Nuclear Detection Office (DNDO) instead of $127,314,000 as proposed by both the House and the Senate. The conferees direct not less than $81,000,000 of the amount provided is for evolutionary and transformational radiological and nuclear research and development activities. DNDO should leverage its resources with existing institutions, such as national labs and the research and development community, where practicable. In addition, $4,000,000 is included for deployment of detection systems at interstate weigh stations. The amount provided also includes $125,000,000, as proposed by the Senate within the S&T "Rad/Nuc" research program and by the House within the Customs and Border Protection "Salaries and Expenses" account, for the testing, development, and deployment of radiation portal monitors at the Nation's ports-of-entry. Language is included in the bill making this amount available until expended solely for this purpose.

Excluding funding for radiation portal monitors, $144,760,500 may not be obligated until the Committees on Appropriations receive and approve an expenditure plan prepared by the Secretary and reviewed by the Government Accountability Office. None of these funds shall be obligated for establishing new programs, prototyping, or implementing a global systems architecture until the Committees on Appropriations receive and approve the expenditure plan. This plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 and an organizational staffing plan, including contractors, full-time employee equivalents, and intra and inter agency detailees. In addition, the conferees direct the expenditure plan include a detailed description of the global nuclear detection systems architecture and milestones and costs, by fiscal year, for implementing the architecture. The plan should also include identification of the roles, missions, and responsibilities of DNDO as compared to the statutory responsibilities of all Federal agencies involved in radiological and nuclear detection and how the DNDO changes any current roles, responsibilities, and functions of each involved Federal partner in both the domestic and international arenas.

CONVENTIONAL MISSION SUPPORT

The conferees agree to provide $80,000,000 as proposed by the House instead of $74,650,000 as proposed by the Senate. The amount includes $25,000,000 for piloting a regional program for Federal Emergency Management Agency/State and Locals, as proposed by the Senate.

CONTAINER SECURITY AND MEGAPORTS INITIATIVE

The conferees support the budget request for container security research activities. The conferees direct the Department to provide a report, in conjunction with the U.S. Department of Energy, by February 10, 2006, on the progress made by both Departments on various radiation technology efforts, the degree of coordination between the megaport initiative and the Container Security Initiative, the types of technology (both radiation detection and other non-intrusive inspection technology) being deployed at specific locations, and the extent to which next generation technology is being explored and developed for future use.

BLAST RESISTANT RECEPTACLES

The conferees concur with the House report on blast resistant receptacles.

CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $40,800,000 for Critical Infrastructure protection instead of $35,800,000 as proposed by the House and $13,800,000 as proposed by the Senate. The conferees recommend $20,000,000 to support existing work in research, development and application of technology for community based critical infrastructure protection efforts. The conferees are concerned the Department lacks appropriate assessment tools to help prioritize security risks for critical infrastructure and urges S&T to examine well-established scientific analysis tools commonly used in engineering and design, including six sigma analysis.

RAPID PROTOTYPING

The conferees agree to provide $35,000,000 for Rapid Prototyping instead of $30,000,000 as proposed by the House and $20,900,000 as proposed by the Senate. The conferees support the budget request and include additional funds of $4,000,000 to encourage further implementation of section 313 of the Homeland Security Act of 2002, and to increase the speed innovative products are being reviewed, certified, and released to market. An additional $10,000,000 is provided to evaluate emerging civil aviation defense technologies.

COUNTER MANPADS

The conferees agree to provide $110,000,000 as proposed by the House and the Senate. The conferees do not support using $10,000,000 of this amount for investigating alternative technologies as proposed by the House.

INTEROPERABILITY AND COMPATIBILITY

The conferees agree to provide $26,500,000 for Interoperability and Compatibility instead of $41,500,000 as proposed by the House and $15,000,000 as proposed by the Senate.

The amount provided includes $5.000.000 for expanded deployment of RapidCom, instead of $10,000,000 as proposed by the House. The conferees concur with the House report language regarding the Risk Assessment Policy Working Group. The conferees direct the Office of Interoperability and Compatibility (OIC) to work with the National Institute of Standards and Technology and the U.S. Department of Justice to require, when Project 25 equipment is purchased with such funds, the equipment meets the requirements of a conformity assessment program. The conferees further direct such a conformity assessment program be funded by this appropriation and be available by the end of fiscal year 2006. Consistent with current SAFECOM guidelines, the conferees agree other technologies can also be funded, but the grant applications should present a compelling argument why the use of these other technologies will improve the status quo of interoperability with neighboring jurisdictions.

AGROTERRORISM

The conferees encourage the Department to work in conjunction with USDA and HHS and other organizations on agroterrorism and animal-based bioterrorism, including the development and stockpiling of veterinary vaccines. The conferees also encourage S&T to work with one or more states to develop a model integrated agricultural response system, utilizing geographic information systems that identify critical agricultural infrastructure. Such a system should help prevent, and mitigate the impact of, incidents.

NEW TECHNOLOGIES

The conferees believe new technologies may significantly help the Department as it seeks to secure our homeland. The conferees encourage the Department to develop such technologies as lightweight miniature cooling systems for protective gear; proteomic pathogen reference libraries; aquatic bioassessment; airborne rapid response mapping; mobile and non-intrusive cargo scanning; investments that focus on nuclear threats and biological attacks, such as aerosolized pathogens and the spread of zoonotic diseases as well as the spread of infectious disease such as SARS and avian flu; real-time detection, identification and assessment of chemical, biological, nuclear, radiological, explosive and concealed threats; mitigating hazardous material shipping violations; and leveraging intelligent transportation systems.

NANOTECHNOLOGY

The conferees believe nanotechnology is a promising technology that can contribute significantly in the defense against terrorism. The conferees encourage S&T to pursue research in nanotechnologies that may aid in the detection of biological, chemical, radiological, and explosive agents; and to consider ways to use these technologies for protecting transit systems.

TUNNELS

The conferees support language in the House report and section 524 of the Senate bill with regard to tunnel detection technologies.

RESEARCH AND DEVELOPMENT CONSOLIDATION

The conferees agree to provide $99,897,000 as proposed by the Senate instead of $116,897,000 as proposed by the House to consolidate all research and development funding within S&T with the exception of research and development activities of the U.S. Coast Guard, which is to remain within that agency.

TITLE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The conferees continue a provision that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The conferees continue and modify a provision that provides authority to reprogram appropriations within an account and to transfer not to exceed five percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this statement. These reprogramming guidelines shall be complied with by all agencies funded by the Department of Homeland Security Appropriations Act, 2006.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to the Committees should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent position) levels for the current fiscal year and to the levels requested in the President's budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are concerned with the number of reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests should be submitted only in the case of an unforeseeable emergency or situation that could not have been predicted when formulating the budget request for the current fiscal year. Further, the conferees note that when the Department submits a reprogramming or transfer request to the Committees on Appropriations and does not receive identical responses from the House and Senate, it is the responsibility of the Department to reconcile the House and Senate differences before proceeding, and if reconciliation is not possible, to consider the reprogramming or transfer request unapproved.

The Department is not to propose a reprogramming or transfer of funds after June 30th unless there are exceptional or extraordinary circumstances such that lives or property are placed in imminent danger.

Section 504. The conferees include a new provision that none of the funds appropriated or otherwise available to the Department may be used to make payment to the Department's Working Capital Fund, except for activities and amounts allowed in section 6024 of Public Law 109-13, excluding the Homeland Secure Data Network, as proposed by the Senate.

Section 505. The conferees continue a provision that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2006 from appropriations made for salaries and expenses shall remain available through fiscal year 2007 subject to reprogramming guidelines.

Section 506. The conferees continue a provision that provides that funds for intelligence activities are deemed to be specifically authorized during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

Section 507. The conferees continue and modify a provision that directs the Federal Law Enforcement Training Center (FLETC) to lead the Federal law enforcement training accreditation process.

Section 508. The conferees continue and modify a provision that requires notification of the Committees on Appropriations three business days before any grant allocation, discretionary grant award, discretionary contract award, letter of intent, or public announcement of the intention to make such an award totaling in excess of $1,000,000.

Section 509. The conferees continue a provision that no agency shall purchase, construct, or lease additional facilities for federal law enforcement training without advance approval of the Committees on Appropriations.

Section 510. The conferees continue a provision that FLETC shall schedule basic and/or advanced law enforcement training at all four training facilities under its control to ensure that these training centers are operated at the highest capacity.

Section 511. The conferees continue a provision that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved.

Section 512. The conferees continue a provision that none of the funds may be used in contravention of the Buy American Act.

Section 513. The conferees include a new provision requiring the Department to take actions to comply with the second proviso of section 513 of Public Law 108-334 and to submit a report to the Committees on Appropriations biweekly beginning on October 1, 2005, if the Department is not in compliance. Additionally, the Secretary shall take all possible actions to increase the level of cargo screened beyond the level mandated in section 513 of Public Law 108-334 and shall report to the Committees on Appropriations every six months on the actions taken and the quantity of air cargo inspected at each airport.

Section 514. The conferees continue a provision that allows TSA to impose a reasonable charge for the lease of real and personal property to TSA employees.

Section 515. The conferees continue and make permanent a provision that directs that the acquisition management system of TSA be applied to the acquisition of services, equipment, supplies, and materials.

Section 516. The conferees continue and modify a provision related to the transfer of the authority to conduct background investigations from the Office of Personnel Management to DHS, as proposed by the House. The conferees are concerned by delays in personnel security and suitability background investigations, update investigations and periodic reinvestigations for Departmental employees and, in particular for positions within the Office of the Secretary and Executive Management, Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate for Preparedness. The conferees direct that this authority be used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 517. The conferees continue and make permanent a provision that exempts funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under Title III of this Act from the provisions of the Cash Management Improvement Act of 1990.

Section 518. The conferees continue and modify a provision to prohibit the obligation of funds for the Secure Flight program, except on a test basis, until the requirements of section 522 of Public Law 108–334 have been met and the Government Accountability Office (GAO) has reviewed and made certain certifications. The conferees direct the GAO to continue to evaluate DHS and TSA actions to meet the ten elements listed in section 522 of Public Law 108–334 and to report to the Committees on Appropriations, either incrementally as the Department meets additional elements, or when all elements have been met by the Department. The provision also prohibits the obligation of funds for a commercial database that is obtained from or remains under the control of a non-Federal entity, excluding Passenger Name Record data obtained from air carriers.

Section 519. The conferees continue a provision that directs that none of the funds may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

Section 520. The conferees continue a provision regarding competitive sourcing.

Section 521. The conferees continue a provision that none of the funds in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

Section 522. The conferees include a new provision that none of the funds appropriated in this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security, unless the Secret Service is fully reimbursed, as proposed by the Senate.

Section 523. The conferees include a new provision that directs that the data storage facilities at the John C. Stennis Space Center shall hereafter be known as the "National Center for Critical Information Processing and Storage," as proposed by the Senate.

Section 524. The conferees include a new provision that directs the Secretary to develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate, as proposed by the House and modified by the conferees.

Section 525. The conferees include a new provision that directs TSA to utilize existing checked baggage explosive detection equipment and screeners to screen cargo on passenger aircraft when practicable, as proposed by the House. The provision directs TSA to submit a monthly report, starting in August 2005, to the Committees on Appropriations on the amount of cargo carried on passenger aircraft that was screened.

Section 526. The conferees include a new provision that directs that none of the funds available for obligation in this Act be used for the transportation worker identification credential program to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility, as proposed by the House.

Section 527. The conferees include a new provision that rescinds $78,630,689 for Integrated Deepwater System 110- to 123-foot patrol boats conversion found in the United States Coast Guard "Acquisition, Construction and Improvements" account, as proposed by the House and modified by the conferees. The funds are re-appropriated towards the service life extension of Island Class patrol boats and the design, production, and long lead materials of the Fast Response Cutter.

Section 528. The conferees include a new provision that directs the Secretary to utilize the Transportation Security Clearinghouse, which currently processes criminal history background checks for airline and airport employees, as the central identity management system for deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a centralized aviation, revocation, and transaction hub for participating airports, ports, and other points of presence, as proposed by the House.

Section 529. The conferees include a new provision that directs that only the privacy officer, appointed pursuant to section 222 of the Homeland Security Act of 2002, may alter, direct that changes be made to, delay or prohibit the transmission of a privacy officer report to Congress, as proposed by the House.

Section 530. The conferees include a new provision requiring only those employees who are trained in contract management to perform contract management, as proposed by the House and modified by the conferees. The conferees note that an Inspector General's report (OIG–05–18) on the Transportation Security Operations Center found blatant mismanagement and waste of taxpayer dollars. TSA employees managing this contract did not have proper training. The conferees direct the Secretary to ensure that this does not happen in the future.

Section 531. The conferees include a new provision that directs that any funds appropriated or transferred to TSA "Aviation Security" and "Administration" in fiscal years 2004 and 2005, which are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage and checkpoint screening systems, subject to section 503 of this Act, as proposed by the House and modified by the conferees.

Section 532. The conferees include a new provision regarding the survey and designation of ports of entry in the United States, as proposed by the Senate and modified by the conferees.

Section 533. The conferees include a new provision regarding FEMA's public assistance program and the City of Paso Robles, California, as proposed by the House and modified by the conferees.

Section 534. The conferees include a new provision regarding FEMA's public assistance program and El Dorado County, California, as proposed by the House and modified by the conferees.

Section 535. The conferees include a new provision regarding FEMA's public assistance program and the University of Hawaii, Manoa campus.

Section 536. The conferees include a new provision regarding H2A Visas.

Section 537. The conferees include a new provision on Sensitive Security Information as proposed by the House and modified by the conferees.

Section 538. The conferees provide $40,000,000 for discretionary grants to States to implement the REAL ID Act of 2005 instead of $100,000,000 as proposed by the House and $40,000,000 as proposed by the Senate within the Office of State and Local Government Coordination and Preparedness. These grants, to assist with the implementation of the national standards for drivers' licenses, shall be made at the discretion of the Secretary. Bill language is included requiring the submission of an implementation plan for the responsibilities of the Department of Homeland Security under the recently enacted REAL ID Act of 2005 (Public Law 109–13). This plan should include, but not be limited to, the proposed uses of the funds, and the criteria to be used to approve the extension of deadlines. The conferees include bill language requiring that no less than $6,000,000 be made available for pilot projects to begin immediately in order that lessons learned and best practices might be made available to all States as quickly as possible.

Section 539. The conferees include a new provision that extends the authorization of the Working Capital Fund until October 1, 2006.

Section 540. The conferees include a new provision regarding fees for the registered traveler program.

Section 541. The conferees include a new provision regarding liability protection for certain persons who report a situation, activity or incident.

Section 542. The conferees include a new provision that rescinds $15,000,000 from the Department of Homeland Security Working Capital Fund, instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate under Departmental Management and Operations.

Section 543. The conferees include a new provision that rescinds $5,500,000 from unobligated balances previously appropriated to the Transportation Security Administration, "Aviation Security". Of these funds, $3,000,000 shall be rescinded from training and other activities and $2,500,000 shall be rescinded from checkpoint support.

Section 544. The conferees include a new provision that rescinds $6,369,118 from previous Appropriations Acts for the United States Coast Guard "Operating Expenses" and "Acquisition, Construction and Improvements". The Secretary is directed to advise the Committees on Appropriations on the distribution of the rescission prior to its implementation.

Section 545. The conferees include a new provision that rescinds $8,000,000 from unobligated balances previously appropriated to the Counterterrorism Fund.

Section 546. The conferees include a new provision that rescinds $20,000,000 from unobligated balances previously appropriated to Science and Technology, "Research, Development, Acquisition, and Operations". The Secretary is directed to advise the Committees on Appropriations on the distribution of the rescission prior to its implementation.

Section 547. The conferees include a new provision on the Transportation Security Administration's security screening opt-out program.

Section 548. The conferees include a new provision on the weekly reporting requirement directed in Public Law 109–62.

PROVISIONS NOT ADOPTED

The conference agreement deletes section 513 of the House bill requiring the Coast Guard to provide Congress a list of approved but unfunded priorities each year.

The conference agreement deletes section 519 of the Senate bill reflecting the sense of the Senate on border security. This requirement is addressed in the statement of managers.

The conference agreement deletes section 520 of the Senate bill providing emergency funds to the Veterans Health Administration.

The conference agreement deletes section 521 of the Senate bill requiring a report on the steps the Department has taken to comply with the recommendations of the Inspector General's report on the Port Security Grant Program. This requirement is addressed in the statement of managers.

The conference agreement deletes section 522 of the Senate bill requiring the Department to conduct a survey of state and local government emergency officials on homeland security related matters. This requirement is addressed in the statement of managers.

The conference agreement deletes section 523 of the Senate bill requiring a quadrennial review of homeland defense. This requirement is addressed in the statement of managers.

The conference agreement deletes section 524 of the House bill requiring the Department of Homeland Security to submit a security plan to open general aviation at Ronald Reagan Washington National Airport.

The conference agreement deletes section 524 of the Senate bill reflecting the sense of the Senate on rail tunnel security research. This requirement is addressed in the statement of managers.

The conference agreement deletes section 525 of the Senate bill encouraging the Secretary of Homeland Security to designate one agency within the Department of Homeland Security with the responsibility for managing man portable air defense system countermeasures systems.

The conference agreement deletes section 526 of the Senate bill directing the Secretary to provide a detailed accounting of funds made available by Congress to New York City and the State of New York as a result of the September 11, 2001, terrorist attacks.

A report on the transition of Crisis Counseling services from FEMA to New York City is addressed in the statement of managers.

The conference agreement deletes section 527 of the Senate bill requiring a report on the risks and vulnerabilities associated with general aviation. This requirement is addressed in the statement of managers.

The conference agreement deletes section 528 of the Senate bill requiring the submittal of data-mining reports from the head of each Department of Homeland Security agency that is engaged in, or developing, data-mining. This requirement is addressed in the statement of managers.

The conference agreement deletes section 529 of the Senate bill prohibiting the use of funds identified in the Inspector General's Report of March 2005 "Irregularities in the Development of the Transportation Security Operations Center" as wasteful. This requirement is addressed in the statement of managers.

The conference agreement deletes section 531 of the Senate bill reflecting the sense of the Senate that the Department of Homeland Security should continue to coordinate with the American Red Cross in developing a mass care plan in the United States. This issue is addressed in the statement of managers.

The conference agreement deletes section 532 of the Senate bill requiring the Department of Defense to submit the overdue report requested in Public Law 109–13.

The conference agreement deletes section 533 of the Senate bill reflecting the sense of the Senate on the vulnerabilities of chemical facilities. This requirement is addressed in the statement of managers.

The conference agreement deletes section 533 of the House bill regarding H1B Visa processing.

The conference agreement deletes section 534 of the Senate bill requiring the Secretary to provide reimbursement guidelines to any county or government entity affected by a hurricane of the costs of hurricane debris removal. This requirement is addressed in the statement of managers.

The conference agreement deletes section 535 of the House bill prohibiting the use of funds to alter the name of Coast Guard Station "Group St. Petersburg".

The conference agreement deletes section 535 of the Senate bill requiring a report on changes to emergency preparedness and response policies as a result of the report of the Inspector General dated May 20, 2005. This requirement is addressed in the statement of managers.

The conference agreement deletes section 536 of the House bill prohibiting the use of funds to patrol the border of the United States except as authorized by law.

The conference agreement deletes section 536 of the Senate bill reflecting the sense of the Senate that the Department should conduct a study of the feasibility of leveraging existing FM broadcast radio infrastructure as an emergency messaging system. This requirement is addressed in the statement of managers.

The conference agreement deletes section 537 of the Senate bill requiring the Under Secretary for Emergency Preparedness and Response to propose new inspection guidelines that prohibit inspectors from entering into contracts with any individual or entity for whom the inspector performs an inspection for the purpose of determining eligibility for assistance from the Federal Emergency Management Agency. This requirement is addressed in the statement of managers.

The conference agreement deletes section 538 of the Senate bill, which would prohibit the Departments of Homeland Security and State from issuing regulations to limit United States citizens to a passport as the exclusive document to be presented upon entry into the United States from Canada by land. The proposed rule, as issued for public comment on September 1, 2005, is in compliance with the Senate provision. The conferees expect that the Department will provide alternatives to SENTRI, NEXUS and FAST for residents of small and rural Northern Border communities.

The conference agreement deletes section 539 of the Senate bill directing the Comptroller General of the United States to conduct a study on the justification and effects of raising the Homeland Security Advisory System alert level to Code Orange.

The conference agreement deletes section 540 of the Senate bill reflecting the sense of the Senate on strengthening security at nuclear power plants.

The conference agreement deletes section 541 of the Senate bill reflecting the sense of the Senate regarding threat assessment of major tourist attractions. This requirement is addressed in the statement of managers.

TITLE VI—HOMELAND SECURITY GRANT ENHANCEMENT

The conference agreement does not include Title VI of the Senate bill, "Homeland Security Grant Enhancement" as proposed by the Senate. The House bill contained no similar matter.

CONFERENCE RECOMMENDATIONS

The conference agreement's detailed funding recommendations for programs in this bill are contained in the table listed below. The fiscal year 2006 budget request column reflects the Department of Homeland Security's organizational restructuring plan transmitted to Congress on July 13, 2005.

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
DEPARTMENT OF HOMELAND SECURITY		
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS		
Departmental Operations		
Office of the Secretary and Executive Management:		
Immediate Office of the Secretary	2,393	2,393
Immediate Office of the Deputy Secretary	1,132	1,132
Chief of Staff	4,103	4,103
Executive Secretary	5,491	4,131
Office of Policy	25,027	20,713
Office of Public Affairs	9,312	8,312
Office of Legislative and Intergovernmental Affairs	7,107	6,325
Office of General Counsel	11,947	11,267
Office of Civil Rights and Liberties	13,000	13,000
Citizenship and Immigration Services Ombudsman	3,652	3,652
Privacy Officer	3,981	4,381
Regions	49,895	---
Subtotal, Office of the Secretary and Executive Management	137,040	79,409
Office of Screening Coordination and Operations	---	4,000
Office of the Under Secretary for Management:		
Under Secretary for Management	1,867	1,687
Office of Security	61,278	51,278
Business Transformation Office	2,208	1,880
Office of the Chief Procurement Officer	9,020	9,020
Office of the Chief Human Capital Officer:		
Salaries and expenses	8,996	8,900
MAX - HR System	53,000	30,000
Subtotal, Office of the Chief Human Capital Officer	61,996	38,900
Office of the Chief Administrative Officer:		
Salaries and expenses	40,731	40,000
Nebraska Avenue Complex (NAC-DHS Headquarters)	26,070	26,070
Subtotal, Office of the Chief Administrative Officer	66,801	66,070
Subtotal, Office of the Under Secretary for Management	203,170	168,835
Office of the Chief Financial Officer	19,765	19,405
Office of the Chief Information Officer:		
Salaries and expenses	75,756	75,756
Information technology services	110,944	83,444
Security activities	31,000	19,000
Wireless program	86,000	86,000
Homeland Secure Data Network (HSDN)	---	33,029
Subtotal, Office of the Chief Information Officer	303,700	297,229
Analysis and operations	311,180	255,495
Total, Departmental operations	974,855	824,373

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Office of Inspector General		
Operating expenses	83,017	83,017
Total, title I, Departmental Management and Operations	1,057,872	907,390
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS		
U.S. Visitor and Immigrant Status Indicator Technology	---	340,000
Office of Screening Coordination and Operations:		
Management and administration	20,000	---
U.S. Visitor and Immigrant Status Indicator Technology	390,232	---
Secure Flight	94,294	---
FAST	7,000	---
NEXUS/SENTRI	14,000	---
Fee Funded Program:		
TWIC/TSA Credentialing	(100,000)	---
Registered Traveler	(20,000)	---
HAZMAT	(50,000)	---
Alien Flight School (By transfer)	(10,000)	---
Total, Office of Screening Coordination and Operations	(705,526)	---
Appropriations	(525,526)	---
(Fee funded programs)	(180,000)	---
Customs and Border Protection		
Salaries and expenses:		
Management and administration, border security inspections and trade facilitation	656,826	655,000
Management and administration, border security and control between port of entry	593,207	590,000
Subtotal, Headquarters management and admin	1,250,033	1,245,000
Border security inspections and trade facilitation:		
Inspections, trade, and travel facilitation at ports of entry	1,274,994	1,262,269
Harbor maintenance fee collection (trust fund)	3,000	3,000
Container security initiative	138,790	138,790
Other international programs	8,629	8,629
Customs trade partnership against terrorism/ Free and Secure Trade (FAST) NEXUS/SENTRI	54,268	75,268
Inspection and detection technology investments	188,024	63,024
Automated targeting systems	28,253	28,253
National Targeting Center	16,697	16,697
Other technology investments, including information technology	1,018	1,018
Training	24,351	24,351
Subtotal, Border security inspections and trade facilitation	1,738,024	1,621,299

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Border security and control between ports of entry:		
Border security and control	1,464,989	1,742,977
Air program operations	57,971	---
Unmanned aerial vehicles	10,180	---
America Shield Initiative (ASI)	51,084	31,284
Training	22,203	22,203
Subtotal, Border security and control between ports of entry	1,606,427	1,796,464
Air and marine operations, personnel compensation and benefits	136,060	163,560
Subtotal, Salaries and expenses	4,730,544	4,826,323
Automation modernization:		
Automated commercial environment/International Trade Data System (ITDS)	321,690	320,000
Automated commercial system and legacy IT costs	136,319	136,000
Subtotal, Automation modernization	458,009	456,000
Air and marine interdiction, operations, maintenance, and procurement:		
Operations and maintenance	230,682	262,953
Unmanned aerial vehicles	---	10,180
Procurement	62,098	127,098
Subtotal, Air and marine interdiction, operations, maintenance, and procurement	292,780	400,231
Construction:		
Construction (Border patrol)	93,418	270,000
Total, Direct appropriations	5,574,751	5,952,554
Fee accounts:		
Immigration inspection user fee	(464,816)	(464,816)
Immigration enforcement fines	(6,403)	(6,403)
Land border inspection fee	(29,878)	(29,878)
COBRA passenger inspection fee	(334,000)	(334,000)
APHIS inspection fee	(204,000)	(204,000)
Puerto Rico collections	(97,815)	(97,815)
Small airport user fees	(5,234)	(5,234)
Subtotal, fee accounts	(1,142,146)	(1,142,146)
Total, Customs and Border Protection	(6,716,897)	(7,094,700)
Appropriations	(5,574,751)	(5,952,554)
(Fee accounts)	(1,142,146)	(1,142,146)
Immigration and Customs Enforcement		
Salaries and expenses:		
Headquarters Management and Administration (non-Detention and Removal Operations):		
Personnel compensation and benefits, service and other costs	277,572	123,600
Headquarters managed IT investment	134,571	133,104
Subtotal, Headquarters management and administration	412,143	256,704

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Legal proceedings	---	130,181
Investigations:		
Operations	1,215,916	---
Training	17,932	---
Domestic	---	1,195,050
International	---	101,918
Subtotal, Investigations	1,233,848	1,296,968
Intelligence:		
Headquarters Reporting Center	4,988	---
Operations/Operations Center	56,834	---
Intelligence	---	50,970
Subtotal, Intelligence	61,822	50,970
Detention and removal operations:		
Custody management	600,160	---
Case management	166,277	---
Custody Operations	---	1,013,329
Fugitive operations	103,255	102,881
Institutional removal program	70,104	93,969
Alternatives to detention	33,406	28,497
Transportation and removal program	211,266	135,000
Subtotal, Detention and removal operations	1,184,468	1,373,676
Subtotal, Salaries and expenses	2,892,281	3,108,499
Federal protective service:		
Basic security	109,235	109,235
Building specific security (including capital equipment replacement/acquisition)	377,765	377,765
Subtotal	487,000	487,000
Offsetting fee collections	-487,000	-487,000
Automation modernization:		
ATLAS/CHIMERA IT connectivity	40,150	40,150
Construction	26,546	26,546
Total, Direct appropriations	2,958,977	3,175,195
Fee accounts:		
Immigration inspection user fee	(91,621)	(100,000)
Breached bond/detention fund	(71,260)	(87,000)
Student exchange and visitor fee	(66,552)	(66,552)
Subtotal, fee accounts	(229,433)	(253,552)
Subtotal, Immigration and Customs Enforcement (gross)	(3,675,410)	(3,915,747)
Offsetting fee collections	(-487,000)	(-487,000)
Total, Immigration and Customs Enforcement	(3,188,410)	(3,428,747)
Appropriations	(2,958,977)	(3,175,195)
(Fee accounts)	(229,433)	(253,552)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Transportation Security Administration		
Aviation security:		
Screener operations:		
Screener workforce:		
Privatized screening	146,151	139,654
Passenger screener - personnel, compensation, and benefits	1,590,969	1,520,000
Baggage screener - personnel, compensation, and benefits	931,864	884,000
Subtotal, Sceener workforce	2,668,984	2,543,654
Screening training and other:		
Passenger screeners, other	---	23,752
Baggage screeners, other	---	134,794
Screener training	91,004	88,004
Screener other	170,246	---
Subtotal, Screening training and other	261,250	246,550
Human resource services	207,234	207,234
Checkpoint support	157,461	165,000
EDS/ETD Systems:		
Purchase	130,000	175,000
Installation	14,000	45,000
Maintenance	200,000	200,000
Operation integration	23,000	23,000
Subtotal, EDS/ETD Systems	367,000	443,000
Subtotal, Screening operations	3,661,929	3,605,438
Aviation direction and enforcement:		
Aviation regulation and other enforcement	238,196	222,416
Airport management, IT, and support	758,370	686,032
FFDO and flight crew training	36,289	30,500
Air cargo	40,000	55,000
Airport perimeter security	---	5,000
Foreign repair stations	---	3,000
Subtotal, Aviation direction and enforcement	1,072,855	1,001,948
Subtotal, Aviation security (gross)	4,734,784	4,607,386
Offsetting fee collections	-3,670,000	-1,990,000
Total, Aviation security (net)	1,064,784	2,617,386
Surface transportation security:		
Surface transportation security staffing	24,000	---
Enterprise staffing	---	24,000
Hazardous materials truck tracking/training	---	4,000
Rail security inspectors and canines	8,000	8,000
Subtotal, Surface transportation security	32,000	36,000
Transportation Vetting and Credentialing:		
SecureFlight	---	56,696
Crew vetting	---	13,300
Screening administration and operations	---	5,000
Registered Traveler Program fees	---	(20,000)
TWIC fees	---	(100,000)
HAZMAT fees	---	(50,000)
Alien Flight School (by transfer from DOJ) - fees	---	(10,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Subtotal, Transportation Vetting and Credentialing (Gross)	---	(254,996)
Fee Funed Programs	---	(180,000)
Subtotal, Transportation Vetting and Credentialing (net)	---	74,996
Transportation security support:		
Intelligence	21,000	21,000
Administration:		
Headquarters administration	302,781	279,391
Mission support centers	3,051	---
Information technology	210,092	210,092
Corporate training	8,084	---
Subtotal, Administration	524,008	489,483
Subtotal, Transportation security support	545,008	510,483
Federal Air Marshals:		
Management and Administration	616,927	613,400
Travel and Training	71,933	70,800
Air-to-ground communications	---	2,000
Subtotal, Federal Air Marshals	688,860	686,200
Aviation security capital fund	(250,000)	(250,000)
Total, Transportation Security Administration (gross)	6,250,652	6,345,065
Offsetting fee collections	-3,670,000	-1,990,000
Aviation security capital fund	(250,000)	(250,000)
Fee accounts	---	(180,000)
Total, Transportation Security Administration (net)	2,330,652	3,925,065
United States Coast Guard		
Operating expenses:		
Military pay and allowances	3,011,130	3,004,818
Civilian pay and benefits	535,836	531,497
Training and recruiting	178,212	177,130
Operating funds and unit level maintenance	985,309	956,970
Centrally managed accounts	193,936	185,000
Intermediate and depot level maintenance	642,977	636,916
Subtotal, Operating expenses	5,547,400	5,492,331
Rescission (Port Security Assessments, PL 108-11)	---	-15,104
Less adjustment for defense function	-340,000	-1,200,000
Defense function	340,000	1,200,000
Subtotal, Operating expenses	5,547,400	5,477,227
Appropriations	(5,207,400)	(4,292,331)
Rescissions	---	(-15,104)
Defense function	(340,000)	(1,200,000)
Environmental compliance and restoration	12,000	12,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Reserve training	119,000	119,000
Acquisition, construction, and improvements:		
Vessels:		
Response boat medium (41ft UTB and NSB replacement)	22,000	18,500
Aircraft:		
Armed helicopter equipment (Phase I) (legacy asset)	19,902	10,000
Covert surveillance aircraft	---	10,000
C-130J Missionization	5,000	---
Subtotal, Aircraft	24,902	20,000
Other equipment:		
Automatic identification system	29,100	24,000
National distress and response system modernization (Rescue 21)	101,000	41,000
HF Recap	10,000	---
Subtotal, Other equipment	140,100	65,000
Personnel compensation and benefits:		
Core acquisition costs	500	500
Direct personnel cost	75,950	73,000
Subtotal, Personnel compensation and benefits	76,450	73,500
Integrated deepwater systems:		
Aircraft:		
Aircraft, other	125,900	156,000
HH-65 re-engining	133,100	133,100
Subtotal, Aircraft	259,000	289,100
Surface ships	522,400	509,200
C4ISR	74,400	44,000
Logistics	25,200	18,800
Systems engineering and integration	45,000	37,000
Government program management	40,000	35,000
Subtotal, Integrated deepwater systems	966,000	933,100
Shore facilities and aids to navigation:		
Shore operational and support projects	5,000	---
Shore construction projects	3,000	---
Renovate USCGA Chase Hall Barrack, Phase I	15,000	15,000
Replace multi-purpose building - Group Long Island Sound	10,000	10,000
Construct breakwater - Station Neah Bay	2,800	2,800
Waterways aids to navigation infrastructure	3,900	3,900
Subtotal, Shore facilities and aids to navigation	39,700	31,700
Subtotal, Acquisition, construction, and improvements (net)	1,269,152	1,141,800
Alteration of bridges	---	15,000
Research, development, test, and evaluation	---	17,750
Subtotal, U.S. Coast Guard discretionary	6,947,552	6,782,777
Retired pay (mandatory)	1,014,080	1,014,080

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Total, United States Coast Guard	7,961,632	7,796,857
Appropriations	(7,961,632)	(7,811,961)
Rescissions	---	(-15,104)
United States Secret Service		
Salaries and expenses:		
Protection:		
Protection of persons and facilities	572,232	576,316
National special security event fund	5,000	2,500
Protective intelligence activities	55,561	56,215
White House mail screening	16,365	16,365
Subtotal, Protection	649,158	651,396
Field operations:		
Domestic field operations	238,888	238,888
International field office administration, operations and training	19,768	20,968
Electronic crimes special agent program and electronic crimes task forces	35,600	39,600
Subtotal, Field operations	294,256	299,456
Administration:		
Headquarters, management and administration	203,232	203,232
National Center for Missing and Exploited Children	7,100	7,889
Subtotal, Administration	210,332	211,121
Training:		
Rowley training center	46,337	46,337
Subtotal, Salaries and expenses	1,200,083	1,208,310
Acquisition, construction, improvements and related expenses (Rowley training center)	3,699	3,699
Total, United States Secret Service	1,203,782	1,212,009
Total, title II, Security, Enforcement, and Investigations:		
New budget (obligational) authority	20,555,320	22,401,680
Appropriations	(20,555,320)	(22,416,784)
Rescission	---	(-15,104)
Fee Accounts	(1,551,579)	(1,575,698)
TITLE III - PREPAREDNESS AND RECOVERY		
Preparedness		
Preparedness operations:		
Office of the Under Secretary	17,836	---
Office of the Chief Medical Officer	2,000	---
Office of National Capital Region Coordination	1,072	---
Infrastructure Protection and Information Security		
Critical infrastructure outreach and partnership	81,860	---

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Critical infrastructure identification and evaluation	89,593	---
National Infrastructure Simulation and Analysis Center	17,635	---
Biosurveillance	12,817	---
Protective actions	108,076	---
Cyber security	83,086	---
National Security/Emergency Preparedness Telecommunications	163,250	---
Subtotal, Infrastructure Protection and Information Security	556,317	---
Subtotal, Preparedness operations	577,225	---
Management and administration:		
Office of the Under Secretary	---	13,187
Office of the Chief Medical Officer	---	2,000
Office of National Capital Region Coordination	---	892
Subtotal, management and administration	---	16,079
Office for Domestic Preparedness:		
Salaries and expenses	44,300	5,000
State and Local Programs:		
State Homeland Security Grant Program:		
State and Local Basic Formula Grants	1,020,000	550,000
Emergency management performance grants	170,000	---
Citizen Corps	50,000	---
Subtotal, State Homeland Security Grant Program	1,240,000	550,000
Law enforcement terrorism prevention grants	---	400,000
Urban Area Security Initiative:		
High-threat, high-density urban area	1,020,000	765,000
Targeted infrastructure protection	600,000	---
Buffer zone protection program	---	50,000
Port security grants	---	175,000
Rail and transit security	---	150,000
Trucking security grants	---	5,000
Intercity bus security grants	---	10,000
Subtotal, Urban Area Security Initiative	1,620,000	1,155,000
Commerical equipment direct assistance program	---	50,000
National Programs:		
National Domestic Preparedness Consortium	80,000	145,000
National exercise program	52,000	52,000
Technical assistance	7,600	20,000
Metropolitan Medical Response System	---	30,000
Demonstration training grants	---	30,000
Continuing training grants	3,010	25,000
Citizen Corps	---	20,000
Evaluations and assessments	14,300	14,300
Rural Domestic Preparedness Consortium	---	10,000
Subtotal, National Programs	156,910	346,300
Subtotal, State and Local Programs	3,016,910	2,501,300

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Fire Assistance Grants:		
Grants	500,000	545,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	---	110,000
Subtotal, Firefighter Assistance Grants	500,000	655,000
Emergency management performance grants	---	185,000
Subtotal, Office for Domestic Preparedness	3,561,210	3,346,300
Radiological Emergency Preparedness Program	-1,266	-1,266
U.S. Fire Administration and Training:		
United States Fire Administration	40,441	40,441
Noble Training Center	4,507	4,507
Subtotal, U.S. Fire Administration and Training	44,948	44,948
Infrastructure Protection and Information Security		
Management and administration	---	83,342
Critical infrastructure outreach and partnership	---	112,177
Critical infrastructure identification and evaluation	---	68,500
National Infrastructure Simulation and Analysis Center	---	20,000
Biosurveillance	---	14,100
Protective actions	---	91,399
Cyber security	---	93,349
National Security/Emergency Preparedness Telecommunications	---	142,632
Subtotal, Infrastructure Protection and Information Security	---	625,499
Total, Preparedness	4,182,117	4,031,560
Counterterrorism Fund		
Counterterrorism fund	10,000	2,000
Federal Emergency Management Agency		
Administrative and regional operations	170,240	173,240
Defense function	48,000	48,000
Subtotal, Administrative and regional operations	218,240	221,240
Preparedness, mitigation, response and recovery:		
Operating activities	188,058	184,058
Urban search and rescue teams	7,000	20,000
Subtotal, Preparedness, mitigation, response and recovery	195,058	204,058
Public health programs:		
National disaster medical system	34,000	34,000
Disaster relief	2,140,000	1,770,000
Disaster assistance direct loan program account:		
(Limitation on direct loans)	(25,000)	(25,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Administrative expenses	567	567
Flood map modernization fund	200,068	200,000
National flood insurance fund:		
Salaries and expenses	36,496	36,496
Severe reptitive loss mitigation	---	40,000
Repetitive loss mitigation	---	10,000
Flood mitigation	87,358	99,358
Offsetting fee collections	-123,854	-185,854
(Transfer to National flood mitigation fund)	(-28,000)	(-40,000)
National flood mitigation fund (by transfer)	(28,000)	(40,000)
National pre-disaster mitigation fund	150,062	50,000
Emergency food and shelter	153,000	153,000
Total, FEMA (net)	3,090,995	2,632,865
Total, title III, Preparedness and Recovery:		
New budget (obligational) authority	7,283,112	6,666,425
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out)	(-28,000)	(-40,000)
(By transfer)	(28,000)	(40,000)
TITLE IV - RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES		
U.S. Citizenship and Immigration Services		
Backlog reduction initiative:		
Contracting services	70,000	70,000
Other	10,000	10,000
Digitization and IT transformation	---	35,000
Subtotal, Backlog reduction initiative	80,000	115,000
Adjudication services (fee account):		
Pay and benefits	(607,000)	(657,000)
District operations	(369,000)	(349,000)
Service center operations	(280,000)	(250,000)
Asylum, refugee and international operations	(74,000)	(74,000)
Records operations	(66,000)	(66,000)
Subtotal, Adjudication services	(1,396,000)	(1,396,000)
Information and customer services (fee account):		
Pay and benefits	(80,000)	(80,000)
Operating expenses:		
National Customer Service Center	(47,000)	(47,000)
Information services	(14,000)	(14,000)
Subtotal, Information and customer services	(141,000)	(141,000)
Administration (fee account):		
Pay and benefits	(44,000)	(44,000)
Operating expenses	(193,000)	(193,000)
Subtotal, Administration	(237,000)	(237,000)
Total, U.S. Citizenship and Immigration Services	(1,854,000)	(1,889,000)
Appropriations	(80,000)	(115,000)
(Immigration Examination Fee Account)	(1,730,000)	(1,730,000)
(Fraud prevention and detection fee account)	(31,000)	(31,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
(H1B Non-Immigrant Petitioner fee account)	(13,000)	(13,000)
Federal Law Enforcement Training Center		
Salaries and expenses:		
Salaries and expenses	183,362	194,000
Acquisition, Construction, Improvements, and Related expenses:		
Direct appropriation	40,636	88,358
Total, Federal Law Enforcement Training Center	223,998	282,358
Science and Technology		
Management and administration:		
Office of the Under Secretary for Science and Technology	---	6,479
Other salaries and expenses	81,399	74,620
Subtotal, Management and administration	81,399	81,099
Research, development, acquisition, and operations:		
Biological countermeasures:		
Operating expenses	23,300	23,300
Defense function	339,000	356,700
Subtotal, Biological countermeasures	362,300	380,000
Chemical countermeasures	102,000	95,000
Explosives countermeasures	14,700	44,000
Threat and vulnerability, testing and assessment	47,000	43,000
Conventional missions in support of DHS	93,650	80,000
Rapid prototyping program	20,900	35,000
Standards	35,500	35,000
Emerging threats	10,500	8,000
Critical infrastructure protection	20,800	40,800
University programs/homeland security fellowship	63,600	63,000
Counter MANPADs	110,000	110,000
Safety act	5,600	7,000
Cyber security	16,700	16,700
Office of interoperability and compatibility	20,500	26,500
Research and development consolidation	116,897	99,897
Radiological and nuclear countermeasures	19,086	19,088
Domestic Nuclear Detection Office	227,314	318,014
Subtotal, Research, development, acquisition, and operations	1,287,047	1,420,997
Total, Science and Technology	1,368,446	1,502,096
Total, title IV, Research and Development, Training and Services:		
New budget (obligational) authority	1,672,444	1,899,454
Fee Accounts	(1,774,000)	(1,774,000)
TITLE V - GENERAL PROVISIONS		
Sec. 527:		
Rescission, 110-to-123 Conversions (P.L.108-11, P.L. 108-90 and P.L. 108-334)	---	-78,631

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
110ft Island Class Patrol Boat procurement or refurbishment	---	78,631
Sec 538: REAL ID Grants	---	40,000
Rescissions, sec. 542 through 546:		
Sec. 542: Working Capital Fund	---	-15,000
Sec. 543: Transportation Security Administration aviation security (P.L. 108-34)	---	-5,500
Sec. 544: Coast Guard operating expenses and acquisition, construction, and improvements (P.L 105-277, 106-69, 107-87, and 108-90)	---	-6,369
Sec. 545: Counterterroism Fund (P.L. 108-90)	---	-8,000
Sec. 546: Science and technology research, development, acquisition, and operations (P.L. 108-334)	---	-20,000
Subtotal, Rescissions, sec. 542 through 546	---	-54,869
Total, title V, General Provisions:		
New budget (obligational) authority	---	-14,869
Grand total, Department of Homeland Security:		
New budget (obligational) authority	30,568,748	31,860,080
Appropriations	(30,568,748)	(32,008,684)
Rescissions	---	(-148,604)
Fee funded programs	(3,325,579)	(3,349,698)
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out)	(-28,000)	(-40,000)
(By transfer)	(28,000)	(40,000)

CONFERENCE TOTAL—WITH COMPARISON

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

[in thousands of dollars]

New budget (obligational) authority, fiscal year 2005	$100,210,103
Budget estimates of new (obligational) authority, fiscal year 2006	30,568,748
House bill, fiscal year 2006	31,860,080
Senate bill, fiscal year 2006	33,360,080
Conference agreement, fiscal year 2006	31,860,080
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	−68,350,023
budget estimates of new (obligational) authority, fiscal year 2006	+1,291,332
House bill, fiscal year 2006	+0
Senate bill, fiscal year 2006	−1,500,000

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JOANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ERNEST J. ISTOOK, JR.,
RAY LAHOOD,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
CHET EDWARDS,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE DOMENICI,
RICHARD C. SHELBY,
LARRY CRAIG,
ROBERT F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Missouri (Mr. BLUNT), the leader, for the purpose of informing us of the schedule for the week to come.

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Maryland for yielding to me, and while I am the temporary majority leader, I am still the whip and always am glad to be called the whip and to refer to the gentleman as the whip.

Mr. Speaker, the House will convene Thursday at 10 a.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to Members by the end of this week.

We will also consider two measures under a rule, H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006, and the Gasoline for America's Security Act of 2005.

Mr. HOYER. Mr. Speaker, I thank the distinguished majority whip and acting leader.

Mr. Leader, so that Members can be certain as to the schedule for next Thursday and Friday, on Thursday the House will begin business at 10 a.m., I understand, with no votes to occur before 2 p.m., and we will consider suspension bills and the conference report on the Homeland Security appropriations bill, and then the House will meet on Friday at 9 a.m. to consider the energy bill. Is that accurate?

Mr. BLUNT. If the gentleman will continue to yield, that is accurate at this point. We have not finalized the absolute sequence of bills, but that is our plan at this time. And the one reason we are starting at 10 a.m. on Thursday is to try to finish our work, even though it is an abbreviated workweek, in a reasonable amount of time.

Mr. HOYER. Reclaiming my time and thanking the gentleman, Mr. Speaker, if the gentleman could tell us, because we have discussed with our Members from California, from Washington State, Oregon, and others, if they take a 7:40 a.m. plane, they do not get here much before 4 or a little after 4. Therefore, if those votes are started at 2 p.m., that requires some of our Members to leave the night before.

Some of our Members, as you know, because of their religious observance, cannot leave until after sundown, requiring them to take the red-eye. I discussed this with the gentleman from Texas (Mr. DELAY) last week, and I am wondering whether or not, because I am sure Members on your side, well, I guess they do not, now that I think about it, have similar problems. But the fact of the matter is that it causes some difficulty for our Members traveling. I wonder if there is a possibility of starting at 10, continuing debate, but rolling votes until after 5 rather than after 2.

Mr. BLUNT. I think the gentleman did have extensive discussion on this last week. I know this week really created a number of challenges for us because of those religious holidays. I believe we have accommodated those in the best way we can and still get Members out of here at a reasonable hour on Friday. And for that reason I think those votes that could be as early as 2 are important in our efforts to get Members on the road Friday.

And, again, our California Members always have so many of the challenges in travel, but I think this plan accommodates that. I certainly wish we could have perhaps not even come in for these days, but I think the work we have to do on these 2 days is so significant that we do need to come back. And if we do not get started early on Thursday, we will have another problem on Friday with Members who want to get back for what turns out to be a holiday weekend for many of them.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. When we talk about all the Members from California, occasionally some Members there think the western-most county is Hawaii, of California, but I think those of us either from California, the far west in general, and even further west, out in Hawaii, have seldom, if ever, complained about having to make the votes in late afternoon on a Monday or a Tuesday or a Thursday or whatever. But I would just plead for this, and I appreciate the gentleman's yielding to me, but if the gentleman could give those of us west of the Mississippi the opportunity to come and vote, say after 4:30, or about 4:30 or 5, we can do it.

Other than that, it really changes the entire day and night, in my instance the night before, because I come directly from the plane to vote, and many Members of the California, Oregon, Washington, and even some of the other western States who have interconnections they have to make north and south before they come east have to do that.

That is the only reason we ask about that. Maybe we could start a little earlier on Friday and still accommodate what needs to be done. But it is not self-indulgent, it is really a practical question of scheduling.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I thank the gentleman for his comments, and perhaps the gentleman and I can discuss this after the colloquy.

Mr. BLUNT. Mr. Speaker, I would be glad to discuss it further. At the same time. I do think that this particular week and the way the holidays fell in this week have created a unique set of circumstances, and our planning for those have been a challenge, there is no question about that.

Mr. HOYER. I appreciate those problems. Perhaps we will discuss that. I believe that starting at 10 makes sense. I understand we want to use all of the time that is available that day, so I am not suggesting that we change that. It is the time when we start votes, and then I am sure there will be a series of votes at some point in time that evening, as we have every Tuesday when we return at night.

But perhaps we can discuss it a little further after the colloquy, and then perhaps, if there is any change, inform Members of that change.

Regarding the energy bill, under what type of rule would the gentleman expect that to be considered; and how late would the gentleman expect votes to go on Friday? First of all, the energy bill and the kind of rule the gentleman expects on the energy bill.

And I say that to my friend in the context, as the gentleman knows, that the bill was introduced Monday of this week. It is my understanding there were 16 hours of markup yesterday, going until 1 a.m. this morning. So there has been little time, really, to review this bill.

Obviously, there will be over the week, and we will not get back until Thursday, so there will be that time. But can the gentleman tell us what kind of rule he might expect on that bill? I yield to my friend.

Mr. BLUNT. I appreciate the gentleman yielding, and I appreciate the question. In fact, I serve on that committee and that committee was voting until after midnight last night.

The bill is available and will be available for Members to look at during the week. In terms of the rule, we will have to defer that, I think, to the Committee on Rules, and I expect they will go through their normal evaluation of the bill and determine the rule at that time.

In terms of Friday, we are really trying to move to the earliest possible conclusion on Friday, which is one of the reasons, again, to try to be sure we are getting our work done on Thursday. Another reason for Thursday, not only the 10 a.m. start but the effort for Members to return, is I know a number of chairmen are hoping to take advantage of that day in their committees as well. And our friends from the west coast would want to be and I hope are able to be part of that.

Mr. HOYER. I thank the gentleman for that information, and I am sure the Members will be pleased about that objective as well.

The week of October 17. I know that is some time away, but we will not be having a scheduling colloquy next Friday, probably. Can you give us any indication as to what bills may be on the floor?

Mr. BLUNT. We have not finalized our plan for the week of October 17 yet, Mr. Speaker, but there are a number of litigation reform bills coming out of the Judiciary Committee. I think those are likely candidates for that week, and there may be some other legislation develop. But those bills from the Committee on the Judiciary are likely to be ready and be coming to the floor that week.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

APPOINTMENT OF HON. MAC THORNBERRY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 6, 2005

The Speaker pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 2005.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 6, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives

The SPEAKER pro tempore (Mr. THORNBERRY). Without objection, the appointment is approved.

There was no objection.

APPOINTMENT OF MEMBERS TO CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276d, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Canada-United States Interparliamentary Group in addition to Mr. MANZULLO of Illinois, Chairman, and Mr. MCCOTTER of Michigan, Vice Chairman, appointed on March 8, 2005:

Mr. OBERSTAR, Minnesota
Mr. SHAW, Florida
Ms. SLAUGHTER, New York
Mr. STEARNS, Florida
Mr. ENGLISH, Pennsylvania
Mr. SOUDER, Indiana
Mr. TANCREDO, Colorado
Mr. LIPINSKI, Illinois

NOTIFICATION TO CONGRESS REGARDING PROPOSED USE OF PUBLIC SAFETY FUNDS PROVIDED TO DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–58)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

The SPEAKER pro tempore laid before the House the following message

To the Congress of the United States:

Consistent with title I of the District of Columbia Appropriations Act, 2005, Public Law 108–335, I am notifying the Congress of the proposed use of $10,151,538 provided in title I under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia." This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH.
THE WHITE HOUSE, *September 29, 2005.*

IN HONOR OF CONGRESSMAN TOM DELAY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in strong support of the gentleman from Texas (Mr. DELAY).

Congressman TOM DELAY has been one of the most effective leaders in the history of the House of Representatives. Under his leadership, over 4 million Americans have found new jobs, Medicare beneficiaries have gained prescription drug coverage, and U.S. troops have received unprecedented support to protect American families. I am proud of his accomplishments and grateful for his service.

While Congressman DELAY's effectiveness has greatly helped American families, it has unfortunately motivated his critics. By issuing an indictment yesterday against Mr. DELAY, liberal Democrat Ronnie Earle is demonstrating politics at its worst by politicizing his position as prosecutor and is continuing his personal vendetta against Republican leaders.

In 1994, Earle indicted U.S. Senator Kay Bailey Hutchison, and his charges were proved false. I am confident that Congressman DELAY will also be vindicated from this blatant partisan attack.

In conclusion, God bless our troops, and we will never forget September 11.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the possible resumption of legislative business.

☐ 1745

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNBERRY). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRATULATING ST. MARY'S COLLEGE OF MARYLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, one of the biggest cliches in sports is that you do not want your team to be number two.

However, the same does not hold true in other areas. That is why today I want to congratulate the entire St. Mary's College of Maryland community, including the students, alumni and parents and President Margaret O'Brien and the extraordinary faculty, for being ranked the number two public liberal arts college in the Nation.

Mr. Speaker, it will surprise no one that St. Mary's College is in my district. Furthermore, for full disclosure, I am on the board of trustees of St. Mary's College. It is an extraordinary institution of higher learning.

In fact, according to the latest college rankings by the magazine U.S. News and World Report, St. Mary's College is again one of the top 100 liberal arts colleges in the Nation, rising to 84 from 87 the year before. So not only is it number two of small colleges; it is number 84 in the entire Nation of all colleges.

When it comes to public liberal arts colleges, St. Mary's finished only behind the Virginia Military Institute in the U.S. News rankings.

Those rankings are based upon several criteria of academic excellence, including graduation and retention rates, faculty resources and peer assessment.

And this year, St. Mary's peer assessment rose to 2.9 out of a possible 5.0, and the freshmen retention rate rose to 88 percent.

Mr. Speaker, with roots going back to 1840, St. Mary's College is the State of Maryland's only public honors college, offering the academic excellence of a top private college with the openness and affordability of public education.

Today, about 1,950 men and women from 35 States and 23 countries attend St. Mary's, and the average SAT score for the entering freshmen is 1,252. The faculty also has distinguished itself, and more than 94 percent hold doctorate degrees.

By combining the virtues of public and private education, St. Mary's provides a unique alternative for students and their families. This special identity underpins the college's success and its reputation for excellence, in a waterfront setting in the heart of the Chesapeake Bay region just 70 miles southeast of Washington. It is an extraordinarily beautiful setting for an extraordinarily excellent college.

Mr. Speaker, as a member of the college's board of trustees since 1995, I have seen this wonderful institution flourish over the last decade, and I am particularly pleased to see St. Mary's is winning national recognition among it peers. This is not the first time that has been the case, but it is a continuing affirmation of the excellence at St. Mary's.

Our 34th President, John F. Kennedy, once said: "Education is the mainspring of our economic and social progress. It is the highest expression of achievement in our society, ennobling and enriching human life."

Mr. Speaker, St. Mary's College of Maryland truly enriches southern Maryland and our entire State. I want to congratulate the entire St. Mary's College community on receiving this latest national recognition. Well done, well deserved.

ORDER OF BUSINESS

Mr. STUPAK. Mr. Speaker, I ask unanimous consent to give my Special Order speech at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PRICE GOUGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I would like to talk about the markup we had last night in the Committee on Energy and Commerce on the energy bill. The purpose of the energy bill being brought forth by the Republican majority is to address price gouging. We would like to see the price of gasoline go down; and certainly with the excessive profits being demonstrated by the oil companies, especially the refinery companies, we have to do something instead of being gouged at the gas pump.

So last night the committee worked some 16 hours, until well after midnight. What we found was this. This chart was in The Washington Post last Sunday. The price of a gallon of gas in 1 year, the price to take it out of the ground, domestic and foreign countries pump crude from the ground, has increased 46 percent in 12 months.

The refiners, refineries process crude oil and a variety of products, including gasoline. In 1 year, their profit or their increase is 255 percent.

Down here are the distributors. They ship the gasoline from the terminal by truck to the gas station. Their cost has only gone up 5 percent. The end result is in the last 12 months, gas has gone up 64 percent for the American consumer. Even State, Federal, and local taxes have only gone up 2 pennies, a negligible increase.

When Members look at the chart, if we want to try to control the price of gasoline, you have to look at the crude oil producers and definitely the refiners at a 255 percent increase in their costs and price to a gallon of gas in the last 12 months.

So what happened last night in committee?

The Democrats said let us take a look at the Republican bill that we just saw. What they did was this, and we almost defeated it. It was a 26–24 vote. We lost by two votes. It is a bill we will be discussing next week on the floor.

The Republicans said we are not going to go after the producers: they can make a 46 percent profit in 12 months. We are not going to go after the refiner: they can make a 255 percent increase profit in 12 months. We are going after the gas station dealer, the one at 5 percent. If they increase their profits more than 10 percent, we are going after the gas station operators, but not all gas station operators, only ones located in the area where the President has declared a disaster.

The Republican bill basically says this, we have two disasters in this country, Hurricane Katrina and Hurricane Rita. So parts of Texas, Alabama, Mississippi and Louisiana, they cannot increase their price for gasoline. But the rest of the Nation and north Louisiana, north Alabama, north Mississippi and north and west Texas, they can still increase their prices, no control. They can gouge 255 percent, 46 percent and that is okay under our bill. We are only concerned about the gas station owner who has the least amount to say about the cost of a gallon of gas.

So once again Big Oil wins out. Big refineries win out, and the poor person trying to make a penny off a gallon of gas at the gas station is going to get nailed by the majority party's legislation.

The Democratic side has our legislation, Free Us From Price Gouging. In our bill we apply all of the way down the chain here every type of oil product: home heating oil, propane, natural gas, gasoline. It all comes under our price gouging legislation. We apply it to producers, refiners, and retailers. We take them all into consideration. We apply our price gouging to the entire Nation.

This winter the Midwest is going to pay a 71 percent increase in the price of natural gas. Underneath the Republican bill, there is nothing you can do about it because it only applies to gasoline and diesel. Under the Democratic bill, we can see if there is excessive profits, then you have a right to do something about price gouging.

Under the Democrats' bill, we are going to have the FTC define what price gouging is and what factors go into it and then apply it to the facts of this case. We are after excessive profits like 255 percent in 12 months or 46 percent in 12 months, not the person who makes 5 percent in 12 months. And we want it to apply throughout the Nation, not just at the time of disaster and in the area affected by the disaster.

We provide the FTC with the right and authority to watch market manipulation. The majority party is silent on that fact.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to address the House out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

IRAQ AND PRISONER ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, 8 months ago standing outside this dome, the President of the United States spoke these words as he was sworn in for a second term: "We will persistently clarify the choice before every ruler and every nation, the moral choice between oppression, which is always wrong, and freedom which is eternally right. All who live in tyranny and hopelessness can know the United States will not ignore your oppression or excuse your oppressors."

Beautiful words, honorable sentiments, if only the Bush administration were conducting this war in Iraq in a way that actually reflects those values.

Last week, Human Rights Watch released a report that details once again how Iraqi war prisoners were subjected to acts of sadistic cruelty at the hands of their supposed liberators. This time it was at Forward Operating Base Mercury, where beatings and other forms of humiliation took place on a daily basis for several months. Often, this was not even about interrogation or securing some vital piece of national security. "In a way, it was sport," said one sergeant in the 82nd Airborne, a way to "work out your frustration."

□ 1800

What is perhaps most tragic is that our soldiers who have committed these acts are themselves victims as well, victimized by their incompetent and amoral superiors who give a wink and a nod to torture and then blame it on a few bad apples. One officer in the 82nd Airborne, Captain Ian Fishback, was appalled by the prisoner abuse and tried in vain for a year and a half to get some clarification from his superiors about how prisoners should be treated, given that the administration had essentially tossed the Geneva Conventions in the trash can. He got no answers because the Pentagon seemed to want the abuse to continue but did not want to take any responsibility for it.

That is how it works with this crowd: The powerless take the fall while the high-level decisionmakers who make bad decisions are left in place to make more bad decisions. So it is that Lynndie England faces jail time for her conduct at Abu Ghraib while Tommy Franks gets the Presidential Medal of Freedom.

The prisoner abuse episode is consistent with everything else about the way this war has been handled. It indicates both a moral blind spot and a staggering incompetence that has cost nearly 2,000 Americans their lives. The Bush administration had no plan for how to conduct this war, they had no plan for securing the country once Saddam was deposed, and now they have no plan for ending the war. We need a compassionate and we need a viable exit strategy, one that ends the occupation but still gives us a constructive role in the rebuilding of Iraqi society. If the President will not do it, we will. If the President will not lead, we will.

Two weeks ago, I held an informal bipartisan hearing to discuss plans to withdraw our troops and end the war. We heard from a panel of Middle East experts and military strategists, just the kind of people George Bush should have listened to along his march to war, all of whom testified about the need for a change in U.S. policy in Iraq. The hearing was not about endorsing one particular approach. My goal was to put ideas on the table, to start a conversation that the Nation wants and the Nation deserves. Two-thirds of the American people disapprove of the President's handling of Iraq, and yet it has been some sort of taboo around this place to discuss troop withdrawal. The American people are way ahead of Congress on this. It is about time we caught up, it is about time we realized this war is not making America any safer. It is about time we brought our brave soldiers home.

RESPONSE TO SECRETARY BENNETT'S COMMENTS

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, this evening I rise to express my deep disdain and disgust for comments made yesterday on his radio show by former Secretary of Education William Bennett.

He said, and I quote, "You could abort every black baby in this country and your crime rate would go down. That would be an impossible, ridiculous, and morally reprehensible thing to do, but your crime rate would go down."

These are shameful words, Mr. Speaker. I am appalled to have to say them on the floor of the House of Representatives. Secretary Bennett's words reflect a narrow-minded spirit that has no place within American discourse. These words do not reflect the values of hope and opportunity for the future, they do not reflect the values of the American people, Democrat or Republican. Secretary Bennett does not reflect American mainstream values; he did not when he was Secretary of Education and he does not now. Leaders are called to higher standards than Secretary Bennett has demonstrated. We have a responsibility to lead, to be an example.

As Americans feel the pain of two hurricanes, as Americans still reel from questions about the role that race and poverty played in the government response to these devastating hurricanes, we must stand sentry against any hint of racism, any indication of injustice, any moment of intolerance. Now is not the time for divisive comments, now is the time for coming together, now is the time for healing.

What could possibly have possessed Secretary Bennett to say those words, especially at this time? What could he possibly have been thinking? This is what is so alarming about his words.

I urge President Bush to renounce his statement, and I call on Secretary Bennett to apologize. I encourage my Republican colleagues to join me on the House floor to reject these words and to speak for a future of tolerance and equality. I invite Secretary Bennett and other Republicans to join Democrats in creating solutions to national problems and meeting national needs. It is very sad, because children do study the words that are said on the floor of the House of Representatives, and these words are very shameful.

But words are shameful, too, that deny children the education they need, the health care they deserve, economic security for their families, a clean environment where they have clean air and clean water and safe food to eat; and when we deprive them of that we are insulting them, but these words are a direct hit at them. Secretary Bennett is a writer. He knows that words have power. He knows how powerful these particular words are. An apology is definitely in order, and a rejection of these remarks also is in order from the President of the United States.

KATRINA UNEARTHS DISASTROUS FISCAL STATE OF COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, almost a year ago, I spoke on this House floor warning of the dangers posed by the latest effort of the majority party to raise the debt limit for the third time during this administration to a whopping $8.18 trillion.

I used the occasion to contrast the fiscal policies of the Clinton administration, namely, turning the largest budget deficits in history to the largest budget surpluses in history, with the fiscal policies of the current administration. However, my protestations and the warnings of my fellow Blue Dog Democrats continued to fall on deaf ears.

It is inconceivable that deficits soaring as far as the eye can see, mounting debt, and the skyrocketing costs of military operations in Iraq and Afghanistan would be ignored for so long and that it would take a tragedy such as Hurricane Katrina to finally serve as a wakeup call. For years members of the Blue Dog Coalition have warned that we were spending money we did not have, that the administration had no economic plan, and that massive untargeted tax cuts were not a substitute for an economic blueprint for our country's future. And yet the Congress continued to reject every proposal requiring us to do our budget in the same way that our constituents do, by paying as we go.

Now that Hurricanes Katrina and Rita have wreaked havoc on the gulf coast, causing hundreds of billions of dollars of damage, it is clear that we must take immediate action to get our fiscal house in order. Members on the other side of the aisle have finally acknowledged what Democrats have been saying for years, that our current economic policies cannot be maintained. Unfortunately, however, some in the majority party have proposed that we ask those Americans who have been impacted most by Katrina, namely, the elderly and those with low incomes, to bear the costs.

This is not the answer to the persistent poverty exposed so brutally and graphically by Katrina. We must pursue a comprehensive solution to our fiscal woes by suspending tax cuts for wealthy families, by cutting spending, and enacting PAYGO rules, pay-as-you-go, and establishing an emergency rainy day fund.

Mr. Speaker, the 2005 budget resolution included $106 billion in new deficit finance tax cuts over the next 5 years. These additional tax cuts will impose a huge additional debt burden on the next generation. If the government is forced to borrow the money to cover these added expenses, the yearly interest payments alone will pile on the already enormous debt that our children and grandchildren will be faced with paying off.

Most of these tax cuts will actually be doled out to individuals who do not need more of the government's largesse. With American troops in combat in Iraq and Afghanistan and with our country coping with the rebuilding of the gulf coast, all of us, all of us, must sacrifice for our troops and for our neighbors.

In addition to suspending tax cuts for wealthy families, the Congress must immediately restrain its voracious appetite for spending, finding places where cuts can be made to pay the costs of Katrina and Iraq. And in addition to making tough cuts, the Congress should move to immediately reinstate PAYGO rules to stop any further bleeding.

Finally, the Congress must establish a rainy day fund for future Katrinas so we will not find ourselves in this spot again. The interest earned by such a fund could be used for disaster planning and preparedness, to modernize our Nation's infrastructure, fortify our levees, and to update and make interoperable our communications systems.

The American people now understand the precarious state of the Nation's finances. Today our national debt stands at nearly $8 trillion. Each citizen's personal share of that debt is almost $27,000. This is what we bequeath to our children, and it conflicts most directly with what my parents taught me and what most of our parents taught all of us, that is, we leave the country a little better off than we found it.

In 1989, a New York City real estate developer named Seymour Durst placed a large National Debt Clock in Times Square in order to draw public attention to what he saw as a grim predictor of financial instability. For 11 years, the debt numbers on the clock rose at the breakneck pace of $13,000 a second. In 1995, as the Clinton administration began to pay down the national debt, onlookers were shocked to see the numbers on that clock not only slow down but reverse. The clock was retired in the year 2000, as President Clinton announced record reductions in the national debt.

Mr. Speaker, unfortunately, no debt clocks were at work this time drawing attention to this crisis. It has taken Katrina to awaken the Nation to the coming fiscal crisis. Let us hope our response to this crisis is an improvement on our response to the last. We owe that to our kids.

ORDER OF BUSINESS

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

RECOGNIZING DONNA SMITH ON HER RETIREMENT AS LEGISLATIVE COUNSEL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS of California) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today to commemorate the end of a distinguished career and yet the beginning of new adventures and horizons.

This week my legislative counsel Donna Smith is retiring from my congressional office, ending an extensive and dedicated career of public service.

For the past 5 years in Washington, Donna has handled what she referred to as the three Es: education, energy, and the environment, as well as many other issues.

Donna is a California native born in Los Angeles. Her family soon relocated to San Diego. And what would be L.A.'s loss became San Diego's gain.

She graduated from Pomona College and received a teaching credential from UC Berkeley and began an 18-year teaching career. She instructed students in English, social studies, journalism, and history. She taught at the San Diego Unified School District and served as the junior high school principal and teacher for the San Diego Jewish Academy. During these years of mentoring and teaching, Donna was also active in the community and began her interest in public policy and politics.

Our association together began as members of the League of Women Voters where she served as the League's vice president from 1973 to 1977.

She helped introduce me to the issues I came to embrace and to the invaluable discourse of pro-con discussions for which the League is well known. At the same time, we were all building long-lasting relationships.

In 1992, Donna was appointed by San Diego Mayor Maureen O'Connor as a member of the San Diego City Council Elections, Campaign, and Government Advisory Board. And as a member of the board, she was instrumental in formulating a proposal for a San Diego ethics commission.

Donna holds a myriad of other interests beyond creating sound public policy. She loves music; travel; the arts; and, of course, spending time with her three grandchildren. And when most of us are content cruising through life with our careers and family, Donna's love of learning and public policy motivated her to get her legal degree from UCLA in 1996.

□ 1815

Before I came to Congress, Donna served as my chief of staff in my final two terms as a member of the California State Assembly. Any chief of staff who oversees a district and legislative office knows that job has its rewards, but also many challenges. As I transitioned to Congress, Donna came east to Washington to fulfill a longtime goal of developing public policy, a job she is well suited for. She has an ability to put her arms around an issue and see all sides of it. Instead of sound bites, Donna is always able to see the whole picture.

She has been so much more than a trusted adviser on the issues. She has been a partner in crafting legislation on teacher quality, improving curriculum, promoting renewable energy, protecting open spaces in San Diego, and negotiating the complex issues of the 2000 electricity crisis in San Diego.

In the midst of immersing herself in politics and policy, Donna has also immersed herself in the cultural and artistic endeavors that Washington has to offer, as she did in San Diego.

She is not only a multitasker, but a multi-talented renaissance woman. From playing her cello, to singing in the choir at the National Cathedral, to traveling to such exotic locales as Egypt, New Zealand and India, it can certainly be said that Donna has not let life pass her by.

Many of us in Congress know that a good staff is the key component to our ability to create public policy, and Donna has been such a vital asset to my office and to my successes as a public servant. Donna has been more than an invaluable member of the staff; she has been a good and loyal friend.

She not only will be missed in our office. I am sure she will go on and be envied by all of us. As we are all heading off to work next week, Donna will continue to travel, to sing, to play and taste the flavors life has to offer. And in the middle of all that, she will find and give great joy as the consummate grandparent. And knowing Donna, she will be an active player in making our country and the world a better place to live.

I hope my colleagues will join me in recognizing the years of hard work and public service that Donna Smith has provided to San Diego, to California, to the Congress, and to our Nation.

Thank you, Donna.

CONDEMNING REMARKS OF WILLIAM J. BENNETT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, this evening I rise before this House condemning the words spoken yesterday by former Secretary of Education William Bennett. It is truly reprehensible that as we try to heal the wounds that were laid bare following the disaster of Hurricane Katrina, that powerful elements in the Republican Party still insist on espousing racial rhetoric while trying to divide Americans based on the color of their skin.

I was shocked. I was appalled that the former Secretary of Education, William Bennett, a prominent member of the Republican Party, would go on public radio and say, "But I do know that it is true that if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down."

Mr. Speaker, as a proud black American who was honorably discharged from the U.S. Army, I know that this is precisely the kind of insensitive, hurtful, and ignorant rhetoric that Americans have grown tired of.

Mr. Speaker, Mr. Bennett still has power and influence within this Republican administration; and he is representative of the ignorant, inconsiderate politics that have been displayed in this government today. And I am calling on my friends, the responsible Republicans, to rebuke Mr. Bennett for his damaging statement.

Where is the indignation from the GOP, as one of their prominent members talks about aborting an entire race of Americans as a way of ridding this country of crime? How ridiculous. How asinine. How insane can one be?

Mr. Bennett's remarks were thoughtless, mean-spirited, and well, well off the mark. We all know that aborting black babies would not decrease or erase the crime rates in this country. Aborting the Republican policies which have hurt the disadvantaged, the poor, and average Americans for the benefit of large corporations would be a much more sane and reasonable way to address crime and poverty in this Nation.

Americans are sick of the poisonous, divisive atmosphere that is prevalent in this Republican era. Americans want reform. Americans want change. Americans want an end to the culture of corruption and bitterness that the Republican Party and this House have come to embody.

It is ironic that the same people who promised America that they would clean up the system 11 years ago, have used their power and influence to benefit their own agenda and defile the system even more. It is time for a change, Mr. Speaker; and the American people are eager to have their own cause put ahead of the politicians that were elected to represent them.

Perhaps, Mr. Speaker, I do not know his reasoning, I do not know what makes the man tick, I do not know what riles him up, I do not know where he gets these asinine remarks from; but maybe he is auditioning for a new reality TV show. I would suggest it be called "Racists Gone Wild."

Mr. Speaker, let me remind this body of the words written in the book of Mica, 6:8, where it is written: "But what do I require of thee, O man, but to do justly, to love mercy, and to walk humbly before your God."

Mr. Speaker, I have introduced today H. Res. 473, which concludes: "Be it resolved, that the House of Representatives condemns the comments made by William J. Bennett on his radio program, 'Morning in America,' as outrageous racism of the most bigoted and ignorant kind." Further it says that the House resolves that it will "condemn all manifestations and expresions of racism and ethnic intolerance."

Mr. Speaker, these racist remarks by William J. Bennett cannot go unanswered. We must do all that we can to rise above the racism, the venom expressed by William J. Bennett.

THANKING THE PEOPLE OF KAZAKHSTAN FOR THEIR ASSISTANCE TO AMERICA AND THE WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. MELANCON) is recognized for 5 minutes.

Mr. MELANCON. Mr. Speaker, Hurricane Katrina has caused not only colossal damage to the economy of Louisiana and the entire gulf coast but she has also taken away hundreds of innocent lives and left thousands homeless. As the Representative of the Third Congressional District of Louisiana, half of which was leveled by this disaster, I would like to express my sincere gratitude to those who have responded to this American calamity. I would especially like to thank the people of the Republic of Kazakhstan and their president, Nursultan Nazarbayev, for the condolences and readiness to render financial assistance to Katrina's victims.

No one can have too many friends, and that applies to both countries and individuals. The history of the United States and Kazakhstan's cooperation is a vivid example of a partnership between true friends and allies with shared values.

Kazakhstan inherited the world's fourth largest nuclear arsenal from the Soviet Union but choose not to keep that lethal legacy, which could have automatically placed Kazakhstan among the world's nuclear superpowers. Instead, the people of Kazakhstan, led by their president, chose the path of peaceful development and, together with the United States, dismantled these weapons of mass destruction. That was a worthy move of a strategic partner.

After the tragic events of September 11, Kazakhstan unhesitatingly and unconditionally supported the United States and declared its full assistance in the war on terrorism. That was a demonstration of sincerity and steadfastness of the people of Kazakhstan.

As the only country from Central Asia to send its military contingent to Iraq, Kazakhstan, despite some wavering among other coalition members, has repeatedly stated that it remains committed to its obligations and it will keep its military engineers in this unstable country as long as it takes. That was a courageous act of a genuine ally.

As we face this colossal tragedy, the Government of Kazakhstan has announced its readiness to help the victims of Hurricane Katrina, and this is a noble gesture of a true friend.

Mr. Speaker, the Republic of Kazakhstan is one of our most reliable and strongest allies and a true partner. After only 13 years of its existence as an independent state, Kazakhstan has achieved tremendous success and economic development in the building of a true democracy.

President Nazarbayev in his address to Parliament earlier this month outlined a very impressive profile of his country's future development. He listed concrete goals and objectives on further improvement for the social and economic well-being for all Kazakh citizens, as well as moves to deepen political and democratic reforms. He proposed expanding the role of Parliament, introducing local elections, enhancing the role of political parties, introducing jury trials, expanding the role of nongovernmental organizations, and strengthening and developing a free news media.

I support the determination of Kazakhstan's leader to develop small and medium enterprises and agree with him that the success of political and economic programs depends on the creation of a class of private property owners who will make up a newly formed middle class.

As the President has stated, the main goal is to stay the course and sustain the pace of transformation. I believe the United States' response should be our readiness to assist this process.

I urge my colleagues and the administration to devote more attention to our strategic partnership with Kazakhstan.

In conclusion, Mr. Speaker, I would like to agree with President Nazarbayev that we are deeply optimistic about the future of Kazakhstan and the future of the United States and Kazakhstan partnership.

FAREWELL TRIBUTE TO JOINT CHIEFS OF STAFF CHAIRMAN AIR FORCE GENERAL RICHARD B. MYERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I take this time to talk a little bit about a great American leader who is winding up his tenure as the chairman of the Joint Chiefs of Staff of the United States of America, and that is, of course, General Richard Myers.

General Myers had his last appearance before the Committee on Armed Services today, and I was reminded of all the many wonderful appearances that he has made in advising not only the President and the Secretary of Defense but also the membership of both of the Houses of Congress with respect to the United States and our military requirements.

I was looking over the statements that were made by the President and others in 2001, really just a few days after 9/11, when General Myers was nominated for this position by the President of the United States, and I thought I would read that statement that the President made. I am quoting the President, George W. Bush, who said then in 2001: "Today I name a new chairman of the Joint Chiefs, one of the most important appointments a President can make.

□ 1830

"This appointment is especially so because it comes at a time when we need great leadership. Secretary Rumsfeld and I thought long and hard about this important choice, and we enthusiastically agree that the right man to preserve the best traditions of our Armed Forces, while challenging them to innovate, to meet the threats of the future, is General Richard B. Myers."

The President went on to say, "General Myers is a man of steady resolve and determined leadership. He is a skilled and steady hand. He is someone who understands that the strengths of America's Armed Forces are our people and our technological superiority, and we must invest in both."

Now, later, after the President had made that nomination, a number of people weighed in on this, commentators in the main weighed in on this nomination by the President and one, in one of the discussions, General Richard Hawley, retired, was asked about General Myers. He was asked to give his take on this particular appointment by the President. He said, "Well, Dick Myers has wonderful credentials at the tactical, operational, and the strategic level. He has had diplomatic assignments. I think perhaps as an example when he was at U.S. Space Command, he really helped our combatant commanders understand how to fully integrate our space capabilities into their operations. And he also helped particularly those of us in the Air Force, but also I think others who work in defense issues understand what the potential is of our space forces to contribute in the future of our operational success."

Now, of course, after that initial nomination and confirmation by the Senate, General Myers was thrust into this role, this very demanding role at a time in which we were engaged in a shooting war in Afghanistan on the heels of 9/11 and, shortly thereafter, combat operations in Iraq which have been ongoing. Through all of that, General Dick Myers has truly been a steady hand. He has been thoughtful, he has been able to handle the exigencies, the emergencies of the moment and, at the same time, look over the horizon to the problems that may face us 5 or 10 or 15 years down the line.

All the while he was operating or maintaining this understanding of our operational requirements in a combat sense, General Myers has been there when we have had national emergencies. I remember the hail of firestorms that we had in California. We had massive parts of our State literally on fire, and we desperately needed help. I remember the bureaucracy that we had in California in those days, and the fact that the State of California had not requested that our military capabilities, our military aircraft, that have a tremendous capability to put out forest fires, they had not requested that those be brought in because, in their words, they wanted to use all the contractors that they could before they went to the military. While that was happening, much of California was burning up.

I remember the decision that General Myers made to not wait on the bureaucrats in California, but to send these units, these emergency units out to California, and his reasoning was, by the time the planes got there, California would understand that they, in fact, needed some help in putting those fires out. Sure enough, before that first unit landed at Point Magoo, the State of California had, in fact, decided that they were not going to be able to put this one out in an expeditious fashion, and they requested the aircraft that General Myers had already sent.

So it was an example of a leader who understood how important it was to act quickly. Now, he has acted quickly as an adviser to the President and the

Secretary of Defense. He is not in the chain of command. The combatant commanders go directly up to Secretary Rumsfeld and the President when they are receiving their orders for the prosecution of a war. But General Myers' advice on operations, on moving troops, on putting together a plan to handle the challenges of things like these improvised explosive devices, to handle rotations, this tremendous stress on our forces as we move forces in and out of theater, and as we bring the Guard and Reserve in and we match them up with the active duty forces and have them in the present combat situation in Iraq and in Afghanistan, have the Reserve and Guard forces working side-by-side with the active duty forces to the point in which they cannot be distinguished, one from the other is, to a large degree, a function of General Myers' leadership.

So he leaves us with his last appearance before the House Committee on Armed Services today, and he is going to enjoy hopefully a little free time with his wonderful wife, Mary Jo. I know that we will be calling on him to give us his great judgment in the future, because he is a great American with lots of integrity, lots of respect from all sides of the aisle on Capitol Hill in both bodies, and also a great deal of respect from those people that work and serve this country every day, wearing the uniform of the United States. We are going to call on General Richard B. Myers many times. A wonderful, wonderful American.

Now, I would also like to talk very briefly about another great American, and an American family. I was reminded about this family when General John Kelly came in and we discussed some of the challenges that we are facing in Iraq. He is the liaison for the United States Marine Corps on Capitol Hill.

I thought about that family, that Kelly family as he walked out the door, and about the fact that while General Kelly was the Deputy Commander of the First Marine Division, and a very tough conflict and contest in Fallujah, in the western area of operations in Iraq, one of the most volatile and one which is very, very dangerous. While he was the Deputy Commander of the First Marine Division, his son John was a communications officer, also a United States marine in country, and his other son Robert was a rifleman, a member of a marine fire team, an enlisted marine who was, in fact, on the ground floor going house-to-house, street-to-street, and carrying out the mandates of the leadership of the First Marine Division in which his dad was the Deputy Division Commander. What a great American family. What a tradition this Kelly family has manifested. Of course, General Kelly has a wonderful daughter, Kathleen Kelly, who has spent a lot of time in places like Bethesda Hospital, comforting wounded marines and letting them know that Americans care about them.

That is the tradition of this country, and it is one that the Kelly family has done a lot to promote and to extend, and our great thanks to them for what they have done.

Also, Mr. Speaker, today I wanted to mention two wonderful leaders in my community who have passed on very recently. I have discussed before Jim Kuhn, who is a great, wonderful guy from the Imperial Valley, the guy who started the Salton Sea International Bird Festival. We are down there in Imperial Valley, we are very close to, and in fact, touch the Mexican border; we have an immense inland sea that is full of salt water, the Salton Sea. Jim Kuhn was a farmer who was a standout citizen who started in football and wrestling and went to Stanford, but came back to his beloved Imperial Valley and became one of the leading farmers, one of the leading innovators, a guy who was very creative in his area of agriculture, but also a guy with a great heart for the community. He founded this International Bird Festival which has brought people from all over the world to the banks of the Salton Sea there in Imperial Valley, California.

Jim died, as I noted earlier, very tragically in an automobile accident. He leaves a wonderful wife Heidi and the children, Vienna and Fritz, to carry on his legacy, and I know that they will.

Another dear friend and a great leader in California passed away, and we had services for him yesterday, and that was Corky McMillan. Corky McMillan was a guy who started his business with a pickup truck and a few carpenter's tools and rose from that and I might say is a guy who built much of San Diego, built a career and built a community in San Diego from those humble beginnings to become San Diego's finest homebuilder, one of the finest homebuilders in the Nation, and a person who literally built communities, not only in San Diego, but also in other parts of California and in other States.

Corky McMillan was a guy with a great heart. He was a guy who did lots of stuff for the community and was centered on his family. His family, Scott and Mark and Lauri and, of course, his beloved wife Bonnie were everything to Corky.

He became one of the great off-road racers in southern California. Those are the people that go down into Baja, California, with machines that go over holes in the ground that are 2 and 3 feet deep over ravines, literally taking those vehicles, those desert vehicles over them in a surreal manner, sometimes at speeds far exceeding 100 miles an hour, and manage to survive all of that. It is a rare breed of people. It started out with guys like Parnelli Jones, and has become a very high-tech sport, and it is one in which Corky McMillan and his sons Scott and Mark excelled and elevated to a level in which it is appreciated by people throughout the world.

Corky McMillan was a wonderful guy who gave a lot to his community and a lot to his country and a lot to the sport of racing, and we are going to miss Corky McMillan.

So I thank my colleagues for letting me reflect on some transitions today and talk about some Americans who truly deserve to be well remembered.

DISCUSSING THE AFTERMATH OF HURRICANES KATRINA AND RITA

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight and address this House of Representatives. As I sat and listened to the Chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), I cannot resist the sense of duty and obligation to weigh in on some of his remarks that he made with regard to General Myers as chairman of the Joint Chiefs of Staff.

Of course, the gentleman from California (Mr. HUNTER) has worked very closely with General Myers and he knows him far better than I do. My work in relationship there has been not as deep, but I have been as impressed as the gentleman from California (Mr. HUNTER) has been with Richard Myers, the chairman of our Joint Chiefs, and with his vision and his ability to see beyond the horizon, as the gentleman said.

I also had the privilege of meeting General John Kelly over in Iraq before the operation that ended the battle of Fallujah, and I was impressed with his dedication and his vision and his understanding of who our enemy was and what needed to be done, and I was pleased to sit here tonight and hear the remarks made by the gentleman from California (Mr. HUNTER), honoring the family, the family commitment to the military and to the defense of this fine Nation that was made by General John Kelly and his children.

Mr. Speaker, let me shift to the subject matter that I asked to speak about tonight and that is the subject matter that I have come to call "Katrita." We have been here on this floor a couple of hours in the past 2 weeks, and I have spoken at great length about Katrina and, in these past few days, we have seen the aftermath now of Hurricane Rita. I just merge them together, because essentially they did merge together, Mr. Speaker, as Katrina hit

New Orleans and points on the east and Rita hit points to the west of New Orleans on over into the bay and into Texas, so they have crossed those lines and the damage of the two hurricanes have overlapped on each other.

When I take Katrina on the one side and Rita on the other side and merge them together I get Katrita. It is the largest natural disaster I believe that this Nation has ever seen. We are fortunate that it has not been the largest loss of life, although we mourn those who we have lost, and we are still in the process of recovery. But this financial loss and the term of time that will be required for reconstruction I think is the most devastating that America has seen. We are going to need to pull together on this.

I am well aware that there are Members of Congress who have districts that were hit hard by the dual hurricanes, and they are the most sensitive to these issues. I am up in the upper Midwest, although I have made my trip down there and much of my staff has been down there, and in fact, I have a staff person there today who will be there for some time. We want to lend a good hand to the people in the gulf coast intelligently and responsibly.

Before I get into that in any great depth, I will be happy to yield the floor to one of those individuals who does have constituents in the area, the gentleman from Texas (Mr. POE).

□ 1845

Mr. POE. Mr. Speaker, I wanted to thank the gentleman from Iowa (Mr. KING) for yielding and for hosting this hour to discuss these important issues.

When the two ladies of the gulf came in to Southeast Texas and southwestern Louisiana just in the last few weeks, in some respect the whole area and our attitude about natural disasters changed. As you mentioned, this is not the greatest loss of life regarding hurricanes. In fact, the greatest disaster that occurred in American history occurred in the year 1900 when "the storm" as it was called came across Galveston, Texas, that island, and killed at least 8,000 people, maybe even 12,000 people.

Times have changed a great deal because we now follow those hurricanes as our weather forecasters did with the two ladies of the gulf, Katrina, and more recently, Rita.

As you know, the folks in Louisiana disbursed throughout the United States but many, probably most came to Texas. And Texas is on the other side of the Savine River, and many of those people stopped off in my congressional district in Beaumont. Even this past week before Rita hit, there was still 15,000 people from Louisiana in Jefferson County where Beaumont, Texas is. Many of them went on further to Houston which is about 90 miles away.

The good folks in Texas and other parts of the country have tried to take care of those displaced citizens the best they can. Just last week, almost a week ago Hurricane Rita came down hurricane alley and hit us in Jefferson County and Liberty County and Harris County, three counties that I represent or portions of these three counties.

We did some good things. I say "we," the government officials, local officials, Federal officials, and the community did some good things before Hurricane Rita came ashore. Of course, they were aware of the fact that there was a hurricane coming so there was an evacuation plan implemented. There was an expectation that about a million people would evacuate southeast Texas and move further west into other parts of Texas, but the truth of the matter was there was over 2½ million people evacuated.

By any imagination this would have been a large scale military operation in time of war. Moving 2½ million people logistically is a massive undertaking. The mayor of the City of Houston, Bill White, and the county judge, which is our county president, Robert Eccles, did a tremendous job moving people and evacuating people. And so, those people are coming back into southeast Texas as we speak.

The counties that I represent, Jefferson County, is still without power tonight. It has been almost a week. Still without water. It has been almost a week. The same is true in parts of Liberty County. As you know, in southeast Texas and southwest Louisiana from New Orleans to Corpus Christie, Texas, 60 percent of the Nation's gasoline is refined in that one area. In Port Arthur, Texas, which was hit by Hurricane Rita, 27 percent of the gasoline is refined in that one small community for the whole United States. And because of the Katrina and Rita, several of these refineries have had to shut down. Many of those refineries have never shut down since the day they opened some 20, 25 years ago. Those refineries invented the phrase of working 24 hours a day, 7 days a week, many years ago. It takes several days to get these refineries up and running once again.

I will mention something about the refineries momentarily. But for the most part, there was no damage to these refineries that cannot be repaired in just a few days, but they are missing a power source to start up again.

The county of Jefferson County, Beaumont and Port Arthur, evacuated about 90 percent of the people who lived there. Most of them are still displaced in parts of Texas. I think some of them are have gone to Iowa and looking at Iowa for the first time in their lives. They, of course, want to come home.

The situation there now after a week, local officials are there trying to maintain, of course, some order. For the most part there has been very little looting, and our first responders are spending 12 hours a day working in shifts. The biggest problem our first responders have is that they are sleeping in their police cars. Of course, they have no electricity. They have no air conditioning and they are doing a marvelous job. It is interesting to note that not one member of the Beaumont Police Department left town during Hurricane Rita.

Something remarkable occurred and I think it is worthy to note that the port of Beaumont ships most of the military cargo to Iraq and Afghanistan. Docked in the Port of Beaumont at the time of the hurricane was the Cape Victory and the Cape Vincent, two cargo ships that transport military cargo to Iraq and Afghanistan.

They were all expecting a surge of water to not only take over Port Arthur but further north, Beaumont as well. So the mayor and the first responders were concerned about their vehicles, what to do with them because they were doing to need them as soon as the hurricane was over. So the two captains of the Cape Victory and the Cape Vincent and the mayor, Mayor Guy Goodson, came up with the idea to put all of these vehicles on the two cargo ships. One does not think of seeking safety on a ship during a hurricane, but that is exactly what happened.

So they, in just a few minutes, made the decision and started within an hour without any red tape, without any permission, without any bureaucracy, without any committee meetings, just loading those two ships with police cars, fire trucks, ambulances, fire equipment, front-end loaders, police helicopters and dump trucks from several surrounding towns. Tug boats went into operation during the hurricane to secure the ships, and as soon as the hurricane passed by those vehicles were ready to be used and they are being used and they were all taken care of in a very safe manner.

We are thankful to these two salty sea captains for coming up with that idea and protecting the first responders there.

I do want to thank the President for coming down to my district and viewing the situation firsthand. He did so in Louisiana, came into Texas. He had a meeting with the local officials and the first responders. And then he flew over the entire area in a helicopter to see southeast Texas and of course Louisiana as well.

The need for American petroleum and natural gas and dependence on ourselves could not be more evident in this hurricane, in these last two hurricanes.

We in this country for various reasons have not built a new refineries since over 25 years ago. It is not economically profitable to do so so there has not been any. We are now 60 percent dependent on foreign crude oil in the United States, and every day we take more and more away from our own selves and we have to import crude oil to make sure that the American public has gasoline.

These two disasters are evident that we need to do something about being energy self-sufficient. Most of our refineries are in southeast Texas, southwest Louisiana. Most of the offshore rigs are in the gulf in the same area. That is why it is important in my opinion that we drill in other parts offshore, not just off the coasts of Louisiana and Texas but even further east, even off the coast of Florida, the East Coast and West Coast as well. We are the only major power in the world that has the policy of not drilling off our own shores.

People complain and are concerned, and that is rightfully so about the price of gasoline, certainly they should be, and we have to find a place to refine that crude oil and we also must find a way to produce crude oil as well.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, I would pose a question to the gentleman, as the gentleman raised the issue with the natural gas and oil drilling that goes on in the gulf. I have seen the map of where those rigs are, the platforms that are out there, and what I cannot see when I go down there along that shore and what I cannot seen when I go along there and in a plane or a helicopter is any rigs. Can you see the rigs from the shoreline, say if you are sitting on the beach anywhere down there?

Mr. POE. Well, of course they are not on a beach and the only way you could ever see is them on a clear night you could sometimes see the lights from the rigs that are offshore; but generally speaking, in the daytime you cannot see them at all.

Mr. KING of Iowa. I would pose a follow-up question. Does the gentleman have any idea why it is some folks oppose the drilling offshore when it is out of sight?

Mr. POE. I do not understand why. I think, in my own opinion, there is a certain fear and panic about offshore drilling that is unfounded. Those folks that can drill offshore today can do it in a very environmentally clean manner. The best example is probably using the North Sea. The roughest seas in the world are in the North Sea. And the North Sea has numerous offshore rigs. Most of them built by, of course, Texans, and they can do so in a safe manner.

We can drill offshore in a safe manner. We can drill in an environmentally safe manner. No one wants polluted air or water. I think the day has come now where we have to get rid of the unnecessary and abusive regulations so we can drill offshore. It will not only bring us natural gas, crude oil for gasoline, but it will bring an income to the American public, because when the Federal Government leases offshore, oil companies pay for those leases.

And some estimate that the American Treasury could receive up to $7 billion a year by leasing in those areas where we have not leased before.

So it is a decision that the American public is going to have to make, depending on foreign gas, natural gas, depending on foreign crude oil or drill offshore; and I think we should drill in numerous places. And it is a security issue because as you know when those hurricanes get in the gulf, they have to go somewhere. And we got all those rigs in one place, the refineries in one place as we have seen, it could have been a whole lot worse and the country could be in a whole lot worse shape just because of the energy and the lack of offshore drilling.

Mr. KING of Iowa. Mr. Speaker, I am advised that the last oil spill we had in any offshore drilling for oil was 1969. I do not know if the gentleman can confirm that, but in that question could the gentleman also respond to the question of, does the gentleman know if there has ever been a spill of natural gas drilling offshore? And if it did spill, would it kind of look like the gas that is boiling up out of the water in New Orleans where it would just dissipate into the air and is there a reason to be concerned, even if we were irresponsible with regard to natural gas drilling?

Mr. POE. Mr. Speaker, as far as I know there has not been any major problems. We know we have had these two hurricanes and with very little environmental impact with the offshore rigs. The refineries are built very, very well. The refineries knew that the hurricanes were coming. They started burning the fuel that was in the pipe so there would not be any pipe disasters.

Just to mention as a side note, one-third of the pipelines in the United States go right through my congressional district. They go to all parts of the United States, but one-third are through that congressional district. It is all very highly concentrated, but we can proceed with a safe energy policy. And like I said, the American public has to make that decision, and I hope they make the right decision which would be that we become more self-sufficient on energy.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for coming to the floor to stand up and let America and the Speaker know the circumstances in southern Texas and how that has impacted you all down there. I will pick up on the flow of this.

I had the privilege of going down there very early. In fact, my district director was on the ground near New Orleans on an air base on Labor Day which was just barely in the aftermath of the hurricane. It was important, I thought, to have someone down there to see what was going on so we could measure the magnitude of the disaster down.

He went down with a KC–135 load of Air Force MP's out of Colorado and reported back to me immediately. From what he saw down there, he said he thought there was so much military activity on Labor Day that it reminded him of the DaNang base during Vietnam when he was there.

So that gave me a sense of how much military effort there was even that early, and yet the public does not have the perception that there was a Federal response that was nearly as aggressive or as comprehensive as it actually was.

I would say further that I did not wait. The following week I was there on the eleventh and twelfth of September. I came in very early on that Sunday morning. I got a good look at much of what was going on and went up in a Black Hawk helicopter and flew all over New Orleans for a couple of hours. I went back down and had the meetings that I had asked for. I was given a ride over the Corps of Engineers headquarters.

□ 1900

There I entered their administrative offices where they rode out Hurricane Katrina, and looking at the drawings that they had and the maps of the area, and I had studied the elevations and the levees and the system that had been constructed. I had also read the reports that were predicting the worst-case scenario, which essentially Katrina was the worst-case scenario for New Orleans with the exception that maybe the winds could have been a little stronger, but it went in the most damaging path it could have. It was almost the perfect storm, and I will return to that description perhaps in a few moments, Mr. Speaker.

But when I think of the immediate military response that kept the air bases looking like Danang with so many planes landing, we had fixed-wing aircraft landing more often than one every minute, whether it be C–130s or KC–135s, cargo aircraft coming in with manpower and also with supplies, equipment, everything they could imagine that they could muster up from our military. Those fixed wing aircraft were landing on the runway. The military had set up their power system, and they had taken over the communications for the air traffic controllers which did not have power.

So the military system kicked in, and they were controlling the fixed-wing aircraft to land one more often than every minute on the runway there. Then, on top of that, the helicopters were coming and going; and they were landing crossways of the runway, asked to yield the right-of-way to the planes that were landing, a very, very busy place on Labor Day that early after Katrina hit.

So I would just fast forward to, in fact, exactly 7 days later when I found myself in a shelter in Slidell, Louisiana, visiting some of the people who had been evacuees from their homes and were looking for a place to lay their weary heads. They had set up the gymnasium there with perhaps 300 cots, a Red Cross-structured shelter. As I walked through there and visited some of the victims of the storm. I got a sense of the stories that they had lived through and a feel for the way they had been helped out and the helping hands that came from volunteers from all across this country, and in fact, hearing the stories of the traffic that was going south, while the evacuation was going north, people coming to help were a traffic jam themselves.

That is the American spirit, Mr. Speaker; and in that gymnasium, I met a young man who was a specialist with the 711th Signal Battalion out of Mobile, Alabama. He was Specialist Cunningham, and I asked him, of course, what unit he was with. He said, 711th Signal out of Mobile, Alabama, sir. I said, how did you get here out of Alabama? Didn't you get hit by a hurricane there, too? He said, Yes, but our orders were to come over here and help the people that needed it worse than we did. I said how did you get across Mississippi? His answer was, We used chainsaws and we used Humvees and chainsaws, and we essentially cut away across the trees that were down over the highway, and we drug them out of the way and we opened the road and worked our way over here. So they had cut all the way or worked their way and cleared some of the way, if not all the way, across Mississippi to Slidell, Louisiana, on the eastern side of the Louisiana border, right next to the Mississippi line.

People from Mobile, Alabama, 300 strong, in there early, and they started out on Monday. That is Monday Labor Day, the same day my district director landed down there near New Orleans, the same day that the air traffic was landing, one plane more often than every minute, with helicopters landing in between, bringing manpower and machines and equipment and supplies in for people that were in need.

Mr. Speaker, the Federal Government did provide a fast response; but it was a huge area, 90,000 square miles to start with; and now it has been added to significantly by Rita. Of course, we learned from Katrina; and some of the things that were in place in Texas in preparation for evacuees, particularly those that might come out of Galveston in the event of a hurricane, were very beneficial to the people that came from New Orleans and found themselves in Houston. .

I am quite impressed with the effort of the region and the resources that they pulled together and the ability that they had in the Astrodome to have supplies there and water and food and medicine. I think the report was 400 different kinds of pharmaceuticals in a pharmaceutical shop that was set up there along with cots and all the services that they needed, medical help and psychological help, and the list went on. Plenty of volunteers were able to take thousands of people into the Astrodome and have the supplies there so that it was orderly, clean, and neat. It was not littered.

Apparently, the people who went to the Astrodome helped clean the place up. I do not know, but every time I saw a picture of that, it was a clean place; and whenever I saw a picture of the Superdome, it was a very, very filthy and littered place that appeared to have no order, and it was a chaotic location, as we all pretty well know by now.

As the Committee on Government Reform meets and holds hearings and examines the circumstances that unfolded. I really do think that we need to let them do their due diligence. I think we need to let them listen to the testimony, and we heard the now-just-resigned director of FEMA give his testimony yesterday. More testimony followed today, I understand. It will follow in the days and weeks ahead.

It is important that we put on record the chronology of what happened when, where was the storm in the path, what notices went out, what decisions were made at what time, who was in the position of authority, and at what time did they make those decisions, who did they consult with, what was the basis of the facts of the information, what equipment did they have to work with, what alternatives did they have, what had they done in the past history to prepare themselves for such a disaster.

Certainly, it was not a surprise that a hurricane might someday hit of that magnitude, because that was published in the New Orleans Times-Picayune newspaper, I believe it was in late 2002.

I have read all those articles, and I have read the worst-case scenario, and I cannot believe that I would be one of the few people, but many, many people in that region were aware of the worst-case scenario, and that is essentially what transpired.

I think it is important to let the committee do their work, the Committee on Government Reform, bring the witnesses forward, put their testimony on the record, take the documents, the supporting documents, and put those into the record and have the staff and the interested people and the public and the media be able to take a good look and examine the facts and then write up the scenarios.

This committee will issue a report, and I want to reserve my judgment on all the things that I think went wrong until such time as I can point to them and say these are congressional findings, they are facts; and I want to base my judgment off of those facts.

I will give, Mr. Speaker, a couple of opinions on what I think happened, and not to be passing previous judgment but simply to give an overall sketch of how it looks to me from what I have seen, what I have been involved in, and that is, that I think Hurricane Katrina, and Rita to a significantly less effect, but Katrina particularly was almost the perfect storm.

It did what the director of Homeland Security said here on this floor, that it came in in a military fashion. If you were going to attack a city and you wanted to immobilize a city, what you would do is wipe out the communications, the power and electricity. That is the first thing that Katrina did. Then you would cut off all the transportation routes into the city, and that is what happened with the flooding and the roads that were taken out. Then the third thing that would happen would be, of course, you would attack, and that was the flood. The flood, when you start filling up a city like that, it immobilizes everything. It put everybody out of commission.

So it was almost a perfect storm from the standpoint of the damage that it did and the direction that it took.

I can speak about that perhaps a little bit more, Mr. Speaker; but I would add to that then, when local services disappeared and when we saw that many hundreds of the first responders were victims of the storm themselves, either their places were damaged by the wind, damaged by the water, under water, or damaged by the wind and the water and under water, but the first responders took a serious blow, and they were not there to help coordinate. They did not have a communications system to help coordinate with. I am sure that there are many, many stories of heroic people that toiled in oblivion in that chaos of the first few days that was the effect of the storm that hit New Orleans.

I will say that that rolling chain reaction of disaster, the effect of the city's response in particular was not as effective as it may have been due to lack of communications ability, due to lack of resources in places where one would think they might have been, and then the loss of communications so that it was not possible to salvage the operations, salvage the response to the storm because the resources were not there, had there been the right decisions made, I think to provide them. So you take it up to the next level of the State, and there, again, communications and decision-making are certainly something that will be questioned.

It kept the decisions out of the hands of the Federal Government, except for those National Guards like 711th Signal Battalion out of Mobile, Alabama, who came in and under whose order I do not know, but I am awfully glad they came. I was awfully proud to look at young Specialist Cunningham in the eye when he told me that they had chainsawed their way across Mississippi to get to Louisiana.

That is the American way, Mr. Speaker, and when I hear the anecdote that was told by the gentleman from Texas (Mr. POE) a few moments ago about the decision to place the vehicles on a couple of ships and keep them safe from the hurricane, and that offer was made by a couple of captains, he said that they made the decision in just a few minutes to place vehicles on a ship. They did that right away, and they protected all of those vehicles, they were in good condition, good shape, because a decision was made at the local level. Quick-thinking people that looked around and saw the resources that they had, that has always been the American way.

When we let government make decisions, we delay. For government to make decisions, the bureaucracy moves too slowly, the information moving up to the bureaucracy gets there too slowly; and even if the right decision is made, chances are it does not get back down through and does not get implemented in time for it to have the effect that it might have.

You really need people on the ground that are thinking for themselves and have enough self-confidence, enough leadership ability and enough authority to make those decisions like that decision was that recommended by the two ships' captains that saved all those vehicles, so that as soon as the storm was over, they could roll them off the ships and put them right to work rescuing people.

I thought that was a good example, and to think that we maybe could have had those kinds of decisions in other areas around the disaster area if we had gotten government more out of the way and let the local and those people make those decisions, but they had to make the right ones in preparation, too. That is the part that I think that the Committee on Government Reform will bring out here so that Americans will see it with a true perspective.

If I could, I would appreciate the opportunity to yield to the gentlewoman from North Carolina (Ms. FOXX) who knows her mind, comes here and speaks it, speaks up for the right causes and the right principles; and I am very pleased to be associated with the gentlewoman from North Carolina.

Ms. FOXX. Mr. Speaker, I have enjoyed listening to my colleague from Iowa, and we share a lot of things in common, being able to know our own minds and speak them. I think they are in the face sometimes of running against the flow, but I think that is what the people of our respective States sent us here for, and so I think that that is what we should be doing.

I have appreciated the comments that you have made. I heard a little bit from my classmate, the gentleman from Texas (Mr. POE), and his comments that he was making, too, and I think that all of us owe a great debt to the people from our districts who have stepped up and helped in so many ways.

I know that the people of the 5th Congressional District of North Carolina, my district, have been extremely generous with their time and money in helping with the hurricane relief. They, and all the other people, have exemplified what a wonderful country we live in and how volunteers do step up when we need them to.

Our government can do very, very many great things, and our government does do many great things. We have a lot of fabulous people who work for the Federal Government and the State and local governments, too; but there are things that we are not equipped to do.

I, like you and the gentleman from Texas (Mr. POE), have been extremely saddened by the devastation that we have seen inflicted by these hurricanes. They are not the greatest disasters necessarily that have hit our country, but they have certainly been the greatest ones that have come in a long time.

I think that what our military and the Federal agencies have done has been positive, but I think that we have to do more at the State level and the local level; and I think we have to urge people to do more through the volunteer organizations, as you talked about.

I supported $10 billion in aid that we gave for this relief. I have supported every other bill that has come through except the one big omnibus bill that we had, the $52 billion bill.

□ 1915

We have done a lot to provide relief measures, tax relief measures for people, for college students, for workers and worker training programs. But my concern is that we spend the money that we spend here from the Federal level wisely. As a State Senator, I thought we should spend our government's money wisely, but we have to be extremely careful that we do not let our hearts override our heads. If I am spending my own money, it is okay if I let my heart dictate. But if I am spending other people's money, I think I have to make sure that I am voting with my head and not with my heart.

One of the concerns that I have is that we have oversight in the money that is being spent on the hurricane relief. We have to have oversight and accountability or else we will waste the precious money that we have. Every dollar wasted is a dollar not going to help some family in need or some agency in need. And I think that it is shameful that members of the minority party have often exploited the suffering and loss of life in this tragedy to score political points. We do not need to be dealing with partisan issues here. We need to work together to help the people of the gulf coast. But we need to do it in the most effective and fiscally responsible way possible.

I supported the select Bipartisan Committee to Investigate the Preparation For and Response to Hurricane Katrina. I think that that is the way we should be operating. We are going to have a full investigation, as the gentleman mentioned, and the report is going to come out on February 15. All the facts have to come out so that we can take steps on the Federal, State and local level to make sure that we do not have a debacle like we had there before. I think it is very important we examine the role of the Federal Government in disaster relief.

I am really proud to be a member of the Committee on Government Reform, and I appreciate my colleague from Iowa mentioning the Committee on Government Reform and the potential role it has to play in looking at this. What I hope is that the Committee on Government Reform is going to review many, many government programs and how they operate, and that this will be a catalyst for us to see what we are doing, particularly with rules and regulations as they apply to what is happening in the recovery.

But as we do that, it seems to me we should expand the way we look at rules and regulations. Are they doing what we need them to do? Not only what went wrong with Hurricane Katrina, but what can we do to streamline the way we operate? I want measured, common sense solutions to what we have seen as a result of the hurricane, but I want common sense solutions to all of the problems that we face in this country, and I think our citizens are saying that.

I know when I am at home, people are saying please do not just throw money at this problem. Let us use this as an opportunity to make things better in the future, not just put a Band-Aid on the issues, but make sure we do not lose the opportunity to find out what went wrong, fix that, and then go even further. And let us reduce the role of the Federal Government, because as my colleague said, in many cases just some good common sense on the part of average citizens can solve a lot of problems and keep us from wasting a lot of money in trying to solve a problem.

So I commend the gentleman for having this special order tonight, for bringing this to our colleagues' attention. We need to keep talking about it. We need to keep talking about it in a positive way, not a negative way. We need to say let us look for solutions, let us solve the problems, and let us make the gulf coast a better place to live. Let us make our entire country a better place to live by reducing the role of the Federal Government in our lives.

Mr. KING of Iowa. Mr. Speaker, I thank the gentlewoman from North Carolina (Ms. FOXX) for her contribution to this discussion and this debate and her involvement on the Committee on Government Reform, which has got an important role to play, and always has when it comes time to streamline government and bring more responsibility out of government.

This is an especially important time. There are a lot of Federal dollars being poured into this region as we speak. And as the gentlewoman from North Carolina (Ms. FOXX) said, she voted no on the $52 billion. I am one of those people that voted no on the $52 billion. Actually, $51.8 billion, to be precise, not that a couple hundred million dollars is not splitting hairs in this Congress, Mr. Speaker, but I think it is. And I voted no because there was approximately $5 billion in there that was easily identifiable as not emergency spending, Mr. Speaker. It was money that was being directed towards 300,000 trailer houses, of which 270,000 were back ordered. Back ordered trailer houses, and mitigation of future disasters is not emergency spending.

I wanted to focus the money on emergency spending, and I wanted to get about another $10 billion down there to keep FEMA going for another week so that we could do a better job of oversight. Because, as you know, once the money goes out the door, it is a lot harder to watch where it is spent than it is to put the strings on it before it leaves the door.

I believe we could have done a better job of that, but I do believe that we are joining together here to do a better job and looking back on some of that appropriations, to do the best we can to make sure it is spent as well as we can in any future requests. I want to make sure that we weigh in very carefully on where those dollars go.

That is the biggest reason that I went down there fairly early in this, on September 11 and 12, and I got a good look at all of New Orleans from the air. I also flew down from the Corps of Engineers' headquarters there over the Mississippi River, which runs approximately 90 miles south, in a little bit of a winding pattern down to the Gulf of Mexico where the Mississippi River outlets into the gulf. Most people in the upper Midwest think that New Orleans is on the coast, that it is the outlet of the Mississippi, but in fact it is another 90 miles or so. Of course, when I was there, it was only about 75, I believe, because the water was so high and the damage that was done it really shortened the Mississippi River by a significant proportion.

Nonetheless, that disaster that I saw down along the channeling of the Mississippi River, or I will say next to the Mississippi River channel, where the river has perhaps, and I will state the information that I have is that the levees built to keep the Mississippi River in the channel are 25 feet above sea level. Then on the west side of the Mississippi, from the levee and going west, there is perhaps an average of about a half mile of bottom land there. That is protected with another levee about 25 feet high which protects the gulf, so that the gulf does not come into the backside of that levee that controls the Mississippi River.

That area in between those two 25-foot levees is the area that is about a half mile wide and generally about 90 miles long, perhaps 45 square miles, with six or seven towns in there. Those six or seven towns were all wiped out. The wind hit them all hard and damaged them severely. Even some of the best structures were really damaged severely.

The wind hit, and then the water surged over the levee from the Mississippi River side and flooded that area in between those two 25-foot dikes with that half a mile in between, and then the water surged over from the gulf side and did the same thing. So I am going to say wind damage like I have only seen in the worst of tornadoes, the entire area wind damaged like that, with entire buildings just blown away into splinters. Then, when the flood came from the surge, any buildings that were not blown away were mostly washed away. They floated and crashed up against each other against the levee.

Mr. Speaker, I have here on the easel a picture of one of the better built buildings down there in that bottom land parallel to the Mississippi River. This may be, just guessing, perhaps 30 miles south of New Orleans along the Mississippi. This is a building that is built with steel pilings driven in, and who knows how deep, but down deep enough to get a very solid bearing in order to build a building that can withstand a hurricane and can withstand the kind of water surge that was going to come.

As you can see, as good as it was built, it still blew everything from here on down away, and there is not a lot left to salvage here. One might be surprised that the structure seems to be fairly sound. I saw this all over, but I also square mile after square mile that had been homes that was nothing but a footing or a foundation or a concrete platform. I did not bring pictures of those because they are not so impressive, Mr. Speaker. That is just water-covered concrete footings and nothing left.

There were trees were the wind blew so hard it simply blew the leaves off the tree and the trees died. The salt water that came in, of course, killed most everything green. That is another piece that we do not hear much about, Mr. Speaker.

I have saved this particular picture because, in a way, it is kind of heartbreaking. I was walking along a levee south of Slidell, Louisiana, a levee that runs over towards New Orleans. And as I looked at the devastation after devastation, debris after debris, it was numbing after a while. It is hard to be shocked. In fact, you just get that sense of how can anything be worse and you start counting things in the trees, like counting life jackets that are hanging from the trees, hundreds of them; and counting refrigerators up in the trees, and I will say dozens of them. Odd things that stick out in a person's mind.

I ended up with about 1,800 pictures, which when I go back and look at them, I see things in those pictures that I did not see when I was there in person. But this caught my eye. Laying on the ground beside a place that used to be a home, and it says Happy Anniversary. This has not been disturbed at all. It is exactly the way it laid. You can see where the grass is laid over the top of the handle. Whether it was a husband that bought that for the wife, or the wife for the husband, or the children for the parents, or whether it was the grandchildren for the grandparents, I do not know, but when I look at that, I see one of the doves that was on top is broken and laying here and it seems to reflect on what happened to some of the families that lost a loved one maybe have not found a loved one yet.

We have done a pretty good job of locating people, but the effort still goes on. And when the waters came up, and they came so fast that there might be a 17- to 20-foot surge that would go from zero to 17 to 20 feet in a matter of 3 minutes, maybe 4 minutes, that was not much time to get away. A lot of people had to go up the stairs of their house up to their attics. And when the water came and filled their attic, they needed something to chop their way out through the roof in order to climb out on the roof to save themselves from the flood.

I do not know how many people did not have a means to chop themselves out of their own attic. I do not know, but as I look at this, I cannot help but think that it may not be this family that lost someone, but I believe it represents many of the families that did lose someone who was celebrating their anniversary not all that long ago.

On the positive side, Mr. Speaker, this is a very resilient Nation, and we have a strong character and a strong resilience. We also have a sense of defiance, which is rooted back in the defiance of King George. So when we are met with disaster, no matter how bad the disaster, no matter how bad the blow, we have people that stand up and they look around and they think, all right, if that is the best you can give me, then I can take that and I am going to rebuild. I will put my life back together, my business back together, put my house back together, and I am going to live here and make it. I am going to be profitable and contribute back to this country and the neighborhood and the economy.

This is a symbol of that defiance, Mr. Speaker. This is one of the things that warmed my heart as we flew by there. The individual or the family that owned this place had lost almost everything. This is mostly trash and rubble. If you look up here, this is debris that has all been pushed over by the wind. That is just floating debris, and the water has been over the top of this levee. That is the Mississippi River right at the top of the picture.

As the owner came and found nothing, he did find a flag pole that was still standing. There is no way the flag that was on that flag pole originally survived that wind. But, Mr. Speaker, the first thing he did was went and got a fresh Old Glory and ran it up to the top of that flag pole in defiance of the storm and in proud independence that he would be, and I assume it is a he, rebuilding.

One day I will go back down there, and I hope I can identify that flag pole, because I think there is going to be some buildings that have been reconstructed again, and the place will one day look better than it did the day before the storm hit.

☐ 1930

We have a lot of big decisions to make: where the Federal dollars will go, where they will come from. We have an obligation to look for offsets. We cannot continue to put debt on the backs of our children and grandchildren. We can find the savings.

I am convinced that this Congress, working together in a bipartisan manner, will be able to find ways to save money so we can get the resources into the gulf coast to help out our friends in Texas, Mississippi, Louisiana and Alabama, and to a lesser extent some of Florida. I am hopeful that we can join together in a way to do that.

I have a few ideas myself. I am not going to enter into this debate here tonight with them, but I have been working on my own list on how to fund Hurricane Katrina's reconstruction. It is essential that we find offsets, and we can do some reconciliation legislation. It will be a blessing for us because we will find a way to make government more efficient. We will have that debate here. It will be on the floor of Congress.

But also finding ways to pay for it is not enough. We also have to spend the money wisely. We need to limit it to the extent we can while still taking care of our obligations from the Federal Government.

I have looked at the things that we need to do to protect New Orleans again. It is below sea level. There was 16 feet of water standing in parts of New Orleans. That whole area with standing water is below sea level. We have to find a way, and there was discussion whether we could construct below sea level. Those questions landed on my ears. Actually, I thought they were prudent questions that needed to be asked, deliberated upon, and we need to bring more facts to the table before we can come up with a definitive answer.

But when you look at New Orleans and see the downtown buildings that rise up out of the water, and I was able to see it on a day when it was a bright blue sky, and the sunlight reflecting off the downtown buildings made the water blue, as the downtown buildings stood up, I looked and it was clear to me, yes, you cannot let a great city like New Orleans stand in water and not be reconstructed better than it was before. We need to rebuild the city, but we need to rebuild the city in a wise fashion.

My first recommendation is New Orleans, the levees that protect it and the systems that protect it from a hurricane, be constructed in preparation for a category 5 hurricane. If you can imagine a worse one, let us reconstruct for that. Let us do the hurricane mitigation work so the worst storm we can imagine cannot come in and do the kind of damage that Hurricane Katrina did to New Orleans.

The first step is as the water in Lake Pontchartrain increased by that 14 to 15-foot average water depth, and as it went up another 8 to 10 feet, because of the storm surge from the gulf, as the low pressure center raised the level of the water in the ocean and that hard south wind at 150 miles an hour drove that water up into the lake, stacked it up against the north shore of Lake Pontchartrain and filled that lake up with 8 to 10 feet more water, and then when the hurricane shifted to the east and winds came from the north, it drove that high wall of water down against the levees on the south side of Lake Pontchartrain. The waves added another 8 to 10 feet, it washed over the levees and flooded the city.

We know what happened, and to prevent it from happening again, I believe we need to do the engineering study, do the financial analysis, but repair the levees on the outlet of Lake Pontchartrain to a level that can protect Lake Pontchartrain itself from a category 5 hurricane so it cannot be breached, and to put hurricane gates in where necessary so we can close those in the event of a storm and keep the ocean water out of Lake Pontchartrain. That is step one.

Step two is if it gets in there or if there is a surge of the water in there, and I do not know if it is possible to have that kind of an effort under any kind of a storm, but if the water does get into Lake Pontchartrain, then we need to be prepared for the second level of protection.

That second level would be to build the levees between Lake Pontchartrain and New Orleans to an elevation that will protect New Orleans from 25 feet above sea level from a category 5, and then to put hurricane gates in at the inlets of the canals, the 17th Street Canal being the most infamous of them all. That can be done and protected. We need to come out with a cost and engineering analysis of that and make a decision in this Congress.

I believe if that cost is anywhere near reasonable, we need to get that done before there is new construction going on down below sea level in New Orleans itself. So that is two systems that would protect New Orleans from a flood.

I point out there is a significant amount of construction done in the world below sea level. Holland is one of those examples. I am told a third of Holland is below sea level; and when I was told that, I said they have reclaimed another portion from the sea since when I went to school and a fourth of the nation was underwater. That is probably the case. They continually reclaim. They construct below sea level. I believe we can do that in the area of New Orleans. I have some more questions from the engineering perspective that I do not have the answers to, but protect the outlet of Lake Pontchartrain to keep the ocean water out and storm surge out, and keep the water in Lake Pontchartrain there by putting gates at the inlet of the canals, and perhaps raise the level of the hurricane levees on Lake Pontchartrain.

The third thing is the pump stations have to be raised up well above the high water mark of this flood, and they need to have redundancies built in so they can pump water if the power goes out. If the power goes out, they automatically kick on. And the water that is being pumped out of New Orleans now over the last week and a half or so, it is a massive quantity of water. It is 27,000 cubic feet per second, more than twice the amount of water that runs down the Missouri River at Sioux City, Iowa, in the area where I live.

Mr. Speaker, Florida has a lot of experience with reconstructing in preparation for category 5 hurricanes. They have perfected a lot of the method of how to prepare for a hurricane, how to evacuate, how to zone the houses and the buildings so they are prepared for that kind of wind and damage. Requiring shutters is one thing, and building off the ground is another. There are a number of ideas from an architectural standpoint. There is much that has already been established. We should look at that opportunity to take the language of those zoning restrictions that they have and the emergency response system that they developed in Florida and bring that into Louisiana, Mississippi and parts of Texas; but Louisiana needing the most help, it appears.

I think we can learn from our experience. We need to also be able to have a Federal requirement on the construction of the levee so if there is a levee that can be breached and put that much property in jeopardy, we need to have Federal oversight over that levee. There is much that can be done and should be done.

I will be involved in the effort to identify the mitigation work and looking at the cost and the engineering design and the recommendations. I would also point out that there will be a population loss in New Orleans. I do not know that number, no one knows that number, but perhaps a loss of a quarter of the population, perhaps more. If that is the case, the homes that will be condemned, many are still under water today, that will be the last place that needs to be reconstructed.

The reconstruction of the homes can go in the higher elevation areas where they do not have water. Those decisions need to be made so people can make plans for the future. That is part of this Congress' responsibility. Wherever there are Federal dollars, we have an obligation to the taxpayers that they are spent wisely.

There are private sector solutions to this, and we need to listen to our representatives from that area, those that are advocating for less pressure on taxpayers and more pressure on individuals, and the solutions of tax credits and I will say commerce-friendly zones, tax free zones, for example, lay all of those ideas out on the table.

The gentleman from Louisiana (Mr. BOUSTANY) and the gentleman from Louisiana (Mr. JINDAL) both have been very active, along with the other Representatives from Louisiana. The gentleman from Louisiana (Mr. MCCRERY) has been very vocal here. I am looking forward to their input and working in cooperation with them so we put a solution together that will leave a legacy of making it better when things are bad in the event of Hurricane Katrina and Hurricane Rita.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. COLE of Oklahoma (during the Special Order of Mr. KING of Iowa), from the Committee on Rules, submitted a privileged report (Rept. No. 109-242) on the resolution (H. Res. 474) waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT TO MONDAY, OCTOBER 3, 2005, AND ADJOURNMENT FROM MONDAY, OCTOBER 3, 2005 TO THURSDAY, OCTOBER 6, 2005

Mr. COLE of Oklahoma (during the special order of Mr. KING of Iowa). Mr. Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 4 p.m. on Monday next, and further, when the House adjourns on that day, it adjourn to meet at 10 a.m. on Thursday, October 6, 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUTIERREZ (at the request of Ms. PELOSI) for today on account of illness in the family.

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today after 5:10 p.m. on account of personal reasons.

Mr. HOBSON (at the request of Mr. BLUNT) for today after 3:00 p.m. on account of official business.

Mr. CULBERSON (at the request of Mr. BLUNT) for today on account of business in the district.

Mr. GARY G. MILLER of California (at the request of Mr. BLUNT) for today after 5:15 p.m. on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MELANCON, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

(The following Member (at the request of Mr. WESTMORELAND) to revise and extend his remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1235. An act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemember and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs; to the Committee on Veterans Affairs.

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita; to the Committee on Transportation and Infrastructure.

S. 1778. An act to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; to the Committee on Energy and Commerce; in addition, to the Committee on Ways and Means for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina and Rita through vocational rehabilitations services.

SENATER ENROLLED BILLS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, October 3, 2005, at 4 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4300. A letter from the Acting Director, Defense Research and Engineering, Department of Defense, transmitting Notification of intent to obligate funds for test projects for inclusion in the Fiscal Year 2006 Foreign Comparative Testing (FCT) Program, pursuant to

10 U.S.C. 2350a(g); to the Committee on Armed Services.

4301. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4302. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4303. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the United Arab Emirates pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4304. A letter from the Secretary of the Commission, BCP, Federal Trade Commission, transmitting the Commission's final rule — Notice of Federal Trade Commission Publication Incorporating Model Forms and Procedures for Identity Theft Victims (RIN: 3084-AA94) received May 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4305. A letter from the Acting Associate Administrator, Environmental Protection Agency, transmitting a copy of the Agency's report, "Report on Congress on the Status of Environmental Education in the United States," pursuant to Public Law 101—619; to the Committee on Energy and Commerce.

4306. A letter from the Special Advisor, Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act [MB Docket No. 05-181] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4307. A letter from the Associate Managing Director/PERM, Federal Communications Commission, transmitting the Commission's final rule — Assessment and Collection of Regulatory Fees for Fiscal Year 2005 [MD Docket No. 05-59]; Assessment and Collection of Regulatory Fees for Fiscal Year 2004 [MD Docket No. 04-73]; received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4308. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones [WT Docket No. 01-309] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4309. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule — Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures [WT Docket No. 05-211] received September 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4310. A letter from the Acting Chief, CGB3, Federal Communications Commission, transmitting the Commission's final rule — Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 [CG Docket No. 02-278] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4311. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Dallas, Oregon) [MB Docket No. 04-124; RM-10936; RM-10937; RM-10938; RM-10939] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4312. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Colfax, Louisiana) [MB Docket No. 05-117; RM-11182]; (Moody, Texas) [MB Docket No. 05-119; RM-11184] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4313. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Altheimer, Arkansas) [MB Docket No. 05-81; RM-11102] Reclassification of License of Station KURB(FM), Little Rock, Arkansas received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4314. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Talladega and Munford, Alabama) [MB Docket No. 04-19; RM-10845) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4315. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Opal and Reliance, Wyoming and Bringham City, Woodruff, Price and Fountain Green, Utah) [MB Docket No. 02-294; RM-10543; RM-10774] received August 23,2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4316. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Big Spring, Texas) [MB Docket No. 05-137; RM-11161] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4317. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Morgan, Georgia) [MB Docket No. 02-109; RM-10420; RM-10546] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4318. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Palacios, Texas) [MB Docket No. 04-330; RM-11051] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4319. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (San Luis Obispo and Lost Hills, California and Maricopa, California) [MB Docket No. 05-88; RM-11173; RM-11177] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4320. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communictaions Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Georgetown, Mason, Oxford and West Union, Ohio, and Salt Lick, Kentucky) [MB Docket No. 04-0411; RM-11096] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4321. A letter from the Secretary of the Commission, BCP, Federal Trade Commission, transmitting the Commission's final rule — Telemarketing Sales Rule Fees (RIN: 3084-0098) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4322. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4323. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4324. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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4331. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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4337. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4338. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's Year 2005 Inventory of Commercial Activities, as required by the Federal Activities Reform Act of 1997, Pub. L. 105-270; to the Committee on Government Reform.

4339. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Payroll Deductions by Member Corporations for Contributions To a Trade Association's Seperate Segregated Fund [Notice 2005-18] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

4340. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Payroll Deductions by Member Corporations for Contributions To a Trade Association's Seperate Segregated Fund [Notice 2005-18] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

4341. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)-Cost Recovery (RIN: 1010-AD16) received August 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4342. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2005-06 Late Season (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4343. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4344. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4345. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — 2005-2006 Refuge-Specific Hunting and Sport Fishing Regulations (RIN: 1018-AU14) received September 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4346. A letter from the Secretary, Department of Health and Human Services, transmitting a petition on behalf of a class of workers from the Iowa Army Ammunition Plant (IAAP) in Burlington, Iowa, to have IAAP added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

4347. A letter from the Secretary, Department of Health and Human Services, transmitting a petition on behalf of a class of workers from the Y-12 facility in Oak Ridge, Tennessee to be added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

4348. A letter from the Secretary and Attorney General, Departments of Health and Human Services and Justice, transmitting the eighth Annual Report on the Health Care Fraud and Abuse Control (HCFAC) Program for Fiscal Year 2004, pursuant to 42 U.S.C. 1395i; jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered by the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROGERS of Kentucky: Committee of Conference. Conference report on H.R. 2360. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–241) Ordered to be printed.

Mr. SESSIONS: Committee on Rules. House Resolution 474. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–242). Referred to the House Calendar.

Mr. HUNTER: Committee on Armed Services. House Joint Resolution 65. Resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission, adversely; (Rept. 109–243). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HAYWORTH (for himself, Mr. MILLER of Florida, Mr. SESSIONS, Ms. FOXX, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. TANCREDO, Mr. RENZI, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. POE, Mr. GUTKNECHT, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. FRANKS of Arizona, Mr. HUNTER, Mrs. KELLY, Mr. CARTER, Mr. GOODE, Mr. EVERETT, Mr. DUNCAN, Mr. GOHMERT, and Mr. MCCOTTER):

H.R. 3938. A bill to provide for comprehensive immigration reform; to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Ways and Means, Financial Services, Homeland Security, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. AKIN (for himself and Mr. CASE):

H.R. 3939. A bill to direct the Administrator of the Small Business Administration to establish Veterans Business Outreach Centers and Technical Mentoring Assistance Committees; to the Committee on Small Business.

By Mr. PRICE of Georgia (for himself and Mr. KLINE):

H.R. 3940. A bill to extend implementation of the Medicare prescription drug program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of Georgia:

H.R. 3941. A bill to provide for the establishment of a working group to identify and advance the development and use of alternative sources for motor vehicle fuels; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H.R. 3942. A bill to establish a Federal Office of Steroids Testing Enforcement and Prevention to establish and enforce standards for the testing for the illegal use in professional sports of performance enhancing substances and other controlled substances; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. PETRI, Mr. DEFAZIO, Mr. SESSIONS, Mrs. EMERSON, Mr. MATHESON, Mr. BUYER, Mr. BOEHNER, Mr. SIMPSON, Mr. SODREL, Mr. MCCAUL of Texas, Mr. WILSON of South Carolina, Mr. MARCHANT, and Mr. BISHOP of Utah):

H.R. 3943. A bill to postpone the enforcement of new rules governing rest periods for truck drivers using sleeper berths until January 1, 2006; to the Committee on Transportation and Infrastructure.

By Mr. ALLEN (for himself, Mr. MCHUGH, Mr. MARKEY, Mr. BROWN of Ohio, Ms. SOLIS, Mrs. CAPPS, and Mr. GRIJALVA):

H.R. 3944. A bill to amend the Internal Revenue Code of 1986 to allow a temporary credit against income tax to offset the high fuel costs of small businesses, farmers, and fishermen; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. BOUSTANY, Mr. MCCRERY, Mr. JINDAL, Mr. ALEXANDER, and Mr. MELANCON):

H.R. 3945. A bill to facilitate recovery from the effects of Hurricane Katrina by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions and Federal regulatory agencies, and for other purposes; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. MCCRERY, Mr. JEFFERSON, Mr. ALEXANDER, Mr. JINDAL, Mr. BOUSTANY, and Mr. MELANCON):

H.R. 3946. A bill to provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in Louisiana affected by Hurricane Katrina, and for other purposes; to the

Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BLACKBURN (for herself, Mr. TANNER, Mr. GARRETT of New Jersey, Mr. WILSON of South Carolina, Mr. GARY G. MILLER of California, and Mr. BARTLETT of Maryland):

H.R. 3947. A bill to amend the Internal Revenue Code of 1986 to authorize the Federal Government to guarantee tax exempt bonds for the purpose of rebuilding the Gulf Coast from the impacts of Hurricanes Katrina and Rita; to the Committee on Ways and Means.

By Mr. BROWN of Ohio (for himself and Mr. STRICKLAND):

H.R. 3948. A bill to amend title 38, United States Code, to eliminate the deductible and change the method of determining the mileage reimbursement rate for the beneficiary travel program administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. CASTLE (for himself, Mr. ANDREWS, Mr. WELDON of Pennsylvania, and Mr. PASCRELL):

H.R. 3949. A bill to protect volunteer firefighters and emergency medical services personnel responding to national emergencies from termination or demotion in their places of employment; to the Committee on Education and the Workforce.

By Ms. DELAURO (for herself and Mrs. EMERSON):

H.R. 3950. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug advertising, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts:

H.R. 3951. A bill to require compensation for jury service to be excluded in determining income for purposes of the supplemental security income program under title XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. GINGREY:

H.R. 3952. A bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, the Budget, Government Reform, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself and Ms. ROS-LEHTINEN):

H.R. 3953. A bill to authorize 4 permanent and 1 temporary additional judgeships for the middle district of Florida, and 3 additional permanent judgeships for the southern district of Florida; to the Committee on the Judiciary.

By Ms. HERSETH (for herself, Mr. SCHIFF, Mr. FILNER, Mr. EMANUEL, Mr. HIGGINS, Mr. PALLONE, Mr. GRIJALVA, Mrs. TAUSCHER, Ms. MATSUI, Mr. VAN HOLLEN, Mr. BROWN of Ohio, Mr. DAVIS of Florida, Mr. BISHOP of Utah, Ms. BALDWIN, Mr. OLVER, Mr. WEXLER, Ms. SÓLIS, Ms. KAPTUR, Mr. NADLER, Mr. MEEKS of New York, Mr. CONYERS, Mr. WAXMAN, Mr. BERRY, Ms. SCHAKOWSKY, Mr. GENE GREEN of Texas, Mr. LANTOS, Mr. MCDERMOTT, Mrs. MALONEY, Mr. MEEHAN, Mr. LARSON of Connecticut, Mrs. DAVIS of California, Mr. KILDEE, Mr. GEORGE MILLER of California, and Mr. ROSS):

H.R. 3954. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments' (COLA); to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of Iowa:

H.R. 3955. A bill to amend the Controlled Substances Act to provide for the transfer of ephedrine, pseudoephedrine, and phenylpropanolamine to schedule V of the schedules of controlled substances, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUHL of New York:

H.R. 3956. A bill to provide for a drug discount program for individuals without prescription drug coverage; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of Kentucky (for himself, Mr. RANGEL, Mr. ENGLISH of Pennsylvania, Mr. JEFFERSON, and Mrs. JOHNSON of Connecticut):

H.R. 3957. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Ways and Means.

By Mr. MELANCON:

H.R. 3958. A bill to provide disaster relief and incentives for economic recovery for Louisiana residents and businesses affected by Hurricane Katrina; to the Committee on Ways and Means, and in addition to the Committees on Appropriations, Agriculture, Transportation and Infrastructure, the Budget, Financial Services, Energy and Commerce, the Judiciary, Armed Services, Education and the Workforce, Resources, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEAL of Massachusetts (for himself, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Ms. DELAURO, Mr. THOMPSON of California, Mr. DOGGETT, Mr. LEVIN, Mr. EMANUEL, Mr. STARK, Mr. VISCLOSKY, and Mr. PASCRELL):

H.R. 3959. A bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes; to the Committee on Ways and Means.

By Mr. NEUGEBAUER:

H.R. 3960. A bill to amend chapters 95 and 96 of the Internal Revenue Code of 1986 to terminate taxpayer financing of presidential election campaigns; to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI (for himself, Mr. PASTOR, and Mr. HAYWORTH):

H.R. 3961. A bill to authorize the National Park Service to pay for services rendered by subcontractors under a General Services Administration Indefinite Deliver/Indefinite Quantity Contract issued for work to be completed at the Grand Canyon National Park; to the Committee on Resources.

By Mr. SCHWARZ of Michigan:

H.R. 3962. A bill to amend the Public Health Service Act to provide liability protections for employees and contractors of health centers under section 330 of such Act who provide health services in emergency areas; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. ISRAEL, Mr. BISHOP of New York, Mr. CROWLEY, Mr. ENGEL, Mrs. LOWEY, Mr. KING of New York, and Mr. ACKERMAN):

H.R. 3963. A bill to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound; to the Committee on Transportation and Infrastructure.

By Ms. SLAUGHTER (for herself and Mr. LARSON of Connecticut):

H.R. 3964. A bill to prohibit anticompetitive provisions in gasoline dealer franchise agreements that dictate the wholesale source of gasoline; to the Committee on Energy and Commerce.

By Mr. TIAHRT:

H.R. 3965. A bill to amend title 38, United States Code, to prohibit the interment or memorialized in national cemeteries of persons convicted of committing State capital crimes regardless of whether their sentences included parole; to the Committee on Veterans' Affairs.

By Mr. UDALL of Colorado (for himself, Mr. CHABOT, Mr. FLAKE, and Mrs. MUSGRAVE):

H.R. 3966. A bill to facilitate Presidential leadership and Congressional accountability regarding reduction of other spending to offset costs of responding to recent natural disasters; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PITTS (for himself, Mr. WILSON of South Carolina, Mr. MANZULLO, Mr. PUTNAM, Mr. COLE of Oklahoma, Mr. DREIER, Mr. REYNOLDS, and Mr. ROYCE):

H. Con. Res. 256. Concurrent resolution commending the people of Mongolia for building strong, democratic institutions, and expressing the support of the Congress for efforts by the United States to continue to strengthen its partnership with that country; to the Committee on International Relations.

By Mr. RENZI (for himself and Mr. MATHESON):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress with regard to a moratorium on the payment of principal or interest on certain mortgage loans, small business loans, and consumer loans for residents of a Federal disaster area; to the Committee on Financial Services. .

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. MEEKS of New York, Mr. HONDA, Mr. LANTOS, Mr. CONYERS, Mrs. JONES of Ohio, Mr. GRIJALVA, Mr. ROTHMAN, Ms. MCCOLLUM of Minnesota, Mr. BURTON of Indiana, Ms. BERKLEY, Mr. HOLT, Ms. JACKSON-LEE of Texas, Mr. DINGELL, Mr. FILNER, Mr. ABERCROMBIE, Mr. SERRANO, Ms. SCHAKOWSKY, Ms. LEE, Mr. FEENEY, Mr. HINCHEY, and Mr. ACKERMAN):

H. Res. 472. A resolution recognizing the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal, and commending Muslims in the United States and throughout the world for their faith; to the Committee on International Relations.

By Mr. RUSH:

H. Res. 473. A resolution condemning the racist remarks of William Bennett; to the Committee on the Judiciary.

By Mr. DELAHUNT (for himself and Mr. DOGGETT):

H. Res. 475. A resolution expressing disapproval of further payments by the Government of the United States to the Government of Uzbekistan relating to facilities at the Karshi-Khanabad airbase and urging the United Nations Security Council to refer the situation of Uzbek President Islam Karimov and the massacre at Andijan of May 13, 2005, to the International Criminal Court; to the Committee on International Relations.

By Mr. KING of New York (for himself and Mr. TOWNS):

H. Res. 476. A resolution recognizing the 50th anniversary of the Brooklyn Dodgers victory over the New York Yankees in the World Series; to the Committee on Government Reform.

By Ms. SOLIS (for herself, Mr. HASTINGS of Florida, Mr. PALLONE, Mr. HINCHEY, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. NADLER, Mrs. CAPPS, Mr. CROWLEY, Mr. MENENDEZ, Mr. HONDA, Mr. ALLEN, Ms. BALDWIN, Mr. BLUMENAUER, Mr. JEFFERSON, Mr. SERRANO, Mr. PAYNE, Mr. OWENS, Ms. MATSUI, Mr. DAVIS of Florida, Mr. GRIJALVA, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. BERMAN, Ms. SCHWARTZ of Pennsylvania, Mr. WEXLER, Ms. KAPTUR, Mr. MCGOVERN, Ms. LEE, Mr. DOGGETT, Mr. KUCINICH, Ms. LINDA T. SÁNCHEZ of California, Mr. CONYERS, Mr. ANDREWS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP of New York, Mr. RANGEL, Mr. VAN HOLLEN, Mr. UDALL of Colorado, Mrs. NAPOLITANO, Mrs. CHRISTENSEN, and Ms. KILPATRICK of Michigan):

H. Res. 477. A resolution expressing the sense of the House of Representatives that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. HIGGINS.

H.R. 23: Mr. EVANS and Ms. BALDWIN.

H.R. 25: Mr. BURTON of Indiana.

H.R. 95: Mr. ALEXANDER.

H.R. 98: Mr. HUNTER.

H.R. 224: Mr. FILNER, Mr. HOLDEN, Mr. DEFAZIO, and Mr. SCOTT of Georgia.

H.R. 282: Mr. BOEHNER, Mr. WESTMORELAND, Mr. OXLEY, and Mr. OTTER.

H.R. 328: Mr. CUMMINGS.

H.R. 371: Mr. MCCAUL of Texas, Mr. LANGEVIN, Mr. SHERWOOD, and Mr. MARKEY.

H.R. 583: Mr. COOPER.

H.R. 670: Mr. INGLIS of South Carolina.

H.R. 698: Mr. HAYWORTH.

H.R. 719: Mr. COSTA and Mr. CLAY.

H.R. 759: Mr. MEEHAN.

H.R. 808: Mr. SMITH of Washington.

H.R. 839: Mr. RUPPERSBERGER and Mr. MICHAUD.

H.R. 857: Mr. SCHIFF.

H.R. 877: Mr. MCHUGH.

H.R. 881: Mr. KENNEDY of Rhode Island and Mr. ROTHMAN.

H.R. 910: Mr. EMANUEL and Mr. UDALL of Colorado.

H.R. 923: Mrs. CHRISSTENSEN, Mr. PLATTS, Mrs. MALONEY, Mr. LANTOS, Mr. DUNCAN, and Mr. SIMPSON.

H.R. 947: Mr. YOUNG of Alaska.

H.R. 994: Mr. KING of New York and Mr. LEACH.

H.R. 1079: Mr. EVERETT.

H.R. 1103: Mr. ANDREWS.

H.R. 1121: Mr. BRADLEY of New Hampshire.

H.R. 1125: Mr. NADLER and Mr. BAIRD.

H.R. 1131: Ms. LEE, Ms. PELOSI, Mr. DUNCAN, Mr. FORD, Mr. NEUGEBAUER, Mrs. BIGGERT, Mr. COOPER, and Mr. DENT.

H.R. 1176: Mrs. DRAKE.

H.R. 1188: Mr. PETERSON of Minnesota, Mr. MATHESON, and Mr. CROWLEY.

H.R. 1194: Ms. MATSUI.

H.R. 1202: Mr. HOEKSTRA.

H.R. 1222: Ms. CORRINE BROWN of Florida, Mr. HONDA, Mr. MCDERMOTT, Mr. KILDEE, Mr. MEEKS of New York, Mr. LYNCH, and Mr. MCNULTY.

H.R. 1272: Mr. NEAL of Massachusetts.

H.R. 1281: Ms. BEAN.

H.R. 1288: Mr. ROYCE and Mr. POMBO.

H.R. 1298: Mr. BACHUS.

H.R. 1386: Mr. EVANS.

H.R. 1400: Ms. WASSERMAN SCHULTZ and Mr. SCOTT of Virginia.

H.R. 1441: Mr. WALSH, Mrs. JONES of Ohio, Ms. HERSETH, and Mr. JACKSON of Illinois.

H.R. 1471: Mr. LANGEVIN.

H.R. 1507: Mr. JACKSON of Illinois.

H.R. 1545: Mr. ENGEL.

H.R. 1548: Mr. MOORE of Kansas, Mr. SCOTT of Georgia, Mr. CLAY, Mr. BRADY of Pennsylvania, Mrs. MALONEY, Mr. HAYES, Mr. MEEKS of New York, Mr. SCHWARZ of Michigan, and Mr. OXLEY.

H.R. 1558: Mr. SABO.

H.R. 1561: Mrs. JO ANN DAVIS of Virginia and Mr. MOORE of Kansas.

H.R. 1602: Mr. PETERSON of Minnesota.

H.R. 1665: Ms. WOOLSEY.

H.R. 1671: Mr. ALEXANDER.

H.R. 1704: Mr. VAN HOLLEN and Mr. SHERMAN.

H.R. 1709: Mr. TIERNEY.

H.R. 1736: Mrs. MILLER of Michigan.

H.R. 1767: Mr. SHUSTER.

H.R. 1814: Mr. BAIRD.

H.R. 1898: Mrs. MILLER of Michigan.

H.R. 1973: Mr. MOORE of Kansas.

H.R. 2048: Mr. MORAN of Kansas and Mr. LANTOS.

H.R. 2052: Mr. VAN HOLLEN.

H.R. 2053: Mr. VAN HOLLEN.

H.R. 2058: Mr. GRIJALVA.

H.R. 2070: Ms. LINDA T. SÁNCHEZ of California.

H.R. 2112: Mr. GARY G. MILLER of California.

H.R. 2121: Mr. WATT, Mr. KIND, and Mr. KANJORSKI.

H.R. 2178: Mr. SHERMAN.

H.R. 2234: Mr. CLAY, Ms. SOLIS, Mr. DAVIS of Florida, and Mr. NEUGEBAUER.

H.R. 2237: Mr. WAXMAN.

H.R. 2498: Ms. MCCOLLUM of Minnesota.

H.R. 2525: Mr. PETERSON of Minnesota.

H.R. 2533: Mr. EHLERS and Mr. COSTA.

H.R. 2562: Mr. HONDA.

H.R. 2592: Mr. CROWLEY.

H.R. 2594: Mr. GONZALEZ.

H.R. 2669: Ms. ROYBAL-ALLARD, Mr. LOBIONDO, Mrs. NAPOLITANO, Mr. SHERMAN, and Ms. CARSON.

H.R. 2671: Mr. MICHAUD, Mr. PALLONE, Mr. LATHAM, Mr. KENNEDY of Rhode Island, Mr. GRIJALVA, and Mr. SCOTT of Georgia.

H.R. 2694: Mr. FILNER.

H.R. 2799: Mr. HOBSON and Mr. HINCHEY.

H.R. 2835: Mr. FILNER.

H.R. 2872: Mr. GILCHREST, Mr. DOOLITTLE, Mr. COSTELLO, Ms. PRYCE of Ohio, Mr. TIBERI, Ms. GINNY BROWN-WAITE of Florida, Mr. PASCRELL, Ms. CORRINE BROWN of Florida, Mr. MILLER of Florida, and Mr. TURNER.

H.R. 2952: Ms. LINDA T. SÁNCHEZ of California and Mr. ORTIZ.

H.R. 2961: Mr. MATHESON, Mr. BERRY, and Mr. LATHAM.

H.R. 2990: Ms. HART.

H.R. 3072: Mr. CLAY.

H.R. 3098: Ms. MOORE of Wisconsin, Mr. MARCHANT, Mr. ETHERIDGE, Mr. CONAWAY, Mr. FOLEY, Mr. PUTNAM, Mr. KING of Iowa, Mr. GREEN of Wisconsin, Mr. PEARCE, Mr. MILLER of Florida, and Mr. JENKINS.

H.R. 3111: Mr. BROWN of South Carolina.

H.R. 3137: Mr. TAYLOR of North Carolina.

H.R. 3145: Mr. BOUCHER and Mr. FILNER.

H.R. 3163: Mr. PETRI.

H.R. 3183: Mr. DEFAZIO and Mr. MOORE of Kansas.

H.R. 3188: Mr. LARSEN of Washington and Mr. HOLT.

H.R. 3301: Mr. SAM JOHNSON of Texas and Mrs. JOHNSON of Connecticut.

H.R. 3307: Mr. DOYLE and Mr. PRICE of North Carolina.

H.R. 3313: Mr. MCGOVERN, Mrs. DAVIS of California, and Mr. BRADY of Pennsylvania.

H.R. 3326: Mr. KUCINICH.

H.R. 3334: Ms. SOLIS, Mr. LANTOS, Mrs. JONES of Ohio, Mr. ISRAEL, Ms. CARSON, Mr. MORAN of Virginia, Mr. WEINER, Mr. KUCINICH, Mr. ABERCROMBIE, Mr. ROSS, and Mr. SHERWOOD.

H.R. 3360: Mr. LEWIS of Kentucky.

H.R. 3373: Mrs. JO ANN DAVIS of Virginia, Mr. EVERETT, Mr. FOSSELLA, Mr. MOLLOHAN, Mr. SNYDER, Mr. GOODLATTE, Ms. SLAUGHTER, Ms. HARRIS, Mr. CRAMER, and Mr. NEUGEBAUER.

H.R. 3380: Mr. PASTOR.

H.R. 3385: Mr. WU.

H.R. 3436: Mrs. JO ANN DAVIS of Virginia.

H.R. 3505: Mr. MCCAUL of Texas.

H.R. 3548: Mr. MCHUGH.

H.R. 3561: Mr. FARR.

H.R. 3563: Ms. VELÁZQUEZ and Mr. LIPINSKI.

H.R. 3577: Mr. LOBIONDO.

H.R. 3628: Mr. KUHL of New York and Mr. BOSWELL.

H.R. 3638: Ms. MCCOLLUM of Minnesota and Mr. MCHUGH.

H.R. 3644: Mr. CROWLEY, Mr. BRADY of Pennsylvania, Mr. CONAWAY, Mrs. MCCARTHY, and Mr. MCCAUL of Texas.

H.R. 3662: Mr. TIERNEY.

H.R. 3666: Mr. CONYERS.

H.R. 3670: Mr. CONYERS.

H.R. 3684: Mr. HEFLEY and Mr. INGLIS of South Carolina.

H.R. 3693: Mr. GARY G. MILLER of California.

H.R. 3696: Mr. HINCHEY.

H.R. 3697: Mr. MENENDEZ, Mr. HASTINGS of Florida, Mr. GUTIERREZ, Mr. BRADY of Pennsylvania, and Mr. CUMMINGS.

H.R. 3698: Mr. TIERNEY.

H.R. 3711: Mr. GUTIERREZ, Mr. BERMAN, Mr. KUCINICH, and Mr. GENE GREEN of Texas.

H.R. 3714: Mr. BOYD.

H.R. 3717: Mr. KUHL of New York, Mr. CONAWAY, Mr. MARCHANT, and Mr. ROGERS of Kentucky.

H.R. 3722: Mr. CLAY.

H.R. 3727: Mr. CONYERS.

H.R. 3731: Mr. CONYERS.

H.R. 3737: Mr. MILLER of Florida, Mrs. KELLY, Mr. FOLEY, and Mr. KIND.

H.R. 3754: Ms. HERSETH.

H.R. 3762: Mr. SMITH of Washington, Mrs. MCCARTHY, Mr. HOLDEN, Mr. FATTAH, and Mr. LANTOS.

H.R. 3764: Mr. CARDOZA, Mr. JEFFERSON, Ms. BORDALLO, Mr. OBERSTAR, Mr. PASTOR, Mr. WATT, Mr. JACKSON of Illinois, Ms. WATERS, Ms. MCKINNEY, Mr. MELANCON, Mr. WAXMAN, and Ms. LORETTA SANCHEZ of California.

H.R. 3774: Mr. GUTIERREZ, Mr. CLEAVER, and Mr. STRICKLAND.

H.R. 3776: Ms. GINNY BROWN-WAITE of Florida, Mr. GARY G. MILLER of California, Mrs. DRAKE, and Mr. MCCAUL of Texas.

H.R. 3779: Mr. CAPUANO.

H.R. 3785: Mr. GARRETT of New Jersey.

H.R. 3792: Mrs. LOWEY.

H.R. 3796: Mr. MCNULTY and Mr. VAN HOLLEN.

H.R. 3800: Mr. MCHUGH, Mr. STARK, and Mr. FARR.

H.R. 3811: Mr. MCCAUL of Texas and Mr. CONAWAY.

H.R. 3829: Mr. LUCAS.

H.R. 3837: Ms. DELAURO and Mr. CONYERS.

H.R. 3838: Mr. MCDERMOTT, Mr. KUCINICH, and Mr. BECERRA.

H.R. 3858: Ms. DELAURO, Mrs. DAVIS of California, Mr. PASTOR, Mr. VAN HOLLEN, Mr. LYNCH, Mr. MATHESON, Ms. KILPATRICK of Michigan, Mr. PAYNE, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. ABERCROMBIE, and Mr. HOLT.

H.R. 3860: Mr. JONES of North Carolina, Mr. TIAHRT, Mrs. SCHMIDT, Mr. HUNTER, Mr. BUYER, Mr. BURTON of Indiana, and Mr. MCHENRY.

H.R. 3888: Mr. KUCINICH, Ms. MATSUI, Mr. ABERCROMBIE, and Mr. RANGEL.

H.R. 3889: Mr. DEFAZIO, Mrs. CAPITO, Mr. KLINE, Mrs. EMERSON, and Mr. ALEXANDER.

H.R. 3895: Mr. MCCRERY.

H.R. 3896: Mr. MCCRERY.

H.R. 3905: Mr. MENENDEZ and Mr. THOMPSON of Mississippi.

H.R. 3908: Mrs. DRAKE, Mr. SMITH of New Jersey, Mrs. BLACKBURN, Mr. RADANOVICH, Ms. PRYCE of Ohio, Mr. WOLF, Mr. HYDE, Mr. LINCOLN DIAZ-BALART of Florida, Mr. WALSH, Mr. FORTUÑO, Mr. ROGERS of Kentucky, Mr. TURNER, Mr. BOUSTANY, Mr. MURPHY, and Mr. MCHUGH.

H.R. 3909: Mr. HINOJOSA.

H.R. 3916: Mr. STARK and Mr. PAYNE.

H.R. 3925: Mr. GRIJALVA, Mrs. MALONEY, Mr. MCDERMOTT, Mr. DOGGETT, Ms. MCKINNEY, and Mr. SHERMAN.

H.R. 3931: Mr. TURNER and Mrs. JOHNSON of Connecticut.

H. Con. Res. 137: Mr. BROWN of Ohio.

H. Con. Res. 157: Mr. NADLER.

H. Con. Res. 173: Mr. PUTNAM.

H. Con. Res. 174: Mr. LANTOS and Ms. SOLIS.

H. Con. Res. 177: Mr. BERMAN, Mr. WELDON of Pennsylvania, and Mr. MCCOTTER.

H. Con. Res. 222: Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 228: Mrs. DAVIS of California, Ms. ROS-LEHTINEN, Mrs. BLACKBURN, Mr. BRADY of Pennsylvania, Mr. ISSA, Mr. LANTOS, Mr. PETERSON of Minnesota, Mr. CONYERS, and Mr. MCINTYRE.

H. Con. Res. 230: Mr. BECERRA, Mr. GOODLATTE, Ms. BALDWIN, and Mr. MCCAUL of Texas.

H. Con. Res. 244: Mr. PITTS.

H. Con. Res. 247: Mr. DAVIS of Illinois, Mr. MILLER of North Carolina, and Ms. WOOLSEY.

H. Con. Res. 248: Mr. CAPUANO, Ms. KILPATRICK of Michigan, Mr. MCHUGH, and Ms. WOOLSEY.

H. Con. Res. 250: Mrs. BONO and Mr. CALVERT.

H. Con. Res. 251: Mr. KIND, Ms. HARMAN, Mr. TAYLOR of Mississippi, Mr. PETERSON of Minnesota, Ms. BEAN, Mr. KIRK, Mr. SANDERS, Ms. HERSETH, Mr. SENSENBRENNER, Mr. CASE, Mr. SNYDER, Ms. HARRIS, and Mr. GOODE.

H. Res. 137: Mr. SHUSTER, Mr. HALL, and Mr. ENGLISH of Pennsylvania.

H. Res. 276: Mr. SHERMAN, Mr. KOLBE, Mr. LARSEN of Washington, and Mr. FILNER.

H. Res. 316: Mr. DENT and Mr. PASTOR.

H. Res. 368: Mr. LINCOLN DIAZ-BALART of Florida and Mr. CARNAHAN.

H. Res. 389: Mr. MCINTYRE, Mr. OLVER, and Mr. SNYDER.

H. Res. 438: Mr. GENE GREEN of Texas, Ms. WASSERMAN SCHULTZ, Mr. SHIMKUS, and Mr. KUHL of New York.

H. Res. 453: Mr. BISHOP of Georgia, Mr. BURTON of Indiana, Mr. MCHUGH, Mr. GRAVES, Mr. ALEXANDER, Mr. MILLER of Florida, Mr. TAYLOR of North Carolina, Mr. MATHESON, Mr. GENE GREEN of Texas, and Mr. GARRETT of New Jersey.

H. Res. 457: Mrs. CHRISTENSEN, Mr. HALL, Mr. BOEHLERT, and Mr. WU.

H. Res. 463: Mr. LANGEVIN.

PETITIONS, ETC.

Under clause 3 of rule XII.

72. The SPEAKER presented a petition of the Cook County Board of Commissioners, Illinois, relative to a resolution dated June 21, 2005, condemning the use of torture as well as cruel, inhuman and degrading treatment upon anyone being held by, or under the permission of, any governmental authority; which was referred jointly to the Committees on Armed Services and International Relations.

EXTENSIONS OF REMARKS

THANKING FRANK MILASI FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEY. Mr. Speaker, on the occasion of his retirement in November 2005, we rise to thank Mr. Frank Milasi for 28 years of distinguished service to the United States House of Representatives. Frank has served this great institution as a valuable employee at House Information Resources (HIR), in the Office of the Chief Administrative Officer.

Throughout his career with HIR, Frank has held many positions of increasing responsibility. He began his tenure with the United States House of Representatives on August 1, 1977 as a Senior Programmer. While serving in HIR, Frank addressed long needed automation and reporting issues in each area of benefits administration, which enabled compliance with all House reporting and auditing requirements. Due to his development of the computer generated Revised Substitute Standard Form 2010 "Notice of Change in Health Benefits Enrollment," the U.S. House of Representatives became one of the first Federal Agencies to have this form approved for use.

Frank displayed great passion for his work by personally dedicating himself to ensuring that the Financial Management System (FMS) met the needs of the U.S. House of Representatives' payroll and Human Resources requirements. As a Senior Software Engineer, he applied his exceptional analytical and programming technical skills to the development, design and implementation of many payroll services provided to the House community. Included in these services is the NFC Thrift Savings Plan (TSP). Frank's work enabled the House to be one of only three government agencies that provided this benefit on time and correctly. Frank's expertise in FMS with over 900,000 lines of code has resulted in more than 3.5 million payroll payments. In addition, as he prepared to retire, Frank played a major role in the implementation of the new payroll and benefits system, HR Pay Links.

His standard of excellence, dedication to passionate customer service, professionalism and ability to get the job done earned him three Distinguished Service Awards, the Chief Administrative Officer's highest honor. He is admired by the people he led and appreciated by those he served. May he always look back on his accomplishments with pride.

On behalf of the entire House community, we extend congratulations to Frank for many years of dedication and outstanding contributions to the United States House of Representatives. We wish Frank many wonderful years in fulfilling his retirement dreams.

HONORING MAJOR GENERAL THOMAS P. MAGUIRE, JR.

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BISHOP of New York. Mr. Speaker, I rise to honor and recognize a great American patriot and good friend, retiring Major General Thomas P. Maguire, for his extraordinary accomplishments throughout a distinguished career.

As GEN Maguire steps down as New York's Adjutant General, I would like to take this opportunity on behalf of New York and a grateful Nation to express our gratitude for his diligence and exceptional leadership through our State's most trying times.

GEN Maguire assumed command of New York's National Guard in August 2001, just one month before the terrorist attacks on the Pentagon and World Trade Center. Under his command, the National Guard was thrust into unprecedented responsibilities in contributing to and strengthening our homeland security. His leadership was a critical component of restoring the safety and way of life for New Yorkers after September 11th.

It is for these reasons, and many others, that General Maguire should be recognized as a patriot and a great man. Tom graduated from Holy Cross College in 1969, just as I began my college career at the same school. He left with a Degree in History and as a distinguished graduate of the Air Force Reserve Officer Training Program.

In 1970, he earned his wings, beginning a long and distinguished career that included 250 combat flights during his tour of duty in Vietnam. His military decorations included the Distinguished Flying Cross and the Air Medal with nine oak leaf clusters.

Upon his return, GEN Maguire served as a flight instructor before joining the New York Air National Guard's 137th Tactical Air Support Squadron in 1974. In the years that followed, GEN Maguire excelled in various commands and as a forward air controller, brigade liaison officer, standardization officer, air operations officer, Deputy Commander for Operations and Vice Commander before assuming command of the 137th in 1994. He is also a veteran of Operation Desert Storm.

Under GEN Maguire's command, New York's National Guard has not only performed its military mission with excellence, but it has also been an integral part of our state's emergency response force and contributed to many international disaster relief missions.

Mr. Speaker, on behalf of all New Yorkers, I thank and congratulate Major General Maguire for his outstanding service and a highly distinguished career. We wish him and his family continued success and a bright future in the years ahead.

STATEMENT ON JOSEPH McCARTHY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HONDA. Mr. Speaker, on Tuesday, the House rejected legislation naming a post office after longtime Berkeley Councilwoman Maudelle Shirek. I cosponsored this legislation, and I believe strongly that the Federal Government should honor Maudelle Shirek for her many civic contributions.

This vote became a news sensation. My colleague, Rep. STEVE KING, told one newspaper that "if BARBARA LEE would read the history of Joe McCarthy, she would realize that he was a hero for America."

I could not disagree more, and I am alarmed that my colleague would exalt such a mean, vindictive, tyrant.

Senator McCarthy blindly accused his enemies of communism and homosexuality without any evidence or genuinely patriotic motive. This corrupt bully exploited the fears of the American people to boost his own political career.

Senator McCarthy's only achievement was inspiring an anti-communist hysteria that ruined the lives of thousands of innocent Americans.

As a Japanese American, I know the devastating effects of mass fear and hysteria. During World War II, my family and thousands of other Japanese American families were forced into camps—deprived of their dignity, liberty, and property.

At a time like this, I am reminded of the words of Special Counsel for the Army Joseph Welch, who in a 1954 hearing poignantly asked of Senator McCarthy, "Have you no sense of decency, sir, at long last?"

THANKING MR. JOHN MANG FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEY. Mr. Speaker, on the occasion of his retirement in September 2005, we rise to thank Mr. John Mang for 30 years of outstanding service to the U.S. House of Representatives.

John began his career at the House on September 15, 1975, working as a Programmer Analyst in House Information Systems for the Committee on House Administration. John was a key player in the development of the Financial Management System (FMS). In addition, John contributed to the Client Support System, the Parking Office Permits System, the Lobby Act Support System,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Office of Telecommunications Management Information System, the House Recording Studio system, the Legislative Information Management System, and others.

As a Senior Software Engineer in the House Information Resources Information Management Directorate's Applications Support Branch, John made significant contributions as a team member in the implementation and enhancement of the Fixed Assets and Inventory Management System (FAIMS). FAIMS is a mission critical system used by the Chief Administrative Officer to collect, record and report official financial information on fixed assets, generate related payments, and report on Accounts Payable, Purchasing and General Ledger activities.

John has been a valuable, loyal, hardworking and customer-oriented employee, who takes pride in consistently delivering quality products to customers. His great attention to detail and passion for his work have resulted in special recognition for his work on FAIMS and FMS. John has dedicated himself to ensuring that the needs of his customers in the Office of Finance, House Support Services, the Sergeant at Arms, the Congressional Budget Office, the Office of the Clerk, and the Committees are met. John's adaptability, his extensive knowledge of software engineering, and his excellent relationship with his customers were invaluable to deploying and enhancing FAIMS.

On behalf of the entire House community, we extend congratulations to John for his many years of dedication and outstanding contributions to the House of Representatives. We wish John many wonderful years in fulfilling his retirement dreams.

HONORING PAUL SIDNEY

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BISHOP. Mr. Speaker, I rise to congratulate a good friend, neighbor and constituent, Mr. Paul Sidney, for his extraordinary accomplishments, which are being celebrated and honored by winning this year's Long Island Lifetime Achievement Award.

Everyone on Long Island knows Paul Sidney is the man behind the music. He is the president, general manager and program director of radio station WLNG, owned by the independent Main Street Broadcasting Company and based in Sag Harbor in my district on eastern Long Island.

Paul Sidney's broadcasts can be heard from Mastic to Montauk. The signal even reaches parts of Rhode Island and Connecticut. Listeners tuning into 92.1 FM are almost always certain to hear sounds that were the standards when Paul was growing up in Brooklyn.

After graduating from NYU with a communications degree, Paul launched his career playing oldies for WLIS-FM in Old Saybrook, Connecticut. While the radio industry nationwide and locally has witnessed considerable change in that time, WLNG established its signature style long ago with Paul leading the way and building a loyal, ever-growing fan base on Long Island that continues to feed off his charisma and his familiar, swift-talking voice.

Paul and WLNG have been in business for 41 years. He has worked tirelessly to solidify ties to local businesses, including advertisers ranging from Lamplighter Wines in Southampton to Hildreth's Department Store in the East End to Suffolk County National Bank. The station hosts some 250 live remote broadcasts each year from local stores, street fairs, antique auctions, car shows, and sporting events. It even broadcast live from the Cole Brothers Circus, when it appeared in Southampton and Greenport.

At most of these remote broadcasts, Paul works from the mobile control room, and one or two of the other D.J.'s host live on-the-air interviews in the crowd. When not broadcasting from a remote location, Mr. Sidney and his staff work out of their modest studio on Redwood Road, by the waterfront of Sag Harbor Cove.

The station reflects Paul's style by still embracing old-fashioned radio favorites. Listeners also regularly receive a big dose of local news, weather and information, like birth announcements, birthday and anniversary wishes and reports of missing pets. Perhaps the spirit of his radio station was best summed up when Paul recently said, "If someone loses their puppy, we treat it as a big deal. . . This is radio the way it used to be, being with the community, talking to them."

Mr. Speaker, on behalf of all of his devoted listeners on Long Island, it is with great pride that I recognize one of Long Island's trademark personalities and congratulate Paul Sidney for winning this year's Lifetime Achievement Award. We look forward to hearing him on the radio well into the future and wish him and his family well.

HONORING THE EXCELLENCE OF WEST VIRGINIA IN HOSPITALS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to three West Virginia hospitals that have been commemorated by the AARP, as being three of the Best Employers for Workers over the Age of 50. The well deserving hospitals include St. Mary's Hospital in Huntington, Cabell Huntington Hospital and West Virginia University Hospitals in Morgantown.

The AARP is among the premier advocacy groups for adults over 50. The award in question was quite competitive: the AARP received over 145 applicants from across the Nation. Only 50 winners were chosen, including the three West Virginia hospitals. Criteria used for selecting the winning employers included employee development opportunities, health benefits for employees and retirees, age of employer's workforce, alternative work arrangements, and retirement benefits. Nineteen percent of West Virginians age 65 and older are still in the work force.

These institutions have a proven track record, of accomplishment. Over the years they have proven their commitment to both their patients and employees alike. St. Mary's received the award for the third year and West Virginia University Hospitals were recognized for the second year. We in the Mountain State take pride in all our citizens. We are all thankful for the exemplary institutions that give individuals an opportunity to showcase their talents and I am very pleased that AARP has recognized West Virginia's role in what is the best healthcare in the world.

THANKING LYDIA BROWN FOR HER SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEY. Mr. Speaker, on the occasion of her retirement in September 2005, we rise to thank Lydia R. Brown for 21 years of outstanding service to the United States House of Representatives.

Lydia started in 1984 as an administrative assistant in the Office of Telecommunications under the Clerk of the House. Her fearless initiative and hard work allowed her responsibilities to expand to include paying district telephone bills. In 1997, Lydia transferred to the House Information Resources division of the Office of the Chief Administrative Officer. She became an inventory management specialist for HIR, performing a wide range of duties that included receiving equipment and supplies for HIR, requesting furniture and repairs, assisting with payment processing, ordering and distributing water for five locations in the Ford Building, and inventorying equipment. Lydia maintained the property records for HIR meticulously, bar coding all new equipment and ensuring that old equipment was disposed of properly. Lydia was an energetic worker for HIR who was willing to perform a variety of tasks.

In 2002, Lydia transferred to House Support Services under the Office of the Chief Administrative Officer, working for the Vendor Management division. Lydia's assignments included the payment of purchase orders for equipment, supplies, and furniture for Members, Committees, Officers, and Support offices of the House of Representatives. She made the transition from HIR inventory specialist to Vendor Management counselor swiftly and successfully. Lydia's energy, conscientiousness, and knowledge of the policies and procedures enabled her to be an industrious worker, providing passionate customer service for the House community. During the October 2001 anthrax incident, as Members and staff were relocated to an off-site location, Lydia worked tirelessly to coordinate and ensure delivery of equipment and supplies to House offices at the alternate location. Lydia has worked since she was 14 years old; she served her country in the Army reserves, and she also obtained degrees in Accounting and Business Administration. In her long career, Lydia has frequently gone above and beyond the call of duty. Today we commend her dedication, initiative, and hard work, and wish her many happy years of retirement.

PASS THE CORPORATE PATRIOT ENFORCEMENT ACT OF 2005

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEAL of Massachusetts. Mr. Speaker, today marks the third time in as many Congresses that I have introduced the Corporate Patriot Enforcement Act. This legislation is designed to slam the door shut on a truly disgraceful corporate tax shelter.

Over the years, dozens of American companies have filed papers to trade in their U.S. corporate citizenship for citizenship in tax haven countries like Bermuda. By washing their hands of their U.S. citizenship, they are able to stop paying taxes on their foreign profits, draining more than $4 billion out of U.S. coffers.

The companies themselves don't move physically—their operations, their factories, and their workforce remain wherever they were before. They continue to earn their profits in this country. They've simply discovered a technicality that they can exploit to rid themselves of their fair share of taxes, leaving the rest of us to pay for the services that they consume.

Right now, we're struggling to fight two wars and rebuild a hurricane-ravaged gulf coast, on the heels of five enormous tax cuts. The rainy day has come, but we've spent the rainy day fund. Our Nation has never been deeper in debt. We need to take a sober look at our Nation's finances, and this is an excellent place to start.

Eventually all of us will have to sacrifice a little to pull our Nation through this time; we've done it before and we'll have to do it again. When the rest of the country is contemplating additional sacrifices, it's only fair to require that these wealthy corporations start to meet the responsibilities that they have so far succeeded at shirking.

I am proud to sponsor the Corporate Patriot Enforcement Act, and I would urge all my colleagues to join me in supporting this important legislation.

IN MEMORY OF RAY R. POLIAKOFF

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BURGESS. Mr. Speaker, I rise today to remember Ray R. Poliakoff, a wonderful man and a friend to the community of Denton, Texas. Mr. Poliakoff passed away on Saturday, September 2, 2005 at Baylor Regional Medical in Plano. Ray was 86.

Ray R. Poliakoff was born March 12, 1919 and spent his life serving our country, committing his life to continuing education and working vigorously. He was a member of the United States Army in a Reconnaissance Intelligence Unit in Europe during World War II and was twice wounded in battle. After the war, he graduated from Indiana University with bachelor of law and doctor of jurisprudence degrees. He also received a Master of Arts degree in humanities from the University of Evansville, Indiana.

Throughout the years, Ray was very active in oil, gas and coal exploration and development. He held various executive positions in Northern Illinois Coal Corporation, Sentry Royalty Company, Sinclair Coal Company, Peabody Coal Company, AMAX Coal Company, Data Tech Corporation, and even independently produced oil for 12 years. During the period of 1949 to 1989, he also worked with various national and international concerns and individuals in coal, oil and gas, and other natural resource ventures and concessions in the U.S., Alaska, Canada, Europe, Australia, the Middle East and the Far East. Even though Ray retired in 1984 and in 1988 went on inactive status as an Indiana attorney in good standing, he remained a long-standing member of the American Bar Association and was, until recently, a member of the ABA Section on Natural Resources, Energy, and Environmental Law; Science and Technology; and Individual Rights and Responsibilities.

Today, I would like to recognize and celebrate Mr. Poliakoffs life. He was intelligent, thoughtful and a true American. Ray leaves behind his lovely wife, Dr. Ann Stuart, Chancellor of Texas Woman's University in Denton, his children and grandchildren. They are all in my thoughts and prayers. Ray will be deeply missed by his family and the community of North Texas.

ROCKVILLE MARYLAND'S COMMUNICATIONS TEAM

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to congratulate Rockville, Maryland's Communications Team for its recent award in recognition of excellence in government programming.

The Rockville Channel, TRC 11, was recognized in 5 different categories at the awards banquet of the National Association of Telecommunications Officers and Advisors. The Rockville Channel consistently produces outstanding programming for the Rockville area and has often been recognized for excellence over the last 11 years.

I am also pleased that the City's Divisions of Graphics and Printing and Public Information recently combined to win two national awards at the City-County Communications and Marketing Association Conference in Atlanta. The Rockville Communications Teams provide a valuable public service and play a key role in my congressional district in keeping the public informed.

I applaud all members of the Rockville Communications Team for their outstanding efforts.

HOUSTON POLICE OFFICER MUZAFFAR SIDDIQI

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. POE. Mr. Speaker, on October 1, 2005, the National Association of Police Organizations will honor law enforcement agencies and officers at the 12th Annual Top Cops Awards Ceremony here in Washington, DC. Officer Muzaffar Siddiqi of the Houston Police Department, a great man whom I have the privilege of knowing personally, is receiving an award at this prestigious event, and I join the city of Houston and all Texans in honoring this outstanding achievement.

As a former prosecutor and criminal court judge in Houston, TX, I have had a long-standing relationship with the Houston Police Department. I have witnessed many great works by police officers in Houston and the surrounding communities, and I can say without hesitation that Officer Siddiqi's record of service is exemplary. Having previously been named Houston Police Department Officer of the Year, Officer Siddiqi has received high honors throughout his career. His service has been recognized at all levels: city, State and Federal.

Before working for the Houston Police Department, Officer Siddiqi served as a police officer in Karachi, Pakistan. Since joining HPD, he has been a great asset in building positive relationships between law enforcement and Houston's South Asian and Middle Eastern communities. His work has been invaluable, and the people of Houston are fortunate to have a public servant of his caliber in uniform. As he honors the city of Houston with his service, Mr. Speaker, we must honor the selfless work of Officer Muzaffar Siddiqi.

JEAN D. MATHIS RETIREMENT: SEPTEMBER 30, 2005

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RANGEL. Mr. Speaker, I rise today to acknowledge the retirement of Jean D. Mathis whose contributions to the United States Drug Enforcement Administration have been unparalleled.

Ms. Mathis was born on March 3, 1950 in Washington, DC. She attended DC public schools (Anthony Bowen Elementary, Randall Junior High and Dunbar High) and graduated from Howard University in 1972.

Ms. Mathis worked throughout her junior high, high school and college years and was introduced at an early age to work in government service.

Immediately following her graduation from college, she began her first full-time employment in the Federal Service with the District of Columbia Department of Corrections, where she worked until 1975. In October 1975, she began her employment with the United States Drug Enforcement Administration (DEA). Ms.

Mathis distinguished herself from the beginning and quickly advanced through the ranks of the Operational Support Division. In 1990, Ms. Mathis was appointed as the Deputy Assistant Administrator of the Office of Personnel, becoming one of the first two women to enter DEA's Senior Executive Service (SES) and the first African-American woman promoted to the rank of SES. In 1994, Ms. Mathis was promoted to Assistant Administrator for Human Resources becoming DEA's first female Assistant Administrator.

Ms. Mathis's stellar career is marked by numerous exemplary achievements. Under her direction, the DEA instituted validated testing for senior law enforcement personnel, drug testing for employees and applicants, and psychological testing for Special Agents. In 1999, she played a vital leadership role in the opening of DEA's state of the art training facility in Quantico, Virginia. Ms. Mathis is a longstanding member of the National Organization of Black Law Enforcement Executives (NOBLE), and served as a member of the Training and Education Committee. She also chaired this committee for 2 years.

Ms. Mathis' outstanding work ethic and diligence have been recognized with a plethora of awards and commendations over the years. Moreover, her DEA accomplishments have been recognized government-wide as she distinguished herself and the DEA as a two-time recipient of the Presidential Rank Award for Meritorious Performance in 1995 and 2001.

Over the years, Ms. Mathis has participated in extensive training programs including Management Training at the John F. Kennedy School of Government, University of Southern California and is a 2003 Brookings Fellow. It was as a Brookings Fellow that Jean came to work in my office and I received the benefit of her experience and wisdom. I have been actively engaged in the problems associated with illegal narcotics throughout my congressional career and have been aware of the role of the Drug Enforcement Administration in the implementation of our national anti-narcotics policies. Yet Jean Mathis taught me a great deal and enhanced my understanding and appreciation of the complexities of addressing the challenges of narcotics addiction and control. She performed superbly as my Congressional staff assistant and I regretted her return to the DEA.

In summary, the essence of Ms. Mathis' career was captured in a number of performance award justifications over the years including several DEA Administrators for whom she worked directly. Among them was former DEA Administrator Thomas A. Constantine who stated, "Ms. Mathis leads by example, demanding high ethical standards and conscientious work. Her outstanding work ethic and diligence inspire and challenge her staff." Ms. Mathis has inspired all of those who were fortunate enough to work for or with her. Ms. Mathis' tenacious spirit and pursuit of excellence will be missed at DEA but will continue to inspire those who engage her throughout her retirement and personal endeavors.

CELEBRATING THE LIFE OF J. GEORGE MITNICK

HON. ARTUR DAVIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. DAVIS of Alabama. Mr. Speaker, I rise today to offer a tribute to Mr. J. George Mitnick.

Jasper, Alabama was not George Mitnick's first home—he was a Connecticut Yankee who migrated south—but Jasper was where George made his fortune and found his wife. Jasper is also a city that he shaped for over 5 decades: his footprints include the presidency of the local Chamber of Commerce and the Rotary Club; the Mitnick Wilderness Boot Camp for troubled teenagers; and of course, his role in founding Top Dollar, a retail chain of over 250 stores in 11 states.

George Mitnick helped make modern Jasper, but what made George Mitnick, above all, was the days he spent as an army captain helping to liberate Nazis death camps. George was a committed Jew before he entered those camps, but the degradation that he saw there alerted him to an existential threat to his people, and to the capacity of humans to violate each other.

Those camps never left George Mitnick's soul. They made him a vigilant defender of Israel's future and of American politicians who understood how essential Israel's future was to any vision of a just world. The death camps made him an activist—and I am honored that his activism led him to embrace my candidacy against a foe of Israel's aspirations. George was honored and humbled that his activism also made him AIPAC's "Man of the Year" in 2003.

I think that those awful, wretched camps also made George understand his adopted home better. George lived in Alabama during the years when the racial cauldron was boiling, and Alabama's ill temper on race was one of the aspects of his new state that he most disdained. He was a quiet, but real, force for integration in Jasper. George also raised a daughter who raised a daughter who married a black man. His grandson-in-law James, an African American, was one of George's pallbearers, and it is a measure of the Jasper that George help make that virtually no one stared at James' role. George's friends knew that tolerance was a Mitnick family value.

On August 6, 2005, J. George Mitnick died at the age of 87. I thank George for his faith and his life and for the promises he kept. I hope that my tenure in Congress will honor the world and the state he wanted to build. May the God of Abraham bless George Mitnick and his surviving wife Willene.

RECOGNIZING THE 100TH ANNIVERSARY OF WALLACE BAPTIST CHURCH

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. MILLER of Florida. Mr. Speaker, it is a great honor for me to rise today to recognize the 100th anniversary of Wallace Baptist Church in my district. Through several locations and many pastors, the church has continuously provided a place of worship for the people of northwest Florida.

Originally founded as the New Smyrna Baptist Church, a small congregation first met in Bagdad, Florida, in 1905. For nearly 40 years, the church met in that location, constantly adding new members to their congregation and establishing a reputation as a house where all were welcome.

The original 40 years added many people to the original congregation, and recognizing the need for more land, a group of 32 people in 1942 began meeting a short distance away in the Wallace Schoolhouse. The land had been donated to them by a local family interested in seeing the local community prosper. Less than a year later, the church had its own building constructed and continued to use the pulpit from their first building. The pulpit still exists to this day, though it is no longer used. In addition, wood from the original building was used for construction of the new podium, instilling a physical sense of tradition that the church carries with it as it continues into the future.

Approximately 20 years later, now under the name of Wallace Baptist Church, a larger auditorium was constructed to accommodate the increasing size of the church's membership. The previous building, adjacent to the auditorium, remained in use as a meeting place for Sunday School. A few years later, recognizing their long-term stability and consistent growth both in congregation size as well as services offered, the church voted to incorporate as Wallace Baptist Church.

The church continued to add facilities over the next several decades as it continued to flourish, so I much so that in 2003 the more than 300 members of the church saw the pressing need for a larger main sanctuary and voted to have one built. The groundbreaking on the new site occurred earlier this year. Under the present leadership of Rev. Lee Botts and having already shown consistent growth, I am confident that the church and its mission will continue to be recognized by many as a great place to worship, continuing to serve the community well into the future.

Mr. Speaker, on behalf of the U.S. Congress, I am proud of the success of Wallace Baptist Church over the last 100 years and look forward to its next century of service.

RECOGNIZING 94TH CELEBRATION OF NATIONAL DAY IN REPUBLIC OF CHINA (TAIWAN)

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. TOWNS. Mr. Speaker, I rise to recognize the 94th celebration of National Day in the Republic of China (Taiwan).

Today, I join with the Taiwanese people as they celebrate their freedom. Taiwan has peacefully overcome authoritarian rule to attain democracy. It will hopefully constitute a model for the eventual establishment of a genuine democracy in China. The U.S. and Taiwan value human rights, civil liberties, a free press and the rule of law. Our shared values have produced a strong and dependable friendship for over 50 years. Today, the people of Taiwan determine their own destiny and government through free and fair elections.

Many of my colleagues will be surprised to learn that Taiwan is our 8th largest trading partner. A recent survey by the World Economic Forum ranked Taiwan fifth in the world and first in Asia for growth competitiveness. The Taiwanese have been increasing their demands for American goods becoming a more valuable trading partner. The Taiwanese people have also achieved economic prosperity with one of the highest standards of living in the world. It is impressive to find that less than 1 percent of the population lives below the poverty line. Now a strong member of the World Trade Organization, Taiwan's market-based economy is now the 12th largest in the world.

The government of Taiwan was one of the first to come to our aid after the events of September 11th and Hurricane Katrina. Taiwan continues to be our ally in the war on terrorism by cooperating with humanitarian assistance in Iraq and Afghanistan and providing intelligence. They have shown generosity and compassion by contributing to the Twin Towers Fund and Pentagon Memorial Fund, and now to the victims of Hurricane Katrina.

I hope that its neighbors, especially those in China, will notice Taiwan's celebration of freedom, democracy, and a market economy. I hope Taiwan and China will work together and cultivate a future based on respect, democracy, and freedom. I am encouraged by reports that Taiwan's President, Chen Shui-bian is willing to hold a summit with President Hu Jintao and resume dialog on cross-strait issues.

It is with great pleasure I congratulate Taiwan, our friend and ally, on the celebration of their 94th National Day, October 10, 2005.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. MENENDEZ. Mr. Speaker, I was absent from votes in the House on Tuesday, September 27th, due to a previous and unavoidable commitment. Therefore, I was unable to vote on H.J. Res. 66, a resolution supporting the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs (rollcall No. 494); and H. Con. Res. 209, a resolution supporting the goals and ideals of Domestic Violence Awareness Month (rollcall No. 496). Had I been present, I would have voted "aye" on both these measures considered by the House.

HONORING CAPTAIN RUSS KELLER, UNITED STATES NAVY

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I rise today to recognize and honor Captain Russ Keller, United States Navy, as he retires upon completion of more than 26 years of honorable and faithful service to our nation.

A native of Pittsburgh, PA, Captain Keller was appointed to the United States Naval Academy in 1975 and graduated with the class of 1979. Following initial nuclear power and submarine training, he reported to his first submarine, USS *Trepang* (SSN 674), where he served as the reactor controls assistant and later as the weapons officer. His assignment on *Trepang* was followed by a shore assignment in the Pentagon as flag lieutenant and aide for the Navy's Director of Research, Development, Test and Evaluation. Captain Keller next attended Harvard University's John F. Kennedy School of Government, where he earned a masters in public administration degree. Following his tour at Harvard, he returned to sea as the Navigator on board USS *Simon Bolivar* (SSBN 641) (BLUE), where he completed five strategic deterrent patrols in the final days of the Cold War. Upon departing *Simon Bolivar*, Captain Keller remained at sea as the executive officer on board USS *Narwhal* (SSN 671), where he prepared the ship's crew to return to sea following a 37-month refueling overhaul. Following his tour as Executive Officer, Captain Keller was assigned to the Navy Staff in Washington, DC where he served in the strategy and concepts branch. In June 1995 Captain Keller received the most coveted and demanding of all naval assignments when he was selected for Command at Sea. He served as the Commanding Officer of USS *Springfield* (SSN 761) for 31 months, during which time the ship completed several independent submarine missions vital to national security.

Based on his successful command tour, Captain Keller was selected by the Navy's Chief of Legislative Affairs to serve in the Office of Legislative Affairs, where he was assigned initially as the submarine and strategic programs liaison officer. Following two years working these issues, he was promoted internally and assigned as the Director of Naval Programs, with responsibilities for all Navy procurement, operations and maintenance, and research and development programs. His tenure in the Office of Legislative Affairs spanned five defense authorization bill cycles and earned him the trust and respect of members of Congress, committee and personal staff members as well as senior officials in the Department of the Navy. A role model and mentor to those who worked for and with him, he made his impact on people as well as programs. Through his brilliant insight and dedication, he contributed directly to the future readiness of the United States Navy and the nation.

In September 2002 Captain Keller was selected for major command, and served his final tour on active duty as the Commanding Officer of the Naval Nuclear Power Training Command in Charleston, SC from July 2003 until July 2005. Under his supervision, thousands of future naval nuclear operators and supervisors completed the most rigorous academic training program in our military while being imbued with the highest standards of personal integrity and reliability.

Captain Keller's distinguished awards include the Legion of Merit, the Meritorious Service Medal, the Joint Service Commendation Medal, the Navy and Marine Corps Commendation Medal, the Navy and Marine Corps Achievement Medal and numerous unit and campaign awards.

The Department of the Navy, the Congress, and the American people have been defended and well served by this dedicated Naval Officer for more than 26 years. Captain Russ Keller long will be remembered for his leadership, service and dedication. He will be missed.

Mr. Speaker, I am proud to have Russ and Chris Keller as constituents. I ask my colleagues in the 109th Congress to join me in congratulating him and wishing him the best of luck in all his future endeavors.

RECOGNIZING THE IMPORTANCE OF DEMOCRACY IN AZERBAIJAN

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KINGSTON. Mr. Speaker, I wish to include in the RECORD an article by Azerbaijan Ambassador to the United States Hafiz Pashayev. This was published in The Washington Times on September 11, 2005 and is a great testament to the progress made in Azervaijan toward holding peaceful and fair elections.

In a recent visit to Azerbaijan as National Democratic Institute chairman, former Secretary of State Madeleine Albright said, "Election day is important, but the months leading up to the elections are also crucial."

She referred to the parliamentary elections to be held Nov. 6, when the citizens of Azerbaijan go to the polls to elect their representatives to parliament, or Milli Mejlis.

The Bush administration views these elections are a litmus test of the Azerbaijan government's commitment to democracy. The U.S. Congress has weighed in by passing a resolution calling on Azerbaijan "to hold orderly, peaceful, and free and fair elections in November 2005 in order to ensure the long-term growth and stability of the country."

We are the first to recognize that independence, stability and prosperity depend on successful democratic reform. President Iham Aliyev wants an orderly transition, as our last few years of unprecedented economic growth would be jeopardized by political instability. Toward this end and to conduct elections according to international standards, the president issued an Executive Order outlining steps to be taken:

1. Allowing all political parties to organize rallies free from violence and intimidation.
2. Welcoming domestic and international election observers.
3. Providing access to media, thus ensuring fair coverage.
4. And ensuring central and regional authorities create the necessary conditions for exit polls.

Among many provisions of the Order already carried out are those that concern participation in the political arena by opposition parties. There has been dialogue between ruling and opposition parties, all opposition parties may freely conduct rallies and demonstrations and, thus far, all opposition activists-including those who called for overthrow of government in October 2003—have been allowed to become candidates if they wish. During his visit to Azerbaijan at the end of August, Sen. Richard Lugar, Indiana Republican, said: "The opposition leaders underlined that the registration process of the MP candidates went well, which is a step forward compared to the previous elections" President Aliyev went further by warning all regional election officials not to interfere in the old Soviet fashion, when ballot-stuffing was common.

President Aliyev's insistence on free and fair elections in November is based on the idea Azerbaijan's secular government can coexit with its Muslim traditions.

Our vision is premised on the belief democratic pluralism will ensure, a peaceful outlet for dissent, eliminating the need for violent alternatives. Citizens of all ethnicities and political persuasions are free to advocate their positions peacefully.

Today, Azerbaijan is a vibrant, independent state. We have faced many challenges in our young country's life: preserving our independence in a tough neighborhood; making the transition from a shattered to a market economy; building government institutions and an independent judiciary; finding a peaceful solution to our conflict with Armenia; and developing our natural resources to world markets.

Throughout these difficult years, the United States has been a friend and ally of Azerbaijan. Our strategic partnership has blossomed since the attacks on America on September 11, 2001. Immediately after, the late President Heydar Aliyev visited the U.S. Embassy in Baku not only to express his condolences but to offer his full support. Today, we stand side-by-side in the global war on terrorism. Our troops proudly serve in Afghanistan and Iraq.

Azerbaijan's location between Russia, Iran and Turkey, coupled with our desire to integrate into-the Euro-Atlantic community, requires that we conduct a balanced foreign policy fostering development of democratic institutions and a strong economy. Azerbaijan has come this far without tangible foreign aid and expects to continue democratic and economic development, primarily through its own resources.

According to a recent survey by the International Republican Institute sponsored by USAID, an overwhelming majority of Azerbaijanis want economic and social development to be their government's priority concerns.

This November, the people of Azerbaijan will elect a Parliament I believe will accelerate our transition toward democratic pluralism to match the country's unprecedented economic growth. Mr. Lugar told the press in Baku: "I sense in Azerbaijan a yearning for building strong democratic institutions."

CELEBRATING THE BIRTH OF EMILY QUINN MUSTIAN

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. WILSON of South Carolina. Mr. Speaker, today, I am happy to congratulate Rebecca and Ben Mustian of Columbia, South Carolina, on the birth of their beautiful baby girl. Emily Quinn Mustian was born on September 29, 2005 at 12:01 PM, weighing 7 pounds, 4 ounces and measuring 19 inches long. Emily has been born into a loving home, where she will be raised by parents who are devoted to her well-being and bright future. Her birth is a blessing.

TRIBUTE TO SOUTH LYNCHES FIRE DEPARTMENT

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the South Lynches Fire Department and to recognize their 50 years of service to the South Carolina counties of Florence and Williamsburg. Chartered as the Lake City Rural Fire Department on January 27, 1955, they started with only one tanker. Today, they have 19 vehicles with which a full time staff and 125 volunteers provide fire and rescue services to the 250 square mile area that encompasses the South Lynches Fire District.

The original directors of the department in 1955 were S. Keels Brockington, Sr., H. Raymond Askins, Sr., Roy Rogers, J.P. Grimsley, L.W. McDaniel, Joe Tucker, and Walter Moody. Within 10 years, the department had completed a permanent home and secured a second tanker. The department changed its name in the middle 1970s to the Lower Florence County Fire Department as it had expanded its coverage beyond the Lake City area. In 1982, residents created the South Lynches Fire District establishing the area that the department currently services.

The South Lynches Fire Department today operates out of six locations within the district. The original station, in Lake City, is still operational. Station 2 "Coward" was built in 1971. Station 3 "Camp Branch" was built in 1979, Station 4 "Cades" in 1979, Station 5 "Leo-Camerontown" in 1979, and Station 6 "Scranton" in 1990.

Mr. Speaker, I ask that you and my colleagues join me today in honoring the South Lynches Fire Department as they celebrate their 50th anniversary. I thank each and every member of the Department for their service over the last 50 years and wish them great success and Godspeed in the future.

PERSONAL EXPLANATION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HYDE. Mr. Speaker, on September 28, 2005, I was absent for two votes because I was chairing a classified briefing with the Secretary of Defense providing information to members about U.S. efforts in Iraq. Had I been present, I would have voted "no" on rollcall vote No. 500, on motion to recommit and "yes" on rollcall vote No. 501 on passage.

A VALUABLE SERVICE FROM BLUECROSS BLUESHIELD OF SOUTH CAROLINA

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. WILSON of South Carolina. Mr. Speaker, today I would like to announce that BlueCross BlueShield of South Carolina, BCBSSC, ably led by President Ed Sellers, is now offering a valuable service in doctors' offices throughout our State.

Recently, The Wall Street Journal reported that BlueCross BlueShield of South Carolina has begun to offer physician offices a swipe-card reader that will immediately inform members "how much the insurer will pay and what the patient owes."

Physicians can lease the swipe-card readers from Companion Technologies, a subsidiary of BCBSSC; the health insurer plans to send members a card that they can swipe through the readers, which will connect to the BCBSSC system through a broadband Internet line. The swipe-card readers will have the ability to process debit and credit card payments and provide information about eligibility and claims information.

Companion officials said they hope other health insurers will integrate the swipecard readers into their systems. Companion President Harvey Galloway said, "Many doctors lose significant dollars because patients don't treat doctor's office payments like they do their Visa bills." He added, "The advantage to the doctor's office is knowing, while they have the patient in front of them, how much the patient liability is, and not having to go after them after they leave the office."

I am hopeful that this new benefit will prove to be helpful to patients and physicians throughout South Carolina.

INTRODUCTION OF LEGISLATION TO PROVIDE EQUITY FOR GRAND CANYON SUBCONTRACTORS

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RENZI. Mr. Speaker, I rise today to introduce legislation, with Congressman PASTOR and Congressman HAYWORTH, to authorize the National Park Service to pay for services performed by subcontractors under a contract issued for work completed at the Grand Canyon National Park.

In fiscal years 2002 and 2003, the Grand Canyon National Park issued approximately 43 task orders to Pacific General, Inc. (PGI), under an Indefinite Deliver/Indefinite Quantity contract. The value of these task orders was more than $17 million for several construction projects throughout the Park.

According to invoices sent to the Park, PGI certified that payments were being sent to subcontractors and suppliers. However, in January 2004, complaints were received by numerous subcontractors that they had not received payment from PGI. The National Park Service paid more than $10 million to PGI. Of this amount, PGI did not pay $1.3 million to subcontractors who performed the work.

The Washington Contracting and Procurement Office of the National Park Service performed an acquisition management review. In this review, the National Park Service it was discovered that the Park had failed to ensure that PGI obtained the necessary payment and performance bonds required by the National Park Service and required under the Miller Act (40 D.S.C. 270a).

On February 6, 2004, the National Park Service suspended further payment to PGI and issued a suspension notice to cease activity by the contractor. PGI has ceased business and it is unlikely that the Federal Government will recover the $1.3 million issued to PGI.

The subcontractors who were not paid by PGI fall into two categories. The first category consists of those subcontractors that performed work on various projects where the National Park Service had already paid PGI for the work. The second category of subcontractor is composed of subcontractors who performed work on various projects where the National Park Service had not paid PGI for the work. The National Park Service has withheld $906,335 in payment for this work that will be paid to the second category of subcontractors that performed work.

The National Park Service has been unable to pay the first category of subcontractors who performed work in the Grand Canyon National Park because contract law prohibits payment directly to subcontractors due to the lack of a direct, contractual relationship between the parties.

Mr. Speaker, this legislation authorizes the National Park Service to pay the $1.3 million to subcontractors who have performed work at Grand Canyon National Park and were not paid by PGI. This legislation only addresses this situation in the Grand Canyon National Park and the $1.3 million that the Park paid to PGI for work performed by the subcontractors.

Many small businesses in Arizona, Utah and Washington, have been affected by this unfortunate contract mismanagement. This legislation will fix a grave inequity for many of our small businesses and ensure that these companies are paid for work already performed in the Grand Canyon National Park.

Mr. Speaker, I urge my colleagues to support this important legislation.

RECOGNIZING THE ACHIEVEMENTS OF BLANCA ALVARADO

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, today I rise to recognize the achievements of Santa Clara County Supervisor Blanca Alvarado. She continues to be a leader in local government and a national leader in the area of juvenile detention reform.

Blanca served 14 years as a San José City Councilmember representing San José's East Side before being appointed to the Santa Clara County Board of Supervisors in 1995, filling the position I vacated when I was elected to Congress. I heartily recommended her appointment and have supported her in her good works ever since.

The daughter of a miner, Blanca has always been involved in public life, whether it was helping her parents in union and political activities, hosting a women's radio show called "Merienda musical," working for the Department of Social Services or acting as the local president of MAPA, the Mexican American Political Association.

I first met Blanca in the mid-1970's when we served together on the Housing Service Center board of directors before either of us had stood for public office. I found her then to be a caring person committed to her community and especially to the needs of the poor. Those qualities have continued throughout her life—both in her public and private efforts.

As a City Councilmember and Vice-Mayor, Blanca actively worked to build neighborhood organizations and developed community plans and partnerships to renovate impoverished neighborhoods.

Blanca's devotion to children is illustrated through projects such as the The East Initiative. The Initiative recognizes the importance of securing early access to parent support, health care, and social services for all children and their families. Blanca, as a member of the First Five Commission, lobbied for a school readiness program in the local school district. When the school district was not in a position to join with First Five in creating a school readiness program, the Commission partnered with the community and focused on the neighborhoods surrounding Cesar Chavez, San Antonio, and Arbuckle elementary schools. First Five allocated $750,000 in the first year of the East Initiative alone.

Blanca also leads the county-wide effort to eliminate inappropriate and unnecessary incarceration of youth, especially youth of color who are over-represented in the juvenile justice system. Because of her efforts, the county has become a national model in juvenile detention reform. Since the movement began in July 2002, law enforcement, the Probation Department, the Juvenile Court, community partners, and many other participants have committed to shifting their efforts from incarceration to community-based approaches for treating troubled youth, to allow troubled young people to turn their lives around and to have productive, hopeful futures.

One of the projects Blanca is most remembered for is her leadership in the conception—and development of the Mexican Heritage Plaza, opened in 1999 and now one of the largest Latino cultural centers in the Nation. Twelve years in the making, and built over a site once picketed by San José native son Cesar Chavez, the Plaza is a 55,000 square-foot cultural center with state of the art theatrical venues, a Smithsonian-affiliate gallery space and luscious thematic gardens that serve as a regional resource for cultural programming and education.

In addition to her years of friendship, I wish to thank Blanca Alvarado for a lifetime of public service and her determined efforts to achieve social change. "¡Sí se puede!"

HONORING THE 100TH ANNIVERSARY OF CITIZENS BANK IN HARTSVILLE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GORDON. Mr. Speaker, I rise to recognize the 100th year of existence of the Citizens Bank located in Hartsville, Tennessee. The bank will celebrate its anniversary on October 1, 2005.

Citizens Bank was established in 1905 with $10,000 in capital. The bank's loan officers had a maximum loan authority of $300, enough to buy a small farm 100 years ago. They started keeping daily statements in 1923.

Citizens Bank never succumbed to the Great Depression; however, the bank did close twice during its century of history—once during the flood of 1927 and again during a storm in 1929 that left 18 inches of snow on the ground.

Originally, the bank rented space in downtown Hartsville, before building its own space by the Trousdale County Courthouse. In 1984, the bank built its current facility on Highway 25.

I wish President Wilson Taylor, Vice President Betty Sue Hibdon, Customer Representative and Public Relations Coordinator Gloria Dalton and all the employees who represent the heart of Citizens Bank much success with their celebration and the start of another century of service.

HONORING SERGEANT PAUL KARPOWICH OF FREELAND, PENNSYLVANIA, WHO WAS KILLED IN IRAQ IN DECEMBER 2004

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to the life of Sergeant Paul Karpowich, of Freeland, Pennsylvania, who was killed in action in Iraq in December 2004.

Sgt. Karpowich was 30 years old when he suffered the loss of his life while trying to liberate the Iraqi people and afford them the same opportunities we enjoy in a land ruled by democracy.

The victim of a suicide bomber whose treachery claimed the lives of 20 people, Sgt. Karpowich was one of 15 military personnel who were killed. The remaining five victims were civilian employees of Department of Defense contractors.

Sgt. Karpowich was remembered by many as a "soldier's soldier." He joined the U.S. Army immediately after graduating from Bishop Hafey High School. He completed basic training at Fort Benning, GA and then went on to Fort Bragg, NC, where he graduated from paratrooper school, after which he joined the 82nd Airborne Division.

Sgt. Karpowich served as a drill instructor with the 98th Division's 1st Battalion, 417th Regiment, 1st Brigade.

He had recently been notified that he was about to be promoted to Master Sergeant, the second highest enlisted rank in the Army, when the bomb blast ripped through a mess tent in a forward operating base at Mosul, Iraq, where Sgt. Karpowich and hundreds of others were gathered.

The first Hazleton area resident to give his life in the Iraq War, Sgt. Karpowich's awards and decorations included the Army Commendation Medal, the Expert Infantryman's Badge, the Good Conduct Medal, the National Defense Service Medal and the Global War on Terror Medal.

Mr. Speaker, please join me in paying tribute to the life of a true American patriot whose courage and bravery transcended human frailty and shone like a beacon to inspire others.

Sgt. Karpowich well understood the importance of those objectives and willingly put his life in harm's way to help others enjoy the same liberties as we do. The world is a better place today because of the sacrifices made by Sgt. Karpowich and others like him.

ACKNOWLEDGING SANTA CLARA COUNTY ON ITS CONTRIBUTIONS TO HURRICANE KATRINA RELIEF EFFORTS

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HONDA. Mr. Speaker, I rise to acknowledge those in Santa Clara County, California who have offered assistance to the victims of Hurricane Katrina. Their efforts stand as a testament to the American spirit of generosity.

The local governments of Santa Clara County have responded with munificent offerings to the victims of Hurricane Katrina. The San José City Council and Santa Clara County Board of Supervisors each authorized $500,000 for the Santa Clara Valley American Red Cross to provide services to hurricane victims who arrive in the area. The San José Fire Department deployed firefighters to assist in the region devastated by Hurricane Katrina and stand ready as needed.

Local universities opened their academies and housing to those displaced by the hurricane. In fact, Santa Clara University admitted 75 students from New Orleans-based institutions Loyola University and Tulane University after the hurricane forced the campuses to close. The San José Recovery Center is providing interim shelter and services for evacuees at a former student housing complex at San José State University. So far, the Center has served sixty-six people.

The Santa Clara Valley Transportation Authority responded as well by providing free bus passes to individuals and families, assuring mobility to access the medical services, education, and jobs.

United by the Santa Clara County CADRE (Collaborating Agencies Disaster Relief Efforts), many local community organizations have provided ongoing evacuee support. The Volunteer Center of Silicon Valley forwarded 900 housing offers while coordinating occupational opportunities for evacuees. Local businesses and individuals have also contributed generous cash, food, and supply donations to the recovery effort.

I commend the many individuals, organizations and agencies of Santa Clara County that contributed to the relief effort. I know that these donations and others from across the country have made a meaningful impact on the lives of the thousands of Gulf Coast residents still living in a state of uncertainty.

VIOLENCE AGAINST WOMEN ACT

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. INSLEE. Mr. Speaker, the House has voted to reauthorize the Violence Against Women Act (VAWA), a historic measure first passed in 1994. It marked when our country finally recognized that domestic violence is not a private family matter, but a national problem that requires a national response. Since VAWA passed, victims of domestic violence have more options to leave abusive relationships, local communities have developed critical programs to assist victims, and our criminal justice system has become better trained in prosecuting these unique crimes.

However, it is always the incident that happens in your backyard that will highlight the scope of a problem, such as domestic violence. In 2003, the state of Washington State became the focus of a national tragedy. Many have read in the papers the heartbreaking story of how, on April 26, 2003, Crystal Brame was shot in a grocery store parking lot by her husband, David Brame, chief of police for the city of Tacoma. Crystal Brame died one week later, and David Brame committed suicide at the scene.

In response to this tragedy, people in the state of Washington swiftly formed a statewide task force of domestic violence, law enforcement, and criminal justice system experts to determine the best practices for law enforcement agencies, focusing on prevention, training, enforcement, and response. Crystal's death and the state's response, illustrated that despite the progress since VAWA passed in 1994, tragedies of domestic violence live in our communities today, and that we must continue to work towards new solutions.

I think we can do a better job helping people like Crystal, whose abuser happened to be in a profession that responds to crimes of domestic violence. I have hopes that my colleagues will help put a stop to such tragedies and work with Mr. Norm Dicks, Mr. Adam Smith, and Mr. Dave Reichert, and me to commission a study by the Department of Justice to learn more about such incidences and the best response to officer-involved domestic violence. Ending domestic violence is an ongoing effort, and I have seen great improvements to this end. I would like to see an even stronger commitment so that other communities can prevent tragedies—like that of Crystal Brame from happening in their backyard.

HONORING THE NATIONAL ENDOWMENT FOR THE HUMANITIES ON ITS 40TH ANNIVERSARY

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEACH. Mr. Speaker, I rise to recognize the 40th anniversary of the National Endowment for the Humanities and to offer my congratulations to its chairman, Bruce Cole.

In 1965, Congress discovered that the most successful democracies consist of the most informed, the most curious, and the most creative citizens. When the 89th Congress created the National Endowment for the Humanities, it declared that "Democracy demands wisdom and vision in its citizens."

For 40 years, the NEH has promoted "wisdom and vision" by advancing the study and understanding of history, literature, languages, archaeology, philosophy, and other humanities subjects, throughout the United States.

As Chairman Cole has so profoundly observed, "The humanities are the study of what makes us human: the legacy of our past, the ideas and principles that motivate us, and the eternal questions that we still ponder. The classics and archeology show us whence our civilization came. The study of literature and art shape our sense of beauty. The knowledge of philosophy and religion give meaning to our concepts of justice and goodness."

Today, the role humanities play in education is increasingly important. Of all the learning disciplines, they tap and expand the human imagination the most. In a world of exploding options for individuals and families, it is imperative that history provide reference points, and when there is no experience to serve as guide, that the imagination be stimulated, and perspectives applied and values brought to bear. Without reference to the guide posts of the humanities, society loses its soul. It becomes rudderless in the seas of societal change.

TENNESSEANS COME TOGETHER TO AID THE LOUISIANA PHILHARMONIC ORCHESTRA

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mrs. BLACKBURN. Mr. Speaker, Tennesseans have a long tradition of volunteerism. In times of need, the Nation is able to count on our state.

In the aftermath of a truly devastating hurricane season, we've seen our state and our country come together to assist the gulf coast region. Tennesseans are opening their hearts and homes to evacuees and assisting with what will be a very long recovery. Our own Nashville Symphony will host a benefit concert on October 4, 2005 for the Louisiana Philharmonic Orchestra (LPO) as it struggles to survive. Nashville area businesses and the community have come together to reunite the LPO in our city for a benefit concert.

I ask my colleagues to join me in thanking Executive Director Alan Valentine, his team at the Nashville Symphony, and the many local businesses and supporters who've come together to aid the Louisiana Philharmonic Orchestra.

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TRIBUTE TO LAXMAIAH MANCHIKANTI, PH.D.

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. WHITFIELD. Mr. Speaker, I rise to recognize one of my constituents, Laxmaiah Manchikanti, Ph.D. of Paducah, Kentucky. Dr. Manchikanti has been practicing medicine in my Congressional District for the last 24 years. I have known Dr. Manchikanti for several years and have found him to be a man of incredible integrity who is devoted to helping others. He is an active member of the community as well as a forceful leader in the field of pain management. Dr. Manchikanti, an immigrant from India who is a naturalized citizen of the United States, exemplifies the fulfillment of the American dream.

Dr. Manchikanti is a well known physician with interests in many aspects of medicine, both in patient care, as well as academics. He specializes in anesthesiology with a sub-specialty in interventional pain management and is well known in the circles of interventional pain management. Apart from his interest in the clinical practice of anesthesiology and interventional pain management, he is also proficient in administrative medicine, patient advocacy, the economics of healthcare, medical ethics, and various other aspects of the profession.

Dr. Manchikanti is an avid clinical researcher with numerous publications in peer-reviewed journals with original contributions, along with book publications. He is also an internationally known teacher who has conducted multiple seminars. As President and founder of the American Society of Interventional Pain Physicians (ASIPP), Dr. Manchikanti has participated in the development of various guidelines, published on the Agency for Healthcare Research and Quality (AHRQ) web-site. Apart from this, he also functions as a consultant to companies which assess evidence including ECRI (formerly the Emergency Care Research Institute), which is in charge of the AHRQ web-site and others. He also serves as a member on the Carrier Advisory Committee of Kentucky.

Because Dr. Manchikanti is a specialist in pain management, many of the drugs he prescribes have the potential to become addictive. During a conversation I had with Dr. Manchikanti a few years ago, we discussed Kentucky's efforts to combat prescription drug abuse through the Kentucky All Schedules Prescription Electronic Reporting System (KASPER) which monitors Schedule II through IV controlled substances to detect and deter abuse. Dr. Manchikanti touted the benefits of KASPER which allows him to receive a report on all of the controlled substances his patients have been prescribed.

The problem that Dr. Manchikanti identified was that while KASPER was effective in Kentucky, there was no mechanism to determine if his patients had been prescribed a controlled substance in another state. In Kentucky, which is bordered by seven states (four in my District alone), it is easy for an individual to engage in the practice of "Dr. Shopping." In an effort to address the problem, Dr. Manchikanti and the American Society of Interventional Pain Physicians (ASIPP) proposed legislation creating a national monitoring system based on KASPER whereby physicians in all states would have access to the controlled substance prescription information of their patients, no matter where they filled the prescription. To that end, Dr. Manchikanti and ASIPP submitted draft legislation entitled the National All Schedules Prescription Electronic Reporting Act (NASPER).

After reviewing the language and examining the idea, I decided to introduce NASPER with my colleague FRANK PALLONE during the 107th Congress. After three years of hard work by Dr. Manchikanti, ASIPP, and our supporters in Congress, we passed NASPER in both Houses of Congress and President Bush signed it into law on August 11th. NASPER combats prescription drug abuse through the creation of a grant program housed at the Department of Health and Human Services to help states establish and maintain state-operated prescription drug monitoring programs (PMPs). California established the first PMP in 1940. Nineteen additional states currently operate a PMP and five more are in the process of establishing them.

NASPER addresses one of the main impediments to existing PMPs—that they currently operate only on an intrastate basis while the diversion of drugs is an interstate problem. We help foster interstate communication by establishing some uniform standards on information and privacy protections that will make it easier for states to share information. Columbia University noted in a report released over the summer that between 1992 and 2003 the number of people abusing prescription drugs increased 94 percent—twice the increase in the number of people using marijuana, five times the number of people using cocaine, and 60 times the number of people using heroin. Even more disturbing, the report found a 212 percent increase in the number of children between the ages of 12 and 17 abusing prescription drugs.

NASPER, which is now Public Law 109–60, would not have been possible without the leadership provided by Dr. Manchikanti and ASIPP. I'm confident that the enactment of NASPER will give physicians and law enforcement an additional tool to help reduce the number of Americans abusing prescription drugs.

* * *

IN RECOGNITION OF BETTY GORHAM AND FIFTY YEARS AS A CHURCH ORGANIST

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to Betty Gorham, who will be celebrating 50 years as a church organist on Sunday, October 2, 2005.

Betty Gorham is now the organist at First Baptist Church of Saks in Anniston, Alabama, and has been since October of 1975.

Betty Gorham began taking organ lessons at age seven in Chattanooga, Tennessee, where her family moved after her father's death in 1943. Her instruction continued until she was 16 years old, at which time she was performing at her home church, Eastdale Baptist Church. Her first full-time job as an organist was at Signal Mountain Baptist in Chattanooga in 1957, and was followed shortly by a move to Birmingham, Alabama, to play at Huffman Baptist Church. In fact, it was while playing the organ for a wedding rehearsal at this church that she met her future husband, Jim Gorham. They were married in 1958, and Betty followed her husband in several moves around the State of Alabama. They went first to Montgomery, where Betty played at Ridgecrest Baptist; then to Mobile in 1960, where she played at Westlawn Baptist; then back to Birmingham, Alabama, in 1963, where she played first at Fairfield Highlands Baptist Church and then at Center Point Baptist. Finally in 1973, the Gorhams moved to Anniston, Alabama, where she played at Parker Memorial and Heflin Baptist Church before beginning her long career at First Baptist Church of Saks.

Betty and Jim Gorham have now been married 47 years and have four grandchildren. In addition to her devotion to her family and her church and church music, Betty has found time to do charitable work in the community.

Let us all congratulate Betty Gorham on her 50 years of service as a church organist and thank her for her 30 years of service at First Baptist Church of Saks in Anniston, Alabama.

RECOGNIZING PRESIDENT CHEN SHUI-BIAN REPUBLIC OF CHINA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HONDA. Mr. Speaker, I rise today to honor the citizens of Taiwan and to recognize their democratically elected President Chen Shui-bian who has made a stopover in the United States en route to Central America. I trust that President Chen has had a good visit in the U.S.

In the last five years, Taiwan has continued to impress the world as a prosperous island nation, free and democratic. Taiwan is truly committed to genuine democratization, as evidenced by the third direct presidential election of 2004.

By working together, Taiwan and China will have the potential to make significant contributions to peace, security and prosperity in the entire Pacific Rim. I sincerely hope that a framework will soon be established for peaceful interactions between the two sides. It is everyone's dream that rapprochement between Taiwan and China be possible within the shortest period of time and to all parties' satisfaction.

The people of the U.S. appreciate Taiwan's cooperation with the U.S. government in combating global terrorism and Taiwan's monetary contributions to the Twin Towers Fund and the Pentagon Memorial Fund. The relationship between Taiwan and the United States is strong and healthy. Ambassador David Tawei Lee is an effective bridge between the government of Taiwan and the government of the U.S.

Mr. Speaker, we must always remember Taiwan's important role in maintaining peace and stability in the Pacific Rim. To have permanent peace in the region, the U.S. must do its part in urging Taiwan and China to continue peaceful dialogue and exchanges.

COMMEMORATING THE NATIONAL ENDOWMENT FOR THE HUMANITIES' 40TH ANNIVERSARY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. PRICE of North Carolina. Mr. Speaker, today marks the 40th anniversary of the creation of the National Endowment for the Humanities—a small, independent Federal agency that each year puts millions of Americans in contact with the ideas, ideals, and institutions of our great Nation.

As co-chairman of the newly established Congressional Humanities Caucus, I would like to congratulate the Endowment's Chairman, Dr. Bruce Cole, and his dedicated staff on the agency's anniversary.

In establishing the NEH through the National Foundation on the Arts and Humanities Act of 1965, Congress declared that "encouragement and support of national progress . . . in the humanities . . ., while primarily a matter of private and local initiative, is also an appropriate matter of concern to the Federal Government." Acknowledging the Federal Government's interest in promoting progress and scholarship in the humanities, the 89th Congress expressed this interest in a single, powerful observation: "Democracy demands wisdom and vision in its citizens."

For 40 years, NEH has promoted "wisdom and vision" by advancing the study and understanding of history, literature, languages, archaeology, and philosophy throughout the United States. With the relatively small amount of funding provided by Congress to the agency each year, the Endowment provides important seed money for projects and programs including scholarly editions of the papers of historical and cultural figures, preservation of historically important books and newspapers, seminars and institutes for K–12 teachers and college and university faculty, major television documentaries, and educational museum exhibitions.

Beginning in 2002, at the direction of President Bush and with the support of Congress, NEH began a historic initiative, We the People. We the People is a multi-faceted, agency-wide program focused on examining significant events and themes in our Nation's history. The initiative is designed to expand awareness and knowledge of the traditions and values that have formed our Nation, and to enhance appreciation of our civic institutions.

Because contact with the humanities encourages individuals and our Nation to seek knowledge and wisdom, to reflect deeply on issues, and to make sense of and find meaning in our cultural heritage, the mission of the NEH continues to be a worthy national enterprise.

I extend my congratulations to the NEH for its 40 years of service to the American people.

REMARKS IN SUPPORT OF HOUSE RESOLUTION 388

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BURTON of Indiana. Mr. Speaker, yesterday the House of Representatives considered House Resolution 388, a resolution condemning the gross human rights violations committed by the Cuban regime, and expressing the support of this House for the right of the Cuban people to exercise their fundamental political and civil liberties. Unfortunately due to scheduled Committee hearings I was unable to be on the floor during debate on this extremely important resolution. As chairman of the International Relations Committee Subcommittee on the Western Hemisphere—and a long-standing critic of the Castro regime—and co-sponsor of the resolution, I want to take this opportunity to express my strong support for H. Res. 388. I would also like to thank my colleague from Florida, Congressman LINCOLN DIAZ-BALART—a true champion for the Cuban people—for introducing this resolution and once again highlighting the atrocious human rights violations the Cuban people continue to suffer at the hands of Castro's oppressive regime.

Since Castro assumed control of Cuba on January 1, 1959, fundamental human rights and basic living conditions have deteriorated tremendously. Most Cuban people live every day in fear of their government, thousands of whom risk their lives every year to flee the communist regime by any means necessary—even attempting to brave the hazardous 90-mile crossing between the United States and Cuba on makeshift rafts.

For a time, they tried to pretend that Mr. Castro had changed his ways, but events in Cuba over the past two years have reopened the eyes of the world community to the true evil nature of the Castro Regime. For example, Castro created a constitutional amendment permanently making socialism the official form of state government, and positioning himself to remain in power until he is either forcibly removed or deceased. In addition to these totalitarian mandates, he has staged the most sweeping crackdown on peaceful advocates of change in the history of Cuba.

On March 18, 2003, Fidel Castro ordered the arrest of many writers, poets, librarians, and pro-democracy activists in a large-scale operation to stifle any movement against his regime. Subsequently, some of the targeted individuals were released, but 75 remained in jail to be tried for their "crimes" against the country, citing Article 91 of Cuba's Penal Code that states, "(anyone) who in the interest of a foreign state, commits an act with the objective of damaging the independence or territorial integrity of the state of Cuba." The Cuban government accused the dissidents of engaging in activities that could be perceived as damaging to Cuba's internal order, and/or perceived as encouraging to United States embargoes against the country.

The list of Cuban detainees published by Amnesty International in their "Essential Measures" brief of 2003 reveals some striking information. Among the detained are 23 people over the age of 50, as well as 5 others who are more than 60 years of age. I wonder what dissenting activities they were engaging in that would earn them a collective 1,242 years in prison. These peaceful pro-democracy advocates, whom Mr. Castro likes to call dissidents or "enemies of the revolution," were convicted for activities such as: attending an assembly to promote civil society, possessing membership in the Committee on Cuban Human Rights, or publishing documents to be disseminated abroad that represent a clear means of implementing the measures established in Article IV of LIBERTAD, also known as the Helms-Burton Act, which would increase the United States sanctions and blockades against Cuba.

Three of the 75 activists rounded up during the regime's Spring 2003 crackdown on dissent are currently engaging in a hunger strike to protest the deplorable conditions of their confinement; contaminated food and water, excessive heat, filthy conditions and medical mistreatment.

Christian Liberation Movement member José Daniel Ferrer, who has not eaten for more than 22 days. He is serving a 25-year sentence for promoting the Varela Project, a constitutional petition calling for free elections, civil liberties and freedom for political prisoners. He recently was placed in a prison unit with dangerous common criminals, a tactic that Cuban authorities often use to harass and injure political prisoners.

Víctor Rolando Arroyo, an independent journalist and librarian, has been on a hunger strike for more than 16 days. In 2000 he spent 6 months in jail for giving out toys to children on Three Kings Day. Now he is serving a 26-year sentence. His wife says that he has been hospitalized. He has refused forced feeding and is severely dehydrated.

Félix Navarro, a democracy advocate and Varela Project activist, has shared the hunger strike in solidarity with Mr. Arroyo, who is in the same prison. Mr. Navarro is serving a 25-year term.

Just this past July, the Castro regime renewed its efforts to stamp out the pro-democracy movement.

On July 13, 2005, the Cuban Government detained 24 human rights activists who were participating in a solemn event in remembrance of the victims of the tugboat massacre of innocent civilians by the Cuban government on July 13, 1994. Human rights activists Rene Montes de Oca, Emilio Leiva Perez, Camilo Cairo Falcon, Manuel Perez Soira, Roberto Guerra Perez, and Lazaro Alonso Roman remain incarcerated from the July 13, 2005, event and face trumped up charges of "disorderly conduct."

On July 22, 2005, Members of the pro-democracy opposition in Cuba sought to demonstrate in a peaceful and orderly manner in front of the French Embassy in Havana, on behalf of the liberation of all Cuban political prisoners, and to protest the current policy of the European Union toward the Cuban Government. The Cuban regime mobilized its repressive state security apparatus to intimidate and harass, and eventually arrest and detain many of those who were planning on attending the peaceful protest. These leaders in the struggle for freedom in Cuba continue to be detained without cause.

The Cuban regime has also arrested more than 400 young Cubans, from late 2004 through June of 2005, as a "measure of pre-delinquent security."

The facts are undeniable; the Castro regime is just as committed today to repressing attempts by the Cuban people to bring democratic change to the island and denying the Cuban people their universally recognized liberties, including freedom of speech, association, movement, and the press as it was in 1959. That is why H.R. 388 is so important; because it sends a strong message to the Castro regime that this House will not forget—and it will not let the world community forget—those people who are suffering and dying in Cuban prisons for the so-called crime of speaking out against the injustices perpetrated by Castro and his henchmen.

Mr. Speaker—although I am very concerned about the state of democracy throughout the Western Hemisphere—as it stands today, Cuba is the only nation in the hemisphere that is a complete dictatorship. As U.S. service men and women put their lives on the line to bring freedom and democracy to people around the world who have long suffered under the hand of tyranny, we only need to look at Cuba to see what can happen when any Nation shuns democracy and subjugates itself to the whims of dictatorship.

I believe that because of the ills inflicted upon Cuba by the Castro regime, the transition from economic stagnation and political oppression to a democratic society built around the principles of respect for the rule of law and basic human rights—with a free economy—will be a challenging process, but it is an attainable endeavor. I have hope that there will be a day when the light of democracy shines in Havana. Until that day, I say to Mr. Castro—we will never forget.

HONORING THE AUGUSTUS LUTHERAN CHURCH

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor the Augustus Lutheran Church in Trappe, Pennsylvania on the occasion of their 275th anniversary.

The Augustus Lutheran Congregation was founded with its first baptism on May 8, 1730. From there, the first church was built. Originally described by an early Church press release as a "shrine of Lutheranism," the Augustus Lutheran Church has diligently served its community since 1743. The first church building was constructed by its first pastor, Henry Melchior Muhlenberg. Its construction, according to church documents, marks the beginning of the Lutheran movement in America.

This unique church also stands as an extraordinary symbol that emphasizes the impressive 275 years that the Augustus' ministry has served its community in Pennsylvania. The Augustus Lutheran Church has always had a close and reciprocal relationship with its community. Prior to the construction of the Church, the Augustus congregation built the first schoolhouse in Providence Township, Pennsylvania, where Muhlenberg served as one of the teachers. Consequently, in 1743 when the congregation decided to build a church, men in the community donated their labor and materials by hauling stone and timber, while the women and children split and shaved shingles for the roof. The official dedication ceremony took place on October 6, 1745 when a dedicatory stone was placed in the wall over the main entrance. In 1751, the gallery was erected to house the newly purchased pipe organ that was brought from Europe. This pipe organ was unique in that it was one of first pipe organs in any country church in America.

As the congregation grew throughout the next one hundred years, so did the need for a new church that could adequately accommodate its members. In 1852, a new cornerstone was laid and a new brick church was constructed. Throughout the following years, extensive reconstruction was done on the new church. Sunday school facilities were created, the pulpit was refurnished, and the pipe organ was electrified and enlarged by the addition of an echo organ chamber and chimes. In 1960, a new parish house was added and in 1987, new stained glass windows were added. Today, the Augustus Lutheran Congregation has grown substantially to include 480 families with 1,000 baptized members.

Mr. Speaker, I ask that my colleagues join me in recognizing the Augustus Lutheran Church for its rich and honored history and its exemplary contributions to the religious and community life of the Trappe area for the past 275 years.

CONGRATULATING SHERIFF MARK HACKEL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate Sheriff Mark Hackel, who is the recipient of the 2005 Alexander Macomb Man of the Year Award from the March of Dimes.

Mark Hackel has dedicated his professional life to serving and protecting Macomb County. He began his career in 1981 as a dispatcher with the Macomb County Sheriff's Department and since then he has held every rank within the Department. Through hard work and determination, Mark was elected as Macomb County Sheriff in November of 2000.

Sheriff Hackel graduated from Sterling Heights High School in 1980. He received an Associate Degree from Macomb Community College in 1983, a Bachelor of Art Degree in Criminal Justice from Wayne State University in 1991, and a Master Degree in Public Administration from Central Michigan University in 1996.

To ensure excellence professionally, Sheriff Hackel has attended in 1994 the F.B.I. National Academy in Quantico, Virginia, and the United States Secret Service Dignitary Protection School in Washington D.C. He also has international training which includes Project Harmony Educational Exchange in Lviv, Ukraine and the Police Instructor Exchange Program in London, England.

In addition to being the Sheriff of the third largest county in Michigan, Sheriff Hackel serves his community in a number of other important capacities. He teaches young adults at Macomb Community College, is a Police Academy Instructor and an Advanced Police Training Instructor at the Macomb Criminal Justice Training Center.

Sheriff Hackel also participates in many community based organizations such as Mothers Against Drunk Driving, American Cancer Society, and Traffic Safety Association of Macomb. He has been a mentor through Winning Futures Mentoring Program and serves as a Fitness Council Advisory Board Member for Creating a Healthier Macomb.

Sheriff Hackel understands that many factors influence the law enforcement environment he is elected to lead and he seeks to bring about a better and safer community through all of his many endeavors.

Mr. Speaker, I have been privileged to work with Sheriff Mark Hackel and to see first hand his many effective endeavors. I ask my colleagues to join me recognizing Sheriff Mark Hackel for his commitment to excellence, and his professional and personal devotion to his community.

HONORING AND RECOGNIZING THE DEDICATION OF THE MOHAMMAD ATAYA PARK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Ataya family for their collective vision, generosity and concern for the people of Twinsburg, especially the children, for donating their personal property and transforming it into a public park for residents of all ages to enjoy. Dr. Khalid Ataya, his wife, Dr. Alfida Ataya, and their three children, Dana, Samy and Ramsey, have dedicated the park in honor of Dr. Ataya's father, Mohammad Ataya.

Mohammad Ataya worked diligently to provide a safe and secure home for his family in America, and has also ensured that the cultural bridge connecting the Ataya family—from Cleveland to Lebanon—remains viable and strong. Mr. Ataya continues to be the center of his family, a living legacy defined by a steadfast dedication to his wife, nine children, and his many grandchildren.

In a clearing surrounded by trees, playground equipment, park benches and picnic tables spring from the green grass at Mohammad Ataya Park, located on Cambridge Street in Twinsburg. Plans are already in place to expand the playground and picnic area at the park—preserving a natural space where a sense of renewal is possible and where family unity abounds.

Mr. Speaker and Colleagues, please join me in honor and recognition of Dr. Khalid and Alfida Ataya, for their vision and generosity in entrusting their land to the Township of Twinsburg for use as a public park, in honor of Dr. Ataya's father, Mohammad Ataya. Mohammad Ataya Park will flourish as a vital preservation of green space and will exist as a peaceful and joyous haven, accessible to all citizens, today and for generations to come. As founding members of the Arab American Community Center for Economic and Social Services (AACESS), Dr. Khalid and Dr. Alfida Ataya continue to embrace an energetic spirit and a dedication focused on service to others, and their efforts and volunteerism continue to enhance our entire community.

HONORING COMCAST CARES DAY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor Comcast Cable Communications for their contributions to community service and volunteerism as demonstrated in their unique one-day Comcast Cares Day volunteer community project.

Comcast Cable Communications has an impressive history of investing in the people and the communities that they serve. From its founding more that 40 years ago, Comcast has diligently given back to its communities through various community outreach programs. In 1997, Comcast employees and their families participated in the Philadelphia Cares Day. The Philadelphia Cares Day began as a day of city-wide community service in the Comcast headquarters' hometown. Over the next several years, Philadelphia Cares Day became what is now known as Comcast Cares Day. Today, Comcast Cares Day, the signature event of the company, is a national day of volunteer service for Comcast employees and their families in all the communities where Comcast operates.

The goal of Comcast Cable Corporation is to have 30,000 volunteers go into the communities the company serves and give back by improving the community aesthetically and by creating a stronger social presence for the company. At each event, Comcast goes out of their way to provide free manpower, supplies, and refreshment for each event. Most importantly, Comcast Cares Day unifies the company with the local community by working together towards a common goal.

In 2004, Comcast employees and their families volunteered to give back to their community during Comcast Cares Day. This inspiring group of individuals logged an estimated 180,000 hours worth of service in their respective communities. After such an impressive turnout in 2004, Comcast hopes to exceed their number of volunteers in 2005 by completing projects such as cleaning, painting, landscaping, preparing meals at food banks, and refurbishing community parks and recreation centers.

Specifically our area, the spirit of volunteerism and activities of Comcast employees' creates a positive impact on the Plymouth Township Community. One hundred and ninety volunteers will be recruited to work in Plymouth Township and they will address numerous community needs in a day of service to their fellow citizens.

Mr. Speaker, I ask that my colleagues join me today in recognizing Comcast Cable Corporation for their commitment to volunteerism and community service, not only in Pennsylvania, but throughout the country.

HONORING THE 20TH ANNIVERSARY OF SAN JOAQUIN VALLEY COLLEGE

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. COSTA. Mr. Speaker, I rise today to congratulate San Joaquin Valley College on the celebration of their 20th Anniversary.

San Joaquin Valley College deserves to be commended for its dedication to maintaining a quality educational environment for all of the students on its various campuses. The college has made enormous progress within its twenty-year history. San Joaquin Valley College has advanced from a student body of less than 20 and a staff of only 11 to having over 660 students with a faculty of over 100 employees.

San Joaquin Valley College was founded in 1985. From their humble beginning, the college has always put their students first. They offer degree and certificate programs in business, medical, and technical fields. The college has ever increasing programs to fit the needs of their students. They are also committed to providing the best of both general and vocational education. From 1985 to present, San Joaquin Valley College has graduated over 8,400 students from their Fresno campus alone.

In 1995 San Joaquin Valley College became regionally accredited by the Western Association of Schools and Colleges. The college makes sure to stay involved with the community. The Fresno Campus of San Joaquin Valley College is a strong partner in the local community, receiving numerous awards and recognition from some of the following organizations: The Mayor's Office for the Fresno Dental Assistants, the California State Job Training Coordinating Council for Outstanding Service Provider, the Community Appreciation Award from the United Way of Fresno County, American Red Cross and so many other noteworthy organizations.

For the past 20 years San Joaquin Valley College has created superior learning standards that can only be described as life changing by all of their graduates. They offer small classes, a family-like atmosphere, flexible class schedules, hands-on training, financial aid availability, as well as job placement assistance. San Joaquin Valley College provides quality education in order to produce quality potential employees.

We stand to commend San Joaquin Valley College as an excellent educational provider and applaud their efforts to strengthen our community.

CONGRATULATIONS TO DESOTO TRAIL ELEMENTARY SCHOOL IN TALLAHASSEE, FLORIDA

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BOYD. Mr. Speaker, I would like to take this opportunity to congratulate DeSoto Trail Elementary School in Tallahassee, Florida for receiving the Blue Ribbon School award under the No Child Left Behind program. As the home of the Trailblazers they have lived up to their mascots name in earning this award. This is a testament to the quality of education this school provides and to the hard work the administrators, faculty and students have done to be one of only thirteen schools in the entire State to win this award.

Many identify No Child Left Behind with efforts to improve failing schools. However, schools like DeSoto Trail that go above and beyond what is required by the law should not be forgotten. I am extremely proud of not just the students who worked so hard, but also the faculty and administrators whom spent so many hours helping the students become better citizens through education.

DeSoto Trail Elementary is a model of excellence that will serve as an example for every elementary school throughout the United States. This school has proven that through hard work and dedication, academic success is not out of reach for any student.

Therefore, I ask every member to please, join with me in congratulating the children and teachers who have worked so hard to achieve their goal. I would also like to congratulate Principal Janis Johnson and Assistant Principal Hank McGrotha for providing this level of excellence.

The future of this country depends on the success of our education system. As the Representative of Tallahassee, Florida, I am honored and proud to be on the floor today speaking about such students and the parents who support them everyday.

CONSTANCE BAKER MOTLEY'S LIFE AND LEGACY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RANGEL. Mr. Speaker, I rise today to commemorate the life and legacy of Judge Constance Baker Motley who died September 21, 2005. Constance Baker Motley had a remarkable career as a public servant, achieving success both as an elected official and as a Federal judge. She made history and contributed greatly to the widening of opportunities for minorities and women. Judge Motley was the first woman and first African-American woman to be appointed to the United States District Court for the Southern District of New York, the largest Federal trial bench in the country; the first African-American woman to be elected to the New York State Senate and the first woman to the Manhattan Borough Presidency.

Constance Baker Motley was born on September 14, 1921 in New Haven, CT, where her father worked as chef for a Yale University fraternity. Her parents were West Indian emigrants who encouraged her to excel in school and to become involved in community activities. Clarence Blakeslee, a wealthy white contractor and philanthropist was so impressed by her that he paid for her college education. She attended Fisk University and graduated from New York University in 1943. In 1946, she received her law degree from Columbia University, and married real estate and insurance broker, Joel Wilson Motley. She also began work as a law clerk with the NAACP Legal Defense and Education Fund. Thurgood Marshall interviewed her for the position and continued to mentor and support her in the years to come.

As one of the NAACP's principal trial attorneys Motley played a role in all of the major school segregation cases. She helped write the briefs filed in Brown v. Board of Education, 1954, and she personally tried the cases resulting in the admission of James Meredith to the University of Mississippi and of Charlayne Hunter-Gault and Hamilton Holmes to the University of Georgia. In the 1950's and 1960's she argued 10 civil rights cases before the Supreme Court, winning 9. She also represented such luminaries as Dr. Martin Luther King and the Reverend Ralph Abernathy.

In 1964 Motley became the first Black woman elected to the New York State Senate and in 1965 she became the first woman elected to be president of the Borough of Manhattan. In 1966 she was named U.S. District Judge, the first African-American woman to be appointed to the federal bench. Her nomination was approved only after months of fierce political opposition; President Lyndon Johnson had been forced to withdraw his earlier nomination of Motley to the Court of Appeals for the Second Circuit.

Constance Baker Motley is the author of dozens of articles on legal and civil rights issues, including several personal tributes to Thurgood Marshall. She has received honorary doctorates from Spelman College, Howard, Princeton, and Brown Universities, and from many Connecticut institutions, including Yale, Trinity, Albertus Magnus, UCONN, and the University of Hartford. Among her many other awards are the NAACP Medal of Honor and her 1993 election to the National Women's Hall of Fame.

Judge Constance Baker Motley has truly been a trailblazer in the advancement of civil rights for all Americans, and a pioneer in breaking racial and gender barriers within the once homogeneous legal arenas. She is truly not only an African-American "shero," she is an American icon as well. Judge Motley leaves behind her husband of 59 years, Joel Wilson Motley, her son Joel Motley III; three sisters; a brother; and three grandchildren.

I submit to you two obituaries from the September 29th, 2005 edition of the New York Times and from the same edition of the Washington Post.

[From the New York Times, Sept. 29, 2005]

CONSTANCE BAKER MOTLEY, CIVIL RIGHTS TRAILBLAZER, DIES AT 84

(By Douglas Martin)

Constance Baker Motley, a civil rights lawyer who fought nearly every important civil rights case for two decades and then became the first black woman to serve as a federal judge, died yesterday at NYU Downtown Hospital in Manhattan. She was 84.

The cause was congestive heart failure, said Isolde Motley, her daughter-in-law.

Judge Motley was the first black woman to serve in the New York State Senate, as well as the first woman to be Manhattan borough president, a position that guaranteed her a voice in running the entire city under an earlier system of local government called the Board of Estimate.

Judge Motley was at the center of the firestorm that raged through the South in the two decades after World War II, as blacks and their white allies pressed to end the segregation that had gripped the region since Reconstruction. She visited the Rev. Dr. Martin Luther King Jr. in jail, sang freedom songs in churches that had been bombed, and spent a night under armed guard with Medgar Evers, the civil rights leader who was later murdered.

But her mètier was in the quieter, painstaking preparation and presentation of lawsuits that paved the way to fuller societal participation by blacks. She dressed elegantly, spoke in a low, lilting voice and, in case after case, earned a reputation as the chief courtroom tactician of the civil rights movement.

Gov. George C. Wallace of Alabama and other staunch segregationists yielded, kicking and screaming, to the verdicts of courts ruling against racial segregation. These huge victories were led by the N.A.A.C.P.'s Legal Defense and Education Fund, led by Thurgood Marshall, for which Judge Motley, Jack Greenberg, Robert Carter and a handful of other underpaid, overworked lawyers labored.

In particular, she directed the legal campaign that resulted in the admission of James H. Meredith to the University of Mississippi in 1962. She argued 10 cases before the United States Supreme Court and won nine of them.

Judge Motley won cases that ended segregation in Memphis restaurants and at whites-only lunch counters in Birmingham, Ala. She fought for King's right to march in Albany, Ga. She played an important role in representing blacks seeking admission to the Universities of Florida, Georgia, Alabama and Mississippi and Clemson College in South Carolina.

She helped write briefs in the landmark school desegregation case Brown v. Board of Education in 1954 and in later elementary-school integration cases.

Judge Motley was a tall, gracious and stately woman whose oft-stated goal was as simple as it was sometimes elusive: dignity for all people. Her personal approach was also dignified. When a reporter wrote that she had demanded some action by the court, she soon corrected him:

"What do you mean 'I demanded the court'? You don't demand, you pray for relief or move for some action."

Charlayne Hunter-Gault, whose admission to the University of Georgia was engineered by Mrs. Motley's legal finesse, described her courtroom cunning.

"Mrs. Motley's style could be deceptive, often challenging a witness to get away with one lie after another without challenging them," she wrote in her book "In My Place," published in 1992. "It was as if she would lull them into an affirmation of their own arrogance, causing them to relax as she appeared to wander aimlessly off into and around left field, until she suddenly threw a curveball with so much skill and power it would knock them off their chair."

As a black woman practicing law in the South, she endured gawking and more than a few physical threats. A local paper in Jackson, Miss., derided her as "the Motley woman."

In 1966, President Lyndon B. Johnson appointed her as a judge on the United States District Court for the Southern District of New York at the urging of Senator Robert F. Kennedy of New York, a Democrat, and with the support of Senator Jacob K. Javits, a Republican. The opposition of Southern senators like James O. Eastland, a Mississippi Democrat, was beaten back, and her appointment was confirmed. She became chief judge of the district in 1982 and senior judge in 1986.

Constance Baker was born on Sept. 14, 1921, in New Haven, the ninth of 12 children. Her parents came from the tiny Caribbean island Nevis at the beginning of the 20th century.

Her father worked as a chef for various Yale University student organizations, including Skull and Bones. She attended local schools in what was then an overwhelmingly white community.

One of her first experiences with discrimination came at 15, when she was turned away from a public beach because she was black.

She read books dealing with black history and became president of the local N.A.A.C.P. youth council. She decided that she wanted to be a lawyer, but her family lacked money to send their many children to college. After high school, she struggled to earn a living as a domestic worker.

When she was 18, she made a speech at local African-American social center that was heard by Clarence W. Blakeslee, a white businessman and philanthropist who sponsored the center. He was impressed and offered to finance her education.

She decided to attend Fisk University, a black college in Nashville, partly because she had never been to the South. In Nashville, she encountered a rigidly segregated society, and brought her parents a poignant souvenir: a sign that read "Colored Only."

After a year and a half at Fisk, she transferred to New York University. After graduation in 1943, she entered Columbia Law School, where she began to work as a volunteer at the N.A.A.C.P.'s Legal Defense and Education Fund, an affiliate of the National Organization for the Advancement of Colored People that Mr. Marshall and his mentor, Charles Houston, had created in 1939.

After she graduated in 1946, she began to work full time for the civil rights group at a salary of $50 a week. She worked first on housing cases, fighting to break the restrictive covenants that barred blacks from white neighborhoods.

Also in 1946, she married Joel Wilson Motley Jr., a New York real estate broker. He survives her, as does their son, Joel III, who lives in Scarborough, N.Y.; three grandchildren; her brother Edmund Baker of Florida; and her sisters Edna Carnegie, Eunice Royster and Marian Green, all of New Haven.

Mr. Marshall had no qualms about sending her into the tensest racial terrain, precisely because she was a woman. She said she believed that was why she was assigned to the Meredith case in 1961.

"Thurgood says that the only people who are safe in the South are the women—white and Negro," she said in an interview with Pictorial Living, the magazine of The New York Journal-American, in 1965. "I don't know how he's got that figured. But, so far, I've never been subjected to any violence."

Mr. Meredith's admission to the University of Mississippi in September 1962 was a major victory for the civil rights movement. Mrs. Motley worked on the case for 18 months before Mr. Meredith's name was even seen in the papers.

She made 22 trips to Mississippi as the case dragged on. Judge Motley once called the day Mr. Meredith accepted his diploma in 1963 the most thrilling in her life.

She said her greatest professional satisfaction came with the reinstatement of 1,100 black children in Birmingham who had been expelled for taking part in street demonstrations in the spring of 1963.

In February 1964, Mrs. Motley's high-level civil rights profile drew her into politics. A Democratic State Senate candidate from the Upper West Side was ruled off the ballot because of an election-law technicality. She accepted the nomination on the condition that it would not interfere with her N.A.A.C.P. work and handily defeated a Republican to become the first black woman elected to the State Senate. She was reelected that November.

She remained in the job until February 1965, when she was chosen by unanimous vote of the City Council to fill a one-year vacancy as Manhattan borough president. In citywide elections nine months later, she was re-elected to a full four-year term with the endorsement of the Democratic, Republican and Liberal Parties.

As borough president, she drew up a seven-point program for the revitalization of Harlem and East Harlem, securing $700,000 to plan for those and other underprivileged areas of the city.

After becoming a federal judge in 1966, Judge Motley ruled in many cases, but her decisions often reflected her past. She decided on behalf of welfare recipients, low-income Medicaid patients and a prisoner who claimed to have been unconstitutionally punished by 372 days of solitary confinement, whom she awarded damages.

She continued to try cases after she took senior status. Her hope as a judge was that she would change the world for the better, she said.

"The work I'm doing now will affect people's lives intimately," she said in an interview with The New York Times in 1977, "it may even change them."

[From the Washington Post, Sept. 29, 2005]

CIVIL RIGHTS LAWYER BAKER MOTLEY DIES

(By LARRY NEUMEISTER)

NEW YORK.—When she was 15, Constance Baker Motley was turned away from a public beach because she was black. It was only then—even though her mother was active in the NAACP—that the teenager really became interested in civil rights.

She went to law school and found herself fighting racism in landmark segregation cases including Brown v. Board of Education, the Central High School case in Arkansas and the case that let James Meredith enroll at the University of Mississippi.

Motley also broke barriers herself: She was the first black woman appointed to the federal bench, as well the first one elected to the New York state Senate.

Motley, who would have celebrated her 40th anniversary on the bench next year, died Wednesday of congestive heart failure at NYU Downtown Hospital, said her son, Joel Motley III. She was 84.

"She is a person of a kind and stature the likes of which they're not making anymore," said Chief Judge Michael Mukasey in U.S. District Court in Manhattan, where Motley served.

From 1961 to 1964, Motley won nine of 10 civil rights cases she argued before the Supreme Court.

"Judge Motley had the strength of a self-made star," federal Judge Kimba Wood said. "As she grew, she was unfailingly optimistic and positive—she never let herself be diverted from her goal of achieving civil rights, even though, as she developed as a lawyer, she faced almost constant condescension from our profession due to her being an African-American woman."

Motley, who spent two decades with the NAACP's Legal Defense and Educational Fund, started out there in 1945 as a law clerk to Thurgood Marshall, then its chief counsel and later a Supreme Court justice. In 1950, she prepared the draft complaint for what would become Brown v. Board of Education.

In her autobiography, "Equal Justice Under Law," Motley said defeat never entered her mind. "We all believed that our time had come and that we had to go forward."

The Supreme Court ruled in her and her colleagues' favor in 1954 in a decision credited with toppling public school segregation in America while touching off resistance across the country and leading to some of the racial clashes of the 1960s.

In the early 1960s, she personally argued the Meredith case as well as the suit that resulted in the enrollment of two black students at the University of Georgia.

"Mrs. Motley's style could be deceptive, often allowing a witness to get away with one lie after another without challenging him," one of the students, journalist Charlayne Hunter-Gault, wrote in her 1992 book, "In My Place." But she would "suddenly threw a curve ball with so much skill and power that she would knock them off their chair."

Motley also argued the 1957 case in Little Rock, Ark., that led President Eisenhower to call in federal troops to protect nine black students at Central High.

Also in the early 1960s, she successfully argued for 1,000 school children to be reinstated in Birmingham, Ala., after the local school board expelled them for demonstrating. She represented "Freedom Riders" who rode buses to test the Supreme Court's 1960 ruling prohibiting segregation in interstate transportation. During this time, she represented the Rev. Martin Luther King Jr. as well, defending his right to march in Birmingham and Albany, Ga.

Motley and the Legal Defense and Education Fund, committed to a careful strategy of dismantling segregation through the courts, were amazed by the emergence of more militant tactics such as lunch-counter sit-ins, but she came to believe that litigation was not the only road to equality.

Recalling a 1963 visit to King in jail, she remarked, "It was then I realized that we did indeed have a new civil rights leader—a man willing to die for our freedom."

Motley was born in New Haven, Conn., the ninth of 12 children. Her mother, Rachel Baker, was a founder of the New Haven chapter of the National Association for the Advancement of Colored People. Her father, Willoughby Alva Baker, worked as a chef for student organizations at Yale University.

It was the beach incident that solidified the course her life would take.

Though her parents could not afford to send her to college, a local philanthropist, Clarence W. Blakeslee, offered to pay for her education after hearing her speak at a community meeting.

Motley earned a degree in economics in 1943 from New York University, and three years later, got her law degree from Columbia Law School.

In the late 1950s, Motley took an interest in politics and by 1964 had left the NAACP to become the first black woman to serve in the New York Senate.

In 1965, she became the first woman president of the borough of Manhattan, where she worked to promote integration in public schools.

The following year, President Johnson nominated her to the federal bench in Manhattan. She was confirmed nine months later, though her appointment was opposed by conservative federal judges and Southern politicians.

Over the next four decades, Motley handled a number of civil rights cases, including her decision in 1978 allowing a female reporter to be admitted to the New York Yankees' locker room.

Motley is survived by her husband and son, three sisters and a brother.

HONORING THE 10TH ANNIVERSARY OF THE LOWER MERION CONSERVANCY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor the Lower Merion Conservancy during its 10th anniversary celebration. The Lower Merion Conservancy was formed in 1995 when the Lower Merion-Narberth Watershed Association merged with the Lower Merion Preservation Trust.

The Conservancy focuses on education, conservation and the preservation of historic resources and open space in Lower Merion Township, Montgomery County, PA. The Conservancy actively engages members of the community to participate in conservation through programs such as Stream Watch, in which individuals adopt a stream to monitor, and Bird Watch and Butterfly Watch, in which people identify and number species near their homes.

Additionally, the Conservancy has an easement program to protect Township properties and has forest restoration and native plant gardening programs. Folks from the Conservancy partner with school groups for educational programs with children, the highlight of which is the Children's Earth Day Forest. These projects emphasize to our young people the responsibility we all share to protect our natural resources.

I want to especially recognize the Conservancy's Executive Director, Mike Weilbacher. His leadership and efforts in educating the public about the environment and conservation have earned him awards from the Pennsylvania Resources Council, the Pennsylvania Wildlife Association and the Pennsylvania Alliance for Environmental Education.

I am proud to represent an organization that has spent so many years in service of our environment and our community. I wish to extend my appreciation, and that of all those who have been helped by members of the Conservancy. I encourage my colleagues to join me in saluting the Lower Merion Conservancy on reaching this milestone.

CONGRATULATING THE AGGELER FAMILY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate the Aggeler Family, the proud recipients of the 2005 Donna Greco Issa Family of the Year Award from the March of Dimes.

Following in the tradition of those families who are past recipients of this distinguished award, the Aggeler Family has a strong and passionate enthusiasm for family and devotion to community.

Mr. and Mrs. Aggeler moved from Missouri to Michigan in 1944. Soon after, they founded a lumber company, John's Lumber, in Mount Clemens. The business has been in the family for over 58 years.

John Aggeler believed if you treat people well they would continue to come back. This ideology is the foundation for the company's commitment to its community, family, and employees. Currently, the family's third generation is working for the company and continues to reside in Macomb County.

The Aggeler children have continued his legacy of commitment and outstanding service. The thread of service to others runs through their family.

Michael Aggeler is one of many Aggeler children who continues to work for the family business and is extremely active in the community. For 31 years, Michael has been a member of St Mary's S.M.A.S.H. outing. He also served for 6 years as a board member of the Michigan Lumber and Building Materials Association and is a member of the Mount Clemens Lions Club.

Mr. Speaker, I ask my colleagues to join me recognizing the Aggeler Family for their commitment to their family and employees, along with the extraordinary legacy of the service to their community. They are well deserving of the Donna Greco Issa Family of the Year Award.

IN HONOR AND REMEMBRANCE OF JESS A. BELL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Jess A. Bell, dedicated family man, community activist, business leader, U.S. Veteran, and friend and mentor to many.

Mr. Bell grew up in Cleveland, attended Baldwin Wallace College and served our country as a paratrooper during WWII and the Korean War. In 1959, he became president of the Lakewood-based Bonne Bell Inc., a company his father had started thirty-two years earlier.

Mr. Bell's unwavering integrity, concern for others, boundless energy and expansive heart, reflected within every facet of his life—from his commitment to his family, to his concern for his employees, to his social activism on behalf of charitable causes. He blazed a trail of opportunity for all when he became one of the only business leaders in America to initiate a program to hire senior citizens, some of them in their nineties. Many companies have since followed in his path, realizing the significant contributions offered by older Americans.

Always focused on the health and well-being of his employees, Mr. Bell, a marathon runner himself, provided on-site exercise facilities and offered financial incentives for employees who took personal responsibility for their physical health. In 1970, he founded the American Heart Association's Cleveland Heart-A-Thon. He also led the effort to establish a tennis tournament between the United States and Australia that served to promote the development of girls' junior tennis programs.

Mr. Speaker and colleagues, please join me in honor and remembrance of Jess A. Bell. Please also join me as I offer my deep condolences to his wife of 51 years, Juliana; his children, Julie, Buddy, James and Joe; his 14 grandchildren; his sister Bonne, and his extended family and many friends. Though he will be greatly missed, the joyous legacy of his life, framed by kindness, energy and an unwavering focus on lifting the lives of others, will live on forever within the hearts of his family and friends, and within the spirit of our entire community.

A TRIBUTE TO ROBERT WASH

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. COSTA. Mr. Speaker, I rise today to honor the memory of Robert M. Wash of Fresno, California. He is survived by his two sons John and Thomas, and daughter Lynn.

Robert Wash was a respected member of our community and his memory will be forever cherished. He was born to Henry and Effie Wash on May 27, 1908 and grew up in Fresno County. His family instilled in him the qualities of character with which he touched so many lives.

Upon graduation from Caruthers High School, Mr. Wash attended the University of California, Berkeley; where he graduated with a degree in Economics. Ever the dedicated student he continued his education at Boalt Hall and passed the California State Bar Exam. He pursued his passion for law by becoming a prosecuting attorney in the District Attorney's office for several years. In 1950, he was appointed Fresno County's first County Counsel. He retired from the position in 1978, after serving as County Counsel for 28 years. In 2001, Robert Wash received the highly prestigious Bernie E. Witkins Lifetime Achievement award from the Fresno County Bar Association.

Mr. Wash was not only a dedicated employee he was also an active community participant. He was a member of the Fresno Rotary Club, Fowler Friday Evening Club, Garden of the Sun Corral of the Westerners International and the San Joaquin Civil War Roundtable.

Robert Wash had a passion for history that he expressed through his amazing writing. His vast knowledge of the area's history and his love of the subject was projected through his writings. Many of the historical markers in Fresno County are inscribed with his words. He was the President of the Fresno County Historical Society and played the role of Confederate President Jefferson Davis at the Civil War Reenactment ceremonies on several occasions.

Aside from being an accomplished writer and making incredible professional achievements, Robert Wash was a beloved family man. He is described as being a good man who took care of his family.

Robert Wash was his Family's hero and will continue to be appreciated by his community.

CONGRATULATIONS TO DEERLAKE MIDDLE SCHOOL IN TALLAHASSEE, FLORIDA

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BOYD. Mr. Speaker, I would like to take this opportunity to congratulate Deerlake Middle School, home of the Bucks, in Tallahassee, Florida for receiving the Blue Ribbon School award under the No Child Left Behind program. This award is certainly a testament to the quality of education this school provides and to the hard work the administrators, faculty and students have done to be one of only thirteen schools in the entire state to win this award.

Many identify No Child Left Behind with efforts to improve failing schools. However, schools like Deerlake that go above and beyond what is required by the law should not be forgotten. I am extremely proud of not just the students who worked so hard, but also the faculty and administrators whom spent so many hours helping the students become better citizens through education.

Deerlake Middle School is a model of excellence that will serve as an example to every Middle school throughout the United States. This school has proven that through hard work and dedication, academic success is not out of reach for any student.

Therefore, I ask every member to please, join with me in congratulating the children and teachers of Deerlake Middle School who have worked so hard to achieve their goal. I would also like to congratulate Principal Jackie Pons and Assistant Principals Gwendolyn Lynn Williams and Shane Syfrett for providing this level of excellence.

The future of this country depends on the success of our education system. As the Representative of Tallahassee Florida, I am honored and proud to be on the floor today speaking about such students and the parents who support them everyday.

PRIME MINISTER P.J. PATTERSON'S REMARKS AT CONGRESSIONAL BLACK CAUCUS AWARDS DINNER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RANGEL. Mr. Speaker, I rise today to acknowledge the eloquent remarks made by the Honorable P.J. Patterson, Prime Minister of Jamaica as he accepted the Charles Diggs Award for International Service from the Congressional Black Caucus as part of our Annual Legislative Conference Awards Dinner on Saturday September 24, 2005. His acceptance speech reached beyond words of gratitude, to encompass a stirring statement of the basis for the commonality of people throughout the African Diaspora. Prime Minister Patterson inspired us with his words to promote enlightenment, encouragement, unity and brotherhood. In his address he reminded us of the shared histories and experiences of Blacks in the Americas and across the globe. He showed how those who survived the Middle Passage were indeed part of a larger family of shared experience. Prime Minister Patterson illustrated the common experiences of poverty, neglect and misrepresentation that affected the social status of Africa and its descendants of the Diaspora alike. His message showed that the neglectful actions of federal, state, and local governments following Hurricane Katrina were a microcosm of the global experience of blacks everywhere in the world. He gave us hope that through this shared history, we have a common foundation from which we as one people regardless of nation, or geographic location can stand on to fight injustice around the world, especially since those of African descent suffer most from the injustices.

Mr. Patterson also reminded and encouraged us as public officials and as citizens of the world to continue the fight for what we vowed to do, fight for justice on the local, national and international levels. He reminded us in the African American community that we are not alone in our struggle for justice and equality. We are part of a global struggle to bring empowerment to those who are poor and oppressed around the world and that we must take courage from our faith that what is right will prevail. We all have to engage all our energies and intellects in the struggle to build the national and global framework where marginalized groups, industrialized countries, and developing nations alike have an equal voice in the determination of how best we protect and share the resources of not only our country and others alike, but our planet as well.

Prime Minister P.J. Patterson and his words of hope and optimism were a breath of fresh air to his audience during such despondent and confusing times. He gives direction where there is seemingly none, and he makes sense out of a seemingly senseless world. Thank you, Mr. Patterson for your words of encouragement and hope, and for exhibiting much courage and strength during a time when the world needs leaders with such characteristics. The citizens of Jamaica are truly blessed to have a leader like you, to guide them successfully into the future and we are as a people are fortunate to have you as part of our African family.

I submit the transcript of Prime Minister Patterson's acceptance speech given on Saturday September 24, 2005 to the Congressional Black Caucus' Annual Legislative Conference Awards Dinner to the CONGRESSIONAL RECORD.

Over a period of two centuries, some fifteen million young Africans were crowded into slave ships, propelled by the winds that sweep the Atlantic at this time of year.

Family victims of the pernicious system of slavery were separated forever according to the dictates of the plantocracy in the Caribbean, North, Central and South America.

So, no matter in what country we now reside, we are indeed one big family, one people. We are all descendants of those who survived the Middle Passage.

Once again, I express the deepest sympathy of the government and people of Jamaica to everyone who lost a relative or friend and to all who suffered the traumatic experiences and material losses of Hurricane Katrina.

It is appropriate to underscore our special empathy with our kith and kin, who by all accounts, suffered the greatest loss from these catastrophes.

I cannot overlook the disdain manifest to the plight of the poor in Louisiana and the weakness in the early response to the devastation, so arrogantly described as a Third World situation.

No one can dispute the fact that the African American influence on the culture and vibrancy of New Orleans is the most pervasive, has giving heart and soul to this unique city.

HONOURED

Tonight, I am honoured to receive this high and special award of the Congressional Black Caucus Foundation.

I do so with a sense of humility, yet gratified that my efforts have received the recognition of such a distinguished organization.

I do so on behalf of my colleagues who serve with me in the Caribbean and, as incumbent Chairman of the Group of 77 and China, a Group which embraces every sovereign nation on the Mother Continent of Africa.

Many decades ago, Marcus Mosiah Garvey implored us to redress the inequities of our history and change irreversibly the cruel imbalance that our people have suffered in the economic arena and social development, at both the global and domestic levels.

We are yet to complete that mandate.

The uphill climb we face, likening us once to children of Sisyphus, must not deter us.

To quote Maya Angelou: "History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again."

BUILDING A JUST WORLD

It has been my passionate resolve throughout my public life to engage all my energies and my intellect in the struggle to build the global framework where industrialized countries and developing nations alike have an equal voice in the determination of how best we protect and share the resources of the only planet where human life exists;

That we recognize there can be no lasting peace so long as a few seek to perpetuate political and social dominance to the detriment of those who have been marginalized far too long.

Injustice anywhere threatens justice everywhere.

Why should we continue to spend trillions of dollars and devote so much of our professional and technical skills to making armaments and weapons of mass destruction when people are dying of hunger, when lives are cut short by malaria, tuberculosis, HIV/AIDS and infectious diseases?

Wherever we operate, in the political sphere, no matter what continent or island, let us recognize that the prevention of genocide, the successful fight against terrorism, the preservation of our global environment are imperatives.

ONE HUMAN RACE

I see my brothers and sisters in the CBC as stalwart partners in the struggle to promote economic self-reliance, democratic governance and social upliftment to fulfill the needs of our citizens.

Together we must continue to strive for unity of purpose and action among us. We seek together to fashion a single World which we can inhabit and where, irrespective of gender, age, religious creed, or colour, we can all live in harmony together, because we all belong to the human race.

I congratulate you for all you are doing to nurture our confidence in ourselves. I congratulate the Foundation for this evening's splendid and unforgettable ceremony.

In closing, let me quote from Genesis:

"Behold they are one people, and they all have the same language. And this is what they began to do, and now nothing which they purpose to do will be impossible for them. [Genesis 11:6]."

May the Almighty continue to guide and bless us all.

CONGRATULATING COMMISSIONER NANCY WHITE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate Commissioner Nancy White, who is the recipient of the 2005 Alexander Macomb Woman of the Year Award from the March of Dimes.

Nancy White has dedicated her life to educating and improving her community. After Mrs. White received her Bachelor's degree from Michigan State University and her Master's degree from Wayne State University, she began her 22-year career in the Fraser Public School District. She served as a teacher, counselor, and coach.

In 1992, Mrs. White was elected by the people of Fraser and southern Clinton Township as their representative on the Macomb County Board of Commissioners. Since then, she has dedicated the last seven years to the County Board. Her strong leadership was recognized by her fellow board members and she was elected in January 2005 to serve a two-year term as chair of the Macomb County Board of Commissioners.

Mrs. White is committed to efficient and responsive County government. She lives out this commitment by creating a Strategic Visioning Task Force, a forum for Mayors throughout the County and endeavoring to work on a bipartisan basis. She was the Co-Chair of a County-wide effort to defend the County's military installations in the recent BRAC process. She has traveled to the Middle East on a trade mission with other government and business leaders from Southeastern Michigan.

Mrs. White's excellent leadership skills are not only utilized on the Macomb County Board of Commissioners. She served as chair of the Macomb County Community Mental Health Board and co-chair of the Clinton Township American Red Cross Blood Drive.

In 2002, the community acknowledged Mrs. White's leadership and commitment. She was awarded The Woman of Distinction Award from the Girl Scouts of America for her many outstanding contributions as a mentor and community leader.

Mr. Speaker, I have been honored to work in collaboration with Mrs. White over a number of years and to see first hand her commitment and devotion to improving communities throughout Macomb County. I ask my colleagues to join me in congratulating Commissioner Nancy M. White as she receives this distinguished award.

ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CYPRUS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mrs. MALONEY. Mr. Speaker, I rise today to honor the 45th Anniversary of the Republic of Cyprus. It was on October 1, 1960, that Cyprus became an independent republic after decades of British colonial rule.

I am very fortunate and privileged to represent Astoria, Queens—one of the largest and most vibrant communities of Greek and Cypriot Americans in this country. Among my greatest pleasures as a Member of Congress are participating in the life of this community and the wonderful and vital Cypriot friends that I have come to know.

As a full-fledged member of the European Union, Cyprus is playing a vital role in European affairs while also strengthening relations with the United States. On July 25, the United States and the Republic of Cyprus signed a reciprocal Proliferation Security Initiative (PSI) Ship Boarding Agreement, which is aimed at preventing the proliferation of weapons of mass destruction. Cyprus was the first EU member to sign this agreement. Earlier this month Cyprus became a signatory to the International Convention for the Suppression of Acts of Nuclear Terrorism. Finally, in the wake of Hurricane Katrina, Cyprus offered both its condolences and assistance to the victims of this horrible disaster.

I am saddened that the commemoration of Cyprus' Independence Day this year, as in the past, is clouded by the fact that Cyprus continues to be illegally occupied by the Turkish military forces, in violation of U.N. Security Council resolutions. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops. However, I remain hopeful that an end to this division will be achieved.

Cyprus and the United States have a great deal in common. We share a deep and abiding commitment to democracy, human rights, free markets, and the ideal and practice of equal justice under the law. Despite the hardships and trauma caused by the ongoing Turkish occupation, Cyprus has registered remarkable economic growth, and the people living in the Government-controlled areas enjoy one of the world's highest standards of living. Sadly, the people living in the occupied area continue to be mired in poverty.

I am encouraged that since the Turkish occupation regime partially lifted restrictions on freedom of movement across the artificial line of division created by Turkey's military occupation, hundreds of thousands of Greek Cypriots and Turkish Cypriots have crossed the U.N. ceasefire line to visit their homes and properties or areas of their own country that were inaccessible to them for nearly 30 years. The peaceful and cooperative spirit in the person-to-person, family-to-family interactions between Greek Cypriots and Turkish Cypriots bodes well for the successful reunification of Cyprus.

In the times we are facing, it is clear that divisions among people create harmful, destructive environments. We must find a peaceful solution to the Cyprus problem. The relationship between Cyprus and the United States is strong and enduring, and we stand together celebrating democracy and freedom.

THE SOCIAL SECURITY COLA PROTECTION ACT

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. HERSETH. Mr. Speaker, before I was elected to the House of Representatives, I made a promise to thousands of seniors in South Dakota that, if they would send me to Washington, I would fight for them, stand by them, and make their voice heard. To help keep that promise by protecting the retirement income of nearly 100,000 South Dakotans from rising health care costs, the "Social Security COLA Protection Act" was the first piece of legislation I introduced upon my arrival.

Today, I am reintroducing the "Social Security COLA Protection Act" because the situation facing seniors in South Dakota and around the country is just as dire today as it was a year ago.

For retirees who depend on Social Security benefits to live, the only defense against increasing prices for food, clothing and energy is an annual cost-of-living adjustment, or COLA. However, rising Medicare premiums are diminishing the purchasing power of this yearly increase in benefits.

Over the last 5 years, monthly Medicare Part B premiums have nearly doubled. On September 16th, the Centers for Medicare and Medicaid Services announced that Medicare beneficiaries will pay an additional 13 percent out of their Social Security checks in 2006. This marks the third consecutive rise of more than 10 percent and exceeds the 12 percent increase Medicare's trustees predicted in March. Every dollar that goes toward rising Medicare premiums is one less South Dakota's seniors can use to pay for groceries or utility bills.

We're not wealthy in South Dakota. Retirees in South Dakota clip coupons. They put off buying the things they need. They live modestly because that is what they must do to get by. It is no exaggeration to say that retirees in South Dakota need every penny of their COLA. Not just so they can maintain a basic standard of living—but so they can live with dignity.

My legislation protects retirees by ensuring that no more than 25 percent of their COLA can be absorbed by the increase in Medicare premiums. Next year, it would protect 100,000 South Dakotans who otherwise would see their scarce dollars taken from food, clothing and other essential purchases. For those who depend on Social Security to pay their bills, this legislation will help them save enough to buy new clothes, extra medicine or just a plane ticket to visit the grandchildren.

Last Congress, my legislation had the support of 116 members of the House and of prominent advocacy groups for seniors such as the National Committee to Preserve Social

Security and Medicare, the Alliance for Retired Americans and Families USA. I hope that Congress will take up and pass this legislation quickly, because the need for it is real and immediate.

This fall, just as Medicare premiums go up, temperatures in South Dakota will be going down. Seniors will sit at their kitchen tables, reading through the bills, and they may wonder yet again how they are going to make it through the month. We owe it to them to do better. I will work to see that we will.

FREEDOM FOR VIRGILIO MARANTA GUELMES

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to speak about Virgilio Maranta Guelmes, a political prisoner in totalitarian Cuba.

Mr. Maranta Guelmes is a pro-democracy activist and a delegate of the 24th of February Movement. The movement is named for both the commencement of the glorious Cuban War of Independence in 1895, and the day in 1996 when two civilian aircraft carrying four members of the Brothers to the Rescue movement were shot down over international waters by the Cuban dictatorship's fighter jets. The 24th of February Movement desires and struggles for freedom in Cuba.

Because of his belief in freedom and democracy, Mr. Maranta Guelmes has been a constant target of the tyrant's machinery of repression. According to Amnesty International, he was arrested and imprisoned in the totalitarian gulag on December 6, 2002. On May 19, 2002, he was again detained and interrogated by the dictatorship. In that interrogation, he was told to abandon his activities with the 24th of February Movement.

Mr. Maranta Guelmes, knowing full well the heinous repression that awaited him if he continued to advocate for freedom for the people of Cuba, never wavered in his convictions. Unfortunately, on May 18, 2004, in a sham trial, Mr. Maranta Guelmes was sentenced to 3 years in the totalitarian gulag.

Let me be very clear, Mr. Maranta Guelmes is locked in a dungeon because he desires freedom for Cuba. The U.S. State Department describes the conditions in the gulag as, "harsh and life threatening." The State Department also reports that police and prison officials beat, neglect, isolate, and deny medical treatment to detainees and prisoners.

Mr. Speaker, it is unconscionable that anyone, anywhere, is imprisoned in sub-human gulags simply for their belief in truth, freedom and democracy. At the dawn of the 21st century, mankind must no longer tolerate prisoners of conscience in any form, in any place, in any country. My colleagues, we must cry out for the immediate and unconditional release of Virgilio Maranta Guelmes and all prisoners of conscience in the totalitarian Cuba.

TRIBUTE TO DR. PAUL PEPE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I would like to talk today about a remarkable, courageous man who has dedicated himself to improving the lives of those around him. Dr. Paul Pepe is a fine member of my home community of Dallas, Texas, and I am proud to announce that he has been recognized for his contribution in emergency medical services from the American College Emergency Physicians. The award, presented by U.S. Surgeon General Richard Carmona in Washington, D.C. on Monday, September 26, 2005, recognized Dr. Pepe for his achievements during a 30 year career that included education and service to numerous city, state and federal agencies.

Dr. Pepe, a protégé of Drs. Leonard Cobb and Michael Copass from the University of Washington in Seattle, may be best known as one of the lead authors of the initial 1991 American Heart Association publications.

Dr. Pepe co-authored a comprehensive Early Childhood Center curriculum for K through 12 school children, and he championed statewide training of middle school students using high school seniors as instructors in both CPR and automated external defibrillator use. In addition, he helped to forge the exact language and subsequent passage of one of the most liberal Good Samaritan Laws ever enacted in any state regarding AED use by bystanders. Translating all of these ambitious CPR initiatives into major media events—and ultimately thousands of lives saved—Dr. Pepe has been labeled in some educational circles as a "Mentor to Millions."

Dr. Pepe has been a longstanding member of the National Advanced Cardiac Life Support and Basic Life Support committees of the American Heart Association. He has also served on national ad hoc committees for various AHA activities including its upcoming National Mass CPR Training Day initiative.

In addition to his AHA duties, Dr. Pepe also serves as the Emergency Medicine and Trauma Consultant to such diverse entities as the White House Medical Unit, ABC News and the National Basketball Association Trainers. Most recently, he trained the U.S. Surgeon General, Dr. David Satcher, and several dozen of his highest ranking senior staff members in CPR and AED use.

A ubiquitous and popular world-wide lecturer and author of hundreds of published scientific papers and abstracts, Dr. Pepe has been featured routinely in many network and prime-time broadcasts. He has won multiple health policy, community service, academic and professional society awards, both here and abroad, and he has provided consultation for multiple foreign governments regarding the coordination of emergency health services.

Dr. Pepe is a dedicated community servant, activist, and leader. He is a tremendous asset to Dallas, and through his tireless work, my home town has become a better place to live and a safer place to grow up. I am proud to join his family, his colleagues and the North Texas community in congratulating Dr. Pepe on a job well done.

LANCE CORPORAL JOSHUA BUTLER

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. SHUSTER. Mr. Speaker, I rise today to recognize and distinguish one of America's finest—United States Marine Lance Corporal Joshua Butler of Altoona, PA. Butler, who dreamed of being a U.S. Marine since he was four years old, protected hundreds of his fellow comrades from suicide bombers mounting an attack with trucks, explosives and no regard for human life.

Butler was stationed in Iraq along the Syrian border, and while guarding the base's perimeter from a lookout tower his post was attacked. Butler sprayed the first suicide bomber with 20 or 30 rounds causing him to veer off at the last moment to miss his target. The truck, filled with explosives and manned by a suicide-mission insurgent, crashed through the improvised barrier the Marines had built up along the edge of the base. After being knocked down by the blast, Lance Corporal Butler remained focused, alert and ready. Through the smoke of the blast, he saw a red, suicide-driven fire engine coming toward the base. Butler fired 100 rounds onto the vehicle. After the truck was hit by a grenade, launched by Pfc. Charles Young, its explosives were detonated outside of the base but within 50 yards of Butler. Debris from this blast sprayed the length of 4 football fields and knocked down soldiers as far as 200 yards away. But no Marines were seriously hurt, including Butler.

Lance Corporal Butler's actions saved the lives of hundreds of his fellow Marines and marked a significant victory against the insurgents in Iraq. The suicide bombers mission was thwarted by Butler's courageous and timely reaction. An estimated 21 insurgents were killed that day while 15 were reported wounded.

Lance Corporal Butler—You are a U.S. Marine and a hero, and across the country Americans are proud of your leadership. Thank you for serving when your nation called.

A TRIBUTE TO THE LIFE OF APRIL RENETTA LOVE

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the life of April Renetta Love of Hope, Arkansas. April was born on May 1, 1985 in Texarkana and passed away this month in Fayetteville, Arkansas. I wish to recognize her life and achievements.

A 2003 honors graduate of Hope High School, April was a junior at the University of Arkansas and was majoring in Political

Science, Communications, and African-American Studies.

April was extremely active in a wide array of campus organizations at the University of Arkansas. She was a member of Alpha Kappa Alpha sorority, the Order of the Eastern Star Youth Fraternity and Young Democrats. Her interest in politics extended beyond campus and she spent the summer of 2005 interning for the Congressional Black Caucus in the nation's capital, when I had the privilege of meeting this bright and talented young woman. April was also an accomplished musician and served as the church pianist for seven years.

April will forever be remembered for her contagious smile, her leadership and for her commitment to furthering her education. My deepest condolences go out to her parents, Ira and Magic Love; her sisters, Bridget and Crystal; her brother, Stephen; and her grandparents. April's legacy and spirit will live on in those whose lives she touched.

REMARKS ON RYAN WHITE CARE ACT REAUTHORIZATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. ENGEL. Mr. Speaker, tomorrow, Congress will stand by and allow the Ryan White CARE Act to expire. While this does not signify the end to the program, it does underscore our responsibility to conduct hearings and vote on its soon overdue reauthorization. We must act swiftly to ensure that this landmark program, which provides lifesaving treatment to more than half a million persons living with HIV/AIDS each year, be strengthened to meet the changing needs of their care.

New York City has always had a special respect for the opportunities the Ryan White CARE Act affords the city in serving the needs of our HIV/AIDS population. New York City comprises three percent of the nation's population, but more than 16 percent of the nation's AIDS cases. As of December 31, 2003, there were 142,085 cumulative AIDS cases in NYC, and 88,479 City residents diagnosed as Persons Living With HIV/AIDS. Although Ryan White CARE Act is widely considered the payer of last resort for people with HIV/AIDS, it fills much of the void in providing treatment and support services for those who either are uninsured or underinsured, without the necessary resources to access desperately needed care.

We must do better by CARE Act funding. This program has been virtually flat funded for years, and its AIDS Drug Assistance Programs (ADAP) only received a ten million dollar increase in this year's House Labor-HHS bill. Many very low-income people continue to be shut-out from ADAP programs due to states' varying income eligibility levels, which can range from 125 percent to 500 percent of the Federal Poverty Level. Without early, aggressive treatment people living with HIV/AIDS can experience rapid and often irreversible disease progression. Additionally, if care is interrupted drug resistance can develop, which compromises their ability to properly control their health. Now, more than ever, the President should release emergency ADAP funding to help host states care for the estimated 8,000 victims of Hurricane Katrina, who have been displaced from their homes and networks of care.

The President's Principles for Ryan White CARE Act Authorization include some troubling provisions which could have devastating results for communities' ability to provide consistent, appropriate care for persons living with HIV/AIDs. The proposed Severity of Need for Core Services Index will change funding formulas to take into account the availability of other resources, like state and local funding streams. This is bad public policy as it punishes states that have taken responsibility for their local HIV care and creates a powerful disincentive for other states to prioritize funding for HIV funding in future years, if they think the federal government will just cover the gap. No state spends more than New York does to care for its residents with HIV and AIDS—over $3 billion last year. New York has always viewed this funding as a partnership between the state, cities and federal government and should not lose out on future federal funding for being at the forefront of providing progressive services and treatment.

Secondly the President's proposal for a minimum of 75 percent of Ryan White CARE Act funding to be spent on core medical services should be seriously revisited. While there is no question that appropriate funding should be directed towards medical care, localities that benefit from comprehensive state funding for medical care, might better serve patients with using the funding for transportation to medical visits, emergency housing assistance for homeless patients, and other key services. This hard number fails to reflect the different resources that cities like New York utilize to care for their patients, and the changing needs of the HIV/AIDS patient population.

As a member of the Energy and Commerce Committee, I look forward to holding hearings on the reauthorization of the Ryan White CARE Act. We must work together with the Senate to strengthen and preserve the foundation of the Ryan White CARE Act program with the compassion and thoughtful consideration it deserves.

ANNIVERSARY OF THE 19TH AMENDMENT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KILDEE. Mr. Speaker, I rise before you today to celebrate a true milestone in our Nation's history, the 85th anniversary of our Constitution's 19th amendment, guaranteeing that "the rights of citizens to vote shall not be denied or abridged by the United States or by any State on account of sex."

The efforts of pioneers in the fight for women's suffrage such as Susan B. Anthony, Alice Paul, Lucretia Mott, and Elizabeth Cady Stanton, served not only to advance women's rights, but also promoted equality for all Americans.

I would also like to acknowledge the contributions made by Business and Professional Women/USA during the suffrage movement, most notably the organization's oldest Michigan chapter, located in Saginaw. These women were dedicated to protecting and defending human dignity. Those beliefs remain today with the current members of BPW, who continue to strive for the betterment of women in society.

Mr. Speaker, I ask my colleagues in the 109th Congress to please join me in recognizing the 85th anniversary of the 19th amendment to the Constitution. It has helped make our country a better place in which to live.

INTRODUCING THE PUBLIC HEALTH AND ENVIRONMENTAL EQUITY ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today with my good friend, Representative HILDA SOLIS, and Senators KERRY and DURBIN to introduce the Public Health and Environmental Equity Act.

It has been 5 weeks since Hurricane Katrina devastated the lives and landscapes of the gulf coast region. The floodwaters that ravaged Louisiana, Alabama, and Mississippi in the last month have finally begun to recede and America and the world have become all too aware of the losses suffered by the citizens of these areas. They have lost family and loved ones. Most have lost homes, jobs, and businesses. And in their greatest hour of need, they were left abandoned and forgotten. Our own President was forced to admit the shortcomings of the so-called "relief" effort.

While nothing can ever make up for the misery endured in the first days of the storm, there is plenty we must do to alleviate additional harm as rebuilding begins. Understandably, residents are anxious to get back to their homes and to their lives. Anxious contractors with a different agenda have vowed that such a mission can be fulfilled sooner rather than later. They want us to believe that homes, buildings, and schools fully submerged from weeks of raw sewage, pesticides, solvents, decaying corpses, and teaming with mold will magically become clean and safe to move into.

How will they accomplish such a feat? Their plan: Have the EPA completely waive every environmental mandate that has protected us for 35 years. Simply put, this means that anyone involved in Katrina rebuilding will be allowed to dump where they want, pollute where and when they want, and contaminate for as long as they want. It's a quick-but-dirty solution for cleanup and reconstruction with no regard for maintaining clean air, water, or soil. Once in place, environmental loopholes attributed to Katrina recovery in the gulf region will also be the excuse for any company to create toxic breeding grounds anywhere in the country. Your backyard could be next.

Mr. Speaker, waiving these long-standing environmental regulations is an irresponsible and unconscionable way to jump-start the rebuilding process. What we'll end up with are toxic residues that will sicken these communities for years to come. Residents who return to their homes under such EPA waivers will face a lifetime of illness and uncertainty about the water they drink, the air they breathe, and the soil they walk on every day. Failure to fully implement current environmental health and safety regulations jeopardizes every human and ethical standard we claim to hold dear. Loosening these environmental safeguards will further victimize those still struggling to regain their lives.

We know what Katrina's victims look like; we know their income level; and we know why they've been ignored. To roll back highly regarded environmental protections will add insult to an already festering injury of racial and social injustices. The citizens of the gulf coast want the same things the rest of America strives for—a safe place to live, work, and raise their families. They expect their elected officials to uphold laws that secure these basic necessities. They deserve our assurances and our actions that the value of their lives are no longer a back burner issue.

Katrina's victims already survived the worst natural disaster in modern American history. They've already survived a relief effort that can only be described as shameful. Why on earth would we create a man-made catastrophe and tell them it's in their best interest?

The resolution which we are introducing today makes Congress's commitment clear and obvious that we do not believe that Katrina—or any other natural disaster—should be used to justify rolling back and completely waiving environmental regulations. I ask for our colleagues' support and urge the House to move this resolution swiftly.

CONGRATULATIONS TO THE FRANK C. LEAL ELEMENTARY SCHOOL UPON BEING NAMED A NATIONAL BLUE RIBBON SCHOOL OF EXCELLENCE

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, on September 22nd, the Frank C. Leal Elementary School of Cerritos was awarded the distinct honor of being named a National Blue Ribbon School of Excellence. Frank C. Leal Elementary joins 33 other public schools and seven additional private schools in the State of California who have also been named National Blue Ribbon Schools of Excellence. I commend the efforts of each and every one of these outstanding California schools.

The Blue Ribbon Schools is a national recognition program sponsored by the U.S. Department of Education. The 22-year-old program encourages states to nominate public and private kindergarten through grade twelve schools that are either academically superior or demonstrate dramatic gains in student achievement.

This Blue Ribbon distinction duly recognizes the level of excellence that is achieved everyday at Frank C. Leal Elementary School of Cerritos. This school is setting a national example of what it takes to be a superior learning environment. It is absolutely essential that our schools continue to strive for excellence, if we want our students to realize their academic potential.

Frank C. Leal Elementary School is a visual and performing arts magnet school, and is a testament to the impact that an arts education can have on a student's academic achievement. I commend the hard working teachers and school administrators of Frank C. Leal Elementary School of Cerritos for their contributions and commitment to our young people. I also would like to recognize the parents and our community for supporting the Frank C. Leal Elementary School's efforts to help every child reach their full potential.

Education has always been tied to the promise of equality and opportunity for all and the ABC Unified School District and the community of Cerritos have worked hard to give every student an equal chance to succeed. Congratulations to the Frank C. Leal Elementary School of Cerritos and the ABC Unified School District for this incredible achievement!

A PROCLAMATION RECOGNIZING THE CAPITOL PURSUIT DRIVE

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. MCKEON. Mr. Speaker:

Whereas, the American League of Lobbyists and Men's Wearhouse, have created the annual Capitol PurSuit Drive and through their efforts to help citizens in Washington D.C. and nationwide to obtain employment; and

Whereas, The 2nd Annual Capitol PurSuit Drive event will be held on October 5 from 10:00 a.m.–2:00 p.m. in the Rayburn Foyer; and

Whereas, the American League of Lobbyists and Men's Wearhouse, should be commended for their excellence in service to the local community for their unwavering dedication to helping individuals acquire the necessary skills and attire to pursue a career; and

Whereas the First Annual Capitol Pursuit Drive successfully collected over 7,000 suits as tax deductible donations in under four hours on Capitol Hill and the recent events in the affected Gulf Coast region have created an additional need by displaced residents.

Therefore, I join with Members of Congress and their staff in honoring and congratulating the Capitol PurSuit Drive for its outstanding mission and efforts.

PERSONAL EXPLANATION

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. POE. Mr. Speaker, due to preparations for Hurricane Rita in my district, I unfortunately missed the following votes on the House floor on Friday, September 22, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yea" on rollcall vote No. 488 (Sauder Amendment to H.R. 2123), 489 (Stearns Amendment to H.R. 2123), 491 (Musgrave Amendment to H.R. 2123), 492 (Boehner Amendment to H.R. 2123), and rollcall vote No. 493 (Final Passage of H.R. 2123, School Readiness Act). I strongly support these amendments and the bill because they take important steps to prepare children for success in school.

I also ask that the RECORD reflect that had I been able to vote that day, I would have voted "nay" on rollcall vote No. 490 (Davis (D–IL) Amendment to H.R. 2123).

REMEMBERING THE LIFE OF JUDGE CONSTANCE BAKER MOTLEY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to remember and honor the invaluable contributions of Judge Constance Baker Motley. She died of congestive heart failure at NYU Downtown Hospital in New York City yesterday at the age of 84. Judge Motley was a woman of many firsts and true pioneer in the civil rights struggle.

Judge Motley was a woman with numerous accomplishments. She helped write briefs in the groundbreaking Brown vs. Board of Education case in 1954 and she headed a legal campaign that opened admission at the University of Mississippi to James Meredith in 1962. Meredith was the first African American student to attend that school. By the time he graduated in 1963, Constance Motley had made 22 trips to Mississippi on behalf of the case. Later that year, she helped 1,100 black children be reinstated in Birmingham after they were expelled for taking part in a demonstration. Judge Motley also served as the first black woman in the New York State Senate in 1964 and the first woman borough president for Manhattan.

In 1966, Judge Motley was sworn in by President Lyndon Johnson as the first African American woman to serve as a federal judge. She ruled on a number of cases that dealt with everything from discrimination in housing to denial of benefits to Medicaid recipients to prisoners who had been unconstitutionally confined to solitary confinement for more than a year.

Her aspiration for what she termed as "dignity for all people" emerged early. Constance Motley was the ninth of twelve children born to parents from the small Caribbean island of Nevis. At the age of 15, she was not allowed onto a public beach because she was black. It was then that she began reading all she could about black history. She later became president of her N.A.A.C.P youth council.

Three years later, Clarence W. Blakeslee, a white philanthropist, heard Constance Motley giving a speech at an African-American social center. He was so moved by her stately oration that he offered to finance her aspirations for a law degree.

Judge Motley attended Fisk University in Nashville, my alma mater, then transferred to New York University. In 1946, she graduated from Columbia School of Law and become a volunteer at the N.A.A.C.P.'s Legal Defense and Education Fund, which had been founded by Thurgood Marshall.

Known for her dignified manner and quiet approach, Judge Motley was highly regarded as an extraordinary legal tactician. It was also one of the reasons Thurgood Marshall felt that she could be so effective during the Meredith case in 1961. Of the ten cases she argued before the Supreme Court, Judge Motley won nine. She continued to work tirelessly on a variety of civil rights cases. One of the most recent cases included her decision in 1978 allowing a female reporter to be admitted to the New York Yankees' locker room.

Mr. Speaker, Judge Constance Baker Motley was a brilliant advocate for the legal rights of all people. In her autobiography Equal Justice Under Law, Motley said defeat never entered her mind. "We all believed that our time had come and that we had to go forward." It is with this faith that she lived, and in this spirit that she will forever be remembered.

SENATE—*Friday, September 30, 2005*

The Senate met at 9:30 a.m. and was called to order by the PRESIDENT pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, most holy, we pause at the start of our labors to praise Your name. You have provided for our needs and pleasure. You have placed us amid plenty and beauty. You have given us the majesty of the sunrise and strength for today's journey.

We find our true meaning in You. Because of You, we live, and move, and love. Your mercies are new each morning; great is Your faithfulness.

Bless our Senators in their work. Empower them to give themselves to others in a way that will honor Your name. We offer this day to You and, standing on tiptoe, listen for the whisper of Your wisdom.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business with Senators permitted to speak for 10 minutes each.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today is the last day of the fiscal year, and it will be necessary for us to consider the continuing resolution, which is at the desk. This continuing resolution is a short-term measure that will keep all functions of Government operating while we continue to work on the remaining appropriations measures.

I hope we can act expeditiously on the joint resolution, which is at the desk. I understand there may be an amendment from the other side of the aisle, and I ask Members to show restraint. We need to pass this resolution without amendment so it can get to the President for his signature by midnight tonight. If an amendment is offered, I would expect we would vote quickly on that amendment so we can then proceed to vote on the underlying continuing resolution. Members can expect a vote this morning as we complete our work on this funding measure.

ORDER OF PROCEDURE

Mr. President, I ask unanimous consent that at 9:45 the Senate turn to the consideration of H.J. Res. 68, the continuing resolution, which is at the desk; provided further that one amendment be in order to be offered by Senator HARKIN and relating to CSBG, and that the time until 10:15 be equally divided in the usual form.

I further ask unanimous consent that at 10:15 the Senate vote in relation to the Harkin amendment, and that following that vote, the resolution be read a third time, and the Senate proceed to a vote on passage of the joint resolution, with no intervening action or debate.

The PRESIDING OFFICER (Mr. THOMAS). Is there objection?

Without objection, it is so ordered.

MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2006

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.J. Res. 68, which the clerk will report by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 68) making continuing appropriations for the Fiscal Year 2006, and for other purposes.

The PRESIDING OFFICER (Mr. THOMAS). The time between now and 10:15 will be equally divided in the usual form, with one amendment to be offered by the Senator from Iowa, Mr. HARKIN.

AMENDMENT NO. 1921

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KOHL, Mr. JEFFORDS, Mr. LEVIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, and Ms. CANTWELL, proposes an amendment numbered 1921.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To continue funding for the Community Services Block Grant at no less than last year's level)

On page , at the appropriate place, insert the following:

SEC. Community Services Block Grant.

Notwithstanding section 101 of this joint resolution, amounts are provided for making payments under the "Community Services Block Grant Act" at a rate not less than the amounts made available for such Act in fiscal year 2005.

Mr. HARKIN. Mr. President, let me try to explain as briefly as I can what the House did. The House sent over to us a continuing resolution that says we will continue funding programs from last year at last year's level, or the lower of what the House had passed earlier in their budget. For most programs, that doesn't mean much.

This is a continuing resolution until when? November, November 18?

Most education money goes out next year. So for 2 months it doesn't mean it is a big deal. Two or three months—maybe through December when we will finally adjourn. However, there is one program that is deeply affected by what the House did. It is called the Community Services Block Grant Program. This money goes out quarterly. It is used quarterly. It means tomorrow the community services block grant will be cut 50 percent—not next year, tomorrow. In real dollars, this isn't some phony baloney stuff.

What is even worse—as I took the floor last night, I did not know this—in 1990, an amendment was put on and agreed to on the Community Services Block Grant Program. It is a trigger formula. It is a little bit complicated, but I will try to explain it.

It says if the total funding for a fiscal year exceeds $345 million, each State shall receive not less than one-half of 1 percent of the total amount. It protects small States. OK? However, if the funding is less than $345 million, then no State shall receive less than one-fourth of 1 percent.

Here is what the House did. Last year, it was $336 million, and the House cut it back to $320.6 million. That is the level it was at in 1986.

What does that mean for Alaska? Alaska is one of 13 States—small States—that will be cut 75 percent, not 50 percent.

Thirteen States—Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Utah, Vermont and Wyoming—are not cut 50 percent. The total allocation for those States would fall from $3,356,645 to less than $800,000.

I say to those of you who are from those 13 States, if you believe the LIHEAP Program is important in your State, you ought to pay attention to this amendment. The LIHEAP Program in Alaska, Hawaii, North Dakota, South Dakota, Utah, Vermont, and Wyoming, for all intents and purposes, will cease next week—October, November, maybe December. So small States are hurt the worst.

You might ask, What is this Community Services Block Grant Program? What are we talking about here? Who does it serve? It serves the poorest of the poor; 6.5 million Americans, 2 million children, private food banks that rely on the space, refrigerators, and transportation supported by the community services block grant and the Low Income Home Energy Assistance Program will be affected. Housing, weatherization assistance, emergency shelter, rental assistance, the food stamp programs, home-delivered meals, emergency food banks, senior day care, senior centers, foster grandparents, Head Start Programs, parenting education, domestic violence programs—all of these. That is who is served—the poorest of the poor in our country. That is who is going to be affected.

These are the programs that will be cut 50 percent, or 75 percent—not next year. This isn't phony stuff. This isn't, Oh, someone will take care of it.

Because of Hurricane Katrina, we have right now 171,000 people being served by community action agencies that get their money from the Community Services Block Grant Program. Not only do we have poverty up in America, but we have all of these people who were evacuees who are being helped. The mayor of Baton Rouge was here this week and came to see us about increasing the Community Services Block Grant Program to the community action agencies because of all of the evacuees. When they told him it was being cut by 50 percent, he couldn't believe it. He absolutely couldn't believe this was actually happening. One might say, Well, we will come back and fix it later on. Maybe we will. When? November? December? I don't know when. Think about October and think about November and early December or the end of December. People will be evicted from their homes. People will have utilities cut off. The elderly will still need transportation to the doctor, and it won't be there. It won't be there because this will be cut either 50 percent in most States or in the smaller States by 75 percent.

I refer my colleagues to two letters, one from the Ozark Community Action Agency and one from the East Missouri Community Action Agency, which were printed in the RECORD of yesterday.

I ask unanimous consent a letter from the National Governors Association be printed in the RECORD. It talks about CSBG, urging we keep it at the appropriated levels.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
June 7, 2005.

Hon. ARLEN SPECTER,,
Chairman, Subcommittee on Labor-HHS-Education, Senate Appropriations Committee, Washington, DC.

Hon. RALPH REGULA,
Chairman, Subcommittee on Labor-HHS-Education, House Appropriations Committee, Washington, DC.

Hon. TOM HARKIN,
Ranking Member, Subcommittee on Labor-HHS-Education, Senate Appropriations Committee, Washington, DC.

Hon. DAVID OBEY,
Ranking Member, Subcommittee on Labor-HHS-Education, House Appropriations Committee, Washington, DC.

DEAR CHAIRMAN SPECTER, SENATOR HARKIN, CHAIRMAN REGULA AND CONGRESSMAN OBEY: As you begin negotiations on the fiscal year (FY) 2006 Labor, Health and Human Services, and Education (Labor-HHS) appropriations legislation, we are writing to share with you the Governors' views on funding for key state programs. We appreciate that you will provide level or increased funding for many critical programs and urge you to continue to uphold the strong federal-state partnership with respect to these services. As you continue your deliberations, however, we ask for your attention to the following programs.

THE PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

We urge you to continue level funding for the Preventive Health and Health Services Block Grant at the FY 05 appropriated level of $132 million. This is one of the few grants that allow states to address their own unique health challenges in exciting and innovative ways. States have documented that investment of Block Grant dollars have resulted in improved health outcomes and in many cases significant cost savings.

BIOTERRORISM PREPAREDNESS

Bioterrorism preparedness became a priority following September 11, 2001 and the subsequent anthrax attacks that killed several U.S. postal employees and others around the country. Following these incidents, the federal government provided funds to states for strengthening their public health systems and developing surge capacity at state and local public health facilities. The fiscal year 2006 budget proposal has reduced funding in this area. In addition, funds appropriated in fiscal year 2004 and 2005 have been redirected by the Health and Human Services Department to other departmental priorities. We urge you to continue level funding for bioterrorism preparedness and to reject any future efforts by HHS to redirect and/or reprogram already appropriated federal funds for other priorities.

COMMUNITY SERVICES BLOCK GRANT

Governors are concerned with the effects that the proposed integration of the Community Services Block Grant (CSBG) with 17 other federal programs into a new community development initiative will have on the funding of CSBG. We are strongly opposed to any cuts in the funding of CSBG, which supports a broad range of federal, state, local, public and private endeavors aimed at reducing the causes and effects of poverty. We urge you to provide level funding for CSBG at the FY 05 appropriated level of $641 million.

IDEA

Governors are committed to improving the academic performance of students with disabilities. We appreciate the increased federal funding for special education that Congress and the Administration have provided states and local schools the last several years. The recently reauthorized Individuals with Disabilities Education Act (IDEA) provided a glide path to achieve full funding of the federal share of IDEA, including an authorization of $14.6 billion for fiscal year 2006. We urge Congress to provide the highest possible funding level for IDEA to stay the course and fully fund the federal share of special education expenses.

NCLB AND HIGH SCHOOL REFORM

Across the nation, governors are leading efforts to reform high schools and implement the No Child Left Behind Act (NCLB). Governors recommend the highest possible funding level—paired with continued flexibility—for Title I to ensure that states and localities have adequate federal resources to help successfully implement NCLB and raise student achievement. We also recommend that funding be maintained and increased for the critical programs that serve teachers, high school students, and students transitioning to postsecondary education, including the Carl D. Perkins Vocational and Technical Education Act and the newly proposed Teacher Incentive Fund. To this end, Congress should consider increasing the federal investment in the Pell Grant program to improve the purchasing power for all students, as long as program solvency is maintained.

Thank you for your consideration, and we look forward to working closely with you on these issues.

Sincerely,

Gov. JENNIFER GRANHOLM,
Chair, Health and Human Services Committee.
Gov. KATHLEEN SEBELIUS,
Chair, Education, Early Childhood and Workforce Committee.
Gov. HALEY BARBOUR,
Vice Chair, Health and Human Services Committee.
Gov. TIM PAWLENTY,
Vice Chair, Education, Early Childhood and Workforce Committee.

Mr. HARKIN. I received this morning an article from the Salt Lake Tribune: Utah poor will suffer from U.S. budget cut.

Utah's nine Community Action Programs stand to lose almost half a million over the next three months under a temporary budget approved by the U.S. Congress . . .

The 50 percent cut . . . that fund the programs nationally is temporary; lawmakers could restore the money when they approve the final budget, possibly in December or January. Or they might not.

In Utah, the losses that take effect Saturday are already forcing layoffs, a scaled-back food and pantry operating hours and the suspension of meal deliveries to thousands of families in crisis.

Cathy Hoskins, director of the state's largest Community Action Program, located in Salt Lake city, said they stand to lose $250,000, which translates to 6,000 orders of three-day food supplies for 4,500 households.

She has laid off six workers and reduced by a fourth the number of hours that advocates

> can devote to helping families navigate Medicaid, welfare and other social service programs.

Continuing:

> "It hurts," said Road Home director Matt Minkevich, whose agency could lose $37,000. "That's the equivalent of about two frontline staff or 3,000 shelter nights."

This is the time of the year temperatures are starting to drop. Food pantries are running low, and people need help.

Katrina hit. We now see there are a lot of poor people in this country, a lot of people that are at the end of their rope.

One might say: What the heck. It is just 2 or 3 months. Put yourself in the position of a low-income family who has just been evicted. They cannot pay their rent. They are out. They need some help in finding a place to live. Where do they go? They go to their community action centers. They go to East Ozark or they go to East Missouri to get that help. Now they are told, We can't, we do not have the people, we do not have the funds. Maybe they need some money to tide them over for a few days to find some shelter. Sorry, the money is not there.

One may think this does not happen in America. Think about New Orleans. Think about the poor who were caught who did not have cars, did not have transportation, did not have bank accounts, did not have any hope or any way of getting out. There are a lot of Americans out there who do not live like we do, who do not have nice homes. We just go in and turn up the thermostat whenever we want to or go down to the local Safeway and pull out our credit card and buy groceries or go down to the local doctor and our insurance picks up the tab.

We are talking about 6.5 million Americans served by these programs. We are talking about the poorest of the poor.

Let me give some more examples of what community service block grants do: Transportation for the elderly to medical appointments at community health centers, in-home chore services for the homebound elderly, congregate meals, child care, domestic violence programs, energy assistance, weatherization, emergency shelter, rental assistance, homeless assistance, eviction prevention, transitional housing, and I mentioned the all-important Low-Income Heating Energy Assistance Program.

This is what this money goes for. We are being told now we have to go back to 1986 levels. By doing that, because of the formula in the law, 13 States that I mentioned—Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Utah, Vermont, and Wyoming—13 States will lose over 75 percent of their money—not next year, tomorrow.

It is not, well, hang on, continue your programs, continue doing things, we will get the money to you starting in January when we finally get our budget figured out here. I am sorry, people need food now. They need shelter assistance now. They need to pay their heating bills now. They need transportation to the doctor now. They cannot wait until January to have someone pick up the tab. They do not have credit cards. They do not have bank accounts. They do not have someone who says we will give you the money and you can pay us back later. They do not have that opportunity.

Let me repeat for the sake of emphasis who we are affecting with this. Who are these people? Community service block grants serve 22 percent of all people in poverty. So one out of every five individuals in America below the poverty level is served by CSBG. They do not serve more because we do not fund more. But now we are going to cut it below that, more than 15 million individuals, members of 6 million low-income families. There were 2.7 million families with incomes at or below the poverty guidelines, 1.1 million with incomes below 50 percent of the poverty guidelines. Think of that, 1.1 million families affected by what the House of Representatives did if we do not correct it; 1.1 million families had incomes below 50 percent of the poverty guidelines. That is below $7,000 a year. It is 3.7 million children, 1.8 million adults who have not completed high school, 1.1 million people who are disabled served by community services block grants. That is who we are talking about. We are not talking about people like us who have all this money. We are talking about the poorest of the poor.

I will repeat again that 13 States, because of a formula in the law, will have a 75-percent cut tomorrow: Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Utah, Vermont, and Wyoming. Tomorrow there will be a 75-percent cut in the community block grants that go to Wyoming. But it will be more because there is a set-aside for tribes. I am sure the LIHEAP program is as important in Wyoming as in Iowa and it is getting cold in October and November.

What the House did is thoughtless, heartless. It is cruel and totally irresponsible. That does not mean we have to be thoughtless and heartless and irresponsible. We can adopt this amendment, get it back up to last year's level as a continuing resolution ought to do. We do not add any money. We just keep it at last year's level. The House can come back and correct this mistake today.

Well, you say that is a burden on the House; the Members have probably caught their planes and gone home. I remember when the House came back on Palm Sunday to pass a resolution on the Terri Schiavo case. If they can do that, they can come back and correct this. They can come back today and say we are not going to leave 6.5 million Americans dependent on LIHEAP programs, people who will be evicted, we will not leave them in the dust.

Think about what we are doing. Think about this. Think about next month. A low-income family, a mother with two or three kids who have been in an apartment, and they have not paid their rent because they ran out of money. Maybe they had an illness. They had to pay out of pocket. So they are evicted. Where do they go?

Don't tell me that doesn't happen. We saw what happens in New Orleans. We know now the poor are not out of sight and out of mind any longer. They are here. What happens? How uncomfortable will it be for that family? What kind of discomfort will they suffer?

What about an elderly person whose utilities have been turned off?

The PRESIDING OFFICER (Mr. ISAKSON). The time of the Senator has expired.

Mr. HARKIN. I ask unanimous consent for at least 3 more minutes to finish.

Mr. STEVENS. I will not object, but I would like to have some time on our side.

Mr. HARKIN. I don't care. If I can just get 5 minutes, I will end.

Mr. STEVENS. The Senator has already had 20 minutes. The time was equally divided?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I was told last night, I say to my friend from Alaska, that I had a half hour. I came in this morning and found out I only have 15 minutes. I don't know who made that agreement. It was done without my knowledge.

Mr. STEVENS. I have no objection if the Senator has 4 more minutes, but I would like the time until 10 o'clock.

Mr. THOMAS. The time is at 10 o'clock.

Mr. STEVENS. I am happy——

Mr. THOMAS. There is an objection. As a Member, I object.

Mr. STEVENS. I am happy to yield to the Senator 4 minutes of our time, if he wishes.

Mr. HARKIN. I will take 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the Senator from Alaska.

Look, we may make the House uncomfortable, but I plead with my colleagues, I plead with my colleagues, don't let this happen. Don't, in our haste to leave here and go home for the weekend, shrug our shoulders and say, well, someone will take care of it. Don't let our reticence or our reluctance to make the House come back and do what is right cause us to turn a deaf ear and a blind eye to the poorest in our country.

I plead with my colleagues, let's do the right thing. Let's adopt this amendment. The House can come back later today. They can fix it. They can make it right. It may be a little bit uncomfortable for them to get on an airplane and come back here, but think about the discomfort of the poor in our country, think about that elderly person who needs the LIHEAP program. Think about their uncomfortableness. They need us. Let's not turn our backs on them at this point in time.

Mr. STEVENS. Mr. President, as the Senator from Iowa knows, this Senator completely supports Community Service Block Grant Programs. We both serve on the Committee on Appropriations and serve on the subcommittee that deals with this issue.

I tell the Senate, on these community service block grants, for every dollar that the Federal Government puts up, more than $2 comes from outside sources. They are not matching funds. They put them up. They supply them. This reduction in the House bill was done to sort of have leverage over our committee in conference.

The Senate bill which is carried by the distinguished Senator from Pennsylvania already has the full amount of the request in it. All we have to do is get that bill to conference, but it has not been possible thus far. But when this continuing resolution takes effect, there will be allocated to the States the money they need.

Beyond that, FEMA has all sorts of money right now to assist the people who are involved in the hurricane areas. There is no reason to think anyone is going to be shut off in the disaster area from the community block grant concept because FEMA will provide money to this agency if they are short of money in this period ahead of us because of the delay in getting the Health and Human Services bill passed by the Congress and sent to the President.

But what happens if the Senator's amendment passes? We come to a halt tonight. We have already reprogrammed money to the Department of Defense from 2005 moneys in order to carry them over until they get the money from the Defense bill, when and if it is passed.

We know we are in a period of delay because of a lot of things, because of the two major disasters, because of the delay we have had in terms of being able to confirm the nomination of the Chief Justice. There has been a lot of delay this year, and we are late. It is not something new. We have been late before and had continuing resolutions.

This matter the Senator has brought up will not lead to people being denied assistance because the States can advance their money for this period of 6 weeks, and it will be repaid when we pass the bill. The Senate will hold the money for the Community Services Block Grants. We always have. It is one of the things we have negotiated with the House almost every year. The Senator knows this. We go to conference almost every year, and the House has reduced this item. It is sort of a little leverage in terms of negotiation with the Senator from Iowa, the Senator from Pennsylvania, both of whom have done an excellent job with Community Services Block Grants.

As I said, I support it. The chairman of the committee supports it. We support the Community Services Block Grant Program. It will be fully funded. It has been fully funded in the bill that is before the Senate. To delay this bill now and delay funding for everyone else because there is a little glitch here that it could—it could—be read to be something that is taking money, as a practical matter, it carries the same language that was in the continuing resolution before when the minority was in the majority. This is exactly what happened before. It is the same thing.

And it is a continuing resolution that has to be passed. If it is not to the President by tonight, funding stops for everybody, not just a slight glitch in the Community Services Block Grant. I do not like to see people out there who really depend upon the Federal Government for assistance being told somehow or other they are going to be denied money. The money that comes from the Federal Government is less than a third of the money they get.

So we have a possibility of a slight delay in Federal money getting to them, but during that period, the non-Federal money, both from States and private sources, will meet the need. Beyond that, FEMA has money. We all know we gave them a tremendous amount of money to deal with those who are in the disaster areas.

So I say to my friend from Iowa, this is wrong. This is wrong. We will resolve this difference with the House. We have never before abandoned Community Service Block Grants in the Senate. I do not care which party has been in charge over the Senate, we have supported this program. And we will. But to threaten these people, to make it sound as though somehow or other they are going to put them out on the street and they are not going to get any assistance, that is wrong.

I tell the Senate, if we do not pass this bill without amendment, not only will the House be back here, we will be back here for days wrangling over what to do because we cannot get the House back by midnight. We go into that period of all the slush that comes after the funding runs out. And it is not an easy sight.

We all remember the time it happened once before when the Government did shut down because of a dispute between the House and the Senate. It was resolved out at Andrews Air Force Base about 9 days later, as I recall.

Now, at this time, after these two disasters, is no time to put a question on the availability of the funds for every agency. If the Senator's amendment is adopted, every agency is going to have to say: What do we do? We can't spend any money from the 2006 account. They will not have this continuing resolution, a lot of them, to spend from 2005 levels.

This is chaos. We do not deserve chaos in this country after the two disasters we have just come through. I say to the Senate, it is absolutely wrong to try to stop this continuing resolution this year. We have troops in the field. As I said, those of us on the Defense Appropriations Committee have, this last week, approved about seven different reprogrammings to make sure funds are available tomorrow morning for those people who need them who are deployed overseas. So to stop these funds, to stop this bill, would stop everything tonight.

Now, again—and the Senator has mentioned my State—my State is one of the States that needs funding of this kind. There is no question that if there is a hiatus of having Federal funds, the State is going to have to step forward and put some of their money up first. But they know we will restore this money. By the time the 2006 bill is signed, it will say that starting for October 1, they will get this money they should have had.

I tell the Senator from Iowa, there is just——

Mr. SPECTER. Mr. President, will the Senator yield?

Mr. STEVENS. Mr. President, I will yield right now to the chairman of the committee.

Mr. SPECTER. When the Senator from Alaska comments that the States can put up some money so there would be no shortfall in the interim until November 18, what assurances are there that that could happen, that they have the funds and the disposition to do so?

Mr. STEVENS. Well, I say to the Senator, I know my State. My State is not going to let those people suffer because there is a temporary hiatus in Federal funding. The checks will go out from the State. The State provides the checks. I cannot imagine that would happen.

Beyond that, FEMA is there. If this agency does not have the money to meet the needs in the area of the two disasters, FEMA can step forward and give them money. And it is already doing that. That is my information.

Mr. SPECTER. Mr. President, would the Senator from Alaska permit me to ask the same question to the Senator from Iowa? If I may have the attention of the Senator from Iowa.

Mr. STEVENS. If the Senator wants the floor, I will be glad to yield the floor to him. But I hope the Senator from Pennsylvania is not going to support this amendment. If you do so, it means we will be in real trouble as far as our committee is concerned.

Mr. SPECTER. Well, I have no present intention of supporting the amendment. I would like to try to find a way to resolve the issue substantively. But it is not an infrequent occurrence that the House leaves town and leaves us with a gun at our head, where we have no practical alternative but to yield to the House, which is out of town, to run the Government.

But I am intrigued by what the Senator from Alaska has said. He is very experienced and has been here a long time. He knows the ins and outs of Government perhaps better than anyone. And when the Senator says the States will provide the shortfall in the interim, it is a brief period of time, or FEMA could step in, I would be interested in the comments—I have discussed this preliminarily with Senator HARKIN.

Mr. STEVENS. It is to October 18. That is what we are talking about.

Mr. SPECTER. I hear it is November 18. It is 6 weeks.

Mr. STEVENS. November 18? I apologize. That happens to be on my birthday.

Mr. SPECTER. Well, that ends the debate. Six weeks is a short time in the fiscal year the way we function around here, but it could be a very long time for people who need money to keep their bodies and souls together.

Let me direct a question to Senator HARKIN.

The Senator from Alaska, having yielded the floor to me, how about Senator STEVENS' idea of the States making up the shortfall, on the assurances from the chairman of the Appropriations Committee and the President pro tempore and Senator HARKIN and myself—the ranking member and chairman of the subcommittee—that we will provide the additional funds when we go to conference so that any shortfall will be made up, that we will exercise our very best efforts and think we can be successful—we have some leverage, too, in conference—that the moneys will be paid in the interim and the shortfall will be made up?

Mr. STEVENS. Will the Senator yield for a question?

Mr. SPECTER. Sure.

Mr. STEVENS. Will you amend that question by saying we will provide in the bill that the States will be repaid for what they advance?

Mr. SPECTER. I will amend my statement to that effect.

The PRESIDING OFFICER. The Senator from Alaska has yielded to the Senator from Pennsylvania. However, the Senator from Pennsylvania may not yield to the Senator from Iowa. The Senator from Iowa can ask for recognition.

Mr. STEVENS. I yielded the floor, Mr. President.

Mr. SPECTER. We can work that out, Mr. President. I yield to the Senator from Iowa. I yield the floor so he can have the floor.

Mr. HARKIN. Will you ask the question again?

The PRESIDING OFFICER. Does the Senator from Iowa seek recognition?

Mr. HARKIN. Will the Senator please ask the question again? Is the question about the States making up the difference?

The PRESIDING OFFICER. If everyone will suspend, the time is controlled by the Senator from Alaska. The Senator from Pennsylvania could not yield to the Senator from Iowa. However, subject to correction by the Parliamentarian, the Senator from Alaska may yield to the Senator from Iowa.

Mr. STEVENS. Mr. President, I yield time to the chairman of the committee. I was just occupying the position of the chairman until he sought recognition.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, how much time is left on both sides of this issue?

The PRESIDING OFFICER. The majority has 4 minutes. The minority has none.

Mr. COCHRAN. Mr. President, I yield myself the remainder of the time allocated to the majority.

Do you know what this is, pure and simple? Shenanigans. Pure and simple, shenanigans. Now, the reporter may not know how to spell that, and I am not sure I could get it right, but it is not a serious effort to increase funding for anybody for anything. No matter what my good friend from Iowa has said about the intentions of this amendment, it is to force Senators to vote for a lower level of funding than he is proposing.

The problem is, the House is involved in this. We received this bill from the House. It is a continuing resolution to provide interim funding until we complete action on the next fiscal year bills for these programs.

You have heard the distinguished Senator from Pennsylvania, who is chairman of the subcommittee, who will help write that bill and manage the bill on the floor of the Senate. He is not going to reduce the levels of these programs, as the Senator from Iowa suggests will be done.

We will negotiate, in due course, in the regular order with the House, for appropriate levels of funding for the next fiscal year when we pass the next fiscal year bill. This is a temporary measure. It is not going to deprive anybody of funds they would otherwise get under the next year's bills.

The next fiscal year starts on October 1. Here we are at the end of the last fiscal year. This is shenanigans, purely and simply. The continuing resolution is not a new or innovative procedure to provide interim funding while the Congress completes actions on bills that may not yet be finally worked out between the conferees, between the House and Senate. It is often done. I do not recall there being any serious disadvantage to anyone under a continuing resolution. Any shortfalls that might occur as a result of the adoption of this continuing resolution can be made up when the regular fiscal year 2006 bill is finally agreed to by both Houses.

So I urge seriously the Senate to reject the amendment of the Senator from Iowa. It is not going to have the effect that he suggests because the House is not going to agree to it. The House has already passed the continuing resolution and set the level of funding on a temporary basis.

What is up to us now is: Are we going to provide continued funding for those programs that are identified in the continuing resolution? It is not just the programs the Senator from Iowa talks about. There are a lot of programs affected by this continuing resolution: national security issues, all kinds of other programs, nutrition programs for the poor. So what he would do, in effect, is deny them the funds that would be made available under the continuing resolution. That would be a mess.

If we want a mess on our hands and people hurting and deprived of funding to which they are entitled under current law, at currently approved levels of funding by both Houses of Congress, vote for the amendment. That would create the real mess.

So I urge the Senate, Mr. President, to resist this amendment, vote it down. Then, let's adopt the continuing resolution and provide funding that is needed by all the agencies and Departments identified in the continuing resolution.

The PRESIDING OFFICER. All time is expired.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from New Hampshire (Mr. GREGG) and the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from West Virginia (Mr. BYRD), The Senator from New Jersey

(Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The result was announced—yeas 39, nays 53, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—39

Akaka
Baucus
Bayh
Bingaman
Boxer
Cantwell
Carper
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—53

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Voinovich
Warner

NOT VOTING—8

Biden
Byrd
Corzine
Gregg
Mikulski
Murray
Rockefeller
Vitter

The amendment (No. 1921) was rejected.

Mr. KOHL. Mr. President, I joined my colleague, the Senator from Iowa, in supporting the Community Services Block Grant, CSBG. The continuing resolution before the Senate contains the House-passed funding level for CSBG, $320 million. This is a 50 percent cut from both the fiscal year 2005 level of funding and the Senate Appropriations Committee supported level.

CSBG funds can be used in a variety of ways to help low-income families make ends meet. I have heard from several agencies in Wisconsin who rely on this funding to provide a range of services, from job training to housing, to low-income families and individuals in their communities. These agencies have told me, in no uncertain terms, that a cut of this magnitude to CSBG would require them to cut actual programming aimed at reducing poverty for families and the elderly. This means a cut to programs such as the Skills Enhancement Project in Outagamie County, which provides skills training to low-income workers so that they may compete for higher paying jobs. Similarly, the Home Buyers Assistance Program, which aims to increase homeownership among low-income families, would have to narrow the number of families served if the CR was passed without additional funding for CSBG.

CSBG funding plays a similarly important role throughout my State. The West Central Wisconsin Community Action Agency, West CAP, which provides a range of supports for low-income families and individuals, relies on this funding to provide "hardship relief" programs, affordable housing, food pantry services and job training. West CAP has made it clear that this cut to CSBG couldn't come at a worse time, a time when they are seeing increases in the use of food pantries, steep increases in the pricing of basic needs, and dramatic increases in the costs of gasoline and home heating fuels, which particularly impact on low-income individuals.

That is why I am a cosponsor of the Harkin amendment to restore funding to CSBG. At a time when Katrina and Rita have focused our Nation's attention on the needs of low-income families, it is unconscionable that Congress would turn its back, by cutting CSBG. With this amendment we had a chance to set it right.

Mr. THUNE. Mr. President, today I voted in opposition to the Harkin amendment to H.J. Res. 68. I opposed this amendment not because of its substance, because I am strongly on the record supporting the Community Service Block Grant Program. I voted earlier this year for an amendment to the fiscal year 2006 budget resolution that would increase funding for a number of community development programs by a total of $2.073 billion. This funding increase was for important programs such as community development block grants and community service block grants that give a helping hand to those who need it most and help get them back on their feet.

No, I did not oppose the amendment because of its substance. I opposed it because of its timing. We are here on the last day of the fiscal year, and the bill before us would provide stopgap funding for a majority of the Federal Government until we finish the appropriations process here in Congress. We cannot hold up this bill today to provide stopgap funding for the Federal Government. The House of Representatives passed this bill last night and has adjourned. If the President does not sign this bill before midnight tonight the Federal Government will shut down.

We cannot allow important programs and agencies of the Federal Government to go without funding—especially in this great time of need. Numerous Government agencies are working around the clock in emergency recovery efforts to assist those impacted by Hurricanes Katrina and Rita on the gulf coast.

The issue that the Senator from Iowa brought up is extremely important, and I am certain that the Senate will quickly restore funding to the level that allows the CSBG Program and other community development programs to operate effectively.

Last night the Democratic whip in the House of Representatives said it would be "unacceptable" to allow the Government to shutdown. I agree. Failing to pass this stopgap funding bill today without amendments would do just that. It would shutter the windows of many vital Federal Programs—including those programs deeply involved in hurricane recovery efforts, funding for our troops, and other essential programs. This is unacceptable indeed.

I know how important the CSBG and CDBG Programs are to my home State of South Dakota. I often discuss with my constituents how these programs impact the lives of many South Dakotans. I also realize how this current funding situation would impact our State. That is why I am determined to work with my colleagues at the appropriate time to restore funding. But we cannot shut down the rest of the Federal Government today at this critical hour.

Finally, I fear this is the kind of vote that the other side makes the Senate take up just for attempted political gain and for crass political motives. I fought a hard campaign last year, and I know first hand how votes can be twisted during an election year—when tension is high and there is little time for substantive explanations. I am making this statement today to set the record straight. Those on the other side may someday try to use this vote for their political advantage, but I resolved to make the responsible vote and keep our Government from facing a shutdown and resolving the funding issue on CSBG at the correct time.

Mr. BURNS. Mr. President, today I opposed the Harkin amendment No. 1921, on the Community Services Block Grant (CSBG) Program.

Most of us know the important role that the Community Service Block Grant Program plays in addressing the needs of folks on limited incomes in Montana and across this country. The programs it encompasses go a long way toward softening some of the conditions and addressing the causes of poverty. The range of services include everything from low-income energy assistance, nutrition and housing programs, Head Start education, and other vital services offered by community action agencies.

I strongly support the CSBG Program—I always have—and I will continue to support full funding of CSBG again in the fiscal year 2006 Senate Labor, Health and Human Services and Education appropriations bill. The Senate version of the bill funds CSBG at almost $637 million, while the House of Representatives funded the program only at $320 million. Earlier this year, I signed a letter to my colleagues on the Senate's Appropriations Subcommittee on the Departments of Labor, Health and Human Services, and Education, outlining my support for funding CSBG at $650 million fiscal year 2006. All the Senate needs to do now is its work in passing the fiscal year 2006 Labor-HHS-Education appropriations bill and getting it to conference where this important program and the countless others' funding levels may be reconciled with the House bill.

I have no doubt the CSBG Program will be funded sufficiently this year, contrary to the benchmark the House of Representatives has set. Given that this situation will be resolved with the completion of the appropriation process, along with the fact that I do not believe we should hold up this continuing resolution and other important appropriation bills, such as the Defense bill which provides funding for our men and women in harm's way, or shut down the Government because of this amendment—for something I feel confident will be funded anyway. Voting for this amendment would have shut down the Government, thereby completely eliminating any of the funding mechanisms in place to continue helping those most in need. I was not willing to jeopardize their well-being.

Mr. KENNEDY. In the past five years, five million more citizens have fallen into poverty. Thirty-seven million Americans live below the poverty line. Three million more working Americans live in hunger or on the verge of hunger today than in the year 2000.

The long-term unemployment rate is at historic levels—1.4 million Americans are unemployed. Wages are stagnant throughout the United States, yet gas prices, housing costs, and heating oil costs are soaring. Families stay awake at night worrying how to make ends meet.

Many parents wonder how they will feed their children and pay their bills. It is shameful that in the richest and most powerful Nation on Earth, nearly 20 percent of all children go to bed hungry at night because their parents, even working full time, still can't make ends meet.

So how does the Republican leadership in Congress respond? By cutting one of the key programs intended to help these families and children through times of difficulty.

These cuts are even more incomprehensible when we see the needs of our fellow citizens who have lost everything in Hurricanes Katrina and Rita. The needs of the poor in America had already been ignored by the Bush administration. But those devastating storms have shone a bright new light on the unacceptable poverty that continues to plague our communities today. We all watched the heartbreaking scenes of countless low-income residents with no cars, struggling to escape the path of the hurricane, and then struggling again to escape the flood waters. These were real people in real poverty left largely on their own, fending for themselves.

American people expect their leaders to stand for fairness, freedom and opportunity. Those values are the cornerstone of the American dream. We believe that if you live right and work hard, you should be able to care for your family, afford rent in a safe neighborhood, and to send your children to college.

We also believe that when life deals you a setback, you can count on your neighbors to pitch in. If you lose your job or become seriously ill, we all want to help out. If you lose your home, your belongings, and your security from a natural disaster, it is some comfort to know at least that you haven't been deserted and that help is on the way. You deserve a chance to pick yourself up, dust yourself off, and start over again—to reclaim the American dream for yourself and your family. That's the American way, the American spirit.

The State agencies and the community action agencies funded by the community service block grant program know that spirit well. They fight poverty and encourage self-sufficiency in low-income communities every day. Their services include literacy, child health care, afterschool activities, low-income housing development, food stamps, and emergency shelter assistance—all building blocks for a better future for families facing misfortune.

Unfortunately, the administration and the House of Representatives have closed their eyes to the needs of the poor and to the important work of these community service agencies across the nation. This bill takes the unconscionable step of cutting funds for the community service block grant program in half—just at the time that these services are needed most.

At a time when poverty is increasing, and in the wake of the devastation of the hurricane, the House has decided to limit funds to the very agencies that came forward to help people least able to help themselves.

As Hurricane Katrina hit, Assistant Secretary for Children and Families Wade Horn acknowledged the unique role of the community-based agencies in disaster relief and called them to action in a memorandum of September. He said that community action grantees "particularly those in Alabama, Louisiana, Mississippi, Arkansas, Texas, Florida, Georgia and Tennessee [should] open [their] doors to those displaced families who have sought refuge in [their] community and seek new ways to support individuals, families and children impacted by this disaster."

These local agencies responded to that call by providing support and other help to those in need.

I recently heard of a community action agency in Georgia. A woman lost her home and her employment to Hurricane Katrina. She and her husband had evacuated New Orleans without their medication and little more than the clothes on their backs. The woman came to the Union County Community Resource Center. She and her husband were provided with food, vouchers for clothing at local thrift stores, and were referred to the local free clinic to obtain the prescriptions they needed to replace those that were lost. They were helped to find jobs through churches, organizations, and businesses. In fact, the woman was placed in a position within the same week.

In Arkansas, community service block grant funds helped a single mother and her four children move from a shelter into federally assisted permanent housing. Funding paid for the security deposit, a deposit with the electric company, and a new washer and dryer because there were no facilities in the building.

These actions are repeated every day thousands of times over to help people get back on their feet. According to the National Association of State Community Service Programs, community action agencies have assisted over 171,000 evacuees. Much of their time was volunteered. But the services and facilities they are using will draw from the funds allocated by the government. The services for new residents, even temporary ones, will change the community priorities already set for dwindling block grant resources. How can the administration encourage these agencies to do more while simultaneously cutting their funds?

Over the past 3 years, community service block grant funds have been eroding, and a lack of funds has impaired the ability of these agencies to reach out to the poor. If the community service block grant is cut in half, their services will be compromised even more, and the agencies will face a crisis of their own that will strain their reserves. Programs that depend on grant resources for support such as fuel assistance, the earned-income tax credit, Medicare outreach, and food pantries will be seriously hurt, and in some cases will be eliminated.

With rising home energy costs, a 50-percent cut in funding will jeopardize the LIHEAP program. October and November are especially busy months for the community action agencies that administer it. The program year begins October 1, and many agencies sign up the vast majority of LIHEAP participants right away. Most States get almost 90 percent of their annual allotment in the first quarter.

In 3 months, the loss to Massachusetts will be $2 million. Half of the State's 4,000-person staff will face layoffs. Yet our State serves more than 400,000 persons, including many from the Gulf States.

According to Action Inc., a community action agency in Gloucester, MA, a temporary 50-percent cut in funds will result in the elimination of its housing and family legal services. Three hundred fifty very low-income local families who face housing problems will be at risk of homelessness.

The family law program will also be eliminated. Yet it helps 75 very low-income residents a year by providing legal assistance on issues such as divorce, custody, visitation and child support. Four hundred twenty-five families will not have the legal assistance that helps prevent evictions and solve critical family issues.

Action Inc. is only one example of the numerous agencies in Massachusetts and across the Nation facing lay offs and program cuts or even elimination because of the harsh cuts in continuing resolution.

It is wrong for the administration and the House of Representatives to shred America's safety net even further when so many Americans are already falling through it. We know how to mend it. All we lack is the will and the leadership to do it.

The community services block grant agencies have been fighting to alleviate poverty with great skill. It is time the Government stopped forcing them to do so against such heavy odds. The challenge is too critical for Americans to ignore any longer. We can no longer remain indifferent to the least of those among us.

Personal responsibility, community responsibility, government responsibility—they go hand in hand. When one of them breaks down, as it has now, we have to fix it. I am saddened by Congress's harsh treatment of those most in need. We should fully fund the community service block grant, not cut it in half.

It may be inconvenient for House Members to take a plane ride back to Washington to fix the problem they created, but it does not compare to the hardships millions of poor people face today and every day.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 68) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The joint resolution (H.J. Res. 68) was passed.

Mr. COCHRAN. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Resumed

Mr. STEVENS. Mr. President, is the pending business the Defense appropriations bill?

The PRESIDING OFFICER. The pending business is H.R. 2863, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1922

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1922.

At the appropriate place in the bill insert the following:

SEC. . Notwithstanding Sec. 101 of H.J. Res. 68, the Community Services Block Grant program shall be funded at the same rate of operation as in Division F of Public Law 108-477, through November 18, 2005.

Mr. STEVENS. Mr. President, this will ensure, once our Defense bill is passed, that this glitch in the community services block grants will be eliminated. I hope everyone understands that the sooner we get this bill to the President, the better off this program will be. In the meanwhile, this is assurance that the Senate stands behind the total figure that is in the Senate bill as reported out from the Senate today.

I ask for adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1922.

The amendment (No. 1922) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I ask unanimous consent that Senator GRASSLEY and my colleague, Senator MURKOWSKI, be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we have not been notified by any Senator that they wish to offer an amendment to the Defense bill today. It is my understanding later today there will be an agreement that all amendments in the first degree to this bill should be filed by 5 o'clock Monday.

Under the circumstances, since other Senators wish to speak on nongermane matters, unless there is someone who wants the floor right now to talk about defense—I am informed there may be an amendment.

MORNING BUSINESS

Mr. STEVENS. Mr. President, pending the arrival of the Senator who wishes to offer an amendment, I ask unanimous consent that there be a period for the transaction of morning business in order that the Senator from North Dakota can speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN and Mr. WYDEN pertaining to the introduction of S. 1805 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

STRATEGIC GASOLINE AND FUEL RESERVE ACT OF 2005

Mr. DURBIN. Mr. President, as of yesterday afternoon, nearly a quarter of this country's refinery capacity is offline.

Already feeling the impact of high prices at the gas pump prior to the two hurricanes, Americans are bracing for additional price increases as refinery operations remain shutdown in the gulf coast. Americans are also bracing for record high energy costs this winter.

While the administration has ordered the release of petroleum from the Strategic Petroleum Reserve, without refinery capacity, putting crude oil on the market does little to nothing to alleviate immediate supply constraints and high prices at pump.

What hurricanes Katrina and Rita taught is that we must be ready for a rainy day. That is why it is critical to our national and economic interests to build a gasoline reserve to keep the country moving forward in case of an emergency.

Witnessed by the ill-preparedness of the response in the wake of Hurricane Katrina, we must prepare now for the potential impact of future catastrophes.

Most importantly, as fuel supplies remain tight, we must prepare to alleviate the impact that another natural disaster, refinery fire, or pipeline explosion has on the Nation fuel supply and as a result our national economy.

Yesterday I introduced the Strategic Gasoline and Fuel Reserve Act of 2005.

The reserve would require the Department of Energy to hold and manage 40 million barrels of unleaded gasoline and 7.5 million barrels of jet fuel to be used in times of supply shortages—shortages that adversely impact the U.S. economy.

The Secretary is tasked with identifying at most five strategically significant regional locations for the fuel reserve. For instance, one could be located in the Northeast, one in the Midwest and one in the California.

Finally, the Secretary of Energy must establish procedures to release fuel from the reserve to those typically engaged in the sale of distribution of gasoline or jet fuel.

Hurricane Katrina forced about 1 million barrels of refined product offline. The reserve would provide 40 days' worth of gasoline supply based on the amount shutdown from Katrina—or almost 2 weeks worth of gasoline supply to fill the void of offline capacity caused by both Hurricane Rita and Katrina together.

Furthermore, the reserve would include 7.5 million barrels of jet fuel—enough to keep the fleet in operation for 40 days if faced with a disaster of the magnitude of Katrina.

We have witnessed three airlines enter into bankruptcy—partly because of increasing fuel costs. U.S. airlines pay an additional $190 million in annual fuel costs for every penny increase in the price of a gallon of gas.

It is important to keep a viable stock of jet fuel available to ensure the seamless operation of one of America's important transportation fleets.

But, in total, consumers are the ones hardest hit by rising fuel costs.

A fuel reserve like the one in this legislation could provide a price buffer when pipelines or refinery outages occur, helping to mitigate price spikes that bite consumers in the pocketbook.

Consumer Federation of America has urged Congress to create a national fuel reserve. They recognize that American households who own and drive cars will consume 100 billion gallons of gasoline this year—costing them over $200 billion at the pump. This represents a cost of nearly $2,000 for each household with a car, and an increase of nearly $600 a year in the past 4 years alone.

A study commissioned by the State of California concluded that a regional reserve, which is what would be created under this bill, could save consumers $1 billion every time supplies were affected. With a nationwide reserve, that number is even higher.

As Democrats continue to push for a national policy of energy independence, a gasoline and jet fuel reserve is an important component of that debate.

I ask unanimous consent to have printed in the RECORD material in support of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT FOR THE STRATEGIC GASOLINE AND FUEL RESERVE ACT OF 2005—SEPTEMBER 29, 2005

CONSUMER FEDERATION OF AMERICA

Mark Cooper, Director of Research, Consumer Federation of America (CFA), said about the Strategic Gasoline and Fuel Reserve Act of 2005, "Four years ago, at the first signs of trouble in the gasoline market, we called for a regional product reserve that would be used to not only ensure supply, but to dampen the wild roller coaster ride that has been afflicting the driving public. This legislation is a step in the right direction and hopefully marks the start of a broad reorientation of energy policy toward policies that protect consumers from pricing abuse."

UNITED AIRLINES

Mark Anderson, Vice President, Government Affairs, United Airlines, said, "Senator Durbin understands that escalating fuel prices, driven in part by shortages in supply, have a negative impact on travel and economic stability for individuals and businesses throughout Illinois and the nation. This proposal, which will ensure that emergency supplies of refined products like gasoline and jet fuel are located at strategic locations across the country, will provide economic stability when it is most needed. We applaud Senator Durbin's efforts to address this issue of critical importance."

AMERICAN AIRLINES

According to Will Ris, Senior Vice President for Government Affairs for American Airlines, "the proposal of Senator Durbin to establish a reserve of refined oil products is a farsighted idea that should be implemented quickly. The hidden story of the current crisis is that the cost of refining crude oil has increased at a much more rapid rate than the price of crude itself. By creating a reserve of refined products, the fluxuation in the markets due to temporary refining shortages can be reduced substantially. We particularly applaud Senator Durbin's proposal to build reserves of jet fuel as well as gasoline. This shows a strong understanding of the importance of commercial aviation to the economy."

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 2863.

AMENDMENT NO. 1903

Mr. SALAZAR. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR] proposes an amendment numbered 1903.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that certain local educational agencies shall be eligible to receive a fiscal year 2005 payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965)

On page 220, after line 25, insert the following:

SEC. 8116. APPLICATIONS FOR IMPACT AID PAYMENT.

Notwithstanding paragraphs (2) and (3) of section 8005(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)(2) and (3)), the Secretary of Education shall treat as timely filed, and shall process for payment, an application under section 8002 or section 8003 of such Act (20 U.S.C. 7702, 7703) for fiscal year 2005 from a local educational agency—

(1) that, for each of the fiscal years 2000 through 2004, submitted an application by the date specified by the Secretary of Education under section 8005(c) of such Act for the fiscal year;

(2) for which a reduction of more than $1,000,000 was made under section 8005(d)(2) of such Act by the Secretary of Education as a result of the agency's failure to file a timely application under section 8002 or 8003 of such Act for fiscal year 2005; and

(3) that submits an application for fiscal year 2005 during the period beginning on February 2, 2004, and ending on the date of enactment of this Act.

Mr. SALAZAR. Mr. President, amendment No. 1903, which I am working on with my colleagues to resolve, will provide impact aid funding to the children of the service personnel in Fort Carson, CO. It will restore $1.2 million in needed educational impact aid funding to the El Paso County School District No. 8. The money for this amendment has already been appropriated within the Department of Education budget.

The El Paso School District educates the children of thousands of service men and women serving our Nation on the Fort Carson military base. Many of the loved ones of these students and staff of the El Paso County School District have been deployed to Iraq as part of Operation Iraqi Freedom. In fact, over 11,000 soldiers from Fort Carson are currently deployed in Iraq. That is one-half of Fort Carson's total force.

Due to a technical error, the Department of Education has denied the school district access to a $1.2 million set-aside for that school district's program. The result is that school district may have to fire as many as 12 teachers and teachers' aides. This amendment simply permits the school to access the money already set aside for it.

I recognize this is not the traditional vehicle for this fix, but, frankly, given the stakes for the school district and the fact that the education of the children of the men and women from Fort Carson who are in Iraq is at stake, I believe we owe it to the families there to fix this problem, and to do it now.

I note, too, that I have discussed this issue with the HELP Committee. Chairman ENZI and Ranking Member KENNEDY have graciously consented to the inclusion of this amendment on this bill. I have also been in close contact with the Armed Services Committee and with Senators—from Arizona and New Mexico—who face similar challenges. They all support this measure.

I will work closely with the managers of this bill to dispose of this amendment in the most efficient way.

And while I am here, Mr. President, I want to discuss four other amendments I have offered or will shortly offer to this bill. The amendments build on a good bill produced by Senators STEVENS and INOUYE.

AMENDMENT NO. 1887

The first amendment—amendment No. 1887—would simply change the name of the so-called "death gratuity" to the less insulting and more appropriate name, the "fallen hero compensation." The Senate has considered—and adopted—a version of this amendment before. Regrettably, it was dropped out in the conference on the fiscal year 2005 Iraq and Afghanistan emergency supplemental. I hope it stays in this time.

It fixes something in current law that I consider unfair. We currently call the assistance that taxpayers make available to military survivors a death gratuity. The term gratuity means gift, and I do not believe that any of the widows, widowers, or children left behind think of that money as a gift. I refuse the term death gratuity. Senate Amendment 1887 will change the term to fallen hero compensation, a term that more appropriately describes the sacrifice of these men for their country.

AMENDMENT NO. 1888

Senate amendment No. 1888, offered by Senators REED, LIEBERMAN and myself, mirrors an amendment Senators CHAMBLISS, LIEBERMAN, REED and I offered to the Defense authorization bill. I think we have agreement to get a modified version of this amendment added to the Defense authorization. Pending a clearer picture of the fate of that bill, I intend to protect my right to offer that amendment here.

This amendment will allow the Office of Special Events within the Department of Defense to provide more support to Paralympic competitions in the United States. This is a matter of basic fairness. The Pentagon currently supports Olympic and other international games. This amendment just makes it easier for the Pentagon to support such competitions. With so many of our men and women coming back from Iraq disabled, it is important we provide these Olympic opportunities.

AMENDMENT NO. 1900

Senate Amendment No. 1900 requires standards and accountability for Afghan security forces trained by the United States.

It passed by unanimous consent as part of the fiscal year 2005 Iraq and Afghanistan emergency supplemental, but was dropped in the conference committee—not understandably—because it was deemed unnecessary. I could not disagree more with the assessment of my esteemed colleagues in the conference committee.

Press accounts in recent weeks indicate that our training efforts in Afghanistan have been even less successful than our efforts in Iraq. Earlier this month LTG David Petraus, the top American trainer in Iraq, spent 5 days in Afghanistan to prepare a confidential assessment for the Pentagon. While I have not seen the results of the assessment, I can say without question that the decision to send General Petraus to Afghanistan was not an indication that the Pentagon believes things are progressing well there.

And a series of recent press stories—from Stars and Stripes to the New York Times—indicate that our soldiers deployed to Afghanistan are also concerned about the status of training there.

A sergeant with the 391st Engineer Battalion was quoted by Stars and Stripes as saying, in plain and simple language, "The Afghan National Army just isn't where it needs to be yet."

According to the New York Times, by September, the Afghan army had grown to about 26,000 troops and the Afghan police force to more than 50,000. In contrast, the Iraqi army and special police forces have 87,300 troops, and the Iraqi police force has about 104,300 officers.

The same article reports that until earlier this month, many Afghan police recruits were training with wooden rifles. That is not a misstatement. The force we expect to root out the world's worst opium production and trafficking efforts has been training—until earlier this month—with wooden rifles.

Our commanding officer there, General Eikenberry, said this: "When you're trying to put the pieces back together again, you need a lot of time and a lot of patience." He is, of course, right. Ensuring that patience—particularly as we consider yet another $50 billion supplemental for Iraq and Afghanistan—requires more information. We simply need more information about whether and how we are meeting our shared goal of an Afghan security force trained to a uniform standard.

Some of my colleagues have suggested that there are sufficient reporting requirements in place on our efforts in Afghanistan.

It is true that the Afghan Freedom and Support Act requires an update on our training effort there. But nowhere in that act or anywhere in existing reporting requirements is there a demand for clear reporting on the standards to which these forces are being trained, or any demand for clear accountability that the forces trained have met the standards we are demanding they meet.

This amendment will ensure that we have the same reporting requirements for Afghanistan as we already have for Iraq. It will provide the accountability our taxpayers deserve and the success that our national security demands.

My last amendment, which I will introduce later today, is the result of a letter I received from one of my constituents. He is an Army specialist and is currently deployed to Iraq. He wrote to me because one of his friends was killed by an IED while sitting in the exposed gunner's seat of a Humvee. His letter reads as follows:

> Two days ago a good friend of mine was killed in action when an Improvised Explosive Device (IED) detonated next to his Humvee. He was sitting in the gunner seat and pulling rear security. I have seen automated guns that can go on the top of these same Humvees. These guns are controlled from inside the vehicle. Why are these guns not on every Humvee? I do not have the time or the resources over here to check, but if you were to look into it I believe you would be shocked at the percentage of KIA's that were sitting in the gunner's seat of Humvees since OIF 1 in 2003. All I do know is that the four people that were inside the vehicle were physically unharmed. If the answer is money, then I would really like to know how much my friend's life was worth.

Since receiving that letter I have been in close contact with the Pentagon about the technology this young specialist is referring to. The Common Remotely Operated Weapons Station, known as CROWS, can move our soldiers out of the exposed gunner's seat and inside the protective shell of an uparmored Humvee. Behind me is a picture of how the CROWS system works. The CROWS system sits on top of the Humvee, with the gunner operating the weapons system from inside. My friend's friend who was killed could have been safe because he would have been inside the protective armor of the vehicle.

In a CROWS-equipped vehicle, the gunner controls a powerful weapons platform through a computer screen. The system can be mounted on a variety of platforms, and it gives a soldier the capability to acquire and engage targets while protected inside the vehicle—out of range of enemy fire or IED attacks.

Right now we have a few of these systems deployed in Iraq, and I am told that our soldiers "hot seat" them, which means that when one of these Humvees comes back from a patrol or an escort mission, another group of soldiers takes the vehicle out again as soon as they can gas it up.

According to an article I read in the American Legion magazine, CROWS gives our soldiers a powerful color daylight camera, a Generation 2 forward-looking infrared camera, and a laser range finder. According to another article, the CROWS system has 98 percent accuracy and can engage the enemy beyond 2,000 meters with one-shot, one-kill accuracy and no collateral damage.

My amendment would add funding for the CROWS system in Title IX of this bill so that the Pentagon can meet its target for production and deployment of this important weapons system this year. As of June 27, there were 24 CROWS systems in Iraq. If the Pentagon meets its funding targets in this year's supplementals, we will be able to field 245 systems into Iraq this year. To meet this target, this important system needs another $28 million in the Senate bill—and another $103 million on the next supplemental in early spring.

My amendment would add that additional funding so that we can meet this important target.

These are five very important amendments to the Department of Defense appropriations bill. I look forward to working with my colleagues—with Senator STEVENS and Senator INOUYE and all my colleagues in the Senate—to move forward and ensure that we enact these amendments for the benefit of our men and women in uniform.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO 1903

Mr. INOUYE. Mr. President, on amendment No. 1903 to H.R. 2863, submitted by the Senator from Colorado, Mr. SALAZAR, on behalf of the chairman of the committee, Mr. STEVENS, and the ranking member, we are ready to accept it.

I urge its approval.

Mr. KYL. Mr. President, I am gratified that it was possible for the Senate to consent to the adoption of amendment No. 1903, offered by Senator SALAZAR of Colorado. I am grateful to Senator SALAZAR for introducing this amendment, which will ensure that students attending a number of schools receiving assistance through the Impact Aid program—including the Window Rock Unified School District located on the Navajo Nation in Arizona—are not punished for administrative errors made by district personnel. I am also grateful to the chairman and ranking member of the Defense Appropriations Subcommittee and the Health, Education, Labor, and Pensions Committee for consenting to the inclusion of this amendment in this bill.

The Window Rock district is known is a 100 percent impacted district. That is, because the land it encompasses is federally owned, it cannot rely on a local property tax base to fund school operations as most districts in our country can. It is important to note that the administrative error that triggered this penalty—the loss of $1.2 million—was a one-time occurrence, and that Senator ENZI, the chairman of the committee with jurisdiction over this matter plans to address that ongoing administrative problem that has occurred here the next time Impact Aid is reauthorized. Moreover, as Senator SALAZAR rightly emphasized, the money here is not new money but previously appropriated funds that had been withheld.

There is no question that district must take pains to ensure that rules and procedures are adhered to but in this case I agree with Senator SALAZAR that the penalty here was disproportionate and that, in any case, punishing reservation schoolchildren is not a particularly well-targeted penalty. This amendment will rectify that, and I am pleased that it will be accepted.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment.

The amendment (No. 1903) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. SALAZAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SALAZAR. Mr. President, I thank the Senator from Hawaii, a great friend and truly an inspiration and hero for all of us in this Nation, for his great contribution, not only during World War II but also his continuing contribution in the Senate—likewise, to the chairman of the committee, Senator STEVENS, for an equally remarkable contribution to our country during World War II, and their understanding of the importance of doing everything we can to defend our country.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABU GHRAIB PICTURES

Mr. INHOFE. Mr. President, yesterday, we had a hearing of the Senate Armed Services Committee where we had testify the Chairman of the Joint Chiefs of Staff, General Myers; we had General Casey, who is in charge of the battles that are taking place over there in Iraq at this time; we had General Abizaid, and we had Secretary Rumsfeld.

About that time, we learned that, at the behest of the ACLU, a Federal judge in New York by the name of Alvin Hellerstein has ordered the Government to release more pictures of the Abu Ghraib abuse. This is despite the fact that General Myers said if you do this, it will cost American lives. Apparently, Hellerstein missed the Newsweek Koran debacle, where 15 people were killed immediately after a bogus report by that publication, Newsweek, inciting impulsive violence that is done on a case-by-case basis.

I think sooner or later we are going to have to do something about it, try to at least do all we can to make the American people aware of the bias we have in the media.

I have had occasion, since I am on the Armed Services Committee, to probably be over in Iraq more than anyone else. On one trip, the Presiding Officer was with me. All of us who have been over there will remember that every time we arrive the first thing the troops say to us is: Why is it the American people don't understand what we are doing? Don't they realize our country is under the greatest threat it has ever had throughout its history? And don't they understand the resolve we have and the fact that we know we are risking our lives? And I say to them: They do know it, in spite of the fact that the media is wrong.

There is a lieutenant colonel by the name of Tim Ryan. He was in the 1st Calvary in Iraq. He actually led a group into Fallujah. I am going to read one quote he made. He finally could not take it any longer. He said:

> The inaccurate picture they paint [talking about the media] has distorted the world view of the daily realities in Iraq. The result is a further erosion of international support for the United States' efforts there, and a strengthening of the insurgents' resolve and recruiting efforts while weakening our own. Through their incomplete, uninformed and unbalanced reporting, many members of the media covering the war in Iraq are aiding and abetting the enemy.

They are aiding and abetting the enemy. And to have this thing revived on the Abu Ghraib prisoner abuse—by the way, I have to say this: Long before the public was even made aware of it, the military had gone in, taken the necessary precautions, and had prosecuted those who were guilty. That was done long before this came out in public.

Now, as far as the war is concerned, I think it is very important for people to know we are being very victorious in the areas. It is a tough asymmetrical type of threat, an enemy we have never had before.

But I would suggest that on one of the trips when I went there, we spent the entire time in the Sunni Triangle. The Sunnis are supposed to be the ones who do not like us. I can recall a general in Fallujah who at one time had been the brigade commander for Saddam Hussein. He hated Americans. Then, when he became the brigade commander for the Iraqi security forces, he started embedded training with our Marines. He became so affectionately involved with our marines that he looked me in the eyes and said: When they rotated me out, I cried. He loves Americans now. He loves the freedoms we are bringing to that country. He is joining in that fight.

Do you ever hear about this in the media? No, you do not hear about it.

At the same time, I was in Tikrit. Tikrit is the home of Saddam Hussein. At that time, I think most of us remember, the training headquarters in Tikrit for the Iraqi security forces was blown up, and there were 40 either killed or seriously injured. Those were all Iraqis. For every Iraqi who was killed or injured, their family replaced that Iraqi trainee with another member of their family. Do you hear about that in the media? No, you do not hear about that in the media.

I can remember being in a Black Hawk helicopter, going some 50 feet off the ground, all throughout the Sunni Triangle, over almost every square foot, and seeing the kids down there. Something people do not realize is how close our troops have become to these people. A lot of times, when you send candy and cookies to your troops, you think they are eating them and all that. Do you know what they are doing? They are repackaging them, putting them in small packages, and when they go over an area in helicopters, they throw the packages down to the kids below. Those kids in the Sunni Triangle are waving American flags and jumping up and down and cheering. But you do not see that from the media.

I have to say, I do appreciate the fact that Bill O'Reilly, last night, did draw the public's attention to this judge who is wanting to release more pictures of prisoner abuse. But I am critical of Bill O'Reilly because he said no one in Congress wants to do anything about it. No one wants to touch it. I want to remind him—and in doing so, I am not going to talk about what I did—but back in February of 2004, I did complain about the fact that we were doing a great disservice to our troops by giving the Iraqis, giving the terrorists, giving the Middle East, giving the American people the wrong picture of what is going on there.

I said I was not outraged. Let's keep in mind, in Abu Ghraib these prisoners were terrorists, these people killed Americans. And here we were worrying about: Are we treating them properly?

I remember Zell Miller defended me. Nobody else would do that at that time. I will read to you what he said, Zell Miller. You know all about Zell Miller from the State of Georgia. He said:

> Mr. President, here we go again, rushing to give aid and comfort to our enemies—pushing, pulling, shoving, and leaping over one another to assign blame and point the finger at "America the terrible," lining up in long lines at the microphones to offer apologies to those poor, pitiful Iraqi prisoners.

Of course, I do not condone all the things that went on in that prison, but I for one refuse to join in this national act of contrition over it. Those who are wringing their hands and shouting so loudly for heads to roll over this seem to have conveniently overlooked the fact that someone's head has rolled, that of another innocent American brutally murdered by terrorists.

> Why is it there is more indignation over a photo of a prisoner with underwear on his head than over the video of a young American with no head at all? Why is it some in this country still do not get it, that we are at war, a war against terrorists who are plotting to kill us every day, terrorists who will murder Americans at any time, any place, any chance they get?
>
> Yet here we are, America on its knees in front of our enemy, begging for their forgiveness over the mistreatment of prisoners, showing our enemy and the world once again how easily America can get sidetracked, how easily America can turn against itself.
>
> Yes, a handful of soldiers went too far with their interrogation. Clearly some of them were not properly trained to handle such duty, but the way to deal with this is with swift and sure punishment and immediate and better training.
>
> There also needs to be more careful screening of who it is we put in these kinds of sensitive situations—and no one wants to hear this, and I am reluctant to say it, but there should also be some serious questioning of having male and female soldiers serving side by side in these kinds of military missions. Instead, I worry that the . . . "hand wringers of America," will add to their membership and continue to bash our country ad nauseam and, in doing so, hand over more innocent Americans to the enemy on a silver platter.
>
> So I stand with Senator Inhofe of Oklahoma who stated that he is more outraged by the outrage than by the treatment of those prisoners.

I appreciated the fact that he came to my aid and made that statement back on May 13, 2004. The truth is out there. The media is not giving an accurate picture.

I will hold this up. This shows the number of editorials from the New York Times and the Washington Post: The number of editorials that covered the some 400,000 people tortured to death, put in mass graves in Iraq, a total of three editorials were written. The number of editorials since March of 2001 about the beheading of hostages by terrorists in Iraq and elsewhere, including Nicholas Berg and Daniel Pearl, was eight. Yet the number of editorials since March of 2004 about U.S. detainee policies, including Abu Ghraib, was 90. If that isn't bias.

We need to do something to stop this. This needs to be appealed to the Supreme Court. I am going to be advising the Secretary of Defense of my feelings. Hopefully we can save some American lives by not reliving the pictures and this issue that has already cost many American lives. If we actually show these pictures and revive it again, it will be aiding and abetting the enemy, and American lives will be lost.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLEN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1716

Mr. BAUCUS. Mr. President, there are an estimated 1.5 million individuals who survived Hurricane Katrina who are now scattered across the Nation. The stories of what they have already experienced are harrowing. They are suffering deprivation beyond what many of us could imagine, and their needs, especially for health care services, are greater than most of us hope to ever know.

Today I come to the floor to share with you a few stories of those survivors and the problems they are facing in getting the health care services they need. Many are uninsured and without means to pay for food and shelter, let alone prescription drugs or a doctor's visit.

As I said when I spoke on the Senate floor on Wednesday night, one in three survivors who have applied for Medicaid in Louisiana have been turned away. Why? Because they do not meet Medicaid's traditional eligibility criteria.

These people need help. The Grassley-Baucus bill would deliver it to them without delay, without uncertainty.

As we consider moving forward on this legislation, I remind my colleagues of the faces of those we are trying to help. The survivors of Hurricane

Katrina are people such as Eugene Johnson, age 57, a retired plumber and a diabetic who lost his home to Katrina. He, his wife, and four of his five children have moved from shelter to shelter. He needs eye medicine that he left behind in New Orleans, but he cannot afford the $119 cost of the prescription. Without his medicine, he will go blind.

An aid group, the Children's Health Fund, provided him with the medicine and responded with these words:

> We're a stopgap. Nothing more.

Maude Jordan, who slept on top of her refrigerator for 3 days before being rescued in New Orleans, penniless and diabetic, was taken to a relief center in Baton Rouge. Her application was rejected by Medicaid. However, she was unable to establish eligibility because she could not establish categorical eligibility; that is, she was rejected because—this is what Medicaid said—she was "unable to establish eligibility because cannot establish categorical eligibility." Give me a break. She needs help now. That is what our bill does.

Dwayne Russ, 44, who had lived independently in a specially outfitted apartment in New Orleans and maneuvered in an electric wheelchair, lost his wheelchair when he was evacuated to Georgia and was placed in a nursing home. The local director of advocacy at a specialty hospital and rehabilitation center helped him out but stated:

> Dwayne is just one person but he demonstrates there's lots of people out there in his same predicament who are not getting the help they need.

Tom Leynes, age 49, was a carpenter with an apartment just off the beach, a happy family man. After Katrina, he found the bodies of his two little girls holding hands. Now he is struggling with depression, living in a tent, taking medication, and trying to deal with the pain. He needs help.

Theresa Bieller, 39, Gulfport, MS, was following a 15-pill regimen for a heart problem and other conditions before the storm. Most of her prescriptions were already low or empty. To make matters worse, she had no electricity to operate a nebulizer for her 2-year-old asthmatic daughter, Chloe. After a few days without medicine, her chest pain and weakness mounting, Bieller checked into a hospital. She came out the next day with a mere 3 days' supply, not 15. She has no insurance and little cash to buy the expensive drugs. She needs help.

"Precious" is the name given by nursing home staff to an elderly woman evacuated from New Orleans to Tennessee who cannot remember her name. Precious can talk, but she is unable to tell staff who she is or what her health care problems are. She spent 4 days in a hospital before becoming a resident at Bordeaux Long-Term Care. Who and how her care will be paid for is unknown.

These survivors and hundreds of thousands like them are waiting for Congress to act to make sure they can get the health care services they need. They cannot afford to wait another moment for this assistance, and neither can we. I urge my colleagues to join me in supporting this motion which I will now offer by unanimous consent on the Grassley-Baucus Emergency Health Care Relief Act.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 214, S. 1716; that the Grassley-Baucus substitute bill which is at the desk be considered and agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; and that all of this occur with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, if I might momentarily reserve the right to object, Mr. BAUCUS, the Senator from Montana, has given a powerful description of people who are in great need of help. There is no question about that. Many of the States that are affected and other States have taken steps to provide help in many areas, to set up uncompensated care funds to provide assistance to evacuees. I think the Senator from Montana would argue that it is not enough, he would like to do more, and his intention is obviously to bring this bill to the floor to deal with some of these concerns. I have spoken before on this and will not speak at great length now. I do not believe this bill is the right way and the best way to address those concerns. It has a cost of $9 billion. It does include provisions for assistance to States regardless of whether they have evacuees located in them, regardless whether they were hit by the hurricanes.

I and other Members have been working with Senator GRASSLEY and Senator BAUCUS and their staffs to try to come to some agreement, but that has not happened. The question is not whether we should or want to provide assistance, but we want to make sure we do it in a way that ensures that resources get where they are most needed and in a way that takes advantage of the $45 billion or so that has already been appropriated but has not been committed yet.

So I do object to the unanimous consent request. I know Senator LINCOLN from Arkansas and Senator LANDRIEU from Louisiana wish to speak on this issue, and I will be more than happy to let each of them do so before returning to the floor, if I am able to do so today, and offer a few remarks.

I do object at this time.

The PRESIDING OFFICER. The objection is heard.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I rise to support my colleague from Montana and his counterpart from Iowa, Chairman GRASSLEY, who have stepped up to the plate, along with the Senator from Arkansas on the Finance Committee and other Members, to put forward a bill that is absolutely crucial for the hundreds of thousands, in fact millions, of people who have been impacted directly by these two storms and the subsequent failing of a levee system in a major metropolitan area of this Nation.

This is an unprecedented natural disaster. We have said it so much that maybe it is a cliche and people are not quite understanding the magnitude of this, but these hurricanes and the subsequent levee breaks have truly displaced 1.5 million people who are without homes, without businesses, without their churches, without their synagogues, without their extended families around them, without their pharmacists, without their doctors, and they need help now.

I wish we had organized, funded, and resourced FEMA in such a way that this could be taken care of, and actually the next time this happens I hope we will have done just that. But for today, for the people of Louisiana, Mississippi, Alabama, and now Texas, who were also hit with this last storm Rita just 6 days ago, we have not had time to reform and reorganize FEMA. So if we wait for FEMA to do this, these people will not get the help they so desperately need.

We need some additional resources. That has been documented on radio, television, in print newspapers from conservative to liberal to right up the middle that FEMA is not functioning as well as it once did. This is not about blaming anybody, this is about recognizing that fact and moving on. So Senators BAUCUS and GRASSLEY, the good leaders that they are, in a bipartisan fashion, without trying to blame anyone, have said: OK, let us step in the gap. We have people who need help. We have the money to help them. Let us help them. They have put a bill together that will do that.

We are now 31 days since Katrina made landfall, the most powerful storm and subsequent levee break in the history of the country, and 6 days since Rita. Maybe people can wait another week or two, maybe three, maybe the people who just got hit 6 days ago can hold on literally to their life, their health, their children, their parents, with no health insurance, nowhere to get medical coverage, maybe they can, but maybe they cannot. Why should we again make them victims of our inability to act?

This is not a Democratic bill. This is not a Republican bill. This is a bill put together by Republicans and Democrats, tightly and carefully drawn. Maybe some other additional compromises can be made; I do not know.

but what I do know is we have to pass this bill very shortly or we are going to end up spiraling downward instead of upward in this region.

The needs are great. It is not just health care and not just unemployment benefits, but when there are big cities and small towns from the Texas coast to the Louisiana coast to the Mississippi coast that are obliterated, they are not functioning, there is not a building standing—in some communities such as Waveland or in parts of Biloxi or Cameron Parish, which is a large but sparsely populated parish in my State, 10,000 people, there is not a structure standing as far as the eye can see, except the courthouse that was built in the early 1930s.

In New Orleans, still a large part in the West of the city is like a ghost town. The mayor is doing a good job getting people back to the city. Our city council is working hard. Our sheriffs, our policemen, our firemen—all of them are working very hard trying to get people back to the city. The health care system that existed just 32 days ago in New Orleans does not exist anymore. The one that existed in Waveland is completely gone. The one that was in Cameron is gone.

So I wish FEMA had showed up the next day and said: Here are your health care cards, here is what you do, here is help. But that did not happen. I am not here to fuss with FEMA; I am here to fix the problem. We do not have a lot of time.

Let me say something else to my colleagues. Congress normally does not work quickly. It is not what we are created to do. I understand that. I have been in the Senate now 6 years. We are created to sort of go slowly. It is because the Founders did not want us in passion to move too quickly. I understand that. But we were also supposed to take the responsibility to create agencies that could act quickly, efficiently, and effectively. In large measure, we have failed to do that. It was not the Republicans' fault or the Democrats' fault or this administration or the previous administration. I am not interested in that. I am just saying the reality is the people—2 million and more because other people have been impacted—need help. We have to provide it.

There are some problems over in the House of Representatives, and people know about those problems. I can understand that. But the Senate, Republicans and Democrats, has put together not just this bill, we have put together four or five bills on education, health care, small business tax relief, community development block grants, getting people immediate help to relieve their mortgage payments. If we do not do this in the next few days, the economy of the gulf coast will begin a downward spiral, and I do not know what else it will take with it.

Everybody keeps saying this is a local problem, this is about New Orleans or Plaquemine or Saint Bernard or just Waveland. It is not. It is a regional crisis. It is a very important region for our country. It is the heart of the oil and gas industry. It is the largest river system in the Nation. It is the largest fisheries and maritime complex in the country. This is not time to cower.

The Presiding Officer is from the South, a different part of the South, but as a Governor he most certainly understands the dynamics of the Washington-Virginia region, and if it was impacted in such a way, it could have national ramifications. The Chair most certainly understands that. That is what is happening in our region.

Slidell, a population of 25,000—direct hit, the eye. Most of these people work at the Stennis Space Center in Mississippi or they work in New Orleans East, which is completely gone—most of the residents are—at NASA at the Michoud plant. A lot of people in Slidell are poor, middle income and wealthy. The neighborhoods have all been hurt and affected. Some are doctors, some are small businesses.

Lake Charles, 71,000—not a direct hit but took a big hit in the hurricane, and the small cities around there, Sulphur and White Lake. I have mentioned Waveland and Pass Christian, MS, Beaumont, TX, Bay Saint Louis, MS, just to name a few. These are the people, the working folks who support the maritime and the energy industry.

It is a complex and comprehensive plan that is necessary for rebuilding, and we are working on the pieces of how to do that. There are many different ideas that are floating around. Something will come together, whether it is done for each individual State or whether we end up coming together as a gulf coast region and doing something. I am confident, with the good ideas I have heard expressed here, some compromise will come together.

But we can't wait for this huge structure of rebuilding before we take care of some of the urgent and immediate needs: water, electricity, food, health care—the basic needs, the basic fundamentals of those governments, so small businesses can actually have a permit to stay in business, so businesses who want to locate actually have somewhere to send their letter: "Dear Mr. Mayor, I would like to locate in your town."

If there is no city hall, there are no people on the payroll, there is no executive assistant to the mayor, where do they send the letter to open a business?

I know I might be exaggerating a little bit, but I do it to make the point that, yes, we need tax cuts, yes, we need incentives for small business, but no small businesses can operate on an island by themselves. They actually have to plug into electricity and hook up to water. They have to be able to file their permits with city hall.

We have cities right now deciding whether they need to lay off all of their employees, half of their employees—maybe we will lay off 10 percent every week until somebody in Washington hears us.

I don't know why we have trouble hearing in Washington. I am not certain; maybe we talk too much. I most certainly myself could be blamed for that. I do a lot of talking. People say, Mary, you talk a lot, and I have to admit I probably talk too much and maybe I need to listen a little bit more. But I am starting to think a lot of people in Washington are not listening because the people in my State are crying desperately for help. I can hear people from Mississippi and Texas and Alabama crying for help. I know we do not normally act quickly, but we have to figure out a way to do it.

I am not talking about taking the Treasury and dumping money down there. I am talking about passing the bill of Senators BAUCUS and GRASSLEY that was worked out by Democrats and Republicans. Maybe we can tighten it even more. Maybe there is a compromise even further to be had. But there are a lot of Republicans supporting this bill. We need the House and we need this administration to support this bill and get it passed before we leave next week.

I am going to conclude because Senator LINCOLN, who is truly an expert on this subject, wants to speak about this particular bill. But when we come back next week, I, as the Senator from Louisiana, want my colleagues to understand it is going to be very difficult for any of us—and for me particularly—to go home next weekend for a break when nobody in Louisiana, very few people in Texas, Mississippi, or Alabama have had any break and will not for a while. The only thing they are going to get as a break is broken homes and broken hearts, displaced families. We cannot go home without helping them to more quickly get back home.

We are grateful for the hospitality of Arkansas and New York. I went to New York to personally thank New York Mayor Bloomberg and the police and firemen for everything they did to help us. I have had people from all over the world in my office, thanking them for coming to our aid—internationally as well as nationally—but we cannot go home next week without helping the people from the gulf coast get home. We have to fix the education crisis. I am going to list a few things we have to do before we leave:

We have to fix the education crisis. LAMAR ALEXANDER, the Senator from Tennessee, has been working very hard all week on a compromise. I would like to see his bill passed.

We have to pass the Grassley-Baucus, or Baucus-Grassley Medicaid proposal for health care for people.

We are going to have to pass some kind of mortgage relief. We have hundreds of thousands of people for whom—some of them—their home was their largest asset. If we do not give them some relief, they are going to lose the largest asset, the only real asset they have. Some people have more than that, but most people have their wealth in their home. They are getting ready to lose it all because of the conflicts between the insurance companies and whether it was wind or whether it was flood. We are not asking for forgiveness, but a break for 6 months. We have to give them that.

My staff told me today, a few minutes before I came down here—and I am sorry I do not have the document—that the report just came out that there has been the highest number of people in the history of the country who have defaulted on credit card payments. Does anybody wonder why? Is anyone confused about why this month, this report would show the highest number of people in the history of the country to default on credit card payments? It is because the people who are lucky enough to have credit cards and who still have not yet hit their limit are using their credit cards and their cash cards to literally stay alive. They have no health insurance, no hospital, no job, and virtually no action from Congress. They have a credit card and they will hit their limit.

So if we do not get some response quickly, in a bipartisan manner—I see HARRY REID on the floor, our leader, who knows this well. For the last 2 weeks he has been working to keep Democrats and Republicans working together to get this done—we are going to be in a serious situation. There are some things we have to get done next week.

In conclusion, I thank Senator BAUCUS and Senator GRASSLEY for bringing their bill up again to the floor. We are going to have to get some things done before we can go home next Friday. I look forward to working with my colleagues in that regard next week.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, words to express my consternation are difficult to come by right now.

First, to express my appreciation to Senator BAUCUS for his tireless efforts. Montana is a State without a lot of people. It is a State that grows hardy stock. I have been there. Every time I have been there, it has been with Senator BAUCUS. It is a beautiful State—big sky country. Senator BAUCUS does not have many people in his State that this legislation he is attempting to put forward would help. He is doing it for the precious people in the world, not just the one he talked about with the name Precious, but precious people who have no place else to go than to someone like Senator BAUCUS, who is a leader from the State of Montana, who finds himself in a situation of responsibility in which he must reach out.

He first is a Senator from the State of Montana. But most important, his title is a U.S. Senator. He is concerned about the people of Louisiana, about the people who may not be named Precious, but they are precious. People in the State of Arkansas, because of close proximity to the areas where the hurricane struck, took in as many as 65,000 people. They are not all there now—most of them are there—but wherever they have gone, they have left in the State of Arkansas a lot of unpaid bills. That is not because they are trying to get away from responsibilities they have. It is because this Government has programs that are supposed to protect people such as Precious. The State of Arkansas deserves more from us than they have gotten.

This legislation Senator BAUCUS is propounding has the support of the vast majority of the Senate—I hope on a bipartisan basis.

While I am talking about bipartisanship, I have also to throw a bouquet to the chairman of the committee, Senator GRASSLEY. He has taken a lot of grief for working with Senator BAUCUS to come up with this legislation. Why did CHUCK GRASSLEY do that? Because he is a United States Senator and has responsibilities outside the State of Iowa. This legislation is a model for bipartisan compromise.

Senator LINCOLN was misled, I say with all due respect to some of my colleagues, because she filed a similar amendment to the Commerce, Justice appropriations bill. Why did she withdraw this? She withdrew the amendment in exchange for the promise that the Finance Committee would reach a bipartisan agreement, which they did, and it would be brought to the floor and we would vote on it. We have had no vote on it. Senators BAUCUS and GRASSLEY fulfilled their promise. Her legislation wasn't exactly like this, but it was so close it is not worth discussing the difference at this time. A handful of Senators have blocked consideration of this bill on the floor, twice already that I know of, and I think maybe three times.

The administration has the audacity to argue that this is not necessary. They want to do it with a bunch of waivers. Anyone who understands Government knows that is absolutely ridiculous. Their approach creates more bureaucracy while failing to provide funding guarantees for the States that badly need this. More important, their approach not only leaves but has left tens of thousands of Katrina's victims without care. We need to provide swift access to health care for Katrina's victims with guarantees of full Federal funding for the States who are generous and step forward at a time of need.

This is the time to allow us to pass this legislation. We are here now on a Defense appropriations bill. That is what we are going to be doing now. Couldn't we set aside 20 minutes, 10 minutes of debate on each side, and vote on this? We have a handful, maybe a half dozen Senators, holding up this legislation. Couldn't we spare the American people 20 minutes of debate time on the Senate floor to deal with people who are in dire need of help? As Senator BAUCUS explained, these are people who cannot even speak. We want to help them.

Continued failure to do so ignores the support of the bipartisan majority of the Senate. It also ignores the wishes of this country's bipartisan Governors. The Governor from the State of Arkansas is a Republican. The Governor from the State of Louisiana is a Democrat. They want help. Mayors, county commissioners, patients, hospitals, nurses, doctors—my good friend, the majority leader of the Senate, is a physician, a prominent, eminent transplant surgeon. I know how he cares about people who are sick. But we need the majority leader to push aside the loud voices of this very small minority over here and stop this. He needs to stop this and let us move forward with this legislation.

He has decided not to run for reelection. He is going to be here a year plus a few months. Is this a legacy that he wants to leave? Katrina? People, after 5 weeks, with no health care? Is it going to be 7 weeks? 5 months? Maybe ignore them, maybe that is what they want, ignore them.

These few Senators are standing complaining about maybe it costs too much. Maybe the first place the majority leader should look, with his friends who are holding this up—let's look at the budget that is out here, of which Protestant leaders of this country, on the night it was passed, said it would be an immoral document.

I am very grateful to the Senator from Louisiana, Ms. LANDRIEU, and my friend of many years, Senator BAUCUS, for doing what they are doing, and the advocacy of Senator LINCOLN from Arkansas. I so appreciate their not letting this issue die in the eyes of the American people. We must continue doing this. It is the right thing to do.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I come to the floor today to join my colleagues in what we hope to be an opportunity to bring about an awareness of the dire need, not only of the evacuees, of those individuals in the affected States who have received such incredible, devastating natural disasters, but also the other Americans who are involved in this circumstance, the other Americans who have opened their hearts and their homes, their hospitals and clinics, their pharmacies and their community centers, their church basements—these communities who have recognized what it means to be an American. They have recognized what it means to be fellow Americans. They have recognized what it means to be a good neighbor—I was, I guess—tongue in cheek—perhaps I was criticized being a little overpassionate on this issue, so I will resume my good, soft-spoken, and commonsense approach to what I think to be a very real problem—to have deeper roots, in terms of what are the values we as Americans do profess and for which we are willing to put our money where our mouth is when we speak of these values to really talk about not the immediate impact but also the long-term impact of the decisions that we make or we fail to make in a timely way.

I will come at it from a different perspective. Maybe keeping my compassion down a little bit will be helpful, but it is hard when we look out and see the kind of compassion in the faces of the incredible constituents that we serve, that we represent, that we have the privilege of coming to this floor to represent each and every day.

We also look out at the private sector, for which we also can be proud, our Nation's health care providers and States that have been there, at a time when vulnerable Americans need them the most.

The moment that Hurricane Katrina hit the gulf coast—now about a month ago—they jumped into action. They didn't have to be asked. They didn't have to be told what their job was. Medical, professional, and community leaders knew what their job was. Their job was to reach out to their neighbors, to their fellow Americans, and to their fellow human beings, who were in unbelievably devastating circumstances.

Cities and States all around the country opened their doors to welcome Katrina survivors from throughout the gulf coast region. Hospitals evacuated those who needed immediate attention. Doctors, nurses, and other health care providers have come together to provide health care to thousands of victims of this horrific natural disaster in the gulf coast. And they did all of it with no questions asked. They didn't ask: Who is going pay for this? Who is going to reimburse us? Who is going to take care of us? When the high numbers of Medicaid patients jump way beyond a survivable number, who is going to make us whole?

They did not ask those questions because they believed in this country. They believed in who we are in this body as Americans, who know our responsibility as neighbors. I happen to be somewhat of a neighbor of the President in the chair today. When my family is here and we are in session, northern Virginia provides an incredible neighborhood for us, just like our neighborhood in Little Rock.

We reach out to our fellow neighbors out there, as we do our neighbors in Arkansas.

It is what we are about in this country. It is being there for our fellow man. That is what these providers have done. Now it is our time.

We have an opportunity in this body to demonstrate that we understand what that means, we understand what it means to be a good American, to be a good neighbor and to provide to our fellow man who is in the neediest time in his life the kind of care and love and support that he needs—he or she—at that time without asking questions.

We could pass the Emergency Health Care Relief Act that Senator BAUCUS and Senator GRASSLEY have worked so hard, in a bipartisan way, to bring about. I offered an amendment a month ago. I could see from my providers, those doctors and nurses, those pharmacists who worked 24-7, who spent their entire Labor Day weekend taking care of their neighbors from Mississippi and Louisiana, who didn't ask questions, I could see that there was going to be a tremendous need down the road to provide them piece of mind—that not only they were doing the right thing in helping those neighbors but also that they could continue to do the good job in providing services to the constituency, the community, and the neighbors they have known all of their lives.

Many of our communities in east Arkansas, particularly in the Delta region, are already disproportionately poverty counties. Hospitals and clinics, community health centers before Katrina were already disproportionately Medicaid and Medicare facilities. They were already heavily dependent.

Tomorrow, they are going to take a cut. To save money in this country, to look at where we are going to save money, we are going to reduce the Federal share of their Medicaid reimbursement as of October 1. Out of the 29 States that are going to see a cut in their Medicaid reimbursement, the most affected 7 States in the country by this natural disaster will see a cut tomorrow in their reimbursement for the neediest, those who depend on the health care safety net of this country because we are so trapped, so paralyzed in the redtape that we want to create in this body.

We do have an opportunity, though, to not only provide for Katrina survivors and victims of such an incredible natural disaster, but to also prove to the private industry of this Nation that we can react without the unbelievable web of redtape that leaves them hanging, that leaves them holding the bag for the cost of something that we should be held accountable for—not just held accountable because we are the Government but held accountable because we are the institution that wraps its arms around the American people when they are most in need. We can do so in an efficient and effective way.

To my colleagues on the other side who are so desperately worried about the cost of what we are doing, who are so afraid of helping one too many needy people, I say to you: Look at what we have become.

We have worked hard to keep the costs down. We have made it temporary so it wouldn't explode or overexpand—yes—an already very expansive program.

These people are not going home tomorrow.

I saw a piece in my hometown of Helena about a couple that left in haste out of New Orleans. They went to Jackson and could find no help. They went to Memphis and were sent to Tunica, MS. In Tunica, at the Red Cross facility, they were told there was already overcapacity, and they were simply sent away. They went to the next bridge that crossed the great Mississippi River and into my hometown, remembering someone they had grown up with in their childhood from Chicago, and called him hoping that he would be there. He was. He was a pastor of a church. He had opened his church doors and his home. He and his wife opened their home and welcomed them in, as well as other families that were already living there. They reached out to one of the most poverty-stricken counties already in the country—reached out to a small health care foundation that this community had managed to put together over the last several years to try to reinvigorate their health care infrastructure because they know how important it is as a component of rebuilding the vitality of their community and creating jobs for those who want to get into a more independent situation.

But who locates businesses, or factories, or jobs in an area where you don't have the necessary health care to begin with?

So you have a small nonprofit health care foundation paying for this couple's health care because the providers have no earthly idea whether their Federal Government is going to be there for them.

We are bigger than that. We are not talking about an open-ended payment.

We are talking about a temporary ability to give peace of mind to the people who, since day one when this disaster struck, have not asked questions, have put their full faith and hope in this Federal Government—that for once it will disregard the redtape, look wisely at something that we already have in place, and look wisely at past experience such as 9/11, when we were able to temporarily offer a health care safety net to survivors, and expect that we could come up with the wisdom and the courage in this body to provide them the peace of mind that what they have done for their fellow man was the right thing to do.

We are talking about ensuring full Federal funding within the area where medical care has been provided for victims of the hurricane.

Medicaid is our health care safety net in this country. I think this crisis itself has shown us how important this safety net is to our Nation.

We have to make sure it does not unravel in the face of this national emergency.

Do we have concerns about Medicaid? Do we feel as though there are places where we could be more efficient and effective in that program? You bet there are places we can be more efficient and effective.

Chairman GRASSLEY has suggested some in terms of the cost of prescription drugs through Medicaid that can be negotiated in a better, more efficient way, to provide more cost-effective drugs in that program and hopefully lead the way to seeing us provide more cost-effective pharmaceuticals for all other programs, as we do with the Veterans' Administration. We can do that when we work together.

To scrap a program designed as a safety net for people who are in the most devastating circumstances is not the way to do that.

The administration promised they wanted to make whole financially the States that were providing health coverage to evacuees. They say there is no need for the Grassley-Baucus initiative to provide full Federal funding for Medicaid because they want to use waiver policy. What they did not say is there is no Federal funding, no Federal dollars in providing that waiver policy. There are no dollars that they will put behind that.

They have asked Louisiana, Mississippi, and Alabama, the affected States, to sign memorandums of understanding to agree to be on the hook financially for a portion of the Medicaid costs of the survivors. How humiliating to go to a State that has been devastated and say: We are going to put you on the hook right here and now for the costs of what your neighbors want to provide. And we, as a nation, supposedly the wealthiest nation in the world, should be able to care for our American citizens.

We know those States are in no position financially to incur that kind of cost. Those three Governors testified before the Committee on Finance earlier this week. One of the Governors mentioned she did not even have the resources through her State legislature to overcome the increase in costs they were going to see because of the loss of Federal dollars they are going to experience tomorrow when their Federal matching portion of Medicaid is cut. That was before Katrina ever hit. Before this devastation hit, they could not find the resources in their State—with a disproportionate share of low income, dependent on that safety net—to be able to cover that. That was before the disaster.

Those Governors were highly concerned. They expressed it in their testimony and in their questions and comments about making sure the Federal Government would be there for them to make them whole, to extend help to their States—Louisiana, Mississippi, and Alabama—when they were unable to deal with that under their current budgets.

For Arkansas, what does it mean? Does it mean we are left holding the bag due to budgetary issues, due to the fact that there are a few people in the Senate that are more worried about the temporary spending to help the neediest of this devastation than they were about the $62 billion we vetted for FEMA? Nobody objected to that. I have no objections for taking the money from that. FEMA will probably come back and ask for more money anyway.

If it were your mother or your sister or brother or niece or nephew, uncle or parents or grandparents who had been displaced, who found themselves in a strange community with a chronic illness—whether it was heart disease, diabetes, perhaps cancer patients in need of treatment, perhaps it was a child who needed health care—can you imagine the fear of thinking you would not be able to access it? Or to find the provider that was providing it for you was scared to death that it was going to push them over the edge; that if they helped enough of the people without any assurance or piece of mind, eventually their doors would be closed and they would no longer be able to provide that kind of care.

As I toured the evacuee camps, there was an unbelievable feeling of gratitude among those displaced at a time when they had to have been devastated. A woman was about to get married who had lost her wedding dress in New Orleans. But the people in our community in Arkansas provided a wedding dress and a wedding for people who had been displaced who did not know where their other family members were, who were separated, yet who were still so grateful for the food, the warmth, the hospitality, the love and the arms that enveloped them in the evacuee camps where they found themselves. Some of them have dispersed and gone to stay with cousins, aunts or uncles, sisters or brothers in other States. That is one of the reasons we want the expansion.

We do not want it just for the State of Arkansas. We know we have already sent many evacuees to Pennsylvania, West Virginia, North Carolina, Iowa, Utah. They too are going to need health care because they do not know when they will be able to go back, and they do not know what they will be going back to. They do not know what happened to their jobs, the health care they may have had which is provided for in this bill to keep private insurance still in the go-along to make sure we make it whole as well, that we put as few people as possible into that Federal safety net.

We have an opportunity. I hope as a nation we can realize spending more and more time to try to bring up convoluted waivers—and our State Medicaid directors know that most of what is in the waivers is an empty promise. Last night in Arkansas, we got a waiver from HHS, but it certainly has contributed only to more redtape in addition to what has already been created. It provides more questions than answers. There is no money attached to it so it really is an empty promise that they will do something about that.

The survivors, the health care providers in the States, have received no relief, no legitimate help. They are out there doing this without any assurance of from where it will come.

We do not know in the waivers what services will be cut. How do we expect providers to know what they can provide and what they can't? Most of them were given the assurances from their State: Don't worry, we are part of a great Nation.

When you treated those people over the weekend on Labor Day, we are going to ask them to go back in their minds 4 months and fill out the kind of paperwork to ensure they can get reimbursed for a tetanus shot or for a procedure, whatever it might have been. They, in good faith, have filled out what the State has asked them to fill out to make sure they are accountable for the services they have provided. Yet through the waiver processes, there is yet one more piece of redtape, one more form to be filled out, one more web of Washington bureaucracy they will have to deal with, without any guarantee that there is money behind it, that there are resources to actually pay for that.

As we look at the waivers that have been offered, they create uncertainty about reimbursement. The administration has suggested creating a new uncompensated care pool to reimburse health care providers. When we asked where was the money going to come from, that is what they told us—a new uncompensated care pool. Why wouldn't we use something that already exists, that already has fraud and abuse stipulations and cautions? Why wouldn't we use a system that we can continually improve on? But we will create a new uncompensated care pool. We will not know where the money will come from.

I question my colleagues who are looking at fiscal responsibility. A new uncompensated care pool does not have any parameters to it, it does not have any protections from fraud and abuse.

Health care providers receive no guarantee about which services and how much care will actually be reimbursed through this uncompensated care pool. I go back to the story I used in committee the other day about the woman who survived on top of her refrigerator. She was reported in The Economist. She survived on her refrigerator for 3 days and was able to finally get out. She made it as far as Baton Rouge. She was a diabetic and quite in need of care. She went to seek out health care and was told she was categorically incorrect and could not get care.

That is the kind of redtape we will perpetuate if we do not look at the reasonable proposal that Senator GRASSLEY and Senator BAUCUS have come together to produce.

Does it go as far as I would like it to go? It does not. I have been out there and have seen what the people are up against—both the providers and the evacuees. I see what their families are going through—not just the lack of care, the lack of essentials or the communities that are trying to provide for them, but the dignity they want to maintain while finding themselves without a home, without any possessions, dislocated from their family, their neighbors, the people who care for them and love them, finding themselves in strange places with people who are trying desperately to give them that sense of dignity and care.

In my soft-spoken and commonsense way, I appeal to my colleagues. We can be fiscally responsible. We can look for ways we can provide care and peace of mind to those who need the health care and to those who, without reservation, are providing it to some of the neediest, most destitute of Americans at this time in our country. I ask my colleagues: Please, do not put this off for yet another week. Don't send us home to our States to tell our providers, to tell the Americans that have evacuated the gulf coast, that they are not important enough for Congress to deal with this issue in a more timely fashion.

I compliment my friend from Montana for his and Senator GRASSLEY's attempt to work through this issue and to bring about something that is not only practical and common sense-oriented, that is limited in its timeframe, but that is also compassionate toward our fellow Americans.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I know the people in the State of Arkansas already know how much their Senator fights for them. I state my perspective: The Senator from Arkansas is one of the best. She is a believer. She fights for her people and all are grateful for that.

I make a couple of points. One, this legislation to help the health care needs of evacuees and victims of Katrina is desperately needed. It will pass. It is a question of when that willful band of three or four Senators will finally recognize that so we can get on with it and help people who really need some people. That is what this comes down to.

I hear a couple of complaints about this legislation. Let me briefly explain what this is all about. Basically, this is an effort to help people. It is a modest effort. It is legislation designed by the chairman of the committee, Senator GRASSLEY, a Republican, and myself, the ranking Democrat. We have worked with all the members of the committee. We have worked with staffs of the committees.

We have worked with Senators from States directly affected, asking their views. This has been scrubbed. This has been examined. This has been worked over many days in many ways. It is balanced. It is not nearly as extreme as some of the suggestions of some Senators. I might say, a couple of the Senators backed off and did not offer their legislation on the promise that we in the Finance Committee would come up with a bill, a balanced bill—Senator GRASSLEY and myself—and bring that bill to the floor.

Well, here we are. It is a couple weeks later. We in the Finance Committee did our part. It is up to the Senate now to do its part and take up this bill and pass it, recognizing that this is only temporary. This is only temporary relief, only temporary assistance for the health care needs of the people in Louisiana, Arkansas, Alabama, the States affected. This is not permanent. By "temporary," I mean about 5 months. My gosh, by the time we get this enacted, virtually a month will have already passed. We are talking about legislation which is 5 months in duration.

Some are concerned: Well, gee, this is an additional entitlement. It is more money. It is an entitlement.

Well, I think it is important to remind ourselves that in our country we have a program called Medicaid. What is Medicaid? Medicaid is our safety net. It is kind of the last resort for people to get health care if they cannot afford it otherwise, or do not have it otherwise—they cannot get it at their place of employment, or if they are not wealthy, they cannot buy health insurance.

So we have something called Medicaid. It is health care for low-income people, people who do not have much money whatsoever. It is kind of a safety net to catch people who otherwise would fall between the cracks. It is directly designed for people such as those who are affected by Katrina.

So many people in Louisiana and other States do not have health insurance. They do not have it. They do not have it for several reasons: One, they could not afford it; or they work for small businesses, which we know have a harder time providing health insurance; or their business has laid them off, so they do not have health insurance because they do not have the income. For whatever reason, they do not have health insurance and they need health care now—especially diabetics, especially people who need dialysis, especially seniors, or maybe not seniors, who have very definite, immediate, extraordinary health needs.

One out of three Medicaid applications in the States affected—at least in Louisiana—has been turned down because they did not meet the criteria. The criteria, as we know today, are pretty low. Or I might say it differently. It is difficult to get on Medicaid if you have significant income or just some income, if you have some assets. If you have some income and some assets, you do not get health care.

So we are saying, let's raise the eligibility criteria a little bit to the same measures we provided for victims of 9/11. It is the same provision. The income levels are increased only very modestly, very slightly, and the categories that are covered are virtually the same.

I ask my colleagues, if the survivors of 9/11 could get this kind of Medicaid health care insurance, why in the world can't people who are affected by Katrina get the same coverage? It is the same. The people of New York City got help right away. It was passed very quickly. Why can't the people of Louisiana, Arkansas, Mississippi, and Alabama get the same coverage? It does not make any sense to me.

Now, the catchall objection I heard earlier today was: Well, gee, this isn't quite right. It is not the best. Well, there is never going to be "the best." We all know it is often important to not let perfection be the enemy of the good. Is it going to be perfect? No. Is it very, very good? Yes. Can we adjust it and change it if we need to make some changes? Certainly. But let's begin.

This is an emergency. It is a bit reminiscent—I do not want to be too melodramatic about this, but we have had crises in our Nation's past, whether it was Pearl Harbor, Sputnik, or whatever it might have been, and this Congress reacted very quickly to those crises. This, too, is a crisis for these people in that part of the country. We need to act quickly. It is a crisis for them. If we do not act, many people will not get the health care they need; or, looking at it differently, they are going to be burdened with an additional concern, whether they are going to get their health care, whether they are covered under Medicaid, whether it is going to be there. That will be added to all the other problems they have: Where are they going to live? Where are some of their lost loved ones? What is next for them? Are they going to be able to make their car payment or house payment? The problems the people in Louisiana and these other States are coming up with are incredible. Why can't we, then, in a small way, help with health care?

Now, I have heard the objection: Well, gee, Senator, your legislation does not allow a reduction in FMAP payments to 29 States. After all, 29 States is a lot of States. There are only about three or four or five or six or seven States that are most affected.

Let me explain this. Currently, there is a scheduled reduction in Federal payments to States. It is called FMAP. It is irrespective of Katrina. It is in the law. It is because certain States, a few years ago, had higher incomes. Because of averaging and data lags, the information is quite dated. But the point is, this legislation says, OK, for those 29 States that are going to have their Federal payments to cover Medicaid drop automatically, we are saying they will not drop—temporarily. We are not increasing the Federal payment to States. We are not increasing it at all. We are saying it will not drop for 29 States for which it otherwise is scheduled to drop. And this is only temporary. I think it is for a year's term.

Well, why is that so important? Why is it important not to let Federal payments drop to those States? It is pretty simple. These are States which have a lot of additional costs. A lot of evacuees are going to these States. Many are going to these States, which puts an additional burden on these States. Now, it is not just Medicaid burdens; these States are going to have to pay additional Medicaid costs or other social services costs, other education costs, to pay for the people who are now coming to their States and who need help.

Let me give you a little bit of a flavor of what that means in terms of dollars and cents. Let's take the State of Arizona. They are scheduled to have about a half a percent reduction. That is a drop of $30 million in payments to the State of Arizona for Medicaid, and that State is now going to pick up at least 2,000 more people. That does not make a lot of sense.

Let's take the State of Nevada: It is about a 1.14-percent drop in Federal payments under Medicaid. That is about $14 million less Nevada is going to otherwise receive. They have to pick up about 1,500 additional people.

Let's take the State of Oklahoma. It is almost a 2.25-percent reduction. That is about a $66 million reduction. There are about 4,000 people, at least who we know of, who are going to be living temporarily, at least, in Oklahoma, and they will have to pick up those other costs.

We are not asking for an increase. We are just saying: No reduction in Federal payments to States affected.

I might add that 25 of the 29 States on this list are States where the President has declared a public health emergency because of Katrina. Twenty-five of the 29 States are States where the President has declared a public health emergency, indicating there are additional pressures on those States and additional pressures on the people in those States. We are trying to provide some temporary help.

Now, you hear sometimes: Well, the administration is suggesting a waiver. Senators mentioned the problems with the waiver. I will very briefly list them. One is that the waiver does not cover a lot of people who are going to need care. A major category is childless adults. If you are a single man or single woman, you do not get any assistance here. That does not make any sense. It does make sense to give assistance to women and children, but it does not make sense not to give any assistance to a single man or a single woman. That is an effect of the waiver that the administration is talking about.

Why create all these additional misconceptions? Let's say, as the legislation does: OK, we are going to utilize this Medicaid safety net, and I don't care whether you are single, you are a parent, you are old, or what; if you do not have the income, you are covered. We are going to help you out for 5 months. What is wrong with that? Doesn't that make sense? To me, it makes a lot more sense.

It is important to add, too, this legislation is strongly supported by the Governors in the States affected. It is bipartisan, supported by Republican Governors, Democratic Governors. Governor Riley of Alabama wants the legislation. Governor Barbour of Mississippi wants this legislation. Governor Blanco of Louisiana wants this legislation. It is supported by Republicans and Democrats.

A lot of Senators around here say: Well, gee, the local people know what the needs are. The local people know best. We in Congress are too top-down. We issue these ultimatums, we pass this legislation, but it is the local people who know.

It is important to note, the local people want this. It is the local people who are asking us for this. The Senators from Louisiana—from both sides of the aisle—want this. Senator LOTT and Senator COCHRAN want this. It is the same with the Senators from Alabama, who are both Republicans. They want this legislation. It is the same with the Senators from Louisiana. One is a Republican and one is a Democrat. They want this. I mentioned the Governors want it. The House delegations want it. Again, I remind my colleagues, it is temporary. It is only for 5 months, this Medicaid help.

Now let's get into the question of uncompensated care to hospitals. This legislation—again, scrubbed, worked over—provides for $800 million of uncompensated care to providers in the States affected, to be administered by HHS, and grants for uncompensated care for those hospitals; whereas, the administration says: Well, we will give uncompensated care in waivers. But we are not saying how much. We are not saying how. It is only a promise. I am saying, it is deeds. It is not words. It is deeds.

I might also add the waiver process the administration talks about as an alternative has huge, big problems, to be honest about it. What are they? Well, the basic problem is this. The administration says: OK, we will make you States whole under Medicaid; that is, you have the charges, then you bill us, and we will pay you. There is a real question whether they have the authority under the law to do that. It is a huge issue. In fact, coming to work today, I heard a George Washington professor talk about this. She says under the law they cannot do that.

Do you know what I think is going to happen? Some are going to duck under this waiver "idea" saying: OK, it will make you whole, States. Then there will be a big debate whether legally the administration can do that. Then, well, it kind of fades away and—guess what—these States are not going to get it. These hospitals are not going to get that extra uncompensated care, either.

All I am saying is, this is a quick, certain way. It is Medicaid. We all know Medicaid. We know it works. The provider networks are set up. The process is set up. The people are there. So let's raise the income levels a little bit—just a little bit—temporarily, for 5 months. Let's get on with it, rather than this very uncertain administrative idea of waivers and what they are, what they can and cannot do.

We have already established under the law one thing they cannot do. They cannot give Medicaid assistance by picking and choosing; in that picking and choosing, there is discrimination against who gets help and who does not.

Katrina survivors need to know, are they going to get any help or not? They do not need the additional worry of whether they are going to be discriminated against.

Finally, I would like to say, this question before us, to a large degree, tests us as a Nation, as a people, as a Senate, as a Congress. Who are we? What do we stand for? Are we going to stand here and bicker over minute details while people need help? Are we going to be kind of FEMA-like and be hesitant and not respond immediately? What signal does that send? What signal does that send to the people affected? What signal does that send to the rest of the country? What signal does that send to the world?

Here we are, the Congress is bickering over whether to provide health care benefits to the people who need them, people who are down and out because of a natural disaster.

We are supposed to be America, a big heart, model for the world. Sure, we have to make sure there is no waste.

That is one of the reasons we should go through Medicaid. There are already antifraud provisions and protections set up under Medicaid today. That is already in existence. It is pretty simple. It doesn't take rocket science to figure this one out. Let's help these people. Let's do it now. We will take up other disaster assistance matters in subsequent weeks and days and have an opportunity then to make adjustments that may or may not seem necessary. But at the very least, let's pass this legislation now.

We are going to pass it. Obviously, if you are going to do something, you might as well do it earlier rather than later and get on with it so we can get on with other things. We are going to pass this. I hope Senators who are opposed to this, for reasons I can't fully understand, will finally sit down and say: OK, sometimes discretion is the better part of valor. Let's pass it and get on with it.

The PRESIDING OFFICER. The Senator from Arizona.

TAX RECONCILIATION

Mr. KYL. Mr. President, let me speak briefly to a related subject dealing with relief for those adversely affected by hurricanes in the gulf region, the other side of the coin. We have a lot of programs we are going to have to fund for the relief of the people who suffered. A lot of us have felt we ought to be careful about how we spend that money and even make sure as much as possible we cut spending in other areas to pay for it. There are those who say the way to ensure we have enough money for these programs is to raise taxes. What I want to address is the fact that raising taxes, especially at this point, taxes that ironically would impact the very people who have suffered, would be absolutely the wrong thing for those people, for their communities, for the families of our country, for the economy, and for job creation.

Raising taxes is not something you do when you want to help people, especially since we know the bulk of the growth that is going to occur in that region is going to come from the private sector. You don't make the private sector more healthy by extracting more money from it.

Specifically, we are talking about a process in the Senate whereby we put real life into the budget we passed earlier this year through two bills we call the reconciliation bills, essentially reconciling income to our outgo. One of those bills deals with some of the tax policy we first effected in the year 2001 and then in the year 2003. Remember, the economy wasn't doing so well back then. When President Bush was elected in 2001, he said: We need to reduce taxes in some areas and thereby help the economy get back on its feet.

In 2003, we brought that tax relief forward to that date and the economy took off. Marginal rates were reduced for all taxpayers. There were two taxes especially that helped with investment and job creation. We reduced substantially the tax on dividends issued by businesses, by corporations. We also reduced the taxes on capital gains. Capital gains are paid on virtually anything you sell and make a profit on.

As a result of reducing those tax rates, did we have less money come into the Treasury? No. The reduction of the tax rates ironically caused all kinds of economic activity to occur because people weren't going to pay as much taxes on it, with the result that the taxes came rolling into the Federal Treasury. That is the situation we see today: Record-breaking revenues coming in from the payment of taxes because we reduced the tax rate.

Were we to allow those tax rates to go back up again, we can fully expect the exact opposite effect: less economic activity to tax; therefore, less taxes collected. It doesn't make any difference if you raise the tax rate; if there is nothing to tax, then you are not going to bring more revenue into the Treasury. Both because it would hurt the people you are trying to help in the gulf and around the country, and because it would bring in less revenue to the Treasury, a tax increase at this time is exactly the wrong response.

There is an interesting phenomenon—I know the Presiding Officer is aware of it because he takes a significant role in studying the economy and its effects—economists who look at this say we will be able to rebuild from the effects of the two hurricanes. Our economy is big and strong, and there won't be any lingering damage. There will be a blip in this third quarter. But by the fourth quarter, our economy will be strong again.

What they are worried about is the signals coming out of Washington that maybe in this reconciliation bill, we won't continue to support the lower capital gains and dividends tax rates, that we will in effect allow those tax rates to increase by not doing anything. Those tax rates are scheduled to increase in the year 2008, if we don't stop it. We are going to have a tax increase then, if we don't say we are going to continue the 15-percent rate. We have the chance to do that this year. I will explain why it is important to do it this year.

What we are asking for is the ability to continue the tax rate as it is on capital gains and dividends 2 more years, from 2008 to 2010. That is important for a reason I will discuss in a moment. Some people say: At a time that we have to pay for hurricane damage and reconstruction and rebuilding, we ought to raise taxes, not keep the same rate we have.

The point is, the tax rate we have today extends on through the year 2008. We don't gain anything by raising that tax rate to so-called pay for the hurricane rebuilding. That doesn't happen until the beginning of the year 2009. We are not able to gain revenue by allowing that tax rate to go back up again, since it is not going to go back up again, if at all, until the year 2009. There is nothing to be gained by not acting and everything to be gained by sending a signal to the markets that we are serious about keeping these rates at the level they are.

Why is this important? It is important because when people decide whether to invest, they foresee what the length of their investment will be, what they have to pay for it now, what they are going to make on it, and what kind of taxes they will have to pay. That is how they decide whether to invest. They capitalize their investment based upon the expectation of profit which is a condition of both what they will sell for and what the tax rate will be. We know what the tax rate will be through the year 2008. The question they ask is, what about the year 2009 and 2010?

Most of the investments made today are investments that are going to play out over the next 3, 4, or 5 years. It doesn't do a lot of good to look at the tax rates tomorrow or the next day. We do want to look at the tax rates in the years 2008, 2009, and 2010. That is when the profits will be realized, the taxes will be paid. It is hugely important what the tax rate is going to be in the year 2009 and 2010. That is why we have to act this year to extend the current law to make sure those rates stay right where they are, that we don't have a rate increase.

There are some interesting statistics which I know the Chair is aware of, but I want to remind my colleagues with respect to the state of the economy today and the impact of the hurricane damage on it. The Congressional Budget Office estimates the two hurricanes will have only minimal effect on economic growth. They project that GDP growth in the second half of 2005 could be one-half percent slower than was previously predicted, but that by the fourth quarter and beyond, economic growth will return to its normal levels. We do know the economy was firing on all cylinders before the hurricane. In August, the month of the hurricane, CBO forecast the economy would "continue to expand at a healthy pace during the second half of 2005", and CBO projected GDP growth would grow by 3.7 percent in 2005, by 3.4 percent in 2006. As I said, the economy is doing great, firing on all cylinders.

In August, the unemployment rate dropped to 4.9 percent, one of the lowest percentages ever. In May 2003, when the tax cuts were enacted, the unemployment rate was 6.1 percent. So it went from 6.1 down to 4.9. Most economists believe the tax cuts had a lot to do with that.

I might contrast to our European friends. Through the first half of 2005, the growth rate in the Euro area was 1.1 percent. The unemployment rate there stands at 8.6 percent. So we are doing very well in this country. Our economy is moving right along. It is not going to be adversely affected by the hurricane rebuilding. What we don't want to do is anything to slow that economic growth down, stop this engine of production. Tax increases would do exactly that.

Since the year 2003, when the tax cuts were enacted into law, we have seen a sharp increase in revenues coming into the Treasury. While private economists expected that, it didn't show up in official Government estimates. In August, the CBO acknowledged that the revenues for 2005 will be $85 billion more than they were projected in March of this year. That is how wrong the Government was. It could even be more than that. So from March to now, we know we are going to have at least $85 billion more in Federal revenues than were projected.

Here is the great statistic: CBO now projects the Treasury will collect $262 billion more in revenues in 2005 than in 2004, an unprecedented increase—$262 billion more. This is at lower tax rates. How can that be? When you have lower tax rates, it encourages people to invest more because they are not going to have to pay as much taxes. That investment produces economic growth which, in turn, is taxed, and that is why we are getting all the increased revenues to the Treasury.

Interestingly, corporate income tax payments are up 42 percent this year. They were able to expand their operations because they have been able to attract additional investment. They are being attracted in part by the lower rates on dividends and capital gains.

What would happen if we allowed those rates to increase? The nonwithheld income tax receipts are up 28 percent. What are these? These are the tax payments that don't come from employer withholding. In other words, they come from things such as capital gains and dividend income. Clearly, the 2003 reductions in the cap gains and dividends are having an impact there. We have to use the reconciliation bill this year to maintain the lower rates for capital gains and dividends and keep our economy growing.

In summary, there is a strong economy that we don't want to hurt by raising taxes. Beyond being concerned about the tax dollars coming into the Treasury, we know the primary reason to keep the rates on dividends and capital gains relatively low is to give individuals and businesses the opportunity to invest, give businesses the capital they need to expand and create jobs. It expands the economic pie. It improves the standard of living for everyone. All Americans will benefit from keeping the 2003 tax rate on dividends and capital gains in place through the year 2010. I urge my colleagues not to respond to the 'siren song of raising money to rebuild from the hurricanes by raising taxes. It won't work. It will slow the economy down and that will hurt not only general revenues to the Treasury, but American families and individuals as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. ALLEN. On September 3, 2005, America lost one of its greatest public servants when, following a year-long battle with cancer, William Hubbs Rehnquist passed away at the age of 80. At the time of his death, he had been a member of the U.S. Supreme Court for 33 distinguished years, having served as Chief Justice since 1986 and previously as an associate justice, appointed in 1972.

Much of William Rehnquist's professional career was dedicated to public service. He served his country honorably in the U.S. Army Air Corps during World War II from 1943–1946. After his military service, he earned an undergraduate, a masters' and a law degree from Stanford University. Even further demonstrating his intellectual acumen, Rehnquist also graduated with a master's degree from Harvard University and was first in his class at Stanford University Law School. After law school, he became a Supreme Court clerk for Associate Justice Robert Jackson before leaving for private practice in Arizona. In 1969, Justice Rehnquist joined the Nixon administration as an Assistant Attorney General where he served until 1971. That year, President Nixon nominated William H. Rehnquist to be on the Supreme Court; the following year, he was confirmed to be an associate justice by the U.S. Senate.

It was on the Supreme Court that William Rehnquist built his reputation as one of the great legal minds of our time. His tenure on the high court of the land, both as an associate justice and as the Chief Justice, was an extraordinary achievement. I was particularly impressed with his leadership as the head of the entire Federal judiciary, as well as his affable personal demeanor on the bench and off, both of which were important traits in his role as Chief.

I respect immensely the way in which Chief Justice Rehnquist served on the Court with honor and restraint. As a justice, he fairly and properly interpreted the words of the Constitution without usurping the rights of the American people and those of the States to make laws as they deem appropriate rather than allowing unelected judges who are appointed for life to substitute their personal political views for the popular will of the people.

Chief Justice Rehnquist clearly understood that judges ought to apply the law and Constitution, not invent the law or amend the Constitution by judicial decree. And I believe that he perfectly embodied what I consider to be the proper role of a justice and that America should be grateful for his long and distinguished public service on the bench.

Our Nation was so fortunate to have a man of William Rehnquist's intelligence and legal experience in public service for so many years. As a Supreme Court Justice, he was a decent, dedicated, steady, and principled jurist whose legal brilliance and knowledge will be difficult to replace. Chief Justice Rehnquist deserves America's gratitude for his over three decades of dedicated service on the Supreme Court and a life devoted to the service of this great Nation and its citizens.

My condolences go out to his family, in particular his three children, James, Janet, and Nancy, during this difficult time.

May he rest in peace.

Mrs. DOLE. Mr. President, I as deeply saddened to learn of the passing of Chief Justice William Rehnquist. He will most certainly be remembered as one of this Nation's greatest Chief Justices.

During his 33 years of distinguished service on the High Court, Chief Justice Rehnquist served with tremendous wisdom, skill, and intellect. His legacy will be defined by his calm and steady leadership, his staunch defense of the constitution, and his support of an independent judiciary.

Born into a modest home in the Midwest, Rehnquist enlisted in the Army at age 19 during World War II. He went on to have a very impressive academic career, earning bachelor's and master's degrees in political science from Stanford University. In 1950, Rehnquist received a master's degree in government from Harvard University. He later returned to Stanford Law School, where he graduated first in his class and served as the editor of the law review.

After law school, Rehnquist served as a law clerk to Associate Supreme Court Justice Robert Jackson. He then settled in Phoenix, AZ, with his wife Nancy, where he spent 20 years in successful private practice. In 1968, Rehnquist returned to Washington, DC, to serve as President Nixon's Assistant

Attorney General in the Office of Legal Counsel. In 1972, William Rehnquist became the 100th Justice of the U.S. Supreme Court.

I expect we will hear much discussion in the coming years about the legacy of Chief Justice Rehnquist. But I am confident that a significant part of his legacy, his strong leadership of the Court, will be unquestionable. President Bush said at Rehnquist's memorial service, "He built consensus through openness and collegiality." Likewise, praise from so many of his colleagues and friends serve as a true testament to William Rehnquist's ability to treat people graciously and fairly, both from the bench and in his personal life.

The praise for his professional life is certainly plentiful, but we know that most important to William Rehnquist was his family. He was greatly loved as a husband, father, grandfather, and uncle. His daughters Nancy and Janet joked that dating your father was completely underrated, after they had the pleasure of accompanying their father around Washington and on foreign trips after the death of their mother. He was a family man, first and foremost.

Chief Justice Rehnquist deserves our praise and our tremendous gratitude for his dedicated service to this country. Our Nation mourns the passing of this great man. The significant contributions he made, personally and professionally, will certainly be remembered always.

MEDICARE DO NOT CALL ACT OF 2005

Mr. JOHNSON. Mr. President, today I have joined Senator CORZINE to introduce the Medicare Do Not Call Act. I am pleased to cosponsor this important legislation which will protect Medicare beneficiaries from being subjected to telemarketing campaigns related to the new Medicare Part D prescription drug program.

The Part D program will begin in January 2006, and as many of my colleagues are already aware, this program will turn the administration of the benefit over to health insurance companies. Between now and January 1, 2006, Medicare beneficiaries will receive a great deal of information from the Federal Government, insurance companies, and local organizations regarding how to sign up for the program. Many beneficiaries have already received information about the low-income coverage options.

Just last week the Centers for Medicare and Medicaid Services announced which health plans have been approved to offer the benefit. In South Dakota, there will be 18 companies offering the stand-alone prescription drug plan or PDP. Three companies will offer the Medicare Advantage plan, which is an HMO or Health Maintenance Organization type plan.

Starting in October, all of these companies will be allowed to start marketing their plans. While I do think it is important for seniors to have access to information about the various options, I do not think it is OK for these companies to be promoting their products through aggressive telemarketing campaigns. There are plenty of other, less invasive ways for these companies to get information about their Part D product to Medicare beneficiaries and I encourage those efforts, whether they be mailings, holding information sessions or releasing newspaper and television ads.

The Medicare Do Not Call Act would prohibit health plans from telemarketing their new Medicare prescription drug plans to beneficiaries. The bill permits representatives of insurance companies offering the Medicare prescription drug benefit to speak with and return calls to beneficiaries who initiate contact and permits plans to call beneficiaries that are already enrolled in their plans. The prohibition only applies to solicitation calls. Those companies that violate the law are subjected to criminal penalties for telemarketing fraud related to the program.

I think that this provision is very important, so seniors do not feel their privacy is being violated by constant phone calls from numerous insurance companies calling their homes. It is important that seniors do not feel pressured to choose one plan or another because of persistent telemarketers.

Starting November 15, 2005, all seniors will be able to start selecting which insurance company they would like to administer their drug benefit. It is my hope that between now and then the information sent to beneficiaries is accessible and easily understood. I do have great concern that many seniors are going to feel extremely overwhelmed, confused and frankly very frustrated about the information they receive about the multitude of coverage options. I think that the Medicare Do Not Call Act is one step we can take to simplify the process and help seniors.

While I did not support final passage of the legislation that created this program because of several concerns I have about how it will impact South Dakotans, I still think it is important for seniors to examine this program closely and decide for themselves whether the new Medicare Part D drug benefit will be worthwhile to them. I will continue to work hard to ensure that the people of my State have sufficient information before they are expected to make a decision. I will also continue to support legislation and other initiatives to make improvements to the program and the administration of it.

LIVESTOCK MANDATORY REPORTING ACT OF 1999

Mr. GRASSLEY. Mr. President, today I was forced to place a hold on H.R. 3408 that will reauthorize for 5 years the Livestock Mandatory Reporting Act of 1999, LMPR.

I introduced S. 1617 with Senator HARKIN that will extend the act by one year. S. 1617 passed this body by unanimous consent during the first week of September. Now here we are at the last minute trying to pass the House version before an important GAO report is released.

Last year, Senator HARKIN and I requested a GAO investigation into the accuracy of reported prices by the U.S. Department of Agriculture. We are so close to having this report released that Congress should extend the LMPR by 1 year.

My bill could be easily taken up by the House and prevent LMPR from expiring. This would allow the report to come out and give Congress time to evaluate the recommendations.

There have been several concerns regarding the administration of the program ranging from late filed reports by packers and inadequate oversight at USDA to ensure compliance and enforcement of the law.

I have heard from enough livestock producers to know that there can be improvement to this important law.

I am trying to protect the interests of producers and have stated before that only those entities that fear transparency should be fighting for a 5-year extension with no consideration for GAO's pending conclusions.

DOMESTIC VIOLENCE AND GUNS

Mr. LEVIN. Mr. President, earlier this week the Violence Policy Center released its annual study of homicide data titled "When Men Murder Women." This year's study analyzed homicide data from 2003, the most recent available, that involved one female victim and one male offender.

The VPC found that in 2003, the majority of women who were murdered were killed with a firearm. In the overwhelming majority of these cases, 77 percent in fact, the male offender used a handgun. The VPC report also revealed that more than ten times as many females were murdered by a man they knew than were killed by a stranger. Of these, 62 percent were in an intimate relationship or married to their killer. According to the report, "Most often, females were killed by males in the course of an argument." These statistics illustrate the tragic role firearms play in domestic violence disputes that escalate into murder.

As my colleagues know, since 1968 it has been illegal for convicted felons, illegal aliens, individuals involuntarily committed to a mental health facility, individuals who have renounced their citizenship, drug addicts, those dishonorably discharged from the military, and fugitives to possess or purchase a firearm. In 1996, we extended the law to the prohibition on firearms to individuals who were under a domestic violence restraining order and those who had previously been convicted of a domestic violence misdemeanor.

Unfortunately, these efforts continue to be undermined by Congress' failure to close the "gun show loophole." Under current law, when an individual buys a firearm from a licensed dealer, there are Federal requirements for a background check to insure that the purchaser is not prohibited by law from purchasing or possessing a firearm. However, this is not the case for all gun purchases. For example, when an individual wants to buy a firearm from another private citizen who is not a licensed gun dealer, there is no requirement that the seller ensure the purchaser is not in a prohibited category. This creates a loophole in the law, providing prohibited purchasers, including those who have previously been convicted of domestic violence crimes, with potential easy access to dangerous firearms. Such firearms could later be used to murder a wife or girlfriend in a moment of rage or jealousy.

The VPC demonstrates that the Congress should do more to help protect women from gun violence. I urge my colleagues to join me in support of funding for domestic violence prevention programs as well as legislation to close the gun show loophole.

THE NEED FOR STRONG LEADERSHIP

Mr. AKAKA. Mr. President, I rise today to urge my colleagues to work with me and all those who support the belief that only through strong leadership will government be able to respond to the needs of its citizens. This week, I participated in the Homeland Security and Governmental Affairs hearing on dealing with the aftermath of Hurricanes Katrina and Rita. I want to share a statement made by the Honorable Dan Coody, Mayor of Fayetteville, AR, who said:

> I've always believed that any program or process will succeed or fail based on the leadership in that program. And I think that from the very top to the very bottom—speaking at the micro level—there needs to be a system put in place where we hire the most qualified, most knowledgeable people for the job—that want to do the job—and put them in a position where they can lead.

Mayor Coody's remarks underscored my expectations that Federal agencies must be led by experienced and qualified senior leaders in order to ensure that agencies meet their mission. The same evening as our Committee hearing, I was privileged to present the 2005 Service to America Medal Federal Employee of the Year award to Orlando Figueroa, the Deputy Associate Administrator for Programs, Science Mission Directorate, at the National Aeronautics and Space Administration. Mr. Figueroa led the Mars Exploration Rover Project to success under technical challenges and time constraints. He and his team at the Mars Exploration Rover Project created a mobile science lab was used to conduct remote exploration on the surface of another plant, which allowed the exploration of regions beyond the original landing site. This fantastic accomplishment has produced a wealth of scientific discoveries revealing Mars as a potential habitat, and I told Mr. Figueroa that to me, these discoveries spark the imagination, fuel the human spirit, and inspire us to pursue even greater things. Mr. Figueroa exemplifies leadership.

The Federal Government is fortunate to have a cadre of career executives selected for their leadership, who are members of the Senior Executive Service, SES. To become a member of the SES, a candidate must possess the following five executive qualifications: leading change; leading people; being results driven; having business acumen; and building coalitions or having communication skills.

SES candidates demonstrate these qualifications through experience in key executive skills such as leading others to rapidly adjust organizational behavior and work methods; supervising and managing a diverse workforce; developing strategic human capital management plans; establishing performance standards and plans; managing the budgetary process; overseeing the allocation of financial resources; and developing and maintaining positive working relationships with internal groups and external groups such as Congress, the Office of Management and Budget, and the White House.

These qualifications and experiences help ensure that the Federal Government's senior executives have the ability to establish a clear vision for the organization and to drive others to succeed. Political appointees are not required to meet these qualifications, however, but it would be difficult for any agency head to succeed without them.

A recent Princeton University review, authored by Mr. David Lewis, underscored the need for political appointees to have such skills. He used the Program Assessment Rating Tool, PART, to analyze the relationship between political appointees and Federal manager performance. As my colleagues know, PART was designed by the Administration to measure program performance at Federal agencies. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective.

Mr. Lewis found that programs run by politically appointed managers receive systematically lower grades than those run by career managers and that the varied backgrounds of political appointees do not always translate into them being successful managers. Mr. Lewis' research shows the need for greater management experience and subject matter expertise for political appointees.

Comptroller General David Walker said in a September 21, 2005, interview with Federal Times that "for certain positions, given the nature of the position, there should be statutory qualification requirements for any nominee." I agree. Looking at the shortfalls in leadership at the Federal Emergency Management Agency and the high number of political appointees at FEMA for the size of the agency, it is obvious that the political appointee-laden management structure may have created numerous problems, especially in the area of recruiting and retaining top emergency services personnel and the inability to stay focused on the agency's core mission of disaster preparedness and relief.

There must be trust and integrity in Government and most of all in our leaders. The crises we face at home and abroad demonstrates the need for highly qualified individuals to lead our Government. There must be the right people, at the right place, at the right time, with the right skills. This is especially true at Federal agencies who need senior leaders, with management skills and subject matter expertise. More importantly, there should be an institutional loyalty and cultural sensitivity in working for the American people as a Federal employee.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On December 10, 1999, a 34-year-old man walked into the Fort Myers, FL, home of a 91-year-old disabled woman and sexually assaulted her. According to police, the man knew the victims family and attacked her because of her disabled state.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE FOR LIEUTENANT GENERAL JOHN ROSA, UNITED STATES AIR FORCE

Mr. ALLARD. Mr. President, I rise today to pay tribute to the 32 years of outstanding military service LTG John Rosa has given our Nation.

General Rosa started his career in the U.S. Air Force in 1973 after receiving his commission from the Citadel in Charleston, SC. As a combat pilot, General Rosa accumulated more than 3,600 flying hours in the A-7, the A-10, F-16, F-117A Stealth fighter, and numerous other aircraft. In 1985, General Rosa received his masters degree from Golden Gate University. In the years that followed, General Rosa served as operations group commander and three times as wing commander.

Yet, as I think General Rosa might readily admit, his most difficult assignment began when he became the Superintendent of the U.S. Air Force Academy. Under ordinary circumstances, overseeing the academic progress and military training of more than 4,000 cadets can be a challenging experience. Unfortunately for General Rosa, he came to the Air Force Academy under anything but ordinary circumstances.

Two years ago the Academy underwent a very difficult period in which many current and former cadets came forward with allegations of sexual assault. This scandal was tumultuous and resulted in four senior leaders of the Academy being dismissed from their duties.

General Rosa was asked to step into a situation that seemed to be spinning out of control. His senior leadership team was just as new as he was, and the Air Force leadership and Congress were relentless in their demands for results.

Despite these circumstances, General Rosa did not hesitate to take action. He invited outside investigative organizations to come to the Academy and review the institution's policies and procedures for addressing sexual assaults. He opened up the Academy and its cadets to the media, to Congress, and to the school's board of visitors. Most importantly, General Rosa admitted that the Academy had a very serious problem and that sweeping it under the rug was not an acceptable response.

Less than a year later, General Rosa was again in the spotlight when the Academy found in its cadet surveys that inappropriate religious expression had become a problem. Instead of ignoring the surveys, General Rosa did the opposite. He released them to the public and launched a comprehensive review on how the Academy approached religious expression. He tackled the problem, investigated it thoroughly, and began instituting the changes that were necessary.

In his 2½ years of service, General Rosa made the Academy look in the mirror and see the strengths and weaknesses of the institution for what they are. The Academy is a proud institution, and it is difficult to think that something as terrible as sexual assault and religious intolerance might occur there. Yet General Rosa was never comfortable with the status quo or with a closed-door approach. He pushed and pulled to get better results, and his methods were open and transparent.

General Rosa forced the Academy, its cadets, its faculty, and even its alumni to face a reality that some did not want to acknowledge. He forced the institution to make changes that were necessary, justified, and in the best interest of the Air Force. Through this process, the Academy raised its standards and slowly became the model institution that we all have come to expect and American taxpayers require.

Under General Rosa's leadership, the Air Force Academy is now a source of guidance for other military academies and universities. Indeed, the Department of Defense is now turning to the Academy for direction on how to formulate the Department's sexual assault and religious expression policies.

Although the Academy is not perfect and problems still exist, I strongly believe the U.S. Air Force Academy has, under General Rosa's leadership, become a much better place. I commend General Rosa for taking on this unbelievably difficult mission and for his outstanding service to our Nation. And I also commend his family for standing by him as he worked tirelessly to repair and strengthen the reputation of one of America's premier training institutions.

Thank you for the opportunity to honor the service of one of America's finest military officers. I wish General Rosa and his family the best as he begins his new career as President of the the Citadel.

TRIBUTE TO IOWA STATE SENATOR MINNETTE DODERER

Mr. HARKIN. Mr. President, former Iowa State Senator Minnette Doderer, who passed away last month, was one of the true giants of Iowa politics. Born into very humble circumstances in Holland, IA in 1923, she served 12 terms in the Iowa House and two terms in the Iowa Senate, where she was the first woman to serve as President pro tempore.

Martin Luther King once said that "Life's most urgent and persistent question is: What are you doing for others?" During a long, feisty, and distinguished career in Iowa politics, Senator Doderer answered that question in spectacular fashion. She was a mentor and role model for women all across our State, a passionate champion of the Equal Rights Amendment, and an indomitable advocate for the poor, the neglected, and the voiceless in our State.

Some people run for public office to be somebody. Senator Doderer ran in order to get things done. She saw injustice, discrimination, and sexism, and she fought it with tremendous skill and courage. Above all, she made a practical difference, especially for women. She championed and passed legislation on equal rights, rape law reform, child care, and juvenile justice laws that made a concrete, tangible difference in the lives of Iowans.

Minnette Doderer was passionate about her family and her friends. She was a tough, tenacious fighter for what she believed in. She cared deeply about justice and fairness for ordinary people. Most of all, she was a good, decent, humane person—the kind of person that makes Iowa such a special place.

I valued Minnette's friendship and counsel. Though I regret she is no longer with us, I celebrate the living legacy she left behind: a better, fairer, more just and equal Iowa, especially for our daughters. May she rest in peace.

MESSAGE FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3402. An act to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes.

H.R. 3824. An act to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving, and recovering listed species, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions:

H. Con. Res. 178. Concurrent resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

H. Con. Res. 245. Concurrent resolution expressing the Sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 68. Joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

The message also announced that pursuant to 22 U.S.C. 276d, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Canada-United States Interparliamentary Group, in addition to Mr. MANZULLO of Illinois, chairman, and Mr. MCCOTTER of Michigan, vice chairman, appointed on March 8, 2005: Mr. OBERSTAR of Minnesota, Mr. SHAW of Florida, Ms. SLAUGHTER of New York, Mr. STEARNS of Florida, Mr. ENGLISH of Pennsylvania, Mr. SOUDER of Indiana, Mr. TANCREDO of Colorado, and Mr. LIPINSKI of Illinois.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House on yesterday, September 29, 2005, was signed subsequently on today, September 30, 2005, by the President pro tempore (Mr. STEVENS):

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that act.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3824. An act to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 178. Concurrent resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 245. Concurrent resolution expressing the sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 30, 2005, she had presented to the President of the United States the following enrolled bill:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. TALENT):

S. 1804. A bill to provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DORGAN (for himself and Mr. WYDEN):

S. 1805. A bill to repeal the increase in micropurchase authority for property and services for support of Hurricane Katrina relief and rescue operations; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 1806. A bill to authorize the United States Department of Energy to remediate the Western New York Nuclear Service Center in the Town of Ashford, New York, and dispose of nuclear waste; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. VITTER, Ms. LANDRIEU, Mr. TALENT, Mr. KENNEDY, Mr. CORNYN, and Mr. BAYH):

S. 1807. A bill to provide assistance for small businesses damaged by Hurricane Katrina or Hurricane Rita, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. BINGAMAN:

S. 1808. A bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (QMB) and specified low-income medicare beneficiary (SLMB) programs within the medicaid program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself, Mr. REID, Mr. CORZINE, Ms. MIKULSKI, Ms. LANDRIEU, and Mr. SCHUMER):

S. Res. 262. A resolution condemning the statements of former Education Secretary William J. Bennett; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. STEVENS, and Ms. MURKOWSKI):

S. Con. Res. 56. A concurrent resolution expressing appreciation for the contribution of Chinese art and culture and recognizing the Festival of China at the Kennedy Center; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 569

At the request of Ms. SNOWE, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Vermont (Mr. JEFFORDS), the Senator from Washington (Mrs. MURRAY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 569, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 910

At the request of Ms. SNOWE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 910, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1403

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1403, a bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under Medicare.

S. 1440

At the request of Mr. CRAPO, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1700

At the request of Mr. COBURN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1716

At the request of Mr. GRASSLEY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

S. 1725

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1725, a bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1779

At the request of Mr. AKAKA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1793

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1793, a bill to extend certain apportionments to primary airports.

S. CON. RES. 37

At the request of Mr. DEWINE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Con. Res. 37, a concurrent resolution honoring the life of Sister Dorothy Stang.

S. CON. RES. 48

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself and Mr. WYDEN):

S. 1805. A bill to repeal the increase in micropurchase authority for property and services for support of Hurricane Katrina relief and rescue operations; to the Committee on Homeland Security and Governmental Affairs.

Mr. DORGAN. Mr. President, Senator WYDEN and I are introducing legislation today to change a provision in law that was attendant to the emergency supplemental passed recently dealing with hurricane Katrina. That provision in law increased the amount of money that would be available to be spent on a Government credit card from $2,500 to $250,000. That is right—$250,000 for purchases on a Government credit card.

Here is what a Government credit card looks like. There are about 390,000—somewhere in that neighborhood—390,000 Government credit cards in the country. I have three GAO reports that describe substantial abuse and misuse of these Government credit cards.

The proposal that passed this Congress attendant to the hurricane emergency relief says that on these credit cards, the limit will go from $2,500 to $250,000. Let me describe for a moment what the GAO found in various investigations.

What has been charged to a Government credit card? Hiring prostitutes, gambling, breast-enlargement surgery—yes, it was for a girlfriend of somebody who had a Government credit card—cigars, mounting a deer head, jewelry, wine, and the list goes on.

Now the limit goes to $250,000. We aim to take it back to $2,500. It will still have the emergency capabilities that existed since 9/11 which will allow a $15,000 limit under emergencies.

We had a hearing at which a professor from GW Law School who is an expert in this area of Government procurement testified. Here is what he said about the $250,000 credit card limit:

> The potential for abuse is staggering.

Everybody knows that: "The potential for abuse is staggering." If you don't believe it, take a look at the GAO reports with respect to the abuse when the limit was $2,500. Now it is $250,000 for a credit card purchase? Who is going to stand up for the interest of the taxpayers?

This fellow, Mr. Safavian, was the top contracting officer for purchases of the Federal Government. He just said several weeks ago about the $250,000:

> This guidance—

That he and OMB would provide—

> This guidance helps make sure that adequate management controls are in place to ensure that taxpayers' dollars are spent efficiently and responsibly in support of disaster victims.

Meaning the new $250,000 on credit cards will be spent efficiently and responsibly. That is from David Safavian, Director of the Office of Procurement and Policy. The problem is, Mr. Safavian was arrested by the FBI on September 19 and charged with lying to an ethics officer and so on. He is the guy who gave us the assurance that taking the credit card from $2,500 to $250,000 will be just fine because there are all these limits in place and it will be spent wisely and efficiently. Yes, and the Moon is made of green cheese.

Who is going to believe this, especially when we have the GAO reports that show past abuses with even the $2,500 limit, which includes the hiring of prostitutes on Government credit cards? It includes breast-enlargement surgery on Government credit cards. When on Earth will people wake up and start thinking?

So Senator WYDEN and myself are today introducing legislation to say, How about let's sober up and think through this the right way on behalf of the American taxpayers.

We want to help hurricane victims, no question about that. But I do not want people walking around with credit cards that have a $250,000 limit that say U.S. Government on them, in a way that the GAO says puts us at risk and in a way that Government procurement experts tell us is very dangerous for the American taxpayer.

I am pleased to do this with my colleague, Senator WYDEN. For the past several years, Senator WYDEN and I have taken a look at a whole range of wasteful issues. I might just say that Senator WYDEN and I, a while back, found deep in the bowels of the Pentagon there was a plan to create what was called a futures market for terrorism. I think they were preparing to spend another $8 million on it. And, yes, they were going to actually have a futures market for terrorism so that people could make wagers buying futures contracts on things such as how many American soldiers will be killed in the next year, will the King of Jordan be assassinated within the next year. One could actually wager and make money by betting on those kinds of things.

Senator WYDEN and I blew that wide open. The next day, both Secretary Rumsfeld and the President said they did not know it was going on. They shut it down and it is all over. In my judgment, that was unbelievably stupid as a public policy, whoever allowed that to happen. It is now shut down.

A lot of bad things happen in circumstances where no one is watching. In this case, with credit cards that have a $250,000 limit, there is something fundamentally wrong with that. I do not know who put that in the emergency supplemental. It should not have been there. But it was there. We aim to repeal it on behalf of the American taxpayer.

Mr. WYDEN. Will the Senator yield?

Mr. DORGAN. I would be happy to yield to my friend from Oregon.

Mr. WYDEN. I appreciate my colleague yielding to me and particularly highlighting the need for some real accountability and protection for the taxpayers at this time. We are seeing expenses for the Government—the war in Iraq, the various disasters that have hit—exploding to the point where people are saying, well, let us hold off on giving senior citizens some help with their prescription drugs.

I think what the Senator is saying is, before one takes those kinds of steps, put the brakes on the opportunity for ripping off taxpayers.

I want to ask the Senator a question that really stunned me. There are now about 392,000 Federal employees who have these credit cards across the country. We have been trying to figure out how many folks have them on the gulf coast and how many of the folks have this $250,000 authority. The two of us feel very strongly that there are a lot of dedicated people down there who are working very hard and nobody is suggesting otherwise, but what possible argument would there be for not having something along the lines of some guardrails to try to make sure that people did not abuse these credit cards?

That strikes me as a pretty modest step, just have some guardrails rather than saying, look, go out and take $250,000 worth of authority and we will see what happens.

Mr. DORGAN. Mr. President, in answer to the Senator's request, he is asking that of perhaps 390,000 credit cards that exist in the possession of Federal workers, do we know how many have this $250,000 limit? We do not have the foggiest idea.

The Senator indicated we want to help people who are dealing with the hurricane. Our interest is not in pulling the rug out from under people who are working and trying to respond to the devastation of these hurricanes, but I am not interested in paving the way for additional waste, fraud, and abuse with the misuse of Federal credit cards.

Yes, there are thousands of dedicated public servants who will use these responsibly, but increasing the limit from $2,500 to $250,000, in my judgment, is fundamentally irresponsible, and we aim to take it back with this amendment and aim to offer this amendment to the next supplemental that deals with this hurricane.

I will yield the floor so my colleague from Oregon can have the floor, and I would like to propound a question at some point later when he finishes his statement.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, it seems to me that the bottom line is we want Federal workers in the hurricane zone to have all the tools they need to get the job done. But a month after the hurricane hit, we do not need $250,000 worth of authority on a credit card. One needs permission to spend that kind of money. The fact is, under the current rules one can have it when they need it, just not on a credit card where they do not even have to ask. This is a commonsense step.

Senator DORGAN indicated if somebody needs to spend more than $15,000 a shot, there are already streamlined, simplified acquisition procedures in place to let them do that. Those procedures at least have some oversight. The two of us supported the Katrina bills that came through the Congress. We support the rule that was already in place that increases the spending power of these cards by a reasonable amount in an emergency from $2,500 to $15,000. What the two of us feel strongly about and what we do not support is how can one support excessive spending without any safeguards at all?

We heard from a Dr. Yukins at George Washington that there is extraordinary potential for abuse here. Dr. Yukins said it was staggering.

In looking at Government waste at a variety of agencies, Senator DORGAN and I have come to the conclusion that when one is talking about the Department of Homeland Security, when one is talking about the Federal Emergency Management Agency, and when one is talking about the Department of Defense, what one needs is more accountability and more oversight rather than less.

In Homeland Security, we have seen massive outlays for ineffective programs to hire the TSA screeners. At FEMA, it is hard to know where to start there, but folks may have heard on public radio yesterday that a Government Accountability Office audit more than a year ago said that only one in several dozen FEMA employees could prove that they had done the proper paperwork for procurement authority.

When it comes to Iraq, all one needs to do there is talk about Iraqi contracts. Senator DORGAN and I have tried to put in place some oversight and some accountability there, and we will continue on that as well. So this is not the only avenue for abuse of taxpayer dollars. If one wants to come to the floor and talk about no-bid contracts and the like, there is plenty to dig into in terms of more oversight and more accountability for our taxpayers. This is a commonsense step that the Senate can take.

I have listened to Senator COLLINS on this issue, as well as Senator GRASSLEY. A number of colleagues on both sides of the aisle have expressed concern about this in effect blank check to use credit cards, and use them on some pretty high ticket items.

I am going to yield the floor back to Senator DORGAN, but given the fact that there is a catalog of abuses—this happened outside the hurricane zone before anybody knew about Katrina—let us now deal with an emergency, let us recognize that there are different spending needs given that emergency, but let us also make sure that there are some safeguards in place to make sure the taxpayers' interests at a critical time when costs in Government are exploding, let us make sure there are some safeguards in place to protect the public.

I yield the floor.

Mr. DORGAN. Mr. President, I conclude by pointing out that, yes, others have described their concern about the $250,000, and some have talked about a $50,000 limit and other approaches. Senator WYDEN and I say that we ought to go back to the old limit, $2,500 per credit card per transaction. That is why we introduced this legislation and hope that our colleagues will agree.

Again, this is what the credit card looks like. There are nearly 400,000 that are possessed by Federal workers. We do not allege that these are not dedicated public servants. We do allege that at least in some instances, according to three GAO reports, there have been massive abuses. These are just a few.

I put up another chart about them: Liquor, gambling, mounting a deer head, cigars, ski clothes and diamond rings, not to mention hiring prostitutes and breast enlargements—all put on Government credit cards.

Does that make a person look and pay attention? Of course. Should that be happening? Of course not.

The $250,000 limit on the credit card, this is what Professor Yukins said, who is an expert in these areas:

> [T]he Administration has announced various protective measures. . . . It appears, however, that those additional protections will not address the core problem with the new procurement exceptions: Under the new law, agencies will be able to spend billions of relief dollars without any of the competition, transparency or other legal rules that normally protect our procurement system.

I ask my colleagues how this got into the supplemental bill, taking it from a $2,500 to a $250,000 limit on a Federal Government credit card. How did that happen? When one looks at that they say: Wait a second, we are going to increase the limit on a credit card from $2,500 to $250,000? What on Earth are you thinking about?

Well, it came from the White House. The White House made the specific request, believing in the wake of Hurricane Katrina people were going to need emergency capabilities to do these kinds of purchases. So the White House said they wanted an increase to $250,000. The person they sent down to brief staff in the Senate of how this would work and why it is necessary was Mr. David Safavian. He was the head of all procurement policy at the Office of Management and Budget in the White House.

What did he tell us publicly and what did he tell the American people? "This guidance"—guidance about procurement with the $250,000 limit on a credit card:

> This guidance helps make sure that adequate management controls are in place to ensure that taxpayers' dollars are spent efficiently and responsibly in support of disaster victims.

That was said 2 weeks before Mr. Safavian's arrest by the FBI for lying. This is the person who came to brief the Senate staff about why the $250,000 limit on credit cards was necessary.

It not only is not necessary, it is terribly unwise. In my judgment, unless changed, from this we will see a dramatic amount of waste, fraud, and abuse. There is a right way and a wrong way to do things. I guarantee this proposal to increase credit card limits for Federal employees to $250,000 is the wrong way.

Senator WYDEN and I are going to do everything we can to see if we cannot in more sober moments persuade everyone here that we ought to go back to the previous limits and that we ought to enforce them the right way. The GAO's reports say that even with the $2,500 limits, there are serious problems with the use of these Federal credit cards.

That is our proposal. I want to thank my colleague from Oregon with whom I have worked on a number of occasions on many areas of Federal waste. Yes, this is a big old government, a big bureaucracy. There are wonderful people who work in it, and it does wonderful things. There are also areas of waste that make me furious. Senator WYDEN and I have worked on that in a number of areas, in a number of ways, and I hope we can continue to do that. This is a preventive way to try to restore that $2,500 as a limit on Federal credit cards.

I yield the floor.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. VITTER, Ms. LANDRIEU, Mr. TALENT, Mr. KENNEDY, Mr. CORNYN, and Mr. BAYH):

S. 1807. A bill to provide assistance for small businesses damaged by Hurricane Katrina or Hurricane Rita, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to bring to the attention of the Senate a bill, the Small Business Hurricane Relief and Reconstruction Act of 2005, which provides a comprehensive package for immediate emergency resources to help the victims of Hurricane Katrina rebuild their lives and their businesses.

As we are well aware, the entire gulf coast of the United States has been ravaged by the disaster of Hurricane Katrina. No natural disaster in this country in recent memory has carried with it the devastation and horror we have witnessed in the recent weeks. Many lives have been lost and damages are projected in the hundreds of billions of dollars. The President and Congress have already provided over $61 billion in emergency funds.

While we work to reestablish communities and provide some stability to the affected areas, we must consider the enormous economic impact this catastrophe has had on the region and on our entire Nation. This impact is particularly pronounced for the vital small business sector. With over 800,000 firms damaged in the hurricane-affected region, employment in the Louisiana, Mississippi and Alabama area may be reduced by over a million jobs! Moreover, our economy which has recently recovered from recession, thanks largely to our small businesses which have created three-quarters of all new jobs, could be dampened by as much as a full percentage point.

As chair of the Committee on Small Business and Entrepreneurship, I am committed to do everything in my power to provide immediate and necessary support to rebuild this region and to help sustain our economy. I want to ensure that every American affected by this hurricane has the resources to begin rebuilding their lives, their businesses, and their dreams.

I would like to thank my colleagues, Senator KERRY, Senator VITTER, Senator LANDRIEU, Senator TALENT, Senator KENNEDY, Senator CORNYN, and Senator BAYH, for cosponsoring this bill. This bill includes all of the provisions that were in prior hurricane relief legislation that I introduced with Senator VITTER and Senator TALENT but also includes several additional provisions and improvements to preexisting provisions.

The provisions of this bill were contained in an amendment that I proposed, amendment No. 1717, to the Commerce, Justice, and Science Appropriations Act of 2005, H.R. 2862. I would like to thank my colleagues, Senator KERRY, Senator VITTER, Senator LANDRIEU, and Senator TALENT, for cosponsoring that amendment. The amendment was approved in the Senate by a rollcall vote of 96 to 0 on September 15, 2006, and subsequently passed the Senate in the Commerce, Justice, and Science Appropriations Act on that same day.

Senator VITTER, Senator TALENT, and I also introduced the provisions of S.A. 1717 as a stand-alone bill, S. 1724, on September 19, 2005. We took this step in order to begin the process of enacting these provisions into law more quickly than might occur through the Commerce, Justice, and Science Appropriations Act, which must still complete its Senate-House conference.

Today we are introducing an expanded package of provisions to increase the assistance provided to victims of the hurricane, who require immediate assistance. Because the Federal Disaster Loan program administered by the Small Business Administration issues disaster loans to businesses, homeowners, and renters, this legislation would have a significant impact on many facets of the efforts to rebuild the areas damaged by Hurricane Katrina.

Because of the importance of this rebuilding challenge, I chaired a hearing in the Committee on Small Business and Entrepreneurship on September 22, 2005 to address the impact that Hurricane Katrina and Hurricane Rita have had on small businesses. At that hearing, the Committee heard testimony from the Administrator of the Small Business Administration, Hector Barreto, who explained the unprecedented scope of the SBA's response to these disasters. In addition, the director of the SBA's Disaster Assistance Program, Herb Mitchell, testified about the SBA's actions thus far, and its plans for the continuing recovery.

The committee also heard testimony from seven representatives of small businesses, and of small business development centers, in the gulf coast region. These witnesses, who traveled from Louisiana, Mississippi, and Alabama for the hearing, described to the committee the devastation that has occurred to their businesses and communities and various steps they believe would assist in the rebuilding process.

Many of their recommendations were contained in the legislation I had introduced last week, S. 1724, and the legislation I am introducing today includes other provisions stemming from the committee's hearing and their testimony.

The Small Business Administration is and must be at the forefront of this massive relief effort, playing a significant role in assisting impacted communities. This bill will strengthen the SBA's resources and will enable them to pave the pathway to recovery. I have faith that American small businesses will persevere through these difficult times and help lead the region's recovery. It is essential that we work together here in Congress, and put forth the best possible proposal to stimulate our economy and foster job growth.

I have spoken with SBA's Administrator Barreto concerning the various ways to respond to this disaster and assist with the recovery. He informed me that FEMA has referred over 500,000 cases for loan assistance to the SBA, and that the SBA is receiving up to 20,000 calls per day. This is a tremendous volume and a vital challenge that the SBA must satisfy. To date, the SBA has sent out almost 500,000 applications for loans to individuals and businesses, and has received 810 loan applications as of Monday morning, which demonstrates that much assistance is yet to be provided by the SBA. Therefore, it is critical that we act now.

I have included many provisions in my bill that would assist hurricane victims applying for SBA disaster loans. My legislation increases the maximum size of an SBA disaster loan from $1.5 million per loan to $10 million per loan and makes it possible for non-profit institutions damaged by Hurricane

Katrina to be eligible for disaster loans.

I firmly believe this legislation is the best possible package to aid families, businesses, and communities through these challenging times. Small businesses must have a fighting chance to survive the economic disaster caused by Hurricane Katrina.

For instance, the bill increases the share of small businesses in Federal prime contracts and subcontracts for rebuilding the damaged areas through meaningful goals, set-asides, subcontracting plans, outreach programs, and HUBZone preferences.

The legislation also allows recipients of disaster loans to increase the size of their loan if the additional amounts would be spent on mitigation efforts, such as sea walls, storm shutters, or better drainage system to prepare for future disasters. This provision was suggested by the administration in its proposal to rebuild the gulf coast region.

The bill also allows the Small Business Administration to offer economic injury disaster loans to small businesses throughout the country if the businesses suffered direct adverse economic impacts from the two hurricanes. The SBA offered these loans nationwide after the terrorist attacks of September 11, 2001.

In addition, the bill protects future borrowers in the SBA's business loan programs from having to pay higher fees to compensate the Federal Government for any defaults that may occur because the businesses of some current borrower who had loans before the hurricane were destroyed in the hurricanes. SBA business loan programs utilize fees to pay for all or part of the programs' costs, and those businesses that default because of the hurricanes would not be included in the calculation of future program costs in the SBA's business loan programs.

The bill addresses concerns about fraud and lack of competition by abolishing the excessive increase in the "micro-purchase" threshold to $250,000. This increase, slipped into the second hurricane Supplemental Appropriations Act in September 2005, allowed Federal officials to ignore small businesses in awarding contracts up to $250,000. Micro-purchases are generally strictly limited to $2,500 and to $15,000 in case of nuclear attack or military contingency. These purchases allow for convenient credit card transactions by the Federal Government, but are vulnerable to fraud and favoritism.

I have also provided the SBA with the authority to grant victims of Hurricane Katrina up to 12 months to begin repaying their SBA disaster loans which would assist both small and large businesses, homeowners, and renters. This 12-month period could be extended to 24 months at the discretion of the SBA Administrator if he determines that Katrina victims would need additional time to begin repaying their loans. This would allow also homeowners and businesses additional time to get their lives and businesses restored before being required to begin repaying loans.

This legislation also proposes lowering fees for the 7(a) program to make borrowing more affordable for small businesses both within and outside the disaster areas, many of which have been impacted by the disaster and are struggling to cover higher costs in health care and energy and rising interest rates.

Recognizing the increased demand this disaster will place on all small business lending programs, the amendment proposes increasing the 7(a) lending program from a program level of $17 billion to $27 billion, and the 504 lending program from a program level of $7.5 billion to $12.5 billion. Both the 504 and 7(a) lending programs are funded entirely through fees, so the increases require no appropriation.

Moreover, this bill increases the program level for SBA disaster loans—physical and economic injury—by approximately $800 million, requiring an appropriation of approximately $86 million. The committee is concerned there will not be enough funding for disaster loans available to meet the scope of this disaster, given that the economic injury disaster loans alone for the September 11 attacks amounted to about $1 billion, and the physical damage for Katrina is considered much more extensive.

The bill also includes a provision requiring the SBA to treat these special provisions as separate from the regular programs, to avoid increasing future subsidy rates, and therefore, the costs for borrowers who rely on those programs. This same protection was provided for emergency 7(a) loans after the September 11 attacks, and for the special disaster loans made after those attacks.

Additionally, many small businesses in the disaster areas will require relief from making payments and interest on 504 loans they had before Katrina hit. Therefore, this amendment includes a provision that authorizes the SBA to cover the payments and interest on existing loans until the small business can resume payments.

Similar to the Supplementary Terrorist Activity Relief, STAR, loans enacted by Congress after September 11, this bill allows the SBA to provide similar loans with lower fees for small businesses located outside the disaster zones but are nonetheless indirectly impacted by Hurricane Katrina. The lowers fees also provides the lenders with an incentive to lend to these businesses.

Importantly, the bill includes protections to mitigate recent reports of past misdirection of loans to nondisaster victims. The protections include requiring lenders to inform borrowers that they are receiving Katrina relief loans, requiring lenders to document to the SBA how the borrower was adversely affected by Hurricane Katrina, and for the SBA's inspector general to collect the explanations and report to the Senate Committee on Small Business and Entrepreneurship and House Committee on Small Business every 6 months, verifying loans are being used for the intended purposes. Finally, the bill would require the Government Accountability Office to review the implementation of the program, after its completion, and report its findings to Congress. These added protections will ensure that only applicants who really need these loans to recover from the horrific effects of Hurricane Katrina and Hurricane Rita will receive the loans.

Furthermore, the legislation authorizes $450 million to the affected State governments of Louisiana, Mississippi, Alabama, Texas, and Florida to provide emergency bridge loans or grants to small businesses in the disaster areas that have been adversely impacted by Hurricane Katrina and require immediate access to capital until they can secure other loans or financial assistance. The goal is to disburse the funds quickly, and this measure is based on a successful program that helped victims of the hurricanes in Florida in past years.

With the cost of Katrina relief and rebuilding estimated at over $100 billion, small businesses, particularly those located in the disaster area and that employ individuals in the affected areas, should receive their fair share of Federal contracting and subcontracting dollars. My bill also attempts to provide critical assistance to small businesses that have been operating in the areas devastated by the Hurricane Katrina by expanding access to Federal contract and subcontracts.

Government projects provide solid business opportunities and prompt, steady pay for small businessmen and businesswomen. In addition, Government procurement would open doors for many local small businesses to participate in the long-term reconstruction work in the gulf coast areas. Prior to the disaster, small construction companies in Alabama, Mississippi, and Louisiana brought home nearly $500 million in Federal contracts a year. Total small business contracts in the gulf coast region exceeded $3 billion a year. While many small businesses would benefit from other forms of disaster assistance, many of them are ready to get back to work and into business as soon as possible.

To that end, my bill designates the Hurricane Katrina disaster area as a HUBZone. A HUBZone designation would enable small businesses locating in the disaster area and employing people in that area to receive contracting preferences and price evaluation preferences to offset greater costs of doing business. The HUBZone program was created to direct federal contracting dollars to economically distressed areas. Extending the HUBZone designation to the gulf coast would bring needed businesses development tools to affected areas.

In addition Mr. President, my bill would increase the maximum size of SBA surety bonds for small businesses from $2 million to $5 million, and authorizes the SBA to increase the size of these bonds further to $10 million. Small contractors vying for work need an increase in bonds to handle greater projects for Hurricane Katrina relief. Local small businesses in the gulf coast can use higher bonds to compensate for the damage to their assets from the hurricane.

My bill would also direct the SBA, its resources partners, and the Federal offices of small and disadvantaged business utilization to create a contracting outreach program for small businesses located or willing to locate in the Katrina disaster area. Finally, my bill would establish small business contracting and subcontracting goals for all Katrina-related contracts and subcontracts to promote greater jobs creation and development, while providing reasonable flexibility to Federal agencies in meeting that goal in light of difficult circumstances on the ground.

Finally I would also like to comment on the funding levels provided for the SBA in this bill. I have authorized the appropriation of $24.25 million for grants to increase business counseling in the damaged areas for several SBA entrepreneurial development programs including: Small Business Development Center, SBDCs; SCORE; Womens Business Centers, WBCs; Veteran's Business Centers, and Microloan Technical Assistance.

Our Nation's 25 million small businesses prove time and again to breathe new life into our economy, by growing at twice the rate of all firms. And when a disaster strikes, the spirit, determination and will of America's small businesses help to create the firm economic foundation, propelling our Nation's economic growth. Therefore, we in turn must create an atmosphere favorable for small businesses and provide this emergency package to the SBA. We must allow our Nation's small businesses to do what they do best—create jobs.

Mr. President, I urge my colleagues to support this bill. Too much is at stake for small businesses, and the economy as a whole, to allow this critical legislation to languish. Congress must find essential agreement and fulfill its obligation to America's small businesses. Clearly, if we strive for anything less, we fail to support the backbone of our economy, our hope for new innovation, and the entrepreneurs reach for the American dream.

Thank you, Mr. President.

Mr. KERRY. Mr. President, today I join with Senator SNOWE, the chair of our committee, and our colleagues, Senators LANDRIEU and VITTER, to introduce a bill to help small businesses that have been damaged, physically and economically, by one or both of the hurricanes that have destroyed the gulf region over the past four or five weeks.

Our colleagues should feel very comfortable voting for this bill. The need is undeniable, based not only on what we see on television every day and read in the papers but also based on the testimony of small businesses and governors at hearings held in the Senate, in our committee last week, and this week before the Finance Committee. Further, 96 Senators voted for very similar legislation 2 weeks ago.

This bill is very similar to the amendment (S.A. 1695) that Senator LANDRIEU and I offered to the fiscal year 2006 appropriations bill for the Departments of Commerce, Justice, and Science, and that passed the Senate by a vote of 96 to 0 on September 15 as part of the compromise amendment (S.A. 1717) that I put forth with Senators SNOWE, LANDRIEU, and VITTER. We offered those amendments to the appropriations bill because relief for small businesses had not been provided for in the two emergency supplementals. Two bills, worth some $63 billion, and nothing designated for small businesses.

It is through the Small Business Administration that disaster loan assistance is available, not just for businesses but for homeowners and renters, and it is through the Small Business Administration that the Federal Government provides the full complement of assistance to the small businesses in our Nation. The SBA is indispensable to the recovery of the gulf region after Hurricane Katrina. If the administration is not going to provide small business relief in the emergency spending bills it sends to Congress, this is absolutely appropriate.

We have got to get into law, and to fund, relief for small businesses before Senators go home for a week break in October. These folks have waited too long. We have got to get people back to work.

Since Hurricane Katrina hit, the gulf has had the extreme misfortune of being hit by Hurricane Rita. And this bill reflects the damage caused by going a bit further to take care of those small businesses, too. It also incorporates provisions requested by the administration. For example, at the request of the administration, the bill authorizes the Small Business Administration to make economic injury disaster loans nationwide to any small business directly and adversely impacted by Hurricane Katrina or Hurricane Rita. The bill limits eligibility of economic injury disaster loans to those small businesses suffering economic losses because of the spikes in gasoline and natural gas and heating oil related to Hurricanes Katrina and Rita. That is consistent with all other provisions in this bill. We also increased the amount of funding for grants to the States from $400 million to $450 million, to reflect the increased damage and delays in recovery caused by Hurricane Rita. We also repeal some contracting provisions enacted as part of the second supplemental that were anti-small business and would have resulted in millions of contracting dollars lost for small businesses that should be getting Federal contracts to rebuild the area. The small businesses don't just need loans; they need work to get revenue flowing again and to hire again, creating local jobs.

Mr. President, I extend great thanks to my colleagues, Senators SNOWE, LANDRIEU, and VITTER for their work on this bill. I think we have demonstrated to a weary public that we can work together, and I hope that our colleagues in the Senate and in the House and the President will join us and vote to make this law and to fund it.

By Mr. BINGAMAN:

S. 1808. A bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (QMB) and specified low-income medicare beneficiary (SLMB) programs within the medicaid program; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the "Medicare Beneficiary Assistance Improvement Act." This legislation would improve what are referred to as the Medicare Savings Programs, which includes the Qualified Medicare Beneficiary, QMB, and Specified Low-income Medicare Beneficiary, SLMB, and Qualifying Individual-1 (QI–1) programs that provide cost-sharing assistance for low-income Medicare beneficiaries through the Medicaid program. It would also make permanent the QI–1 program, which expires today due to inaction by the House of Representatives to extend the program.

The QI–1 program was established as part of the Balanced Budget Act of 1997 and was authorized for 5 years. In 2002 and 2003, extensions of the program were included in various continuing resolutions. The program was further extended through passage of Public Law 108–448 in 2004, through today's expiration date.

There is no reason that the Congress must participate in this annual last minute scramble to try and extend the program for a few months or a year. It is a disservice to the States, who must watch the Congress closely to constantly prepare to send out disenrollment notices and layoff staff, even though they are relatively certain the program will be extended. But, more importantly, it is a disservice to those that need this important assistance, as many of those enrolled worry this benefit will be taken away and many of those never enrolled never are told of the benefit since States and advocates are spending their time trying to get the program extended rather than conducting outreach.

While I remain very hopeful that the Congress will pass an extension of the QI–1 program for an additional period in the coming week, I am introducing the "Medicare Beneficiary Assistance Improvement Act" today in the hope that Congress will end this process of temporary extensions and permanently authorize the program, as provided for in this legislation.

To reiterate, low-income senior citizens and disabled Americans nationwide should not be subjected to the constant risk of losing crucial health care benefits. Furthermore, the Centers for Medicare & Medicaid Services, CMS, the Social Security Administration, SSA, and the States should be spared the administrative burdens and cost associated with reauthorizing the program each year—sometimes more than once in a year.

Furthermore, the bill proposes several improvements to the Medicare Savings Programs and application processes that will make these low-income benefits both more efficient to administer and more accessible to the individuals who need them. It would also seek to simplify the process and make the Medicare Savings Programs more understandable to low-income senior citizens and people with disabilities, as well as State and Federal Government officials.

In New Mexico, over 1,500 low-income Medicare beneficiaries receive the QI–1 benefit, which saves them almost $1,000 in Medicare Part B premium out-of-pocket costs annually. Unfortunately, according to estimates made by the Medicare Rights Center using Census Bureau data, over 11,000 are likely to be eligible. Many are completely unaware of the assistance this program offers.

The same is true among those of us that created the three different Medicare Savings Programs. In fact, I am almost absolutely certain that few of my Senate colleagues could accurately explain how any of these programs work and that is precisely the problem with them. They are intended serve our Nation's most vulnerable, low-income citizens with their Medicare cost-sharing burdens, but do so in a very complicated manner that few can understand. It is no wonder that many of our Nation's elderly and people with disabilities that qualify for this assistance do not participate.

For example, the QI–1 program is Federal grant payment to States for the purpose of paying the Medicare Part B premium, which is $78.20 per month in 2005 and will increase to $88.50 per month or over $1000 per year in 2006, for individuals with income between 120 and 135 percent of the Federal Poverty Level. Through this Federal grant, States must pay the full amount of the Medicare Part B premium for qualifying individuals but may cap or otherwise limit enrollment if the State projects that further enrollment will result in exhaustion of their State allotment.

Six States had enrollment this year that would exceed their allotment so were forced to cap funding. The Centers for Medicare & Medicaid Services, CMS, responded to this problem with a rule on August 26, 2005, that reallocated unspent funding from some States to those that had exhausted their funds in order to eliminate the enrollment caps in the States of Oregon, Arizona, Mississippi, Louisiana, Alabama, and Connecticut.

Three days later Hurricane Katrina hit three of the six States and now their entire health care systems are in chaos, and Congress has failed to act to address their need. While that has gained a great deal of much needed attention and deserves even greater attention from the media and public, the House of Representatives yesterday failed to extend the QI–1 program and went out of session for the week even though it expires today. Senators GRASSLEY and BAUCUS were working with the House of Representatives on a last minute extension through the introduction of S. 1718, but it failed to move in the waning hours of the fiscal year and the House of Representatives took no action whatsoever.

Even though CMS has apparently notified the Congress that it can continue to run the program for a few days, the failure of the Congress to take action in a timely manner to ensure that disenrollment notices are not sent out by the States to an estimated 185,000 low-income Medicare beneficiaries nationwide is absolutely unacceptable and also is deserving of attention and media scrutiny.

Furthermore, while the QI–1 program has always played an important role in helping low-income Medicare afford health care coverage, the QI–1 program would, in the future, play an important role in helping low-income Medicare beneficiaries access prescription drug coverage through Medicare's new drug benefit. Enrollment in the QI–1 program is supposed to automatically qualify a person for the Medicare Part D drug benefit's low-income subsidy beginning on January 1,2006.

To briefly describe the most critical aspects of the legislation, Section 2 of the bill simply provides for one unified name for the Federal programs that offer cost sharing and benefit assistance for low-income Medicare beneficiaries. Rather than separately referring to the QMB, SLMB, and QI–1 programs, the bill provides one common name for all of these programs, the "Medicare Savings Programs."

Low enrollment in these assistance programs is in large part due to the lack of knowledge and understanding of the programs or benefits offered. This simple change has been pilot tested with Medicare beneficiary groups and found to elicit a positive response and interest from Medicare beneficiaries.

Section 3 of the legislation would make permanent the QI–1 category by incorporating these individuals into the SLMB category at the State Children's Health Insurance Program enhanced matching rate. In addition to simplifying and making permanent the program, States would see a financial benefit from this change.

Section 4 eliminates some of the critical barriers to enrollment. As I noted earlier, just 1,500 of the estimated 11,000 low-income Medicare beneficiaries in New Mexico eligible for the QI–1 benefit are enrolled. This section provides for several important enrollment simplification procedures, such as allowing self-certification of income and continuous eligibility, and expanded outreach efforts.

Section 5 eliminates the limit on assets, which is set at $4,000 for an individual and $6,000 for a couple and disqualifies millions of Medicare beneficiaries with very low incomes from qualifying for assistance. Some States have waived or disallowed the counting of some assets for the purposes of eligibility determination and have seen much higher enrollment rates.

I urge the Congress to pass a temporary extension of the QI–1 program early next week, but then to immediately begin work to permanently authorize the QI–1 program and to simplify and streamline all the Medicare Savings Programs. Our Nation's low-income Medicare beneficiaries and the States deserve nothing less.

I ask unanimous consent to print a summary and text of this legislation in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

FACT SHEET

"MEDICARE BENEFICIARY ASSISTANCE IMPROVEMENT ACT"

Sponsor: Senator Bingaman

Purpose: To amend title XIX of the Social Security Act to improve the Qualified Medicare Beneficiary (QMB) and Specified Low-income Medicare Beneficiary (SLMB) programs within the Medicaid program, and in doing so to make permanent the Qualifying Individual-1 (QI-1) program.

Background: The QI–1 program is a federal grant payment to states for the purposes of paying the Medicare Part B premium, which is $78.20 per month in 2005 and will increase to $88.50 per month (over $1000 per year) in 2006, for individuals with income between 120 and 135 percent of the Federal Poverty Level. Federal assistance for QI–1s was created in the Balanced Budget Act of 1997 for a five-year period and has been extended on a year-to-year basis since December 2002. The program is currently slated to expire on September 30, 2005.

Now is a critical time to make QI-1 a permanent program. Approximately 185,000 low-income Medicare beneficiaries nationwide currently rely on the QI-1 program for payment of their Part B premium and will be hard pressed to afford Medicare coverage without this assistance. The QI-1 program also plays an important role in helping low-income Medicare beneficiaries access prescription drug assistance through Medicare's new drug benefit. Enrollment in the QI-1 program automatically qualifies a person for the Part D drug benefit's low-income subsidy beginning on January 1, 2006.

The legislation would ensure that low-income older and disabled Americans nationwide are no longer at risk of losing crucial health care benefits. Furthermore, states, the Centers for Medicare and Medicaid Services (CMS), the Social Security Administration (SSA) would be spared the administrative burden and cost associated with reauthorizing the program each year—sometimes more than once in a year.

Furthermore, the bill proposes several improvements to the QMB and SLMB programs and application processes that will make these low-income benefits both more efficient to administer and more accessible to the individuals who need them.

SUMMARY

Section 1. Short Title.

This section gives the bill's title: the "Medicare Beneficiary Assistance Improvement Act."

Section 2. Renaming the Program to Eliminate Confusion.

This section provides for one unified name for the federal programs that offer cost sharing and benefit assistance for low-income Medicare beneficiaries. Currently, beneficiaries may be in "dual eligible" programs, "Qualified Medicare Beneficiary" programs (QMB), "Specified Low-income Medicare Beneficiary" programs (SLMB), or Qualifying Individual-1 (QI-1) programs. This bill provides one common name for all of these programs, the "Medicare Savings Programs."

One of the problems contributing to low enrollment in the assistance programs is lack of understanding of the programs or benefits offered, in part due to confusing nomenclature. The new name has been pilot tested with Medicare beneficiaries groups and found to elicit a positive response and interest from Medicare beneficiaries.

Section 3. Expanding Protections by Increasing SLMB Eligibility Income Level to 135 Percent of Poverty.

This section would make permanent the QI-1 category, which provides assistance with the cost of the Medicare Part B premium for beneficiaries with incomes between 120 percent and 135 percent of poverty, by incorporating these individuals into the SLMB category. In addition, the legislation provides enhanced matching payments (at the state's CHIP rate) for the SLMB population (100–135% FPL).

Section 4. Eliminating Barriers to Enrollment.

In the states that use 209(b) or SSI criteria for eligibility for the QMB program, Medicare beneficiaries are not automatically made eligible for assistance, even though they qualify. In other states that do not use these criteria, Medicare beneficiaries are automatically eligible if they meet the income thresholds to qualify for SSI payments. Subsection (a) requires that states that use these alternative definitions for eligibility make Medicare beneficiaries automatically eligible for assistance as well.

Subsection (b) allows individuals to certify their income without having to provide additional documentation. Many eligible Medicare beneficiaries decline to participate in assistance programs because they have difficulty producing the necessary documents and generally are reluctant to provide such information.

Subsection (c) provides for continuous eligibility in the assistance programs. Just as Medicare beneficiaries apply once for Medicare, they can apply once for assistance programs as well, without the need for yearly recertification.

Subsection (d) requires states to allow applications for assistance programs on a simplified application form by telephone or mail without the need for a face-to-face interview. Many eligible individuals choose not to apply for government programs because of the stigma associated with a Social Services office. Research shows that individuals are more likely to apply for a benefit when they are not required to have an in-person interview at one of these offices.

Subsection (e) expands the role of Social Security in the Medicare Savings Program application process by requiring local Social Security offices to provide oral and written information about Medicare Savings Program benefits and offer Medicare beneficiaries the ability to apply for assistance at these offices, as is the application protocol for the drug benefit's low-income subsidy program.

Subsection (f) allows states to outstation eligibility workers at local Social Security field offices.

Section 5. Elimination of Asset Test.

This section eliminates the strict limit on assets that disqualifies millions of Medicare Beneficiaries with very low incomes from qualifying for assistance. States with high or no asset tests have maximized their QI-1 funding allotments, while states with standard assets tests have seen extremely low QI-1 enrollment.

Section 6. Improving Assistance With Out-of-Pocket Costs.

Subsection (a) prohibits estate recovery against QMBs for the cost-sharing or benefits provided through this program. Many individuals do not apply for assistance because they fear a surviving spouse will lose what little income they have by having to repay the state for benefits received upon death.

Subsection (b) gives QMBs three months of retroactive eligibility, allowing the state to pay for Medicare cost-sharing and premiums for the previous three months. Other categories of individuals who receive assistance through Medicaid (SLMBs, QI-1s, and dual eligibles) are eligible for assistance beginning three months prior to the date which they are enrolled. Because of the low incomes of these beneficiaries, coupled with the fact that lower-income individuals have higher health care costs, such retroactive assistance is particularly important.

Section 7. Improving Program Information and Coordination With State, Local, and Other Partners.

This section authorizes a data match demonstration project between Health and Human Services, the Internal Revenue Service, and SSA to match information to identify individuals who are potentially eligible for assistance programs but not enrolled. This section also authorizes $100 million in grants to states to use the information identified through the demonstration project to improve enrollment in the Medicare Savings Programs and the low-income subsidy, as well as grants to other entities like the Indian Health Service and Veterans' Affairs to do coordinated outreach with these programs.

Section 8. Notices to Certain New Medicare Beneficiaries.

This section requires SSA, upon sending out initial notification of Medicare eligibility, to include information and an application for the Medicare Savings Programs to individuals the Commissioner identifies as likely to be eligible for benefits under those programs. The section also requires the Secretary of Health and Human Services to include in the annual Medicare & You handbook information on the availability of the Medicare Savings Programs and a toll free number for beneficiaries to call to obtain additional information.

S. 1808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Beneficiary Assistance Improvement Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Renaming program to eliminate confusion.
Sec. 3. Expanding protections by increasing SLMB eligibility income level to 135 percent of poverty.
Sec. 4. Eliminating barriers to enrollment.
Sec. 5. Elimination of asset test.
Sec. 6. Improving assistance with out-of-pocket costs.
Sec. 7. Improving program information and coordination with State, local, and other partners.
Sec. 8. Notices to certain new medicare beneficiaries.

SEC. 2. RENAMING PROGRAM TO ELIMINATE CONFUSION.

The programs of benefits for lower income medicare beneficiaries provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) shall be known as the "Medicare Savings Programs".

SEC. 3. EXPANDING PROTECTIONS BY INCREASING SLMB ELIGIBILITY INCOME LEVEL TO 135 PERCENT OF POVERTY.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iii)) is amended by striking "120 percent in 1995 and years thereafter" and inserting "120 percent in 1995 through 2005 and 135 percent in 2006 and years thereafter".

(b) CONFORMING REMOVAL OF QI–1 PROVISIONS.—

(1) Section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)) is further amended—

(A) by adding "and" at the end of clause (ii);

(B) by striking "and" at the end of clause (iii); and

(C) by striking clause (iv).

(2) Section 1933 of such Act (42 U.S.C. 1396u–3) is repealed.

(3) The amendments made by this subsection shall take effect as of January 1, 2006.

(c) APPLICATION OF CHIP ENHANCED MATCHING RATE FOR SLMB ASSISTANCE.—

(1) IN GENERAL.—Section 1905(b)(4) of such Act (42 U.S.C. 1396d(b)(4)) is amended by inserting "or section 1902(a)(10)(E)(iii)" after "section 1902(a)(10)(A)(ii)(XVIII)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medical assistance for medicare cost-sharing for months beginning with January 2006.

SEC. 4. ELIMINATING BARRIERS TO ENROLLMENT.

(a) AUTOMATIC ELIGIBILITY FOR SSI RECIPIENTS IN 209(B) STATES AND SSI CRITERIA STATES.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) by redesignating paragraph (6) as paragraph (11); and

(2) by adding at the end the following new paragraph:

"(6) In the case of a State which has elected treatment under section 1902(f) for aged, blind, and disabled individuals, individuals with respect to whom supplemental security income payments are being paid under title XVI are deemed for purposes of this title to be qualified medicare beneficiaries.".

(b) SELF-CERTIFICATION OF INCOME.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsection (a), is amended by inserting after paragraph (6) the following new paragraph:

"(7) In determining whether an individual is a qualified medicare beneficiary or is eligible for benefits under section 1902(a)(10)(E)(iii), the State shall permit individuals to qualify on the basis of self-certifications of income without the need to provide additional documentation.".

(c) AUTOMATIC REENROLLMENT WITHOUT NEED TO REAPPLY.—

(1) IN GENERAL.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsections (a) and (b), is amended by inserting after paragraph (7) the following new paragraph:

"(8) In the case of an individual who has been determined to be a qualified medicare beneficiary or eligible for benefits under section 1902(a)(10)(E)(iii), the individual shall be deemed to continue to be so qualified or eligible without the need for any annual or periodic application unless and until the individual notifies the State that the individual's eligibility conditions have changed so that the individual is no longer so qualified or eligible.".

(2) CONFORMING AMENDMENT.—Section 1902(e)(8) of the Social Security Act (42 U.S.C. 1396a(e)(8)) is amended by striking the second sentence.

(d) USE OF SIMPLIFIED APPLICATION PROCESS.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsections (a), (b), and (c), is amended by inserting after paragraph (8) the following new paragraph:

"(9) A State shall permit individuals to apply to qualify as a qualified medicare beneficiary or for eligibility for benefits under section 1902(a)(10)(E)(iii) through the use of the simplified application form developed under section 1905(p)(5)(A) and shall permit such an application to be made over the telephone or by mail, without the need for an interview in person by the applicant or a representative of the applicant.".

(e) ROLE OF SOCIAL SECURITY OFFICES.—

(1) ENROLLMENT AND PROVISION OF INFORMATION AT SOCIAL SECURITY OFFICES.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), as amended by subsections (a), (b), (c), and (d) is amended by inserting after paragraph (9) the following new paragraph:

"(10) The Commissioner of Social Security shall provide, through local offices of the Social Security Administration—

"(A) for the enrollment under State plans under this title for appropriate medicare cost-sharing benefits for an individual who is a qualified medicare beneficiary or is eligible for benefits under section 1902(a)(10)(E)(iii) through utilization of the process established under section 1860D–14; and

"(B) for providing oral and written notice of the availability of such benefits.".

(2) CLARIFYING AMENDMENT.—Section 1902(a)(5) of such Act (42 U.S.C. 1396a(a)(5)) is amended by inserting "as provided in section 1905(p)(10)," after "except".

(f) OUTSTATIONING OF STATE ELIGIBILITY WORKERS AT SSA FIELD OFFICES.—Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended—

(1) in the matter preceding subparagraph (A), by striking "subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)" and inserting "paragraph (10)(A)(i)(IV), (10)(A)(i)(VI) (10)(A)(i)(VII), (10)(A)(ii)(IX), or (10)(E)"; and

(2) in subparagraph (A), by striking "1905(1)(2)(B)" and inserting "1905(l)(2)(B), and in the case of applications of individuals for medical assistance under paragraph (10)(E), at locations that include field offices of the Social Security Administration".

SEC. 5. ELIMINATION OF ASSET TEST.

(a) IN GENERAL.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended—

(1) by adding "and" at the end of subparagraph (A);

(2) by striking ", and" at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to eligibility determinations for medicare cost-sharing furnished for periods beginning on or after January 1, 2006.

SEC. 6. IMPROVING ASSISTANCE WITH OUT-OF-POCKET COSTS.

(a) ELIMINATING APPLICATION OF ESTATE RECOVERY PROVISIONS.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting "(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))" before the period at the end.

(b) PROVIDING FOR 3-MONTHS RETROACTIVE ELIGIBILITY.—

(1) IN GENERAL.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter preceding paragraph (1), by striking "described in subsection (p)(1), if provided after the month" and inserting "described in subsection (p)(1), if provided in or after the third month before the month".

(2) CONFORMING AMENDMENTS.—(A) The first sentence of section 1902(e)(8) of such Act (42 U.S.C. 1396a(e)(8)), as amended by section 4(c)(2), is amended by striking "(8)" and the first sentence.

(B) Section 1848(g)(3) of such Act (42 U.S.C. 1395w–4(g)(3)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF RETROACTIVE ELIGIBILITY.—In the case of an individual who is determined to be eligible for medical assistance described in subparagraph (A) retroactively, the Secretary shall provide a process whereby claims submitted for services furnished during the period of retroactive eligibility which were not submitted in accordance with such subparagraph are resubmitted and re-processed in accordance with such subparagraph.".

SEC. 7. IMPROVING PROGRAM INFORMATION AND COORDINATION WITH STATE, LOCAL, AND OTHER PARTNERS.

(a) DATA MATCH DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (acting through the Administrator of the Centers for Medicare & Medicaid Services), the Secretary of the Treasury, and the Commissioner of Social Security shall enter into an arrangement under which a demonstration is conducted, consistent with this subsection, for the exchange between the Centers for Medicare & Medicaid Services, the Internal Revenue Service, and the Social Security Administration of information in order to identitfy individuals who are medicare beneficiaries and who, based on data from the Internal Revenue Service (such as their not filing tax returns or other appropriate filters) are likely to be—

(A) a qualified medicare beneficiary (as defined in 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)));

(B) otherwise eligible for medical assistance under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)); or

(C) entitled to a premium or cost-sharing subsidy under section 1860D–14 of such Act (42 U.S.C. 1395w–114).

(2) LIMITATION ON USE OF INFORMATION.—Notwithstanding any other provision of law, specific information on income or related matters exchanged under paragraph (1) may be disclosed only as required to carry out subsection (b) and for related Federal and State outreach efforts.

(3) PERIOD.—The project under this subsection shall be for an initial period of 3 years and may be extended for additional periods (not to exceed 3 years each) after such an extension is recommended in a report under subsection (d).

(b) STATE DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall enter into a demonstration project with States (as defined for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to provide funds to States to use information identified under subsection (a), and other appropriate information, in order to do ex parte determinations or utilize other methods for identifying and enrolling individuals who are potentially—

(A) a qualified medicare beneficiary (as defined in 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)));

(B) otherwise eligible for medical assistance described in section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)); or

(C) entitled to a premium or cost-sharing subsidy under section 1860D–14 of such Act (42 U.S.C. 1395w–114).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to the Secretary of Health and Human Services for the purpose of making grants under this subsection.

(c) ADDITIONAL CMS FUNDING FOR OUTREACH AND ENROLLMENT PROJECTS.—There are hereby appropriated, out of any funds in the treasury not otherwise appropriated, to the Secretary of Health and Human Services through the Administrator of the Centers for Medicare & Medicaid Services, $100,000,000 which shall be used only for the purpose of providing grants to States to fund projects to improve outreach and increase enrollment in Medicare Savings Programs and low-income subsidy programs under section 1860D–14 of such Act (42 U.S.C. 1395w–114). Such projects may include cooperative grants and contracts with community groups and other groups (such as the Department of Veterans' Affairs and the Indian Health Service) to assist in the enrollment of eligible individuals.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to Congress periodic reports on the projects conducted under this section. Such reports shall include such recommendations for extension of such projects, and changes in laws based on such projects, as the Secretary deems appropriate.

SEC. 8. NOTICES TO CERTAIN NEW MEDICARE BENEFICIARIES.

(a) SSA NOTICE.—

(1) IN GENERAL.—At the time that the Commissioner of Social Security sends a notice to individuals that they have been determined to be eligible for benefits under part A or B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq., 1395j et seq.), the Commissioner shall send a notice and application for benefits under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to those individuals the Commissioner identifies as being likely to be—

(A) a qualified medicare beneficiary (as defined in 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)));

(B) eligible for benefits under clause (i), (ii), or (iii) of section 1902(a)(10)(E) of such Act (42 U.S.C. 1396a(a)(10)(E)); or

(C) entitled to a premium or cost-sharing subsidy under section 1860D–14 of such Act (42 U.S.C. 1395w–114).

(2) ADDITIONAL INFORMATION REQUIRED.—Such notice and application shall be accompanied by information on how to submit such an application and where to obtain more information (including answers to questions) on the application process.

(b) INCLUDING INFORMATION IN MEDICARE & YOU HANDBOOK.—The Secretary of Health and Human Services shall include in the annual handbook distributed under section 1804(a) of the Social Security Act (42 U.S.C. 1395b–2(a)) information on the availability of Medicare Savings Programs and a toll-free telephone number that medicare beneficiaries may use to obtain additional information about the program.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 262—CONDEMNING THE STATEMENTS OF FORMER EDUCATION SECRETARY WILLIAM J. BENNETT

Mr. LAUTENBERG (for himself, Mr. REID, Mr. CORZINE, Ms. MIKULSKI, Ms. LANDRIEU, and Mr. SCHUMER.) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 262

Whereas William J. Bennett served as chairman of the National Endowment for the Humanities from 1981 to 1985.

Whereas William J. Bennett served as Secretary of Education from 1985 to 1988.

Whereas William J. Bennett served as Director of the Office of National Drug Control Policy from 1989 to 1990.

Whereas on September 28, 2005 William J. Bennett stated the following on Salem Radio Network's Bill Bennett's Morning in America: "[I] do know that it's true that if you wanted to reduce crime, you could—if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down. That would be an impossible, ridiculous, and morally reprehensible thing to do, but your crime rate would go down." Now, therefore, be it

Resolved,

SEC. 1. That the Senate strongly condemns William J. Bennett's reprehensible statements of September 28, 2005.

SEC. 2. That the Senate believes that such statements are unbecoming of a former Cabinet Secretary.

SENATE CONCURRENT RESOLUTION 56—EXPRESSING APPRECIATION FOR THE CONTRIBUTION OF CHINESE ART AND CULTURE AND RECOGNIZING THE FESTIVAL OF CHINA AT THE KENNEDY CENTER

Mrs. FEINSTEIN (for herself, Mr. STEVENS, and Ms. MURKOWSKI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 56

Whereas mutual cultural understanding and appreciation helps to advance the overall bilateral relationship between the United States and China;

Whereas Chinese cultural achievements have enriched the world for over 5,000 years;

Whereas Chinese artists both in China and in the United States have excelled in music, dance, fashion, theater, film, and the visual arts;

Whereas the John F. Kennedy Center for the Performing Arts is hosting a month-long celebration of Chinese cultural contributions at the Festival of China in October 2005;

Whereas the event, with more than 50 performances and exhibitions and over 800 artists, will be the largest festival in the history of the Kennedy Center;

Whereas the Kennedy Center characterizes the Festival of China as the "the largest celebration of Chinese performing arts in American history";

Whereas events like the Festival of China, along with efforts to promote educational and scientific cooperation between the United States and China, further mutual understanding between our two societies;

Whereas publicly- and privately-funded exchange programs and other forms of Sino-American contacts foster positive relations; and

Whereas cultural events like the Festival of China help strengthen diplomatic, commercial, and political cooperation between the United States and China: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the diverse array of cultural contributions made by Chinese artists based in China, the United States, and around the world benefit the entire international community;

(2) the Kennedy Center, along with the Chinese Ministry of Culture, should be commended for promoting Chinese achievement in the arts at the Festival of China;

(3) the significant undertaking and efforts necessary to organize the Festival of China provides a unique opportunity for bilateral cooperation;

(4) building upon the Festival of China, additional efforts that promote cultural understanding between the United States and China should be encouraged;

(5) the United States and China should work to promote cultural, as well as scientific and educational, cooperation between the two countries;

(6) the United States and China should continue to promote exchange programs, such as the Festival of China, as a vital tool for advancing mutual understanding and cooperation between the people of the United States and the people of China; and

(7) the hundreds of performers and individuals who have contributed their time and effort to make this landmark celebration of Chinese culture and the arts a success are to be congratulated.

Mrs. FEINSTEIN. Mr. President, I am pleased to have the opportunity to introduce a resolution to honor the contributions of Chinese art and culture and recognize the landmark Festival of China taking place this October at the John F. Kennedy Center for Performing Arts in Washington, DC.

I commend the joint efforts of the Kennedy Center and the Chinese Ministry of Culture in organizing this celebration and congratulate the hundreds of individuals who have contributed to its success.

With over 800 artists and 50 scheduled events, the Festival of China will truly be one of the largest celebrations of Chinese performance arts in American history.

Starting with Beijing Cultural Week, the Festival will feature Chinese dance, theater, and opera, and musical performances, along with film and art exhibitions.

I am also privileged to be joined today in offering this resolution by two of my colleagues, Senators STEVENS and MURKOWSKI, both of whom play significant roles in fostering our relationship with China.

Senator STEVENS, as the Senate Pro Tempore, chairs the U.S.-China Interparliamentary Group, which facilitates annual exchanges between Members of the Senate and their counterparts in the Chinese National People's Congress.

A hero in both the United States and China, his long history with the Chinese people and their culture goes back to World War II, when as a pilot he flew missions in support of the Flying Tigers over the "Hump" between Burma and China. Because of his dedicated service to the people of China, he was later decorated with the Yuan Hai Medal by the Chinese government.

Since he first arrived in the Senate 36 years ago, Senator STEVENS has worked tirelessly to improve the bilateral relationship between the United States and China, and promote exchanges and cooperation between the two sides.

While Senator MURKOWSKI's tenure in the Senate may be shorter than that of her senior colleague from Alaska, she nevertheless is already playing a key part in shaping our relationship with China.

As the chair of the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs, she has the unique responsibility of overseeing our relationship with China and its many neighbors in the region.

My own relationship with China first started in 1979 when I had the chance to visit as the Mayor of San Francisco.

In 1980, I joined my counterpart, Mayor Wang Daohan, in signing an agreement to establish the first Sister City relationship of its kind between San Francisco and Shanghai.

Since that time, I have traveled regularly to China and had the opportunity to get to know many of its leaders.

I can tell you that, in my view, no nation on Earth has changed more positively in the past three decades than China.

That is why I consider it truly an honor to join with my colleagues in introducing this resolution to recognize the Festival of China.

I hope that during the month of October 2005 more Americans will have the chance to understand China and its unique contributions to art and culture during the past 5,000 years.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1921. Mr. HARKIN (for himself, Mr. KOHL, Mr. JEFFORDS, Mr. LEVIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, Ms. CANTWELL, and Mr. CORZINE) proposed an amendment to the joint resolution H.J. Res. 68, making continuing appropriations for the fiscal year 2006, and for other purposes.

SA 1922. Mr. STEVENS (for himself, Mr. GRASSLEY, Ms. MURKOWSKI, Mr. HATCH, and Mr. HAGEL) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1923. Mr. KENNEDY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1924. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1925. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1926. Mrs. HUTCHISON (for herself and Mr. VOINOVICH) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1927. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1928. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1921. Mr. HARKIN (for himself, Mr. KOHL, Mr. JEFFORDS, Mr. LEVIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, Ms. CANTWELL, and Mr. CORZINE) proposed an amendment to the joint resolution H.J. Res. 68, making continuing appropriations for the fiscal year 2006, and for other purposes; as follows:

On page , at the appropriate place, insert the following:

SEC. . COMMUNITY SERVICES BLOCK GRANT.—Notwithstanding section 101 of this joint resolution, amounts are provided for making payments under the "Community Services Block Grant Act" at a rate not less than the amounts made available for such Act in fiscal year 2005.

SA 1922. Mr. STEVENS (for himself, Mr. GRASSLEY, Ms. MURKOWSKI, Mr. HATCH, and Mr. HAGEL) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. ___. Not withstanding Sec. 101 of H.J. Res. 68, the Community Services Block Grant program shall be funded at the same rate of operation as in Division F of Public Law 108–447, through November 18, 2005.

SA 1923. Mr. KENNEDY (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follow:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE", up to $4,000,000 may be used for Oral Anthrax/Plague Vaccine Development.

SA 1924. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $1,000,000 may be used for Integrated Starter/Alternator for Up-Armored High Mobility Multi-Wheeled Vehicles.

SA 1925. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $1,000,000 may be made available for an environmental management and compliance information system.

SA 1926. Mrs. HUTCHISON (for herself and Mr. VOINOVICH) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armend Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COOPERATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include, but not be limited to, areas relating to the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations.

SA 1927. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" may be increased by up to $1,500,000.

(b) The amount made available pursuant to subsection (a) shall be available for research within the High-Brightness Electron Source program.

SA 1928. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" may be increased by up to $1,000,000.

(b) The amount made available pursuant to subsection (a) shall be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 30, 2005, at 9:30 a.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Janellen Duffy, a fellow with the Finance Committee staff, be granted the privilege of the floor today.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. SESSIONS. Mr. President, as in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Margaret Spelling, PN 495; provided further that the Senate proceed to its consideration.

I further ask unanimous consent that the Senate also proceed en bloc to the following nominations on the Executive Calendar: 148, 318 through 337, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Margaret Spellings, of Texas, to be a Representative of the United States of America to the Thirty-third Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

IN THE ARMY

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Rita M. Broadway, 0473

IN THE AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Salvatore A. Angellela, 0165
Andrew E. Busch, 7989
Arthur B. Cameron, III, 0790
Susan Y. Desjardins, 8528
Richard T. Devereaux, 8130
Judith A. Fedder, 5552
Eric E. Fiel, 7226
Jonathan D. George, 4350
Mark W. Graper, 4004
Bradley A. Heithold, 3828
Susan J. Helms, 0053
Peter F. Hoene, 6773
Darrell D. Jones, 0095
Duane A. Jones, 1765
Noel T. Jones, 6905
Robert C. Kane, 9186
Stanley T. Kresge, 9353
Michael A. Longoria, 2571
Charles W. Lyon, 1257
Otis G. Mannon, 0275
Susan K. Mashiko, 0489
Darren W. McDew, 9277
Clyde D. Moore, II, 7198
Douglas H. Owens, 7222
John T. Pray, Jr., 9805
David E. Price, 4062
Philip M. Ruhlman, 2028
David J. Scott, 8237
Dana A. Simmons, 7642
Paula G. Thornhill, 7605
Suzanne M. Vautrinot, 8559
David B. Warner, 7139
Lawrence L. Wells, 7409
Janet C. Wolfenbarger, 6381
Daniel P. Woodward, 9291
Scott E. Wuesthoff, 8626

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen R. Lorenz, 2664

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Gary L. North, 9194

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be General

Lt. Gen. Duncan J. McNabb, 2295

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Frank G. Klotz, 6089

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Douglas M. Fraser, 7505

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John F. Regni, 3567

The following named officer for appointment in the United States Air Force to the grade indicated in accordance with Article II, Section 2, Clause 2, of the Constitution:

To be brigadier general

Col. Richard J. Tubb, 8067

IN THE ARMY

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James P. Eggleton, 1830

To be brigadier general

Col. Blake E. Williams, 2990

IN THE AIR FORCE

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James S. Goodwin, 1834

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Roger F. Clements, 2669

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Daniel P. Leaf, 9223

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. William S. Wallace, 1708

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Philip Volpe, 5985

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Eric B. Schoomaker, 8284

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Michael H. Sumrall, 4259

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Errol R. Schwartz, 6130

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James R. Joseph, 0140

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Anne E. Dunwoody, 4139

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. John E. Cornelius, 2976

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN782 AIR FORCE nomination of Thomas L. Lutz, which was received by the Senate and appeared in the Congressional Record of July 28, 2005.

PN783 AIR FORCE nomination of Bruce A. Ellis Jr., which was received by the Senate and appeared in the Congressional Record of July 28, 2005.

PN784 AIR FORCE nominations (4) beginning ANSRLMO FELICIANO, and ending DAKE S. VAHOVICH, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 2005.

PN836 AIR FORCE nomination of Gary A. Packard Jr., which was received by the Senate and appeared in the Congressional Record of September 6, 2005.

PN837 AIR FORCE nominations (2) beginning STACEY T. KNUTZEN, and ending JONATHAN R. SPECHT, which nominations were received by the Senate and appeared in the Congressional Record of September 6, 2005.

PN838 AIR FORCE nomination of Donald E. Reckart, which was received by the Senate and appeared in the Congressional Record of September 6, 2005.

PN845 AIR FORCE nomination of Merrick E. Krause, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN846 AIR FORCE nomination of Anthony E. Barbarisi, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN847 AIR FORCE nominations (4) beginning WESLEY A.* ARDT, and ending RUSSELL F.* ZAKOLSKI, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN848 AIR FORCE nominations (8) beginning JOHN M. ALLEN, and ending WALLACE M. YOVETICH, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN849 AIR FORCE nomination of Sean D. McClung, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN880 AIR FORCE nominations (2) beginning JOHN M. ANDREW, and ending MARTIN E. FRANCE, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN915 AIR FORCE nominations (29) beginning CHRISTINA A. AUSTINSMITH, and ending ANDREW S. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 2005.

IN THE ARMY

PN580 ARMY nominations (2) beginning PETER D. GUZZETTI, and ending TERRY M. LARKIN, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN850 ARMY nomination of Dennis J. Wing, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN851 ARMY nominations (5) beginning KELVIN L. GEORGE, and ending DEBORAH A. ROBERTS, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN852 ARMY nominations (9) beginning JANICE E. BRUNO, and ending DAVID P. SHERIDAN, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN853 ARMY nomination of William C. Dickey, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN854 ARMY nomination of Laura T. Wells, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN881 ARMY nominations (8) beginning WILLIAM R. EVERETT, and ending PETER D.P. VINT, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN882 ARMY nominations (10) beginning STANLEY A. BLOUSTINE, and ending TERRY D. NEVILLE, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN883 ARMY nominations (2) beginning DARIO A. BARRATO, and ending DAVID L. JARRATT, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN884 ARMY nominations (4) beginning JERRY BROMAN, and ending FRANKLIN E. TUTTLE, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN885 ARMY nominations (95) beginning DAVID A. ACCETTA, and ending PETER J. ZIOMEK, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN886 ARMY nominations (136) beginning LYNETTE M. ARNHART, and ending DANIEL E. ZALEWSKI, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN887 ARMY nominations (192) beginning DAVID M. ABBINANTI, and ending MARTIN A. ZYBURA, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN888 ARMY nominations (882) beginning MARY E. ABRAMS, and ending x1195, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN889 ARMY nomination of Ronald J. Whalen, which was received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN890 ARMY nomination of Vaughn C. Wilhite, which was received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN891 ARMY nominations (2) beginning CYLE R. RICHARD, and ending THOMAS J. STEINBACH, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN892 ARMY nominations (46) beginning MICHAEL I. ALLEN, and ending MATTHEW S. WYSOCKI, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN893 ARMY nominations (94) beginning JACQUELINE B. CHEN, and ending MOISES SOTO, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN894 ARMY nominations (30) beginning JEAN M. BRADY, and ending MESHELLE A. TAYLOR, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN895 ARMY nominations (26) beginning ROMAN B. REYES, and ending CHRISTOPHER VAN WINKLE, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN896 ARMY nomination of Anthony T. Febbo, which was received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN916 ARMY nominations (2) beginning MICHAEL L. HOWE, and ending KARL F. SUHR JR., which nominations were received by the Senate and appeared in the Congressional Record of September 19, 2005.

PN917 ARMY nominations (2) beginning JOHNATHAN T. BALL, and ending DANIEL M. KRUMREI, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 2005.

PN918 ARMY nomination of Danielle N. Bird, which was received by the Senate and appeared in the Congressional Record of September 19, 2005.

PN919 ARMY nominations (26) beginning RYAN J. ALLOWITZ, and ending MARK A. VANCE, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 2005.

PN920 ARMY nominations (283) beginning ERIC D. AGUILA, and ending GARY H. WYNN, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 2005.

IN THE MARINE CORPS

PN855 MARINE CORPS nomination of James R. Waris, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN856 MARINE CORPS nomination of Richard T. Ostermeyer, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

IN THE NAVY

PN857 NAVY nomination of Jeanene L. Torrance, which was received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN858 NAVY nominations (4) beginning JAMES M. CARRASCO, and ending LISA M. SULLIVAN, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN859 NAVY nominations (11) beginning CHARLIE C. BILES, and ending WILLIAM G. WILLIS, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN860 NAVY nominations (23) beginning STEVEN R. BARSTOW, and ending MARK S. WINWARD, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN861 NAVY nominations (32) beginning ROBERT P. ANSELM, and ending ANDREW T. WILKES, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN862 NAVY nominations (39) beginning ARTURO A. ASEO, and ending JEFFREY D. THOMAS, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN863 NAVY nominations (53) beginning JOEL D. BASHORE, and ending MEREDITH

L. YEAGER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN864 NAVY nominations (54) beginning JOSEPH H. BECHT, and ending CALVIN ZHAO, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN865 NAVY nominations (80) beginning MARIA C. ALBERTO, and ending LADAWN J. WHITE, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN866 NAVY nominations (94) beginning DOMINGO B. ALINIO, and ending CHRISTOPHER R. ZEGLEY, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN867 NAVY nominations (202) beginning MIGUEL A. AGUILERA JR., and ending GORDON J. ZUBROD, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN868 NAVY nominations (267) beginning JAMES W. ADKISSON III, and ending MICHAEL A. ZURICH, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2005.

PN897 NAVY nominations (53) beginning JACK F. DALRYMPLE JR., and ending FRED R. WILHELM III, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN898 NAVY nominations (10) beginning OHENE O. GYAPONG, and ending KEVIN R. STEPHENS, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN899 NAVY nominations (16) beginning BRUCE W. BEAM, and ending SEAN P. YEMM, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN900 NAVY nominations (17) beginning SHEILA T. ASBURY, and ending JAMES V. WALSH, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN901 NAVY nominations (29) beginning KHARY A. BATES, and ending AARON J. ZIELINSKI, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN902 NAVY nominations (30) beginning THANONGDETH T. CHINYAVONG, and ending WILLIAM E. WREN JR., which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN903 NAVY nominations (39) beginning RICHARD S. ARDOLINO, and ending BENJAMIN D. ZITTERE, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN904 NAVY nominations (40) beginning JAMIE W. ACHEE, and ending HOLLY A. YUDISKY, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN905 NAVY nominations (66) beginning BRIAN M. AKER, and ending RONALD E. YUN JR., which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN906 NAVY nominations (824) beginning DAVID L. AAMODT, and ending THOMAS A. ZDUNCZNK, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2005.

PN921 NAVY nominations (8) beginning MARTIN C. HOLLAND, and ending JOHN M. WOO, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 2005.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

NATURAL DISASTER STUDENT AID FAIRNESS ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3863, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3863) to provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I rise today to encourage my colleagues to pass H.R. 3863, which would provide the Secretary of Education with the authority to reallocate campus-based aid program funds to institutions of higher education that have been affected by Hurricane Katrina or Hurricane Rita, or that have enrolled affected students. The bill also extends the deadline by which funds have to be reallocated, as they are currently scheduled to expire on September 30.

In addition, this bill automatically waives institutional matching requirements for the Federal work-study, supplemental educational opportunity grant and Perkins loan funds for affected institutions that participate in these programs in the 2005-2006 academic year. As a result, affected institutions that have scarce resources will be able provide immediate assistance to their eligible students to enable them to meet their higher education expenses this year.

I am pleased that we are able to take this step to assist institutions and students that have been affected by the gulf hurricanes by redirecting program funds that would otherwise lapse. We continue to explore other ways in which to meet the immediate needs of affected institutions of higher education and their students.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3863) was read a third time, and passed.

AUTHORITY TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the junior Senator from Alabama be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 1802

Mr. SESSIONS. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for a second time by title.

The assistant legislative read as follows:

> A bill (S. 1802) to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974, with respect to individual account plans affected by Hurricane Katrina or Rita.

Mr. SESSIONS. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

ORDERS FOR MONDAY, OCTOBER 3, 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 3 p.m. on Monday, October 3. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 2863, the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Mr. President, yesterday the Senate began consideration of the DOD appropriations bill, the Defense appropriations bill. Today we had hoped to lock in an amendment filing deadline for Monday afternoon, but the other side has objected to that proposal. I know the majority leader and the chairman of the committee are disappointed we are unable to lock in a deadline. Next week is a very compressed work week due to the observance of Rosh Hashanah. It is very important we make progress on the Defense appropriations bill, given that short schedule. We also hoped to clear a number of nominations, including an Assistant Secretary for Homeland Security, several Assistant Secretaries at the Department of Housing and Urban Development, and the Assistant Secretary for Terrorist Financing. These are very important positions that we expected to confirm today. But, again, there has been an objection on the other side.

As the leader has previously announced, there will be no votes Monday or Tuesday in observance of the Jewish holiday, but we will be in session and Senators are encouraged to offer their amendments during that time. We will have stacked votes later in the day on Wednesday.

ADJOURNMENT UNTIL 3 P.M., MONDAY, OCTOBER 3, 2005

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:04 p.m., adjourned until Monday, October 3, 2005, at 3 p.m.

DISCHARGED NOMINATION

The Senate Committee on Foreign Relations was discharged from further consideration of the following nomination and the nomination was confirmed:

MARGARET SPELLINGS, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-THIRD SESSION OF THE GENERAL CONFERENCE OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate: Friday, September 30, 2005

UNITED NATIONS

MARGARET SPELLINGS, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-THIRD SESSION OF THE GENERAL CONFERENCE OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL RITA M. BROADWAY

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

SALVATORE A. ANGELLELA
ANDREW E. BUSCH
ARTHUR B. CAMERON III
SUSAN Y. DESJARDINS
RICHARD T. DEVEREAUX
JUDITH A. FEDDER
ERIC E. FIEL
JONATHAN D. GEORGE
MARK W. GRAPER
BRADLEY A. HEITHOLD
SUSAN J. HELMS
PETER F. HOENE
DARRELL D. JONES
DUANE A. JONES
NOEL T. JONES
ROBERT C. KANE
STANLEY T. KRESGE
MICHAEL A. LONGORIA
CHARLES W. LYON
OTIS G. MANNON
SUSAN K. MASHIKO
DARREN W. MCDEW
CLYDE D. MOORE II
DOUGLAS H. OWENS
JOHN I. PRAY, JR.
DAVID E. PRICE
PHILIP M. RUHLMAN
DAVID J. SCOTT
DANA A. SIMMONS
PAULA G. THORNHILL
SUZANNE M. VAUTRINOT
DAVID B. WARNER
LAWRENCE L. WELLS
JANET C. WOLFENBARGER
DANIEL P. WOODWARD
SCOTT E. WUESTHOFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN R. LORENZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARY L. NORTH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DUNCAN J. MCNABB

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. FRANK G. KLOTZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DOUGLAS M. FRASER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN F. REGNI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2, CLAUSE 2, OF THE CONSTITUTION:

To be brigadier general

COL. RICHARD J. TUBB

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES P. EGGLETON

To be brigadier general

COL. BLAKE E. WILLIAMS

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES S. GOODWIN

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. ROGER F. CLEMENTS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be brigadier general

LT. GEN. DANIEL P. LEAF

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. WILLIAM S. WALLACE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. PHILIP VOLPE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. ERIC B. SCHOOMAKER

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. MICHAEL H. SUMRALL

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

COL. ERROL R. SCHWARTZ

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JAMES R. JOSEPH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ANNE E. DUNWOODY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JOHN E. CORNELIUS

IN THE AIR FORCE

AIR FORCE NOMINATION OF THOMAS L. LUTZ TO BE COLONEL.

AIR FORCE NOMINATION OF BRUCE A. ELLIS, JR. TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH ANSELMO FELICIANO AND ENDING WITH DAKE S. VAHOVICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 28, 2005.

AIR FORCE NOMINATION OF GARY A. PACKARD, JR. TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH STACEY T. KNUTZEN AND ENDING WITH JONATHAN R. SPECHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 6, 2005.

AIR FORCE NOMINATION OF DONALD E. RECKART TO BE MAJOR.

AIR FORCE NOMINATION OF MERRICK E. KRAUSE TO BE COLONEL.

AIR FORCE NOMINATION OF ANTHONY E. BARBARISI TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH WESLEY A. ARDT AND ENDING WITH RUSSELL F. ZAKOLSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH JOHN M. ALLEN AND ENDING WITH WALLACE M. YOVETICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

AIR FORCE NOMINATION OF SEAN D. MCCLUNG TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH JOHN M. ANDREW AND ENDING WITH MARTIN E. FRANCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH CHRISTINA A. AUSTINSMITH AND ENDING WITH ANDREW S. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE

SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 2005.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH PETER D. GUZZETTI AND ENDING WITH TERRY M. LARKIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

ARMY NOMINATION OF DENNIS J. WING TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH KELVIN L. GEORGE AND ENDING WITH DEBORAH A. ROBERTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

ARMY NOMINATIONS BEGINNING WITH JANICE E. BRUNO AND ENDING WITH DAVID P. SHERIDAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005

ARMY NOMINATION OF WILLIAM C. DICKEY TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF LAURA T. WELLS TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH WILLIAM R. EVERETT AND ENDING WITH PETER D.P. VINT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH STANLEY A. BLOUSTINE AND ENDING WITH TERRY D. NEVILLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH DARIO A. BARRATO AND ENDING WITH DAVID L. JARRATT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH JERRY BROMAN AND ENDING WITH FRANKLIN E. TUTTLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH DAVID A. ACCETTA AND ENDING WITH PETER J. ZIOMEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH LYNETTE M. ARNHART AND ENDING WITH DANIEL E. ZALEWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH DAVID M. ABBINANTI AND ENDING WITH MARTIN A. ZYBURA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005

ARMY NOMINATIONS BEGINNING WITH MARY E. ABRAMS AND ENDING WITH X1195, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005

ARMY NOMINATION OF RONALD J. WHALEN TO BE MAJOR.

ARMY NOMINATION OF VAUGHN C. WILHITE TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH CYLE R. RICHARD AND ENDING WITH THOMAS J. STEINBACH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH MICHAEL I. ALLEN AND ENDING WITH MATTHEW S. WYSOCKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005

ARMY NOMINATIONS BEGINNING WITH JACQUELINE B. CHEN AND ENDING WITH MOISES SOTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH JEAN M. BRADY AND ENDING WITH MESHELLE A. TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATIONS BEGINNING WITH ROMAN B. REYES AND ENDING WITH CHRISTOPHER VAN WINKLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

ARMY NOMINATION OF ANTHONY T. FEBBO TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH MICHAEL L. HOWE AND ENDING WITH KARL F. SUHR, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 2005.

ARMY NOMINATIONS BEGINNING WITH JOHNATHAN T. BALL AND ENDING WITH DANIEL M. KRUMREI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 2005.

ARMY NOMINATION OF DANIELLE N. BIRD TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH RYAN J. ALLOWITZ AND ENDING WITH MARK A. VANCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 2005.

ARMY NOMINATIONS BEGINNING WITH ERIC D. AGUILA AND ENDING WITH GARY H. WYNN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 2005.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF JAMES R. WARIS TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF RICHARD T. OSTERMEYER TO BE LIEUTENANT COLONEL.

IN THE NAVY

NAVY NOMINATION OF JEANENE L. TORRANCE TO BE COMMANDER.

NAVY NOMINATIONS BEGINNING WITH JAMES M. CARRASCO AND ENDING WITH LISA M. SULLIVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH CHARLIE C. BILES AND ENDING WITH WILLIAM G. WILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH STEVEN R. BARSTOW AND ENDING WITH MARK S. WINWARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH ROBERT P. ANSELM AND ENDING WITH ANDREW T. WILKES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH ARTURO A. ASEO AND ENDING WITH JEFFREY D. THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH JOEL D. BASHORE AND ENDING WITH MEREDITH L. YEAGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH JOSEPH H. BECHT AND ENDING WITH CALVIN ZHAO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH MARIA C. ALBERTO AND ENDING WITH LADAWN J. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005

NAVY NOMINATIONS BEGINNING WITH DOMINGO B. ALINIO AND ENDING WITH CHRISTOPHER R. ZEGLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH MIGUEL A. AGUILERA, JR. AND ENDING WITH GORDON J. ZUBROD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH JAMES W. ADKISSON III AND ENDING WITH MICHAEL A. ZURICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2005.

NAVY NOMINATIONS BEGINNING WITH JACK F. DALRYMPLE, JR. AND ENDING WITH FRED R. WILHELM III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH OHENE O. GYAPONG AND ENDING WITH KEVIN R. STEPHENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH BRUCE W. BEAM AND ENDING WITH SEAN P. YEMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH SHEILA T. ASBURY AND ENDING WITH JAMES V. WALSH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH KHARY A. BATES AND ENDING WITH AARON J. ZIELINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH THANONGDETH T. CHINYAVONG AND ENDING WITH WILLIAM E. WREN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH RICHARD S. ARDOLINO AND ENDING WITH BENJAMIN D. ZITTERE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005

NAVY NOMINATIONS BEGINNING WITH JAMIE W. ACHEE AND ENDING WITH HOLLY A. YUDISKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH BRIAN M. AKER AND ENDING WITH RONALD E. YUN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH DAVID L. AAMODT AND ENDING WITH THOMAS A. ZDUNCZYK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 15, 2005.

NAVY NOMINATIONS BEGINNING WITH MARTIN C. HOLLAND AND ENDING WITH JOHN M. WOO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 2005.

HOUSE OF REPRESENTATIVES—*Monday, October 3, 2005*

The House met at 4 p.m. and was called to order by the Speaker pro tempore (Mr. TOM DAVIS of Virginia).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 3, 2005.

I hereby appoint the Honorable TOM DAVIS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You order all the cycles of nature and guide all the lives of Your people, bless this Nation and its leaders in government.

The lunar calendar invites Jews to the holiday of Rosh Hashanah and Muslims to the fast of Ramadan.

Help all people of faith to put an end to whatever alienates us from You and one another. Strengthen us to face the difficulties and disappointments of life and at the same time seize the opportunities You set before us to build anew an era of peace, repentance and understanding, where Your presence is acknowledged and You are given glory both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 30, 2005, at 11:07 a.m.

That the Senate passed H.J. Res. 68.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the House of Representatives, the Clerk received the following message from the Secretary of the Senate on September 30, 2005, at 3:30 p.m.

That the Senate passed H.R. 3863.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Friday, September 30, 2005:

H.J. Res. 68, making continuing appropriations for the fiscal year 2006, and for other purposes.

APPOINTMENT OF HON. TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS ON TODAY

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 3, 2005.

I hereby appoint the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

APPOINTMENT OF MEMBERS TO UNITED STATES HOLOCAUST MEMORIAL COUNCIL

The SPEAKER pro tempore. Pursuant to 36 U.S.C. 2301, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the United States Holocaust Memorial Council:

Mr. LATOURETTE, Ohio
Mr. CANNON, Utah
Mr. CANTOR, Virginia

APPOINTMENT OF MEMBERS TO THE PRESIDENT'S EXPORT COUNCIL

The SPEAKER pro tempore. Pursuant to executive order 12131, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the President's Export Council:

Mr. ENGLISH, Pennsylvania
Mr. PICKERING, Mississippi
Mr. HAYES, North Carolina

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker on September 30, 2005:

H.J. Res. 68. Joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

Also, Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker pro tempore Mr. TOM DAVIS of Virginia on October 3, 2005:

H.R. 3863. An act to provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 29, 2005, he

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

presented to the President of the United States, for his approval, the following bills.

H.R. 2132. To extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 2385. To extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

H.R. 3200. Servicemembers' Group Life Insurance Enhancement Act of 2005.

H.R. 3667. To designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station".

H.R. 3767. To designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the "Jacob L. Frazier Post Office Building".

H.R. 3784. Higher Education Extension Act of 2005.

H.R. 3864. Assistance for Individuals with Disabilities Affected by Hurricanes Katrina and Rita Act of 2005.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 10 a.m. on Thursday, October 6, 2005.

There was no objection.

Accordingly (at 4 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Thursday, October 6, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4349. A letter from the Assistant Secretary, OSERS, Department of Education, transmitting the Department's final rule — Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind — received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4350. A letter from the Chief Financial Officer, Department of Education, transmitting the Department's final rule — Federal Policy for the Protection of Human Subjects — received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4351. A letter from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule — Community Technology Centers Program — received September 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4352. A letter from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule — School Dropout Prevention Program — September 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4353. A letter from the Assistant General Counsel for Regulations, OGC, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research — Disability and Rehabilitation Research Projects and Centers Program — Disability and Rehabilitation Research Projects — received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4354. A letter from the Assistant General Counsel for Regulations, OGC, Department of Education, transmitting the Department's final rule — National Institute on Disabilty and Rehabilitation Research — Disability and Rehabilitation Research Projects and Centers Program — Rehabilitation Research and Training Centers; Grants and Cooperative Agreements; Availibility — received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4355. A letter from the Assistant General Counsel for Regulations, OGC, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research — Disability and Rehabilitation Research Projects and Centers Program — Disability and Rehabilitation Research Projects — received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4356. A letter from the Assistant General Counsel for Regulations, OGC, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research — Disability and Rehabilitation Research Projects and Centers Program — Rehabilitation Research and Training Centers — received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4357. A letter from the Assistant Counsel for Regulations, OGC, Department of Education, transmitting the Department's final rule — Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind — July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4358. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757 Airplanes [Docket No. FAA-2004-18540; Directorate Identifier 2004-NM-110-AD; Amendment 39-14258; AD 2005-18-18] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4359. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777 Airplanes [Docket No. FAA-2005-22252; Directorate Identifier 2005-NM-182-AD; Amendment 39-14260; AD 2005-18-51] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4360. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-400 Series Airplanes [Docket No. FAA-2005-21435; Directorate Identifier 2004-NM-163-AD; Amendment 39-14257; AD 2005-18-17] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4361. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Goodrich De-icing and Speciality Systems "FASTprop" Propeller De-icers [Docket No. FAA-2005-20847; Directorate Identifier 2004-NE-35-AD; Amendment 39-14261; AD 2005-18-20] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4362. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F27 Mark 200, 400, 500, and 600 Airplanes [Docket No. FAA-2005-21683; Directorate Identifier 2005-NM-021-AD; Amendment 39-14259; AD 2005-18-19] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4363. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. Propellers [Docket No. FAA-2004-19955; Directorate Identifier 2004-NE-17-AD; Amendment 39-14252; AD 2005-18-12] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4364. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Avions Marcel Dassault-Breguet Model Falcon 10 Airplanes [Docket No. FAA-2005-22309; Directorate Identifier 2005-NM-159-AD; Amendment 39-14254; AD 2005-18-14] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4365. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1 Turbofan Engines [Docket No. FAA-2004-18869; Directorate Identifier 2004-Ne-23-AD; Amendment 39-14256; AD 2005-18-16] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4366. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 and -300 Series Airplanes and Model 767 Series Airplanes [Docket No. FAA-2005-20352; Directorate Identifier 2004-NM-214-AD; Amendment 39-14249; AD 2005-18-09] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4367. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-215-1A10 (Water Bomber), CL-215-6B11 (CL215T Variant), and CL-215-6B11 (CL415 Variant) Airplanes [Docket No. FAA-2005-21595; Directorate Identifier 2002-NM-321-AD; Amendment 39-14245; AD 2005-18-05] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4368. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-163-AD; Amendment 39-14244; AD 2005-18-04] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4369. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A340-200 and A340-300 Series Airplanes [Docket No. FAA-2005-22291; Directorate Identifier 2005-NM-038-AD; Amendment 39-14251; AD 2005-18-11] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4370. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 200EX Airplanes [Docket No. FAA-2005-22308; Directorate Identifier 2005-NM-160-AD; Amendment 39-14255; AD 2005-18-15] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4371. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Israel Aircraft Industries, Ltd. Model 1124 and 1124A Airplanes [Docket No. FAA-2005-22306; Directorate Identifier 2005-NM-169-AD; Amendment 39-14253; AD 2005-18-13] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4372. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW2000 Series Turbofan Engines [Docket No. 98-ANE-61-AD; Amendment 39-14243; AD 2005-18-03] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4373. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-209, -217, -217A, -217C, and -219 Turbofan Engines [Docket No. 98-ANE-43-AD; Amentment 39-14242; AD 2005-18-02] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4374. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, -17AR, -209, -217, 217A, -217C, and -219 Turbofan Engines [Docket No. FAA-2004-19929; Directorate Identifier 2004-NE-15-AD; Amendment 39-14237; AD 2005-17-16] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4375. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, and DC-8-43 Airplanes; DC-8-50 Series Airplanes; DC-8F-54 and DC-8F-55 Airplanes; DC-8-60 Series Airplanes; DC-8-60F Series Airplanes; DC-8-70 Series Airplanes; DC-8-70F Series Airplanes [Docket No. FAA-2004-19536; Directorate Identifier 2004-NM-86-AD; Amendment 39-14247; AD 2005-18-07] (RIN: 2120-AA64) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4376. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Abilene Municipal Airport, KS. [Docket No. FAA-2005-21871; Airspace Docket No. 05-ACE-25] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4377. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Meade Municipal Airport, KS. [Docket No. FAA-2005-21783; Airspace Docket No. 05-ACE-24] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4378. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Washington, MO. [Docket No. FAA-2005-21706; Airspace Docket No. 05-ACE-23] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4379. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airspace Designations; Incorporation By Reference [Docket No. 29334; Amendment No. 71-37] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4380. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments [Docket No. 30455; Amdt. No. 3130] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4381. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Newton, KS. [Docket No. FAA-2005-21704; Airspace Docket No. 05-ACE-20] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4382. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Updating Estimated Income Tax Regulations Under Section 6654 [TD 9224] (RIN: 1545-BD17) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4383. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Gross Income Defined (Rev. Rul. 2005-61) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4384. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Exclusions from Gross Income of Foreign Corporations [TD 9218] (RIN: 1545-BE16) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4385. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and methods of accounting. (Rev. Proc. 2005-63) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4386. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Treatment of a Stapled Foreign Corporation under Sections 269B and 367(b) [TD 9216] (RIN: 1545-BD06) received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4387. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Distribution of Stock and Securities of a Controlled Corporation (Rev. Rul. 2005-65) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4388. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-66) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4389. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Corporate Reorganizations; Guidance on the Measurement of Continuity of Interest [TD 9225] (RIN: 1545-BD53) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4390. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Elections under Section 362(e)(2)(c) [Notice 2005-70] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4391. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Optional Standard Mileage Rates [Announcement 2005-71] received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4392. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters. (Rev. Proc. 2005-68) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4393. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Protected Benefits [TD 9219] (RIN: 1545-BC26) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4394. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2005-56) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4395. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Plans and Federal Credit Unions [Notice 2005-58] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4396. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Hurricane Katrina Relief [Announcement 2005-70] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4397. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2005-67] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on September 30, 2005]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1065. A bill to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing; with an amendment (Rept. 109-209 Pt 2). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

[The following action occurred on September 30, 2005]

Pursuant to clause 2 of rule XIII the Committee on Education and the Workforce discharged from further consideration. H.R. 1065 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged from further consideration. H.R. 3084 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 or rule XII the following action was taken by the Speaker:

[The following action occurred on September 30, 2005]

H.R. 921. Referral to the Committee on Education and the Workforce extended for a period ending not later than November 18, 2005.

H.R. 2830. Referral to the Committee on Ways and Means extended for a period ending not later than November 4, 2005.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. HERSETH:

H.R. 3967. A bill to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; to the Committee on Resources.

By Ms. MILLENDER-McDONALD (for herself and Ms. ROS-LEHTINEN):

H. Con. Res. 258. Concurrent resolution calling for a Commission within the United Nations that will build a 21st century abolitionists movement to end slavery, human trafficking, and exploitation around the world; to the Committee on International Relations.

By Mr. DAVIS of Alabama (for himself and Mr. CONYERS):

H. Res. 478. A resolution commending Myron H. Thompson, United States District Judge for the Middle District of Alabama, for his commitment and dedication to public service, the judicial system, equal access to justice, and the community; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 156: Mr. BERMAN, Mr. UDALL of Colorado, and Mr. BECERRA.

H.R. 197: Mr. SIMMONS and Mr. MOORE of Kansas.

H.R. 633: Ms. SCHAKOWSKY.

H.R. 668: Ms. MATSUI.

H.R. 923: Mrs. SCHMIDT, Mr. WELDON of Pennsylvania, and Mr. WALSH.

H.R. 2017: Ms. WOOLSEY.

H.R. 2793: Mr. OWENS and Mr. DEFAZIO.

H.R. 3011: Mrs. DRAKE, Ms. HART, and Mr. PICKERING.

H.R. 3190: Mr. FILNER.

H.R. 3427: Mr. LAHOOD.

H.R. 3511: Mrs. MYRICK.

H.R. 3639: Mr. FOLEY.

H.R. 3734: Mr. SCOTT of Georgia, Ms. LEE, Ms. WATSON, Ms. WATERS, Ms. MILLENDER-MCDONALD, Ms. CORRINE BROWN of Florida, Mr. BISHOP of Georgia, Ms. MCKINNEY, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Mr. JEFFERSON, Mr. CUMMINGS, Ms. KILPATRICK of Michigan, Mr. CONYERS, Mr. CLAY, Mr. CLEAVER, Mr. PAYNE, Mr. RANGEL, Mr. BUTTERFIELD, Mr. WATT, Mr. CLYBURN, Mr. AL GREEN of Texas, Mr. SCOTT of Virginia, Ms. MOORE of Wisconsin, Ms. NORTON, Ms. SOLIS, Mrs. MCCARTHY, Mr. GRIJALVA, Mr. MELANCON, Mr. THOMPSON of Mississippi, Mr. WYNN, Mr. MCGOVERN, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3735: Ms. MCKINNEY.

H.R. 3737: Mr. BERRY and Mr. GONZALEZ.

H.R. 3858: Mr. KILDEE, Mr. GORDON, Mrs. CAPPS, Ms. KAPTUR, Mr. ENGEL, Mr. BLUMENAUER, Ms. SCHAKOWSKY, Mr. UDALL of Colorado, Mr. GOODE, and Mr. CLEAVER.

H.R. 3883: Miss MCMORRIS.

H.R. 3887: Mr. SAM JOHNSON of Texas and Mr. WESTMORELAND.

H.R. 3907: Mr. HOSTETTLER.

H.R. 3923: Mr. RYUN of Kansas, Mr. SESSIONS, and Mr. BROWN of South Carolina.

H.R. 3924: Mr. RYUN of Kansas, Mr. SESSIONS, and Mr. BROWN of South Carolina.

H.R. 3947: Mr. WICKER.

H. Con. Res. 254: Mr. KIRK.

SENATE—*Monday, October 3, 2005*

The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father in heaven, remind us often of the importance of Your presence in our lives. Make us aware of our need for Your guidance, and empower us to reach out to others in Your Name.

Lord, teach us to pray, and sustain us by the wonder of Your words. Give us truths that will strengthen our minds, souls, and hearts. In times of distress, grief, confusion, and misunderstanding, illuminate our paths with the light of Your companionship.

Guide our lawmakers in their challenging work, for You have promised never to leave or forsake them. Infuse all of us with a spirit that will cause people to glorify You.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we are turning to consideration of the Department of Defense appropriations bill. Chairman STEVENS and Senator INOUYE are ready for Senators to come forward with their amendments. We hope to have an agreement that all first-degree amendments will be filed at the desk no later than 5 p.m. today. The Democrat leader and I were just talking to that effect, and we will continue to work for the next several minutes on that.

This would enable the two managers to review—and this is very important—allow them to review the legislative language to see what amendments may be acceptable on both sides. We have been unable to lock that agreement in place at this time, but I will continue to talk with the Democrat leader to see if that would be possible.

As I previously announced, there will be no rollcall votes today or tomorrow in observance of the Rosh Hashanah holiday. Any votes ordered today or tomorrow will occur at sundown on Wednesday. In all likelihood, we will be stacking votes at that time.

Having said that, we will be in discussion during this period, so Members can come forward and offer their amendments. I encourage Members to come to the Senate and not wait until later in the week. We are going to finish this bill before our next recess. We are making real progress on the appropriations bills. We need to continue that process. As we all know, the fiscal year has just passed. We are working on a continuing resolution. It is critical we continue to make progress on these bills. We have Monday, Tuesday, Wednesday, Thursday, and Friday of this week to complete the Department of Defense appropriations bill. I hope we will be able to finish it Wednesday or Thursday, but we are not going to leave until we complete this bill.

A number of other pieces of very important legislation are being discussed, debated, talked about, and written. One of those is the pensions legislation. The Committee on Finance and Committee on HELP have a bipartisan package on which we expect to reach a unanimous consent agreement so we can consider that bill this week as well.

NOMINATION OF HARRIET MIERS

Mr. FRIST. Mr. President, this is a momentous day in the history of our Nation. For the first time in two decades, a new Chief Justice ascends to the bench of the highest Court in the land. Today, John Roberts is leading the Supreme Court as the 17th Chief Justice of the United States. And today, with the nomination of Harriet Miers as an Associate Justice of the Supreme Court, we are faced with yet another opportunity to shape the course of history.

President Bush's choice of Harriet Miers demonstrated a thoughtful, careful, and discerning selection. Once again, the President reached out in a bipartisan way to more than 80 Senators. Once again, the President chose a qualified nominee for our High Court.

During her distinguished 35-year legal career, Ms. Miers has demonstrated her expertise as a talented attorney in both private practice and in public service. In every sense, Harriet Miers has been a true trailblazer and a role model for women in the legal profession.

As a young attorney, she overcame numerous obstacles to become the first female hired by her Dallas law firm. She impressed her colleagues so much that they elected her president of the firm, making her the first woman to lead a Texas firm of that size.

Ms. Miers has been a pillar of leadership in the legal community. She was the first female elected president of the Dallas Bar Association and head of the State Bar of Texas. She has served as trusted adviser to President Bush in various capacities and currently serves as White House Counsel.

Since she has not served as a judge, she will bring a unique perspective to the Court. In fact, 41 of the 109 Supreme Court Justices who have served, including Chief Justice Rehnquist, did not have prior judicial experience.

What the President saw in Ms. Miers and what I see in her is that she embodies each of the qualities we seek in a Supreme Court Justice. She is fair, honest, and of the highest integrity. Her resume is a study in the time-honored values of hard work and perseverance. She understands the importance of judicial restraint and the limited role of the judge to interpret the law and not legislate from the bench.

She deserves a fair and civil hearing and a dignified debate on the Senate floor, followed by a fair up-or-down vote before Thanksgiving.

As we move ahead with the nomination process, I hope we will carry forward the lessons we have learned from Chief Justice Roberts' recent nomination. His nomination progressed expeditiously and in a bipartisan manner. I commend Chairman SPECTER, Ranking Member LEAHY, the Judiciary Committee, and the entire Senate for setting a standard to follow. We put principle above partisanship. We put results above rhetoric. We followed the framework intended by the Framers of the Constitution. By doing this, we helped to preserve the integrity and legitimacy of the judicial nomination process. And today, our Supreme Court and our Federal judiciary are stronger for it.

From the Roberts confirmation we have learned and a bipartisan group of Senators agree that Senators can make an informed decision on the fitness of a judicial nominee by focusing on the individual's qualifications and not her political ideology. We have learned that a nominee's fitness to serve on the Federal bench can be determined by reviewing her record, her writings, and testimony, without probing into confidential, privileged documents. We have learned that nominees can and should answer questions without compromising their judicial independence and without prejudging cases, and we should not expect them to prejudge cases or issues that may come before the Court. A nominee who prejudges is truthfully the antithesis of what we want in a judge. We want an individual who approaches every case with a fair and open mind, analyzing the facts before them and applying the law. Perhaps the most important lesson we have learned from Chief Justice Roberts' nomination is that we should apply a single fair standard to all judicial nominees.

With Harriet Miers' nomination before the Senate, we must again move expeditiously but carefully. It is my expectation that the Senate will give Ms. Miers the fair and civil hearing, the dignified debate, and the fair up-or-down vote she deserves. I believe the Senate has moved beyond the obstructionism of the recent past, and in moving forward we will adhere to the time-honored principle that all judicial nominees deserve a fair up-or-down vote. That vote should occur by Thanksgiving. With civility, trust, and hard work, we can accomplish this goal.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2863, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Virginia is recognized.

(The remarks of Mr. WARNER are printed in today's RECORD under "Morning Business.")

(The remarks of Mr. WARNER pertaining to the introduction of S. 1810 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WARNER. Mr. President, parliamentary inquiry: It is my understanding we are on the bill for appropriations for our defense purposes under the management of the distinguished Presiding Officer. Am I correct?

The PRESIDENT pro tempore. The Senator is correct, the Defense appropriations bill.

Mr. WARNER. Mr. President, this is a matter that I have discussed with the managers of the bill as well as, on several occasions, our distinguished Republican and Democratic leaders. On behalf of Senator LEVIN and myself, I file today the 2006 authorization bill which has been prepared by the Committee on Armed Services. It was taken up by the Senate some weeks ago but, due to schedule pressures, we did not have the opportunity to finish that bill.

I emphasize that Senator LEVIN and I jointly are taking this action today. We do so having also worked very conscientiously with our two leaders to prepare a unanimous consent request, which is still in the works, by which our bill can once again be brought up as a freestanding measure and the Senate act upon it. I will not dwell at this time on the various options we are discussing as to how that UC is drawn up. Senator LEVIN and I believe that it is imperative, on behalf of the men and women of the Armed Forces, that this bill be considered in a timely fashion. As we continue our work on the UC, I have to seize upon this opportunity, together with Senator LEVIN, to file our bill as a proposed amendment to the appropriations bill, together with a managers' package, a proposed managers' amendment, of some 80 amendments that Senator LEVIN, since the time of the original consideration of our bill, and I have looked at, agreed, and would be seeking unanimous consent for the incorporation of those amendments in our bill.

The armed services bill was acted on with some 31 amendments at the time it was on the floor. So we have the original bill with 31 amendments which were agreed to in the course of several days of deliberation. Again, the Defense authorization act is too important to our soldiers, sailors, airmen, and marines, and the national security of our country for the Senate not to complete action on it. If we cannot achieve unanimous consent prior to the final passage of this bill, it is the intent of Senator LEVIN and myself to urge upon the Senate the incorporation of the Defense authorization bill, together with at least a first managers' package of 80 amendments. For the convenience of Senators, I ask unanimous consent that a list of those 80 amendments and a brief description and the Senators, some 68 in number, who are affected by this managers' package, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSED MANAGER'S AMENDMENT FOR THE FY 2006 DEFENSE AUTHORIZATION BILL

No.	Senator	Subject	Comments
1	Wamer	Tech mil con $ change	1396
2	McCain	US Naval Reserve	1438
3	Craig	Casualty Assurance	1473
4	DeWine	AFIT	1356
5	Grassley	WCFs	1481
6	Wamer	SARA	NEW
7	Wamer	Court House	1562
8	Obama	Composite Health	1362
9	Hatch	depot maintenance	1516
10	Feinstein	NPT	1410
11	Lieberman	DSB Micro	1361
12	Graham	Savannah	1387
13	Martinez	Gitmo	1885
14	Bayh	civil relief act	1334
15	Feinstein	Milamar	1514-milcon
16	Nelson, Bill	aerostat	NEW
17	Wamer	DNI Flag	1567
18	Graham	sec 712—Health	1358
19	Wamer	Highbrite	1560-mod: $1.5 million
20	Allard	land Conveyance	1355-milcon
21	Wamer	Acto Demil	1559-mod: $1 million
22	Domenici	DOEmoney	1543
23	Lugar	Cap Cost	1407
24	Wamer/Levin	Test Reserve	NEW
25	Vitter	DSB Study	1471
26	Conrad	500 icbm	NEW
27	Thune	Space Radar	NEW
28	Roberts	JPATS	NEW: $10 million
29	Allard	Rocky Flats	1506–mod: (tuck)
30	Santorum	Rapid iv pumps	1329-mod: $1 million
31	Roberts	Aging Acft	NEW: $4 million

PROPOSED MANAGER'S AMENDMENT FOR THE FY 2006 DEFENSE AUTHORIZATION BILL—Continued

No.	Senator	Subject	Comments
32	Lieberman	HH60	1434; $ neutral
33	Inouye	SROTC	NEW
34	Hutchison	NASA R&D	NEW
35	Santorum	Warhead/grenades	NEW; $1 million
36	Reed	joint small arms	1316-mod; $5 million
37	Akaka	foreign language council	NEW
38	Ensign	point of maintenance	NEW; $10 million
39	Ensign	handheld searchlight	NEW; $4.5 million
40	McCain	Alt Acquisition	1555-mod;
41	Byrd	Iraq and Afghanistan	1568
42	Durbin	Acq MDAP	1578
43	Dole	Berry	1522-mod;
44	Coleman	Foreign language	NEW
45	Lott	Arrow	NEW; $80 million tuck
46	Bingaman	Field Array	NEW; $3 million
47	Domenici	Long wavelength array	1544-mod; 6 million
48	Smith	force protection	NEW
49	Warner	GPS	NEW
50	Kennedy	Defense business reserve	NEW; $40 million
51	Clinton	Fire protection services	1444
52	DeWine	Emergency services	1534
53	McCain	Commercial satellites	NEW
54	Murray	local education	1348-mod
55	Nelson, Ben	parental leave	NEW
56	Warner	legal assistance	NEW
57	Akaka	Quality of life	1404
58	Biden	Vaccines	1448
59	Boxer	DOD mental	1519
60	Hutchison	Oral special pay	1478
61	Reed	nonstrategic nukes	NEW
62	Obama	Avian flu	1453
63	Landrieu	PTSD	1451
64	Dole	Mental Health counselors	NEW
65	Feingold	Travel	1367
66	Thomas	vets objects	1469
67	Sarbanes	fed charter korea	1445
68	Clinton/Collins	financial services	NEW
69	Kerry	Dependent housing	1502
70	Leahy	BAH	1424
71	Levin	BRAC tribes	1495
72	Byrd	chaplain	NEW
73	Dodd	call to service	NEW
74	Santorum	home school	NEW
75	Warner	tech to NGR	NEW
76	Conrad	Predator	1548; IFF funds
77	McCain	recruit and retention	NEW
78	Feingold	Foreign language	NEW
79	Kerry	Project Sheriff	NEW
80	Allard	High altitude	1362-mod

Mr. WARNER. By way of historical context, I would like to point out the following: There is an unbroken record for the last 45 years of Senate history that the Senate has passed an annual Defense authorization bill. The Senate and House have come to a conference agreement on and the President has signed that conference into law as the National Defense Authorization Act. Only once before has the chairman of the Armed Services Committee had to resort to the rare parliamentary procedure of proposing that that bill, the entire Defense authorization bill, be placed upon another legislative matter. That was in the year 1988.

Time is short. We must be reasonable in the amount of time we have been debating both the authorization bill and the appropriations bill. I ask for my colleagues' consideration and restraint in offering amendments to the appropriations bill, as well as to the authorization bill, hopefully, to achieve the unanimous consent agreement, which I hope will be offered in the next few days, to enable the authorization bill to become a freestanding bill with a designated number of amendments, with designated time agreements, and a clear estimate for both the Republican and Democratic leaders as to the number of days that would be required for completion. That will all be set forth, hopefully, in the next few days in a UC request.

We must be aware of the importance of the measure, the authorization bill. Hundreds of thousands of soldiers, sailors, airmen, marines, guardsmen, Active Reserve and National Guard, and countless civilians who support military, diplomatic, and humanitarian operations are serving valiantly in Iraq, Afghanistan, and other locations to secure our national security. This bill would provide them a broad range, literally a million-plus individuals in uniform and civilians, with better equipment to do their daily jobs and enhanced quality of life for themselves and their families through pay raises and benefits and the like.

For example, without this bill being acted upon by the Senate, we could not increase the death gratuity to $100,000, which the Senate strongly desires, for survivors of military members whose death resulted from wounds, injuries, or illnesses incurred under combat-related conditions or in a combat operation or a combat zone. We could not increase TRICARE benefits for the children of survivors. We could not provide the military services with the authorities for bonuses and other incentives needed to meet the troublesome recruiting situation today. We could not implement new assistance to school districts with significant enrollment increases in military-dependent students to stop troop relocations, creation of new units, and realignments under the BRAC Commission and, above all, the annual pay raises which the Congress provides for the men and women.

In addition to the above, the threat reduction program, which is designed to keep nuclear materials and expertise away from terrorists, would expire. Weapons systems costs would increase because multiyear procurement authorities would not be enacted. Special acquisition authorities designed to facilitate the rapid procurement of technologies to prevent casualties from terrorist roadside bombs, or IEDs, would fail to go into effect. Military construction and family housing programs would be jeopardized, including over $1.5 billion to fund projects in support of communities that will be affected by the 2005 BRAC round, if that is eventually becoming law. These are a few of the essential authorities contained in the legislative provisions of this year's bill, something that I am proud to say the Senate Armed Services Committee has worked on since January of this year and resulted in 278 legislative provisions as contained in this bill.

I respectfully ask my colleagues to support my efforts and that of Senator LEVIN in bringing the Defense authorization bill to the floor.

As I said, I rise on behalf of myself and Senator LEVIN to announce that we have taken what I consider extraordinary action by filing two amendments to the pending bill. It is with great reluctance that I propose these amendments to the Defense Appropriations Act. But I do so only with the interests of the men and women of our armed forces at heart.

The first amendment consists of the National Defense Authorization Act for Fiscal Year 2006—including not only the version of the bill unanimously reported out of the Armed Services Committee on May 17, but also 31 amendments added to the bill when it was on the floor in July.

Senator LEVIN and I, with our respective leaders, are trying to work out a unanimous consent agreement that would return the Defense authorization bill to the floor as a stand-alone bill. However, in the absence of that agreement, we have to leave open the option of including this bill on another legislative vehicle. The Defense authorization act is just too important to our soldiers, sailors, airmen and Marines and the national security of our country for the Senate not to complete action on the bill. If we cannot do this as a stand-alone bill, we need to find another way to bring this bill into law.

The second amendment we are offering today contains additional amendments that are agreed and ready to be included in a "managers' package" to the Defense authorization act. I offer this amendment to illustrate to my colleagues the significant progress that has been made on this bill so far. This new managers' package contains 80 amendments on behalf of 67 Senators. Together with the action already taken on this bill in July, our colleagues can clearly see that nearly every U.S. Senator has made an important contribution to the Defense authorization act.

I am committed to making this "managers' package" the first amendment to be considered to the Defense authorization bill once it is taken up as a separate bill. We are not finished reviewing proposed amendments. The committee is still working through a number of amendments that I expect would be included in a second managers' package.

Since January 1961, the Senate has passed an annual Defense authorization bill. Each and every year, for 45 years, the Senate and the House have come to a conference agreement on and the President has signed into law a National Defense Authorization Act. Only once before has the chairman of the Armed Services Committee had to resort to the rare parliamentary procedure of proposing to put the entire defense authorization bill on another bill. This occurred in 1988. As the custodian of this important piece of legislation, I find I am left with very few options this year to ensure Congress can adequately support our troops by passing this bill.

I, with my friend CARL LEVIN, am willing to do whatever it takes to pass this bill. Time is short and we must be reasonable in the amount of time we spend debating this bill. I ask for my colleagues' consideration and restraint in offering additional amendments to this bill and to support a unanimous consent agreement to limit the number of contentious amendments that may require time to debate on the floor. At the same time, Senator LEVIN and I pledge to work with Senators to accept as many amendments as possible in a managers' package.

Our responsibility to consider and pass the Defense authorization bill goes beyond statutory requirements, floor schedules, and historical precedent. We must also be aware of the importance of this measure to our men and women in uniform around the world. Hundreds of thousands of soldiers, sailors, airmen, Marines, and Coast Guardsmen—active, reserve, and National Guard—and, countless civilians who support military, diplomatic and humanitarian operations are serving valiantly in Iraq, Afghanistan, and other locations to secure hard-won military successes and to preserve peace and freedom. This bill will provide them with better equipment to do their daily jobs, and an enhanced quality of life for themselves and their families. Together we can and must complete this bill for them.

Without this bill, DoD could not, for example, increase the death gratuity to $100,000 for survivors of military members whose death resulted from wounds, injuries, or illnesses incurred under combat-related conditions or in a combat operation or a combat zone; increase TRICARE benefits for the children of survivors; provide the military services the authorities and pays needed to enhance recruitment and retention in the active and reserve forces; and implement new assistance to school districts with significant enrollment increases in military dependent students due to troop relocations, creation of new units and realignments under BRAC.

In addition, authorities related to the Cooperative Threat Reduction Program which is designed to keep nuclear materials and expertise away from terrorists would expire. Weapon systems costs would increase because multiyear procurement authorities would not be enacted. Special acquisition authorities designed to facilitate the rapid procurement of technologies to prevent casualties from terrorist roadside bombs or IEDs would not go into effect. Military construction and family housing programs would be jeopardized, including over $1.5 billion to fund projects in support of the 2005 BRAC round.

These are just a few of the essential authorities contained in the 278 legislative provisions in this year's bill.

So I ask my colleagues to support Senator LEVIN's and my efforts to bring the Defense authorization bill to the floor. We are all mindful of the risks members of the U.S. Armed Forces face every day and of the sacrifices made by the families and communities that support them. Our men and women in uniform have been asked to do much in the past year, and they have responded in the finest traditions of the generations of Americans that preceded them. The American people are proud of their Armed Forces for what they have accomplished, and for the manner in which they represent American values and the generosity of America. It is time for us in the Senate to do our part.

With the understanding that the two bills are filed, I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN.) The amendments will be filed for the RECORD.

Mr. LEVIN. Mr. President, I join the Chairman of the Senate Armed Services Committee in filing the National Defense Authorization Act for Fiscal Year 2006, as an amendment to this bill. I also join the chairman in filing a managers' amendment incorporating many of the amendments that Members are offering to our bill. We and our staffs are working hard, and hope to clear more amendments as we move forward.

This is not our preferred approach to this issue. We have always brought up and completed action on the Defense authorization bill as a freestanding bill in the past, and we would prefer to do so this year. Indeed, we have made and are continuing to make every effort to do so. I remain optimistic that we will be able to reach agreement to proceed to and complete action on the Defense authorization bill and that it will not be necessary to take up this amendment.

This bill was unanimously reported out of the Armed Services Committee all the way back in May. It was brought to the Senate floor 2 months later, at the end of July. In the last week before the August recess, we attempted to enter a unanimous consent agreement which would have concluded debate on the bill in less that 2 days. Unfortunately, the Republican leadership rejected this proposal and pulled the bill off the floor before action could be completed, so that the Senate could instead consider the gun manufacturers' liability bill.

Since that time, we have made every effort to bring the bill back up as a freestanding measure, but without success. We have repeatedly asked the Republican leadership for floor time. We have offered to enter into agreements regarding the relevance of amendments, and the number of amendments, so as to limit the amount of time that would be taken by debate. So far, none of these efforts have borne fruit.

Mr. President, more than 4 months have now passed since this bill was reported out of the Armed Services Committee. The fiscal year covered by the bill began last week. The Senate truly needs to consider this bill, and if bringing it to the floor as an amendment is the only way to get that consideration, we have an obligation to try.

At a time when members of our Armed Forces are performing heroically, both at home and overseas, to make our country safer and stronger, our military both needs and deserves all of the support that this Congress can provide. More than 70,000 active duty and National Guard troops have been sent to the gulf coast to assist in the recovery from Hurricane Katrina. These troops are playing a critical role in conducting search and rescue missions, evacuating displaced persons, providing security in impacted areas, delivering essential food, water and medicine, and rebuilding damaged infrastructure throughout the region.

At the same time, roughly 138,000 U.S. soldiers, sailors, airmen and marines are engaged in taking on an aggressive insurgency in Iraq, another 17,000 remain in harm's way in Afghanistan, and tens of thousands more are supporting the war effort through deployments thousands of miles from home. Our Armed Forces also continue to bear the brunt of the continuing effort to keep the peace in Kosovo and the Sinai, and contain the threat of North Korea—while remaining prepared to execute other missions in support of the national military strategy.

Some of these troops deployed overseas are from the gulf coast area. Some will soon return home to find that Katrina has damaged or destroyed their homes. Some will have nothing left. Passage of the national Defense bill will improve their quality of life while they remain on active duty and when serving on hurricane recovery duty. It will send an important message to them and to their families that we, as a nation, understand their loss and appreciate their service. Failure to pass the Defense bill would send the opposite message.

At a time when members of our Armed Forces are performing heroically, both at home and overseas, to make our country safer and stronger, it would be unconscionable to give the Defense authorization bill less than top legislative priority. Our military both needs and deserves all of the support that this Congress can provide.

First and foremost, the Defense authorization bill would support our troops by improving compensation and quality of life for our service men and women and their families as they face the hardships imposed by continuing military operations within the United States and around the world. For instance, the bill would provide funding for a 3.1 percent across-the-board pay raise for military personnel; a $70 million increase in childcare and family assistance services for military families; and $50 million in supplemental educational aid to local school districts affected by the assignment or location of military families.

The bill would also provide needed funding for the continuation of our military operations in Iraq and Afghanistan. For example, the bill would authorize a $50 billion supplemental for continued operations in Iraq and Afghanistan, add hundreds of millions of dollars to the President's budget needed for force protection gear, up-armored vehicles, and a Joint Improvised Explosive Device Task Force, increase the Army's active-duty end strength by 20,000, and authorize the continuation of the Commanders' Emergency Response Program.

If we fail to enact this bill in a timely manner, we will hurt our men and women in uniform. The military's authority to pay bonuses and special pays to our men and women in uniform would expire, exacerbating an already troublesome problem we are facing with recruitment and retention. The enhanced death gratuity of $100,000 and the increased life insurance benefits that we enacted for servicemembers earlier this year would lapse and substantially lower benefits would be reinstated. More than $6.0 billion in military construction and family housing projects to improve the conditions in which our servicemembers work and live would be unable to proceed.

The Senate obviously has a lengthy agenda for the rest of the year. Some of the items on this agenda are undoubtedly important, but we should not pursue them at the expense of our men and women in uniform. If we truly value the contribution that our Armed Forces have made and continue to make every day at home and abroad, we should take up and pass a Defense authorization bill—preferably as a freestanding bill but, if not, as an amendment to the pending legislation.

Mr. STEVENS. Mr. President, the Senator from Hawaii and I understand full well the problems facing the chairman and ranking member of the Armed Services Committee. We want to work with them to the maximum extent possible. However, as we have informed the chairman, the Senator from Virginia, we feel that bringing that bill here without a time agreement, to call it up without a time agreement, would mean that we would face some 100 to 200 amendments, as the chairman and ranking member of the Armed Services Committee have faced in the past. In my conversations with Department of Defense officials, particularly the uniformed members of that Department, it is clear that we must have this bill to the President and signed before the middle of November. The Appropriations Committee had a series of reprogramming of 2006 moneys, done just before September 30, to assure that liquidity was there to maintain our forces in the field. Under the continuing resolution, we have no such flexibility now.

The flexibility that comes from having a full year's bill out in front of the Department is absolutely necessary at this time. We are at war. We are involved in a global war on terror. If anyone heard General Abizaid's briefing for us and the one that was done publicly, we have to realize that we are facing what looks like the beginning of a new crusade by militant terrorists of the Islamic world. We cannot afford to delay this bill.

I say to my good friend—and it is not just a word of art here on the floor; we have been friends for many years—we cannot take on this burden unless we get a time agreement. The Senator's bill, as an amendment to our bill, is subject to a point of order. We will not raise that point of order because it should be before us. And the Senate should know it is possible to complete both of these bills by Friday, if we would work together. But we need to complete this bill by Friday in order that when we are not in session, due to the holidays of the following week, our staffs can pull together the conference report documents and be ready to go to conference when we come back on October 17 or 18 of this month. It will take some time to conference just the Appropriations subcommittee bill. I am certain it will take substantial time to conference the Armed Services bill in conference.

What worries me is, if that Armed Services bill becomes part of our conference, then we have an extremely difficult time if the House and Senate Armed Services Committee cannot complete their conferences in the same period of time that we would complete the conference on the appropriations bill. But we are all in this together. We know that there are provisions in the appropriations bill that require authorization. A substantial part do not. A substantial part are under general authority of appropriations for people in the field, for the armed services and for the operation and maintenance items that are in the bill and also those that are involved with continuing authorizations for various types of acquisitions and equipment.

We look forward to working with the Senator from Virginia. He does an excellent job as chairman of the Armed Services Committee. We are delighted that he is pressing hard for his bill because it is necessary. For instance, the size of the pay raise, the size of the COLA, the size of various adjustments made between the various functions of the Department, all are necessary.

The annual items in this bill require authorization. Those that are a continuing part of defense operations, we can and should fund, notwithstanding the Armed Services bill might not have passed by the time we get this bill to the President to sign.

Above all, money for Afghanistan and Iraq is a supplemental attached to our bill. It is within our bill. It is $50 billion that is absolutely necessary to continue our operations there at a very critical time with the election coming up over there to approve their constitution and then, following that, the election of their officials. We have had to send additional people over there—not as many as we did for the first election over there, but there has been a flow of people over there. That money will come out of the $50 billion that is in this bill for operations for the future in regard to Iraq and Afghanistan and that portion of the war on terror.

I do believe the Senator from Virginia understands our situation.

Does the Senator from Hawaii wish to make any comments? I think we are in agreement on this position. We welcome the Senators' initiative and hope it works.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there are no two individuals in the Senate today that have a finer reputation for Senatorial courtesy and for the need for our national defense legislation than the two managers of the appropriations bill, the Senators from Alaska and Hawaii, both of whom have had such distinguished careers in the uniform of the country in which we all take such pride.

Both of these individuals have conferred with my colleague, Senator LEVIN, and with me about the measures I have taken today. Senator STEVENS very carefully pointed out to me exactly what he has said—his grave concern, understandable concern, and proper concern about the imperative need of the passage of the appropriations bill. In no way is it the intention of this Senator or Senator LEVIN to try to unduly delay that bill.

We will see whether a time agreement is achievable, either for consideration of our bill for a brief period of time, on the appropriations bill, or by virtue of a UC as a freestanding bill. I urge we try and do it on this bill.

The Senator pointed out the exigencies of conferences. In my research, there are several options on how to conduct a conference on these two bills. I am sure we can work out a method to do so. For example, it may be possible to split off the authorization bill prior to final passage of the appropriations bill in order to facilitate two separate conference reports. If that is not possible, the chairman of the subcommittee on appropriations could decide to hold what would be basically two conferences—one of the authorizers, one of the appropriators. But nevertheless, the appropriators would have overall control and only one conference report would be voted on by the Senate. I think either of these options could be achieved here. Certainly, I know Senator LEVIN and I would work to these ends. But I also bring to the attention of the managers, we all know full well there are several amendments—I shall not try to characterize them other than to say there are several amendments that are to be brought against the authorization bill which, I am inclined to believe, will be brought against the appropriations bill should we not move ahead with the authorization bill so those amendments can be authorized on this bill.

There is a strong conviction among a number of my colleagues—I don't agree, but I respect them—to have a commission to study how this country deals with its detainees and other commissions that are in the minds of others.

I don't think, unless there is clarity as to what is going to happen to the authorization bill, that you can rule out the possibility that one or more of these amendments might be directed in the next few days against this bill, with the best of intentions, and those would be time-consuming matters, I assume.

Mr. STEVENS. Will the Senator yield, Mr. President?

Mr. WARNER. Yes, of course.

Mr. STEVENS. It is not for a question but for a statement.

Mr. WARNER. I yield the floor, Mr. President.

Mr. STEVENS. Mr. President, the Senator from Hawaii and I have opposed filing cloture on the Defense appropriations bill in the past. It has not been necessary. As a matter of fact, in the past years, this bill has taken from 3 to 5 hours on the floor because it is a bipartisan bill. It is a bill that comes out of our subcommittee and the full Committee on Appropriations unanimously. Our staffs work tirelessly to make sure we cover every single possible objection or concern.

But this year, it appears to me, because of the timeframe I have mentioned, I am constrained to consult with my friend from Hawaii to seek the filing of cloture on Wednesday because if we do not vote by Friday, we are going to be into November before we even get this bill off the floor. We just cannot do that now.

I hope the Armed Services Committee members and all those who have amendments will keep in mind the timeframe. The way these holidays are coming at us, and because of the schedule, we must get this bill to the House for conference before the first of November. It is going to be very difficult to do unless we finish the bill by October 7.

I want the Senate to know, despite a longstanding policy of opposing cloture on the Defense bill, the timeframe that is involved in the consideration of this bill now, because of many things that are not under the control of anybody—two vacancies on the Supreme Court and various other matters that we have taken up that have taken prolonged time on the floor—we are very late in considering this bill.

I know the Senate understands the problem of funding when we have men and women who are overseas, particularly in a time of war. There is no way we can possibly consider taking off on Friday and not coming back until a week from the following Monday if this bill has not been passed. I urge the Senator to keep that in mind.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF HARRIET MIERS TO THE SUPREME COURT

Mr. WARNER. Mr. President, I join the distinguished majority leader and others who have spoken on behalf of the President's nomination of a very distinguished member of the bar of the State of Texas and, indeed, the profession of law all across America, where she has, through many years of long and arduous adherence to the profession of law, distinguished herself in so many ways.

I had the privilege over the years of working with Harriet Miers. I have the highest respect as a fellow lawyer for her professional abilities and her standards of ethics and conduct. I think she is a superb nomination. I commend the President of the United States. If I may say, in this season of our sports, he has hit another home run.

Mr. President, well done.

TRIBUTE TO CORNELIA "NEAL" VAUGHAN

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a proud Kentuckian, community leader, and good friend, Mrs. Cornelia "Neal" Vaughan. Neal, like her uncle, the late Senator John Sherman Cooper, is sincerely dedicated to improving the lives of Kentuckians, and she does so through her extensive volunteer work. Neal is a founding member of the Fayette County Drug Court and served on the National Association of Drug Court Professionals Board of Directors. She has worked with the Junior League, God's Closet, the Governors Inauguration Committee, the Sayre School Board, and the Hope Center for Women. Neal is also on the board for the Kentucky Governor's School for the Arts, but her greatest accomplishments lie in her role as president of the board of directors for the Chrysalis Community Center in Lexington, KY.

The center assists women recovering from substance abuse addiction and counsels the children of these women on substance abuse prevention. Chrysalis uses a combination of the 12-step program originated by Alcoholics Anonymous and Narcotics Anonymous, long-term living arrangements, and a caring and nurturing environment to ensure women and their families live fulfilling lives free of abusive substances. On Friday, September 23, 2005 the center recognized Neal for the vital role she has played in its expansion by dedicating the center's community center in her honor. Neal has given her all to the center's important mission: restoring hope and dignity in women's lives.

On September 21 of this year, The Lexington Herald-Leader published an article highlighting the Chrysalis Center's success and Neal's contribution. I ask that the full article be included in the CONGRESSIONAL RECORD.

[From the Lexington Herald-Leader, Sept. 21, 2005]

CHRYSALIS, THE HOUSE THAT NEAL BUILT UP

(By Robin Roenker)

A mural of brightly colored butterflies accentuates the sky-blue walls of the entry to Lexington's Chrysalis Community Center.

It's the type of room that makes you feel better just by entering it. A room that says, you're welcome here. This is a safe place to be.

And to the women who use Chrysalis House's services—women who are recovering from substance addiction—it says something else. A message many of them have not heard often enough: "You're a good person. You deserve treatment with dignity."

For two decades, that message has been the motivating theme behind Cornelia "Neal" Vaughan's volunteer work with Chrysalis House.

As president of the agency's board of directors for 16 of the past 18 years, Vaughan has overseen Chrysalis House's growth from a single, 12-person-capacity facility on Maxwell Street for women recovering from substance addiction into a multi-faceted agency with three transitional treatment facilities, 50 apartments, an 18,000-square-foot community center and programs to help place graduates in their own permanent housing. Currently, Chrysalis House's six facilities are home to 114 women and 100 children, with 160 more women on waiting lists.

Vaughan, who will be honored at a ceremony Friday, can detail every step of Chrysalis House's development.

She can detail them because she was there, say her fellow Chrysalis House board members, every step of the way. Raising money. Submitting grant proposals. Identifying facility sites. Recognizing the women's needs and finding partners in the community to help meet them.

But not only that. Despite her penchant for wearing pearls and high heels, she was also there to clean out shower stalls, pull weeds from the grounds and serve food in the dinner line, said Lisa Minton, Chrysalis House's executive director.

"She is the heart and soul of our organization," Minton said.

"Neal has been very inspirational in her vision," added Julie Hamilton, who assumed Vaughan's position as president of the Chrysalis House board of directors in July. "She's the first to say that this is all about the women and children. And her passion has been very contagious."

To recognize Vaughan's longstanding leadership and volunteer work on behalf of women and children in the community, the Chrysalis House board of directors is dedicating the Chrysalis Community Center, which opened in 2003 on the house's new eight-acre campus on Hill Rise Drive off Versailles Road, in honor of Vaughan.

A plaque will be hung in Vaughan's honor. Speakers will include Kentucky first lady Glenna Fletcher and Beverly Watts Davis, director of the U.S. Department for Health and Human Services Center for Substance Abuse Prevention.

NO GOOD VS. BAD

"With substance abuse, it is not a good or bad issue," said Vaughan, 57. "It is a sick or well issue."

That philosophy motivates the program's holistic approach to treating the women who come to Chrysalis House. The women receive addiction treatment as well as help with reclaiming their lives, jobs and families.

When Chrysalis House first opened, "women were coming in and getting sober, but they had so many other issues," Vaughan said.

"I realized that even though they were staying in our facility for 10 months or a year, they were leaving without parenting skills or a job," she said. "If you're going to rehabilitate someone, you have to really rehabilitate them. You need to find the gaps where they need help, and help them fill those in."

Now, participants take part in required job skills classes and work one-on-one with tutors and counselors during their stay, so that when they leave Chrysalis House, they're ready to "pick up their lives, and have a productive life they feel good about," she said.

Studies of Chrysalis House participants show that 80 percent are still sober, still have custody of their children, and are still employed a year after they moved out of the apartments, Vaughan said.

DOESN'T TAKE "NO"

Much of the credit for Chrysalis House's growth goes to Vaughan's tenacity in raising support for its programs and educating the community to "break down the stigma surrounding substance addiction," Hamilton said.

"She helped open community doors to a better understanding of the disease of addiction itself," she said. "Plus, she's the type of person you can't say 'no' to. She never gives up."

In addition to her work with Chrysalis House, Vaughan is a founding member of the Fayette County Drug Court. She serves on the board of the Governor's School for the Arts and has fulfilled another of her passions—organizing big events—through work with the Governor's Inauguration Committee and the Lexington Ball, which supports the University of Kentucky Markey Cancer Center. She was recently appointed to the national board of the Center for Substance Abuse Prevention.

Vaughan attributes her passion for community service to the example set by her parents, Richard and Cornelia Cooper of Somerset, who remain active volunteers. She credits her longevity as board president to the support and understanding of her sons Cooper and Stoll, and her husband, Derek, chairman of G.F. Vaughan Tobacco Company.

Two years ago when Derek asked her what she wanted for their 30th wedding anniversary, he wasn't surprised by her answer: All new furniture for the First Step House on Chrysalis Court.

That is what she got—along with a new strand of pearls.

TRIBUTE TO OFFICER LONNIE TABRON

Mr. WARNER. Mr. President, I rise to make a floor statement on behalf of a member of our Senate family.

I, like so many other Senators, come into a particular entrance here in the Senate as I drive in in the morning.

I rise today to pay tribute to Officer Lonnie Tabron. Officer Tabron retired from the Capitol Police on Saturday, October 1, 2005, having completed 22 years of distinguished service since his first day on the force, May 4, 1983.

Lonnie Tabron was born in Washington, DC, in July 1949, and he received his education in the District's public school system, where he always strived for excellence. After graduating from high school, Lonnie served the United States of America in the Armed Forces in Vietnam. He ably answered the call to duty and throughout his term in the Army, rising to the rank of sergeant, he represented our Nation with valor and integrity.

During his distinguished career as a Capitol police officer, Lonnie worked 21 years on the Senate side of the Capitol. With his assignment to the "barricade," as it is referred to, on the Delaware and C Street entrance, Lonnie became friends with my colleagues and staff alike.

In the many years I entered that entrance, this fine man—whether it was bitter cold or intensely hot, raining or sleeting—always approached my vehicle, as all others, with a big smile on his face. In those days, when I guess my spirits were low, as I came, he lifted those spirits. He always had a warm smile and an enthusiastic "Good morning, Senator." It has been my pleasure to receive those greetings, as I say, these many years. I shall dearly miss him.

Lonnie Tabron's philosophy in life consists of three main principles, and he sought to apply these important lessons to his career with the Capitol Police. Every day, Lonnie has remembered to treat others as he would like to be treated, to speak to others as he would like them to speak to him, and to respect others with the same measure of honor that he would expect from them. I believe these three traits are exceptionally appropriate, and Lonnie certainly embodied his beliefs in his service on Capitol Hill.

In his 22 years on the Capitol Police Force, Lonnie has demonstrated a willingness to help anyone who was in need. I appreciate very much his dedication to his job and his remarkable professionalism. As he enters his well-deserved retirement, Lonnie will be dearly missed by those who have had the opportunity to make his acquaintance. It is my honor and privilege to commend his outstanding service today and to wish him well in the years ahead.

I thank my senior staff member, Awilda Euill, who is with me on the floor today, a longtime admirer of Lonnie's. She assisted me in the preparation of this statement.

ADDITIONAL STATEMENTS

CONGRATULATING JUDGE FRANCIS X. HENNESSY ON THE OCCASION OF HIS 75TH BIRTHDAY

• Mr. LIEBERMAN. Mr. President, Judge Francis X. Hennessy is no stranger to public service. Since 1976, when he began his service on the juvenile court, to his service as an appellate trial referee today, he has distinguished the State of Connecticut with his example of integrity and honor.

As remarkable as Judge Hennessy's record is, with service on the Connecticut Superior Court, deputy chief court administrator of the Judicial Branch, and as judge of the Appellate Court, even more impressive is his dedication to social equity. He has been a strong advocate for insuring equal access to the courts for women and minorities, co-chairing the Connecticut Task Force on Gender Justice and the Courts, and Connecticut's Task Force on Minority Fairness.

Judge Hennessy's grandchildren Teddy, John and Grace and his children Maura, Margaret Mary, Matthew and Mark must be proud to have such an exemplar of achievement to look up to. His wife Mary Frances celebrates and shares in Judge Hennessy's accomplishments on this occasion of his 75th birthday.

In addition to his legal career, Judge Hennessy served his country with bravery in the U.S. Army during the Korean conflict. He received the Purple Heart and Combat Infantryman's Badge. For this man, the call of duty extended beyond military service to enriching the community around him. He also served on Connecticut's State Library Board, on the Sheriff's Advisory Board, and the State Gaming Commission.

Judge Hennessy was born on September 11, 1930, in New York City, and has been a faithful servant of the State of Connecticut for the duration of his career. We in the U.S. Senate are proud and honored to congratulate Judge Hennessy on his many years of public service and offer him best wishes on the occasion of his 75th birthday.•

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On January 30, 1999, a 23-year-old disabled man was lured into an apartment in Keansburg, NJ. He was subjected to 3 hours of torture at the hands of 9 men and women. According to police, the abusers knew the man from their neighborhood, and ridiculed him constantly because of his disability.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.•

LCPL JAMES R. SARGENT, UNITED STATES MARINE CORPS

• Mr. ROCKEFELLER. Mr. President, it is with great pride that I rise today too honor and commend the service of a true West Virginia hero. LCPL James R. Sargent of the United States Marine Corps was one of many West Virginians who courageously fought in the Vietnam War. Lance Corporal Sargent's service was a testament to West Virginia's long storied patriotic tradition. A tradition that can be traced back to the days of George Washington, and one that is very much alive today. In the spirit of West Virginia patriotism, I praise Lance Corporal Sargent for his honorable service and contribution to our country.

On October 7, 2005, after having been declared Missing in Action for over 37 years, LCPL James R. Sargent will finally be laid to rest at Arlington National Cemetery. Lance Corporal Sargent was listed as missing on May 10, 1968, as his platoon provided artillery support in defense of the Civilian Irregular Defense Group camp known as Ngok Tavak. The Marine detachment was attacked by a prepared and well-equipped Viet Cong and North Vietnamese battalion of troops. For their bravery in battle, Lance Corporal Sargent's platoon received the Meritorious Unit Commendation from then Secretary of the Navy L.F. Chapman, Jr.

Lance Corporal Sargent was a native West Virginian from Anawalt in McDowell County. Like so many West Virginians, past and present, Lance Corporal Sargent heeded the Nation's call for service, and they deserve our gratitude and deep respect. I am honored to be able to pay respects to this brave West Virginian and his family and friends. After many years full of questions and grief, I hope that Lance Corporal Sargent's loved ones may finally have much deserved closure and peace of mind. His surviving family, friends, and fellow veterans should all be proud of his service, patriotism, and commitment to his country and its defense. For that matter, all Americans should be proud.

I ask that we all take a moment to remember all of the American soldiers who gave their lives in service to their country.•

JEWISH COMMUNITY RELIEF EFFORTS

• Mr. WYDEN. Mr. President, I would like to take a moment to recognize and give thanks to the Jewish community's tremendous relief efforts in the aftermath of the Hurricane Katrina disaster. Countless Jewish individuals and organizations have stepped up to combat this national crisis, providing the victims of Hurricane Katrina with money, supplies and volunteers, while opening the doors of their homes, schools and synagogues.

I would like to highlight a few of these efforts.

Millions of dollars haven been raised in the name of the Katrina victims. The United Jewish Communities, local federations throughout the United States and Canada, and their partners have raised at least $14 million, including a $500,000 donation given by the Baltimore-based Harry and Jeanette Weinberg Foundation Inc. The Weinberg Foundation gave another $500,000 to Catholic Relief Charities. A smaller, but no less inspiring, fund was raised by students of the Sacramento, CA Shalom School, which donated proceeds from sales of their Rosh Hashanah honey pots.

Educational aid for displaced students has come from Jewish organizations such as the Avi Chai Foundation, a group sending emergency grant money to the dozens of Jewish day schools that are admitting evacuees into their classrooms. And the Jewish Agency for Israel, MASA—the Gateway to Long-Term Israel Programs and Hillel are coordinating efforts to allow displaced students to take classes at Israeli universities.

I would also like to recognize the synagogues that are contributing their resources to the effort by providing housing, schooling and free synagogue memberships—even adopting other synagogues in impacted states damaged by the storm.

But the Jewish assistance provided to the victims of Hurricane Katrina does not stop at our borders. The State of Israel has been incredibly generous as well, donating 80 tons of supplies including 15 tons of bottled water, 4 tons of rations, 4 tons of diapers, 1 ton of baby food, Medical supplies including adult and children's wheelchairs and crutches, thousands of first-aid kits and thousands of blankets and cots. They have also sent teams of professionals trained in disaster relief to assist victims of this terrible disaster, including doctors, paramedics, mental health professionals, search and rescue teams and disaster relief planning and operations specialists.

In times such as these, it is critical that people of all faiths come together to help those in need and I am proud to see that the Jewish community has stepped up and met the challenge head on.●

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 3:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3863. An act to provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

ENROLLED JOINT RESOLUTION SIGNED

The following enrolled joint resolution, previously signed by the Speaker of the House, was signed on Friday, September 30, 2005, by the President pro tempore (Mr. STEVENS):

H.J. Res. 68, Joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-4056. A communication from the Acting Deputy Assistant Administrator for Operations, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Extension of Commercial Trip Limits for Gulf of Mexico Grouper Fishery" ((RIN0648–AS97) (I. D. No. 020405D)) received on September 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4057. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary Rule; Inseason Retention Limit Adjustment" (I.D. No. 080405B) received on September 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4058. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #5—Adjustments of the Recreational Fishery from Cape Alava, Washington, to Cape Falcon, Oregon" (I.D No. 080805A) received on September 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4059. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits" ((RIN0648–AS27) (I.D. No. 081605C)) received on September 18, 2005 to the Committee on Commerce, Science, and Transportation.

EC–4060. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska" (I.D. No. 082905B) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4061. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (I.D. No. 081805B) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4062. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (I.D. No. 082905D) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4063. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (I.D. No. 082905) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4064. A communication from the Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 081705) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4065. A communication from the Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 081705G) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4066. A communication from the Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/'Other Flatfish' Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 081705E) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4067. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543" (I.D. No. 081605D) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4068. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska" (I.D. No. 082405A) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4069. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska" (I.D. No. 082405B) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4070. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive

Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea Subarea" (I.D. No. 082505A) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4071. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 082305B) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4072. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Pacific Whiting; Fishery Closure" ((RIN0648–AT69) (I.D. No. 081005A)) received on September 21, 2005 to the Committee on Commerce, Science, and Transportation.

EC–4073. A communication from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "International Services Surveys: Cancellation of Five Annual Surveys" (RIN0691–AA59) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4074. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Removal of License Requirements for Exports and Reexports to India of Items Controlled Unilaterally for Nuclear Nonproliferation Reasons and Removal of Certain Indian Entities from the Entity List" (RIN0694–AD44) received on September 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4075. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions and Clarifications to the Export Administration Regulations" (RIN0694–AD30) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4076. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 05–225–05–235); to the Committee on Foreign Relations.

EC–4077. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for Calendar Year 2006" (RIN0938–AO00) received on September 26, 2005; to the Committee on Finance.

EC–4078. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Part A Premium for Calendar Year 2006 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN0938–AO01) received on September 26, 2005; to the Committee on Finance.

EC–4079. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible for Calendar Year 2006" (RIN0938–AO02) received on September 26, 2005; to the Committee on Finance.

EC–4080. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rates Update Notice—Pension Funding Equity Act of 2004" (Notice 2005–67) received on September 26, 2005; to the Committee on Finance.

EC–4081. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Hurricane Katrina Relief—Section 401(k), etc., Hardship Distributions" (Announcement 2005–70) received on September 26, 2005; to the Committee on Finance.

EC–4082. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Disaster Relief—Minimum Funding" (Notice 2005–60) received on September 26, 2005; to the Committee on Finance.

EC–4083. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Refugee Resettlement Program; to the Committee on the Judiciary.

EC–4084. A communication from the Interim Staff Director, United States Sentencing Commission, transmitting, pursuant to law, the Commission's 2003 Annual Report and Sourcebook of Federal Sentencing Statistics; to the Committee on the Judiciary.

EC–4085. A communication from the Regulations Coordinator, Office of HIPAA Standards, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "HIPAA Administrative Simplification: Standards for Electronic Health Care Claims Attachments" (RIN0938–AK62) received on September 26, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–4086. A communication from the Acting Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Parts 356, 357, and 363" received on September 26, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4087. A communication from the Acting Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Parts 306, 315, 353, 357, 360, and 363" received on September 26, 2005; to the Committee on Banking, Housing, and Urban Affairs

EC–4088. A communication from the Acting Administrator, Science and Technology Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Plant Variety Protection Office, Fee Increase" (RIN0581–AC42) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4089. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines and Peaches Grown in California: Increased Assessment Rates" (FV05–916–3 FR) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4090. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for the 2005–2006 Marketing Year" (FV05–985–2 IFR) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4091. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Amendment to the Peanut Promotion, Research, and Information Order" (FV05–701–IFR) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4092. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Mideast Marketing Area—Interim Order" (Docket No. AO–166–A39; DA–05–01–A) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4093. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Noxious Weed Control and Eradication Act; Delegation of Authority" (APHIS Docket No. 05–012–1) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4094. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticides; Removal of Expired Time-Limited Tolerance Exemptions" (FRL No. 7735–8) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4095. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyridaben; Pesticide Tolerance" (FRL No. 7738–6) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4096. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyriproxyfen; Pesticide Tolerance" (FRL No. 7737–8) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4097. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fenpropathrin; Pesticide Tolerance" (FRL No. 7738-7) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4098. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Kasugamycin; Pesticide Tolerance" (FRL No. 7736-4) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4099. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Muscodor albus QST 20799 and the Volatiles Produced on Rehydration; Exemption from the Requirement of a Tolerance" (FRL No. 7739-5) received on September 26, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4100. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a status report on the Great Lakes Tributary Model; to the Committee on Environment and Public Works.

EC-4101. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: Standardized NUHOMS-32PT, -24PHB, and -24PTH Revision 8" (RIN3150-AH77) received on September 26, 2005; to the Committee on Environment and Public Works.

EC-4102. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, the report of a rule entitled "Endocrine Disrupter Screening Program; Chemical Selection Approach for Initial Round of Screening" (FRL No. 7716-9) received on September 26, 2005; to the Committee on Environment and Public Works.

EC-4103. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Transportation Control Measures in the Dallas/Fort Worth Ozone Nonattainment Area" (FRL No. 7974-7) received on September 26, 2005; to the Committee on Environment and Public Works.

EC-4104. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Lake County Sulfur Dioxide Regulations, Redesignation and Maintenance Plan" (FRL No. 7972-6) received on September 26, 2005; to the Committee on Environment and Public Works.

EC-4105. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "North Dakota: Final Authorization of State Hazardous Waste Management Program Revision" (FRL No. 7974-3) received on September 26, 2005; to the Committee on Environment and Public Works.

EC-4106. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Dumping; Site Designation" (FRL No. 7973-8) received on September 26, 2005; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 1809. A bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to use the proceeds of the tax collected to offset the cost of supplemental spending bills that are targeted to aid victims of Hurricane Katrina and Rita, and for other purposes; to the Committee on Finance.

By Mr. WARNER:

S. 1810. A bill to amend the Outer Continental Shelf Lands Act to allow certain coastal States to share in qualified outer Continental Shelf revenues; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 1811. A bill to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 1812. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to provide for the conjunctive use of surface and ground water in Juab County, Utah; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. ROBERTS, and Mr. BROWNBACK):

S. 1813. A bill to amend titles 10 and 38 of the United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors; to the Committee on Veterans' Affairs.

By Mr. BAYH:

S. 1814. A bill to amend the Servicemembers Civil Relief Act and the Housing and Urban Development Act of 1968 to enhance protections for servicemembers and their dependents, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAIG (for himself and Mr. AKAKA):

S. Res. 263. A resolution commending the efforts of the Department of Veterans Affairs in responding to Hurricane Katrina; considered and agreed to.

ADDITIONAL COSPONSORS

S. 241

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 269

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 269, a bill to provide emergency relief to small business concerns affected by a significant increase in the price of heating oil, natural gas, propane, or kerosene, and for other purposes.

S. 897

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 897, a bill to amend the Internal Revenue Code of 1986 to clarify the calculation of the reserve allowance for medical benefits of plans sponsored by bona fide associations.

S. 1002

At the request of Mr. BAUCUS, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1082

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1276

At the request of Mr. CORNYN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1276, a bill to amend section 1111 of the Elementary and Secondary Education Act of 1965 regarding challenging academic content standards for physical education.

S. 1313

At the request of Mr. CORNYN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1360

At the request of Mr. SMITH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1360, a bill to amend the Internal

Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1538

At the request of Mr. ROCKEFELLER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1538, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1597

At the request of Mr. ENZI, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1597, a bill to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 1725

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1725, a bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

S. 1793

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1793, a bill to extend certain apportionments to primary airports.

S. 1794

At the request of Mr. DURBIN, the names of the Senator from Nevada (Mr. REID), the Senator from New York (Mr. SCHUMER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1794, a bill to establish a Strategic Gasoline and Fuel Reserve.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 1810. A bill to amend the Outer Continental Shelf Lands Act to allow certain coastal States to share in qualified Outer Continental Shelf revenues; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, I rise to introduce the Outer Continental Shelf Revenue Sharing Act of 2005.

Earlier this year, the Congress passed a bill, and the President signed it into law. It is the first comprehensive energy package in over a decade.

Great strides were made in addressing the Nation's energy needs. This new law contains a number of valuable conservation measures and, as the chairman of the Energy Committee once stated, passage of this legislation means we will need 170 fewer powerplants by 2020. On the energy supply side, however, we still have much work to do. The recent disruptions in the Nation's energy supply caused by Hurricanes Katrina and Rita—tragedies, natural disasters of proportions never really seen before in this county—underscore the fragility of our energy supply system. The estimates are that 20 to 25 percent of our energy needs come in through that narrow nexus of Louisiana and Mississippi, right in that area.

During debate on the bill, I offered an amendment to provide for an increased domestic supply of oil and natural gas from Outer Continental Shelf lands. Regrettably, my amendment and other similar measures were not successful.

I thank the distinguished manager of that bill, Mr. DOMENICI, and others. They gave me a great deal of encouragement, as did the Senators from Louisiana, who likewise participated in that debate. But, nevertheless, I was not successful. I did say—and I suppose in a prophetic way—and I remember beckoning to fellow Senators on the floor, "The day will come when I will once again stand on this floor and offer this same legislation, not knowing, of course, of the tragedies of Katrina. But that did give this Nation a serious wake-up call as to the fragility of our energy system.

Again, the tragic events of the past month along the gulf coast have thrust the issue of energy supplies back into the spotlight. We need only look at the rising gas prices all over our pumps in this Nation's land, where people—men and women—on small budgets are struggling to find the resources to meet their daily requirements of the use of the automobile and to inject these increased gasoline prices into their budgets. Prices at the pump have climbed quickly, and with the winter heating season approaching, we can expect natural gas and home heating oil prices to increase, perhaps going as high as 50 percent more than last year's level.

We need to address our inadequate refining capacity and expand conservation incentives. With more than 30 percent of our domestic supply of oil coming in from the Gulf of Mexico and a significant portion of our refining capacity located in the Gulf States, we must also look at ways to increase and diversify the location and sources of our domestic supplies of energy, as well as the refining capabilities; and natural gas, likewise.

Before passage of the energy bill, production revenues totaling more than $7.5 billion annually from offshore oil and gas belonged to the Federal Government. This is an inconsistent policy, however, because 55 percent of the revenues from land-based oil and gas production has always been returned to the States. The one exception to this rule is Alaska, which receives back 90 percent of such revenues. Thanks to the diligence of my colleagues from Louisiana, this inequity was partially addressed in the energy bill by providing that current offshore energy-producing States will now share in the Federal Government's royalties.

Indeed, it is a matter of fairness that these revenues be shared with the energy producing States. After all, it is the states closest to oil and gas production facilities that are assuming the risks that those production facilities will not have harmful environmental or economical impacts. Tourism is often the lifeblood of these regions which could be adversely affected by any environmental accidents. So it is very appropriate that they should receive a share of the revenues derived from offshore oil and gas production.

While the issue of revenue sharing was addressed in the energy bill for States currently producing oil and gas off their coasts, it does not include a comprehensive policy for offshore production opportunities.

Specifically, the bill does not allow other States to share revenues when and if they ever become producing regions. As we all know, the production of oil and natural gas has been subject to a moratorium along most of the Nation's coastline. While this moratorium has been in effect for some time, many Americans believe that it is now time to reevaluate its need. This past year in Virginia, both houses of the state legislature passed legislation asking for production to occur off the Virginia coast if the State is allowed to receive a share of the revenue. I think the rising costs of oil and gas are now leading other States to consider the same possibility.

The bill I am introducing today would provide a portion of revenues to States under the current moratorium that may decide to undertake future offshore exploration and production activities. My legislation is based, in large part, on the hard work of my colleagues who achieved a revenue-sharing proposal for their States and local governments in the recently enacted energy bill. The new law provides State and local governments with a share of the royalties from offshore energy production, but it is limited only to the five States that are currently exempt from the moratorium on offshore oil and gas leases.

As provided by current law, my bill requires the Federal Government to transfer 50 percent of the revenues received from any offshore leases to the States based upon the production levels. This would put oil and gas production in coastal areas on par with the production on other Federal lands throughout the United States. It is a matter of equity for all producing regions and represents a fair revenue-sharing model for the Federal and State governments.

My proposal does not affect the current moratorium on offshore energy production. As the moratorium expires, however, my legislation enables States that wish to pursue oil and gas production to be eligible for a portion of the royalty payments that otherwise would go exclusively to the Federal Government.

The amendment does not supersede a State's ability to veto any production proposals under their authority of the Coastal Zone Management Act, CZMA. It does not change the manner in which the Federal Government grants these production leases, and it does not lift the moratorium for any OCS land that is currently in place.

While I believe very strongly that the States should have a role in determining whether or not to utilize these resources, I also believe that they should receive a fair share of the revenues from any production that may follow.

I understand the concerns of some of my colleagues and their desire to avoid drawing specific boundary lines. While this amendment does not address all of the concerns, it offers a fair starting point to discuss this issue. It is my hope that we can all work together in addressing these concerns that will result in a commonsense approach to expand our domestic supply of oil and gas, to diversify the geographic concentration of our current industry, and to allow the States to have a role in the process.

Mr. President, the time has come for the Senate to speak boldly. We can all agree that more supply is needed and that there is a vast resource yet to be tapped. My proposal offers a fair way to encourage production in States that wish to do so. In the long term our Nation will benefit by reducing its dependence on foreign sources of energy and by diversifying the geographic source of our domestic supply.

I believe this proposal will solve a necessary part of the energy puzzle. I believe it is essential for our energy security, our economic security, and our national security to evaluate this, and other proposals, that address our energy supply needs.

Mr. President, as I say, today I introduce, again, this bill, which I put in a few months ago. It provides for the offshore drilling of oil. I recognize the sensitivity of that, but I say to my colleagues, we can not continually ignore these warnings, whether they are brought about by Mother Nature or political problems or wars or conflicts across our shores. Now is the time to lay down that framework of legislation for those States which, by actions taken by the Governor and the State legislature, say: We will permit offshore drilling off of this State's boundaries. Hopefully, we can receive for those States, should that take place, an additional source of revenue.

I ask unanimous consent that the text of the bill be printed in the Record, and I will seek to have it considered by the Senate as a whole at the earliest possible opportunity.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outer Continental Shelf Revenue Sharing Act of 2005".

SEC. 2. OUTER CONTINENTAL SHELF REVENUE SHARING.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively;

(C) in paragraph (8) (as redesignated by subparagraph (B)), by striking subparagraph (B) and inserting the following:

"(B) Inclusion.—The term 'producing State' includes any State that begins production on a leased tract on or after the date of enactment of the Outer Continental Shelf Revenue Sharing Act of 2005, regardless of whether the leased tract was on any date subject to a leasing moratorium."; and

(D) in paragraph (9) (as redesignated by subparagraph (B)), by striking subparagraph (C); and

(2) in subsection (b)(4), by striking subparagraph (E).

SEC. 3. ESTABLISHMENT OF SEAWARD LATERAL BOUNDARIES FOR COASTAL STATES.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by inserting "(i)" after "(A)";

(2) in the first sentence—

(A) by striking "President shall" and inserting "Secretary shall by regulation"; and

(B) by inserting before the period at the end the following: "not later than 180 days after the date of enactment of the Outer Continental Shelf Revenue Sharing Act of 2005"; and

(3) by adding at the end the following:

"(ii)(I) For purposes of this Act (including determining boundaries to authorize leasing and preleasing activities and any attributing revenues under this Act and calculating payments to producing States and coastal political subdivisions under section 31), the Secretary shall delineate the lateral boundaries between coastal States in areas of the Outer Continental shelf under exclusive Federal jurisdiction, to the extent of the exclusive economic zone of the United States, in accordance with article 15 of the United Nations Convention on the Law of the Sea of December 10, 1982.

"(II) This clause shall not affect any right or title to Federal submerged land on the outer Continental Shelf.".

SEC. 4. OPTION TO PETITION FOR LEASING WITHIN CERTAIN AREAS ON THE OUTER CONTINENTAL SHELF.

Section 12 of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended by adding at the end the following:

"(g) Leasing Within the Seaward Lateral Boundaries of Coastal States.—

"(1) Definition of affected area.—In this subsection, the term 'affected area' means any area located—

"(A) in the areas of northern, central, and southern California and the areas of Oregon and Washington;

"(B) in the north, middle, or south planning area of the Atlantic Ocean;

"(C) in the eastern Gulf of Mexico planning area and lying—

"(i) south of 26 degrees north latitude; and

"(ii) east of 86 degrees west longitude; or

"(D) in the Straits of Florida.

"(2) Restrictions on leasing.—The Secretary shall not offer for offshore leasing, preleasing, or any related activity—

"(A) any area located on the outer Continental Shelf that, as of the date of enactment of this subsection, is designated as a marine sanctuary under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); or

"(B) except as provided in paragraphs (3) and (4), during the period beginning on the date of enactment of this subsection and ending on June 30, 2012, any affected area.

"(3) Resource assessments.—

"(A) In general.—Beginning on the date on which the Secretary delineates seaward lateral boundaries under section 4(a)(2)(A)(ii), a Governor of a State in which an affected area is located, with the consent of the legislature of the State, may submit to the Secretary a petition requesting a resource assessment of any area within the seaward lateral boundary of the State.

"(B) Eligible resources.—A petition for a resource assessment under subparagraph (A) may be for—

"(i) oil and gas leasing;

"(ii) gas-only leasing; or

"(iii) any other energy source leasing, including renewable energy leasing.

"(C) Action by secretary.—Not later than 90 days after receipt of a petition under subparagraph (A), the Secretary shall approve the petition, unless the Secretary determines that a resource assessment of the area would create an unreasonable risk of harm to the marine, human, or coastal environment of the State.

"(D) Failure to act.—If the Secretary fails to approve or deny a petition in accordance with subparagraph (C)—

"(i) the petition shall be considered to be approved; and

"(ii) a resource assessment of any appropriate area shall be carried out as soon as practicable.

"(E) Submission to state.—As soon as practicable after the date on which a petition is approved under subparagraph (C) or (D), the Secretary shall—

"(i) complete the resource assessment for the area; and

"(ii) submit the completed resource assessment to the State.

"(4) Petition for leasing.—

"(A) In general.—On receipt of a resource assessment under paragraph (3)(E)(ii), the Governor of a State in which an affected area is located, with the consent of the legislature of the State, may submit to the Secretary a petition requesting that the Secretary make available any land that is within the seaward lateral boundaries of the State (as established under section 4(a)(2)(A)(ii)) and that is greater than 20 miles from the coastline of the State for the conduct of offshore leasing, pre-leasing, or related activities with respect to—

"(i) oil and gas leasing;

"(ii) gas-only leasing; or

"(iii) any other energy source leasing, including renewable energy leasing.

"(B) ACTION BY SECRETARY.—Not later than 90 days after receipt of a petition under subparagraph (A), the Secretary shall approve the petition, unless the Secretary determines that leasing the area would create an unreasonable risk of harm to the marine, human, or coastal environment of the State.

"(C) FAILURE TO ACT.—If the Secretary fails to approve or deny a petition in accordance with subparagraph (B)—

"(i) the petition shall be considered to be approved; and

"(ii) any appropriate area shall be made available for oil and gas leasing, gas-only leasing, or any other energy source leasing, including renewable energy leasing.

"(5) REVENUE SHARING.—

"(A) IN GENERAL.—Beginning on the date on which production begins in an area under this subsection, the State shall, without further appropriation, share in any qualified outer Continental Shelf revenues of the production under section 31.

"(B) APPLICABLE LAW.—

"(i) IN GENERAL.—Except as provided in clause (ii), a State shall not be required to comply with subsections (c) and (d) of section 31 to share in qualified outer Continental Shelf revenues under subparagraph (A).

"(ii) EXCEPTION.—Of any qualified outer Continental Shelf revenues received by a State (including a political subdivision of a State) under subparagraph (A), at least 25 percent shall be used for 1 or more of the purposes described in section 31(d)(1).

"(6) EFFECT.—Nothing in this subsection affects any right relating to an area described in paragraph (1) or (2) under a lease that was in existence on the day before the date of enactment of this subsection.".

SEC. 5. REGULATIONS.

(a) IN GENERAL.—The Secretary of the Interior shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act, including regulations establishing procedures for entering into gas-only leases.

(b) GAS-ONLY LEASES.—In issuing regulations establishing procedures for entering into gas-only leases, the Secretary shall—

(1) ensure that gas-only leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) are not available in a State that (as of the day before the date of enactment of this Act) did not contain an affected area (as defined in section 12(g)(1) of that Act (as added by section 4)); and

(2) define "natural gas" as—

(A) unmixed natural gas; or

(B) any mixture of natural or artificial gas (including compressed or liquefied petroleum gas) and condensate recovered from natural gas.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 1811. A bill to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 1812. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to provide for the conjunctive use of surface and ground water in Juab County, Utah; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, in recent years, Utahns have suffered through a devastating drought. While it appears that we are beginning to return to normal precipitation levels, the drought has instilled in all Utahns the need to plan for the future and ensure sound management of our water resources. For that reason, I rise to introduce two important bills that will help make better use of Utah's scarce water supply.

The first bill is the Arthur V. Watkins Dam Enlargement Act of 2005. The bill would authorize the Bureau of Reclamation to conduct a feasibility study on raising the height of the Arthur V. Watkins Dam in Weber County. The dam is roughly 14 miles long and encloses a reservoir containing more than 200,000 acre-feet of water.

Thousands of Utahns currently rely on the water provided by the reservoir. And the Weber Basin is one of Utah's fastest growing areas, making the need to find additional water resources even more pressing. Enlarging the dam would help ensure that the area can meet its ever-increasing demand for water. In my view, expanding the dam is an easy way to increase water storage capacity in an area that desperately needs it.

The next bill I am introducing today, is the Juab County Ground Water Study and Development Act of 2005. This legislation would amend the Reclamation Projects Authorization and Adjustment Act of 2005 to include Juab County. It would allow Juab County to use Central Utah Project funds to complete water resource development projects, enabling the County to better utilize their existing water resources. It will ensure that farmers, ranchers, and other citizens of Juab County have a reliable water supply.

Under the original plan for the Bonneville Unit of the Central Utah Project, several counties in central Utah, including Juab, were to be delivered supplemental water through an irrigation and drainage delivery system. Over the years, however, many central Utah Counties have elected not to participate in the plan and no longer pay the requisite taxes to the Central Utah Water Conservancy District, the political division of the State of Utah established to manage CUP activities in Utah.

Unlike other central Utah Counties, Juab County remained active in the Central Utah Water Conservancy District's efforts and has paid property taxes to the District hoping to benefit from its membership. Unfortunately, that has not been the case. Presently, most of the water allocated to the Bonneville Unit of the Central Utah Project is planned for use in Wasatch, Salt Lake, and Utah Counties. This legislation would simply ensure that the citizens of Juab County can benefit from the system they help support.

I urge my colleagues to support these bills.

By Mr. CRAIG (for himself, Mr. ROBERTS, and Mr. BROWNBACK):

S. 1813. A bill to amend titles 10 and 38 of the United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I have sought recognition to comment on legislation I am introducing that will fix a problem that many of us thought was corrected 8 years ago. My legislation will close a loophole in the law that now allows capital offenders to be buried in America's national cemeteries. My legislation will ensure that no one who may be given a life sentence or who may be sentenced to death for murder will be honored at their funerals by the presence of a military funeral detail. And, finally, my legislation will direct the Secretary of Veterans Affairs, the Secretary of the Army, and other military service Secretaries to each prescribe a proactive process by which officials can ascertain whether there exists a burial or funeral honors prohibition on individuals who may have been capital offenders.

In 1997, the Congress learned that the perpetrator of the Oklahoma City bombings—Timothy McVeigh—was, in fact, eligible for burial and memorialization in a VA national cemetery and, under certain circumstances, Arlington National Cemetery. Largely, but not exclusively, in response to McVeigh's eligibility, Public Law 105-116 was enacted to deny interment in Arlington National Cemetery, VA National Cemeteries, and State veterans' cemeteries funded with VA grants, to any person convicted of a Federal capital crime or a State capital crime for which a sentence of death or life imprisonment without parole is given. Later, in 2002, Public Law 107-330 was enacted to deny to capital offenders VA-provided flags, headstones and markers, and Presidential Memorial Certificates. The intent of the 1997 and 2002 laws was clear: We should not bury brutal murderers alongside America's honored dead and we should not provide memorialization benefits to those who have so dishonored themselves through their own post-service conduct.

The circumstances surrounding the placement of the cremated remains of a convicted double-murderer—Russell Wayne Wagner—at Arlington National Cemetery in late July caused me, and many of my colleagues, to wonder what impact the 1997 law actually had. The media coverage of former Chief Justice William Rehnquist's Arlington Cemetery funeral only served to confirm my bewilderment: How could an individual like Wagner who committed such heinous acts be placed in the same hallowed ground as Chief Justice Rehnquist, Justice Thurgood Marshall, President Kennedy, and hundreds upon hundreds of servicemembers to whom this country owes its eternal respect?

Russell Wayne Wagner's two life sentences carried with them the possibility of parole. The 1997 law only bars national cemetery interment to State capital offenders sentenced to death or life in prison without parole. Thus, we have our first example of the "parole loophole."

To further explore how wide the "parole loophole" is for State capital offenders, I asked the Congressional Research Service to analyze the sentencing of Dennis Rader, the infamous "BTK serial killer,"—"BTK" being short for Rader's method to dispose of his 10 victims: Bind, Torture, Kill. Rader was given ten consecutive life terms for which he must serve a minimum of 175 years in prison. However, because the Kansas law under which Rader was tried did not allow for a sentence of death, nor did it allow for a sentence of life without parole, CRS concluded that, as an honorably discharged veteran of the Air Force, "it would appear that he is not statutorily precluded from interment in a national cemetery." If the 1997 law cannot prevent the interment of a notorious serial killer, then what good is it? I called a hearing in September to find an answer to that question.

The Committee heard from Mr. Vernon Davis, son of Wagner's victims, who described in vivid detail how Wagner repeatedly stabbed his elderly parents to death. I was so astounded that an individual who committed such a cowardly action could be buried at Arlington that I immediately introduced legislation—S. 1759—to have his remains removed.

The Committee also heard from VA and Arlington cemetery officials who described the process that is in place to deny burial in national cemeteries to capital offenders. Unfortunately, the process appears to be a passive one. The Deputy Superintendent at Arlington told me that Arlington officials do not even ask whether a person on whose behalf burial is sought is a convicted capital offender. While I understand that finding out such information needs to be handled delicately and with tact, to have no screening process at all is unacceptable.

Finally, we heard the unified testimony of 5 veterans' organizations, who reminded us that decisions to take away benefits earned by virtue of honorable military service should never be made without careful, reasoned deliberation.

Based on the testimony from the Committee's hearing, I have joined with my colleagues from Kansas—Senators ROBERTS and BROWNBACK—in introducing this legislation today. Section 1 of the legislation would remove the language in law that provides capital offenders—like Wagner and the BTK Killer—with their continued burial eligibility. Furthermore, to address situations where a capital offender may have plea-bargained his or her way out of a death or life sentence, section 1 would remove the language in statute that ties the prohibition of cemetery burial to a capital crime sentence that was received and would replace it with language tying the prohibition to a capital crime sentence that may be received. This statutory language change would recognize that while the actual sentence for those who commit heinous acts may vary, the underlying action meriting those criminal sentences should be treated equally for purposes of burial prohibition.

Section 2 of the legislation would deny the provision of military honors and burial at a military cemetery of a person convicted of a Federal capital crime or a State capital crime for which a life sentence or the death penalty may be imposed. Section 3 would deny funeral honors—where at least two members of the Armed Forces are made available at veterans' funerals to fold and present the American flag, and play Taps—to those same persons, irrespective of whether burial is sought at national, state, or private cemeteries.

Finally, section 4 of the legislation would require the appropriate military service and VA to each prescribe regulations to ensure that a person is neither buried, nor provided funeral honors, before a good-faith effort is made to determine whether such person is ineligible as a capital offender.

This legislation is a necessary reform to the 1997 law. Let me be clear that while the effect of the legislation would be to take away benefits that were otherwise earned by honorable military service, the intent of it is not punitive. Rather, my intention is to preserve the dignity of America's national cemeteries.

President Lincoln delivered his Gettysburg Address at one of our Nation's first, and most revered, national cemeteries. Then he spoke of the "honored dead" who gave their "last full measure of devotion." My legislation will ensure that we bring no dishonor to those who belong in our national cemeteries by inappropriately honoring those who, by their own actions, do not.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION AGAINST INTERMENT IN NATIONAL CEMETERY.

Section 2411 of title 38, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "for which the person was sentenced to death or life imprisonment"; and

(B) in paragraph (2), by striking "for which the person was sentenced to death or life imprisonment without parole"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "the death penalty or life imprisonment" and inserting "a life sentence or the death penalty"; and

(B) in paragraph (2), by striking "the death penalty or life imprisonment without parole may be imposed" and inserting "a life sentence or the death penalty may be imposed".

SEC. 2. DENIAL OF CERTAIN BURIAL-RELATED BENEFITS.

Section 985 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "who has been convicted of a capital offense under Federal or State law for which the person was sentenced to death or life imprisonment without parole." and inserting "described in section 2411(b) of title 38.";

(2) in subsection (b), by striking "convicted of a capital offense under Federal law" and inserting "described in section 2411(b) of title 33"; and

(3) by amending subsection (c) to read as follows:

"(c) DEFINITION.—In this section, the term 'burial' includes inurnment.".

SEC. 3. DENIAL OF FUNERAL HONORS.

Section 1491(h) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking " means a decedent who—" and inserting the following: "—

"(1) means a decedent who—";

(3) in subparagraph (B), as redesignated, by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) does not include any person described in section 2411(b) of title 38.".

SEC. 4. RULEMAKING.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law.

(b) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 263—COMMENDING THE EFFORTS OF THE DEPARTMENT OF VETERANS AFFAIRS IN RESPONDING TO HURRICANE KATRINA

Mr. CRAIG (for himself and Mr. AKAKA) submitted the following resolution; which was considered and agreed to:

S. RES. 263

Whereas Hurricane Katrina physically devastated many areas in the States of Alabama, Mississippi, and Louisiana;

Whereas the Department of Veterans Affairs operates 11 medical centers, 18 community-based outpatient clinics, 3 regional offices, and 8 national cemeteries in the States of Alabama, Mississippi, and Louisiana;

Whereas the Department of Veterans Affairs evacuated over 1,000 patients, employees, and their families from facilities in the affected areas without any loss of life due to the evacuations;

Whereas over 1,000 employees of the Department of Veterans Affairs are volunteering to assist veterans and their families affected by Hurricane Katrina throughout the United States;

Whereas the Department of Veterans Affairs is providing shelter to over 550 staff and their families who have been displaced as a result of Hurricane Katrina;

Whereas patients and employees of the Department of Veterans Affairs in Texas provided extraordinary support and medical assistance to veterans, staff, and families affected by Hurricane Katrina and coordinated numerous medical efforts as part of the overall Federal Government response and recovery efforts in the Gulf Region; and

Whereas heroic actions and efforts on the part of numerous employees and volunteers of the Department of Veterans Affairs saved countless lives and provided immeasurable comfort to the victims of Hurricane Katrina: Now, therefore, be it

Resolved, That the Senate commends the employees and volunteers of the Department of Veterans Affairs, who risked life and limb to assist veterans, staff, and their respective families who were affected by Hurricane Katrina.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1929. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1930. Mr. LEVIN (for himself and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1931. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1932. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1933. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1934. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1935. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1936. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1937. Ms. STABENOW (for herself, Mr. JOHNSON, Mr. THUNE, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, Mr. CORZINE, Mr. BAUCUS, Ms. LANDRIEU, Mr. JEFFORDS, Mr. BAYH, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1938. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1939. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1940. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1941. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1942. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1943. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1944. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1945. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1946. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1947. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1948. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1949. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1950. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1951. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1952. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1953. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1954. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1955. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1956. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 1955 submitted by Mr. WARNER (for himself and Mr. LEVIN) and intended to be proposed to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1957. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1958. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1959. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1960. Mr. LIEBERMAN (for himself and Mr. Dodd) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1961. Mr. LIEBERMAN (for himself and Mr. Dodd) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1962. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1963. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1964. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1965. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1966. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1967. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; which was ordered to lie on the table.

SA 1968. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1969. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1970. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1971. Mr. DODD (for himself and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1972. Mr. DODD (for himself and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1973. Mr. DOMENICI (for himself and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1974. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1975. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1976. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1977. Mr. McCAIN (for himself, Mr. Graham, Mr. Hagel, Mr. Smith, and Ms. Collins) submitted an amendment intended to be proposed by him to the bill H.R. 2863 supra; which was ordered to lie on the table.

SA 1978. Mr. McCAIN (for himself, Mr. Biden, and Mr. Graham) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1979. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1980. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1981. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1982. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1983. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1984. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1985. Mr. GRASSLEY (for himself, Mr. Harkin, Mr. Durbin, and Mr. Obama) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1986. Mr. VOINOVICH (for himself and Mr. DeWine) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1987. Mr. VOINOVICH (for himself and Mr. DeWine) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1988. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1989. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1990. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1991. Mr. KENNEDY (for himself, Ms. Collins, Mrs. Clinton, Mrs. Dole, Ms. Mikulski, Ms. Snowe, Mr. Bingaman, Mr. Lieberman, Mr. Reed, and Mr. Sarbanes) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1992. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1993. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1994. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1929. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $5,000,000 may be used for Medium Tactical Vehicle Modifications.

SA 1930. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) ADDITIONAL AMOUNT FOR FORMER SOVIET UNION THREAT REDUCTION ACCOUNT.—The amount appropriated by title II under the heading "FORMER SOVIET UNION THREAT REDUCTION ACCOUNT" is hereby increased by $50,000,000.

(b) OFFSET.—The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE" is hereby reduced by $50,000,000, with the amount of the reduction to be applied to amounts available for ballistic missile defense and allocated as follows:

(1) $30,000,000 shall be derived from amounts for long-lead procurement of Ground-Based Interceptors (PE#0603882C).

(2) $20,000,000 shall be derived from amounts for the initial construction of silos associated with Ground-Based Interceptors.

SA 1931. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

Subtitle F—Servicemembers Civil Relief Matters

SEC. 671. CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT OF SERVICEMEMBERS CIVIL RELIEF ACT.

(a) GENERAL CIVIL LIABILITY AND ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT

"SEC. 801. CIVIL LIABILITY FOR NONCOMPLIANCE.

"(a) IN GENERAL.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this Act with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(1) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(2) such amount of punitive damages as the court may allow;

"(3) such amount of consequential damages as the court may allow;

"(4) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(5) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(b) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.

"SEC. 802. ADMINISTRATIVE ENFORCEMENT.

"(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsections (b), (c), and (d), compliance with the provisions of this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

"(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

"(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

"(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

"(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

"(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

"(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

"(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).

"(c) PRIVATE CAUSE OF ACTION.—A servicemember, dependent, or other person protected by a provision of this Act may commence an action in a district court of the United States, or in a State court of competent jurisdiction, to seek enforcement of the protection afforded by such provision and the imposition of civil liability as specified such provision or section 801.

"(d) CONSTRUCTION OF ENFORCEMENT.—

"(1) ENFORCEMENT BY FTC.—The enforcement of the provisions of this Act by the Federal Trade Commission pursuant to subsection (a) shall be in addition to any other enforcement of such provisions by the Department of Justice, private cause of action, or other mechanism afforded by State law.

"(2) CONSTRUCTION OF REMEDIES.—The remedies for violations of the provisions of this Act provided for under subsections (a), (b), and (c) are in addition to any other remedies for violations of such provisions under Federal or State law.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

"TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT

"Sec. 801. Civil liability for noncompliance.

"Sec. 802. Administrative enforcement.".

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

SEC. 672. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial entry training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial entry training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

SEC. 673. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1932. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 238, between lines 4 and 5, insert the following:

SEC. 9014. (a) The amount appropriated by this title under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $360,800,000.

(b) Of the amount appropriated by this title under the heading "OTHER PROCUREMENT, ARMY", as increased by subsection (a)—

(1) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(2) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(A) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks–5, including the procurement of armored Light Tactical Vehicles

(LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

SA 1933. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 238, between lines 4 and 5, insert the following:

SEC. 9014. (a)(1) The amount appropriated by this title under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $360,800,000.

(2) Of the amount appropriated by this title under the heading "OTHER PROCUREMENT, ARMY", as increased by paragraph (1)—

(A) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(B) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(i) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(ii) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b)(1)(A) The amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" is hereby increased by $5,000,000.

(B) Of the amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", as increased by subparagraph (A), $5,000,000 may be available for the establishment of the ballistics engineering research center under paragraph (2).

(2)(A) The Secretary of Defense shall create a collaborative ballistics engineering research center at two major research institutions.

(B) The purpose of the research center established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

SA 1934. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a)—

(1) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(2) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(A) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

SA 1935. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by paragraph (1)—

(A) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(B) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(i) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(ii) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b) BALLISTICS ENGINEERING PROGRAM.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—

(A) IN GENERAL.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities is hereby increased by $5,000,000.

(B) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities, as increased by subparagraph (A), $5,000,000 may be available for the establishment of the ballistics engineering research center under paragraph (2).

(2) BALLISTICS ENGINEERING RESEARCH CENTER.—

(A) ESTABLISHMENT.—The Secretary of Defense shall create a collaborative ballistics engineering research center at two major research institutions.

(B) PURPOSE.—The purpose of the research center established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

SA 1936. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a)—

(1) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(2) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(A) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

SA 1937. Ms. STABENOW (for herself, Mr. JOHNSON, Mr. THUNE, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, Mr. CORZINE, Mr. BAUCUS, Ms. LANDRIEU, Mr. JEFFORDS, Mr. BAYH, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 320. Funding for veterans health care to address changes in population and inflation

“(a) By the enactment of this section, Congress and the President intend to ensure access to health care for all veterans. Upon the enactment of this section, funding for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) to accomplish this objective shall be provided through a combination of discretionary and mandatory funds. The discretionary amount should be equal to the fiscal year 2005 discretionary funding for such programs, functions, and activities, and should remain unchanged each fiscal year thereafter. The annual level of mandatory amount shall be adjusted according to the formula specified in subsection (c).

“(b) On the first day of each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (c) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (d). There is hereby appropriated, out of any sums in the Treasury not otherwise appropriated, amounts necessary to implement this section.

“(c)(1) The amount applicable to fiscal year 2006 under this subsection is the amount equal to—

“(A) 130 percent of the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (d), minus

“(B) the amount appropriated for those purposes for fiscal year 2005.

“(2) The amount applicable to any fiscal year after fiscal year 2006 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (d) for fiscal year 2005:

“(A) The sum of—

“(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

“(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

“(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

“(3)(A) For purposes of paragraph (2)(B), the term ‘per capita baseline amount’ means the amount equal to—

“(i) the amount obligated by the Department during fiscal year 2005 for the purposes specified in subsection (d), divided by

“(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2004.

“(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

“(i) the Consumer Price Index (all Urban Consumers, United States City Average, Hospital and related services, Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

“(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

“(d)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (b) shall be all programs, functions, and activities of the Veterans Health Administration.

“(2) Amounts made available pursuant to subsection (b) are not available for—

“(A) construction, acquisition, or alteration of medical facilities as provided in subchapter I of chapter 81 of this title (other than for such repairs as were provided for before the date of the enactment of this section through the Medical Care appropriation for the Department); or

“(B) grants under subchapter III of chapter 81 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“320. Funding for veterans health care to address changes in population and inflation.”.

SA 1938. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

Subtitle F—Servicemembers Civil Relief Matters

SEC. 671. CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT OF SERVICEMEMBERS CIVIL RELIEF ACT.

(a) GENERAL CIVIL LIABILITY AND ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

“TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT

“SEC. 801. CIVIL LIABILITY FOR NONCOMPLIANCE.

“(a) IN GENERAL.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this Act with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

“(1) any actual damages sustained by such servicemember or dependent as a result of the failure;

“(2) such amount of punitive damages as the court may allow;

“(3) such amount of consequential damages as the court may allow;

“(4) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

“(5) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

“(b) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.

“SEC. 802. ADMINISTRATIVE ENFORCEMENT.

“(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsections (b), (c), and (d), compliance with the provisions of this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

“(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

“(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

"(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

"(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

"(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

"(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

"(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).

"(c) PRIVATE CAUSE OF ACTION.—A servicemember, dependent, or other person protected by a provision of this Act may commence an action in a district court of the United States, or in a State court of competent jurisdiction, to seek enforcement of the protection afforded by such provision and the imposition of civil liability as specified such provision or section 801.

"(d) CONSTRUCTION OF ENFORCEMENT.—

"(1) ENFORCEMENT BY FTC.—The enforcement of the provisions of this Act by the Federal Trade Commission pursuant to subsection (a) shall be in addition to any other enforcement of such provisions by the Department of Justice, private cause of action, or other mechanism afforded by State law.

"(2) CONSTRUCTION OF REMEDIES.—The remedies for violations of the provisions of this Act provided for under subsections (a), (b), and (c) are in addition to any other remedies for violations of such provisions under Federal or State law.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

"TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT

"Sec. 801. Civil liability for noncompliance.
"Sec. 802. Administrative enforcement.".

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

SEC. 672. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial entry training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial entry training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

SEC. 673. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1939. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by paragraph (1)—

(A) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(B) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(i) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(ii) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b) BALLISTICS ENGINEERING PROGRAM.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—

(A) IN GENERAL.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities is hereby increased by $5,000,000.

(B) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities, as increased by subparagraph (A), $5,000,000 may be available for the establishment of the ballistics engineering research center under paragraph (2).

(2) BALLISTICS ENGINEERING RESEARCH CENTER.—

(A) ESTABLISHMENT.—The Secretary of Defense shall create a collaborative ballistics engineering research center at two major research institutions.

(B) PURPOSE.—The purpose of the research center established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

SA 1940. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT OF SERVICEMEMBERS CIVIL RELIEF ACT.

(a) GENERAL CIVIL LIABILITY AND ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT

"SEC. 801. CIVIL LIABILITY FOR NONCOMPLIANCE.

"(a) IN GENERAL.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this Act with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(1) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(2) such amount of punitive damages as the court may allow;

"(3) such amount of consequential damages as the court may allow;

"(4) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(5) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(b) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.

"SEC. 802. ADMINISTRATIVE ENFORCEMENT.

"(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsections (b), (c), and (d), compliance with the provisions of this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

"(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

"(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

"(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

"(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

"(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

"(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

"(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

"(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).

"(c) PRIVATE CAUSE OF ACTION.—A servicemember, dependent, or other person protected by a provision of this Act may commence an action in a district court of the United States, or in a State court of competent jurisdiction, to seek enforcement of the protection afforded by such provision and the imposition of civil liability as specified such provision or section 801.

"(d) CONSTRUCTION OF ENFORCEMENT.—

"(1) ENFORCEMENT BY FTC.—The enforcement of the provisions of this Act by the Federal Trade Commission pursuant to subsection (a) shall be in addition to any other enforcement of such provisions by the Department of Justice, private cause of action, or other mechanism afforded by State law.

"(2) CONSTRUCTION OF REMEDIES.—The remedies for violations of the provisions of this Act provided for under subsections (a), (b), and (c) are in addition to any other remedies for violations of such provisions under Federal or State law.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

"TITLE VIII—CIVIL LIABILITY FOR NONCOMPLIANCE AND ENFORCEMENT

"Sec. 801. Civil liability for noncompliance.

"Sec. 802. Administrative enforcement.".

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

"(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

"(B) such amount of punitive damages as the court may allow;

"(C) such amount of consequential damages as the court may allow;

"(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

"(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

"(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.".

SEC. . OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial entry training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial entry training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

SEC. . SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) Effective Date.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1941. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Mental Health Screenings for Members of the Armed Forces.—Of the amount appropriated by title VI under the heading "Defense Health Program", up to $10,000,000 may be used for mental health screenings of members of the Armed Forces for Post Traumatic Stress Disorder (PTSD) and other mental health conditions.

(b) Scope of Screenings.—The mental health screenings provided utilizing funds available under subsection (a) shall include screenings for—

(1) Post Traumatic Stress Disorder;

(2) traumatic brain injury;

(3) alcohol abuse;

(4) drug abuse; and

(5) such other mental health disorders as the Secretary of Defense considers appropriate.

(c) Timing of Screenings.—The mental health screenings provided utilizing funds available under subsection (a) shall be performed on members of the Armed Forces as follows:

(1) During pre-mobilization.

(2) During post-mobilization.

(3) In conjunction with any screening for HIV/AIDS.

(4) In conjunction with any other physical examination during service in the Armed Forces or in connection with status as a member of the Armed Forces.

SA 1942. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Implementation of IMT-2000 3G Communications Capabilities.—Of the amount appropriated by title II under the heading "Operation and Maintenance, Air Force", up to $10,000,000 may be used by the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) Implementation of IMT–2000 3G Communications Capabilities.—Of the amount appropriated or otherwise made available by title III under the heading "Other Procurement, Air Force", up to $20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

SA 1943. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Additional Amounts for Increased Personnel Strengths for Army and Marine Corps for Fiscal Year 2006.—

(1) Additional amount for operation and maintenance, army.—The amount appropriated by title II under the heading "Operation and Maintenance, Army" is hereby increased by $1,081,640,000.

(2) Additional amount for operation and maintenance, marine corps.—The amount appropriated by title II under the heading "Operation and Maintenance, Marine Corps" is hereby increased by $31,431,000.

(3) Additional amount for operation and maintenance, defense-wide activities.—The amount appropriated by title II under the heading "Operation and Maintenance, Defense-Wide" is hereby increased by $121,397,000.

(4) Additional amount for military personnel, army.—The amount appropriated by title I under the heading "Military Personnel, Army"is hereby increased by $2,527,520,000.

(5) Additional amount for military personnel, marine corps.—The amount appropriated by title I under the heading "Military Personnel, Marine Corps" is hereby increased by $170,571,000.

(b) Offsets From Supplemental Amounts for Iraq, Afghanistan, and Global War on Terrorism.—

(1) Military personnel, army.—The amount appropriated by title IX under the heading "Military Personnel, Army" is hereby reduced by $2,527,520,000.

(2) Military personnel, marine corps.—The amount appropriated by title IX under the heading "Military Personnel, Marine Corps" is hereby reduced by $170,571,000.

(3) Operation and maintenance, army.—The amount appropriated by title IX under the heading "Operation and Maintenance, Army" is hereby reduced by $1,081,640,000.

(4) Operation and maintenance, marine corps.—The amount appropriated by title IX under the heading "Operation and Maintenance, Marine Corps" is hereby reduced by $31,431,000.

(5) Operation and maintenance, defense-wide activities.—The amount appropriated by title IX under the heading "Operation and Maintenance, Defense-Wide" is hereby reduced by $121,397,000.

SA 1944. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. KNOWLEDGE DISCOVERY TOOLKIT.

Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide, $6,000,000 shall be available for the Knowledge Discovery Toolkit.

SA 1945. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220 after line 25, insert the following:

Sec. ____. Of the amounts appropriated by title VII under the heading "Intelligence Community Management Account", up to $2,000,000 may be used for the Pat Roberts Intelligence Scholars Program

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SA 1946. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

Sec. 8116. Of the amount appropriated by title III under the heading "Procurement, Marine Corps", $1,500,000 may be made available for field medical equipment for the procurement of rapid intravenous (IV) infusion pumps and associated IV and blood cartridges.

SA 1947. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Blast Injury Prevention, Mitigation, and Treatment Initiative of the Army.—Of the amount appropriated by title IX under the heading "Research, Development, Test, and Evaluation, Army", up to the amounts as follows may be available for programs and activities relating to the blast injury prevention, mitigation, and treatment initiative:

(1) $1,000,000 for Program Element #62787A for characterization of armor for blast, ballistic, and fire protection.

(2) $1,000,000 for Program Element #63002A for far forward use of recombinant activated factor VII.

(3) $1,000,000 for Program Element #63002A for warfighter face, eye, and ear protection.

(4) $1,000,000 for Program Element #63807A for extended shelf life of red blood cells.

(b) Blast Injury Prevention, Mitigation, and Treatment Initiative of the Navy.—Of the amount appropriated by title IX under the heading "Research, Development, Test, and Evaluation, Navy", up to $1,000,000 may be made available for the blast injury prevention, mitigation, and treatment initiative for Program Element #62131m for combat headborne system research.

SA 1948. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2863 shall also be included in the conference report or joint statement accompanying H.R. 2863 in order to be considered as having been approved by both Houses of Congress.

SA 1949. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 238, between lines 4 and 5, insert the following:

SEC. 9014. None of the funds appropriated or otherwise made available in this Act may be used to charter a commercial cruise line vessel for a period exceeding 2 months.

SA 1950. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, strike lines 19 and 20 and insert the following:

"(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

"(3) In this subsection, the term 'military legal assistance' includes—

SA 1951. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2490) is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

SA 1952. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) DELAYED EFFECTIVE DATE.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1578), as amended by section 218(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1952; 10 U.S.C. 2281 note), is further amended by striking "2005" and inserting "2007".

(b) RATIFICATION OF ACTIONS.—Any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified.

SA 1953. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. CURTAILMENT OF WASTE UNDER DEPARTMENT OF DEFENSE WEB-BASED TRAVEL SYSTEM.

(a) PROHIBITION ON USE OF FUNDS.—No funds available to the Department of Defense may be obligated or expended after October 1, 2005, for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

(b) CONSTRUCTION OF PROHIBITION.—Nothing in subsection (a) shall be construed as restricting the ability of the Department of Defense from obtaining eTravel services from any provider under the General Services Administration eTravel contract, provided that—

(1) such provider receives no payment for such services above, or in addition to, a fixed price transaction fee; and

(2) such provider provides to the Department of Defense a written guarantee that all commercial air travel is secured at the lowest available price, consistent with Federal Travel Regulations and the mission objective of the traveler.

SA 1954. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title V, add the following:

SEC. 522. RECRUITMENT AND ENLISTMENT OF HOME SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) POLICY ON RECRUITMENT AND ENLISTMENT.—

(1) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home schooled students in the Armed Forces.

(2) UNIFORMITY ACROSS THE ARMED FORCES.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) ELEMENTS.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) Provision for the treatment of graduates of home schooling with no practical limit with regard to enlistment eligibility.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) HOME SCHOOL GRADUATES.—In prescribing the policy, the Secretary of Defense shall prescribe a single set of criteria to be utilized by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.

SA 1955. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 1. SHORT TITLE.

Divisions A, B, and C constitute an Act that may be cited as the "National Defense Authorization Act for Fiscal Year 2006".

SEC. 2. ORGANIZATION INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—The Act constituted by divisions A, B, and C are the three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for the Act constituted by divisions A, B, and C is as follows:

Sec. 1. Short title.
Sec. 2. Organization into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for AH-64D Apache attack helicopter block II conversions.
Sec. 112. Multiyear procurement authority for modernized target acquisition designation/pilot night vision sensors for AH-64D Apache attack helicopters.
Sec. 113. Multiyear procurement authority for utility helicopters.

Subtitle C—Navy Programs

Sec. 121. Prohibition on acquisition of next generation destroyer (DD(X)) through a single naval shipyard.
Sec. 122. Split funding authorization for CVN-78 aircraft carrier.
Sec. 123. LHA replacement (LHA(R)) ship.
Sec. 124. Refueling and complex overhaul of the U.S.S. Carl Vinson.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C-17 aircraft.
Sec. 132. Prohibition on retirement of KC-135E aircraft.
Sec. 133. Use of Tanker Replacement Transfer Fund for modernization of aerial refueling tankers.
Sec. 134. Prohibition on retirement of F-117 aircraft.
Sec. 135. Prohibition on retirement of C-130E/H tactical airlift aircraft.
Sec. 136. Procurement of C-130J/KC-130J aircraft after fiscal year 2005.
Sec. 137. Aircraft for performance of aeromedical evacuations.

Subtitle E—Defense-Wide Programs

Sec. 151. Advanced SEAL Delivery System.

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TITLE XXVIII—GENERAL PROVISIONS

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Sec. 2805. Inapplicability to child development centers of restriction on authority to acquire or construct ancillary supporting facilities.
Sec. 2806. Authority to carry out exchanges of facilities including associated utilities, equipment, and furnishings.
Sec. 2807. Increase in number of family housing units in Korea authorized for lease by the Army at maximum amount.

Subtitle B—Real Property and Facilities Administration

Sec. 2821. Authority to lease non-excess property of Department of Defense field activities.
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PART I—ARMY CONVEYANCES

Sec. 2841. Land conveyance, Helena, Montana.
Sec. 2842. Land conveyance, Army Reserve Center, Bothell, Washington.

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Sec. 2861. Acquisition of build-to-lease family housing at Eielson Air Force Base, Alaska.

Subtitle D—Other Matters

Sec. 2881. Reorganization and technical improvement of codified laws applicable to real property of the Department of Defense.
Sec. 2882. Report on application of force protection and anti-terrorism standards to leased facilities.
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Sec. 2886. Sense of Congress on establishment of Bakers Creek Memorial.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental management.
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Sec. 3111. Report on compliance with design basis threat.
Sec. 3112. Cost estimate for waste treatment and immobilization plant project, Hanford site, Richland, Washington.
Sec. 3113. Report on international border security programs.
Sec. 3114. Clarification of cooperative agreement authority under chemical demilitarization program.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of the Act constituted by divisions A, B, and C, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Army as follows:

(1) For aircraft, $2,800,880,000.

(2) For missiles, $1,265,850,000.

(3) For weapons and tracked combat vehicles, $1,692,549,000.

(4) For ammunition, $1,830,672,000.

(5) For other procurement, $4,339,434,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Navy as follows:

(1) For aircraft, $9,946,926,000.

(2) For weapons, including missiles and torpedoes, $2,749,441,000.

(3) For shipbuilding and conversion, $9,057,865,000.

(4) For other procurement, $5,596,218,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Marine Corps in the amount of $1,386,705,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement of ammunition for the Navy and the Marine Corps in the amount of $892,849,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Air Force as follows:

(1) For aircraft, $13,212,633,000.

(2) For missiles, $5,500,287,000.

(3) For ammunition, $1,031,207,000.

(4) For other procurement, $14,027,889,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2006 for Defense-wide procurement in the amount of $2,784,832,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR AH-64D APACHE ATTACK HELICOPTER BLOCK II CONVERSIONS.

Beginning with the fiscal year 2006 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for procurement of AH-64D Apache attack helicopter block II conversions.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR MODERNIZED TARGET ACQUISITION DESIGNATION/PILOT NIGHT VISION SENSORS FOR AH-64D APACHE ATTACK HELICOPTERS.

Beginning with the fiscal year 2006 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for procurement of modernized target acquisition designation/pilot night vision sensors for AH-64D Apache attack helicopters.

SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR UTILITY HELICOPTERS.

(a) UH–60M Black Hawk Helicopters.—Beginning with the fiscal year 2006 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for the procurement of UH–60M Black Hawk helicopters.

(b) MH–60S Seahawk Helicopters.—Beginning with the fiscal year 2007 program year, the Secretary of the Army, acting as executive agent for the Department of the Navy, may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for the procurement of MH–60S Seahawk helicopters.

Subtitle C—Navy Programs

SEC. 121. PROHIBITION ON ACQUISITION OF NEXT GENERATION DESTROYER (DD(X)) THROUGH A SINGLE NAVAL SHIPYARD.

(a) Prohibition.—Destroyers under the next generation destroyer (DD(X)) program may not be acquired through a winner-take-all acquisition strategy.

(b) Prohibition on Use of Funds.—No funds authorized to be appropriated by this Act, or any other Act, may be obligated or expended to prepare for, conduct, or implement a strategy for the acquisition of destroyers under the next generation destroyer program through a winner-take-all acquisition strategy.

(c) Winner-Take-All Acquisition Strategy Defined.—In this section, the term "winner-take-all acquisition strategy", with respect to the acquisition of destroyers under the next generation destroyer program, means the acquisition (including design and construction) of such destroyers through a single shipyard.

SEC. 122. SPLIT FUNDING AUTHORIZATION FOR CVN–78 AIRCRAFT CARRIER.

(a) Authority To Use Split Funding.—The Secretary of the Navy is authorized to fund the detail design and construction of the aircraft carrier designated CVN–78 using split funding in the Shipbuilding and Conversion, Navy account in fiscal years 2007, 2008, 2009, and 2010.

(b) Condition for Out-Year Contract Payments.—A contract entered into for the detail design and construction of the aircraft carrier designated CVN–78 shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for such fiscal year.

SEC. 123. LHA REPLACEMENT (LHA(R)) SHIP.

(a) Amount Authorized From SCN Account for Fiscal Year 2006.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, $325,447,000 shall be available for design, advance procurement, advance construction, detail design, and construction with respect to the LHA Replacement (LHA(R)) ship.

(b) Amounts Authorized From SCN Account for Fiscal Years 2007 and 2008.—Amounts authorized to be appropriated for fiscal years 2007 and 2008 for shipbuilding and conversion, Navy, shall be available for construction with respect to the LHA Replacement ship.

(c) Contract Authority.—

(1) Design, advance procurement, and advance construction.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for design, advance procurement, and advance construction with respect to the LHA Replacement ship.

(2) Detail design and construction.—The Secretary may enter into a contract during fiscal year 2006 for the detail design and construction of the LHA Replacement ship.

(d) Condition for Out-Year Contract Payments.—A contract entered into under subsection (c) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for such fiscal year.

(e) Funding as Increment of Full Funding.—The amounts available under subsections (a) and (b) for the LHA Replacement Ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

SEC. 124. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) Amount Authorized From SCN Account.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, $1,493,563,000 shall be available for the commencement of the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70). The amount available under the preceding sentence is the first increment in the incremental funding planned for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson.

(b) Contract Authority.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson.

(c) Condition for Out-Year Contract Payments.—A contract entered into under subsection (b) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for such fiscal year.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C–17 AIRCRAFT.

(a) Multiyear Procurement Authorized.—Beginning with the fiscal year 2006 program year, the Secretary of the Air Force may exercise the option on the existing multiyear procurement contract for C–17 aircraft in order to enter into a multiyear contract for the procurement of up to 42 additional C–17 aircraft. A contract entered into under this subsection shall be entered into in accordance with section 2306b of title 10, United States Code.

(b) Required Certification.—Prior to the exercise of the authority in subsection (a), the Secretary of Defense shall certify to the congressional defense committees that the additional airlift capability to be provided by the C–17 aircraft to be procured under that authority is consistent with the results of the Mobility Capabilities Study to be completed in fiscal year 2005.

SEC. 132. PROHIBITION ON RETIREMENT OF KC-135E AIRCRAFT.

The Secretary of the Air Force may not retire any KC–135E aircraft of the Air Force in fiscal year 2006.

SEC. 133. USE OF TANKER REPLACEMENT TRANSFER FUND FOR MODERNIZATION OF AERIAL REFUELING TANKERS.

In addition to providing funds for a tanker acquisition program as specified in section 8132 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1001), funds in the Tanker Replacement Transfer Fund established by that section may be used for the modernization of existing aerial refueling tankers if the modernization of such tankers is consistent with the results of the analysis of alternatives for meeting the aerial refueling requirements of the Air Force as required by section 134(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413).

SEC. 134. PROHIBITION ON RETIREMENT OF F–117 AIRCRAFT.

The Secretary of the Air Force may not retire any F–117 Nighthawk stealth attack aircraft of the Air Force in fiscal year 2006.

SEC. 135. PROHIBITION ON RETIREMENT OF C–130E/H TACTICAL AIRLIFT AIRCRAFT.

The Secretary of the Air Force may not retire any C–130E/H tactical airlift aircraft of the Air Force in fiscal year 2006.

SEC. 136. PROCUREMENT OF C–130J/KC–130J AIRCRAFT AFTER FISCAL YEAR 2005.

Any C–130J/KC–130J aircraft procured after fiscal year 2005 (including C–130J/KC–130J aircraft procured through a multiyear contract continuing in force from a fiscal year before fiscal year 2006) shall be procured through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items (48 C.F.R. 12.000 et seq.).

SEC. 137. AIRCRAFT FOR PERFORMANCE OF AEROMEDICAL EVACUATIONS.

(a) Requirement To Procure.—The Secretary of the Air Force shall procure aircraft for the purpose of providing aeromedical evacuation services to severely injured or ill personnel.

(b) Required Capabilities.—The aircraft procured under subsection (a) shall be capable of providing nonstop aeromedical evacuations across the Atlantic Ocean.

(c) Equipping.—Any aircraft procured under subsection (a) shall be equipped with current aeromedical support facilities, including electrical systems, sanitation, temperature controls, pressurization capacity, safe medical storage, equipment and medicines for life support and emergency purposes, food preparation facilities, and such other facilities as the Secretary considers appropriate for the provision of aeromedical evacuation services.

(d) Dedicated Mission.—Each aircraft procured and equipped under this section shall be assigned the dedicated mission of providing aeromedical evacuation services as described in subsection (a).

(e) Availability of Funds.—Of the amounts authorized to be appropriated by section 103(1) for aircraft procurement for the Air Force, $200,000,000 shall be available for the procurement and equipping of up to two aircraft under this section.

Subtitle E—Defense-Wide Programs

SEC. 151. ADVANCED SEAL DELIVERY SYSTEM.

(a) Limitation on Availability of Funds for Advance Procurement.—No funds authorized to be appropriated by this Act for fiscal year 2006 for advance procurement of components for the Advanced SEAL Delivery System may be obligated or expended for that purpose until 30 days after the date on which the Secretary of Defense certifies to the congressional defense committees that the Under Secretary of Defense for Acquisition, Technology, and Logistics has made a favorable milestone C decision regarding the Advanced SEAL Delivery System. The certification shall be submitted together with the comprehensive report on the Advanced SEAL Delivery System required by subsection (b).

(b) Report.—As soon as possible after completion of the review of the Advanced SEAL Delivery System by the Defense Acquisition Board, the Secretary shall submit to the congressional defense committees a report that includes the following:

(1) The result of the milestone C decision on the Advanced SEAL Delivery System made by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) Such recommendations as the Secretary considers appropriate regarding the continuation, restructuring, or termination of the Advanced SEAL Delivery System program, including recommendations on adjustments to contractual arrangements in connection with the continuation, restructuring, or termination of the program.

(3) A detailed summary of the revised cost estimate and future cost estimates for the Advanced SEAL Delivery System program, which cost estimates shall be validated for purposes of the report by the Cost Analysis and Improvement Group within the Office of the Secretary of Defense.

(4) A detailed acquisition strategy for the Advanced SEAL Delivery System, if the Secretary recommends the continuation or restructuring of the Advanced SEAL Delivery System program under paragraph (2).

(5) A plan to demonstrate realistic strategies for solving any technical and performance problems identified during the final operational test and evaluation of the Advanced SEAL Delivery System proposed to be conducted during the summer of 2005.

(c) Comptroller General Review.—

(1) In general.—In order to achieve the purposes set forth in paragraph (2), the Comptroller General of the United States shall—

(A) review the adequacy of the final operational test and evaluation test plan for the Advanced SEAL Delivery System;

(B) review the results of the operational test of the Advanced SEAL Delivery System; and

(C) update the March 2003 Comptroller General report entitled Defense Acquisition, Advanced SEAL Delivery System Program Needs Increased Oversight (GAO-03-442).

(2) Purposes.—The purposes of the review and update under paragraph (1) are as follows:

(A) To examine the progress made toward meeting operational requirements and technical challenges with respect to the Advanced SEAL Delivery System.

(B) To assess the capacity of the Advanced SEAL Delivery System program to meet schedule and cost projections for that program.

(C) To identify and evaluation any remaining factors that may contribute to potential future problems for the Advanced SEAL Delivery System program.

(3) Report.—The Comptroller General shall submit to the congressional defense committees a report on the activities of the Comptroller General under paragraph (1) not later than February 1, 2006.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,717,824,000.

(2) For the Navy, $18,398,091,000.

(3) For the Air Force, $22,636,568,000.

(4) For Defense-wide activities, $19,011,754,000, of which $168,458,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR SCIENCE AND TECHNOLOGY.

(a) Amount for Projects.—Of the total amount authorized to be appropriated by section 201, $10,924,401,000 shall be available for science and technology projects.

(b) Science and Technology Defined.—In this section, the term "science and technology project" means work funded in program elements for defense research, development, test, and evaluation under Department of Defense budget activities 1, 2, or 3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. CONTRACT FOR THE PROCUREMENT OF THE FUTURE COMBAT SYSTEM (FCS).

The Secretary of the Army shall procure the Future Combat System (FCS) through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a transaction under section 2371 of title 10, United States Code.

SEC. 212. JOINT FIELD EXPERIMENT ON STABILITY AND SUPPORT OPERATIONS.

(a) Joint Field Experiment Required.—The Secretary of Defense shall, in fiscal year 2006, carry out a joint field experiment to address matters relating to stability and support operations.

(b) Purposes.—The purposes of the joint field experiment under subsection (a) are as follows:

(1) To explore critical challenges associated with the planning and execution of military and support activities required in the post-conflict environment following major combat activities.

(2) To facilitate the development of recommendations for appropriate policy, doctrine, training infrastructure, and organizational structures to best facilitate the conduct of effective stability and support operations in such an environment.

(c) Participating Elements and Forces.—

(1) In general.—The joint field experiment under subsection (a) shall involve—

(A) elements of the Army, the Marine Corps, and the Special Operations Command selected by the Secretary for purposes of the field experiment;

(B) representatives of policy elements within the Department selected by the Secretary for such purposes; and

(C) any other forces or elements of the Department that the Secretary considers appropriate for such purposes.

(2) Additional elements.—The Secretary shall also invite the participation in the field experiment of appropriate elements of other departments and agencies of the United States Government, and of such elements and forces of coalition nations, as the Secretary considers appropriate for purposes of the field experiment.

(d) Report.—Not later than January 31, 2007, the Secretary shall submit to the congressional defense committees a report on the joint field experiment under subsection (a). The report shall include—

(1) a description of the field experiment;

(2) the findings of the Secretary as a result of the field experiment; and

(3) such recommendations, including recommendations for additional legislative or administrative actions and recommendations on funding required to implement such actions, as the Secretary considers appropriate in light of the field experiment.

SEC. 213. TOWED ARRAY HANDLER.

(a) Availability of Amount.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604503N for the design, development, and test of improvements to the towed array handler is hereby increased by $5,000,000 in order to increase the reliability of the towed array and the towed array handler by capitalizing on ongoing testing and evaluation of such systems.

(b) Offset.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604558N for new design for the Virginia Class submarine for the large aperture bow array is hereby reduced by $5,000,000.

SEC. 214. TELEMEDICINE AND ADVANCED TECHNOLOGY RESEARCH CENTER.

Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, $1,000,000 may be available for Medical Advanced Technology (PE #603002A) for the Telemedicine and Advanced Technology Research Center.

SEC. 215. CHEMICAL DEMILITARIZATION FACILITIES.

(a) Authority To Use Research, Development, Test, and Evaluation Funds To Construct Facilities.—The Secretary of Defense may, using amounts authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide and available for chemical weapons demilitarization activities under the Assembled Chemical Weapons Alternatives program, carry out construction projects, or portions of construction projects, for facilities necessary to support chemical demilitarization operations at each of the following:

(1) Pueblo Army Depot, Colorado.

(2) Blue Grass Army Depot, Kentucky.

(b) Scope of Authority.—The authority in subsection (a) to carry out a construction project for facilities includes authority to carry out planning and design and the acquisition of land for the construction or improvement of such facilities.

(c) Limitation on Amount of Funds.—The amount of funds that may be utilized under the authority in subsection (a) may not exceed $51,000,000.

(d) Duration of Authority.—A construction project, or portion of a construction project, may not be commenced under the authority in subsection (a) after September 30, 2006.

(e) Notice and Wait.—The Secretary may not carry out a construction project, or portion of a construction project, under the authority in subsection (a) until the end of the 21-day period beginning on the date on which the Secretary notifies the congressional defense committees of the intent to carry out such project.

Subtitle C—Missile Defense Programs

SEC. 221. ONE-YEAR EXTENSION OF COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) Extension.—Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amended—

(1) in paragraph (1), by striking "through 2006" and inserting "through 2007"; and

(2) in paragraph (2), by striking "through 2007" and inserting "through 2008".

(b) Modification of Submittal Date.—Paragraph (2) of such section is further amended by striking "February 15" and inserting "March 15".

SEC. 222. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

(a) AUTHORITY TO USE FUNDS.—Funds referred to in subsection (b) may, upon approval by the Secretary of Defense, be used for the development and fielding of ballistic missile defense capabilities.

(b) COVERED FUNDS.—Funds referred to in this subsection are funds authorized to be appropriated for fiscal year 2006 or 2007 for research, development, test, and evaluation for the Missile Defense Agency.

SEC. 223. PLANS FOR TEST AND EVALUATION OF OPERATIONAL CAPABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM.

(a) PLANS REQUIRED.—

(1) IN GENERAL.—With respect to block 06, and each subsequent block, of the Ballistic Missile Defense System, the appropriate joint and service operational test and evaluation components of the Department of Defense concerned with such block shall, in coordination with the Missile Defense Agency and subject to the review and approval of the Director of Operational Test and Evaluation, prepare a plan to test, evaluate, and characterize the operational capability of such block.

(2) NATURE OF PLANS.—Each plan prepared under this subsection shall be appropriate for the level of technological maturity of the block to be tested.

(b) REPORTS ON TEST AND EVALUATION OF BLOCKS.—At the conclusion of the test and evaluation of block 06, and of each subsequent block, of the Ballistic Missile Defense System, the Director of Operational Test and Evaluation shall submit to the Secretary of Defense, and to the congressional defense committees, a report providing—

(1) the assessment of the Director as to whether or not such test and evaluation was adequate to evaluate the operational capability of such block; and

(2) the characterization of the Director as to the operational effectiveness, suitability, and survivability of such block, as appropriate for the level of technological maturity of the block to be tested.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

SEC. 231. RESEARCH AND DEVELOPMENT.

(a) IDENTIFICATION OF ENHANCED PROCESSES AND TECHNOLOGIES.—The Under Secretary of the Defense for Acquisition, Technology, and Logistics shall identify advanced manufacturing processes and technologies whose utilization will achieve significant productivity and efficiency gains in the defense manufacturing base.

(b) RESEARCH AND DEVELOPMENT.—The Under Secretary shall undertake research and development on processes and technologies identified under subsection (a) that addresses, in particular—

(1) innovative manufacturing processes and advanced technologies; and

(2) the creation of extended production enterprises using information technology and new business models.

(c) DEFENSE PRIORITIES.—In undertaking research and development under subsection (b), the Under Secretary shall consider defense priorities established in the most current Joint Warfighting Science and Technology Plan.

SEC. 232. TRANSITION OF TRANSFORMATIONAL MANUFACTURING PROCESSES AND TECHNOLOGIES TO THE DEFENSE MANUFACTURING BASE.

(a) ACCELERATION OF TRANSITION FROM SCIENCE AND TECHNOLOGY.—

(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall undertake appropriate actions to accelerate the transition of transformational manufacturing technologies and processes (including processes and technologies identified under section 231) from the research stage to utilization by manufacturers in the defense manufacturing base.

(2) EXECUTION.—The actions undertaken under paragraph (1) shall include a memorandum of understanding among the Director of Defense Research and Engineering, other appropriate elements of the Department of Defense, and the Joint Defense Manufacturing Technology Panel to accelerate the transition of technologies and processes as described in that paragraph.

(b) PROTOTYPES AND TESTBEDS.—

(1) IN GENERAL.—The Under Secretary shall, utilizing the Manufacturing Technology Program, undertake the development of prototypes and testbeds to promote the purposes of this section.

(2) COORDINATION OF ACTIVITIES.—The Under Secretary shall coordinate activities under this subsection with activities under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

(c) DEVELOPMENT OF IMPROVEMENT PROCESS.—The Under Secretary shall, in consultation with persons and organizations in the defense manufacturing base, develop and implement a program to continuously identify and utilize improvements and innovative processes in appropriate defense acquisition programs and by manufacturers in the defense manufacturing base.

(d) DIFFUSION OF ENHANCEMENTS INTO DEFENSE MANUFACTURING BASE.—The Under Secretary shall ensure the utilization in industry of enhancements in productivity and efficiency identified by reason of activities under this subtitle through the following:

(1) Research and development activities under the Manufacturing Technology Program, including the establishment of public-private partnerships.

(2) Outreach through the Manufacturing Extension Partnership Program under memoranda of agreement, cooperative programs, and other appropriate arrangements.

(3) Coordination with activities under such other current programs for the dissemination of manufacturing technology as the Under Secretary considers appropriate.

(4) Identification of incentives for contractors in the defense manufacturing base to incorporate and utilize manufacturing enhancements in the manufacturing activities.

SEC. 233. MANUFACTURING TECHNOLOGY STRATEGIES.

(a) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics may—

(1) identify an area of technology where the development of an industry-prepared roadmap for new manufacturing and technology processes applicable to defense manufacturing requirements would be beneficial to the Department of Defense; and

(2) establish a task force, and act in cooperation, with the private sector to map the strategy for the development of manufacturing processes and technologies needed to support technology development in the area identified under paragraph (1).

(b) COMMENCEMENT OF ROADMAPPING.—The Under Secretary shall commence any roadmapping identified pursuant to subsection (a)(1) not later than January 2007.

SEC. 234. REPORT.

(a) IN GENERAL.—Not later than December 31, 2007, the Under Secretary of the Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the actions undertaken by the Under Secretary under this subtitle during fiscal year 2006.

(b) ELEMENTS.—The report under subsection (a) shall include—

(1) a comprehensive description of the actions undertaken under this subtitle during fiscal year 2006;

(2) an assessment of effectiveness of such actions in enhancing research and development on manufacturing technologies and processes, and implementation of such within the defense manufacturing base; and

(3) such recommendations as the Under Secretary considers appropriate for additional actions to be undertaken in order to increase the effectiveness of the actions undertaken under this subtitle in enhancing manufacturing activities within the defense manufacturing base.

SEC. 235. DEFINITIONS.

In this subtitle:

(1) DEFENSE MANUFACTURING BASE.—The term "defense manufacturing base" includes any supplier of the Department of Defense, including a supplier of raw materials.

(2) EXTENDED PRODUCTION ENTERPRISE.—The term "extended production enterprise" means a system in which key entities, including entities engaged in product development, manufacturing, sourcing, and user entities, in the manufacturing chain are linked together through information technology and other means to promote efficiency and productivity.

(3) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—The term "Manufacturing Extension Partnership Program" means the Manufacturing Extension Partnership Program of the Department of Commerce.

(4) MANUFACTURING TECHNOLOGY PROGRAM.—The term "Manufacturing Technology Program" means the Manufacturing Technology Program under the Director of Defense Research and Engineering under section 2521 of title 10, United States Code.

(5) SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—The term "Small Business Innovation Research Program" has the meaning given that term in section 2055(11) of title 10, United States Code.

(6) SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.—The term "Small Business Technology Transfer Program" has the meaning given that term in section 2500(12) of title 10, United States Code.

Subtitle E—Other Matters

SEC. 241. EXPANSION OF ELIGIBILITY FOR LEADERSHIP OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) DIRECTOR OF CENTER.—Paragraph (1) of section 196(b) of title 10, United States Code, is amended by striking "commissioned officers" and all that follows through the end of the sentence and inserting "individuals who have substantial experience in the field of test and evaluation.".

(b) DEPUTY DIRECTOR OF CENTER.—Paragraph (2) of such section is amended by striking "senior civilian officers and employees of the Department of Defense" and inserting "individuals".

SEC. 242. TECHNOLOGY TRANSITION.

(a) CLARIFICATION OF DUTIES OF TECHNOLOGY TRANSITION COUNCIL.—Paragraph (2) of section 2359a(g) of title 10, United States Code, is amended to read as follows:

"(2) The duty of the Council shall be to support the Undersecretary of Defense for Acquisition, Technology, and Logistics in the development of policies to facilitate the rapid transition of technologies from science and technology programs of the Department of Defense into acquisition programs of the Department.".

(b) REPORT ON TECHNOLOGY TRANSITION.—

(1) IN GENERAL.—The Secretary of Defense, working through the Technology Transition Council, shall submit to the congressional defense committees a report on the challenges associated with technology transition from the science and technology programs of the Department of Defense to the acquisition programs of the Department, and a strategy to address such challenges, including—

(A) a description of any organizational barriers to technology transition between operations, acquisition, and technology development components of the Department;

(B) an assessment of the effect of Department acquisition regulations on technology transition;

(C) a description of the role of technology transition in the planning, programming, and budgeting processes of the Department;

(D) a description of any other challenges associated with technology transition in the Department that are identified by the Secretary;

(E) a Department-wide strategy for pursuing technology transition; and

(F) such recommendations as the Secretary considers appropriate for the improvement of technology transition and for the elimination of internal barriers within the Department to technology transition.

(2) SUBMITTAL DATE.—The report under paragraph (1) shall be submitted at the same time the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for fiscal year 2007.

SEC. 243. PREVENTION, MITIGATION, AND TREATMENT OF BLAST INJURIES.

(a) DESIGNATION OF EXECUTIVE AGENT.—The Secretary of Defense shall designate a senior official of the Department of Defense as the executive agent responsible for coordinating and managing the programs and efforts of the Department of Defense with respect to the prevention, mitigation, and treatment of blast injuries.

(b) GENERAL RESPONSIBILITY.—The executive agent designated under subsection (a) shall be responsible for ensuring that—

(1) the programs and efforts of the Department of Defense on the prevention, mitigation, and treatment of blast injuries are adequate to meet requirements relating to the prevention, mitigation, and treatment of such injuries; and

(2) the resources devoted to such programs and efforts facilitate the achievement of the objective specified in paragraph (1).

(c) RESEARCH EFFORTS.—The executive agent designated under subsection (a) shall—

(1) review and assess the adequacy of current research efforts of the Department of Defense on the prevention, mitigation, and treatment of such injuries;

(2) establish requirements for such research efforts in order to enhance and accelerate such research efforts; and

(3) establish, coordinate, and oversee Department-wide research efforts on the prevention, mitigation, and treatment of such injuries, including—

(A) in the case of blast injury prevention, research on—

(i) blast characterization in a variety of environments;

(ii) modeling and simulation of safe blast stand-off distances;

(iii) detect and defeat capabilities; and

(iv) such other matters as such official considers appropriate;

(B) in the case of blast injury mitigation, research on—

(i) armor design and materials testing for blast and ballistic protection;

(ii) the design of a comprehensive, integrated, flexible armor system which provides blast, ballistic, and fire protection for the head, neck, ears, eyes, torso, and extremities; and

(iii) such other matters as such official considers appropriate; and

(C) in the case of blast injury treatment, research on emerging military medical technologies, pharmacological agents, devices, and treatment and rehabilitation techniques.

(d) STUDIES.—The executive agent designated under subsection (a) shall conduct studies on the prevention, mitigation, and treatment of blast injuries, including—

(1) studies to improve the clinical evaluation and treatment of blast injuries, with an emphasis on traumatic brain injuries and other consequences of blast injury, including acoustic and eye injuries and injuries resulting from over-pressure wave; and

(2) studies to develop improved clinical protocols by which physicians—

(A) can more accurately evaluate traumatic brain injuries and discriminate between traumatic brain injuries and post traumatic stress disorder (including improved diagnostic and cognitive measures);

(B) can identify members of the Armed Forces who may have both traumatic brain injury and post traumatic stress disorder; and

(C) can develop integrated treatment approaches for servicemembers who have both traumatic brain injuries and post traumatic stress disorder and other multiple injuries.

(e) PILOT PROJECTS.—The executive agent designated under subsection (a) shall commence in fiscal year 2006 not less than three pilot projects on the prevention, mitigation, and treatment of blast injuries, including pilot projects—

(1) to study the incidence in returning soldiers of traumatic brain injuries attributable to blast injuries;

(2) to develop protocols for medical tracking of members of the Armed Forces for up to five years following blast injuries; and

(3) to refine and improve educational interventions for blast injury survivors and their families.

(f) TRAINING PROGRAM.—The executive agent designated under subsection (a) shall establish a training program for medical and non-medical personnel on the prevention, mitigation, and treatment of blast injuries which program shall be intended to improve field and clinical training on early identification of blast injury consequences, both seen and unseen, including traumatic brain injuries, acoustic injuries, and internal injuries.

(g) TREATMENT PROGRAM.—The executive agent designated under subsection (a) shall conduct a treatment program intended to enhance the evaluation and care of members of the Armed Forces with traumatic brain injuries in medical facilities in the United States and in deployed medical facilities.

(h) ANNUAL REPORTS ON BLAST INJURY MATTERS.—

(1) REPORTS REQUIRED.—Not later than February 15, 2006, and annually thereafter through 2010, the Secretary of Defense shall submit to the congressional defense committees a report on the efforts of the Department of Defense to prevent, mitigate, and treat blast injuries.

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) A description of the activities undertaken under this section during the year preceding the report to improve the prevention, mitigation, and treatment of blast injuries.

(B) A consolidated budget presentation for the programs and activities of the Department of Defense during the fiscal year beginning in the year of the report for the prevention, mitigation, and treatment of blast injuries.

(C) A description of any gaps in the capabilities of the Department under its programs and activities for the prevention, mitigation, and treatment of blast injuries, and a description of any plans or projects to address such gaps.

(D) A description of collaboration, if any, with other departments and agencies of the Federal Government, and with other countries, during the year preceding the report in efforts for the prevention, mitigation, and treatment of blast injuries.

(E) A description of any efforts during the year preceding the report to disseminate findings on the mitigation and treatment of blast injuries through civilian and military research and medical communities.

(F) A description of the status of efforts during the year preceding the report to design a comprehensive force protection system that is effective in confronting blast, ballistic, and fire threats.

(i) BLAST INJURIES DEFINED.—In this section, the term "blast injuries" means injuries that occur as the result of the detonation of high explosives, including vehicle-borne and person-borne explosive devices, rocket-propelled grenades, and improvised explosive devices.

SEC. 244. MODIFICATION OF REQUIREMENTS FOR REPORTS ON PROGRAM TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Subsection (e) of section 2374a of title 10, United States Code, is amended to read as follows:

"(e) ANNUAL REPORT.—(1) Not later than March 1 each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities undertaken by the Defense Advanced Research Projects Agency in the preceding year under the authority of this section.

"(2) The report for a year under this subsection shall include the following:

"(A) The results of consultations between the Director and officials of the military departments regarding the areas of research, technology development, or prototype development for which prizes would be awarded under the program under this section.

"(B) A description of the proposed goals of the competitions established under the program, including the areas of research, technology development, or prototype development to be promoted by such competitions and the relationship of such areas to the military missions of the Department.

"(C) The total amount of cash prizes awarded under the program, including a description of the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the Defense Advanced Research Projects Agency for recording as obligations and expenditures.

"(D) The methods used for the solicitation and evaluation of submissions under the program, together with an assessment of the effectiveness of such methods.

"(E) A description of the resources, including personnel and funding, used in the execution of the program, together with a detailed description of the activities for which such resources were used.

"(F) A description of any plans to transition the technologies or prototypes developed as a result of the program into acquisition programs of the Department.

"(G) For each competition under the program, a statement of the reasons why the competition was a preferable means of promoting basic, advanced, or applied research, technology development, or prototype development projects to other means of promoting such projects, including contracts, grants, cooperative agreements, or other transactions.".

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,951,460,000.

(2) For the Navy, $30,547,489,000.

(3) For the Marine Corps, $3,842,026,000.

(4) For the Air Force, $31,425,919,000.

(5) For Defense-wide activities, $18,584,469,000.

(6) For the Army Reserve, $1,989,382,000.

(7) For the Naval Reserve, $1,245,695,000.

(8) For the Marine Corps Reserve, $199,934,000.

(9) For the Air Force Reserve, $2,559,686,000.

(10) For the Army National Guard, $4,528,019,000.

(11) For the Air National Guard, $4,772,991,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,236,000.

(13) For Environmental Restoration, Army, $407,865,000.

(14) For Environmental Restoration, Navy, $305,275,000.

(15) For Environmental Restoration, Air Force, $406,461,000.

(16) For Environmental Restoration, Defense-wide, $28,167,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $261,921,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $61,546,000.

(19) For Cooperative Threat Reduction programs, $415,549,000.

(20) For the Overseas Contingency Operations Transfer Fund, $20,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,471,340,000.

(2) For the National Defense Sealift Fund, $1,011,304,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Defense Health Program, $19,900,812,000, of which—

(1) $19,351,337,000 is for Operation and Maintenance;

(2) $174,156,000 is for Research, Development, Test, and Evaluation; and

(3) $375,319,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,425,827,000, of which—

(A) $1,241,514,000 is for Operation and Maintenance;

(B) $67,786,000 is for Research, Development, Test, and Evaluation: and

(C) $116,527,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $895,741,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $209,687,000, of which—

(1) $208,687,000 is for Operation and Maintenance; and

(2) $1,000,000 is for Procurement.

Subtitle B—Environmental Provisions

SEC. 311. ELIMINATION AND SIMPLIFICATION OF CERTAIN ITEMS REQUIRED IN THE ANNUAL REPORT ON ENVIRONMENTAL QUALITY PROGRAMS AND OTHER ENVIRONMENTAL ACTIVITIES.

Section 2706(b)(2) of title 10, United States Code, is amended—

(1) by striking subparagraphs (D) and (E);

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) A summary of fines and penalties imposed or assessed against the Department of Defense and the military departments under Federal, State, or local environmental laws during the fiscal year in which the report is submitted and the four preceding fiscal years, which summary shall include—

"(i) a trend analysis of such fines and penalties for military installations inside and outside the United States; and

"(ii) a list of such fines or penalties that exceeded $500,000 and the provisions of law under which such fines or penalties were imposed or assessed.";

(3) by redesignating subparagraph (F) as subparagraph (E); and

(4) in subparagraph (E), as redesignated by paragraph (3), by striking "and amounts for conferences" and all that follows through "such activities".

SEC. 312. PAYMENT OF CERTAIN PRIVATE CLEANUP COSTS IN CONNECTION WITH THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) PAYMENT FOR ACTIVITIES AT FORMER DEFENSE PROPERTY THAT IS SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Subsection (d) of section 2701 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "paragraph (3)" and inserting "paragraphs (3) and (4)";

(B) by inserting "any owner of covenant property," after "tribe," the first place it appears; and

(C) by inserting "owner of covenant property," after "tribe," the second place it appears;

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph:

"(4) PERFORMANCE OF SERVICES ON COVENANT PROPERTY.—An owner of covenant property may not be paid on a reimbursable or other basis for services performed under an agreement under paragraph (1) unless such services are performed on such covenant property."; and

(4) in paragraph (5), as redesignated by paragraph (2), by adding at the end the following new subparagraph:

"(C) The term 'owner of covenant property' means an owner of property subject to a covenant provided by the United States in accordance with section 120(h)(3)(A)(ii)(II) of CERCLA (42 U.S.C. 9620(h)(3)(A)(ii)(II)).".

(b) APPLICABLE CLEANUP STANDARDS.—Paragraph (3) of such subsection is further amended—

(1) by striking "An agreement" and inserting "(A) An agreement"; and

(2) by inserting at the end the following new subparagraph:

"(B) An agreement under paragraph (1) may not change the cleanup standards applicable to the site as established by law.".

(c) SOURCE OF FUNDS FOR FORMER BASE CLOSURE AND REALIGNMENT PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2703 of such title is amended—

(1) in subsection (g)(1), by striking "The sole source" and inserting "Except as provided in subsection (h), the sole source"; and

(2) by adding at the end the following new subsection:

"(h) SOLE SOURCE OF FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION AT BASE REALIGNMENT AND CLOSURE SITES.—In the case of property disposed of pursuant to a base closure law and subject to a covenant described in subsection (d)(5)(C) of section 2701 of this title, the sole source of funds for services under subsection (d)(1) of such section shall be the base closure account established under the base closure law under which such property was disposed of.".

Subtitle C—Other Matters

SEC. 321. AIRCRAFT CARRIERS.

(a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amounts authorized to be appropriated for operation and maintenance for the Navy by this Act and any other Act for fiscal year 2005 and 2006, $288,000,000 shall be available only for repair and maintenance to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—

(1) LIMITATION.—The Secretary of the Navy may not reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(A) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(B) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to the congressional defense committees that such agreements have been entered into to provide port facilities for the permanent forward deployment of such number of aircraft carriers as is necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(2) ACTIVE AIRCRAFT CARRIERS.—For purposes of this subsection, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance.

SEC. 322. LIMITATION ON TRANSITION OF FUNDING FOR EAST COAST SHIPYARDS FROM FUNDING THROUGH NAVY WORKING CAPITAL FUND TO DIRECT FUNDING.

(a) LIMITATION.—The Secretary of the Navy may not convert funding for the shipyards of the Navy on the Eastern Coast of the United States from funding through the working capital fund of the Navy to funding on a direct basis (also known as "mission funding") until the later of—

(1) the date that is six months after the date on which the Secretary submits to the congressional defense committees the report required by subsection (b); or

(2) October 1, 2006.

(b) REPORT ON DIRECT FUNDING FOR PUGET SOUND NAVAL SHIPYARD.—The Secretary shall submit to the congressional defense committees a report that contains the assessment of the Secretary on the effects on Puget Sound Naval Shipyard, Washington, of the conversion of funding for Puget Sound Naval Shipyard from funding through the working capital fund of the Navy to funding on a direct basis.

SEC. 323. USE OF FUNDS FROM NATIONAL DEFENSE SEALIFT FUND TO EXERCISE PURCHASE OPTIONS ON MARITIME PREPOSITIONING SHIP VESSELS.

(a) USE OF FUNDS.—Notwithstanding the provisions of section 2218(f)(1) of title 10, United States Code, the Secretary of Defense may obligate and expend any funds in the National Defense Sealift Fund to exercise options to purchase three Maritime Prepositioning Ship (MPS) vessels under charter to the Navy as of the date of the enactment of this Act, the contracts for which charters expire in 2009.

(b) NATIONAL DEFENSE SEALIFT FUND DEFINED.—In this section, the term "National Defense Sealift Fund" means the National Defense Sealift Fund established by section 2218 of title 10, United States Code.

SEC. 324. PURCHASE AND DESTRUCTION OF WEAPONS OVERSEAS.

(a) AUTHORITY TO USE FUNDS.—

(1) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2249d. Use of appropriated funds for purchase and destruction of weapons overseas

"(a) PURCHASE OF WEAPONS.—Amounts appropriated or otherwise available to the Department of Defense for operation and maintenance may be used to purchase weapons overseas from any person, foreign government, international organization, or other entity for the purpose of protecting United States forces engaged in military operations overseas.

"(b) DESTRUCTION OF WEAPONS.—Weapons purchased under the authority in subsection (a) may be destroyed.

"(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the congressional defense committees of any use of the authority in subsection (a) to purchase weapons.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2249d. Use of appropriated funds for purchase and destruction of weapons overseas.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005, and shall apply with respect to funds appropriated or otherwise made available for fiscal years after fiscal year 2005.

SEC. 325. INCREASE IN MAXIMUM CONTRACT AMOUNT FOR PROCUREMENT OF SUPPLIES AND SERVICES FROM EXCHANGE STORES OUTSIDE THE UNITED STATES.

Section 2424(b)(1) of title 10, United States Code, is amended by striking "$50,000" and inserting "$100,000".

SEC. 326. EXTENSION OF AUTHORITY TO PROVIDE LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

Section 365(g)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2520; 10 U.S.C. 2302 note) is amended by striking "September 30, 2007" and inserting "September 30, 2010".

SEC. 327. ARMY TRAINING STRATEGY.

(a) TRAINING STRATEGY.—

(1) STRATEGY REQUIRED.—The Secretary of the Army shall develop and implement a training strategy to ensure the readiness of brigade-based combat teams and functional supporting brigades.

(2) ELEMENTS.—The training strategy shall include the following:

(A) A statement of the purpose of training for brigade-based combat teams and supporting brigades.

(B) Performance goals for both active and reserve brigade-based combat teams and supporting brigades, including goals for live, virtual, and constructive training for each component and brigade type.

(C) Metrics to quantify performance against the performance goals specified under subparagraph (B).

(D) A process to report the accomplishment of collective training by which Army leadership can monitor the training performance of brigade-based combat teams and functional supporting brigades.

(E) A model to quantify, and to forecast, operation and maintenance funding required to attain training goals.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the requirements to be fulfilled in order to implement the training strategy developed under subsection (a).

(2) ELEMENTS.—The report shall include the following:

(A) A discussion of the training strategy developed under subsection (a), including a description of performance goals and metrics developed under that subsection.

(B) A discussion and description of the training range requirements necessary to implement the training strategy.

(C) A discussion and description of the training aids, devices, simulations and simulators necessary to implement the training strategy.

(D) A list of the funding requirements, itemized by fiscal year and specified in a format consistent with the future-years defense program to accompany the budget of the President for fiscal year 2007 under section 221 of title 10, United States Code, necessary to fulfill the range requirements described in subparagraph (B) and to provide the training aids, devices, simulations, and simulators described in subparagraphs (C).

(E) A schedule for the implementation of the training strategy.

(F) A discussion of the challenges that the Army anticipates in the implementation of the training strategy.

(c) COMPTROLLER GENERAL REVIEW OF IMPLEMENTATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall monitor the implementation of the training strategy developed under subsection (a).

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report containing the assessment of the Comptroller General of the current progress of the Army in implementing the training strategy.

SEC. 328. LIMITATION ON FINANCIAL MANAGEMENT IMPROVEMENT AND AUDIT INITIATIVES WITHIN THE DEPARTMENT OF DEFENSE.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 may not be obligated or expended for the purposes of financial management improvement activities relating to the preparation, processing, or auditing of financial statements until the Secretary of Defense prepares and submits to the congressional defense committees the following:

(1) A comprehensive and integrated financial management improvement plan that—

(A) describes specific actions to be taken to correct financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information; and

(B) systematically ties such actions to process and control improvements and business systems modernization efforts described in the business enterprise architecture and transition plan required by section 2222 of title 10, United States Code.

(2) A written determination that each of the financial management improvement activities to be undertaken are—

(A) consistent with the financial management improvement plan submitted pursuant to paragraph (1); and

(B) likely to improve internal controls or otherwise result in sustained improvements in the ability of the Department to produce timely, reliable, and complete financial management information.

SEC. 329. STUDY ON USE OF ETHANOL FUEL.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study on the use of ethanol fuel by the Armed Forces and the Defense Agencies.

(b) ELEMENTS.—The study shall include—

(1) an evaluation of the historical utilization of ethanol fuel by the Armed Forces and the Defense Agencies, including the quantity of ethanol fuel acquired by the Department of Defense for the Armed Forces and the Defense Agencies during the 5-year period ending on the date of the report under subsection (c);

(2) a forecast of the requirements of the Armed Forces and the Defense Agencies for ethanol fuel for each of fiscal years 2007 through 2012;

(3) an assessment of the current and future commercial availability of ethanol fuel, including facilities for the production, storage, transportation, distribution, and commercial sale of such fuel;

(4) an assessment of the utilization by the Department of the commercial infrastructure for ethanol fuel as described in paragraph (3);

(5) a review of the actions of the Department to coordinate with State, local, and

private entities to support the expansion and use of alternative fuel refueling stations that are accessible to the public; and

(6) an assessment of the fueling infrastructure on military installations in the United States, including storage and distribution facilities, that could be adapted or converted to the delivery of ethanol fuel, including—

(A) an assessment of cost of the adaptation or conversion of such infrastructure to the delivery of ethanol fuel; and

(B) an assessment of the feasibility and advisability of that adaptation or conversion.

(c) REPORT.—Not later than February 1, 2006, the Secretary shall submit to the congressional defense committees a report on the study conducted under subsection (a).

(d) ETHANOL FUEL DEFINED.—In this section, the term "ethanol fuel" means fuel that is 85 percent ethyl alcohol.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2006, as follows:

(1) The Army, 522,400.

(2) The Navy, 352,700.

(3) The Marine Corps, 178,000.

(4) The Air Force, 357,400.

SEC. 402. REVISION OF PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

(a) REVISION.—Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 522,400.

"(2) For the Navy, 352,700.

"(3) For the Marine Corps, 178,000.

"(4) For the Air Force, 357,400.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to fiscal years beginning on or after that date.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2006, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 73,100.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 74,000.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2006, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 27,396.

(2) The Army Reserve, 15,270.

(3) The Naval Reserve, 13,392.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 13,123.

(6) The Air Force Reserve, 2,290.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2006 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,649.

(2) For the Army National Guard of the United States, 25,563.

(3) For the Air Force Reserve, 9,852

(4) For the Air National Guard of the United States, 22,971.

SEC. 414. FISCAL YEAR 2006 LIMITATIONS ON NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2006, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2006, may not exceed 695.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2006, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given the term in section 10217(a) of title 10, United States Code.

Subtitle C—Authorizations of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2006 a total of $109,179,601,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2006.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2006 from the Armed Forces Retirement Home Trust Fund the sum of $58,281,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. EXCLUSION OF GENERAL AND FLAG OFFICERS ON LEAVE PENDING SEPARATION OR RETIREMENT FROM COMPUTATION OF ACTIVE DUTY OFFICERS FOR GENERAL AND FLAG OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS.

(a) DISTRIBUTION LIMITATIONS.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In determining the total number of general officers or flag officers of an armed force on active duty for purposes of this section, an officer of that armed force in the grade of brigadier general or above, or an officer in the grade of rear admiral (lower half) or above in the Navy, who is on leave pending the separation, retirement, or release of such officer from active duty shall not be counted, but only during the 60-day period beginning on the date of the commencement of leave of such officer.".

(b) ACTIVE DUTY STRENGTH LIMITATIONS.—

(1) IN GENERAL.—Section 526 of such title is amended by adding at the end the following new subsection:

"(e) EXCLUSION OF CERTAIN OFFICERS ON LEAVE PENDING SEPARATION OR RETIREMENT.—The limitations of this section do not apply to general or flag officers on leave pending separation, retirement, or release from active duty as described in section 525(e) of this title.".

(2) CONFORMING AMENDMENT.—The heading of subsection (d) of such section is amended by striking "CERTAIN OFFICERS" and inserting "CERTAIN RESERVE OFFICERS ON ACTIVE DUTY".

SEC. 502. EXPANSION OF JOINT DUTY ASSIGNMENTS FOR RESERVE COMPONENT GENERAL AND FLAG OFFICERS.

(a) INCREASE IN AUTHORIZED NUMBER.—Section 526(b)(2)(A) of title 10, United States Code, is amended by striking "10" and inserting "11".

(b) ASSIGNMENT TO JOINT STAFF.—Such section is further amended by inserting ", and on the Joint Staff," after "commands".

SEC. 503. DEADLINE FOR RECEIPT BY PROMOTION SELECTION BOARDS OF CORRESPONDENCE FROM ELIGIBLE OFFICERS.

(a) OFFICERS ON ACTIVE DUTY LIST.—Section 614(b) of title 10, United States Code, is amended by inserting "the date before" after "not later than".

(b) OFFICERS ON RESERVE ACTIVE-STATUS LIST.—Section 14106 of such title is amended by inserting "the date before" after "not later than".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on March 1, 2006, and shall apply with respect to selection boards convened on or after that date.

SEC. 504. FURNISHING TO PROMOTION SELECTION BOARDS OF ADVERSE INFORMATION ON OFFICERS ELIGIBLE FOR PROMOTION TO CERTAIN SENIOR GRADES.

(a) OFFICERS ON ACTIVE-DUTY LIST.—

(1) IN GENERAL.—Section 615(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an eligible officer considered for promotion to the grade of lieutenant colonel, or commander in the case of the Navy, or above, any information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).”.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(B) in paragraph (5), as so redesignated, by striking “and (3)” and inserting “, (3), and (4)”;

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting “, or in paragraph (3),” after “paragraph (2)”; and

(ii) in subparagraph (B), by inserting “or (3), as applicable” after “paragraph (2)”; and

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting “or (3)” after “paragraph (2)(B)”.

(b) RESERVE OFFICERS.—

(1) IN GENERAL.—Section 14107(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) In the case of an eligible officer considered for promotion to the grade of lieutenant colonel, or commander in the case of the Navy, or above, any information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).”.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(B) in paragraph (5), as so redesignated, by striking “and (3)” and inserting “, (3), and (4)”;

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting “, or in paragraph (3),” after “paragraph (2)”; and

(ii) in subparagraph (B), by inserting “or (3), as applicable” after “paragraph (2)”; and

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting “or (3)” after “paragraph (2)(B)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006, and shall apply with respect to promotion selection boards convened on or after that date.

SEC. 505. GRADES OF THE JUDGE ADVOCATES GENERAL.

(a) JUDGE ADVOCATE GENERAL OF THE ARMY.—Section 3037(a) of title 10, United States Code, is amended by striking the last sentence and inserting the following new sentences: “The Judge Advocate General, while so serving, has the grade of lieutenant general. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.”.

(b) JUDGE ADVOCATE GENERAL OF THE NAVY.—Section 5148(b) of such title is amended by striking the last sentence and inserting the following new sentence: “The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate.”.

(c) JUDGE ADVOCATE GENERAL OF THE AIR FORCE.—Section 8037(a) of such title is amended by striking the last sentence and inserting the following new sentence: “The Judge Advocate General, while so serving, has the grade of lieutenant general.”.

(d) EXCLUSION FROM LIMITATION ON GENERAL AND FLAG OFFICER DISTRIBUTION.—Section 525(b) of such title is amended by adding at the end the following new paragraph:

“(9) An officer while serving as the Judge Advocate General of the Army, the Judge Advocate General of the Navy, or the Judge Advocate General of the Air Force is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above major general or rear admiral under paragraph (1) or (2), as the case may be.”.

SEC. 506. TEMPORARY EXTENSION OF AUTHORITY TO REDUCE MINIMUM LENGTH OF COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.

(a) ARMY.—Section 3911(b) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(b)”;

(2) in paragraph (1), as so designated, by striking “, during the period beginning on October 1, 1990, and ending on December 31, 2001,”; and

(3) by adding at the end the following new paragraph:

“(2) The authority in paragraph (1) may be exercised during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.”.

(b) NAVY AND MARINE CORPS.—Section 6323(a)(2) of such title is amended—

(1) by inserting “(A)” after “(2)”;

(2) in subparagraph (A), as so designated, by striking “, during the period beginning on October 1, 1990, and ending on December 31, 2001,”; and

(3) by adding at the end the following new subparagraph:

“(B) The authority in subparagraph (A) may be exercised during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.”.

(c) AIR FORCE.—Section 8911(b) of such title is amended—

(1) by inserting “(1)” after “(b)”;

(2) in paragraph (1), as so designated, by striking “, during the period beginning on October 1, 1990, and ending on December 31, 2001,”; and

(3) by adding at the end the following new paragraph:

“(2) The authority in paragraph (1) may be exercised during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.”.

SEC. 507. MODIFICATION OF STRENGTH IN GRADE LIMITATIONS APPLICABLE TO RESERVE FLAG OFFICERS IN ACTIVE STATUS.

(a) LINE OFFICERS.—Paragraph (1) of section 12004(c) of title 10, United States Code, is amended in the item in the table relating to Line officers by striking “28” and inserting “33”.

(b) MEDICAL DEPARTMENT STAFF CORPS OFFICERS.—Such paragraph is further amended in the item in the table relating to the Medical Department staff corps officers by striking “9” and inserting “5”.

(c) SUPPLY CORPS OFFICERS.—Paragraph (2)(A) of such section is amended by striking “seven” and inserting “six”.

(d) CONFORMING AMENDMENT.—Paragraph (1) of such section is further amended in the matter preceding the table by striking “39” and inserting “40”.

SEC. 508. UNIFORM AUTHORITY FOR DEFERMENT OF SEPARATION OF RESERVE GENERAL AND FLAG OFFICERS FOR AGE.

(a) IN GENERAL.—Section 14512 of title 10, United States Code, is amended to read as follows:

“§ 14512. Separation at age 64

“(a) IN GENERAL.—The Secretary of the military department concerned may, subject to subsection (b), defer the retirement under section 14510 or 14511 of this title of a reserve officer of the Army, Air Force, or Marine Corps in a grade above colonel, or a reserve officer of the Navy in a grade above captain, and retain such officer in active status until such officer becomes 64 years of age.

“(b) LIMITATION ON NUMBER OF DEFERMENTS.—(1) Not more than 10 officers may be deferred by the Secretary of a military department under subsection (a) at any one time.

“(2) Deferments by the Secretary of the Navy may be distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines appropriate.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1407 of such title is amended by striking the item relating to section 14512 and inserting the following new item:

“14512. Separation at age 64.”.

Subtitle B—Enlisted Personnel Policy

SEC. 521. UNIFORM CITIZENSHIP OR RESIDENCY REQUIREMENTS FOR ENLISTMENT IN THE ARMED FORCES.

(a) UNIFORM REQUIREMENTS.—Section 504 of title 10, United States Code, is amended—

(1) by inserting “(a) INSANITY, DESERTION, FELONS, ETC.—” before “No person”; and

(2) by adding at the end the following new subsection:

“(b) CITIZENSHIP OR RESIDENCY.—(1) No person may be enlisted in any armed force unless such person is a citizen or national of the United States, a habitual resident of the Federal States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands, or has been lawfully admitted to the United States for permanent residence under the applicable provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

“(2) The Secretary concerned may waive the applicability of paragraph (1) to a person if such Secretary determines that the enlistment of such person is vital to the national interest.”.

(b) REPEAL OF SUPERSEDED LIMITATIONS FOR THE ARMY AND AIR FORCE.—Sections 3253 and 8253 of such title are repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 333 of such title is amended by striking the item relating to section 3253.

(2) The table of sections at the beginning of chapter 833 of such title is amended by striking the item relating to section 8253.

Subtitle C—Reserve Component Personnel Matters

SEC. 531. REQUIREMENTS FOR PHYSICAL EXAMINATIONS AND MEDICAL AND DENTAL READINESS FOR MEMBERS OF THE SELECTED RESERVE NOT ON ACTIVE DUTY.

(a) IN GENERAL.—Subsection (a) of section 10206 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “examined” and all that follows through the semicolon and inserting “provided a comprehensive physical examination on an annual basis;”; and

(2) in paragraph (2), by striking "annually to the Secretary concerned" and all that follows and inserting "to the Secretary concerned on an annual basis documentation of the medical and dental readiness of the member to perform military duties.".

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**periodic**".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1007 of such title is amended by striking "periodic".

SEC. 532. REPEAL OF LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE UNDER RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 2107(c) of title 10, United States Code, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in subparagraph (B) of paragraph (4), as so redesignated, by striking ", (3), or (4)" and inserting "or (3)".

(b) ARMY RESERVE AND ARMY NATIONAL GUARD MEMBERS.—Section 2107a(c) of such title is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—Section 524(c) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1889) is amended by striking "paragraph (5)" and all that follows through "subsection (b)" and inserting "paragraph (4) of section 2107(c) of title 10, United States Code (as added by subsection (a) of this section and redesignated by section 532(a)(2) of the National Defense Authorization Act for Fiscal Year 2006), and under paragraph (3) of section 2107a(c) of title 10, United States Code (as added by subsection (b) of this section and redesignated by section 532(b)(2) of such Act)".

SEC. 533. PROCEDURES FOR SUSPENDING FINANCIAL ASSISTANCE AND SUBSISTENCE ALLOWANCE FOR SENIOR ROTC CADETS AND MIDSHIPMEN ON THE BASIS OF HEALTH-RELATED CONDITIONS.

(a) REQUIREMENTS.—Section 2107 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Payment of financial assistance under this section for, and payment of a monthly subsistence allowance under section 209 of title 37 to, a cadet or midshipman appointed under this section may be suspended on the basis of health-related incapacity of the cadet or midshipman only in accordance with regulations prescribed under paragraph (2).

"(2) The Secretary of Defense shall prescribe in regulations the policies and procedures for suspending payments under paragraph (1). The regulations shall apply uniformly to all of the military departments. The regulations shall include the following matters:

"(A) The standards of health-related fitness that are to be applied.

"(B) Requirements for—

"(i) the health-related condition and prognosis of a cadet or midshipman to be determined, in relation to the applicable standards prescribed under subparagraph (A), by a health care professional on the basis of a medical examination of the cadet or midshipman; and

"(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in deciding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition.

"(C) A requirement for the Secretary concerned to transmit to a cadet or midshipman proposed for suspension under this subsection a notification of the proposed suspension together with the determinations made under subparagraph (B)(i) in the case of the proposed suspension.

"(D) A procedure for a cadet or midshipman proposed for suspension under this subsection to submit a written response to the proposal for suspension, including any supporting information.

"(E) Requirements for—

"(i) one or more health-care professionals to review, in the case of such a response of a cadet or midshipman, each health-related condition and prognosis addressed in the response, taking into consideration the matters submitted in such response; and

"(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in making a final decision regarding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition, and the conditions under which such suspension may be lifted.".

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Defense shall prescribe the regulations required under subsection (j) of section 2107 of title 10, United States Code (as added by subsection (a)), not later than May 1, 2006.

SEC. 534. INCREASE IN MAXIMUM NUMBER OF ARMY RESERVE AND ARMY NATIONAL GUARD CADETS UNDER RESERVE OFFICERS' TRAINING CORPS.

Section 2107a(h) of title 10, United States Code, is amended by striking "208 cadets" and inserting "416 cadets".

SEC. 535. MODIFICATION OF EDUCATIONAL ASSISTANCE FOR RESERVES SUPPORTING CONTINGENCY AND OTHER OPERATIONS.

(a) OFFICIAL RECEIVING ELECTIONS OF BENEFITS.—Section 16163(e) of title 10, United States Code, is amended by striking "Secretary concerned" and inserting "Secretary of Veterans Affairs".

(b) EXCEPTION TO IMMEDIATE TERMINATION OF ASSISTANCE.—Section 16165 of such title is amended—

(1) by striking "Educational assistance" and inserting "(a) IN GENERAL.—Except as provided in subsection (b), educational assistance"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve of not more than 90 days if the member continues to serve in the Ready Reserve during and after such break in service.".

SEC. 536. REPEAL OF LIMITATION ON AUTHORITY TO REDESIGNATE THE NAVAL RESERVE AS THE NAVY RESERVE.

Section 517(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1884; 10 U.S.C. 10101 note) is amended by striking ", which date" and all that follows through the end and inserting a period.

SEC. 537. PERFORMANCE BY RESERVE COMPONENT PERSONNEL OF OPERATIONAL TEST AND EVALUATION AND TRAINING RELATING TO NEW EQUIPMENT.

(a) PILOT PROGRAM.—The Secretary of the Army shall carry out a pilot program to evaluate the feasibility and advisability of—

(1) utilizing members of the reserve components of the Army, rather than contractor personnel, to perform test, evaluation, new equipment training, and related activities for one or more acquisition programs selected by the Secretary for purposes of the pilot program; and

(2) utilizing funds otherwise available for multi-year purposes for such activities in appropriations for research, development, test, and evaluation, and for procurement, in order to reimburse appropriations for personnel for the costs of pay, allowances, and expenses of such members in the performance of such activities.

(b) NONWAIVER OF PERSONNEL AND TRAINING POLICIES AND PROCEDURES.—Nothing in this section may be construed to authorize any deviation from established personnel or training policies or procedures that are applicable to the reserve components of the personnel used under the pilot program.

(c) REIMBURSEMENT AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may transfer from appropriations for research, development, test, and evaluation, or for procurement, for an acquisition program under the pilot program under subsection (a) to appropriations for reserve component personnel of the Army amounts necessary to reimburse appropriations for reserve component personnel of the Army for pay, allowances, and expenses of reserve component personnel of the Army in performing activities under the pilot program.

(2) LIMITATION.—The amount that may be transferred under paragraph (1) in any fiscal year may not exceed $10,000,000.

(3) MERGER OF FUNDS.—Amounts transferred to an account under paragraph (1) shall be merged with other amounts in such account, and shall be available for the same period, and subject to the same limitations, as the amounts with which merged.

(4) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The authority to transfer funds under paragraph (1) is in addition to any other authority to transfer funds under law.

(d) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall expire on September 30, 2010.

(e) REPORT.—Not later than March 1, 2010, the Secretary of the Army shall, in consultation with the Secretary of Defense, submit to the congressional defense committees a report on the pilot program under subsection (a). The report shall include—

(1) a comprehensive description of the pilot program, including the acquisition programs covered by the pilot program and the activities performed by members of the reserve components of the Army under the pilot program;

(2) an assessment of the benefits, including cost savings and other benefits, of the performance of activities under the pilot program by members of the reserve components of the Army rather than by contractor personnel; and

(3) any recommendations for legislative or administrative action that the Secretary considers appropriate in light of the pilot program.

Subtitle D—Military Justice and Related Matters

SEC. 551. MODIFICATION OF PERIODS OF PROSECUTION BY COURTS-MARTIAL FOR MURDER, RAPE, AND CHILD ABUSE.

(a) UNLIMITED PERIOD FOR MURDER AND RAPE.—Subsection (a) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking "or with any offense" and inserting "with murder or rape, or with any other offense".

(b) EXTENDED PERIOD FOR CHILD ABUSE.—Subsection (b)(2) of such section (article) is amended—

(1) in subparagraph (A), by striking "before the child attains the age of 25 years" and all that follows through the period and inserting "by an officer exercising summary court-martial jurisdiction with respect to that person during the life of the victim or the date that is five years after the date of the offense, whichever is the later date.";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "sexual or physical"; and

(B) in clause (v), by striking "Indecent assault," and inserting "Kidnapping, indecent assault,"; and

(3) by adding at the end the following new subparagraph:

"(C) In subparagraph (A), the term 'child abuse offense' also includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117 or section 1591 of title 18.".

SEC. 552. ESTABLISHMENT OF OFFENSE OF STALKING.

(a) ESTABLISHMENT OF OFFENSE.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 893 (article 93) the following new section (article):

"§ 893a. Art. 93a. Stalking

"(a) Any person subject to this chapter—

"(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family;

"(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family; and

"(3) whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or to a member of his or her immediate family,

is guilty of stalking and shall be punished as a court-martial may direct.

"(b) For purposes of this section:

"(1) The term 'course of conduct' means—

"(A) a repeated maintenance of visual or physical proximity to a specific person; or

"(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

"(2) The term 'repeated', with respect to conduct, means two or more occasions of such conduct.

"(3) The term 'immediate family', in the case of a specific person, means a spouse, parent, child, or sibling of the person, or any other family member or relative of the person who regularly resides in the household of the person or who within the six months preceding the commencement of the course of conduct regularly resided in the household of the person.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of such chapter is amended by inserting after the item relating to section 893 (article 93) the following new item:

"893a. Art. 93a. Stalking.".

SEC. 553. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL.

Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

"(2) In this subsection, the term 'military legal assistance' includes—

"(A) legal assistance provided under this section; and

"(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.".

SEC. 554. ADMINISTRATIVE CENSURES OF MEMBERS OF THE ARMED FORCES.

(a) AUTHORITY TO ISSUE ADMINISTRATIVE CENSURES.—

(1) AUTHORITY OF SECRETARY OF DEFENSE.—The Secretary of Defense may issue, in writing, an administrative censure to any member of the Armed Forces.

(2) AUTHORITY OF SECRETARIES OF MILITARY DEPARTMENTS.—The Secretary of a military department may issue, in writing, an administrative censure to any member of the Armed Forces under the jurisdiction of such Secretary.

(3) REGULATIONS.—Administrative censures shall be issued under this section pursuant to regulations prescribed by the Secretary of Defense. The regulations shall apply uniformly throughout the military departments.

(b) ADMINISTRATIVE CENSURE.—For purposes of this section, an administrative censure is a statement of adverse opinion or criticism with respect to the conduct or performance of duty of a member of the Armed Forces.

(c) FINALITY.—An administrative censure issued under this section is final and may not be appealed by the member of the Armed Forces concerned.

(d) CONSTRUCTION.—The authority under this section to issue administrative censures with respect to the conduct or performance of duty of a member of the Armed Forces is in addition to the authority to impose nonjudicial punishment with respect to such conduct or performance of duty under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

SEC. 555. REPORTS BY OFFICERS AND SENIOR ENLISTED PERSONNEL OF MATTERS RELATING TO VIOLATIONS OR ALLEGED VIOLATIONS OF CRIMINAL LAW.

(a) REQUIREMENT FOR REPORTS.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces, whether on the active-duty list or on the reserve active-status list, shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report on any investigation, arrest, charge, detention, adjudication, or conviction of such member by any law enforcement authority of the United States for a violation of a criminal law of the United States, whether or not such member is on active duty at the time of the conduct that provides the basis of such investigation, arrest, charge, detention, adjudication, or conviction. The regulations shall apply uniformly throughout the military departments.

(2) COVERED MEMBERS.—In this section, the term "covered member of the Armed Forces" means the following:

(A) An officer.

(B) An enlisted member in the grade of E-7 or above.

(b) LAW ENFORCEMENT AUTHORITY OF THE UNITED STATES.—For purposes of this section, a law enforcement authority of the United States includes—

(1) a military or other Federal law enforcement authority;

(2) a State or local law enforcement authority; and

(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(c) CRIMINAL LAW OF THE UNITED STATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

(A) any military or other Federal criminal law;

(B) any State, county, municipal, or local criminal law or ordinance; and

(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(2) EXCEPTION.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as determined by the Secretary for purposes of such regulations).

(d) ACTIONS SUBJECT TO REPORT.—

(1) IN GENERAL.—The regulations prescribed pursuant to subsection (a) shall specify each action of a law enforcement authority of the United States for which a report under that subsection shall be required.

(2) MULTIPLE REPORTS ON SINGLE CONDUCT.—If the conduct of a covered member of the Armed Forces would provide the basis for actions of a law enforcement authority of the United States warranting more than one report under this section, the regulations shall specify which of such actions such be subject to a report under this section.

(e) TIMELINESS OF REPORTS.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

(f) FORWARDING OF INFORMATION.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to an investigation, arrest, charge, detention, adjudication, or conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

(g) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a), including the requirement in subsection (f), shall go into effect not later than January 1, 2006.

Subtitle E—Military Service Academies

SEC. 561. AUTHORITY TO RETAIN PERMANENT MILITARY PROFESSORS AT THE NAVAL ACADEMY AFTER MORE THAN 30 YEARS OF SERVICE.

(a) AUTHORITY TO RETAIN.—

(1) In general.—Chapter 603 of title 10, United States Code, is amended by inserting after section 6952 the following new section:

"§ 6952a. Faculty: retention of permanent military professors

"(a) Retirement for Years of Service.—(1) Except as provided in subsection (b), an officer serving as a permanent military professor at the Naval Academy in the grade of commander who is not on a list of officers recommended for promotion to the grade of captain shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

"(2) Except as provided in subsection (b), an officer serving as a permanent military professor at the Naval Academy in the grade of captain who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

"(b) Continuation on Active Duty.—(1) An officer subject to retirement under subsection (a) may be continued on active duty by the Secretary of the Navy after the date otherwise provided for retirement under such subsection—

"(A) upon the recommendation of the Superintendent of the Naval Academy; and

"(B) with the concurrence of the Chief of Naval Operations.

"(2) The Secretary of the Navy shall determine the period of continuation on active duty of an officer under this subsection.

"(c) Eligibility for Promotion.—A permanent military professor at the Naval Academy who has been retained on active duty as a permanent military professor after more than 28 years of active commissioned service in the grade of commander under subsection (b) is eligible for consideration for promotion to the grade of captain.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6952 the following new item:

"6952a. Faculty: retention of permanent military professors.".

(b) Conforming Amendments.—

(1) Section 633 of such title is amended—

(A) by striking "and an officer" and inserting ", an officer"; and

(B) by inserting ", and an officer who is a permanent military professor at the Naval Academy to whom section 6952a of this title applies," after "section 6383 of this title applies".

(2) Section 634 of such title is amended by inserting "and an officer who is a permanent military professor at the Naval Academy to whom section 6952a of this title applies," after "section 6383(a)(4) of this title".

Subtitle F—Administrative Matters

SEC. 571. CLARIFICATION OF LEAVE ACCRUAL FOR MEMBERS ASSIGNED TO A DEPLOYABLE SHIP OR MOBILE UNIT OR OTHER DUTY.

Subparagraph (B) of section 701(f)(1) of title 10, United States Code, is amended to read as follows:

"(B) This subsection applies to a member who—

"(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37; or

"(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section.".

SEC. 572. LIMITATION ON CONVERSION OF MILITARY MEDICAL AND DENTAL BILLETS TO CIVILIAN POSITIONS.

(a) Limitation.—Commencing as of the date of the enactment of this Act, no military medical or dental billet may be converted to a civilian position until 90 days after the date on which the Secretary of Defense certifies to the congressional defense committees each of the following:

(1) That the conversion of military medical or dental billets to civilian positions, whether before the date of the enactment or as scheduled after the limitation under this subsection no longer applies, will not result in an increase in civilian health care costs.

(2) That the conversion of such billets to such positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

(3) That, as determined pursuant to market surveys conducted under subsection (b), the civilian medical and dental care providers available in each affected area are adequate to fill the civilian positions created by the conversion of such billets to such positions in such affected area.

(b) Market Surveys.—The Secretary of Defense shall conduct in each affected area a survey of the availability of civilian medical and dental care providers in such area in order to determine, for purposes of subsection (a)(3), whether or not the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of medical and dental billets to civilian positions in such area.

(c) Definitions.—In this section:

(1) The term "affected area" means an area in which the conversion of military medical or dental billets to civilian positions has taken place as of the date of the enactment of this Act or is scheduled to take place after the limitation under subsection (a) no longer applies.

(2) The term "uniformed services" has the meaning given that term in section 1072(1) of title 10, United States Code.

Subtitle G—Defense Dependents Education Matters

SEC. 581. EXPANSION OF AUTHORIZED ENROLLMENT IN DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS OVERSEAS.

The Defense Dependents' Education Act of 1978 (20 U.S.C. 931 et seq.) is amended by inserting after section 1404 the following new section:

"ENROLLMENT OF CERTAIN ADDITIONAL CHILDREN ON TUITION-FREE BASIS

"Sec. 1404A. (a) The Secretary of Defense may, under regulations to be prescribed by the Secretary, authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States.

"(b) The Secretary may utilize funds available for the defense dependents' education system, including funds for construction, in order to provide for the education of children enrolled in the defense dependents' education system under subsection (a).".

SEC. 582. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES WITH SIGNIFICANT ENROLLMENT INCREASES IN MILITARY DEPENDENT STUDENTS DUE TO TROOP RELOCATIONS, CREATION OF NEW UNITS, AND REALIGNMENTS UNDER BRAC.

(a) Availability of Assistance.—To assist communities in making adjustments resulting from the creation of new units and other large-scale relocations of members of the Armed Forces between military installations, the Secretary of Defense may make payments to local educational agencies described in subsection (b) that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had an overall increase in the number of military dependent students enrolled in schools of such local educational agencies equal to or greater than 250 military dependent students.

(b) Eligible Local Educational Agencies.—A local educational agency is eligible for assistance under this section for a fiscal year only if the Secretary of Defense determines that—

(1) the local educational agency is eligible for educational agencies assistance for the same fiscal year; and

(2) the required overall increase in the number of military dependent students enrolled in schools of that local educational agency, as provided in subsection (a), occurred as a result of the relocation of military personnel due to—

(A) the global rebasing plan of the Department of Defense;

(B) the official creation or activation of one or more new military units; or

(C) the realignment of forces as a result of the base closure process.

(c) Notification.—Not later than June 30, 2006, and June 30 of each of the next two fiscal years, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for such fiscal year of—

(1) the eligibility of the local educational agency for the assistance; and

(2) the amount of the assistance for which that local educational agency is eligible, as determined under subsection (d).

(d) Amount of Assistance.—

(1) In general.—In making assistance available to local educational agencies under this section, the Secretary of Defense shall, in consultation with the Secretary of Education, make assistance available to such local educational agencies for a fiscal year on a pro rata basis based on the size of the overall increase in the number of military and Department of Defense civilian dependent students enrolled in schools of those local educational agencies for such fiscal year.

(2) Limitation.—No local educational agency may receive more than $1,000,000 in assistance under this section for any fiscal year.

(e) Disbursement of Funds.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) for that fiscal year.

(f) Consultation.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Education.

(g) Reports.—

(1) Reports required.—Not later than May 1 of each of 2007, 2008, and 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year preceding the date of such report.

(2) Element.—Each report on the assistance provided during a fiscal year under this section shall include an assessment and description of the current compliance of each local educational agency receiving such assistance with the requirements of the No

Child Left Behind Act of 2001 (Public Law 107–110).

(h) FUNDING.—Of the amount authorized to be appropriated to the Department of Defense for fiscal years 2006, 2007, and 2008 for operation and maintenance for Defense-wide activities, $15,000,000 shall be available for each such fiscal year only for the purpose of providing assistance to local educational agencies under this section.

(i) TERMINATION.—The authority of the Secretary of Defense to provide financial assistance under this section shall expire on September 30, 2008.

(j) DEFINITIONS.—In this section:

(1) The term "base closure process" means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(3) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(4) The term "military dependent students" refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

SEC. 583. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2006, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2006 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "basic support payment" means a payment authorized under section 8003(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

SEC. 584. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

Subtitle H—Other Matters

SEC. 591. POLICY AND PROCEDURES ON CASUALTY ASSISTANCE TO SURVIVORS OF MILITARY DECEDENTS.

(a) COMPREHENSIVE POLICY ON CASUALTY ASSISTANCE.—

(1) POLICY REQUIRED.—Not later than January 1, 2006, the Secretary of Defense shall develop and prescribe a comprehensive policy for the Department of Defense on the provision of casualty assistance to survivors and next of kin of members of the Armed Forces who die during military service (in this section referred to as "military decedents").

(2) CONSULTATION.—The Secretary shall develop the policy in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Homeland Security with respect to the Coast Guard.

(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy shall be based on—

(A) the experience and best practices of the military departments;

(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of survivors of military decedents; and

(C) such other matters as the Secretary of Defense considers appropriate.

(4) PROCEDURES.—The policy shall include procedures to be followed by the military departments in the provision of casualty assistance to survivors and next of kin of military decedents. The procedures shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department.

(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

(1) The initial notification of primary and secondary next of kin of the deaths of military decedents and any subsequent notifications of next of kin warranted by circumstances.

(2) The transportation and disposition of remains of military decedents, including notification of survivors of the performance of autopsies.

(3) The qualifications, assignment, training, duties, supervision, and accountability for the performance of casualty assistance responsibilities.

(4) The relief or transfer of casualty assistance officers, including notification to survivors and next of kin of the reassignment of such officers to other duties.

(5) Centralized, short-term and long-term case-management procedures for casualty assistance by each military department, including rapid access by survivors of military decedents and casualty assistance officers to expert case managers and counselors.

(6) The provision, at no cost to survivors of military decedents, of personalized, integrated information on the benefits and financial assistance available to such survivors from the Federal Government.

(7) The provision, at no cost to survivors of military decedents, of legal assistance by military attorneys on matters arising from the deaths of such decedents, including tax matters, on an expedited, prioritized basis.

(8) The provision of financial counseling to survivors of military decedents, particularly with respect to appropriate disposition of death gratuity and insurance proceeds received by surviving spouses, minor dependent children, and their representatives.

(9) The provision of information to survivors and next of kin of military decedents on mechanisms for registering complaints about, or requests for, additional assistance related to casualty assistance.

(10) Liaison with the Department of Veterans Affairs and the Social Security Administration in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for survivors of military decedents.

(11) Data collection regarding the incidence and quality of casualty assistance provided to survivors of military decedents, including surveys of such survivors and military and civilian members assigned casualty assistance duties.

(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than March 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of casualty assistance to survivors and next of kin of military decedents in order to conform such policies and procedures to the policy developed under subsection (a).

(d) REPORT ON IMPROVEMENT OF CASUALTY ASSISTANCE PROGRAMS.—Not later than May 1, 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes—

(1) the assessment of the Secretary of the adequacy and sufficiency of the current casualty assistance programs of the military departments;

(2) a plan for a system for the uniform provision to survivors of military decedents of personalized, accurate, and integrated information on the benefits and financial assistance available to such survivors through the casualty assistance programs of the military departments under subsection (c); and

(3) such recommendations for other legislative or administrative action as the Secretary considers appropriate to enhance and improve such programs to achieve their intended purposes.

(e) GAO REPORT.—

(1) REPORT REQUIRED.—Not later than August 1, 2006, the Comptroller General of the United States shall submit to the congressional defense committees a report on the evaluation by the Comptroller General of the casualty assistance programs of the Department of Defense and of such other departments and agencies of the Federal Government as provide casualty assistance to survivors and next of kin of military decedents.

(2) ASSESSMENT.—The report shall include the assessment of the Comptroller General of the adequacy of the current policies and procedures of, and funding for, the casualty assistance programs covered by the report to achieve their intended purposes.

SEC. 592. MODIFICATION AND ENHANCEMENT OF MISSION AND AUTHORITIES OF THE NAVAL POSTGRADUATE SCHOOL.

(a) COMBAT-RELATED FOCUS FOR NAVAL POSTGRADUATE SCHOOL.—

(1) IN GENERAL.—Section 7041 of title 10, United States Code, is amended by striking "for the advanced instruction" and all that follows and inserting "for the provision of advanced instruction, and professional and

technical education, to commissioned officers of the naval service to enhance combat effectiveness and the national security.".

(2) CONFORMING AMENDMENT.—Section 7042(b)(1) of such title is amended by striking "and technical education" and inserting ", and technical and professional education,".

(b) EXPANDED ELIGIBILITY OF ENLISTED PERSONNEL FOR INSTRUCTION.—Section 7045 of such title is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The Secretary may permit an eligible member of the armed forces to receive instruction from the Postgraduate School in certificate programs and courses required for the performance of the member's duties."; and

(C) in subparagraph (D), as so redesignated, by striking "(A) and (B)" and inserting "(A), (B), and (C)"; and

(2) in subsection (b)(2), by striking "(a)(2)(C)" and inserting "(a)(2)(D)".

SEC. 593. EXPANSION AND ENHANCEMENT OF AUTHORITY TO PRESENT RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION PURPOSES.

(a) IN GENERAL.—(1) Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2261. Presentation of recognition items for recruitment and retention purposes

"(a) EXPENDITURES FOR RECOGNITION ITEMS.—Under regulations prescribed by the Secretary of Defense, appropriated funds may be expended—

"(1) to procure recognition items of nominal or modest value for recruitment or retention purposes; and

"(2) to present such items—

"(A) to members of the armed forces, including members of the reserve components of the armed forces; and

"(B) to members of the families of members of the armed forces, and to other individuals recognized as providing support that substantially facilitates service in the armed forces.

"(b) PROVISION OF MEALS AND REFRESHMENTS.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions, and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

"(c) DEFINITION.—The term 'recognition items of nominal or modest value' means commemorative coins, medals, trophies, badges, flags, posters, paintings, or other similar items that are valued at less than $50 per item and are designed to recognize or commemorate service in the armed forces.

"(d) TERMINATION OF AUTHORITY.—The authority under this section shall expire December 31, 2007.".

(2) The table of sections at the beginning of subchapter II of chapter 134 of such title is amended by adding at the end the following new item:

"2261. Presentation of recognition items for recruitment and retention purposes.".

(b) REPEAL OF SUPERSEDED AUTHORITIES.—

(1) ARMY RESERVE.—(A) Section 18506 of title 10, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 1805 of such title is amended by striking the item relating to section 18506.

(2) NATIONAL GUARD.—(A) Section 717 of title 32, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 717.

SEC. 594. REQUIREMENT FOR REGULATIONS ON POLICIES AND PROCEDURES ON PERSONAL COMMERCIAL SOLICITATIONS ON DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) REQUIREMENT.—Not later than January 1, 2006, the Secretary of Defense shall prescribe regulations, or modify existing regulations, on the policies and procedures relating to personal commercial solicitations, including the sale of life insurance and securities, on Department of Defense installations.

(b) REPEAL OF SUPERSEDED LIMITATIONS.—The following provisions of law are repealed:

(1) Section 586 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1493).

(2) Section 8133 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1002).

SEC. 595. FEDERAL ASSISTANCE FOR STATE PROGRAMS UNDER THE NATIONAL GUARD YOUTH CHALLENGE PROGRAM.

(a) IN GENERAL.—Section 509(d) of title 32, United States Code, is amended by striking paragraphs (1), (2), (3), and (4) and inserting the following new paragraphs:

"(1) for fiscal year 2006, 65 percent of the costs of operating the State program during that fiscal year;

"(2) for fiscal year 2007, 70 percent of the costs of operating the State program during that fiscal year; and

"(3) for fiscal year 2008 and each subsequent fiscal year, 75 percent of the costs of operating the State program during such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 596. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY AWARD OF DEGREE OF MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.

(a) JOINT FORCES STAFF COLLEGE PROGRAM.—Section 2163 of title 10, United States Code, is amended to read as follows:

"§ 2163. National Defense University: master of science degrees

"(a) AUTHORITY TO AWARD SPECIFIED DEGREES.—The President of the National Defense University, upon the recommendation of the faculty of the respective college or other school within the University, may confer the master of science degrees specified in subsection (b).

"(b) AUTHORIZED DEGREES.—The following degrees may be awarded under subsection (a):

"(1) MASTER OF SCIENCE IN NATIONAL SECURITY STRATEGY.—The degree of master of science in national security strategy, to graduates of the University who fulfill the requirements of the program of the National War College.

"(2) MASTER OF SCIENCE IN NATIONAL RESOURCE STRATEGY.—The degree of master of science in national resource strategy, to graduates of the University who fulfill the requirements of the program of the Industrial College of the Armed Forces.

"(3) MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.—The degree of master of science in joint campaign planning and strategy, to graduates of the University who fulfill the requirements of the program of the Joint Advanced Warfighting School at the Joint Forces Staff College.

"(c) REGULATIONS.—The authority provided by this section shall be exercised under regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2163 in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

"2163. National Defense University: master of science degrees.".

(c) EFFECTIVE DATE.—Paragraph (3) of section 2163(b) of title 10, United States Code, as amended by subsection (a), shall take effect for degrees awarded after May 2005.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. ELIGIBILITY FOR ADDITIONAL PAY OF PERMANENT MILITARY PROFESSORS AT THE UNITED STATES NAVAL ACADEMY WITH OVER 36 YEARS OF SERVICE.

Section 203(b) of title 37, United States Code, is amended by inserting ", the United States Naval Academy," after "the United States Military Academy".

SEC. 602. ENHANCED AUTHORITY FOR AGENCY CONTRIBUTIONS FOR MEMBERS OF THE ARMED FORCES PARTICIPATING IN THE THRIFT SAVINGS PLAN.

(a) AUTHORITY TO MAKE CONTRIBUTIONS FOR CERTAIN FIRST-TIME ENLISTEES.—Section 211(d) of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "(i)" after "(A)";

(B) by redesignating subparagraph (B) as clause (ii) of subparagraph (A);

(C) in clause (ii) of subparagraph (A), as so redesignated, by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new subparagraph (B):

"(B) in the case of a member first enlisting in the armed forces, the period of the member's enlistment is not less than two years.";

(2) in paragraph (2), by striking "paragraph (1)" the first place it appears and inserting "paragraph (1)(A)"; and

(3) by adding at the end the following new paragraph:

"(3) In the case of a member described by paragraph (1)(B), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the enlistment of the member described in that paragraph for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof). The second sentence of paragraph (2) applies to the Secretary's obligation to make contributions under this paragraph to the same extent as such paragraph applies to the Secretary's obligation to make contributions under such paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 603. PERMANENT AUTHORITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE FOR LOW-INCOME MEMBERS WITH DEPENDENTS.

Section 402a of title 37, United States Code, is amended by striking subsection (i).

SEC. 604. MODIFICATION OF PAY CONSIDERED AS SAVED PAY UPON APPOINTMENT OF AN ENLISTED MEMBER AS AN OFFICER.

(a) IN GENERAL.—Section 907(d) of title 37, United States Code, is amended to read as follows:

"(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for such pay and would otherwise be eligible to receive such pay in the officer's former grade:

"(1) Incentive pay for hazardous duty under section 301 of this title.

"(2) Submarine duty incentive pay under section 301c of this title.

"(3) Diving duty special pay under section 304 of this title.

"(4) Hardship duty special pay under section 305 of this title.

"(5) Career sea pay under section 305a of this title.

"(6) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b of this title.

"(7) Assignment incentive pay under section 307a of this title.

"(8) Hostile fire pay or imminent danger pay under section 310 of this title.

"(9) Special pay for extension of overseas tour of duty under section 314 of this title.

"(10) Foreign language proficiency pay under section 316 of this title.

"(11) Critical skill retention bonus under section 323 of this title, if payable in periodic installments.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to acceptances of enlisted members of appointments as officers on or after that date.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) Selected Reserve Reenlistment Bonus.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Special Pay for Enlisted Members Assigned to Certain High Priority Units.—Section 308d(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) Ready Reserve Non-Prior Service Enlistment Bonus.—Section 308g(h) of such title is amended by striking "an enlistment after September 30, 1992." and inserting "an enlistment—

"(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

"(2) after September 30, 2006.".

(d) Ready Reserve Enlistment and Reenlistment Bonus.—Section 308h(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Prior Service Enlistment Bonus.—Section 308i(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of such title is amended by striking "before January 1, 2006" and inserting "on or before December 31, 2006".

(c) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Special Pay for Selected Reserve Health Professionals in Critically Short Wartime Specialties.—Section 302g(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) Accession Bonus for Dental Officers.—Section 302h(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(g) Accession Bonus for Pharmacy Officers.—Section 302j(a) of such title is amended by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2005" and inserting "October 30, 2000, and ending on December 31, 2006".

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Nuclear Career Accession Bonus.—Section 312b(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Assignment Incentive Pay.—Section 307a(f) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) Reenlistment Bonus for Active Members.—Section 308(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) Enlistment Bonus for Active Members.—Section 309(e) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Retention Bonus for Members With Critical Military Skills.—Section 323(i) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) Accession Bonus for New Officers in Critical Skills.—Section 324(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 615. PAYMENT AND REPAYMENT OF ASSIGNMENT INCENTIVE PAY.

(a) Flexible Payment.—Section 307a of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "monthly"; and

(B) by adding at the end the following new sentence: "Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.";

(2) in subsection (b)—

(A) by inserting "(1)" before "The Secretary concerned";

(B) in paragraph (1), as so designated, by striking "incentive pay" in the first sentence and inserting "the payment of incentive pay on a monthly basis"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay."; and

(3) by striking subsection (c) and inserting the following new subsection (c):

"(c) Maximum Rate or Amount.—(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is $1,500.

"(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

"(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

"(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

"(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

"(A) the product of (i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and (ii) the number of months in the period for which incentive pay will be paid; divided by

"(B) the number of installments over such period.

"(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.".

(b) Repayment.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c), as amended by subsection (a)(3) of this section, the following new subsection (d):

"(d) Repayment of Incentive Pay.—(1)(A) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service.

"(B) The Secretary concerned may waive repayment of an amount of incentive pay under subparagraph (A), whether in whole or in part, if the Secretary determines that conditions and circumstances warrant.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).".

SEC. 616. INCREASE IN AMOUNT OF SELECTIVE REENLISTMENT BONUS FOR CERTAIN SENIOR SUPERVISORY NUCLEAR QUALIFIED ENLISTED PERSONNEL.

(a) IN GENERAL.—Section 308 of title 37, United States Code, is amended—

(1) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) An enlisted member of the naval service who—

"(A) has completed at least ten, but not more than fourteen, years of active duty;

"(B) is currently qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

"(C) is qualified in a military skill designated as critical by the Secretary of Defense; and

"(D) reenlists or voluntarily extends the member's enlistment for a period of at least three years in the regular component of the naval service,

may be paid a bonus as provided in paragraph (2).

"(2) The bonus to be paid a member under paragraph (1) may not exceed the lesser of the following amounts:

"(A) The amount determined with respect to the member in accordance with subsection (a)(2)(A).

"(B) $75,000.

"(3) Subsection (a)(3) applies to the computation under paragraph (2)(A) of any bonus payable under this subsection.

"(4) Subsection (a)(4) applies to the payment of any bonus payable under this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005, and shall apply with respect to reenlistments or voluntary extensions of enlistments that occur on or after that date.

SEC. 617. CONSOLIDATION AND MODIFICATION OF BONUSES FOR AFFILIATION OR ENLISTMENT IN THE SELECTED RESERVE.

(a) CONSOLIDATION AND MODIFICATION OF BONUSES.—Section 308c of title 37, United States Code, is amended to read as follows:

"§ 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

"(a) AFFILIATION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may pay an affiliation bonus to an enlisted member of an armed force who—

"(1) has completed fewer than 20 years of military service; and

"(2) executes a written agreement to serve in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years in a skill, unit, or pay grade designated under subsection (b) after being discharged or released from active duty under honorable conditions.

"(b) DESIGNATION OF SKILLS, UNITS, AND PAY GRADES.—The Secretary concerned shall designate the skills, units, and pay grades for which an affiliation bonus may be paid under subsection (a). Any skill, unit, or pay grade so designated shall be a skill, unit, or pay grade for which there is a critical need for personnel in the Selected Reserve of the Ready Reserve of an armed force, as determined by the Secretary concerned.

"(c) ACCESSION BONUS AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may pay an accession bonus to a person who—

"(1) has not previously served in the armed forces; and

"(2) executes a written agreement to serve as an enlisted member in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years upon acceptance of the agreement by the Secretary concerned.

"(d) LIMITATION ON AMOUNT OF BONUS.—The amount of a bonus under subsection (a) or (c) may not exceed $10,000.

"(e) PAYMENT METHOD.—Upon acceptance of a written agreement by the Secretary concerned, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus shall be paid by the Secretary concerned in a lump sum or in installments.

"(f) CONTINUED ENTITLEMENT TO BONUS PAYMENTS.—A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

"(g) REPAYMENT FOR FAILURE TO COMMENCE OR COMPLETE OBLIGATED SERVICE.—(1) An individual who, after being paid all or part of a bonus under an agreement under subsection (a) or (c), does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in such agreement shall repay to the United States the amount of such bonus so paid, except as otherwise prescribed under paragraph (2).

"(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

"(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) or (c) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(h) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after December 31, 2006.".

(b) REPEAL OF SUPERSEDED AFFILIATION BONUS AUTHORITY.—Section 308e of such title is repealed.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking the item relating to section 308c and inserting the following new item:

"308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve.";

and

(B) by striking the item relating to section 308e.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005, and shall apply with respect to agreements entered into under section 308c of title 37, United States Code (as amended by subsection (a)), on or after that date.

SEC. 618. EXPANSION AND ENHANCEMENT OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.

(a) ELIGIBILITY FOR PAY.—Subsection (a) of section 308d of title 37, United States Code, is amended by striking "an enlisted member" and inserting "a member".

(b) AMOUNT OF PAY.—Such subsection is further amended by striking "$10" and inserting "$50".

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"§ 308d. Special pay: members of the Selected Reserve assigned to certain high priority units".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 308d and inserting the following new item:

"308d. Special pay: members of the Selected Reserve assigned to certain high priority units.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005, and shall apply to inactive-duty training performed on or after that date.

SEC. 619. RETENTION INCENTIVE BONUS FOR MEMBERS OF THE SELECTED RESERVE QUALIFIED IN A CRITICAL MILITARY SKILL OR SPECIALTY.

(a) BONUS AUTHORIZED.—

(1) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308j the following new section:

"§ 308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill or specialty

"(a) RETENTION BONUS AUTHORIZED.—An eligible officer or enlisted member of the armed forces may be paid a retention bonus as provided in this section if—

"(1) in the case of an officer or warrant officer, the member executes a written agreement to remain in the Selected Reserve for at least 2 years;

"(2) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment in the Selected Reserve for a period of at least 2 years; or

"(3) in the case of an enlisted member serving on an indefinite reenlistment, the member executes a written agreement to remain in the Selected Reserve for at least 2 years.

"(b) ELIGIBLE MEMBERS.—Subject to subsection (d), an officer or enlisted member is eligible for a bonus under this section if the member—

"(1) is qualified in a military skill or specialty designated as critical for purposes of this section under subsection (c); or

"(2) agrees to train or retrain in a military skill or specialty so designated as critical.

"(c) DESIGNATION OF CRITICAL SKILLS OR SPECIALTIES.—The Secretary of Defense shall designate the military skills and specialties that shall be treated as critical military skills and specialties for purposes of this section.

"(d) CERTAIN MEMBERS INELIGIBLE.—A bonus may not be paid under subsection (a) to a member of the armed forces who—

"(1) has completed more than 25 years of qualifying service under section 12732 of title 10; or

"(2) will complete the member's twenty-fifth year of qualifying service under section 12732 of title 10 before the end of the period of service for which the bonus is being offered.

"(e) Maximum Bonus Amount.—A member may enter into an agreement under this section, or reenlist or voluntarily extend the member's enlistment, more than once to receive a bonus under this section. However, a member may not receive a total of more than $100,000 in payments under this section.

"(f) Payment Methods.—(1) A bonus under subsection (a) may be paid in a single lump sum or in installments.

"(2) In the case of a member who agrees to train or retrain in a military skill or specialty designated as critical under subsection (b)(2), no payment may be made until the member successfully completes the training or retraining and is qualified in such skill or specialty.

"(g) Relationship To Other Incentives.—A bonus paid to a member under subsection (a) is in addition to any other pay and allowances to which the member is entitled under any other provision of law.

"(h) Repayment for Failure to Commence or Complete Obligated Service.—(1) An individual who, after receiving all or part of the bonus under an agreement, or a reenlistment or voluntary extension of enlistment, referred to in subsection (a), does not commence to serve in the Selected Reserve, or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, or under such reenlistment or voluntary extension of enlistment, as applicable, shall repay to the United States such bonus, except under conditions established by the Secretary concerned.

"(2) The Secretary concerned shall establish, in accordance with the regulations prescribed under subsection (i)—

"(A) whether repayment of a bonus under paragraph (1) is required in whole or in part;

"(B) the method for computing the amount of such repayment; and

"(C) the conditions under which an exception to repayment otherwise required under that paragraph would apply.

"(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under subsection (a), or a reenlistment or voluntary extension of enlistment under subsection (a), does not discharge the individual signing the agreement, reenlisting, or voluntarily extending enlistment, as applicable, from a debt arising under paragraph (1).

"(i) Regulations.—This section shall be administered under regulations prescribed by the Secretary of Defense.

"(j) Termination of Authority.—No bonus may be paid under this section with respect to any agreement, reenlistment, or voluntary extension of enlistment in the armed forces entered into after December 31, 2006.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 308j the following new item:

"308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill or specialty.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 620. TERMINATION OF LIMITATION ON DURATION OF PAYMENT OF IMMINENT DANGER SPECIAL PAY DURING HOSPITALIZATION.

(a) Termination of Limitation.—Section 310(b) of title 37, United States Code, is amended by striking "not more than three additional months" and inserting "any month, or any portion of a month,".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months beginning on or after that date.

SEC. 621. AUTHORITY FOR RETROACTIVE PAYMENT OF IMMINENT DANGER SPECIAL PAY.

Section 310 of title 37, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) Date of Commencement of Payment of Imminent Danger Pay.—Payment of special pay under this section to a member covered by subsection (a)(2)(D) may be made from any date, as determined by the Secretary of Defense, on or after which such member was assigned to duty in a foreign area determined by the Secretary to be covered by such subsection.".

SEC. 622. AUTHORITY TO PAY FOREIGN LANGUAGE PROFICIENCY PAY TO MEMBERS ON ACTIVE DUTY AS A BONUS.

(a) Authority To Pay.—Section 316 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or Bonus" after "Special Pay"; and

(B) by inserting "or a bonus" after "monthly special pay";

(2) in subsection (d)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) The amount of the bonus paid under subsection (a) may not exceed $12,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period."; and

(3) in subsection (f)(1)(C), by inserting "or a bonus" after "special pay".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 623. INCENTIVE BONUS FOR TRANSFER BETWEEN THE ARMED FORCES.

(a) In General.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§327. Incentive bonus: transfer between armed forces

"(a) Incentive Bonus Authorized.—A bonus under this section may be paid to an eligible member of a regular component or reserve component of an armed force who executes a written agreement—

"(1) to transfer from such regular component or reserve component to a regular component or reserve component of another armed force; and

"(2) to serve pursuant to such agreement for a period of not less than three years in the component to which transferred.

"(b) Eligible Members.—A member is eligible to enter into an agreement under subsection (a) if, as of the date of the agreement, the member—

"(1) has not failed to satisfactorily complete any term of enlistment in the armed forces;

"(2) is eligible for reenlistment in the armed forces or, in the case of an officer, is eligible to continue in service in a regular or reserve component of the armed forces; and

"(3) has fulfilled such requirements for transfer to the component of the armed force to which the member will transfer as the Secretary having jurisdiction over such armed force shall establish.

"(c) Limitation.—A member may enter into an agreement under subsection (a) to transfer to a regular component or reserve component of another armed force only if the Secretary having jurisdiction over such armed force determines that there is shortage of trained and qualified personnel in such component.

"(d) Amount and Payment of Bonus.—(1) A bonus under this section may not exceed $2,500.

"(2) A bonus under this section shall be paid by the Secretary having jurisdiction of the armed force to which the member to be paid the bonus is transferring.

"(3) A bonus under this section shall, at the election of the Secretary paying the bonus—

"(A) be disbursed to the member in one lump sum when the transfer for which the bonus is paid is approved by the chief personnel officer of the armed force to which the member is transferring; or

"(B) be paid to the member in annual installments in such amounts as may be determined by the Secretary paying the bonus.

"(e) Relationship to Other Pay and Allowances.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(f) Repayment of Bonus.—(1) A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid such member as the period which such member failed to serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under paragraph (1).

"(g) Regulations.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

"(h) Termination of Authority.—No agreement under this section may be entered into after December 31, 2006.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new item:

"327. Incentive bonus: transfer between armed forces.".

Subtitle C—Travel and Transportation Allowances

SEC. 631. TRANSPORTATION OF FAMILY MEMBERS IN CONNECTION WITH THE REPATRIATION OF SERVICEMEMBERS OR CIVILIAN EMPLOYEES HELD CAPTIVE.

(a) Military Captives.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 411i the following new section:

"§ 411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive

"(a) Allowance for Family Members and Certain Others.—(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (d) may be provided for not more than 3 family members of a member described in subsection (b).

"(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the Secretary concerned may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in that paragraph if the Secretary determines that—

"(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the Secretary; and

"(B) no other family member who is eligible for travel and transportation under paragraph (1) is able to serve as an attendant for the family member.

"(3) If no family member of a member described in subsection (b) is able to travel to the repatriation site of the member, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the member.

"(b) Covered Members.—A member described in this subsection is a member of the uniformed services who—

"(1) is serving on active duty;

"(2) was held captive, as determined by the Secretary concerned; and

"(3) is repatriated to a site inside or outside the United States.

"(c) Eligible Family Members.—In this section, the term 'family member' has the meaning given the term in section 411h(b) of this title.

"(d) Travel and Transportation Authorized.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the member is located.

"(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of this title.

"(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of this title.

"(4) An allowance under this subsection may be paid in advance.

"(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411i the following new item:

"411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive.".

(b) Civilian Captives.—(1) Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive

"(a) Allowance for Family Members and Certain Others.—(1) Under uniform regulations prescribed by the heads of agencies, travel and transportation described in subsection (d) may be provided for not more than 3 family members of an employee described in subsection (b).

"(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the head of an agency may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in subsection (b) if the head of an agency determines—

"(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the head of the agency; and

"(B) no other family member who is eligible for travel and transportation under subsection (a) is able to serve as an attendant for the family member.

"(3) If no family member of an employee described in subsection (b) is able to travel to the repatriation site of the employee, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the employee.

"(b) Covered Employees.—An employee described in this subsection is an employee (as defined in section 2105 of this title) who—

"(1) was held captive, as determined by the head of an agency concerned; and

"(2) is repatriated to a site inside or outside the United States.

"(c) Eligible Family Members.—In this section, the term 'family member' has the meaning given the term in section 411h(b) of title 37.

"(d) Travel and Transportation Authorized.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the employee is located.

"(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of title 37.

"(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of title 37.

"(4) An allowance under this subsection may be paid in advance.

"(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.".

(2) The table of sections at the beginning of chapter 57 of such title is amended by adding at the end the following new item:

"5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive.".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. ENHANCEMENT OF DEATH GRATUITY AND ENHANCEMENT OF LIFE INSURANCE BENEFITS FOR CERTAIN COMBAT RELATED DEATHS.

(a) Increased Amount of Death Gratuity.—

(1) Increased amount.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) Effective date.—The amendment made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) Coordination with other enhancements.—If the date of the enactment of this Act occurs before October 1, 2005—

(A) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) are repealed; and

(B) effective immediately before the execution of the amendment made by paragraph (1), the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of the Act referred to in subparagraph (A), shall be revived.

(b) Servicemembers' Group Life Insurance Enhancements.—

(1) Increased maximum amount of SGLI.—Section 1967 of title 38, United States Code, is amended—

(A) in subsection (a)(3)(A), by striking clause (i) and inserting the following new clause:

"(i) In the case of a member—

"(I) $400,000 or such lesser amount as the member may elect as provided in subparagraph (B);

"(II) in the case of a member covered by subsection (e), the amount provided for or elected by the member under subclause (I) plus the additional amount of insurance provided for the member by subsection (e); or

"(III) in the case of a member covered by subsection (e) who has made an election under paragraph (2)(A) not to be insured under this subchapter, the amount of insurance provided for the member by subsection (e)."; and

(B) in subsection (d), by striking "$250,000" and inserting "$400,000".

(2) Increments of decreased amounts electable by members.—Subsection (a)(3)(B) of such section is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse".

(3) Additional amount for members serving in certain areas or operations.—

(A) Increased amount.—Section 1967 of such title is further amended—

(i) by redesignating subsection (e) as subsection (f); and

(ii) by inserting after subsection (d) the following new subsection (e):

"(e)(1) A member covered by this subsection is any member as follows:

"(A) Any member who dies as a result of one or more wounds, injuries, or illnesses incurred while serving in an operation or area that the Secretary of Defense designates, in writing, as a combat operation or a zone of combat, respectively, for purposes of this subsection.

"(B) Any member who formerly served in an operation or area so designated and whose death is determined (under regulations prescribed by the Secretary of Defense) to be the direct result of injury or illness incurred or aggravated while so serving.

"(2) The additional amount of insurance under this subchapter that is provided for a member by this subsection is $150,000, except that in a case in which the amount provided for or elected by the member under subsection (a)(3)(A)(i)(I) exceeds $250,000, the additional amount of insurance under this subchapter that is provided for the member by this subsection shall be reduced to such amount as is necessary to comply with the limitation in paragraph (3).

"(3) The total amount of insurance payable for a member under this subchapter may not exceed $400,000.

"(4) While a member is serving in an operation or area designated as described in paragraph (1), the cost of insurance of the member under this subchapter that is attributable to $150,000 of insurance coverage shall, at the election of the Secretary concerned—

"(A) be contributed as provided in section 1969(b)(2) of this title, rather through deduction or withholding from the member's pay; or

"(B) if deducted or withheld from the member's pay, be reimbursed to the member through such mechanism as the Secretary concerned determines appropriate.".

(B) FUNDING.—Section 1969(b) of such title is amended—

(i) by inserting "(1)" after "(b)"; and

(ii) by adding at the end the following new paragraph:

"(2) For each month for which a member insured under this subchapter is serving in an operation or area designated as described by paragraph (1)(A) of section 1967(e) of this title, there may, at the election of the Secretary concerned under paragraph (4)(A) of such section, be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary and certified to the Secretary concerned to be the cost of Servicemembers' Group Life Insurance which is traceable to the cost of providing insurance for the member under section 1967 of this title in the amount of $150,000.".

(4) CONFORMING AMENDMENT.—Section 1967(a)(2)(A) of such title is amended by inserting before the period at the end the following: ", except with respect to insurance provided under paragraph (3)(A)(i)(III)".

(5) COORDINATION WITH VGLI.—Section 1977(a) of such title is amended—

(A) by striking "$250,000" each place it appears and inserting "$400,000"; and

(B) by adding at the end of paragraph (1) the following new sentence: "Any additional amount of insurance provided a member under section 1967(e) of this title may not be treated as an amount for which Veterans' Group Life Insurance shall be issued under this section.".

(6) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(A) in paragraph (2), by adding at the end the following new subparagraph:

"(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election of a member with a spouse not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(i)(I), shall be provided to the spouse of the member."; and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(D) Whenever a member who is not married elects not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided for under subparagraph (A)(i)(I), the Secretary concerned shall provide a notice of such election to any person designated by the member as a beneficiary or designated as the member's next-of-kin for the purpose of emergency notification, as determined under regulations prescribed by the Secretary of Defense.".

(7) REQUIREMENT REGARDING REDESIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection:

"(j) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without providing written notice of such modification to the spouse.".

(8) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on October 1, 2005, immediately after the termination of the amendments made to sections 1967, 1969, 1970, and 1977 of title 38, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

SEC. 642. IMPROVEMENT OF MANAGEMENT OF ARMED FORCES RETIREMENT HOME.

(a) REDESIGNATION OF CHIEF OPERATING OFFICER AS CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended—

(A) by striking "Chief Operating Officer" each place it appears and inserting "Chief Executive Officer"; and

(B) in subsection (e)(1), by striking "Chief Operating Officer's" and inserting "Chief Executive Officer's".

(2) CONFORMING AMENDMENTS.—Such Act is further amended by striking "Chief Operating Officer" each place it appears in a provision as follows and inserting "Chief Executive Officer":

(A) In section 1511 (24 U.S.C. 411).

(B) In section 1512 (24 U.S.C. 412).

(C) In section 1513(a) (24 U.S.C. 413(a)).

(D) In section 1514(c)(1) (24 U.S.C. 414(c)(1)).

(E) In section 1516(b) (24 U.S.C. 416(b)).

(F) In section 1517 (24 U.S.C. 417).

(G) In section 1518(c) (24 U.S.C. 418(c)).

(H) In section 1519(c) (24 U.S.C. 419(c)).

(I) In section 1521(a) (24 U.S.C. 421(a)).

(J) In section 1522 (24 U.S.C. 422).

(K) In section 1523(b) (24 U.S.C. 423(b)).

(L) In section 1531 (24 U.S.C. 431).

(3) CLERICAL AMENDMENTS.—(A) The heading of section 1515 of such Act is amended to read as follows:

"SEC. 1515. CHIEF EXECUTIVE OFFICER.".

(B) The table of contents for such Act is amended by striking the item relating to section 1515 and inserting the following new item:

"Sec. 1515. Chief Executive Officer.".

(4) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Chief Operating Officer of the Armed Forces Retirement Home shall be considered to be a reference to the Chief Executive Officer of the Armed Forces Retirement Home.

(b) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—Section 1513 of such Act (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b), (c), and (d)"; and

(2) by adding at the end the following new subsection:

"(c) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—(1) In providing for the health care needs of residents under subsection (c), the Retirement Home shall have in attendance at each facility of the Retirement Home, during the daily business hours of such facility, a physician and a dentist, each of whom shall have skills and experience suited to residents of such facility.

"(2) In providing for the health care needs of residents, the Retirement shall also have available to residents of each facility of the Retirement Home, on an on-call basis during hours other than the daily business hours of such facility, a physician and a dentist each of whom have skills and experience suited to residents of such facility.

"(3) In this subsection, the term 'daily business hours' means the hours between 9 o'clock ante meridian and 5 o'clock post meridian, local time, on each of Monday through Friday.".

(c) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—Section 1513 of such Act is further amended—

(1) in the third sentence of subsection (b), by inserting ", except as provided in subsection (d)," after "shall not"; and

(2) by adding at the end the following new subsection:

"(d) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—The Retirement Home shall provide to any resident of a facility of the Retirement Home, upon request of such resident, transportation to any medical facility located not more than 30 miles from such facility for the provision of medical care to such resident. The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.".

(d) MILITARY DIRECTOR FOR EACH RETIREMENT HOME.—Section 1517(b)(1) of such Act (24 U.S.C. 417(b)(1)) is amended by striking "a civilian with experience as a continuing care retirement community professional or".

Subtitle E—Other Matters

SEC. 651. PAYMENT OF EXPENSES OF MEMBERS OF THE ARMED FORCES TO OBTAIN PROFESSIONAL CREDENTIALS.

(a) PAYMENT AUTHORIZED.—Chapter 101 of title 10, United States Code, is amended by inserting after section 2007 the following new section:

"§ 2007a. Payment of expenses of members of the armed forces to obtain professional credentials

"(a) PAYMENT AUTHORIZED.—Except as provided in subsection (b), the Secretary of Defense may pay for—

"(1) expenses of members of the armed forces to obtain professional credentials, including expenses of professional accreditation, State-imposed and professional licenses, and professional certification; and

"(2) examinations to obtain such credentials.

"(b) EXCEPTION.—The authority in subsection (a) may not be exercised on behalf of any member of the armed forces for expenses to obtain the basic qualifications for membership in a profession or officer community.

"(c) FUNDS AVAILABLE.—Funds appropriated or otherwise made available to the Secretary of Defense may be used to pay expenses under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2007a. Payment of expenses of members of the armed forces to obtain professional credentials.".

SEC. 652. PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMED FORCES.

(a) Pilot Program Required.—During fiscal year 2006, the Secretary of the Army shall carry out within the Army a pilot program in order to assess the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces described in subsection (b) would—

(1) assist the Armed Forces in recruiting efforts; and

(2) assist such members in establishing habits of financial responsibility during their initial enlistments in the Armed Forces.

(b) Covered Members.—A member of the Armed Forces described in this subsection is a member of the Armed Forces who is serving in the Armed Forces under an initial enlistment for a period of not less than two years.

(c) Contributions to Thrift Savings Fund.—

(1) In general.—The Secretary of the Army may make contributions to the Thrift Savings Fund on behalf of any participant in the pilot program under subsection (a) for any pay period during the period of the pilot program.

(2) Limitations.—The amount of any contributions made with respect to a member under paragraph (1) shall be subject to the provisions of section 8432(c) of title 5, United States Code.

(d) Report.—

(1) In general.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot program under subsection (a).

(2) Elements.—The report shall include the following:

(A) A description of the pilot program, including the number of members of the Army who participated in the pilot program and the contributions made by the Army to the Thrift Savings Fund on behalf of such members during the period of the pilot program.

(B) An assessment, based on the pilot program and taking into account the views of officers and senior enlisted personnel of the Army, and of field recruiters, of the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces similar to the participants in the pilot program—

(i) would enhance the recruiting efforts of the Armed Forces; and

(ii) would assist such members in establishing habits of financial responsibility during their initial enlistments in the Armed Forces.

SEC. 653. MODIFICATION OF REQUIREMENT FOR CERTAIN INTERMEDIARIES UNDER CERTAIN AUTHORITIES RELATING TO ADOPTIONS.

(a) Reimbursement for Adoption Expenses.—Section 1052(g)(1) of title 10, United States Code, is amended by inserting "or other source authorized to place children for adoption under State or local law" after "qualified adoption agency".

(b) Treatment as Children for Medical and Dental Care Purposes.—Section 1072(6)(D)(i) of such title is amended by inserting ", or by any other source authorized by State or local law to provide adoption placement," after "(recognized by the Secretary of Defense)".

SEC. 654. EXTENSION OF EFFECTIVE DATE.

Section 6 of the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1070 note) is amended by striking "September 30, 2005" and inserting "September 30 2007". .

TITLE VII—HEALTH CARE

Subtitle A—Benefits Matters

SEC. 701. CLARIFICATION OF ELIGIBILITY OF RESERVE OFFICERS FOR HEALTH CARE PENDING ACTIVE DUTY FOLLOWING ISSUANCE OF ORDERS TO ACTIVE DUTY.

Section 1074(a)(2)(B)(iii) of title 10, United States Code, is amended by inserting before the semicolon the following: ", or the orders have been issued but the member has not entered on active duty".

SEC. 702. LIMITATION ON DEDUCTIBLE AND COPAYMENT REQUIREMENTS FOR NURSING HOME RESIDENTS UNDER THE PHARMACY BENEFITS PROGRAM.

Section 1074g(a)(6) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(C) In the case of a beneficiary who is a resident of a nursing home and who is required, by State law, to use nursing home pharmacy services utilizing pre-packaged pharmaceuticals, any deductible or copayment requirements for such pharmaceuticals under the cost sharing requirements may not exceed such deductible or copayment requirements as are applicable under the cost sharing requirements to a beneficiary who uses a network provider pharmacy under the pharmacy benefits program.".

SEC. 703. ELIGIBILITY OF SURVIVING ACTIVE DUTY SPOUSES OF DECEASED MEMBERS FOR ENROLLMENT AS DEPENDENTS IN A TRICARE DENTAL PLAN.

Section 1076a(k)(2) of title 10, United States Code, is amended—

(1) by striking "under subsection (f), or" and inserting "under subsection (f),"; and

(2) by inserting after "is not enrolled because the dependent is a child under the minimum age for enrollment," the following: "or is not enrolled because the dependent is a spouse who did not qualify for enrollment on the date of the member's death because the spouse was also on active duty for a period of more than 30 days on the date of the member's death,".

SEC. 704. INCREASED PERIOD OF CONTINUED TRICARE PRIME COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) Period of Eligibility.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(g)";

(2) by striking the second sentence; and

(3) by adding at the end the following new paragraph:

"(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

"(A) Three years.

"(B) The period ending on the date on which such dependent attains 21 years of age.

"(C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

"(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

"(ii) The date on which such dependent attains 23 years of age.

"(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

"(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

"(5) In this subsection, the term 'TRICARE Prime' means the managed care option of the TRICARE program.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

SEC. 705. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) General Eligibility.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) Eligibility.—A member" and inserting "(a) Eligibility.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) Condition for Termination of Eligibility.—Subsection (b) of such section is amended by striking "(b) Period of Coverage.—(1) TRICARE Standard" and all that follows through "(3) Eligibility" and inserting "(b) Termination of Eligibility Upon Termination of Service.—Eligibility".

(c) Conforming Amendments.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

"§ 1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve".

(d) Repeal of Obsolete Provision.—Section 1076b of title 10, United States Code, is repealed.

(e) Clerical Amendments.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

Subtitle B—Planning, Programming, and Management

SEC. 711. TRICARE STANDARD COORDINATORS IN TRICARE REGIONAL OFFICES.

(a) COORDINATOR IN EACH REGIONAL OFFICE.—

(1) IN GENERAL.—In each TRICARE Regional Office there shall be a position the responsibilities of which shall be the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned.

(2) DESIGNATION.—The position under paragraph (1) in a TRICARE Regional Office shall be filled by an individual in such Regional Office designated for that purpose.

(b) DUTIES OF POSITION.—

(1) IN GENERAL.—The specific duties of the positions required under subsection (a) shall be as set forth in regulations prescribed by the Secretary of Defense, in consultation with the other administering Secretaries.

(2) ELEMENTS.—The duties shall include—

(A) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

(B) communicating with beneficiaries who receive the TRICARE Standard option;

(C) outreach to community health care providers to encourage their participation in the TRICARE program; and

(D) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the plans to implement the requirements of the section.

(d) DEFINITIONS.—In this section:

(1) The terms "administering Secretaries" and "TRICARE program" have the meaning given such terms in section 1072 of title 10, United States Code.

(2) The term "TRICARE Standard" means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program.

SEC. 712. REPORT ON DELIVERY OF HEALTH CARE BENEFITS THROUGH MILITARY HEALTH CARE SYSTEM.

(a) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the delivery of health care benefits through the military health care system.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An analysis of the organization and costs of delivering health care benefits to current and retired members of the Armed Forces and their families.

(2) An analysis of the costs of ensuring medical readiness throughout the Armed Forces in support of national security objectives.

(3) An assessment of the role of health benefits in the recruitment and retention of members of the Armed Forces, whether in the regular components or the reserve components of the Armed Forces.

(4) An assessment of the experience of the military departments during fiscal years 2003, 2004, and 2005 in recruitment and retention of military and civilian medical and dental personnel, whether in the regular components or the reserve components of the Armed Forces, in light of military and civilian medical manpower requirements.

(5) A description of requirements for graduate medical education for military medical care providers and options for meeting such requirements, including civilian medical training programs.

(c) RECOMMENDATIONS.—In addition to the matters specified in subsection (b), the report under subsection (a) shall also include such recommendations for legislative or administrative action as the Secretary considers necessary to improve efficiency and quality in the provision of health care benefits through the military health care system, including recommendations on—

(1) the organization and delivery of health care benefits;

(2) mechanisms required to measure costs more accurately;

(3) mechanisms required to measure quality of care, and access to care, more accurately;

(4) other improvements in the efficiency of the military health care system; and

(5) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

SEC. 713. COMPTROLLER GENERAL REPORT ON DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS FOR HEALTH CARE FOR CHILDREN DEPENDENTS UNDER TRICARE.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the effectiveness of the current system of differential payments to children's hospitals for health care services for severely ill dependent children of members of the uniformed services under the TRICARE program in achieving the objective of securing adequate health care services for such dependent children under that program.

(b) ELEMENTS OF STUDY.—The study required by subsection (a) shall include the following:

(1) A description of the current participation of children's hospitals in the TRICARE program.

(2) An assessment of the current system of differential payments to children's hospitals for health care services described in that subsection, including an assessment of—

(A) the extent to which the calculation of such differential payments takes into account the complexity and extraordinary resources required for the provision of such health care services;

(B) the extent to which such differential payments provide appropriate compensation to such hospitals for the provision of such services; and

(C) any obstacles or challenges to the development of future modifications to the system of differential payments.

(3) An assessment of the adequacy of the access of dependent children described in that subsection to specialized hospital services for their illnesses under the TRICARE program.

(c) REPORTS.—Not later than May 1, 2006, the Comptroller General shall submit to the Secretary of Defense and the congressional defense committees a report on the study required by subsection (a), together with such recommendations, if any, as the Comptroller General considers appropriate for modifications of the current system of differential payments to children's hospitals in order to achieve the objective described in that subsection.

(d) TRANSMITTAL TO CONGRESS.—

(1) IN GENERAL.—Not later than November 1, 2006, the Secretary of Defense shall transmit to the congressional defense committees the report submitted by the Comptroller General to the Secretary under subsection (c).

(2) IMPLEMENTATION OF MODIFICATIONS.—If the report under paragraph (1) includes recommendations of the Comptroller General for modifications of the current system of differential payments to children's hospitals, the Secretary shall transmit with the report—

(A) a proposal for such legislative or administration action as may be required to implement such modifications; and

(B) an assessment and estimate of the costs associated with the implementation of such modifications.

(e) DEFINITIONS.—In this section:

(1) DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS.—The term "differential payments to children's hospitals" means the additional amounts paid to children's hospitals under the TRICARE program for health care procedures for severely ill children in order to take into account the additional costs associated with such procedures for such children when compared with the costs associated with such procedures for adults and other children.

(2) TRICARE PROGRAM.—The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

SEC. 714. REPEAL OF REQUIREMENT FOR COMPTROLLER GENERAL REVIEWS OF CERTAIN DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS PROJECTS ON SHARING OF HEALTH CARE RESOURCES.

(a) JOINT INCENTIVES PROGRAM.—Section 8111(d) of title 38, United States Code, is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.—Section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2595; 38 U.S.C. 8111 note) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in paragraph (2) of subsection (h), as so redesignated, by striking "based on recommendations" and all that follows and inserting "as determined by the Secretaries based on information available to the Secretaries to warrant such action.".

SEC. 715. SURVEYS ON TRICARE STANDARD.

Section 723(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1532; 10 U.S.C. 1073 note) is amended by adding at the end the following new paragraph:

"(4) The surveys required by paragraph (1) shall include questions designed to determine from health care providers participating in such surveys whether such providers are aware of the TRICARE program, what percentage of the current patient population of such providers receive any benefit option under the TRICARE program, and whether such providers accept patients under the medicare program or new patients under the medicare program.”.

SEC. 716. MODIFICATION OF HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT REPORT REQUIREMENTS.

Section 723(e) of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 1071 note) is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

“(1) Quality measures, including structure, process, and outcomes concerning—

“(A) patient safety;

“(B) timeliness and accessibility of care;

“(C) patient satisfaction; and

“(D) the use of evidence-based practices.

“(2) Population health.

“(3) Biosurveillance.”.

SEC. 717. MODIFICATION OF AUTHORITIES RELATING TO PATIENT CARE REPORTING AND MANAGEMENT SYSTEM.

(a) REPEAL OF REQUIREMENT TO LOCATE DEPARTMENT OF DEFENSE PATIENT SAFETY CENTER WITHIN ARMED FORCES INSTITUTE OF PATHOLOGY.—Subsection (c)(3) of section 754 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into lay by Public Law 106–398; 114 Stat. 1654A–196) is amended by striking “within the Armed Forces Institute of Pathology”.

(b) RENAMING OF MEDTEAMS PROGRAM.—The caption of subsection (d) of such section is amended by striking “MEDTEAMS” and inserting “MEDICAL TEAM TRAINING”.

SEC. 718. QUALIFICATIONS FOR INDIVIDUALS SERVING AS TRICARE REGIONAL DIRECTORS.

(a) QUALIFICATIONS.—Effective as of the date of the enactment of this Act, no individual may serve in the position of Regional Director under the TRICARE program unless the individual—

(1) is—

(A) an officer of the Armed Forces in a general or flag officer grade; or

(B) a civilian employee of the Department of Defense in the Senior Executive Service; and

(2) has at least 10 years of experience, or equivalent expertise or training, in the military health care system, managed care, and health care policy and administration.

(b) TRICARE PROGRAM DEFINED.—In this section, the term “TRICARE program” has the meaning given such term in section 1072(7) of title 10, United States Code.

Subtitle C—Other Matters

SEC. 731. REPORT ON ADVERSE HEALTH EVENTS ASSOCIATED WITH USE OF ANTI-MALARIAL DRUGS.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study of adverse health events that may be associated with use of anti-malarial drugs, including mefloquine.

(2) PARTICIPATION OF CERTAIN RESEARCHERS.—The Secretary shall ensure the participation in the study of epidemiological and clinical researchers of the Federal Government outside the Department of Defense, and of epidemiological and clinical researchers outside the Federal Government.

(b) MATTERS COVERED.—The study required by subsection (a) shall include the following:

(1) A comparison of adverse health events that may be associated with different anti-malarial drugs, including mefloquine.

(2) An analysis of the extent to which mefloquine may be a risk factor contributing to suicides among members of the Armed Forces.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a).

SEC. 732. PILOT PROJECTS ON EARLY DIAGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) PILOT PROJECTS REQUIRED.—The Secretary of Defense shall carry out not less than three pilot projects to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of Post Traumatic Stress Disorder (PTSD) and other mental health conditions.

(b) PILOT PROJECT REQUIREMENTS.—

(1) MOBILIZATION-DEMOBILIZATION FACILITY.—

(A) IN GENERAL.—One of the pilot projects under subsection (a) shall be carried out at a military medical facility at a large military installation at which the mobilization or demobilization of members of the Armed Forces occurs.

(B) ELEMENTS.—The pilot project under this paragraph shall be designed to evaluate and produce effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat Post Traumatic Stress Disorder in a manner that avoids the referral of patients to specialty care by a psychiatrist or other mental health professional.

(2) NATIONAL GUARD OR RESERVE FACILITY.—

(A) IN GENERAL.—One of the pilot projects under subsection (a) shall be carried out at the location of a National Guard or Reserve unit or units that are located more than 40 miles from a military medical facility and whose personnel are served primarily by civilian community health resources.

(B) ELEMENTS.—The pilot project under this paragraph shall be designed—

(i) to evaluate approaches for providing evidence-based clinical information on Post Traumatic Stress Disorder to civilian primary care providers; and

(ii) to develop educational materials and other tools for use by members of the National Guard or Reserve who come into contact with other members of the National Guard or Reserve who may suffer from Post Traumatic Stress Disorder in order to encourage and facilitate early reporting and referral for treatment.

(3) INTERNET-BASED DIAGNOSIS AND TREATMENT.—One of the pilot projects under subsection (a) shall be designed to evaluate—

(A) Internet-based automated tools available to military and civilian health care providers for the early diagnosis and treatment of Post Traumatic Stress Disorder, and for tracking patients who suffer from Post Traumatic Stress Disorder; and

(B) Internet-based tools available to family members of members of the Armed Forces in order to assist such family members in the identification of the emergence of Post Traumatic Stress Disorder.

(c) REPORT.—Not later than June 1, 2006, the Secretary shall submit to the congressional defense committees a report on the pilot projects to be carried out under this section. The report shall include a description of each such pilot project, including the location of the pilot projects under paragraphs (2) and (3) of subsection (b), and the scope and objectives of each such pilot project.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

SEC. 801. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE.

(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

(1) IN GENERAL.—For each non-defense agency of the Federal Government that procured property or services in excess of $100,000,000 on behalf of the Department of Defense during fiscal year 2005, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2006, jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) determine in writing whether—

(i) such non-defense agency is compliant with defense procurement requirements;

(ii) such non-defense agency is not compliant with defense procurement requirements, but made significant progress during 2005 toward ensuring compliance with defense procurement requirements; or

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency.

(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of such paragraph is correct in the case of a non-defense agency, those Inspectors General shall, not later than March 15, 2007, jointly—

(A) conduct a second review, as described in paragraph (1)(A), regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2006; and

(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Defense and the Inspector General of each non-defense agency referred to in subsection (a) shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section.

(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a non-defense agency may by mutual agreement conduct separate reviews of the procurement of property

and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraphs (1) and (2) of subsection (a), as applicable, with respect to each such separate review.

(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2006, and before March 16, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a non-defense agency for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

(2) LIMITATION AFTER REVIEW PERIOD.—After March 15, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a particular non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary of Defense for Acquisition, Technology, and Logistics shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of that agency jointly—

(1) determine that such non-defense agency is compliant with defense procurement requirements; and

(2) notify the Secretary of Defense of that determination.

(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR.—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

(h) INAPPLICABILITY TO CERTAIN GSA CONTRACTS.—This section does not apply as follows:

(1) To Client Support Centers of the Federal Technology Service of the General Services Administration, which are subject to review under section 802 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2004; 10 U.S.C. 2302).

(2) To any purchase through the multiple award schedules established by the Administrator of General Services, as described in section 2302(2)(C) of title 10, United States Code, unless such purchase is made through—

(A) a non-defense agency other than the General Services Administration; or

(B) a business unit of the General Services Administration that is not responsible for administering the multiple award schedules program.

(i) DEFINITIONS.—In this section:

(1) The term "non-defense agency" means a department or agency of the Federal Government outside the Department of Defense, except as excluded under subsection (h).

(2) The term "governmentwide acquisition contract", with respect to a non-defense agency, means a task or delivery order contract that—

(A) is entered into by the non-defense agency; and

(B) may be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

SEC. 802. CONTRACT SUPPORT ACQUISITION CENTERS.

(a) ESTABLISHMENT.—

(1) ORGANIZATION; DUTIES.—Subchapter I of chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 197. Contract Support Acquisition Centers

"(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish within the Defense Logistics Agency a Defense Contract Support Acquisition Center.

"(2) The Secretary of each military department shall establish a Contract Support Acquisition Center for that military department.

"(b) DIRECTOR.—(1) The Director of a Contract Support Acquisition Center is the head of the Center.

"(2)(A) The Secretary of Defense shall appoint the Director of the Defense Contract Support Acquisition Center.

"(B) The Secretary of a military department shall appoint the Director of the Contract Support Acquisition Center of that department.

"(3) The Director of a Contract Support Acquisition Center shall be selected from among commissioned officers of the armed forces on active duty and senior civilian officers and employees of the Department of Defense who have substantial experience in the acquisition of contract services.

"(c) DUTIES REGARDING ACQUISITIONS.—(1)(A) The Director of the Defense Contract Support Acquisition Center shall act as the executive agent within the Department of Defense for each acquisition of contract services in excess of the simplified acquisition threshold for the Department of Defense, other than an acquisition referred to in subparagraph (B).

"(B) The Director of the Contract Support Acquisition Center of a military department shall act as the executive agent within that military department for each acquisition of contract services in excess of the simplified acquisition threshold for such military department.

"(2) In carrying out paragraph (1), the Director of a Center shall—

"(A) develop and maintain policies, procedures, and best practices guidelines addressing the acquisition of contract services for the Secretary appointing the Director, including policies, procedures, and best practices guidelines for—

"(i) acquisition planning;

"(ii) solicitation and contract award;

"(iii) requirements development and management;

"(iv) contract tracking and oversight;

"(v) performance evaluation; and

"(vi) risk management;

"(B) assign responsibility for carrying out the acquisition of contract services to employees of the Center and other appropriate organizational elements under the jurisdiction of that Secretary;

"(C) dedicate fulltime commodity managers to coordinate the acquisition of key categories of services;

"(D) ensure that contract services being acquired to meet the Secretary's requirements for those services are acquired by means of a contract, or a task or delivery order, that—

"(i) is in the best interests of the Department of Defense or, in the case of the Director of the Center for a military department, the best interests of that military department; and

"(ii) is entered into or issued, and is managed, in compliance with applicable laws, regulations, and directives, and other applicable requirements;

"(E) ensure that competitive procedures and performance-based contracting are used to the maximum extent practicable for the acquisition of contract services for that Secretary; and

"(F) monitor data collection under section 2330a of this title and periodically conduct a spending analysis to ensure that funds expended for the acquisition of contract services for the Secretary are being expended in the most rational and economical manner practicable.

"(d) DUTIES REGARDING ACQUISITION PERSONNEL.—The Directors of the Contract Support Acquisition Centers shall work with appropriate officials of the Department of Defense—

"(1) to identify the critical skills and competencies needed to carry out the acquisition of contract services on behalf of the Department of Defense; and

"(2) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for those skills and competencies.

"(e) SCOPE OF AUTHORITY.—The authority of the Director of a Contract Support Acquisition Center under this section applies to acquisitions in excess of the simplified acquisition threshold.

"(f) EXCLUSIVITY OF AUTHORITY.—(1) After September 30, 2009, no officer or employee of the Federal Government outside the Defense Contract Support Acquisition Center may, without the prior written approval of the Director of the Center or the Secretary of Defense, engage in a procurement action for the acquisition of contract services for the Department of Defense that is valued in excess of the simplified acquisition threshold, other than a procurement action covered by paragraph (2).

"(2) After September 30, 2009, no officer or employee of the Federal Government outside the Contract Support Acquisition Center of a military department may, without the prior written approval of the Director of the Center, the Secretary of Defense, or the Secretary of that military department, engage in a procurement action for the acquisition of contract services for that military department that is valued in excess of the simplified acquisition threshold.

"(3) In this subsection, the term 'procurement action' includes the following actions:

"(A) Entry into a contract or any other form of agreement.

"(B) Issuance of a task order, delivery order, or military interdepartmental purchase request.

"(g) Staff and Support.—(1) The Secretary appointing the Director of a Contract Support Acquisition Center shall ensure that the Director of the Center is provided a staff and administrative support that are adequate for the Director to perform the duties of the position under this section effectively.

"(2) The Secretary of Defense may transfer to the Defense Contract Support Acquisition Center any personnel within the Department of Defense whose principal duty is the acquisition of contract services for the Department of Defense.

"(3) The Secretary of a military department may transfer to the Contract Support Acquisition Center of that military department any personnel within such military department whose principal duty is the acquisition of contract services for that military department.

"(h) Transfers of Nondefense Organizations.—(1) Except as provided in paragraph (5), the Secretary of Defense may accept from the head of a department or agency outside the Department of Defense a transfer to any of the Contract Support Acquisition Centers of all or part of any organizational unit of such other department or agency that is primarily engaged in the acquisition of contract services if, during the most recent year for which data are available before such transfer, more than 50 percent of the contract services acquired by such organizational unit (determined on the basis of cost) were acquired on behalf of the Department of Defense.

"(2) The head of a department or agency outside the Department of Defense may transfer in accordance with this section an organizational unit that is authorized to be accepted under paragraph (1).

"(3) A transfer under this subsection may be made and accepted only pursuant to a memorandum of understanding that is entered into by the head of the department or agency making the transfer and the Secretary of Defense.

"(4) A transfer of an organizational unit under this section shall include the transfer of the personnel of such organizational unit, the assets of such organizational unit, and the contracts of such organizational unit, to the extent provided in the memorandum of understanding governing the transfer of the unit.

"(5) This section does not authorize a transfer of the multiple award schedule program of the General Services Administration described in section 2302(2)(C) of this title.

"(i) Simplified Acquisition Threshold.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 2302(7) of this title.".

(2) Clerical amendment.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"197. Contract Support Acquisition Centers.".

(b) Implementation.—

(1) Phased implementation of director's authority to act as executive agent.—Notwithstanding subsections (c)(1) and (e) of section 197 of title 10, United States Code (as added by subsection (a)), the authority of the Director of a Contract Support Acquisition Center to act under such section as executive agent for acquisitions of contract services before October 1, 2009, applies only with respect to—

(A) contracts in excess of $10,000,000 that are entered into after September 30, 2006, and before October 1, 2009; and

(B) any other acquisitions of contract services that, as designated by the Secretary who appointed the Director, are to be carried out for that Secretary by the Director.

(2) Procurement management structure.—The Secretary of Defense shall implement section 2330 of title 10, United States Code (relating to a management structure for the procurement of services for the Department of Defense), by designating each Director of the Contract Support Acquisition Center appointed under section 197 of such title (as added by subsection (a)) to act as executive agent for the management of the procurements of services carried out for the Secretary appointing such Director with respect to—

(A) all contracts in excess of $10,000,000 that are entered into after September 30, 2006, and before October 1, 2009; and

(B) all contracts in excess of the simplified acquisition threshold (as defined in section 2302(7) of such title) that are entered into after September 30, 2009.

(3) Compliance with certain public law 108-375 requirements.—For compliance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2022, 10 U.S.C. 2304 note), the Secretary concerned shall designate the Director of the Contract Support Acquisition Center appointed by that Secretary to act as the executive agent of that Secretary to review and approve the use of a contract for the acquisition of contract services that—

(A) is entered into after September 30, 2006, by a department or agency outside the Department of Defense; and

(B) if entered into—

(i) before October 1, 2009, is valued in excess of $10,000,000; or

(ii) after September 30, 2009, is valued in excess of the simplified acquisition threshold (as defined in section 2302(7) of title 10, United States Code).

(4) Secretary concerned defined.—In paragraph (3), the term "Secretary concerned" means the head of an agency named in subsection (f)(1) of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2022; 10 U.S.C. 2304 note).

SEC. 803. AUTHORITY TO ENTER INTO ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS NOT A MEMBER.

(a) Acquisition Agreements.—Section 2341(1) of title 10, United States Code, is amended by striking "of which the United States is a member".

(b) Cross-Servicing Agreements.—Section 2342(a)(1)(C) of such title is amended by striking "of which the United States is a member".

(c) Conforming Amendment.—Section 2344(b)(4) of such title is amended by striking "of which the United States is a member".

SEC. 804. REQUIREMENT FOR AUTHORIZATION FOR PROCUREMENT OF MAJOR WEAPON SYSTEMS AS COMMERCIAL ITEMS.

(a) Requirement for Authorization.—

(1) In general.—Chapter 140 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2379. Requirement for authorization for procurement of major weapon systems as commercial items

"(a) Requirement for Authorization.—A major weapon system of the Department of Defense may be treated as a commercial item, or purchased under procedures established for the procurement of commercial items, only if specifically authorized by Congress.

"(b) Treatment of Subsystems and Components as Commercial Items.—A subsystem or component of a major weapon system shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items if such subsystem or component otherwise meets the requirements for treatment as a commercial item.

"(c) Major Weapon System Defined.—In this section, the term 'major weapon system' means a weapon system acquired pursuant to a major defense acquisition program (as that term is defined in section 2430 of this title).".

(2) Clerical amendment.—The table of sections at the beginning of chapter 140 of such title is amended by adding at the end the following new item:

"2379. Requirement for authorization for procurement of major weapon systems as commercial items.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to contracts entered on or after such date.

SEC. 805. REPORT ON SERVICE SURCHARGES FOR PURCHASES MADE FOR MILITARY DEPARTMENTS THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES.

(a) Reports by Military Departments.—For each of fiscal years 2005 and 2006, the Secretary of each military department shall, not later than 60 days after the last day of that fiscal year, submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the service charges imposed on such military department for purchases in amounts greater than the simplified acquisition threshold that were made for that military department during such fiscal year through a contract entered into by an agency of the Department of Defense other than that military department. The report shall specify the amounts of the service charges and identify the services provided in exchange for such charges.

(b) Analysis of Military Department Reports.—Not later than 90 days after receiving a report of the Secretary of a military department for a fiscal year under subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review the service charges delineated in such report for the acquisitions covered by the report and the services provided in exchange for such charges and shall compare those charges with the costs of the alternative means for making such acquisitions. The analysis shall include the Under Secretary's determinations of whether the imposition and amounts of the service charges were reasonable.

(c) Report to Congress.—Not later than April 1, 2006 (for reports for fiscal year 2005 under subsection (a)), and not later than April 1, 2007 (for reports for fiscal year 2006 under subsection (a)), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the reports submitted by the Secretaries of the military departments under subsection (a), together with the Under Secretary's determinations under subsection (b) with regard to the matters set forth in those reports.

(d) Simplified Acquisition Threshold Defined.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SEC. 806. REVIEW OF DEFENSE ACQUISITION STRUCTURES.

(a) Review by Defense Acquisition University.—The Defense Acquisition University, acting under the direction and authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall conduct a review of the acquisition structure of the Department of Defense, including the acquisition structure of the following:

(1) Each military department.

(2) Each defense agency.

(3) Any other element of the Department of Defense that has an acquisition function.

(b) Elements.—

(1) In general.—In reviewing the acquisition structure of an organization under subsection (a), the Defense Acquisition University shall—

(A) determine the current structure of the organization;

(B) review the evolution of the current structure of the organization, including the reasons for each reorganization of the structure, and identify any acquisition structures or capabilities that have been divested from the organization during the last 15 years;

(C) identify the capabilities needed by the organization to fulfill its function and assess the capacity of the organization, as currently structured, to provide such capabilities; and

(D) identify any gaps, shortfalls, or inadequacies relating to acquisitions in the current structure of the organization.

(2) Emphasis in review.—In conducting the review of acquisition structures under subsection (a), the University shall place special emphasis on consideration of—

(A) structures and processes for joint acquisition, including actions that may be needed to improve such structures and processes; and

(B) actions that may be needed to improve acquisition outcomes.

(c) Priority on Completion of Review of Acquisition Structure of Department of Air Force.—In conducting the review of acquisition structures under subsection (a), the Defense Acquisition University shall give a priority to a review of the acquisition structure of the Department of the Air Force.

(d) Funding.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide the Defense Acquisition University the funds required to conduct the review under subsection (a).

(e) Reports.—

(1) Interim report on structure of department of air force.—Not later than one year after the date of the enactment of this Act, the Defense Acquisition University shall submit to the congressional defense committees an interim report addressing the acquisition structure of the Department of the Air Force.

(2) Final report on review.—Not later than 180 days after the completion of the review required by subsection (a), the University shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the review. The report shall include a separate annex on the acquisition structure on each organization covered by the review, which annex—

(A) shall address the matters specified under subsection (b) with respect to such organization; and

(B) may include such recommendations with respect to such organization as the University considers appropriate.

(3) Transmittal of final report.—Not later than 90 days after the receipt of the report under paragraph (2), the Under Secretary shall transmit to the congressional defense committees a copy of the report, together with the comments of the Under Secretary on the report.

(f) Defense Acquisition University Defined.—In this section, the term "Defense Acquisition University" means the Defense Acquisition University established pursuant to section 1746 of title 10, United States Code.

Subtitle B—Defense Industrial Base Matters

SEC. 811. CLARIFICATION OF EXCEPTION FROM BUY AMERICAN REQUIREMENTS FOR PROCUREMENT OF PERISHABLE FOOD FOR ESTABLISHMENTS OUTSIDE THE UNITED STATES.

Section 2533a(d)(3) of title 10, United States Code, is amended by inserting ", or for," after "perishable foods by".

SEC. 812. CONDITIONAL WAIVER OF DOMESTIC SOURCE OR CONTENT REQUIREMENTS FOR CERTAIN COUNTRIES WITH RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS WITH THE UNITED STATES.

(a) Authority for Annual Waiver.—Subchapter V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2539c. Domestic source or content requirements: one-year waiver for certain countries with reciprocal defense procurement agreements with the United States

"(a) Waiver Authority.—Subject to subsection (g), upon making a determination under subsection (b) that a foreign country described by that subsection has not qualitatively or quantitatively increased exports of defense items, as determined by the Secretary of Defense for purposes of this section, to the People's Republic of China during the fiscal year in which such determination is made, the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (c) and thereby authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured in such foreign country during the fiscal year following the fiscal year in which such determination is made.

"(b) Annual Determinations.—Not later than September 30 each fiscal year, the Secretary of Defense may determine whether or not a foreign country with which the United States had in force during such fiscal year a reciprocal defense procurement memorandum of understanding or agreement qualitatively or quantitatively increased exports of defense items to the People's Republic of China during such fiscal year. Each such determination shall be in writing.

"(c) Covered Requirements.—For purposes of this section:

"(1) A domestic source requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item that is grown, reprocessed, reused, produced, or manufactured in the United States or by a manufacturer that is a part of the national technology and industrial base (as defined in section 2500(1) of this title).

"(2) A domestic content requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item produced or manufactured partly or wholly from components and materials grown, reprocessed, reused, produced, or manufactured in the United States.

"(d) Effective Period of Waiver.—Any waiver of the application of any domestic source requirement or domestic content with respect to a foreign country under subsection (a) shall be effective only for the fiscal year following the fiscal year in which is made the determination on which such waiver is based.

"(e) Limitation on Delegation.—The authority of the Secretary of Defense to waive the application of domestic source or content requirements under subsection (a) may not be delegated to any officer or employee other than the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(f) Consultations.—The Secretary of Defense may grant a waiver of the application of a domestic source or content requirement under subsection (a) only after consultation with the United States Trade Representative, the Secretary of Commerce, and the Secretary of State.

"(g) Laws Not Waivable.—The Secretary of Defense may not exercise the authority under subsection (a) to waive any domestic source or content requirement contained in any of the following laws:

"(1) The Small Business Act (15 U.S.C. 631 et seq.).

"(2) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(3) Section 2533a of this title.

"(4) Sections 7309 and 7310 of this title.

"(h) Relationship to Other Waiver Authority.—The authority under subsection (a) to waive a domestic source requirement or domestic content requirement is in addition to any other authority to waive such requirement.

"(i) Clarification of Relationship With Buy American Act.—Nothing in this section shall be construed to alter in any way the applicability of the Buy American Act (41 U.S.C. 10a), or the authority of the Secretary of Defense to waive the requirements of such Act, with respect to the procurement of any item to which such Act would apply without regard to this section.

"(j) Construction With Respect to Later Enacted Laws.—This section may not be construed as being inapplicable to a domestic source requirement or domestic content requirement that is set forth in a law enacted after the enactment of this section solely on the basis of the later enactment of such law.".

(b) Clerical Amendment.—The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end the following new item:

"2539c. Domestic source or content requirements: one-year waiver for certain countries with reciprocal defense procurement agreements with the United States.".

SEC. 813. CONSISTENCY WITH UNITED STATES OBLIGATIONS UNDER TRADE AGREEMENTS.

No provision of this Act or any amendment made by this Act shall apply to a procurement by or for the Department of Defense to the extent that the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with United States obligations under a trade agreement.

SEC. 814. IDENTIFICATION OF AREAS OF RESEARCH AND DEVELOPMENT EFFORT FOR PURPOSES OF SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) Revision and Update of Criteria and Procedures of Identification.—The Secretary of Defense shall, not less often than once every four years, revise and update the criteria and procedures utilized to identify areas of the research and development effort of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program.

(b) UTILIZATION OF PLANS.—The criteria and procedures described in subsection (a) shall be developed through the use of the most current versions of the following plans:

(1) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

(2) The Defense Technology Area Plan of the Department of Defense.

(3) The Basic Research Plan of the Department of Defense.

(c) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in subsection (a) shall include input in the identification of areas of research and development effort described in that subsection from Department of Defense program managers (PMs) and program executive officers (PEOs).

(d) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—

(1) IN GENERAL.—The Secretary of each military department shall identify research programs that have successfully completed Phase II of the Small Business Innovation Research Program and that have the potential for rapid transitioning to Phase III and into the acquisition process.

(2) LIMITATION.—No research program may be identified under paragraph (1) unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

(3) REPORT.—The Secretary shall submit to the congressional defense committees a report setting forth the research programs identified under paragraph (1). The report shall include a description of the requirements intended to be met by each program identified in the report.

(e) SMALL BUSINESS INNOVATION RESEARCH PROGRAM DEFINED.—In this section, the term "Small Business Innovation Research Program" has the meaning given that term in section 2500(11) of title 10, United States Code.

Subtitle C—Defense Contractor Matters

SEC. 821. REQUIREMENTS FOR DEFENSE CONTRACTORS RELATING TO CERTAIN FORMER DEPARTMENT OF DEFENSE OFFICIALS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410p. Defense contractors: requirements concerning former Department of Defense officials

"(a) IN GENERAL.—Each contract for the procurement of goods or services in excess of $10,000,000, other than a contract for the procurement of commercial items, that is entered into by the Department of Defense shall include a provision under which the contractor agrees to submit to the Secretary of Defense, not later than April 1 of each year such contract is in effect, a written report setting forth the information required by subsection (b).

"(b) REPORT INFORMATION.—A report by a contractor under subsection (a) shall—

"(1) list the name of each person who—

"(A) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(B) during the preceding calendar year was provided compensation by the contractor, if such compensation was first provided by the contractor—

"(i) not more than two years after such officer, employee, or member left service in the Department of Defense; and

"(ii) not more than two years before the date on which the report is required to be submitted; and

"(2) in the case of each person listed under paragraph (1)—

"(A) identify the agency in which such person was employed or served on active duty during the last two years of such person's service with the Department of Defense;

"(B) state such person's job title and identify each major defense system, if any, on which such person performed any work with the Department of Defense during the last two years of such person's service with the Department; and

"(C) state such person's current job title with the contractor and identify each major defense system on which such person has performed any work on behalf of the contractor.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410p. Defense contractors: requirements concerning former Department of Defense officials.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to contracts entered into on or after that date.

SEC. 822. REVIEW OF CERTAIN CONTRACTOR ETHICS MATTERS.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Director of the Office of Government Ethics and the Administrator for Federal Procurement Policy, conduct a review of the ethics considerations raised by the following:

(1) The performance by contractor employees of functions closely associated with inherently governmental functions.

(2) The performance by contractor employees of other functions historically performed by Government employees in the Federal workplace.

(b) OPTIONS TO BE ADDRESSED.—The review under subsection (a) shall include the consideration of a broad range of options for addressing the ethics considerations described in that subsection, including—

(1) amending the Federal Acquisition Regulation to address ethics and personal conflict of interest concerns for contractor employees;

(2) implementing the Federal Acquisition Regulation, as so amended, through the incorporation of appropriate provisions in Federal agency contracts and in the solicitations for such contracts;

(3) requiring such contracts and solicitations to state that contractor employees will be bound by certain ethics standards, whether contractor-imposed or Government-imposed;

(4) encouraging Federal agency personnel to consider including provisions in contracts and solicitations that address conflict of interest issues and require contractor personnel to receive training on Government ethics rules; and

(5) continuing to identify and mitigate conflicts and ethics concerns involving contractor personnel on a case-by-case basis.

(c) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the findings and recommendations of the Secretary as a result of the review under subsection (a) and the consideration of options under subsection (b).

(2) ADDITIONAL VIEWS.—The report under paragraph (1) shall set forth the views, if any, of the Director of the Office of Government Ethics and the Administrator for Federal Procurement Policy on the matters covered by the report.

(d) FUNCTIONS CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS DEFINED.—In this section, the term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

SEC. 823. CONTRACT FRAUD RISK ASSESSMENT.

(a) RISK ASSESSMENT TEAM.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish a risk assessment team to assess the vulnerability of Department of Defense contracts to fraud, waste, and abuse.

(2) The risk assessment team shall be chaired by the Inspector General of the Department of Defense and shall include representatives of the Defense Logistics Agency, the Defense Contract Management Agency, the Defense Contract Audit Agency, the Army, the Navy, and the Air Force.

(3) The risk assessment team shall—

(A) review the contracting systems and internal controls of the Department of Defense and the systems and controls of prime contractors of the Department of Defense to identify areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse; and

(B) prepare a report on the results of its review.

(4) Not later than six months after the date of the enactment of this Act, the chairman of the risk assessment team shall submit the report prepared under paragraph (3)(B) to the Secretary of Defense and the congressional defense committees.

(b) COMPTROLLER GENERAL REVIEW.—(1) Not later than 60 days after the date on which the report of the risk assessment team is submitted under subsection (a)(4), the Comptroller General of the United States shall—

(A) review the methodology used by the risk assessment team and the results of the team's review; and

(B) submit a report on the Comptroller General's review to the congressional defense committees.

(2) The report under paragraph (1)(B) shall include the Comptroller General's findings and any recommendations that the Comptroller considers appropriate.

(c) ACTION PLAN.—Not later than three months after receiving the report of the risk assessment team under subsection (a)(4), the Secretary of Defense shall develop and submit to the congressional defense committees a plan of actions for addressing the areas of vulnerability identified in the report. If the Secretary determines that no action is necessary with regard to an area of vulnerability, the report shall include a discussion of the rationale for that determination.

Subtitle D—Defense Acquisition Workforce Matters

SEC. 831. AVAILABILITY OF FUNDS IN ACQUISITION WORKFORCE TRAINING FUND FOR DEFENSE ACQUISITION WORKFORCE IMPROVEMENTS.

(a) AVAILABILITY OF DEPARTMENT OF DEFENSE CONTRACT FEES FOR DEFENSE ACQUISITION UNIVERSITY.—Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended—

(1) in subsection (a), by striking "This section" and inserting "Except as otherwise provided, this section"; and

(2) in subsection (h)(3)—

(A) in subparagraph (B), by striking "(other than the Department of Defense)" in the first sentence;

(B) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (H), respectively;

(C) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The Administrator of General Services shall credit to the Defense Acquisition University fees collected in accordance with subparagraph (B) from the Department of Defense. Amounts so credited shall be used to develop and expand training for the defense acquisition workforce."; and

(D) in subparagraph (E), as so redesignated, by striking "the purpose specified in subparagraph (A)" and inserting "the purposes specified in subparagraphs (A) and (D)".

(b) CONFORMING AMENDMENT.—Section 1412 of the National Defense Authorization Act for Fiscal year 2004 (Public Law 108–136; 117 Stat. 1664; 41 U.S.C. 433 note) is amended by striking subsection (c).

SEC. 832. LIMITATION AND REINVESTMENT AUTHORITY RELATING TO REDUCTION OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.

(a) LIMITATION.—Notwithstanding any other provision of law, the defense acquisition and support workforce may not be reduced, during fiscal years 2006, 2007, and 2008, below the level of that workforce as of September 30, 2004, determined on the basis of full-time employee equivalence, except as may be necessary to strengthen the defense acquisition and support workforce in higher priority positions in accordance with this section.

(b) INCREASE AND REALIGNMENT OF WORKFORCE.—(1)(A) During fiscal years 2006, 2007, and 2008, the Secretary of Defense shall increase the number of persons employed in the defense acquisition and support workforce as follows:

(i) During fiscal year 2006, to 105 percent of the baseline number (as defined in subparagraph (B)).

(ii) During fiscal year 2007, to 110 percent of the baseline number.

(iii) During fiscal year 2008, to 115 percent of the baseline number.

(B) In this paragraph, the term "baseline number", with respect to persons employed in the defense acquisition and support workforce, means the number of persons employed in such workforce as of September 30, 2004 (determined on the basis of full-time employee equivalence).

(C) The Secretary of Defense may waive a requirement in subparagraph (A) and, subject to subsection (a), employ in the defense acquisition and support workforce a lesser number of employees if the Secretary determines and certifies to the congressional defense committees that the cost of increasing such workforce to the larger size as required under that subparagraph would exceed the savings to be derived from the additional oversight that would be achieved by having a defense acquisition and support workforce of such larger size.

(2) During fiscal years 2006, 2007, and 2008, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

(c) HIGHER PRIORITY POSITIONS.—For the purposes of this section, higher priority positions in the defense acquisition and support workforce include the following positions:

(1) Positions the responsibilities of which include system engineering.

(2) Positions the responsibilities of which include drafting performance-based work statements for services contracts and overseeing the performance of contracts awarded pursuant to such work statements.

(3) Positions the responsibilities of which include conducting spending analyses, negotiating company-wide pricing agreements, and taking other measures to reduce contract costs.

(4) Positions the responsibilities of which include reviewing contractor quality control systems, assessing and analyzing quality deficiency reports, and taking other measures to improve product quality.

(5) Positions the responsibilities of which include effectively conducting public-private competitions in accordance with Office of Management and Budget Circular A–76.

(6) Any other positions in the defense acquisition and support workforce that the Secretary of Defense identifies as being higher priority positions that are staffed at levels not likely to ensure efficient and effective performance of all of the responsibilities of those positions.

(d) STRATEGIC ASSESSMENT AND PLAN.—(1) The Secretary of Defense shall—

(A) assess the extent to which the Department of Defense can recruit, retain, train, and provide professional development opportunities for acquisition professionals over the 10-fiscal year period beginning with fiscal year 2006; and

(B) develop a human resources strategic plan for the defense acquisition and support workforce that includes objectives and planned actions for improving the management of such workforce.

(2) The Secretary shall submit to Congress, not later than April 1, 2006, a report on the progress made in—

(A) completing the assessment required under paragraph (1); and

(B) completing and implementing the strategic plan required under such paragraph.

(e) DEFENSE ACQUISITION AND SUPPORT WORKFORCE DEFINED.—In this section, the term "defense acquisition and support workforce" means members of the Armed Forces and civilian personnel who are assigned to, or are employed in, an organization of the Department of Defense that has acquisition as its predominant mission, as determined by the Secretary of Defense.

SEC. 833. TECHNICAL AMENDMENTS RELATING TO DEFENSE ACQUISITION WORKFORCE IMPROVEMENTS.

Section 1732 of title 10, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "(b)(2)(A) and (b)(2)(B)" each place it appears in paragraphs (1) and (2) and inserting "(b)(1)(A) and (b)(1)(B)"; and

(B) by striking paragraph (3); and

(2) in subsection (d)(2), by striking "(b)(2)A)(ii)" and inserting "(b)(1)(A)(ii)".

Subtitle E—Other Matters

SEC. 841. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESS AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking "2006" both places it appears and inserting "2009".

SEC. 842. CODIFICATION AND MODIFICATION OF LIMITATION ON MODIFICATION OF MILITARY EQUIPMENT WITHIN FIVE YEARS OF RETIREMENT OR DISPOSAL.

(a) CODIFICATION AND MODIFICATION OF LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by section 821(a)(1) of this Act, is further amended by adding at the end the following new section:

"§ 2410q. Modification of equipment within five years of retirement or disposal

"(a) IN GENERAL.—Except as provided in subsection (b), a military department may not modify an aircraft, vessel, weapon, or other item of equipment if the military department plans to retire or otherwise dispose of such equipment within 5 years of the date of the completion of such modification.

"(b) EXCEPTIONS.—The prohibition in subsection (a) shall not apply to any modification as follows:

"(1) A modification for safety purposes.

"(2) Any other modification but only if the aggregate cost of all such modifications for the aircraft, vessel, weapon, or other item of equipment concerned during any fiscal year, including any procurement, installation, or removal costs, is less than $100,000.

"(c) WAIVER.—The Secretary of a military department may waive the prohibition in subsection (a) with respect to a modification referred to in that subsection if such Secretary—

"(1) determines that the waiver is in the national security interests of the United States; and

"(2) notifies the congressional defense committees of such determination in writing.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 821(a)(2) of this Act, is further amended by adding at the end the following new item:

"2410q. Modification of equipment within five years of retirement or disposal.".

(b) REPEAL OF SUPERSEDED LIMITATION.—Section 8053 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56; 111 Stat. 1232; 10 U.S.C. 2241 note) is repealed.

SEC. 843. CLARIFICATION OF RAPID ACQUISITION AUTHORITY TO RESPOND TO COMBAT EMERGENCIES.

(a) SCOPE OF AUTHORITY.—Subsection (c) of section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note) is amended—

(1) by striking "combat capability" each place it appears; and

(2) by striking "fatalities" each place it appears and inserting "casualties".

(b) DELEGATION OF AUTHORITY.—Such subsection is further amended in paragraph (1) by inserting "below the Deputy Secretary of Defense" after "delegation".

(c) WAIVER AUTHORITY.—Subsection (d)(1) of such section is further amended—

(1) in subparagraph (B), by striking "or";

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) domestic source or content restrictions that would inhibit or impede the rapid acquisition of the equipment.".

SEC. 844. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in subsection (a)—

(A) by striking "The Director" and inserting "(1) Subject to paragraph (2), the Director"; and

(B) by adding at the end the following new paragraph:

"(2) The authority of this section—

"(A) does not extend to any prototype project that is expected to cost in excess of $100,000,000; and

"(B) may be exercised for a prototype project that is expected to cost in excess of $20,000,000 only upon a written determination by the senior procurement executive for the agency (as designated for the purpose of section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) that—

"(i) the requirements of subsection (d) will be met; and

"(ii) the use of a standard contact, grant, or cooperative agreement for such project is not feasible or appropriate.";

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

"(h) APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.—An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the purposes of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).".

SEC. 845. EXTENSION OF CERTAIN AUTHORITIES ON CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2021) is amended by striking "September 30, 2005" in subsections (a)(2)(A) and (b)(2)(A) and inserting "September 30, 2006".

SEC. 846. INCREASED LIMIT APPLICABLE TO ASSISTANCE PROVIDED UNDER CERTAIN PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

Section 2414(a)(2) of title 10, United States Code, is amended by striking "$150,000" and inserting "$300,000".

SEC. 847. PILOT PROGRAM ON EXPANDED PUBLIC-PRIVATE PARTNERSHIPS FOR RESEARCH AND DEVELOPMENT.

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program to authorize the organizations referred to in subsection (b) to enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to assess the benefits of such agreements for such organizations and for the Department of Defense as a whole.

(b) COVERED ORGANIZATIONS.—The organizations referred to in this subsection are as follows:

(1) The National Defense University.

(2) The Defense Acquisition University.

(3) The Joint Forces Command.

(4) The United States Transportation Command.

(c) LIMITATION.—No agreement may be entered into, or continue in force, under the pilot program under subsection (a) after September 30, 2009.

(d) REPORT.—Not later than February 1, 2009, the Secretary shall submit to the congressional defense committees a report on the pilot program under subsection (a). The report shall include—

(1) a description of any agreements entered into under the pilot program; and

(2) the assessment of the Secretary of the benefits of the agreements entered into under the pilot program for the organizations referred to in subsection (b) and for the Department of Defense as a whole.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Duties and Functions of Department of Defense Officers and Organizations

SEC. 901. DIRECTORS OF SMALL BUSINESS PROGRAMS.

(a) REDESIGNATION OF EXISTING POSITIONS AND OFFICES.—(1) Each of the following positions within the Department of Defense is redesignated as the Director of Small Business Programs:

(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense.

(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army.

(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy.

(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force.

(2) Each of the following offices within the Department of Defense is redesignated as the Office of Small Business Programs:

(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense.

(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army.

(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy.

(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force.

(3) Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.

(b) DEPARTMENT OF DEFENSE POSITION AND OFFICE.—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 133b the following new section:

"§ 133c. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133b the following new item:

"133c. Director of Small Business Programs.".

(c) DEPARTMENT OF THE ARMY POSITION AND OFFICE.—(1) Chapter 303 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3024. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Army. The Director is appointed by the Secretary of the Army.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Army is the office that is established within the Department of the Army under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Army, and shall exercise such powers regarding those programs, as the Secretary of the Army may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3024. Director of Small Business Programs.".

(d) DEPARTMENT OF THE NAVY POSITION AND OFFICE.—(1) Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 5028. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Navy. The Director is appointed by the Secretary of the Navy.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Navy is the office that is established within the Department of the Navy under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Navy, and shall exercise such powers regarding those programs, as the Secretary of the Navy may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5028. Director of Small Business Programs.".

(d) DEPARTMENT OF THE AIR FORCE POSITION AND OFFICE.—(1) Chapter 803 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8024. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Air Force. The Director is appointed by the Secretary of the Air Force.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Air Force is the office that is established within the Department of the Air Force under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Air Force, and shall exercise such powers regarding those programs, as the Secretary of the Air Force may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8024. Director of Small Business Programs.".

SEC. 902. EXECUTIVE AGENT FOR ACQUISITION OF CAPABILITIES TO DEFEND THE HOMELAND AGAINST CRUISE MISSILES AND OTHER LOW-ALTITUDE AIRCRAFT.

(a) DESIGNATION OF EXECUTIVE AGENT.—The Secretary of Defense shall designate an official within the Department of Defense to act as executive agent to manage the acquisition of capabilities necessary to defend the homeland against cruise missiles, unmanned aerial vehicles, and other low altitude aircraft that may be launched against the United States.

(b) COORDINATION OF ACTIVITIES.—The official designated as executive agent under subsection (a) shall, in order to promote commonality and limit duplication of effort, coordinate in the acquisition of capabilities described in that subsection with appropriate officials of the following:

(1) The Missile Defense Agency.

(2) The Joint Theater Air and Missile Defense Organization.

(3) The United States Northern Command.

(4) The United States Strategic Command.

(5) Such other elements of the Department of Defense, and of other departments and agencies of the United States Government, as the Secretary considers appropriate for purposes of this section.

(c) PLAN FOR DEFENSE AGAINST ATTACK.—

(1) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan for the defense of the United States against cruise missiles, unmanned aerial vehicles, and other low altitude aircraft that may be launched against the United States.

(2) FOCUS OF PLAN.—In developing the plan, the Secretary shall focus on the role of Department of Defense components in the defense of the United States against an attack described in paragraph (1), but shall also address the role, if any, of other departments and agencies of the United States Government in that defense.

(3) ELEMENTS.—The plan shall include the following:

(A) An identification of the capabilities required by the Department of Defense in order to fulfill its mission to defend the homeland against cruise missiles, unmanned aerial vehicles, and other low altitude aircraft, and an identification of any current shortfalls in such capabilities.

(B) A schedule for implementing the plan.

(C) A statement of the funding required to implement the Department of Defense portion of the plan.

(D) An identification of the roles and missions, if any, of other departments and agencies of the United States Government in contributing to the defense of the United States against attack described in subparagraph (A).

(4) SCOPE OF PLAN.—The plan shall be coordinated with Department of Defense plans for defending the United States against attack by short-range to medium-range ballistic missiles.

SEC. 903. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY THE WHITE HOUSE COMMUNICATIONS AGENCY.

(a) PROVISION ON NONREIMBURSABLE BASIS.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2623; 10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection caption, by inserting "AND AUDIOVISUAL SUPPORT SERVICES" after "TELECOMMUNICATIONS SUPPORT"; and

(B) by inserting "and audiovisual support services" after "provision of telecommunications support"; and

(2) in subsection (b), by inserting "and audiovisual" after "other than telecommunications".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to the provision of audiovisual support services by the White House Communications Agency in fiscal years beginning on or after that date.

Subtitle B—Space Activities

SEC. 911. ADVISORY COMMITTEE ON DEPARTMENT OF DEFENSE REQUIREMENTS FOR SPACE CONTROL.

(a) ADVISORY COMMITTEE REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall provide for an advisory committee to review and assess Department of Defense requirements for space control.

(2) NEW OR EXISTING ADVISORY COMMITTEE.—The Secretary may carry out paragraph (1) through the establishment of a new advisory committee, or the utilization of a current advisory committee, meeting the requirements of subsection (b)(1).

(b) MEMBERSHIP AND ADMINISTRATION OF ADVISORY COMMITTEE.—

(1) MEMBERSHIP.—The advisory committee under subsection (a) shall consist of individuals from among officers and employees of the Federal Government, and private citizens of the United States, with knowledge and expertise in national security space policy.

(2) ADMINISTRATION.—The Secretary shall establish appropriate procedures for the administration of the advisory committee for purposes of this section, including designation of the chairman of the advisory committee from among its members.

(3) SECURITY CLEARANCES.—All members of the advisory committee shall hold security clearances appropriate for the work of the advisory committee.

(4) FIRST MEETING.—The advisory committee shall convene its first meeting for purposes of this section not later than 30 days after the date on which all members of the advisory committee have been selected for such purposes.

(c) DUTIES.—The advisory committee shall conduct a review and assessment of the following:

(1) The requirements of the Department of Defense for its space control mission and the efforts of the Department to fulfill such requirements.

(2) Whether or not the Department of Defense is allocating appropriate resources to fulfill the current space control mission of the Department when compared with the allocation by the Department of resources to other military space missions.

(3) The plans of the Department of Defense to meet its future space control mission.

(d) INFORMATION FROM FEDERAL AND STATE AGENCIES.—

(1) IN GENERAL.—The advisory committee may secure directly from the Department of Defense, from any other department or agency of the Federal Government, and any State government any information that the advisory committee considers necessary to carry out its duties under this section.

(2) LIAISON.—The Secretary of Defense shall designate at least one senior civilian employee of the Department of Defense and at least one general or flag officer of an Armed Force to serve as liaison between the Department, the Armed Forces, and the advisory committee for purposes of this section.

(e) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of the first meeting of the advisory committee under subsection (b)(4), the advisory committees shall submit to the Secretary of Defense and the congressional defense committees a report on the results of the review and assessment under subsection (c).

(2) ELEMENTS.—The report shall include—

(A) the findings and conclusions of the advisory committee on the requirements of the Department of Defense for its space control mission and the efforts of the Department to fulfill such requirements; and

(B) any recommendations that the advisory committee considers appropriate regarding the best means by which the Department may fulfill such requirements.

(f) TERMINATION.—The advisory committee shall terminate for purposes of this section 10 months after the date of the first meeting of the advisory committee under subsection (b)(4).

(g) SPACE CONTROL MISSION.—In this section, the term "space control mission" means the mission of the Department of Defense involving the following:

(1) Space situational awareness.

(2) Defensive counterspace operations.

(3) Offensive counterspace operations.

(h) FUNDING.—Amounts authorized to be appropriated to the Department of Defense shall be available to the Secretary of Defense for purposes of the activities of the advisory committee under this section.

Subtitle C—Other Matters

SEC. 921. ACCEPTANCE OF GIFTS AND DONATIONS FOR DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT.—

(1) IN GENERAL.—Section 2611 of title 10, United States Code, is amended to read as follows:

"§ 2611. Regional centers for security studies: acceptance of gifts and donations

"(a) AUTHORITY TO ACCEPT GIFTS AND DONATIONS.—Subject to subsection (c), the Secretary of Defense may, on behalf of any Department of Defense regional center for security studies, any combination of such centers, or such centers generally, accept from any source specified in subsection (b) any gift or donation for purposes of defraying the costs, or enhancing the operation, of such center, combination of centers, or centers generally, as the case may be.

"(b) Sources.—The sources from which gifts and donations may be accepted under subsection (a) are the following:

"(1) The government of a State or a political subdivision of a State.

"(2) The government of a foreign country.

"(3) A foundation or other charitable organization, including a foundation or charitable organization this is organized or operates under the laws of a foreign country.

"(4) Any source in the private sector of the United States or a foreign country.

"(c) Limitation.—The Secretary may not accept a gift or donation under subsection (a) if acceptance of the gift or donation would compromise or appear to compromise—

"(1) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

"(2) the integrity of any program of the Department, or of any person involved in such a program.

"(d) Criteria for Acceptance.—The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift or donation would have a result described in subsection (c).

"(e) Crediting of Funds.—(1) There is established on the books of the Treasury of the United States an account to be known as the 'Regional Centers for Security Studies Account'.

"(2) Gifts and donations of money accepted under subsection (a) shall be credited to the Account, and shall be available until expended, without further appropriation, to defray the costs, or enhance the operation, of the regional center, combination of centers, or centers generally for which donated under that subsection.

"(f) Gift or Donation Defined.—In this section, the term 'gift or donation' means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).".

(2) Clerical amendment.—The table of sections at the beginning of chapter 155 of such title is amended by striking the item relating to section 2611 and inserting the following new item:

"2611. Regional centers for security studies: acceptance of gifts and donations.".

(b) Conforming Amendments.—

(1) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2892) is amended by striking subsection (a).

(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 113 note) is amended—

(A) by striking subsection (a); and

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 922. OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY.

(a) Protection of Operational Files of Defense Intelligence Agency.—(1) Title VII of the National Security Act of 1947 (50 U.S.C. 431 et. seq.) is amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY

"Sec. 705. (a) Exemption of Operational Files.—The Director of the Defense Intelligence Agency, in coordination with the Director of National Intelligence, may exempt operational files of the Defense Intelligence Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(b) Operational Files Defined.—(1) In this section, the term 'operational files' means—

"(A) files of the Directorate of Human Intelligence of the Defense Intelligence Agency (and any successor organization of that directorate) that document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services; and

"(B) files of the Directorate of Technology of the Defense Intelligence Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems.

"(2) Files that are the sole repository of disseminated intelligence are not operational files.

"(c) Search and Review for Information.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning:

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

"(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

"(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive Order, or Presidential directive, in the conduct of an intelligence activity:

"(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(C) The Intelligence Oversight Board.

"(D) The Department of Justice.

"(E) The Office of General Counsel of the Department of Defense or of the Defense Intelligence Agency.

"(F) The Office of Inspector General of the Department of Defense or of the Defense Intelligence Agency.

"(G) The Office of the Director of the Defense Intelligence Agency.

"(d) Information Derived or Disseminated From Exempted Operational Files.—(1) Files that are not exempted under subsection (a) and contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.

"(3) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.

"(e) Allegation; Improper Withholding of Records; Judicial Review.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, alleges that the Defense Intelligence Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

"(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Defense Intelligence Agency, such information shall be examined ex parte, in camera by the court.

"(B) The court shall determine, to the fullest extent practicable, issues of fact based on sworn written submissions of the parties.

"(C) When a complainant alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in subsection (b).

"(ii) The court may not order the Defense Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Defense Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(E) In proceedings under subparagraphs (C) and (D), the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36.

"(F) If the court finds under this subsection that the Defense Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Defense Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (f)).

"(G) If at any time following the filing of a complaint pursuant to this paragraph the Defense Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint; and

"(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

"(f) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(1) Not less than once every 10 years, the Director of the Defense Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determinations to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that the Defense Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether the Defense Intelligence Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether the Defense Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(2) The table of contents for that Act is amended by inserting after the item relating to section 704 the following new item:

"Sec. 705. Operational files of the Defense Intelligence Agency.".

(b) SEARCH AND REVIEW OF CERTAIN OTHER OPERATIONAL FILES.—The National Security Act of 1947 is further amended—

(1) in section 702(a)(3)(C) (50 U.S.C. 432(a)(3)(C)), by adding the following new clause:

"(vi) The Office of the Inspector General of the National Geospatial-Intelligence Agency.";

(2) in section 703(a)(3)(C) (50 U.S.C. 432a(a)(3)(C)), by adding at the end the following new clause:

"(vii) The Office of the Inspector General of the NRO."; and

(3) in section 704(c)(3) (50 U.S.C. 432b(c)(3)), by adding at the end the following subparagraph:

"(H) The Office of the Inspector General of the National Security Agency.".

SEC. 923. PROHIBITION ON IMPLEMENTATION OF CERTAIN ORDERS AND GUIDANCE ON FUNCTIONS AND DUTIES OF THE GENERAL COUNSEL AND THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE.

No funds authorized to be appropriated by this Act may be obligated or expended to implement or enforce either of the following:

(1) The order of the Secretary of the Air Force dated May 15, 2003, and entitled "Functions and Duties of the General Counsel and the Judge Advocate General".

(2) Any internal operating instruction or memorandum issued by the General Counsel of the Department of the Air Force in reliance upon the order referred to in paragraph (1).

SEC. 924. UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2117. United States Military Cancer Institute

"(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

"(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

"(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

"(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

"(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

"(B) The prevention and early detection of cancer.

"(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

"(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

"(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

"(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

"(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2117. United States Military Cancer Institute.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) AGGREGATE LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee on Armed Services of the Senate to accompany its report on the bill S. 1042 of the One Hundred Ninth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1003. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2006.

(a) FISCAL YEAR 2006 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2006 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2005, of funds appropriated for fiscal years before fiscal year 2006 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $763,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $238,364,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1004. REDUCTION IN CERTAIN AUTHORIZATIONS DUE TO SAVINGS RELATING TO LOWER INFLATION.

(a) REDUCTION.—The aggregate amount authorized to be appropriated by titles I, II, and III is the amount equal to the sum of all the amounts authorized to be appropriated by such titles reduced by $1,300,000,000.

(b) SOURCE OF SAVINGS.—Reductions required in order to comply with subsection (a) shall be derived from savings resulting from lower-than-expected inflation as a result of the annual review of the budget conducted by the Congressional Budget Office.

(c) ALLOCATION OF REDUCTION.—The Secretary of Defense shall allocate the reduction required by subsection (a) among the amounts authorized to be appropriated for accounts in titles I, II, and III to reflect the extent to which net savings from lower-than-expected inflation are allocable to amounts authorized to be appropriated to such accounts.

SEC. 1005. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2005.

Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to title I or chapter 2 of title IV of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

SEC. 1006. INCREASE IN FISCAL YEAR 2005 TRANSFER AUTHORITY.

Section 1001(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2034) is amended by striking "$3,500,000,000" and inserting "$6,185,000,000".

SEC. 1007. MONTHLY DISBURSEMENT TO STATES OF STATE INCOME TAX VOLUNTARILY WITHHELD FROM RETIRED OR RETAINER PAY.

Section 1045(a) of title 10, United States Code, is amended—

(1) by striking "quarter" the first place it appears and inserting "month"; and

(2) by striking "during the month following that calendar quarter" and inserting "during the following calendar month".

SEC. 1008. REESTABLISHMENT OF LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE.

(a) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—Funds appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that fiscal year in providing goods and services to the Department of State.

(b) CONSTRUCTION OF LIMITATION.—The provisions of subsection (a) shall be applicable without regard to the following provisions of law:

(1) The provisions of subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999, as added by section 629 of division B of Public Law 108–447 (118 Stat. 2920; 22 U.S.C. 4865 note).

(2) The provisions of section 630 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B of Public Law 108–447 (118 Stat. 2921)).

(c) EFFECTIVE DATE.—This section shall take effect as of October 1, 2005.

Subtitle B—Naval Vessels and Shipyards

SEC. 1021. TRANSFER OF BATTLESHIPS.

(a) TRANSFER OF BATTLESHIP WISCONSIN.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia.

(b) TRANSFER OF BATTLESHIP IOWA.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the State of California.

(c) INAPPLICABILITY OF NOTICE AND WAIT REQUIREMENT.—Notwithstanding any provision of subsection (a) or (b), section 7306(d) of title 10, United States Code, shall not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITIES.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

SEC. 1022. CONVEYANCE OF NAVY DRYDOCK, JACKSONVILLE, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to Atlantic Marine Property Holding Company (in this section referred to as the "Company") all right, title, and interest of the United States in and to Navy Drydock No. AFDM 7 (the SUSTAIN), located in Duval County, Florida. The Company is the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the drydock remain at the facilities of the Company until September 30, 2010.

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Company shall pay the Secretary an amount equal to the fair market value of the drydock as determined by the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle C—Counterdrug Matters

SEC. 1031. USE OF UNMANNED AERIAL VEHICLES FOR UNITED STATES BORDER RECONNAISSANCE.

(a) IN GENERAL.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§383. Use of unmanned aerial vehicles for United States border reconnaissance

"(a) IN GENERAL.—The Secretary of Defense is authorized to use Department of Defense personnel and equipment to conduct aerial reconnaissance within the area of responsibility of the United States Northern Command with unmanned aerial vehicles in order to conduct, for the purposes specified in subsection (b), the following:

"(1) The detection and monitoring of, and communication on, the movement of air and sea traffic along the United States border.

"(2) The detection and monitoring of, and communication on, the movement of surface traffic that is—

"(A) outside of the geographic boundary of the United States; or

"(B) inside the United States, but within not more than 25 miles of the geographic boundary of the United States, with respect to surface traffic first detected outside the geographic boundary of the United States.

"(b) PURPOSES OF AUTHORIZED ACTIVITIES.—The purposes of activities authorized by subsection (a) are as follows:

"(1) To detect and monitor suspicious air, sea, and surface traffic.

"(2) To communicate information on such traffic to appropriate Federal law enforcement officials, State law enforcement officials, and local law enforcement officials.

"(c) FUNDS.—Amounts available to the Department of Defense for counterdrug activities shall be available for activities authorized by subsection (a).

"(d) LIMITATIONS.—Any limitations and restrictions under this chapter with respect to the use of personnel, equipment, and facilities under this chapter shall apply to the exercise of the authority in subsection (a).

"(e) ANNUAL REPORTS ON USE OF UNMANNED AERIAL VEHICLES.—(1) The Secretary of Defense shall submit to the congressional defense committees each year a report on the operation of unmanned aerial vehicles along the United States border under this section during the preceding year. Each report shall include, for the year covered by such report, the following:

"(A) A description of the aerial reconnaissance missions carried out along the United States border by unmanned aerial vehicles under this section, including the total number of sorties and flight hours.

"(B) A statement of the costs of such missions.

"(C) A statement of the number of times data collected by the Department of Defense from such missions was communicated to other authorities of the Federal Government or to State or local authorities.

"(2) A report is not required under this subsection for a year if no operations of unmanned aerial vehicles along the United States border occurred under this section during such year.

"(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

"(f) DEFINITIONS.—In this section:

"(1) The term 'suspicious air, sea, and surface traffic' means any air, sea, or surface traffic that is suspected of illegal activities, including involvement in activities that would constitute a violation of any provision of law set forth in or described under section 374(b)(4)(A) of this title.

"(2) The term 'State law enforcement officials' includes authorized members of the National Guard operating under authority of title 32.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 18 of such title is amended by adding at the end the following new item:

"383. Use of unmanned aerial vehicles for United States border reconnaissance.".

SEC. 1032. USE OF COUNTERDRUG FUNDS FOR CERTAIN COUNTERTERRORISM OPERATIONS.

(a) AUTHORITY TO USE FUNDS.—In conjunction with counterdrug activities authorized by law, the Secretary of Defense may use funds authorized to be appropriated to the Department of Defense for drug interdiction and counterdrug activities in fiscal years 2006 and 2007 for the detection, monitoring, and interdiction of terrorists, terrorism-related activities, and other related transnational threats along the borders and within the territorial waters of the United States.

(b) CONSTRUCTION WITH OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided in section 124 of title 10, United States Code.

SEC. 1033. SUPPORT FOR COUNTER-DRUG ACTIVITIES THROUGH BASES OF OPERATION AND TRAINING FACILITIES IN AFGHANISTAN.

In providing support for counterdrug activities under section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note), the Secretary of Defense may, in accordance with a request under subsection (a) of such section, provide through or utilizing bases of operation or training facilities in Afghanistan—

(1) any type of support specified in subsection (b) of such section for counter-drug activities; and

(2) any type of support for counter-drug related Afghan criminal justice activities.

Subtitle D—Reports and Studies

SEC. 1041. MODIFICATION OF FREQUENCY OF SUBMITTAL OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.

(a) SUBMITTAL OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.—Section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note) is amended by striking "(a) ANNUAL PLAN REQUIRED.—On March 1 of each year," and inserting "Not later than March 1 of each year through 2006, and March 1 every two years thereafter,".

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**ANNUAL**".

SEC. 1042. REVIEW AND ASSESSMENT OF DEFENSE BASE ACT INSURANCE.

(a) IN GENERAL.—The Secretary of Defense shall, in coordination with the Director of the Office of Management and Budget and appropriate officials of the Department of Labor, the Department of State and the United States Agency for International Development, review current and future needs, options, and risks associated with Defense Base Act insurance.

(b) MATTERS TO BE ADDRESSED.—The review under subsection (a) shall address the following matters:

(1) Cost-effective options for acquiring Defense Base Act insurance.

(2) Methods for coordinating data collection efforts among agencies and contractors on numbers of employees, costs of insurance, and other information relevant to decisions on Defense Base Act insurance.

(3) Improved communication and coordination within and among agencies on the implementation of Defense Base Act insurance.

(4) Actions to be taken to address difficulties in the administration of Defense Base Act insurance, including on matters relating to cost, data, enforcement, and claims processing.

(c) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the review under subsection (a). The report shall set forth the findings of the Secretary as a result of the review and such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate in light of the review.

(d) DEFENSE BASE ACT INSURANCE DEFINED.—In this section, the term "Defense Base Act insurance" means workers' compensation insurance provided to contractor employees pursuant to the Defense Base Act (42 U.S.C. 1651 et seq.).

SEC. 1043. COMPTROLLER GENERAL REPORT ON CORROSION PREVENTION AND MITIGATION PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) REPORT REQUIRED.—Not later than April 1, 2007, the Comptroller General of the United States shall submit to the congressional defense committees a report on the effectiveness of the corrosion prevention and mitigation programs of the Department of Defense.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An assessment of the document of the Department of Defense entitled "Long-Term Strategy to Reduce Corrosion and the Effects of Corrosion on the Military Equipment and Infrastructure of the Department of Defense", dated November 2004.

(2) An assessment of the adequacy for purposes of the strategy set forth in that document of the funding requested in the budget of the President for fiscal year 2006, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and the associated Future-Years Defense Program under section 221 of title 10, United States Code.

(3) An assessment of the adequacy and effectiveness of the organizational structure of the Department of Defense in implementing that strategy.

(4) An assessment of the progress made as of the date of the report in establishing throughout the Department common metrics, definitions, and procedures on corrosion prevention and mitigation.

(5) An assessment of the progress made as of the date of the report in establishing a baseline estimate of the scope of the corrosion problems of the Department.

(6) An assessment of the extent to which the strategy of the Department on corrosion prevention and mitigation has been revised to incorporate the recommendations of the October 2004 Defense Science Board report on corrosion control.

(7) An assessment of the implementation of the corrosion prevention and mitigation programs of the Department during fiscal year 2006.

(8) Recommendations by the Comptroller General for addressing any shortfalls or areas of potential improvement identified in the review for purposes of the report.

Subtitle E—Technical Amendments

SEC. 1051. TECHNICAL AMENDMENTS RELATING TO CERTAIN PROVISIONS OF ENVIRONMENTAL DEFENSE LAWS.

(a) DEFINITION OF "MILITARY MUNITIONS".—Section 101(e)(4)(B)(ii) of title 10, United States Code, is amended by striking "explosives, and" and inserting "explosives and".

(b) DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Section 2703(b) of such title is amended by striking "'unexploded ordnance', 'discarded military munitions', and" and inserting "'discarded military munitions' and".

Subtitle F—Military Mail Matters

SEC. 1061. SAFE DELIVERY OF MAIL IN THE MILITARY MAIL SYSTEM.

(a) PLAN REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall promptly develop and implement a plan to ensure that the mail within the military mail system is safe for delivery.

(2) SCREENING.—The plan under this subsection shall provide for the screening of all mail within the military mail system in order to detect the presence in such mail of biological, chemical, or radiological weapons, agents, or pathogens, or explosive devices, before such mail is delivered to its intended recipients.

(b) FUNDING FOR PLAN.—The budget justification materials that are submitted to Congress with the budget of the President for any fiscal year after fiscal year 2006, as submitted under section 1105(a) of title 31, United States Code, shall include a description of the amounts required in such fiscal year to carry out the plan under subsection (a).

(c) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the safety of mail within the military mail system for delivery.

(2) ELEMENTS.—The report shall include the following:

(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within such system is safe for delivery.

(B) The plan developed under subsection (a).

(C) An estimate of the time and resources required to implement the plan.

(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to that system in order to ensure the safety of such mail for delivery.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

(d) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

(1) IN GENERAL.—Except as provided in paragraph (2), in this section, the term "mail within the military mail system"—

(A) means—

(i) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

(ii) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces; and

(B) includes any official mail posted by the Department of Defense.

(2) EXCEPTION.—The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before its posting as so described.

SEC. 1062. DELIVERY OF MAIL ADDRESSED TO ANY SERVICE MEMBER.

(a) PROGRAM OF DELIVERY OF MAIL.—The Secretary of Defense shall carry out a program under which mail and packages addressed to Any Service Member that are posted in the United States shall be delivered to deployed members of the Armed Forces overseas at or through such Army Post Offices (APOs) and Fleet Post Offices (FPOs) as the Secretary shall designate for purposes of the program.

(b) SCREENING OF MAIL.—In carrying out the program required by subsection (a), the Secretary shall take appropriate actions to ensure that the mail and packages covered by the program are screened in order to detect the presence in such mail and packages of biological, chemical, or radiological weapons, agents, or pathogens, or explosive devices, before such mail and packages are delivered to members of the Armed Forces.

(c) DISTRIBUTION.—The Secretary shall ensure that mail and packages delivered under the program required by subsection (a) are widely distributed on an equitable basis among all the Armed Forces in their overseas areas.

(d) OUTREACH.—

(1) IN GENERAL.—The Secretary shall, in collaboration with the Postmaster General, take appropriate actions to provide information to the public on the program required by subsection (a).

(2) OUTLETS.—Information shall be provided to the public under this subsection through Department of Defense facilities and communications outlets, Postal Service facilities, and such other means as the Secretary and the Postmaster General consider appropriate.

(e) ANY SERVICE MEMBER DEFINED.—In this section, the term "Any Service Member" means an undesignated or unspecified member of the Armed Forces (often addressed on mail or packages as "Any American Service Member or Soldier"), rather than any particular or specified member of the Armed Forces.

Subtitle G—Other Matters

SEC. 1071. POLICY ON ROLE OF MILITARY MEDICAL AND BEHAVIORAL SCIENCE PERSONNEL IN INTERROGATION OF DETAINEES.

(a) POLICY REQUIRED.—The Secretary of Defense shall establish the policy of the Department of Defense on the role of military medical and behavioral science personnel in the interrogation of persons detained by the Armed Forces. The policy shall apply uniformly throughout the Armed Forces.

(b) REPORT.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report on the policy established under subsection (a). The report shall set forth the policy, and shall include such additional matters on the policy as the Secretary considers appropriate.

SEC. 1072. CLARIFICATION OF AUTHORITY TO ISSUE SECURITY REGULATIONS AND ORDERS UNDER INTERNAL SECURITY ACT OF 1950.

Section 21(a) of the Internal Security Act of 1950 (Public Law 81-831; 64 Stat. 1005) is amended by inserting "or military or civilian director" after "military commander".

SEC. 1073. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Support Our Scouts Act of 2005".

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Federal agency" means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term "youth organization"—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—

(i) SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year. This clause shall be subject to the availability of appropriations

(ii) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—Clause (i) shall not apply to any youth organization that ceases to exist.

(iii) WAIVERS.—The head of a Federal agency may waive the application of clause (i) to any youth organization with respect to each conviction or investigation described under subclause (I) or (II) for a period of not more than 2 fiscal years if—

(I) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(II) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a "tent city" capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.".

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting "or (e)" after "subsection (a)"; and

(2) by adding at the end the following:

"(e) EQUAL ACCESS.—

"(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

"(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.''.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL POLICY

SEC. 1101. EXTENSION OF AUTHORITY FOR VOLUNTARY SEPARATIONS IN REDUCTIONS IN FORCE.

Section 3502(f)(5) of title 5, United States Code, is amended by striking ''September 30, 2005'' and inserting ''September 30, 2010''.

SEC. 1102. COMPENSATORY TIME OFF FOR NONAPPROPRIATED FUND EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

Section 5543 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(d) The Secretary of Defense may, on request of a Department of Defense employee paid from nonappropriated funds, grant such employee compensatory time off from duty instead of overtime pay for overtime work.''.

SEC. 1103. EXTENSION OF AUTHORITY TO PAY SEVERANCE PAYMENTS IN LUMP SUMS.

Section 5595(i)(4) of title 5, United States Code, is amended by striking ''October 1, 2006'' and inserting ''October 1, 2010''.

SEC. 1104. CONTINUATION OF FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM ELIGIBILITY.

Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) in clause (i), by striking ''October 1, 2006'' and inserting ''October 1, 2010''; and

(2) in clause (ii)—

(A) by striking ''February 1, 2007'' and inserting ''February 1, 2011''; and

(B) by striking ''October 1, 2006'' and inserting ''October 1, 2010''.

SEC. 1105. PERMANENT AND ENHANCED AUTHORITY FOR SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE EDUCATION PROGRAM.

(a) Permanent Authority for Program.—Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended—

(1) in subsection (a)—

(A) by striking ''(1)''; and

(B) by striking paragraph (2); and

(2) by striking ''pilot'' each place it appears.

(b) Assistance Under Program.—Such section is further amended—

(1) in subsection (b)—

(A) by striking ''(b)'' and all that follows through ''a scholarship'' and inserting ''(b) Assistance.—(1) Under the program under this section, the Secretary of Defense may award a scholarship or fellowship'';

(B) in paragraph (1)(B), by inserting ''accredited'' before ''institution of higher education'';

(C) in paragraph (2)—

(i) by inserting ''or fellowship'' after ''scholarship'';

(ii) by inserting ''equipment expenses,'' after ''laboratory expenses,''; and

(iii) by striking the second sentence; and

(D) by adding at the end the following new paragraph:

''(3) Any assistance payable to a person under this subsection may be paid directly to the person awarded such assistance or to an administering entity that shall disburse such assistance to the person.''; and

(2) in subsection (c)(2)—

(A) by striking ''a scholarship'' and inserting ''financial assistance'';

(B) by striking ''the financial assistance provided under the scholarship'' and inserting ''such financial assistance''; and

(C) by striking ''the scholarship.'' and inserting ''such financial assistance.''.

(c) Employment of Program Participants.—Such section is further amended—

(1) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) Employment of Program Participants.—(1) The Secretary of Defense may—

''(A) appoint or retain a person participating in the program under this section in a position on an interim basis during the period of such person's pursuit of a degree under the program and for a period not to exceed 2 years after completion of the degree, but only if, in the case of the period after completion of the degree—

''(i) there is no readily available appropriate permanent position for such person; and

''(ii) there is an active and ongoing effort to identify and assign such person to an appropriate permanent position as soon as practicable; and

''(B) if there is no appropriate permanent position available after the end of the periods described in subparagraph (A), separate such person from employment with the Department without regard to any other provision of law, in which event the service agreement of such person under subsection (c) shall terminate.

''(2) The period of service of a person covered by paragraph (1) in a position on an interim basis under that paragraph shall, after completion of the degree, be treated as a period of service for purposes of satisfying the obligated service requirements of the person under the service agreement of the person under subsection (c).''.

(d) Refund for Period of Unserved Obligated Service.—Paragraph (1) of subsection (e) of such section, as redesignated by subsection (c)(1) of this section, is amended to read as follows:

''(1)(A) A participant in the program under this section who is not an employee of the Department of Defense and who voluntarily fails to complete the educational program for which financial assistance has been provided under this section, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary of Defense, shall refund to the United States an appropriate amount, as determined by the Secretary.

''(B) A participant in the program under this section who is an employee of the Department of Defense and who—

''(i) voluntarily fails to complete the educational program for which financial assistance has been provided, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary; or

''(ii) before completion of the period of obligated service required of such participant—

''(I) voluntarily terminates such participant's employment with the Department; or

''(II) is removed from such participant's employment with the Department on the basis of misconduct,

shall refund the United States an appropriate amount, as determined by the Secretary.''.

(e) Conforming Amendments.—

(1) Subsection (f) of such section, as redesignated by subsection (c)(1) of this section, is further amended by striking ''Pilot''.

(2) The heading of such section is amended to read as follows:

''SEC. 1105. SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE EDUCATION PROGRAM.''.

(3) Section 3304(a)(3)(B)(ii) of title 5, United States Code, is—

(A) by striking ''Scholarship Pilot Program'' and inserting ''Defense Education Program''; and

(B) by inserting ''(10 U.S.C. 2912 note)'' after ''for Fiscal Year 2005''.

SEC. 1106. INCREASE IN AUTHORIZED NUMBER OF DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE EMPLOYEES.

Section 1606(a) of title 10, United States Code, is amended by striking ''544'' and inserting ''the following:

''(1) In fiscal year 2005, 544.

''(2) In fiscal year 2006, 619.

''(3) In fiscal years after fiscal year 2006, 694.''.

SEC. 1107. STRATEGIC HUMAN CAPITAL PLAN FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) Plan Required.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall develop and submit to the appropriate committees of Congress a strategic plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The plan shall be known as the ''strategic human capital plan''.

(b) Contents.—The strategic human capital plan required by subsection (a) shall include—

(1) a workforce gap analysis, including an assessment of—

(A) the critical skills and competencies that will be needed in the future civilian employee workforce of the Department of Defense to support national security requirements and effectively manage the Department over the next decade;

(B) the skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(C) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraph (A); and

(2) a plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

(A) specific recruiting and retention goals, including the program objectives of the Department to be achieved through such goals; and

(B) specific strategies for development, training, deploying, compensating, and motivating the civilian employee workforce of the Department, including the program objectives of the Department to be achieved through such strategies.

(c) Inapplicability of Certain Limitations.—The recruitment and retention of civilian employees to meet the goals established under subsection (b)(2)(A) shall not be subject to any limitation or constraint under statute or regulations on the end strength of the civilian workforce of the Department of Defense or any part of the workforce of the Department.

(d) Annual Updates.—Not later than March 1 of each year from 2007 through 2012, the Secretary shall update the strategic human capital plan required by subsection (a), as previously updated under this subsection.

(e) Annual Reports.—Not later than March 1 of each year from 2007 through 2012, the Secretary shall submit to the appropriate committees of Congress—

(1) the update of the strategic human capital plan prepared in such year under subsection (d); and

(2) the assessment of the Secretary, using results-oriented performance measures, of the progress of the Department of Defense in implementing the strategic human capital plan.

(f) Comptroller General Review.—(1) Not later than 90 days after the Secretary submits under subsection (a) the strategic human capital plan required by that subsection, the Comptroller General shall submit to the appropriate committees of Congress a report on the plan.

(2) Not later than 90 days after the Secretary submits under subsection (e) an update of the strategic human capital plan under subsection (d), the Comptroller General shall submit to the appropriate committees of Congress a report on the update.

(3) A report on the strategic human capital plan under paragraph (1), or on an update of the plan under paragraph (2), shall include the assessment of the Comptroller General of the extent to which the plan or update, as the case may be—

(A) complies with the requirements of this section; and

(B) complies with applicable best management practices (as determined by the Comptroller General).

(g) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Homeland Security and Governmental Affairs of the Senate; and

(2) the Committees on Armed Services and Government Reform of the House of Representatives.

SEC. 1108. COMPTROLLER GENERAL STUDY ON FEATURES OF SUCCESSFUL PERSONNEL MANAGEMENT SYSTEMS OF HIGHLY TECHNICAL AND SCIENTIFIC WORKFORCES.

(a) In General.—The Comptroller General of the United States shall conduct a study to identify the features of successful personnel management systems of the highly technical and scientific workforces of the Department of Defense laboratories and similar scientific facilities and institutions.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) An examination of the flexible personnel management authorities, whether under statute or regulations, currently being utilized at Department of Defense demonstration laboratories to assist in the management of the workforce of such laboratories.

(2) An identification of any flexible personnel management authorities, whether under statute or regulations, available for use in the management of Department of Defense laboratories to assist in the management of the workforces of such laboratories that are not currently being utilized.

(3) An assessment of personnel management practices utilized by scientific and technical laboratories and institutions that are similar to the Department of Defense laboratories.

(4) A comparative analysis of the specific features identified by the Comptroller General in successful personnel management systems of highly technical and scientific workforces to attract and retain critical employees and to provide local management authority to Department of Defense laboratory officials.

(c) Purposes.—The purposes of the study shall include—

(1) the identification of the specific features of successful personnel management systems of highly technical and scientific workforces;

(2) an assessment of the potential effects of the utilization of such features by Department of Defense laboratories on the missions of such laboratories and on the mission of the Department of Defense as a whole; and

(3) recommendations as to the future utilization of such features in Department of Defense laboratories.

(d) Laboratory Personnel Demonstration Authorities.—The laboratory personnel demonstration authorities set forth in this subsection are as follows:

(1) The authorities in section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–315)).

(2) The authorities in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 5 U.S.C. 3104 note).

(e) Report.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by this section. The report shall include—

(1) a description of the study;

(2) an assessment of the effectiveness of the current utilization by the Department of Defense of the laboratory personnel demonstration authorities set forth in subsection (d); and

(3) such recommendations as the Comptroller General considers appropriate for the effective use of available personnel management authorities to ensure the successful personnel management of the highly technical and scientific workforce of the Department of Defense laboratories.

(f) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Homeland Security and Governmental Affairs of the Senate; and

(2) the Committees on Armed Services, Appropriations, and Government Reform of the House of Representatives.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) Authority for Fiscal Years 2006 and 2007.—During fiscal year 2006 and fiscal year 2007, from funds made available to the Department of Defense for operation and maintenance for such fiscal year, not to exceed $500,000,000 may be used in each such fiscal year to provide funds—

(1) for the Commanders' Emergency Response Program; and

(2) for a similar program to assist the people of Afghanistan.

(b) Quarterly Reports.—Not later than 15 days after the end of each fiscal-year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

(c) Commanders' Emergency Response Program Defined.—In this section, the term "Commanders' Emergency Response Program" means the program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people.

SEC. 1202. ENHANCEMENT AND EXPANSION OF AUTHORITY TO PROVIDE HUMANITARIAN AND CIVIC ASSISTANCE.

(a) Increase in Authorized Expenses Associated With Detection and Clearance of Landmines.—Subsection (c)(3) of section 401 of title 10, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

(b) Inclusion of Assistance on Communications and Information Infrastructure Under Authority.—Such section is further amended—

(1) in subsection (c)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) Expenses covered by paragraph (1) also include expenses incurred in providing communications or information systems equipment or supplies that are transferred or otherwise furnished to a foreign country in furtherance of the provision of other assistance under this section."; and

(2) in subsection (e), by adding at the end the following new paragraph:

"(6) Restoring or improving the information and communications infrastructure of a country, including activities relating to the furnishing of education, training, and technical assistance with respect to information and communications technology.".

(c) Expansion of Authority To Provide Medical, Dental, and Veterinary Care.—Subsection (e)(1) of such section is amended by inserting before the period the following: ", including education, training, and technical assistance related to the care provided".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 1203. MODIFICATION OF GEOGRAPHIC LIMITATION ON PAYMENT OF PERSONNEL EXPENSES UNDER BILATERAL OR REGIONAL COOPERATION PROGRAMS.

Section 1051(b)(1) of title 10, United States Code, is amended by striking "within the area" and all that follows through "developing country is located" and inserting "to and within the area of responsibility of a unified combatant command (as such term is defined in section 161(c) of this title)".

SEC. 1204. PAYMENT OF TRAVEL EXPENSES OF COALITION LIAISON OFFICERS.

(a) Authority To Pay Certain Travel Expenses of Military Officers on Coalition Missions.—Subsection (b) of section 1051a of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary may pay the travel expenses of a military officer of a developing country involved in coalition operations while temporarily assigned to the headquarters of a combatant command, component command, or subordinate operational command for the mission-related roundtrip travel of such officer, upon the direction of the commander of such command, from such headquarters to one or more locations specified by the commander of such command if such travel is determined to be in support of United States national interests.".

(b) EXTENSION OF AUTHORITY TO PAY TRAVEL EXPENSES.—Subsection (e) of such section is amended by striking "September 30, 2005" and inserting "September 30, 2009".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October, 1, 2005.

SEC. 1205. PROHIBITION ON ENGAGING IN CERTAIN TRANSACTIONS.

(a) APPLICATION OF IEEPA PROHIBITIONS TO THOSE ATTEMPTING TO EVADE OR AVOID THE PROHIBITIONS.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

"PENALTIES

"SEC. 206. (a) It shall be unlawful for—

"(1) a person to violate or attempt to violate any license, order, regulation, or prohibition issued under this title;

"(2) a person subject to the jurisdiction of the United States to take any action to evade or avoid, or attempt to evade or avoid, a license, order, regulation, or prohibition issued this title; or

"(3) a person subject to the jurisdiction of the United States to approve, facilitate, or provide financing for any action, regardless of who initiates or completes the action, if it would be unlawful for such person to initiate or complete the action.

"(b) A civil penalty of not to exceed $250,000 may be imposed on any person who commits an unlawful act described in paragraph (1), (2), or (3) of subsection (a).

"(c) A person who willfully commits, or willfully attempts to commit, an unlawful act described in paragraph (1), (2), or (3) of subsection (a) shall, upon conviction, be fined not more than $500,000, or a natural person, may be imprisoned not more than 10 years, or both; and any officer, director, or agent of any person who knowingly participates, or attempts to participate, in such unlawful act may be punished by a like fine, imprisonment, or both.".

(b) PRODUCTION OF RECORDS.—Section 203(a)(2) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)(2)) is amended to read as follows:

"(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports, testimony, answers to questions, or otherwise, complete information relative to any act or transaction referred to in paragraph (1), either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. The President may require by subpoena or otherwise the production under oath by any person of all such information, reports, testimony, or answers to questions, as well as the production of any required books of accounts, records, contracts, letters, memoranda, or other papers, in the custody or control of any person. The subpoena or other requirement, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.".

(c) CLARIFICATION OF JURISDICTION TO ADDRESS IEEPA VIOLATIONS.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is further amended by adding at the end the following:

"(d) The district courts of the United States shall have jurisdiction to issue such process described in subsection (a)(2) as may be necessary and proper in the premises to enforce the provisions of this title.".

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2006 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2006 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $415,549,000 authorized to be appropriated to the Department of Defense for fiscal year 2006 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $78,900,000.

(2) For nuclear weapons storage security in Russia, $74,100,000.

(3) For nuclear weapons transportation security in Russia, $30,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,600,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $60,849,000.

(6) For chemical weapons destruction in Russia, $108,500,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,600,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2006 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2006 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. PERMANENT WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

Section 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 22 U.S.C. 5952 note) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsection (e) as subsection (c).

SEC. 1304. MODIFICATION OF AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) IN GENERAL.—Subsection (a) of section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1662; 22 U.S.C. 5963) is amended—

(1) by striking "the President may" and inserting "the Secretary of Defense may"; and

(2) by striking "if the President" and inserting "if the Secretary of Defense, with the concurrence of the Secretary of State,".

(b) AVAILABILITY OF FUNDS.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking "The President" and inserting "The Secretary of Defense"; and

(B) by striking "the President" and inserting "the Secretary of Defense, with the concurrence of the Secretary of State,"; and

(2) in paragraph (2)—

(A) by striking "10 days after" and inserting "15 days before"; and

(B) by striking "the President shall notify Congress" and inserting "the Secretary of Defense shall notify the congressional defense committees".

SEC. 1305. REPEAL OF REQUIREMENT FOR ANNUAL COMPTROLLER GENERAL ASSESSMENT OF ANNUAL DEPARTMENT OF DEFENSE REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended by striking subsection (e).

SEC. 1306. REMOVAL OF CERTAIN RESTRICTIONS ON PROVISION OF COOPERATIVE THREAT REDUCTION ASSISTANCE.

(a) REPEAL OF RESTRICTIONS.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Section 211(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is repealed.

(2) Cooperative Threat Reduction Act of 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5952(d)) is repealed.

(3) Russian Chemical Weapons Destruction Facilities.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 22 U.S.C. 5952 note) is repealed.

(b) Inapplicability of Other Restrictions.—Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 106 Stat. 3338; 22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

TITLE XIV—AUTHORIZATION FOR SUPPLEMENTAL APPROPRIATIONS FOR IRAQ, AFGHANISTAN, AND THE GLOBAL WAR ON TERRORISM

SEC. 1401. PURPOSE.

The purpose of this title is to authorize supplemental appropriations for the Department of Defense for fiscal year 2006 for operations in Iraq, Afghanistan, and the global war on terrorism that are in addition to the amounts otherwise authorized to be appropriated for the Department of Defense by this Act.

SEC. 1402. DESIGNATION AS EMERGENCY AMOUNTS.

Amounts appropriated pursuant to the authorizations of appropriations in this title are designated as an emergency requirement pursuant to section 402(b) of the conference report to accompany H. Con. Res. 95 (109th Congress).

SEC. 1403. ARMY PROCUREMENT.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts of the Army in amounts as follows:

(1) For aircraft, $70,300,000.

(2) For weapons and tracked combat vehicles, $27,800,000.

(3) For other procurement $376,700,000.

(b) Availability of Certain Amounts.—

(1) Availability.—Of the amount authorized to be appropriated by subsection (a)(3), $225,000,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) Allocation of funds.—

(A) In general.—Subject to subparagraph (B), the Secretary of the Army shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) Limitation.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Army has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) Reports.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1404. NAVY AND MARINE CORPS PROCUREMENT.

(a) Navy.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts of the Navy in amounts as follows:

(1) For aircraft, $183,800,000.

(2) For weapons, including missiles and torpedoes, $165,500,000.

(3) For other procurement, $30,800,000.

(b) Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for the Marine Corps in the amount of $429,600,000.

(c) Navy and Marine Corps Ammunition.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $104,500,000.

(d) Availability of Certain Amounts.—

(1) Availability.—Of the amount authorized to be appropriated by subsection (b), $340,400,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) Allocation of funds.—

(A) In general.—Subject to subparagraph (B), the Secretary of the Navy shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) Limitation.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees' that the Marine Corps has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) Reports.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1405. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $104,700,000.

(2) For other procurement, $51,900,000.

SEC. 1406. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $22,139,775,000, of which $200,000,000 may be made available for linguistic support operations in Iraq and Afghanistan.

(2) For the Navy, $1,944,300,000.

(3) For the Marine Corps, $1,808,231,000.

(4) For the Air Force, $2,635,555,000.

(5) For Defense-wide activities, $3,470,118,000.

(6) For the Naval Reserve, $2,400,000.

SEC. 1407. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $977,778,000, for operation and maintenance.

SEC. 1408. MILITARY PERSONNEL.

Funds are hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2006 in amounts as follows:

(1) For military personnel of the Army, $9,517,643,000.

(2) For military personnel of the Navy, $350,000,000.

(3) For military personnel of the Marine Corps, $811,771,000.

(4) For military personnel of the Air Force, $916,559,000.

SEC. 1409. IRAQ FREEDOM FUND.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund in the amount of $3,880,270,000.

(b) Limitation on Availability of Certain Amount.—Of the amount authorized to be appropriated by subsection (a), not less than $500,000,000 shall be available only for support of activities of the Joint Improvised Explosive Device Task Force.

(c) Transfer.—

(1) Transfer authorized.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Freedom Fund to any accounts as follows:

(A) Operation and maintenance accounts of the Armed Forces.

(B) Military personnel accounts.

(C) Research, development, test, and evaluation accounts of the Department of Defense.

(D) Procurement accounts of the Department of Defense.

(E) Accounts providing funding for classified programs.

(F) The operating expenses account of the Coast Guard.

(2) Notice to congress.—A transfer may not be made under the authority in paragraph (1) until 5 days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the transfer.

(3) Treatment of transferred funds.—Amounts transferred to an account under the authority in paragraph (1) shall be merged with amounts in such account, and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such account.

(4) Effect on authorization amounts.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

SEC. 1410. TRANSFER AUTHORITY.

(a) Authority To Transfer Authorizations.—

(1) Transfer authorized.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) Limitation on aggregate amount.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000.

(3) Construction with other transfer authority.—The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) Other Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than

the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) Notice and Wait.—A transfer may be made under the authority of this section only after the Secretary—

(1) consults with the Chairmen and Ranking Members of each of the congressional defense committees with respect to such transfer; and

(2) on a date after consultation under paragraph (1), but not later than five days before the date of such transfer, submits to the congressional defense committees written notice of such transfer.

(d) Effect on Authorization Amounts.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2006".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$20,000,000
Alaska	Fort Richardson	$4,700,000
	Fort Wainwright	$44,660,000
Arizona	Yuma Proving Ground	$8,100,000
California	Fort Irwin	$17,000,000
	Concord	$11,850,000
Colorado	Fort Carson	$70,622,000
Georgia	Fort Benning	$28,211,000
	Fort Gillem	$8,450,000
	Fort Stewart/Hunter Army Air Field	$57,980,000
Hawaii	Pohakuloa Training Area.	$60,300,000
	Schofield Barracks	$53,900,000
Kansas	Fort Riley	$33,900,000
Kentucky	Fort Campbell	$112,875,000
Louisiana	Fort Polk	$28,887,000
Missouri	Fort Leonard Wood	$17,000,000
New Jersey	Picatinny Arsenal	$4,450,000
New York	Fort Drum	$73,350,000
	United States Military Academy, West Point	$4,000,000
North Carolina.	Fort Bragg	$289,850,000
Oklahoma	Fort Sill	$5,850,000
	McAlester Army Ammunition Plant	$5,400,000
Pennsylvania.	Letterkenny Depot	$6,300,000
Texas	Fort Hood	$46,438,000
	Fort Sam Houston	$7,000,000
Utah	Dugway Proving Ground.	$25,000,000
Virginia	Fort A.P. Hill	$2,700,000
	Fort Belvoir	$18,000,000
	Fort Eustis	$3,100,000
	Fort Myer	$15,200,000
Washington.	Fort Lewis	$99,949,000
Total		$2,000,622,000

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Germany	Grafenwoehr	$84,081,000
Italy	Pisa	$5,254,000
Korea	Camp Humphreys	$99,162,000
	Yongpyong	$1,450,000
	Total	$189,947,000

SEC. 2102. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or location	Purpose	Amount
Alaska	Fort Richardson	117 Units	$49,000,000
	Fort Wainwright	180 Units	$91,000,000
Arizona	Fort Huachuca	131 Units	$31,000,000
	Yuma Proving Grounds	35 Units	$11,200,000
Oklahoma	Fort Sill	129 Units	$24,000,000
Virginia	Fort Lee	96 Units	$19,500,000
	Fort Monroe	21 Units	$6,000,000
Total			$231,700,000

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $17,536,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $300,400,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,972,142,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,012,722,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $189,947,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $163,215,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $549,636,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $812,993,000.

(6) For the construction of phase 2 of a barracks complex at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $24,650,000.

(7) For the construction of phase 3 of the Lewis & Clark instructional facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), $42,642,000.

(8) For the construction of phase 2 of trainee barracks basic training complex 1 at Fort Knox, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $21,000,000.

(9) For the construction of phase 2 of a barracks complex renewal at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $30,611,000.

(10) For the construction of phase 2 of a library and learning center at the United States Military Academy, West Point, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $25,470,000.

(11) For the construction of phase 2 of a barracks complex at Vilseck, Germany, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1698), $13,600,000.

(12) For the construction of phase 2 of a vehicle maintenance facility at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $24,656,000.

(13) For the construction of phase 2 of the Drum Road upgrade at Helemano Military Reservation, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $41,000,000.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $16,500,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, 10300 block, Fort Drum, New York).

(3) $31,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 2nd Brigade, Fort Bragg, North Carolina).

(4) $77,400,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for DIVARTY, Fort Bragg, North Carolina).

(5) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 3rd Brigade, Fort Bragg, North Carolina).

(6) $13,000,000 (the balance of the amount authorized under section 2101(a) for construction of a defense access road, Fort Belvoir, Virginia).

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma.	$3,637,000
California	Marine Corps Air Station, Camp Pendleton	$1,400,000
	Marine Corps Base, Camp Pendleton.	$90,437,000
	Naval Air Station, Lemoore.	$8,480,000
	Naval Air Warfare Center, China Lake.	$19,158,000
Connecticut.	Naval Submarine Base, New London.	$4,610,000
Florida	Naval Air Station, Jacksonville.	$88,603,000
	Naval Air Station, Pensacola	$8,710,000
	Naval Station, Mayport	$10,750,000
	Navy Diving and Salvage Training Center, Panama City	$9,678,000
	Whiting Field	$4,670,000
Georgia	Albany Depot	$4,000,000
	Navy Submarine Base, Kings Bay	$3,000,000
Hawaii	Marine Corps Air Station, Kaneohe Bay	$5,700,000
	Naval Base, Pearl Harbor	$29,700,000
Illinois	Recruit Training Command, Great Lakes	$167,750,000
Indiana	Naval Warfare Center, Crane	$8,220,000
Maine	Naval Shipyard, Portsmouth	$8,100,000
Maryland	Naval Air Warfare Center, Patuxent River	$5,800,000
	United States Naval Academy, Annapolis	$51,720,000
Mississippi	Naval Air Station, Meridian	$10,450,000
North Carolina.	Marine Corps Air Station, Cherry Point	$27,147,000
	Marine Corps Base, Camp Lejeune	$44,590,000
	Marine Corps Air Station, New River	$6,840,000
Rhode Island.	Naval Station, Newport.	$10,620,000
Texas	Naval Air Station, Kingsville.	$6,010,000
Virginia	Marine Corps Air Field, Quantico.	$19,698,000
	Marine Corps Base, Quantico	$4,000,000
	Naval Air Station, Oceana	$11,680,000
	Naval Amphibious Base, Little Creek.	$36,034,000
	Naval Station, Norfolk.	$111,033,000
	Naval Surface Warfare Center, Dahlgren	$9,960,000
Washington.	Naval Station, Everett	$70,950,000
	Naval Submarine Base, Bangor.	$60,160,000
Total		$963,295,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installation or location outside the United States, and in the amount, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Guam	Naval Station, Guam	$55,473,000
Total		$55,473,000

SEC. 2202. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installation or location, for the purpose, and in the amount set forth in the following table:

Navy: Family Housing

State	Installation or Location	Purpose	Amount
Guam	Naval Station, Guam	126 Units	$43,495,000
Total			$43,495,000

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $178,644,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,918,465,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $761,751,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $25,584,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $1.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $54,507,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $222,139,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $593,660,000.

(6) For the construction of increment 2 of the Presidential Helicopter program support facility at Naval Air Warfare Station, Patuxent River, Maryland, authorized by section 2201(c) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), $55,700,000.

(7) For the construction of increment 2 of the apron and hangar recapitalization at Naval Air Field, El Centro, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), $18,666,000.

(8) For the construction of increment 3 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $40,200,000.

(9) For the construction of increment 2 of the limited area production and storage complex at Strategic Weapons Facility Pacific, Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), $47,095,000.

(10) For the construction of increment 2 of a White Side complex at Marine Corps Air Facility, Quantico, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), $34,730,000.

(11) For the construction of increment 3 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $64,432,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $43,424,000 (the balance of the amount authorized under section 2201(a) to replace a helicopter hangar, Naval Air Station, Jacksonville, Florida).

(3) $45,850,000 (the balance of the amount authorized under section 2201(a) to upgrade infrastructure, Recruit Training Command, Great Lakes, Illinois).

(4) $26,790,000 (the balance of the amount authorized under section 2201(a) for construction of the Wesley Brown Field House, United States Naval Academy, Annapolis, Maryland).

(5) $31,059,000 (the balance of the amount authorized under section 2201(a) to replace ship repair pier 3, Naval Station, Norfolk, Virginia).

(6) $21,000,000 (the balance of the amount authorized under section 2201(a) for construction of a bachelor enlisted quarters for the homeport ashore program, Naval Station, Everett, Washington).

(7) $33,421,000 (the balance of the amount authorized under section 2201(a) to perform reclamation and conveyance activities, Marine Corps Base, Camp Pendleton, California).

(8) $29,889,000 (the balance of the amount authorized under section 2201(b) to improve Alpha/Bravo wharves, Naval Station, Guam).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $92,354,000, which represents prior year savings.

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2106) is amended—

(1) in the item relating to Marine Corps Air Facility, Quantico, Virginia, by striking "$73,838,000" in the amount column and inserting "$74,470,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$952,687,000".

(b) MODIFICATION OF UNSPECIFIED WORLDWIDE PROJECT.—The table in section 2201(c) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2106) is amended—

(1) in the item relating to Unspecified Worldwide, by striking "$105,982,000" in the amount column and inserting "$95,200,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$95,200,000".

(c) CONFORMING AMENDMENTS.—Section 2204(b) of that Act (118 Stat. 2108) is amended—

(1) in paragraph (4), by striking "$34,098,000" and inserting "$34,730,000"; and

(2) in paragraph (7), by striking "$65,982,000" and inserting "$55,200,000".

SEC. 2206. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136; 117 Stat. 1704) is amended—

(1) in the item relating to Naval Weapons Station, Earle, New Jersey, by striking "$123,720,000" in the amount column and inserting "$140,372,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,352,524,000".

(b) CONFORMING AMENDMENT.—Section 2204(b)(4) of that Act is amended by striking "$96,980,000" and inserting "$113,652,000".

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base.	$14,900,000
Alaska	Clear Air Station	$20,000,000
	Elmendorf Air Force Base.	$84,820,000
Arizona	Davis-Monthan Air Force Base.	$8,600,000
	Luke Air Force Base	$13,000,000
Arkansas	Little Rock Air Force Base.	$2,500,000
California	Beale Air Force Base	$14,200,000
	Edwards Air Force Base.	$103,000,000
	Travis Air Force Base	$42,500,000
	Vandenberg Air Force Base.	$16,845,000
Colorado	Buckley Air Force Base.	$20,100,000
	Peterson Air Force Base.	$12,800,000
	United States Air Force Academy.	$13,000,000
Delaware	Dover Air Force Base	$19,000,000
District of Columbia.	Bolling Air Force Base	$14,900,000
Florida	Cape Canaveral	$6,200,000
	Hurlburt Field	$2,540,000
	MacDill Air Force Base.	$107,200,000
	Tyndall Air Force Base.	$11,500,000
Georgia	Robins Air Force Base	$2,000,000
Hawaii	Hickam Air Force Base.	$13,378,000
Idaho	Mountain Home Air Force Base.	$9,835,000
Louisiana	Barksdale Air Force Base.	$10,800,000
Massachusetts.	Hanscom Air Force Base.	$3,900,000
Mississippi	Columbus Air Force Base.	$10,000,000
	Keesler Air Force Base	$47,500,000
Missouri	Whiteman Air Force Base.	$5,721,000
Montana	Malmstrom Air Force Base.	$13,500,000
Nebraska	Offutt Air Force Base	$63,080,000
Nevada	Indian Springs Air Force Auxiliary Field	$60,724,000
	Nellis Air Force Base	$24,370,000
New Jersey	McGuire Air Force Base.	$13,185,000
New Mexico.	Holloman Air Force Base.	$15,000,000
	Kirtland Air Force Base.	$6,600,000
North Dakota.	Minot Air Force Base	$8,700,000
Ohio	Wright-Patterson Air Force Base.	$19,670,000
Oklahoma	Tinker Air Force Base	$31,960,000
	Vance Air Force Base	$14,000,000
South Carolina.	Charleston Air Force Base.	$2,583,000
	Shaw Air Force Base	$9,730,000
South Dakota.	Ellsworth Air Force Base.	$8,400,000
Texas	Sheppard Air Force Base.	$36,000,000
Utah	Hill Air Force Base	$33,900,000
Virginia	Langley Air Force Base.	$38,665,000
Washington.	Fairchild Air Force Base.	$8,200,000
Total		$1,039,006,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$11,650,000
	Spangdahlem Air Base	$12,474,000
Guam	Andersen Air Base	$18,500,000
Italy	Aviano Air Base	$22,660,000
Korea	Kunsan Air Base	$44,188,000
	Osan Air Base	$39,719,000
Portugal	Lajes Field, Azores	$12,000,000
Turkey	Incirlik Air Base	$5,780,000
United Kingdom.	Royal Air Force, Lakenheath.	$5,125,000
	Royal Air Force, Mildenhall.	$13,500,000
Total		$185,596,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Alaska	Eielson Air Force Base	392 Units	$55,794,000
California	Edwards Air Force Base	226 Units	$59,699,000
Florida	MacDill Air Force Base	109 Units	$40,982,000
Idaho	Mountain Home Air Force Base	194 Units	$56,467,000
Missouri	Whiteman Air Force Base	111 Units	$26,917,000
Montana	Malmstrom Air Force Base	296 Units	$68,971,000
North Carolina	Seymour Johnson Air Force Base	255 Units	$48,868,000
North Dakota	Grand Forks Air Force Base	300 Units	$86,706,000
	Minot Air Force Base	223 Units	$44,548,000
South Carolina	Charleston Air Force Base	10 Units	$15,935,000
South Dakota	Ellsworth Air Force Base	60 Units	$14,383,000

Air Force: Family Housing—Continued

State	Installation or location	Purpose	Amount
Texas	Dyess Air Force Base	190 Units	$43,016,000
Germany	Ramstein Air Base	101 Units	$62,952,000
Turkey	Incirlik Air Base	100 Units	$22,730,000
United Kingdom	Royal Air Force, Lakenheath	107 Units	$48,437,000
Total			$696,405,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $37,104,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $409,113,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $3,007,882,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $914,006,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $185,596,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $83,719,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $1,142,622,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $766,939,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $30,000,000 (the balance of the amount authorized under section 2301(a) for a C–17 maintenance complex, Elmendorf Air Force Base, Alaska).

(3) $66,000,000 (the balance of the amount authorized under section 2301(a) to replace the main runway, Edwards Air Force Base, California).

(4) $29,000,000 (the balance of the amount authorized under section 2301(a) for construction of a joint intelligence center for Headquarters, Central Command, MacDill Air Force Base, Florida).

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Intelligence Agency.	Bolling Air Force Base, District of Columbia	$7,900,000
Defense Logistics Agency.	Cannon Air Force Base, New Mexico	$13,200,000
	Defense Distribution Depot, New Cumberland, Pennsylvania	$6,500,000
	Defense Distribution Depot, Tracy, California	$33,635,000
	Fort Belvoir, Virginia	$4,500,000
	Marine Corps Air Station Yuma, Arizona	$7,300,000
	McConnell Air Force Base, Kansas	$15,800,000
	Miramar, California	$23,000,000
	Naval Station, Norfolk, Virginia	$6,700,000
	Seymour Johnson Air Force Base, North Carolina	$18,500,000
Defense Education Agency.	Fort Bragg, North Carolina	$18,075,000
	Fort Stewart/Hunter Army Air Field, Georgia	$16,629,000
National Security Agency.	Augusta, Georgia	$61,466,000
	Fort Meade, Maryland	$28,049,000
	Kunia, Hawaii	$61,466,000
Special Operations Command.	Eglin Air Force Base, Florida	$12,800,000
	Fort Bragg, North Carolina	$14,769,000
	Fort Campbell, Kentucky	$37,800,000
	Fort Lewis, Washington	$53,300,000
	Fort Stewart/Hunter Army Air Field, Georgia	$10,000,000
	Naval Surface Warfare Center, Corona, California	$28,350,000
TRICARE Management Activity	Beale Air Force Base, California	$18,000,000
	Charleston, South Carolina	$35,000,000
	Fort Detrick, Maryland	$55,200,000
	Keesler Air Force Base, Mississippi	$14,000,000
	Lackland Air Force Base, Texas	$11,000,000
	Naval Hospital, San Diego, California	$15,000,000
	Nellis Air Force Base, Nevada	$1,700,000
	Uniformed Services University of the Health Sciences, Bethesda, Maryland	$10,350,000
	Peterson Air Force Base, Colorado	$1,820,000
Total		$641,809,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Education Agency	Landstuhl, Germany	$6,543,000
	Vilseck, Germany	$2,323,000
	Agana, Guam	$40,578,000
	Taegu, Korea	$8,231,000
	Naval Station, Rota, Spain.	$7,963,000
Defense Logistics Agency	Souda Bay, Greece	$7,089,000
Missile Defense Agency	Kwajalien Atoll, Kwajalien.	$4,901,000
National Security Agency	Menwith Hall, United Kingdom.	$41,697,000
TRICARE Management Activity	Bahrain, SWA	$4,750,000
Total		$124,075,000

SEC. 2402. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $60,000,000.

SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $2,973,914,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $641,809,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $123,104,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $15,736,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $135,081,000.

(6) For energy conservation projects authorized by section 2403 of this Act, $60,000,000.

(7) For base closure and realignment activities funded through the account created pursuant to section 2906 of, and authorized by, the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $377,827,000.

(8) For base closure and realignment activities funded through the account created pursuant to section 2906A of, and authorized by, the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $1,504,466,000.

(9) For military family housing functions:

(A) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $46,391,000.

(B) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(10) For the construction of increment 2 of the hospital replacement at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2100), $57,000,000.

(b) Notice and Wait Requirement Applicable to Obligation of Funds for Base Closure and Realignment Activities.—None of the funds authorized to be appropriated by subsection (a)(8) may be obligated until 21 days after the date on which the Secretary of Defense submits to the congressional defense committees a report describing the specific programs, projects, and activities for which such funds are to be obligated.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $206,858,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for the costs of acquisition, architectutal and engineering services, and construction of facilities for the reserve components, and for contributions therefore, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $445,100,000; and

(B) for the Army Reserve, $121,077,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $50,226,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $264,061,000; and

(B) for the Air Force Reserve, $79,260,000.

SEC. 2602. SPECIFIC AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION PROJECTS.

Of the amount authorized to be appropriated for the Department of the Army for the Army National Guard of the United States under section 2601(1)(A)—

(1) $1,500,000 is available for the construction of an urban combat course at Camp Roberts, California; and

(2) $1,500,000 is available for the addition or alteration of a field maintenance shop at Fort Dodge, Iowa.

SEC. 2603. CONSTRUCTION OF FACILITIES, NEW CASTLE COUNTY AIRPORT AIR GUARD BASE, DELAWARE.

Of the amount authorized to be appropriated for the Department of the Air Force for the Air National Guard of the United States under section 2601(3)(A)—

(1) $1,400,000 is available for the construction of a security forces facility at New Castle County Airport Air Guard Base, Delaware; and

(2) $1,500,000 is available for the construction of a medical training facility at New Castle County Airport Air Guard Base, Delaware.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2008; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2008; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2009 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) Extension.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), authorizations set forth in the tables in subsection (b), as provided in sections 2301, 2302, and 2401 of that Act, shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2003 Project Authorizations

State	Installation or location	Project	Amount
Florida	Eglin Air Force Base	Replace family housing (134 Units)	$15,906,000
Florida	Eglin Air Force Base	Replace Family Housing Office	$597,000
Mississippi	Keesler Air Force Base	Replace family housing (117 Units)	$16,505,000
Texas	Randolph Air Force Base	Replace family housing (112 Units)	$14,311,000
Texas	Randolph Air Force Base	Replace Housing Maintenance Facility	$447,000
Italy	Aviano Air Base	Consolidate Area A-1 and A-2	$5,000,000

Defense Wide: Extension of 2003 Project Authorization

Agency	Installation or location	Project	Amount
Special Operations Command	Stennis Space Center, Mississippi	SOF Training Range	$5,000,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) Extension.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in sections 2101 and 2302 of that Act, shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2002 Project Authorization

State	Installation or location	Project	Amount
Hawaii	Pohakuloa Training Facility	Land purchase	$1,500,000

Air Force: Extension of 2002 Project Authorization

State	Installation or location	Project	Amount
Louisiana	Barksdale Air Force Base	Replace family housing (56 Units)	$7,300,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 2005; or

(2) the date of the enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. INCREASE IN THRESHOLDS FOR UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.

(a) INCREASE.—Section 2805(a)(1) of title 10, United States Code, is amended—

(1) by striking "$1,500,000" and inserting "$2,500,000"; and

(2) by striking "$3,000,000" and inserting "$4,000,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2005.

SEC. 2802. MODIFICATION OF COST VARIATION AUTHORITY.

(a) LIMITATION ON COST DECREASES RELATED TO MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.—Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may be increased by not more than 25 percent" and inserting "may be increased or decreased by not more than 25 percent"; and

(B) by striking "if the Secretary concerned determines that such an increase in cost is required" and inserting "if the Secretary concerned determines that such revised cost is required";

(2) in subsection (c)—

(A) by striking "limitation on cost increase" and inserting "limitation on cost variations"; and

(B) by striking "the increase" both place it appears and inserting "the variation"; and

(3) in subsection (d), by striking "limitation on cost increases" and inserting "limitation on cost variations".

(b) ADDITIONAL INFORMATION REQUIRED FOR NOTIFICATION IN CONNECTION WITH WAIVER OF LIMITATIONS ON COST INCREASES.—Subsection (c)(2) of such section is further amended by inserting after "the reasons therefor" the following: ", including a description of the funds proposed to be used to finance any increased costs".

(c) TECHNICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 2853. Authorized cost and scope of work variations".

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of chapter 169 of such title is amended to read as follows:

"2853. Authorized cost and scope of work variations.".

SEC. 2803. DEPARTMENT OF DEFENSE HOUSING FUNDS.

(a) REQUIREMENT TO FUND CERTAIN ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING SOLELY THROUGH DEFENSE HOUSING FUNDS.—Subsection (e) of section 2883 of title 10, United States Code, is amended—

(1) by striking "The Secretary" and inserting "(1) The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Funds established under subsection (a) shall be the sole source of funds for activities carried out under this subchapter.".

(b) AUTHORITY TO TRANSFER FUNDS APPROPRIATED FOR THE IMPROVEMENT OF MILITARY FAMILY HOUSING TO DEFENSE HOUSING FUNDS.—Subsection (c)(1)(B) of such section is amended by striking "acquisition or construction" and inserting "acquisition, improvement, or construction".

(c) REPORTING REQUIREMENTS RELATED TO DEPARTMENT OF DEFENSE HOUSING FUNDS.—Section 2884 of such title is amended—

(1) in subsection (a)(2)(D), by inserting after "description of the source of such funds" the following: ", including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, conveyance, or lease"; and

(2) in subsection (b)(1)—

(A) by striking "a report" and inserting "a separate report";

(B) by striking "covering the Funds" and inserting "covering each of the Funds"; and

(C) by striking the period at the end and inserting the following: ", including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.".

SEC. 2804. TEMPORARY AUTHORITY TO USE MINOR MILITARY CONSTRUCTION AUTHORITY FOR CONSTRUCTION OF CHILD DEVELOPMENT CENTERS.

(a) THRESHOLDS ON CONSTRUCTION AUTHORIZED.—The Secretary of Defense shall establish a program to carry out minor military construction projects under section 2805 of title 10, United States Code, to construct child development centers.

(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For the purpose of any military construction project carried out under the authority provided by this section—

(1) the amount specified in the second sentence of subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $7,000,000;

(2) the amount specified in the third sentence of subsection (a)(1) of such section shall be deemed to be $8,000,000;

(3) the amount specified in subsection (b)(1) of such section shall be deemed to be $5,000,000;

(4) the amount specified in subsection (c)(1)(A) of such section shall be deemed to be $7,000,0000; and

(5) the amount specified in subsection (c)(1)(B) of such section shall be deemed to be $5,000,000.

(c) PROGRAM REQUIREMENTS.—

(1) NOTIFICATION.—All notification requirements under such section shall remain in effect for construction projects carried out under the authority provided by this section.

(2) REVIEW AND APPROVAL.—The Secretary shall establish procedures for the review and approval of requests from the Secretaries of military departments to carry out construction projects under the authority provided by this section.

(d) REPORT ON PROGRAM.—

(1) REPORT REQUIRED.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the program authorized under this section.

(2) CONTENT.—The report shall include—

(A) a list and description of the construction projects carried out under the program, including the location and cost of each such project; and

(B) the assessment of the Secretary of the advisability of extending or expanding the authority for the program under this section.

(e) EXPIRATION OF AUTHORITY.—The authority provided by this section expires on September 30, 2007.

(f) CONSTRUCTION OF AUTHORITY.—Nothing in this section may be construed to limit any other authority provided by law for a military construction project at a child development center.

(g) CHILD DEVELOPMENT CENTER DEFINED.—In this section, the term "child development center" includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged 6 weeks old through 5 years old for full-day, part-day, and hourly service.

SEC. 2805. INAPPLICABILITY TO CHILD DEVELOPMENT CENTERS OF RESTRICTION ON AUTHORITY TO ACQUIRE OR CONSTRUCT ANCILLARY SUPPORTING FACILITIES.

Section 2881(b) of title 10, United States Code, is amended by inserting ", other than a project for the acquisition or construction of a child development center," after "A project referred to in subsection (a)".

SEC. 2806. AUTHORITY TO CARRY OUT EXCHANGES OF FACILITIES INCLUDING ASSOCIATED UTILITIES, EQUIPMENT, AND FURNISHINGS.

(a) IN GENERAL.—Section 18240 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) FACILITY DEFINED.—In this section, the term 'facility' includes—

"(1) any facility, as that term is defined in section 18232(2) of this title; and

"(2) any associated utilities, equipment, and furnishings required to be installed in any such facility.".

(b) TEMPORARY AUTHORITY RELATED TO CASH EQUALIZATION PAYMENTS.—Section 2809(c)(4) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2127) is amended by striking "the term 'facility' has the meaning given that term in section 18232(2) of title 10, United States Code" and inserting the following: "the term 'facility' has the meaning given that term in section 18240(h) of title 10, United States Code".

SEC. 2807. INCREASE IN NUMBER OF FAMILY HOUSING UNITS IN KOREA AUTHORIZED FOR LEASE BY THE ARMY AT MAXIMUM AMOUNT.

Section 2828(e)(4) of title 10, United States Code, is amended by striking "2,400" and inserting "2,800".

Subtitle B—Real Property and Facilities Administration

SEC. 2821. AUTHORITY TO LEASE NON-EXCESS PROPERTY OF DEPARTMENT OF DEFENSE FIELD ACTIVITIES.

Section 2667a of title 10, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 2667a. Leases: non-excess property of Defense Agencies and Department of Defense Field Activities";

(2) in subsection (a)(1), by striking "Defense agency" and inserting "Defense Agency or Department of Defense Field Activity"; and

(3) in subsection (d)—

(A) by striking "Defense agency" and inserting "Defense Agency or Department of Defense Field Activity"; and

(B) by striking "a Defense agency's special account" and inserting "the special account of a Defense Agency or Department of Defense Field Activity".

SEC. 2822. MODIFIED CRITERIA FOR AGREEMENTS TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) MODIFIED CRITERIA.—Section 2684a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or entities" after "entity"; and

(B) by striking "in the vicinity of a military installation" and inserting "in the vicinity of, or ecologically related to, a military installation or the airspace of such installation";

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "An agreement with an eligible entity under this section may provide for" and inserting "An agreement with an eligible entity or entities under this section shall provide for";

(ii) in subparagraph (A), by inserting "or entities" after "entity"; and

(iii) by amending subparagraph (B) to read as follows:

"(B) the equal sharing by the Department of Defense and the entity or entities of the acquisition costs, whether by contribution of funding or like-kind exchange of property or lesser property interest.";

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (4), (5), (6), and (7), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The Secretary concerned may waive the requirement in paragraph (1)(B) to equally share acquisition costs if—

"(A) the Secretary determines that the agreement is essential to accomplish the mission of the installation;

"(B) the Secretary notifies the congressional defense committees in writing of the determination and the reasons for the determination; and

"(C) a period of 21 days has elapsed after the date on which such notification is received by the committees.

"(3) The acquisition cost of any lesser interest in the property may not exceed 70 percent of the appraised value of the property."; and

(D) in paragraph (5), as redesignated by subparagraph (B), by inserting "or entities" after "entity";

(3) by redesignating subsection (h) as subsection (i); and

(4) by inserting after subsection (g) the following new subsection:

"(h) ANNUAL REPORTS.—(1) Not later than March 15, 2006, and annually thereafter, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Management Resource Center, submit to the congressional defense committees a report on the implementation of projects undertaken pursuant to this section.

"(2) The reports submitted under paragraph (1) shall include—

(A) a description of the status of such projects;

(B) an assessment of the effectiveness of such projects and other actions undertaken pursuant to this section as part of a long-range strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace;

(C) an evaluation of the methodology and criteria used to select and prioritize projects undertaken pursuant to this section;

(D) a description of the shared costs by the Department of Defense and the eligible entity or entities under each agreement undertaken or proposed; and

(E) recommendations for any legislation or changes in regulations to increase the efficiency and effectiveness of actions taken under this section.".

(b) APPLICABILITY OF MODIFIED CRITERIA.—The requirement under subsection (d)(1)(B) of such section (as amended by subsection (a)(2)(A)(iii)) that an agreement under such section shall provide for the equal sharing of acquisition costs by the Department of Defense and an eligible entity or entities shall not apply to an agreement initiated before the date of the enactment of this Act.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2841. LAND CONVEYANCE, HELENA, MONTANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey by quitclaim deed to the Helena Indian Alliance, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3.0 acres located at Sheridan Hall United States Army Reserve Center, 501 Euclid Avenue, Helena, Montana, including improvements thereon, for the purposes of supporting Native American health care, mental health counseling, and the operation of an education training center.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall require the Helena Indian Alliance to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Helena Indian Alliance in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Alliance.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United State

SEC. 2842. LAND CONVEYANCE, ARMY RESERVE CENTER, BOTHELL, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Snohomish County Fire Protection District #10 (in this section referred to as the "Fire District") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1.0 acres located at the Army Reserve Center, Bothell, Washington, for the purpose of permitting the Fire District to operate a fire station on the property.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary may require the Fire District to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Fire District in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to Fire District.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary

in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the Fire District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART II—AIR FORCE CONVEYANCES

SEC. 2861. ACQUISITION OF BUILD-TO-LEASE FAMILY HOUSING AT EIELSON AIR FORCE BASE, ALASKA.

(a) ACQUISITION AUTHORIZED.—

(1) IN GENERAL.—The Secretary of the Air Force may purchase the entire interest of the developer in the military family housing project at Eielson Air Force Base, Alaska, described in paragraph (2) if the Secretary determines that the purchase is in the best economic interests of the Air Force.

(2) DESCRIPTION OF PROJECT.—The military family housing project referred to in this section is the 300-unit military family housing project at Eielson Air Force Base that was constructed by the developer and is leased by the Secretary under section 2835 of title 10, United States Code (in this section referred to as the "Eielson housing project").

(b) CONSIDERATION.—The consideration paid by the Secretary under this section for the interest of the developer in the Eielson housing project may not exceed an amount equal to the fair market value of such interest, as determined by the Secretary.

(c) TIME FOR PURCHASE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make the purchase authorized by subsection (a) at any time after the end of the term of the lease for the Eielson housing project.

(2) NOTICE AND WAIT REQUIREMENT.—The Secretary may not make the purchase authorized by subsection (a) until 30 days after notifying the congressional defense committees of the Secretary's election to make such purchase.

Subtitle D—Other Matters

SEC. 2881. REORGANIZATION AND TECHNICAL IMPROVEMENT OF CODIFIED LAWS APPLICABLE TO REAL PROPERTY OF THE DEPARTMENT OF DEFENSE.

(a) CONSOLIDATION OF ACQUISITION AUTHORITY.—Section 2663 of title 10, United States Code, is amended—

(1) in the heading, by inserting "**authority**" after "**Acquisition**";

(2) in subsection (a)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by striking "(a) The Secretary" and inserting the following:

"(a) IN GENERAL.—(1) The Secretary"; and

(C) in paragraph (1)(C), as redesignated by this paragraph, by striking "clause (2)" and inserting "subparagraph (B)";

(3) by redesignating subsections (b), (c), and (d), as paragraphs (2), (3), and (4), respectively;

(4) by striking "subsection (a)" each place it appears and inserting "paragraph (1)"; and

(5) by adding at the end the following new subsections:

"(b) LOW-COST INTERESTS IN LAND.—(1) The Secretary of a military department may acquire any interest in land that—

"(A) the Secretary determines—

"(i) is needed in the interest of national defense; and

"(ii) does not cost more than $750,000, exclusive of administrative costs and the amounts of any deficiency judgments; or

"(B) the Secretary determines—

"(i) is needed solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; and

"(ii) does not cost more than $1,500,000, exclusive of administrative costs and the amounts of any deficiency judgments.

"(2) This subsection does not apply to the acquisition, as part of the same project, of more than one parcel of land unless—

"(A) the parcels are noncontiguous; or

"(B) if the parcels are contiguous—

"(i) the total cost of such parcels is not more than $750,000 in the case of an acquisition under paragraph (1)(A); or

"(ii) the total cost of such parcels is not more than $1,500,000 in the case of an acquisition under paragraph (1)(B).

"(3) Appropriations available to the Department of Defense for operation and maintenance or for military construction may be used for the acquisition of land or interests in land under paragraph (1).

"(c) INTERESTS IN LAND WHEN NEED IS URGENT.—(1) The Secretary of a military department may acquire any interest in land in any case in which the Secretary determines that—

"(A) the acquisition is needed in the interest of national defense;

"(B) the acquisition is required to maintain the operational integrity of a military installation; and

"(C) considerations of urgency do not permit the delay necessary to include the acquisition in an annual Military Construction Authorization Act.

"(2) Not later than 10 days after the date on which the Secretary of a military department determines to acquire an interest in land under the authority of this subsection, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notice containing a description of the property and interest to be acquired and the reasons for the acquisition.

"(3) Appropriations available for military construction may be used for the acquisition of land under this subsection.

"(d) SCOPE OF AUTHORITY.—The authority to acquire interests in real property (including a temporary interest) under this section includes authority to—

"(1) make surveys; and

"(2) acquire interests in real property by gift, purchase, exchange of real property owned by the United States, or otherwise.".

(b) ACQUISITION LIMITATIONS.—

(1) TRANSFER OF LIMITATIONS.—Section 2676 of such title is—

(A) transferred to appear after section 2663 of such title; and

(B) redesignated as section 2664 of such title.

(2) STYLISTIC AND CLERICAL AMENDMENTS.—Section 2664 of such title, as redesignated by paragraph (1), is amended—

(A) by striking subsection (b);

(B) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively;

(C) in subsection (b), as redesignated by subparagraph (B)—

(i) by striking "determines (A) that such" and inserting the following: "determines that—

"(A) such";

(ii) by striking "cost, and (B) that such" and inserting the following: "cost; and

"(B) that such"; and

(iii) by striking "subsection (d)" and inserting "subsection (c)";

(D) in subsection (c), as so redesignated, by striking "subsection (c)" and inserting "subsection (b)"; and

(E) in subsection (d), as so redesignated, by striking "subsections (c) and (d)" and inserting "subsections (b) and (c)".

(c) REPEAL OF CONSOLIDATED SECTIONS.—The following sections of chapter 159 of such title are repealed:

(1) Section 2672.

(2) Section 2672a.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended—

(1) by amending the item relating to section 2663 to read as follows:

"2663. Acquisition authority.";

(2) by inserting after the item relating to section 2663 the following new item:

"2664. Acquisition: limitations."; and

(3) by striking the items relating to sections 2672, 2672a, and 2676.

(e) REPEAL OF OBSOLETE AUTHORITY.—Section 2665 of such title is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (a), (b), (c), (d), and (e), respectively;

(3) in subsection (b), as redesignated by paragraph (2), by striking "subsection (a) or (b)" and inserting "subsection (a)"; and

(4) in paragraph (2) of subsection (e), as so redesignated—

(A) by striking "subsections (a) and (b)" and inserting "subsection (a)";

(B) by striking "subsection (d)" and inserting "subsection (c)"; and

(C) by striking "subsection (e)" and inserting "subsection (d)".

(f) TRANSFER OF FORD ISLAND PROVISION.—

(1) TRANSFER AND REDESIGNATION.—Section 2814 of such title is—

(A) transferred to appear after section 7524 of such title; and

(B) redesignated as section 7525 of such title.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Subsection (i) of section 7525 of such title, as transferred and redesignated by paragraph (1), is amended—

(A) in paragraph (2)—

(i) by striking "To extent" and inserting "To the extent; and

(ii) by striking "this chapter" and inserting "chapter 169 of this title"; and

(B) in paragraph (3)(B), by striking "this chapter" and inserting "chapter 169 of this title".

(3) CLERICAL AMENDMENTS.—(A) The table of sections at the beginning of chapter 169 of such title is amended by striking the item relating to section 2814.

(B) The table of sections at the beginning of chapter 645 of such title is amended by adding at the end the following new item:

"7525. Special authority for development of Ford Island, Hawaii.".

(g) APPLICATION OF REAL PROPERTY MANAGEMENT AUTHORITIES TO PENTAGON RESERVATION.—Section 2661 of such title is amended by adding at the end the following new subsection:

"(d) In this chapter, the terms 'Secretary concerned' and 'Secretary of a military department' include the Secretary of Defense with respect to the Pentagon Reservation.".

SEC. 2882. REPORT ON APPLICATION OF FORCE PROTECTION AND ANTI-TERRORISM STANDARDS TO LEASED FACILITIES.

(a) REPORT REQUIRED.—Not later than May 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the application of Department of Defense Anti-Terrorism/Force Protection standards to all facilities leased by the Department of Defense or leased by the General Services Administration as an agent for the Department of Defense as of September 30, 2005.

(b) INFORMATION ON LEASED FACILITIES.—For each facility identified in the report submitted under subsection (a), the Secretary shall include the following:

(1) A description of the function of the leased facility, including the location, size, terms of lease, and the number of personnel housed within the facility.

(2) A description of the threat assessment and the joint security integrated vulnerability assessment for each leased facility.

(3) A description and cost estimate of any actions necessary to mitigate risk to an acceptable level in each leased facility.

(4) A description and cost estimate of the actions to be taken by the Secretary of Defense for each leased facility to ensure compliance with Department of Defense Anti-Terrorism/Force Protection standards.

(5) The total estimated cost of, and a proposed funding plan for, implementation of the force protection and anti-terrorism measures required to ensure the compliance of all leased facilities with Defense Anti-Terrorism/Force Protection standards.

(c) INFORMATION ON SUPPORT PRIORITIES.—The report submitted under subsection (a) shall also include a separate description of the procedures used by the Secretary of Defense to prioritize funding for the application of force protection and antiterrorism standards to leased facilities, including a description of any such procedures applicable to the entire Department of Defense.

(d) APPLICABILITY.—The reporting requirements under this section apply to any space or facility that houses 11 or more personnel in service to, or employed by, the Department of Defense.

SEC. 2883. CONSTRUCTION AT FORT BUCHANAN, PUERTO RICO, FOR RESERVE COMPONENTS.

Section 1507(b)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398, 114 Stat. 1654A-355) is amended to read as follows:

"(2) The construction, conversion, rehabilitation, extension, and improvement of reserve component and nonappropriated fund facilities.".

SEC. 2884. AUTHORITY TO USE PAPAGO PARK MILITARY RESERVATION, ARIZONA, FOR GENERAL MILITARY PURPOSES.

Section 1 of the Act of April 7, 1930 (46 Stat. 142, chapter 107), is amended by striking "reserved for military purposes for use of the National Guard of Arizona as a rifle range" and inserting "reserved for military purposes for use by the State of Arizona as a military installation known as Papago Park Military Reservation".

SEC. 2885. ONE-YEAR EXTENSION OF DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION PROGRAM.

Section 2892(g) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 2805 note), as amended by section 2891 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2154), is further amended by striking "September 30, 2005" and inserting "September 30, 2006".

SEC. 2886. SENSE OF CONGRESS ON ESTABLISHMENT OF BAKERS CREEK MEMORIAL.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1943 and 1944, the United States Armed Forces operated a rest and relaxation facility in Mackay, Queensland, Australia, for troops serving in the Pacific Theater during World War II.

(2) On June 14, 1943, a Boeing B-17C was transporting 6 crew members and 35 servicemen from Mackay to Port Moresby, New Guinea, to return the servicemen to duty after 10 days of rest and relaxation leave at an Army/Red Cross facility.

(3) The aircraft crashed shortly after takeoff at Bakers Creek, Australia, killing all 6 crew members and 34 of the 35 servicemen being transported in what was at that point the worst crash in American air transport history, and what remains the worst air disaster in Australian history.

(4) Due to wartime censorship rules related to the movement of troops, the tragic crash and loss of life were not reported to the Australian or United States public.

(5) Many family members of those killed did not learn the circumstances of the troops deaths until they were contacted by the Bakers Creek Memorial Foundation beginning in 1992.

(6) As of May 2005, the Bakers Creek Memorial Foundation had contacted 36 of the 40 families that lost loved ones in the tragic crash, and was continuing efforts to locate the remaining four families to inform them of the true events of the crash at Bakers Creek.

(7) The Australian people marked the tragic crash at Bakers Creek with a memorial established in 1992, but no similar memorial has been established in the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army may establish an appropriate marker, at a site to be chosen at the discretion of the Secretary, to commemorate the 40 members of the United States Armed Forces who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,357,427,000, to be allocated as follows:

(1) For weapons activities, $6,590,319,000.

(2) For defense nuclear nonproliferation activities, $1,637,239,000.

(3) For naval reactors, $786,000,000.

(4) For the Office of the Administrator for Nuclear Security, $343,869,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for weapons activities as follows:

(1) For readiness in technical base and facilities, the following new plant projects:

Project 06-D-140, Readiness in Technical Base and Facilities Program (RTBF), project engineering and design, various locations, $19,113,000.

Project 06-D-402, replacement of Fire Stations Number 1 and Number 2, Nevada Test Site, Nevada, $8,284,000.

Project 06-D-403, tritium facility modernization, Lawrence Livermore National Laboratory, Livermore, California, $2,600,000.

Project 06-D-404, remediation, restoration, and upgrade of Building B-3, Nevada Test Site, Nevada, $16,000,000.

(2) For facilities and infrastructure recapitalization, the following new plant projects:

Project 06-D-160, Facilities and Infrastructure Recapitalization Program (FIRP), project engineering and design, various locations, $5,811,000.

Project 06-D-601, electrical distribution system upgrade, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 06-D-602, gas main and distribution system upgrade, Pantex Plant, Amarillo, Texas, $3,700,000.

Project 06-D-603, Steam Plant Life Extension Project (SLEP), Y-12 National Security Complex, Oak Ridge, Tennessee, $729,000.

(3) For naval reactors, the following new plant project:

Project 06-N-901, Central Office Building 2, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $7,000,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for environmental management activities in carrying out programs necessary for national security in the amount of $6,189,433,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,335,849,000.

(2) For defense environmental services, $853,584,000.

(b) AUTHORIZATION OF NEW PLANT PROJECT.—From funds referred to in subsection (a)(1) that are available for carrying out plant projects, the Secretary of Energy may carry out, for environmental management activities, the following new plant project:

Project 06-D-401, sodium bearing waste treatment project, Idaho National Laboratory, Idaho Falls, Idaho, $15,000,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for other defense activities in carrying out programs necessary for national security in the amount of $563,423,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $301,447,000.

Subtitle B—Other Matters

SEC. 3111. REPORT ON COMPLIANCE WITH DESIGN BASIS THREAT.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report detailing plans for achieving compliance under the Design Basis Threat issued by the Department of Energy in 2004.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) an implementation plan with associated funding requirements to achieve by September 30, 2007, compliance under the Design Basis Threat of all Department of Energy and National Nuclear Security Administration sites that contain nuclear weapons or special nuclear material; and

(2) an evaluation of options for applying security technologies and innovative protective force deployment to increase the efficiency and effectiveness of efforts to protect against the threats postulated in the Design Basis Threat.

(c) FORM.—The report required under subsection (a) shall be submitted in classified form with an unclassified summary.

SEC. 3112. COST ESTIMATE FOR WASTE TREATMENT AND IMMOBILIZATION PLANT PROJECT, HANFORD SITE, RICHLAND, WASHINGTON.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees an independent cost estimate prepared by the Army Corps of Engineers for the Waste Treatment and Immobilization Plant project at the Hanford Site, Richland, Washington (in this section referred to as the "project").

(b) CONTENT.—The cost estimate required under subsection (a) shall include estimates of the total cost and annual funding requirements, listed by year, to complete the project, assuming a completion date in each of 2011, 2012, 2013, 2014, and 2015.

SEC. 3113. REPORT ON INTERNATIONAL BORDER SECURITY PROGRAMS.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Energy shall, in consultation with the Secretary of Defense, the Secretary of State, and, as appropriate, the Secretary of Homeland Security, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the management by such Secretaries of border security programs in the countries of the former Soviet Union and other countries.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the roles and responsibilities of each department and agency of the United States Government in international border security programs;

(2) a description of the interactions and coordination among departments and agencies of the United States Government that are conducting international border security programs;

(3) a description of the mechanisms that exist to ensure coordination, avoid duplication, and provide a means to resolve conflicts or problems that might arise in the implementation of international border security programs;

(4) a discussion of whether there is existing interagency guidance that addresses the roles, interactions, and dispute resolution mechanisms for departments and agencies of the United States Government that are conducting international border security programs, and the adequacy of such guidance if it exists; and

(5) recommendations to improve the coordination and effectiveness of international border security programs.

SEC. 3114. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) IN GENERAL.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting "(A)" after "(4)";

(2) in the first sentence—

(A) by inserting "and tribal organizations" after "State and local governments"; and

(B) by inserting "and tribal organizations" after "those governments";

(3) in the third sentence—

(A) by striking "Additionally, the Secretary" and inserting the following:

"(B) Additionally, the Secretary"; and

(B) by inserting "and tribal organizations" after "State and local governments"; and

(4) by adding at the end the following:

"(C) In this paragraph, the term 'tribal organization' has the meaning given the term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect on December 5, 1991; and

(2) apply to any cooperative agreement entered into on or after that date.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2006, $22,032,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORITY .—Section 3303(a)(5) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108–375; 50 U.S.C. 98d note), is amended by striking paragraph (5) and inserting the following new paragraphs:

"(5) $900,000,000 by the end of fiscal year 2010.

"(6) $1,000,000,000 by the end of fiscal year 2013.".

(b) ADDITIONAL DISPOSAL AUTHORITY.—Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 972; 50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 50 U.S.C. 98d note), is amended by striking paragraph (4) and inserting the following new paragraphs:

"(4) $500,000,000 before the end of fiscal year 2010.

"(5) $600,000,000 before the end of fiscal year 2013.".

SA 1956. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 1955 submitted by Mr. WARNER (for himself and Mr. LEVIN) and intended to be proposed to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 16, strike "$3,008,982,000" and insert "$3,108,982,000".

At the end of subtitle A of title IX, add the following:

SEC. 903. REDESIGNATION OF THE NAVAL RESERVE AS THE NAVY RESERVE.

(a) REDESIGNATION OF RESERVE COMPONENT.—The reserve component of the Armed Forces known as the Naval Reserve is redesignated as the Navy Reserve.

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 10, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(A) Section 513(a).
(B) Section 516.
(C) Section 526(b)(2)(C)(i).
(D) Section 971(a).
(D) Section 5001(a)(1).
(F) Section 5143.
(G) Section 5596(c).
(H) Section 6323(f).
(I) Section 6327.
(J) Section 6330(b).
(K) Section 6331(a)(2).
(L) Section 6336.
(M) Section 6389.
(N) Section 6911(c)(1).
(O) Section 6913(a).
(P) Section 6915.
(Q) Section 6954(b)(3).
(R) Section 6956(a)(2).
(S) Section 6959(a).
(T) Section 7225.
(U) Section 7226.
(V) Section 7605(1).
(W) Section 7852.
(X) Section 7853.
(Y) Section 7854.
(Z) Section 10101(3).
(AA) Section 10108.
(BB) Section 10172.
(CC) Section 10301(a)(7).
(DD) Section 10303.
(EE) Section 12004(e)(2).
(FF) Section 12005.
(GG) Section 12010.
(HH) Section 12011(a)(2).
(II) Section 12012(a).
(JJ) Section 12103.
(KK) Section 12205.
(LL) Section 12207(b)(2).
(MM) Section 12732.
(NN) Section 12774(b) (other than the first place it appears).
(OO) Section 14002(b).
(PP) Section 14101(a)(1).
(QQ) Section 14107(d).
(RR) Section 14302(a)(1)(A).
(SS) Section 14313(b).
(TT) Section 14501(a).
(UU) Section 14512(b).
(VV) Section 14705(a).
(WW) Section 16201(d)(1)(B)(ii).

(2) CAPTION AMENDMENTS.—Such title is further amended by striking "NAVAL RESERVE" each place it appears in a provision as follows and inserting "NAVY RESERVE":

(A) Section 971(a).
(B) Section 5143(a).

(3) SECTION HEADING AMENDMENTS.—(A) The heading of section 5143 of such title is amended to read as follows:

"§5143. Office of Navy Reserve: appointment of Chief".

(B) The heading of section 6327 of such title is amended to read as follows:

"§6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay".

(C) The heading of section 6389 of such title is amended to read as follows:

"§6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service".

(D) The heading of section 7225 of such title is amended to read as follows:

"§7225. Navy Reserve flag".

(E) The heading of section 7226 of such title is amended to read as follows:

"§ 7226. Navy Reserve yacht pennant".

(F) The heading of section 10108 of such title is amended to read as follows:

"§ 10108. Navy Reserve: administration".

(G) The heading of section 10172 of such title is amended to read as follows:

"§ 10172. Navy Reserve Force".

(H) The heading of section 10303 of such title is amended to read as follows:

"§ 10303. Navy Reserve Policy Board".

(I) The heading of section 12010 of such title is amended to read as follows:

"§ 12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result".

(J) The heading of section 14306 of such title is amended to read as follows:

"§ 14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system".

(4) Tables of Contents Amendments.—(A) The table of sections at the beginning of chapter 513 of such title is amended by striking the item relating to section 5143 and inserting the following new item:

"5143. Office of Navy Reserve: appointment of Chief.".

(B) The table of sections at the beginning of chapter 571 of such title is amended by striking the item relating to section 6327 and inserting the following new item:

"6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.".

(C) The table of sections at the beginning of chapter 573 of such title is amended by striking the item relating to section 6389 and inserting the following new item:

"6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.".

(D) The table of sections at the beginning of chapter 631 of such title is amended by striking the items relating to sections 7225 and 7226 and inserting the following new items:

"7225. Navy Reserve flag.
"7226. Navy Reserve yacht pennant.".

(E) The table of sections at the beginning of chapter 1003 of such title is amended by striking the item relating to section 10108 and inserting the following new item:

"10108. Navy Reserve: administration.".

(F) The table of sections at the beginning of chapter 1006 of such title is amended by striking the item relating to section 10172 and inserting the following new item:

"10172. Navy Reserve Force.".

(G) The table of sections at the beginning of chapter 1009 of such title is amended by striking the item relating to section 10303 and inserting the following new item:

"10303. Navy Reserve Policy Board.".

(H) The table of sections at the beginning of chapter 1201 of such title is amended by striking the item relating to section 12010 and inserting the following new item:

"12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result.".

(I) The table of sections at the beginning of chapter 1405 of such title is amended by striking the item relating to section 14306 and inserting the following new item:

"14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system.".

(c) Conforming Amendment to Title 14, United States Code.—Section 705 of title 14, United States Code, is amended by striking "Naval Reserve" each place it appears and inserting "Navy Reserve".

(d) Conforming Amendments to Title 37, United States Code.—

(1) Text amendments.—Title 37, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(A) Section 101(24)(C).
(B) Section 201(d).
(C) Section 205(a)(2)(I).
(D) Section 301c(d).
(E) Section 319(a).
(F) Section 905.

(2) Caption amendment.—Section 301c(d) of such title is further amended by striking "NAVAL RESERVE" and inserting "NAVY RESERVE".

(e) Conforming Amendments to Title 38, United States Code.—Title 38, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(1) Section 101(27)(B).
(2) Section 3002(6)(C).
(3) Section 3202(1)(C)(iii).
(4) Section 3452(a)(3)(C).

(f) Conforming Amendments to Other Codified Titles.—

(1) Title 5, United States Code.—Section 2108(1)(B) of title 5, United States Code, is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(2) Title 18, United States Code.—Section 2387(b) of title 18, United States Code, is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(3) Title 46, United States Code.—(A) Title 46, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(i) Section 8103(g).
(ii) Section 8302(g).

(B) The heading of section 8103 of such title is amended to read as follows:

"§ 8103. Citizenship and Navy Reserve requirements".

(C) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8103 and inserting the following new item:

"8103. Citizenship and Navy Reserve requirements.".

(g) Conforming Amendments to Other Laws.—

(1) Section 2301(4)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(4)(C)) is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(2)(A) The Merchant Marine Act, 1936 is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(i) Section 301(b) (46 U.S.C. App. 1131(b)).
(ii) Section 1303 (46 U.S.C. App. 1295b).
(iii) Section 1304 (46 U.S.C. App. 1295c).

(B) Such Act is further amended by striking "NAVAL RESERVE" each place it appears in a provision as follows and inserting "NAVY RESERVE":

(i) Section 1303(c).
(ii) 1304(h).

(3)(A) Section 6(a)(1) of the Military Selective Service Act (50 U.S.C. App. 456(a)(1)) is amended by striking "United States Naval Reserves" and inserting "members of the United States Navy Reserve".

(B) Section 16(i) of such Act (50 U.S.C. App. 446(i)) is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(h) Other References.—Any reference in any law, regulation, document, record, or other paper of the United States to the Naval Reserve, other than a reference to the Naval Reserve regarding the United States Naval Reserve Retired List, shall be considered to be a reference to the Navy Reserve.

On page 117, line 11, insert "through a computer accessible Internet website and other means and" before "at no cost'.

At the end of subtitle C of title IX, add the following:

SEC. 924. AUTHORITY FOR UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

Section 9314 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Acceptance of Research Grants.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

"(2) For purposes of this subsection, a qualifying research grant is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

"(3) An entity referred to in this paragraph is a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(4) The Secretary shall establish an account for the administration of funds received as qualifying research grants under this subsection. Funds in the account with respect to a grant shall be used in accordance with the terms and condition of the grant and subject to applicable provisions of the regulations prescribed under paragraph (6).

"(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the United States Air Force Institute of Technology may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

"(6) The Secretary of the Air Force shall prescribe regulations for purposes of the administration of this subsection.".

At the end of subtitle C of title III, add the following:

SEC. 330. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) Applicability of Sunset.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting September 30, 2009.".

(b) Crediting of Proceeds of Sale of Articles and Services.—Such section is further amended—

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)";

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) Proceeds Credited to Working Capital Fund.—The proceeds of sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service."; and

(4) in subsection (g), as redesignated by paragraph (2) of this subsection, by striking "subsection (e)" and inserting "subsection (f)".

At the end of subtitle E of title VIII, add the following:

SEC. 846. REPORTS OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

(a) EXTENSION OF FINAL REPORT.—Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking "one year" and inserting "two years".

(b) REQUIREMENT FOR INTERIM REPORT.—That section is further amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) Not later than one year after the date of the establishment of the panel, the panel shall submit to the official and committees referred to in paragraph (1) an interim report on the matters set forth in that paragraph.".

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. DESIGNATION OF WILLIAM B. BRYANT ANNEX.

(a) DESIGNATION.—The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in subsection (a) shall be deemed to be a reference to the "William B. Bryant Annex".

At the end of subtitle B of title VII, add the following:

SEC. 718. REPORT ON THE DEPARTMENT OF DEFENSE COMPOSITE HEALTH CARE SYSTEM II.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense Composite Health Care System II (CHCS II).

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the Composite Health Care System II.

(3) A statement of the amounts obligated and expended as of the date of the report on the development of a system for the two-way exchange of data between the Department of Defense and the Department of Veterans Affairs, including the Composite Health Care System II.

(4) An estimate of the amounts that will be required for the completion of the Composite Health Care System II.

(5) A description of the software and hardware being considered as of the date of the report for use in the Composite Health Care System II.

(6) A description of the management structure used in the development of the Composite Health Care System II.

(7) A description of the accountability measures utilized during the development of the Composite Health Care System II in order to evaluate progress made in the development of that System.

(8) The schedule for the remaining development of the Composite Health Care System II.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Health, Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Energy and Commerce of the House of Representatives.

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

On page 296, after line 19, add the following:

SEC. 1205. SENSE OF CONGRESS ON SUPPORT FOR NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (the "Nuclear Non-Proliferation Treaty");

(2) expresses its support for all appropriate measures to strengthen the Nuclear Non-Proliferation Treaty and to attain its objectives; and

(3) calls on all parties to the Nuclear Non-Proliferation Treaty—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their obligations under the Treaty;

(B) to agree to establish more effective controls on enrichment and reprocessing technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with safeguard agreements and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and irreversible disarmament of North Korea's nuclear weapons programs and to use all appropriate diplomatic means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) REPORT REQUIRED.—Not later than March 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) For each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plan to take to address concerns raised by the Task Force.

(c) CONSULTATION.—To the extent practicable, the Secretary may consult with other departments and agencies of the Federal Government, institutions of higher education and other academic organizations, and industry in the development of the report required by subsection (a).

On page 378, between lines 10 and 11, insert the following:

SEC. 31 ___. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

At the end of subtitle C of title III, add the following:

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called "special category resident".

(b) PROHIBITION ON CONSTRUCTION OF FACILITIES.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) CONSTRUCTION OF PRIOR USE OF FUNDS.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

At the end of subtitle E of title VI, add the following:

SEC. 653. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial orientation training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial orientation training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

On page 357, strike line 20, and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres located on the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property known as the Stowe Trail as a public passive park/recreational area.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States an amount with a total value that is not less than the fair market value of the conveyed real property, as determined by the Secretary.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) RELEASE OF REVERSIONARY INTEREST.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under paragraph (1) if—

(A) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of consideration. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

At the appropriate place, insert the following:

(a) FINDINGS.—

(1) According to the Department of State, drug trafficking organizations shipped approximately nine tones of cocaine to the United States through the Dominican Republic in 2004, and are increasingly using small, high-speed watercraft.

(2) Drug traffickers use the Caribbean corridor to smuggle narcotics to the United States via Puerto Rico and the Dominican Republic. This route is ideal for drug trafficking because of its geographic expanse, numerous law enforcement jurisdictions and fragmented investigative efforts.

(3) The tethered aerostat system in Lajas, Puerto Rico contributes to deterring and detecting smugglers moving illicit drugs into Puerto Rico. The aerostat's range and operational capabilities allow it to provide surveillance coverage of the eastern Caribbean corridor and the strategic waterway between Puerto Rico and the Dominican Republic, known a the Mona Passage.

(4) Including maritime radar on the Lajas aerostat will expand its ability to detect suspicious vessels in the eastern Caribbean corridor.

(b) SENSE OF THE SENATE.—Given the above findings, it is the sense of the Senate that—

(1) Congress and the Department of Defense fully fund the Counter-Drug Tethered Aerostat program.

(2) Department of Defense install maritime radar on the Lajas, Puerto Rico aerostat.

At the end of subtitle A of title V, add the following:

SEC. 509. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

"§528. Exclusion: officers serving in certain intelligence positions

"(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in such position, shall be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

"(b) Covered Positions.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(c) Associate Director of CIA for Military Support.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

"(d) Officers Serving in Office of DNI.—Up to 5 general and flag offices of the armed forces assigned to positions in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence shall be excluded from the limitations in sections 525 and 526 of this title while serving in such positions.".

"(b) Clerical Amendment.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528 and inserting the following new item:

"528. Exclusion: officers serving in certain intelligence positions.".

On page 178, strike lines 20 through 24 and insert the following:

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicare plus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE System;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR RESEARCH AND TECHNOLOGY TRANSITION FOR HIGH-BRIGHTNESS ELECTRON SOURCE PROGRAM.

(a) Increase in Funds Available to Navy for Research, Development, Test, and Evaluation.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $1,500,000.

(b) Reduction in Funds Available to Air Force for Procurement, Ammunition.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,500,000.

On page 359, between lines 3 and 4, insert the following:

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) Payment of Costs of Conveyance.—

(1) In general.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Treatment of amounts received.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) Increase in Funds Available to Army for Research, Development, Test, and Evaluation.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000, with the amount of such increase to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer.

(b) Reduction in Funds Available.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,000,000.

On page 372, line 3, insert after "$1,637,239,000" the following: ", of which amount $338,565,000 shall be available for project 99–D–143, the Mixed Oxide Fuel Fabrication Facility, Savannah River Site, Aiken, South Carolina, and $24,000,000 shall be available for project 99–D–141, the Pit Disassembly and Conversion Facility, Savannah River Site, Aiken, South Carolina".

Strike section 1008.

At the end of subtitle E of title II, add the following:

SEC. 244. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) Department of Defense Test Resource Management Center.—Section 196(h) of title 10, United States Code, is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

(b) Institutional Funding of Test and Evaluation Activities.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2490) is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

At the end of subtitle C of title V, add the following:

SEC. 538. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) Study Required.—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and mission capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) Report.—Not later than May 1, 2006, the Defense Science Board shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTERCONTINENTAL BALLISTIC MISSILE FORCE.

(a) Findings.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) MOSCOW TREATY DEFINED.—In this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees on report on the feasability and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

At the end of subtitle C of title I, add the following:

SEC. 125. JOINT PRIMARY AIRCRAFT TRAINERS.

(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT FOR THE NAVY.—The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy is hereby increased by $10,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy, as increased by subsection (a), $10,000,000 may be available for the procurement of Joint Primary Aircraft Trainers (JPAT) for the Navy.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $10,000,000.

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term "essential mineral right" means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term "fair market value" means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term "map" means the map entitled "Rocky Flats National Wildlife Refuge", dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term "natural resource damage liability claim" means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term "Rocky Flats" means the Department of Energy facility in the State of Colorado known as the "Rocky Flats Environmental Technology Site".

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) TRUSTEES.—The term "Trustees" means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking "section 3175(d)" and inserting "section 3175(c)".

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

"(c) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

"(A) entitled 'Rocky Flats National Wildlife Refuge';

"(B) dated July 25, 2005; and

"(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

"(2) EXCLUSIONS.—The refuge does not include—

"(A) any land retained by the Department of Energy for response actions under section 3175(c);

"(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

"(i) are purchased under subsection (b) of that Act; or

"(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

"(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

"(i) the essential mineral rights are purchased; or

"(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

"(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph, the Secretary shall—

"(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

"(B) the Secretary of the Interior shall—

"(i) accept the transfer of the land; and

"(ii) manage the land as part of the refuge.".

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 may be made available to the Secretary for the purposes described in subsection (b).

At the end of subtitle C of title I, add the following:

SEC. 124. RAPID INTRAVENOUS INFUSION PUMP.

(a) ADDITIONAL AMOUNT FOR PROCUREMENT FOR THE MARINE CORPS.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by **$1,000,000**.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), $1,000,000 may be available for General Property for Field Medical Equipment for the Rapid Intravenous (IV) Infusion Pump.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by **$1,000,000**.

At the end of subtitle B of title II, add the following:

SEC. 213. AGING MILITARY AIRCRAFT FLEET SUPPORT.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $4,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $4,000,000 may be available for Program Element #63112F for Aging Military Aircraft Fleet Support.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $4,000,000.

At the end of subtitle A of title I, add the following:

SEC. 114. UH-60 BLACK HAWK HELICOPTER PROCUREMENT IN RESPONSE TO ATTRITION.

(a) INCREASE IN AMOUNT.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for the procurement of UH–60 Black Hawk helicopters in response to attrition is hereby increased to $40,600,000, with the amount to be used to increase the number of UH-60 Black Hawk helicopters to be procured in response to attrition from 2 helicopters to 4 helicopters.

(b) OFFSET.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for UH-60 Black Hawk helicopter medevac kits is hereby reduced to $29,700,000, with the amount to be derived in a reduction in the number of such kits from 10 kits to 6 kits.

At the end of subtitle C of title V, add the following:

SEC. 537. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—Section 2107(b)(1)(A) of title 10, United States Code, is amended by inserting "or national" after "citizen".

(b) ARMY RESERVE OFFICERS TRAINING PROGRAMS.—Section 2107a(b)(1)(A) of such title is amended by inserting "or national" after "citizen".

(c) ELIGIBILITY FOR APPOINTMENT AS COMMISSIONED OFFICERS.—Section 532(f) of such title is amended by inserting ", or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title," after "for permanent residence".

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COOPERATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration, related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include, but not be limited to, areas relating to the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations.

At the end of subtitle B of title II, add the following:

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force activities is hereby reduced by **$1,000,000**.

At the end of subtitle B of title II, add the following:

SEC. 213. JOINT SERVICE SMALL ARMS PROGRAM.

(a) INCREASED AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by **$5,000,000**.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), **$5,000,000** may be available for the Joint Service Small Arms Program.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by **$5,000,000**.

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) ESTABLISHMENT.—There is established the National Foreign Language Coordination Council (in this section referred to as the "Council"), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) MEMBERSHIP.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The heads of such other Federal agencies as the Council considers appropriate.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Council shall be charged with—

(A) developing a national foreign language strategy, within 18 months of the date of enactment of this section, in consultation with—

(i) State and local government agencies;

(ii) academic sector institutions;

(iii) foreign language related interest groups;

(iv) business associations;

(v) industry; and

(vi) heritage associations;

(B) conducting a survey of Federal agency needs for foreign language area expertise; and

(C) overseeing the implementation of such strategy through—

(i) execution of subsequent law; and

(ii) the promulgation and enforcement of rules and regulations.

(2) STRATEGY CONTENT.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) recommendations on coordination;

(ii) program enhancements; and

(iii) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;

(ii) students;

(iii) parents;

(iv) elementary, secondary, and postsecondary educational institutions; and

(v) potential employers;

(E) incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) assistance for—

(i) the development of foreign language achievement standards; and

(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) development of —

(i) language skill-level certification standards;

(ii) an ideal course of pre-service and professional development study for those who teach foreign language;

(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—

(I) international business;

(II) national security;

(III) public administration;

(IV) health care;

(V) engineering;

(VI) law;

(VII) journalism; and

(VIII) sciences; and

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.

(d) Meetings.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(e) Staff.—

(1) In general.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.

(2) Details from other agencies.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.

(3) Experts and consultants.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) Powers.—

(1) Delegation.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.

(2) Information.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) Donations.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) Mail.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(g) Conferences, Newsletter, and Website.—In carrying out this section, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(h) Reports.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.

(i) Establishment of a National Language Director.—

(1) In general.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(2) Responsibilities.—The National Language Director shall—

(A) develop and oversee the implementation of a national foreign language strategy across all sectors;

(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(3) Compensation.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(j) Encouragement of State Involvement.—

(1) State contact persons.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(2) State interagency councils and lead agencies.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as necessary to carry out this section.

At the end of subtitle C of title III, add the following:

SEC. 330. POINT OF MAINTENANCE/ARSENAL/DEPOT AIT INITIATIVE.

(a) Additional Amount for Operation and Maintenance, Army.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $10,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $16,000,000 may be available for the Point of Maintenance/Arsenal/Depot AIT (AD–AIT) Initiative.

(c) Offset.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000 to be derived from amounts authorized to be appropriated by that section for the Air Force.

At the end of subtitle C of title III, add the following:

SEC. 330. LONG ARM HIGH-INTENSITY ARC METAL HALIDE HANDHELD SEARCHLIGHT.

(a) Additional Amount for Operation and Maintenance, Army.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $4,500,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $4,500,000 may be available for the Long Arm High-Intensity Arc Metal Halide Handheld Searchlight.

(c) Offset.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $4,500,000, with the amount of the reduction to be derived from amounts authorized to be appropriated by that section for the Air Force.

At the end of subtitle A of title VIII, add the following:

SEC. 807. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) Inclusion of Combat Vehicles Under Requirements.—Section 2401 of title 10, United States Code, is amended—

(1) by striking "vessel or aircraft" each place it appears and inserting "vessel, aircraft, or combat vehicle";

(2) in subsection (c), by striking "aircraft or naval vessel" each place it appears and inserting "aircraft, naval vessel, or combat vehicle";

(3) in subsection (e), by striking "aircraft or naval vessels" each place it appears and inserting "aircraft, naval vessels, or combat vehicle"; and

(4) in subsection (f)—

(A) by striking "aircraft and naval vessels" and inserting "aircraft, naval vessels, and combat vehicle"; and

(B) by striking "such aircraft and vessels" and inserting "such aircraft, vessels, and combat vehicle".

(b) ADDITIONAL INFORMATION FOR CONGRESS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the Secretary has certified to those committees—

"(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

"(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations."; and

(2) by adding at the end the following new paragraphs:

"(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

"(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).".

(c) APPLICABILITY OF ACQUISITION REGULATIONS.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

"(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

"(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

"(2) In this subsection, the terms 'capital lease' and 'lease-purchase' have the meanings given those terms in Appendix B to Office of Management and Budget Circular A-11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

"§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

"Sec. 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.".

SEC. 808. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2431 the following new section:

"§ 2431a. Major defense acquisition programs: requirement for analysis of alternatives

"(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

"(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the first phase of the acquisition process applicable to the program.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2431 the following new item:

"2431a. Major defense acquisition programs: requirement for analysis of alternatives.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 809. REPORT ON USE OF LEAD SYSTEM INTEGRATORS IN THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of lead system integrators for the acquisition by the Department of Defense of major systems.

(b) CONTENTS.—The report required by subsection (a) shall include a detailed description of the actions taken, or to be taken (including a specific timetable), and the current regulations and guidelines regarding—

(1) the definition of the respective rights of the Department of Defense, lead system integrators, and other contractors that participate in the development or production of any individual element of the major weapon system (including subcontractors under lead system integrators) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(A) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(B) lead system integrators obtain access to technical data developed by the other participating contractors only to the extent necessary to execute their contractual obligations as lead systems integrators;

(2) the prevention or mitigation of organizational conflicts of interest on the part of lead system integrators;

(3) the prevention of the performance by lead system integrators of functions closely associated with inherently governmental functions;

(4) the appropriate use of competitive procedures in the award of subcontracts by lead system integrators with system responsibility;

(5) the prevention of organizational conflicts of interest arising out of any financial interest of lead system integrators without system responsibility in the development or production of individual elements of a major weapon system; and

(6) the prevention of pass-through charges by lead system integrators with system responsibility on systems or subsystems developed or produced under subcontracts where such lead system integrators do not provide significant value added with regard to such systems or subsystems.

(c) DEFINITIONS.—In this section:

(1) The term "lead system integrator" includes lead system integrators with system responsibility and lead system integrators without system responsibility.

(2) The term "lead system integrator with system responsibility" means a prime contractor for the development or production of a major system if the prime contractor is not expected at the time of award, as determined by the Secretary of Defense for purposes of this section, to perform a substantial portion of the work on the system and the major subsystems.

(3) The term "lead system integrator without system responsibility" means a contractor under a contract for the procurement of services whose primary purpose is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term "major system" has the meaning given such term in section 2302d of title 10, United States Code.

(5) The term "pass-through charge" means a charge for overhead or profit on work performed by a lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs) that does not, as determined by the Secretary for purposes of this section, promote significant value added with regard to such work.

(6) The term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

At the end of subtitle C of title VIII, add the following:

SEC. 824. REPORTS ON CERTAIN DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report that lists and describes each task or delivery order contract or other contract related to security and reconstruction activities in Iraq and Afghanistan in which an audit conducted by an investigative or audit component of the Department of Defense during the 90-day period ending on the date of such report resulted in a finding described in subsection (b).

(2) COVERAGE OF SUBCONTRACTS.—For purposes of this section, any reference to a contract shall be treated as a reference to such contract and to any subcontracts under such contract.

(b) COVERED FINDING.—A finding described in this subsection with respect to a task or delivery order contract or other contract described in subsection (a) is a finding by an investigative or audit component of the Department of Defense that the contract includes costs that are unsupported, questioned, or both.

(c) REPORT INFORMATION.—Each report under subsection (a) shall include, with respect to each task or delivery order contract or other contract covered by such report—

(1) a description of the costs determined to be unsupported, questioned, or both; and

(2) a statement of the amount of such unsupported or questioned costs and the percentage of the total value of such task or delivery order that such costs represent.

(d) Withholding of Payments.—In the event that any costs under a task or delivery order contract or other contract described in subsection (a) are determined by an investigative or audit component of the Department of Defense to be unsupported, questioned, or both, the appropriate Federal procurement personnel may withhold from amounts otherwise payable to the contractor under such contract a sum of up to 100 percent of the total amount of such costs.

(e) Release of Withheld Payments.—Upon a subsequent determination by the appropriate Federal procurement personnel, or investigative or audit component of the Department of Defense, that any unsupported or questioned costs for which an amount payable was withheld under subsection (d) has been determined to be allowable, or upon a settlement negotiated by the appropriate Federal procurement personnel, the appropriate Federal procurement personnel may release such amount for payment to the contractor concerned.

(f) Inclusion of Information on Withholding and Release in Quarterly Reports.—Each report under subsection (a) after the initial report under that subsection shall include the following:

(1) A description of each action taken under subsection (d) or (e) during the period covered by such report.

(2) A justification of each determination or negotiated settlement under subsection (d) or (e) that appropriately explains the determination of the applicable Federal procurement personnel in terms of reasonableness, allocability, or other factors affecting the acceptability of the costs concerned.

(g) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Appropriations, Armed Services, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Government Reform of the House of Representatives.

(2) The term "investigative or audit component of the Department of Defense" means any of the following:

(A) The Office of the Inspector General of the Department of Defense.

(B) The Defense Contract Audit Agency.

(C) The Defense Contract Management Agency.

(D) The Army Audit Agency.

(E) The Naval Audit Service.

(F) The Air Force Audit Agency.

(3) The term "questioned", with respect to a cost, means an unreasonable, unallocable, or unallowable cost.

At the end of subtitle A of title VIII, add the following:

SEC. 807. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Initial Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (c).

(b) Information.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(c) Major Defense Acquisition Program Defined.—In this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

At the end of subtitle D of title VIII, add the following

SEC. 834. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) Training During Fiscal Year 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the "Berry Amendment");, and the regulations implementing that section.

(b) Inclusion of Information in New Training Programs.—The Secretary shall ensure that any training program for the defense acquisition workforce development or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in subsection (a).

On page 92, after line 25, add the following:

SEC. 538. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS.

(a) In General.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other "strategic languages", as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

(b) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the actions taken to carry out this section.

At the end of subtitle C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(5) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

At the end of subtitle B of title II, add the following:

SEC. 213. FIELD PROGRAMMABLE GATE ARRAY.

(a) Additional Amount for Research, Development, Test, and Evaluation, Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $3,000,000 may be available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and radiation hardening, and outreach to industry and localities to develop core competencies.

(c) Offset.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $3,000,000.

At the end of subtitle B of title II, add the following:

SEC. 213. LONG WAVELENGTH ARRAY LOW FREQUENCY RADIO ASTRONOMY INSTRUMENTS.

(a) Additional Amount for Research, Development, Test, and Evaluation, Navy.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $6,000,000.

(b) Availability of Amount.—

(1) In general.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $6,000,000 may be available for research and development on Long Wavelength Array low frequency radio astronomy instruments.

(2) Construction with other amounts.—The amount available under paragraph (1) for the purpose set forth in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $6,000,000.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. TEMPORARY INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF ITEMS USED TO PRODUCE FORCE PROTECTION EQUIPMENT.

(a) In General.—Section 2533a(a) of title 10, United States Code, shall not apply to the procurement, during the 2-year period beginning on the date of the enactment of this Act, of items if such items are used to produce force protection equipment needed to prevent combat fatalities in Iraq or Afghanistan.

(b) Treatment of Procurements Within Period.—For the purposes of subsection (a), a procurement shall be treated as being made during the 2-year period described in that subsection to the extent that funds are obligated by the Department of Defense for that procurement during that period.

At the end of subtitle E of title II, add the following:

SEC. 244. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) Delayed Effective Date.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578), as amended by section 218(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1952; 10 U.S.C. 2281 note), is further amended by striking "2005" and inserting "2007".

(b) Ratification of Actions.—Any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified.

At the end of subtitle B of title II, add the following:

SEC. 213. DEFENSE BASIC RESEARCH PROGRAMS.

(a) ARMY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $5,000,000.

(2) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by paragraph (1), $5,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—(1) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities is hereby increased by $15,000,000.

(2) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, as increased by paragraph (1)—

(A) $10,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) $5,000,000 may be available for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Computer Science and Cybersecurity.

(e) OFFSETS.—(1) The amount authorized to be appropriated by section 301(4) is hereby reduced by $40,000,000.

At the end of subtitle G of title X, add the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking "Funds" and inserting "(a) Funds"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.".

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (69 Stat. 66, chapter 105; 42 U.S.C. 1856(b)) is amended by striking "and fire fighting" and inserting ", fire fighting, and emergency services, including basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions".

At the end of subtitle A of title VIII, add the following:

SEC. 807. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) REQUIREMENT FOR SPEND ANALYSIS.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the past and current acquisitions by the Department of commercial satellite communication services.

(b) REPORT ON ACQUISITION STRATEGY.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which strategy shall—

(i) be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

In the section heading of section 582, insert "or decreases" after "increases".

In section 582(a), insert "or decrease" after "overall increase".

In the matter preceding subparagraph (A) of section 582(b)(2), insert "or decrease" after "overall increase".

In section 582(b)(2)(B), strike "; or" and insert a semicolon.

In section 582(b)(2)(C), strike the period at the end and insert "; or".

In section 528(b)(2), add at the end the following:

(D) a change in the number of housing units on a military installation.

In section 582(d)(1), insert "or decrease" after "overall increase".

At the end of subtitle F of title V, add the following:

SEC. 573. UNIFORM POLICY ON PARENTAL LEAVE AND SIMILAR LEAVE.

(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe in regulations a uniform policy for the taking by members of the Armed Forces of parental leave to cover leave to be used in connection with births or adoptions, as the Secretary shall designate under the policy.

(b) UNIFORMITY ACROSS ARMED FORCES.—The policy prescribed under subsection (a) shall apply uniformly across the Armed Forces.

On page 96, strike lines 19 and 20 and insert the following:

"(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

"(3) In this subsection, the term 'military legal assistance' includes—

At the end of subtitle C of title V, add the following:

SEC. 538. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to assess the feasability and advisability of utilizing a coalition of military and civilian community personnel at military installations in order to enhance the quality of life for members of the Army Reserve who serve at such installations and their families.

(2) LOCATIONS.—The Secretary shall carry out the pilot program at a military installation selected by the Secretary for purposes of the pilot program in two States.

(b) PARTICIPATING PERSONNEL.—A coalition of personnel under the pilot program shall consist of—

(1) such command personnel at the installation concerned as the commander of such installation considers appropriate;

(2) such other military personnel at such installation as the commander of such installation considers appropriate; and

(3) appropriate members of the civilian community of installation, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) OBJECTIVES.—

(1) PRINCIPLE OBJECTIVE.—The principle objective of the pilot program shall be to enhance the quality of life for members of the Army Reserve and their families in order to enhance the mission readiness of such members, to facilitate the transition of such members to and from deployment, and to enhance the retention of such members.

(2) OBJECTIVES RELATING TO DEPLOYMENT.—In seeking to achieve the principle objective under paragraph (1) with respect to the deployment of members of the Army Reserve, each coalition under the pilot program shall seek to assist members of the Army Reserve and their families in—

(A) successfully coping with the absence of such members from their families during deployment; and

(B) successfully addressing other difficulties associated with extended deployments, including difficulties of members on deployment and difficulties of family members at home.

(3) METHODS TO ACHIEVE OBJECTIVES.—The methods selected by each coalition under the pilot program to achieve the objectives specified in this subsection shall include methods as follows:

(A) Methods that promote a balance of work and family responsibilities through a principle-centered approach to such matters.

(B) Methods that promote the establishment of appropriate priorities for family matters, such as the allocation of time and attention to finances, within the context of meeting military responsibilities.

(C) Methods that promote the development of meaningful family relationships.

(D) Methods that promote the development of parenting skills intended to raise emotionally healthy and empowered children.

(d) REPORT.—Not later than April 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot program carried out under this section. The report shall include—

(1) a description of the pilot program;

(2) an assessment of the benefits of utilizing a coalition of military and civilian community personnel on military installations in order to enhance the quality of life for members of the Army Reserve and their families; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(e) FUNDING.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $160,000, with the amount of the increase to be available to carry out the pilot program required by this section.

(2) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Ship Self Defense (Detect and Control) (PE #0604755N) is hereby reduced by $160,000, with the amount of the reduction to be allocated to amounts for Autonomous Unmanned Surface Vessel.

At the end of subtitle B of title VII, add the following:

SEC. 718. RESPONSE TO MEDICAL NEEDS ARISING FROM MANDATORY MILITARY VACCINATIONS.

(a) IN GENERAL.—The Secretary of Defense shall maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—The joint military medical center of excellence under subsection (a) shall consist of the following:

(1) The Vaccine Health Care Centers of the Department of Defense, which shall be the principle elements of the center.

(2) Any other elements that the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In acting as the principle elements of the joint military medical center under subsection (a), the Vaccine Health Care Centers referred to in subsection (b)(1) may carry out the following:

(1) Medical assistance and care to individuals receiving mandatory military vaccines and their dependents, including long-term case management for adverse events where necessary.

(2) Evaluations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force

with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.

(a) IN GENERAL.—For purposes of eligibility for incentive special pay payable under section 302(b) of title 37, United States Code, oral and maxillofacial surgeons shall be treated as medical officers of the Armed Forces who may be paid variable special pay under section 302(a)(2) of such title.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on October 1, 2005, and shall apply with respect to incentive special pay payable under section 302(b) of title 37, United States Code, on or after that date.

On page 296, after line 19, add the following:

SEC. 1205. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) REVIEW.—Not later than six months after date of enactment, the Secretary of Defense shall, in consultation with the Secretary of State, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, submit a joint report on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined to be in the United States national security interest.

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include an unclassified annex.

In subtitle B of title VII of the bill, add the following at the end:

SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) REPORT.—The Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. The Secretary shall address the following, with respect to military and civilian personnel—

(1) the procurement of vaccines, antivirals and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported;

(2) protocols for the allocation and distribution of vaccines and medicines among high priority populations;

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;

(6) the availability and delivery of food and basic supplies and services;

(7) surveillance efforts domestically and internationally, including those utilizing the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems;

(8) the integration of pandemic and response planning with those of other Federal departments, including the Department of Health and Human Services, Department of the Veterans Affairs, Department of State, and USAID; and

(9) collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall submit the report to the Committees on Armed Services of the Senate and the House of Representatives.

At the end of subtitle F of title V, add the following:

SEC. 573. MENTAL HEALTH SCREENINGS OF MEMBERS OF THE ARMED FORCES FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) MENTAL HEALTH SCREENINGS.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(b) NATURE OF SCREENINGS.—The first mental health screening of a member under this section shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this section shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(c) TIME OF SCREENINGS.—A member shall receive a mental health screening under this section at times as follows:

(1) Prior to deployment in a combat operation or to a combat zone.

(2) Not later than 30 days after the date of the member's return from such deployment.

(3) Not later than 120 days after the date of the members return from such deployment.

(4) Whenever the member receives any other medical examination through the Department of Defense.

In lieu of the matter proposed to be inserted, insert the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) IN GENERAL.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(17) Services of mental health counselors, except that—

“(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

“(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as ‘medically underserved areas’ where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

“(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.”.

(b) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting “mental health counselors,” after “psychologists,”.

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) CODIFICATION OF REPORTING REQUIREMENT.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection:

‘(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.’.

(c) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking ‘under section 1967(c)(1)(A) of title 38’.

(d) FUNDING.—Funding shall be provided out of existing funds.

At the end of subtitle G of title X, add the following:

SEC. 1073. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65, 113 Stat. 763; 10 U.S.C. 2572 note) is amended by inserting “, and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on September 30, 2010.

At the end of subtitle G of title X, add the following:

SEC. 1073. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Tax-exempt status required as condition of charter.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.
"120112. Definition.

"§120101. Organization

"(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§120102. Purposes

"The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

"(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

"(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

"(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

"(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

"(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

"§120103. Membership

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§120104. Governing body

"(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

"§120105. Powers

"The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§120106. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§120107. Tax-exempt status required as condition of charter

"If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

"§120108. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§120111. Annual report

"The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§120112. Definition

"For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"**1201. Korean War Veterans Association, Incorporated** .... 120101".

At the end of subtitle H of title V, add the following:

SEC. 596. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§992. Consumer education: financial services

"(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

"(A) financial services that are available under law to members;

"(B) financial services that are routinely offered by private sector sources to members;

"(C) practices relating to the marketing of private sector financial services to members;

"(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

"(E) such other financial practices as the Secretary considers appropriate.

"(2) Training under this subsection shall be provided to members as—

"(A) a component of members initial entry orientation training; and

"(B) a component of periodically recurring required training that is provided for the members at military installations.

"(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

"(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

"(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

"(i) shall provide counseling on financial services under this subsection at such installation through a full-time financial services counselor at such installation; and

"(ii) may provide such counseling at such installation by any means elected by the Secretary concerned from among the following:

"(I) Through members of the armed forces in grade E–7 or above, or civilians, who provide such counseling as a part of the other duties for the Armed Forces or the Department of Defense.

"(II) By contract, including contract for services by telephone and by the Internet.

"(III) Through qualified representatives of nonprofit organizations and agencies under formal agreement with the Department of Defense to provide such counseling.

"(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

"(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

"(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

"(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

"(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, a financial services counselor referred to in subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

"(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until seven days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

"(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

"(D) In this paragraph, the term 'covered member of the armed forces' means an active duty member of the armed forces in grades E–1 through E–4.

"(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

"(1) Life insurance, casualty insurance, and other insurance.

"(2) Investments in securities or financial instruments.

"(3) Banking, credit, loans, deferred payment plans, and mortgages.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"992. Consumer education: financial services.".

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Paragraph (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

At the end of subtitle A of title VI, add the following:

SEC. 605. PERMANENT EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 251), of the amendments made by subsection (a) of such section, section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

At the end of subtitle A of title VI, add the following:

SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR RESERVE MEMBERS.

(a) EQUAL TREATMENT OF RESERVE MEMBERS.—Subsection (g) of section 403 of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

"(A) A member who is called or ordered to active duty for a period of more than 30 days.

"(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation."; and

(3) in paragraph (4), as so redesignated, by striking "less than 140 days" and inserting "30 days or less".

(b) CONFORMING AMENDMENT REGARDING MEMBERS WITHOUT DEPENDENTS.—Paragraph (1) of such subsection is amended by inserting "or for a period of more than 30 days" after "in support of a contingency operation" both places it appears.

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TREATMENT OF INDIAN TRIBE GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 2003 BRAC COMMISSION REPORT.

Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

At the end of subtitle E of title VI, add the following:

SEC. 653. EDUCATION LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) IN GENERAL.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

"§16303. Education loan repayment program: chaplains serving in the Selected Reserve

"(a) AUTHORITY TO REPAY EDUCATION LOANS.—Under regulations prescribed by the Secretary of Defense and subject to the provisions of this section, the Secretary concerned may, for purposes of maintaining adequate numbers of chaplains in the Selected Reserve, repay a loan that—

"(1) was used by a person described in subsection (b) to finance education resulting in a Masters of Divinity degree; and

"(2) was obtained from an accredited theological seminary as listed in the Association of Theological Schools (ATS) handbook.

"(b) ELIGIBLE PERSONS.—(1) Except as provided in paragraph (2), a person described in this subsection is a person who—

"(A) satisfies the requirements specified in subsection (c);

"(B) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

"(C) signs a written agreement to serve not less than three years in the Selected Reserve.

"(2) A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of loans under subsection (a).

"(c) ACADEMIC AND PROFESSIONAL REQUIREMENTS.—The requirements specified in this subsection are such requirements for accessioning and commissioning of chaplains as are prescribed by the Secretary concerned in regulations.

"(d) LOAN REPAYMENT.—(1) Subject to paragraph (2), the repayment of a loan under this section may consist of payment of the principal, interest, and related expenses of such loan.

"(2) The amount of any repayment of a loan made under this section on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (b)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to such agreement. The balance of such amount shall be payable at such time or times as are prescribed by the Secretary concerned in regulations.

"(e) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on behalf of whom repayment of a loan is made under this section who fails, during the period of obligated service the person agrees to serve in an agreement described in subsection (b)(3), to serve satisfactorily in the Selected Reserve may, at the election of the Secretary concerned, be required to pay the United States an amount equal to any amount of repayments made on behalf of the person in connection with the agreement.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

"16303. Education loan repayment program: chaplains serving in the Selected Reserve.".

At the end of subtitle F of title V, add the following:

SEC. 573. NATIONAL CALL TO SERVICE PROGRAM.

(a) Limitation to Domestic National Service Programs.—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking "in the Peace Corps, Americorps, or another national service program" and inserting "in Americorps or another domestic national service program".

(b) Administration of Education Incentives by Secretary of Veterans Affairs.—Paragraph (2) of subsection (h) of such section is amended to read as follows:

"(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

"(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran' and the term 'person', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).".

At the end of subtitle B of title V, add the following:

SEC. 522. RECRUITMENT AND ENLISTMENT OF HOME SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) Policy on Recruitment and Enlistment.—

(1) Policy required.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home schooled students in the Armed Forces.

(2) Uniformity across the armed forces.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) Elements.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) Provision for the treatment of graduates of home schooling with no practical limit with regard to enlistment eligibility.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) Home School Graduates.—In prescribing the policy, the Secretary of Defense shall prescribe a single set of criteria to be utilized by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) Secretary Concerned Defined.—In this section, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.

At the end of subtitle H of title V, add the following:

SEC. 595. PAY OF MEMBERS OF THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) In General.—Subsection (e)(1) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880) is amended by striking "except that" and all that follows through the end and inserting "except that—

"(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, 'may' shall be substituted for 'shall'; and

"(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, 'level IV of the Executive Schedule' shall be substituted for 'level V of the Executive Schedule'.".

(b) Technical Amendment.—Subsection (c)(2)(C) of such section is amended by striking "section 404(a)(4)" and inserting "section 416(a)(4)".

On page 305, strike line 2 and all that follows through line 6, and insert the following:

(a) In General.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $323,200,000.

(2) For other procurement, $51,900,000.

(b) Availability of Certain Amounts.—Of the amounts authorized to be appropriated by subsection (a)(1), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ-1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ-1 Ground Control Stations, spares, and signals intelligence packages.

SEC. 1405A. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $218,500,000.

At the end of division A, add the following:

TITLE XV—RECRUITMENT AND RETENTION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Military Recruiting Initiatives Act of 2005".

SEC. 1502. INCREASE IN MAXIMUM ENLISTMENT BONUS.

(a) Enlistment Bonus for Selected Reserve Members.—Section 308c(b) of title 37, United States Code, is amended by striking "$10,000" and inserting "$20,000".

(b) Enlistment Bonus for Active Members.—Section 309(a) of title 37, United States Code, is amended by striking "$20,000" and inserting "$40,000".

SEC. 1503. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) Authority To Pay Bonus.—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) Referral.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) Certain Referrals Ineligible.—

(1) Referral of immediate family.—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) Members in recruiting roles.—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) Amount of Bonus.—The amount of the bonus paid for a referral under subsection (a) may not exceed $1,000. The bonus shall be paid in a lump sum.

(e) Time of Payment.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) Relation To Prohibition on Bounties.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) Limitation on Initial Use of Authority.—During the first year in which bonuses are offered under this section, the Secretary of the Army may not pay more than 1,000 referral bonuses per component of the Army.

(h) Duration of Authority.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

SEC. 1504. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking "thirty-five years of age" and inserting "forty-two years of age".

SEC. 1505. REPEAL OF PROHIBITION ON PRIOR SERVICE ENLISTMENT BONUS FOR RECEIPT OF OTHER ENLISTMENT OR REENLISTMENT BONUS FOR SERVICE IN THE SELECTED RESERVE.

Section 308i(a)(2) of title 37, United States Code, is amended by striking subparagraph (D).

SEC. 1506. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) Repeal of Prohibition on Eligibility for Prior Reserve Service.—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Increase in Maximum Amount.—Subsection (d) of such section is amended by striking "$6,000" and inserting "$10,000".

SEC. 1507. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) Additional Loans Eligible for Repayment.—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any loan incurred for educational purposes made by a lender that is—

"(i) an agency or instrumentality of a State;

"(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

"(iii) a pension fund approved by the Secretary for purposes of this section; or

"(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.".

(b) ELIGIBILITY OF OFFICERS.—Paragraph (2) of such section is amended by striking "an enlisted member in a military specialty" and inserting "a member in an officer program or military specialty".

SEC. 1508. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) STUDY.—The Secretary of Defense shall conduct a study of the Reserve Dental Insurance program.

(b) ELEMENTS.—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve Dental Insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve Dental Insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve Dental Insurance program.

(c) REPORT.—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study and such recommendations for legislative or administrative action regarding the Reserve Dental Insurance program as the Secretary considers appropriate in light of the study.

(d) RESERVE DENTAL INSURANCE PROGRAM DEFINED.—In this section, the term "Reserve Dental Insurance program" includes—

(1) the dental insurance plan required under paragraph (1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

On page 48, line 21, strike "$18,584,469,000" and insert "$18,581,369,000".

At the appropriate place, insert the following:

SEC. ___. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) ESTABLISHMENT.—The Secretary of Defense (referred to in this section as the "Secretary"), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced levels of proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the Federal Government as the President may require.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), shall—

(1) identify several foreign languages that are critical for the national security of the United States and the relative priority of each such language;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for calling for the performance of the services and duties referred to in subsection (a); and

(4) implement a call for the performance of such services and duties.

(c) CONTRACT AUTHORITY.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot project, the Secretary shall conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—

(1) administrative structure;

(2) languages to be offered;

(3) number of language specialists needed for each language;

(4) Federal agencies who may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,100,000 for fiscal year 2006 to carry out the pilot project under this section.

(g) OFFSET.—The amounts authorized to be appropriated by section 301(4) are hereby reduced by $3,100,000 from operation and maintenance, Air Force.

At the end of subtitle B of title II, add the following:

SEC. 213. PROJECT SHERIFF.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate is hereby increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000.

At the end of subtitle C of title III, add the following:

SEC. 330. REPORT ON AIRCRAFT TO PERFORM HIGH-ALTITUDE AVIATION TRAINING SITE.

Not later than December 15, 2005, the Secretary of the Army shall submit to the congressional defense committee a report containing the following:

(1) An evaluation of the type of aircraft available in the inventory of the Army that is most suitable to perform the High-altitude Aviation Training Site (HAATS) Mission.

(2) A determination of when such aircraft may be available for assignment to the HAATS.

At the end of subtitle B of title II, add the following:

SEC. 213. MEDIUM TACTICAL VEHICLE MODIFICATIONS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, is hereby increased by $5,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, as increased by subsection (a), $5,000,000 may be available for Medium Tactical Vehicle Modifications.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance for the Air Force is hereby reduced by $5,000,000.

SA 1957. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities, nor shall any of the funds be made available without a certification by the Secretary of Defense that the political programming of the American Forces Network is in compliance with the standards of integrity, fairness, and balance set out in Department of Defense Directive 5120.20R and the appointment of an ombudsman to ensure compliance with such standards. The ombudsman so appointed shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the ombudsman during the preceding year.

SA 1958. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, as added by Senate amendment No. , add the following:

SEC. 1044. MONTHLY BRIEFINGS ON STRATEGY ON IRAQ.

(a) MONTHLY BRIEFINGS ON STRATEGY ON IRAQ.—The Department of Defense shall, in conjunction with analysts of the Central Intelligence Agency, provide the appropriate committees of Congress on a monthly basis a briefing on the strategy for winning in Iraq recently announced by the Administration, including the measures of evaluation utilized in determining the progress made in the execution of that strategy.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

SA 1959. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) MONTHLY BRIEFINGS ON STRATEGY ON IRAQ.—The Department of Defense shall, in conjunction with analysts of the Central Intelligence Agency, provide the appropriate committees of Congress on a monthly basis a briefing on the strategy for winning in Iraq recently announced by the Administration, including the measures of evaluation utilized in determining the progress made in the execution of that strategy.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

SA 1960. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title III under the heading "PROCUREMENT OF AMMUNITION, ARMY", up to $1,900,000 may be used for the procurement of M19 modern demolition initiators.

SA 1961. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IX under the heading "AIRCRAFT PROCUREMENT, ARMY" and available for Aircraft Survivability Equipment, up to $2,000,000 may be used for AN/AVR-2A/B Laser Detecting Sets for helicopters.

SA 1962. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE", up to $5,000,000 may be used for High Performance Defense Manufacturing Technology Research and Development.

SA 1963. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR MISCONDUCT.—The Secretary of Defense shall maintain a publicly-available website that provides information on instances of improper conduct by contractors entering into or carrying out Federal contracts, including instances in which contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct.

(b) REPORTS ON FEDERAL NO-BID CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORTS REQUIRED.—Not later than 7 days after entering into a no-bid contract to procure property or services in connection with Iraq reconstruction, the head of an executive agency shall submit to the Secretary of Defense a report on the contract.

(2) CONTENT.—Each report submitted under paragraph (1) shall include the following information:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amounts awarded and obligated under the contract.

(E) The scope of work under the contract.

(3) PUBLICATION.—The Secretary of Defense shall maintain a publicly-available website that lists the information provided in reports submitted under paragraph (1).

(4) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 1964. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) STUDY ON DEPARTMENT OF DEFENSE TRANSITION ASSISTANCE SERVICES.—

(1) STUDY PANEL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly establish a panel to conduct a study on means of improving the Transition Assistance Program (TAP) and other reintegration services for members of the National Guard and the Reserves. The panel shall be established not later than 60 days after the date of the enactment of this Act.

(2) COMPOSITION.—The panel established under paragraph (1) shall be composed of the following:

(A) Such officers or employees of the Department of Defense as the Secretary of Defense shall appoint to the panel.

(B) Such officers or employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs shall appoint to the panel.

(C) Such individuals from the private sector as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly appoint to the panel from among individuals in the private sector who have expertise in the matters to be studied by the panel, including individuals with expertise in occupational and employment adjustment matters, psychologists or other mental health professionals, and family specialists.

(3) STUDY ELEMENTS.—The panel established under paragraph (1) shall conduct a study on means of improving the Transition Assistance Program and other reintegration services for members of the National Guard and the Reserves, including means of improving the following under the Program:

(A) Training on interpersonal skills and life skills.

(B) Readjustment counseling.

(C) Briefings and workshops presented by the Department of Veterans Affairs to members before their completion of service on active duty.

(D) The duration of training sessions and workshops, so that such sessions and workshops continue for members for at least one year after their completion of service on active duty.

(E) Education and outreach on the transition benefits available to members of the National Guard and Reserves from the Federal Government, State and local governments, private organizations, and non-profit public service organizations.

(4) REPORT.—Not later than 120 days after the date of the enactment of this Act, the panel established under paragraph (1) shall submit to the Secretary of Defense and the Secretary of Veterans Affairs a report on the study conducted by the panel under this subsection. The report shall include the findings of the panel as a result of the study and such recommendations, including recommendations on the matters specified in paragraph (3), as the panel considers appropriate as a result of the study.

(5) TRANSMITTAL OF REPORT.—Not later than 60 days after receipt of the report under paragraph (4), the Secretary of Defense and the Secretary of Veterans Affairs shall jointly transmit the report to Congress, together

with such comments on the report as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider appropriate.

(b) Study on Other National Guard and Reserve Benefits.—

(1) Study panel.—The Secretary of Defense shall establish a panel to conduct a study on the adequacy of current pay and benefits, including health care and other benefits, for members of the National Guard and the Reserves under the current policies and practices of the Armed Forces relating to the utilization of the National Guard and the Reserves. The panel shall be established not later than 60 days after the date of the enactment of this Act.

(2) Composition.—The panel established under paragraph (1) shall be composed of the following:

(A) Such officers or employees of the Department of Defense as the Secretary of Defense shall appoint to the panel.

(B) Such individuals from the private sector as the Secretary of Defense shall appoint to the panel from among individuals in the private sector who have expertise in the matters to be studied by the panel.

(3) Study elements.—The panel established under paragraph (1) shall conduct a study of the adequacy of current pay and benefits, including health care and other benefits, for members of the National Guard and the Reserves under the current policies and practices of the Armed Forces relating to the utilization of the National Guard and the Reserves, including—

(A) the advisability of separate systems of pay for members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces;

(B) the advisability of different eligibility for medical and dental care for members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces; and

(C) the advisability of the modification or improvement of other policies and practices relating to the pay and benefits of members of the National Guard and the Reserves in order to improve the quality of life of such members while serving in the National Guard or Reserves.

(4) Report.—Not later than 120 days after the date of the enactment of this Act, the panel established under paragraph (1) shall submit to the Secretary of Defense a report on the study conducted by the panel under this subsection. The report shall include the findings of the panel as a result of the study and such recommendations, including recommendations on the matters specified in paragraph (3), as the panel considers appropriate as a result of the study.

(5) Transmittal of report.—Not later than 60 days after receipt of the report under paragraph (4), the Secretary of Defense shall transmit the report to Congress, together with such comments on the report as the Secretary of Defense considers appropriate.

SA 1965. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ___. Of the amount appropriated by title II under the heading "Operation and Maintenance, Defense-Wide", up to $100,000,000 may be used for programs to assist in the education or child care of dependent children of members of the Armed Forces.

(b) Allocation of Amount.—Of the amount available under subsection (a)—

(1) $50,000,000 may be used for the Impact Aid program of the Department of Defense;

(2) $5,000,000 may be used for the Impact Aid for Children with Disabilities program of the Department of Defense;

(3) $15,000,000 may be used for grants to local education agencies with significant enrollment changes in military dependent student due to force structure changes, troop relocations, creation of new units, and realignment under defense base closure and realignment;

(4) $20,000,000 may be used for grants to assist in the child care costs of members of the Armed Forces on active duty for Operation Enduring Freedom or Operation Iraqi Freedom who do not have access to military child care programs; and

(5) $10,000,000 may be used for grants to local educational agencies that are not eligible for funding under the Impact Aid program of the Department of Defense to provide for the additional education and counseling of military dependent children and educators affected by Operation Enduring Freedom or Operation Iraqi Freedom.

SA 1966. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. Of the aggregate amount appropriated by title IX, up to $103,000,000 may be used for the Common Remotely Operated Weapons Station (CROWS).

SA 1967. Mr. CRAPO submitted an amendment intended to be proposed by him to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS RELATING TO PROHIBITED TRANSACTIONS.

(a) Exemption for Block Trading.—

(1) In general.—Section 408(b) of the Employee Retirement Income Security Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14) Block trading.—

"(A) In general.—Any transaction involving the purchase or sale of securities or other property between a plan and a party in interest (other than a fiduciary who has investment discretion or control over the transaction or is providing investment advice as a fiduciary for purposes of this title to enter into the transaction) with respect to a plan if—

"(i) the transaction involves a block trade,

"(ii) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor) does not exceed 10 percent of the aggregate size of the block trade, and

"(iii) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction.

"(B) Block trade defined.—For purposes of this paragraph, the term 'block trade' includes any trade which will be allocated across two or more client accounts of a fiduciary.".

(2) Conforming amendments.—

(A) Section 4975(d) of such Code is amended—

(i) by striking "or" at the end of paragraph (15),

(ii) by striking the period at the end of paragraph (16) and inserting "; or", and

(iii) by adding at the end the following:

"(17) any transaction involving the purchase or sale of securities or other property between a plan and a disqualified person (other than a fiduciary who has investment discretion or control over the transaction or is providing investment advice as a fiduciary for purposes of title I of the Employee Retirement Income Security Act to enter into the transaction) with respect to a plan if—

"(A) the transaction involves a block trade,

"(B) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor) does not exceed 10 percent of the aggregate size of the block trade, and

"(C) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction.".

(B) Section 4975(e) of such Code is amended by adding at the end the following new paragraph:

"(11) Block trade.—The term 'block trade' includes any trade which will be allocated across two or more client accounts of a fiduciary.".

(b) Bonding Relief.—Section 412(a) of such Act (29 U.S.C. 1112(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3),

(2) by striking "and" at the end of paragraph (1), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) no bond shall be required of an entity which is subject to regulation as a broker or a dealer under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) or an entity registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), including requirements imposed by a self-regulatory organization (within the meaning of section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)), or any affiliate with respect to which the broker or dealer agrees to be liable to the same extent as if such broker or dealer held the assets directly.".

(c) Exemption for Electronic Communication Network.—

(1) In general.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (a)(1), is amended by adding at the end the following:

"(15) Electronic communication network.—Any transaction involving the purchase and sale of securities or other property between a plan and a fiduciary or a party in interest if—

"(A) the transaction is executed through an exchange, electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by a United States regulatory entity regardless of whether such fiduciary or party in interest, or an affiliate of either, has an interest in such exchange, network, trading system, or similar system or trading venue,

"(B) the price and compensation associated with the purchase and sale are not greater than an arm's length transaction with an unrelated party,

"(C) the fiduciary or party in interest directing the transaction, or an affiliate of either, has an ownership interest in the execution system or trading venue (other than a national securities exchange or national securities association registered with the Securities and Exchange Commission or a designated contract market, derivatives clearing organization, or derivatives transaction execution facility registered with the Commodity Futures Trading Commission) the execution of transactions on such system or venue is annually authorized by a plan fiduciary,

"(D) the transaction is executed in accordance with the nondiscretionary rules and procedures adopted by an execution system or trading venue to match offsetting orders, and

"(E)(i) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades, and the parties to the transaction do not actually know the identity of the other at the time that the terms and price of the transaction are agreed to, or

"(ii) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system or trading venue.".

(2) CONFORMING AMENDMENTS.—Section 4975(d) of such Code, as amended by subsection (a)(2), is amended—

(A) by striking "or" at the end of paragraph (16),

(B) by striking the period at the end of paragraph (17)(C) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(18) any transaction involving the purchase and sale of securities or other property between a plan and a fiduciary or a disqualified person if—

"(A) the transaction is executed through an exchange, electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by a United States regulatory entity regardless of whether such fiduciary or disqualified person, or an affiliate of either, has an interest in such exchange, network, trading system, or similar system or trading venue,

"(B) the price and compensation associated with the purchase and sale are not greater than an arm's length transaction with an unrelated party,

"(C) the fiduciary or disqualified person directing the transaction, or an affiliate of either, has an ownership interest in the execution system or trading venue (other than a national securities exchange or national securities association registered with the Securities and Exchange Commission or a designated contract market, derivatives clearing organization, or derivatives transaction execution facility registered with the Commodity Futures Trading Commission) the execution of transactions on such system or venue is annually authorized by a plan fiduciary,

"(D) the transaction is executed in accordance with the nondiscretionary rules and procedures adopted by an execution system or trading venue to match offsetting orders, and

"(E)(i) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades, and the parties to the transaction do not actually know the identity of the other at the time that the terms and price of the transaction are agreed to, or

"(ii) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system or trading venue.".

(d) EXEMPTION FOR SERVICE PROVIDERS.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(16) EXEMPTION FOR SERVICE PROVIDERS.—

"(A) IN GENERAL.—Transactions described in subparagraphs (A), (B), and (D) of section 406(a)(1) between a plan and a party that is a party in interest (including a fiduciary but other than a fiduciary who has investment discretion or control over the transaction or is providing investment advice as a fiduciary for purposes of this title to enter into the transaction) solely by reason of providing services to the plan or solely by reason of a relationship to a service provider described in subparagraph (F), (G), (H), or (I) of section 3(14), or both, but only if in connection with such transaction the plan receives no less than adequate consideration.

"(B) ADEQUATE CONSIDERATION.—For purposes of this paragraph, the term 'adequate consideration' means—

"(i) in the case of a security for which there is a generally recognized market—

"(I) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(II) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the party in interest, taking into account factors such as the size of the transaction and marketability of the security, and

"(ii) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4975(d) of such Code, as amended by subsection (c)(2), is amended—

(i) by striking "or" at the end of paragraph (17),

(ii) by striking the period at the end of paragraph (18), and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(19) transactions described in subparagraphs (A), (B), and (D) of subsection (c)(1) between a plan and a party that is a disqualified person (including a fiduciary but other than a fiduciary who has investment discretion or control over the transaction or is providing investment advice as a fiduciary for purposes of title I of the Employee Retirement Income Security Act to enter into the transaction) solely by reason of providing services to the plan or solely by reason of a relationship to a service provider described in subparagraph (F), (G), (H), or (I) of subsection (e)(2), or both, but only if in connection with such transaction the plan receives no less than adequate consideration.".

(B) Section 4975(e) of such Code, as amended by subsection (a)(2)(B), is amended by adding at the end the following new paragraph:

"(12) ADEQUATE CONSIDERATION.—For purposes of subsection (d)(19), the term 'adequate consideration' means—

"(A) in the case of a security for which there is a generally recognized market—

"(i) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the disqualified person, taking into account factors such as the size of the transaction and marketability of the security, and

"(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor.".

(e) RELIEF FOR FOREIGN EXCHANGE TRANSACTIONS.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b), as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(17) FOREIGN EXCHANGE TRANSACTIONS.—Any foreign exchange transactions, between a bank or broker-dealer, or any affiliate of either thereof, and a plan or an individual retirement account (within the meaning of section 408 of the Internal Revenue Code of 1986) with respect to which the bank or broker-dealer, or any affiliate, is a trustee, custodian, fiduciary, or other party in interest, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities or other property (other than a currency transaction unrelated to any other investment in securities or other property),

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or the broker-dealer (or any affiliate thereof) in comparable arm's-length foreign exchange transactions involving unrelated parties, and

"(C) the exchange rate used by the bank or broker-dealer for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency.".

(2) CONFORMING AMENDMENT.—Section 4975(d) of such Code, as amended by subsection (d)(2)(A), is amended—

(A) by striking "or" at the end of paragraph (18),

(B) by striking the period at the end of paragraph (19) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(20) any foreign exchange transactions, between a bank or broker-dealer, or any affiliate of either thereof, and a plan or an individual retirement account (within the meaning of section 408) with respect to which the bank or broker-dealer, or any affiliate, is a trustee, custodian, fiduciary, or disqualified person, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities or other property (other than a currency transaction unrelated to any other investment in securities or other property),

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or the broker-dealer (or any affiliate thereof) in comparable arm's-length foreign exchange transactions involving unrelated parties, and

"(C) the exchange rate used by the bank or broker-dealer for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency.".

(f) DEFINITION OF PLAN ASSET VEHICLE.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) PLAN ASSETS.—The term 'plan assets' means plan assets as defined by such regulations as the Secretary may prescribe, except that under such regulations the assets of any entity shall not be treated as plan assets if, immediately after the most recent acquisition of any equity interest in the entity, less than 25 percent of the total value of all equity interests in the entity are held by benefit plan investors. For purposes of determinations pursuant to this paragraph, the value of any equity interest owned on a proprietary basis by a person (other than such a benefit plan investor) who has discretionary authority or control with respect to the assets of the entity or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person, shall be disregarded for purposes of calculating the 25 percent threshold. A benefit plan investor shall be considered to hold plan assets only to the extent of the percentage of the equity interest owned by benefit plan investors. For purposes of this paragraph, the term 'benefit plan investor' means an employee benefit plan subject to part IV of subtitle B and any plan to which section 401(a) of the Internal Revenue Code of 1986 applies.".

(g) CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (e)(1), is amended by adding at the end the following new paragraph:

"(18) CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a transaction described in section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.

"(B) EXCEPTION FOR EMPLOYER SECURITIES AND REAL PROPERTY.—Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(C) EXCEPTION FOR KNOWING VIOLATIONS.—In the case of any fiduciary or other party in interest (or any other person knowingly participating in such transaction), subparagraph (A) does not apply to any prohibited transaction if, at the time such transaction occurs, such fiduciary or party in interest (or other person) knew that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(D) CORRECTION PERIOD.—For purposes of this paragraph, the term 'correction period' means the 14-day period beginning on the later of—

"(i) the date on which such transaction occurs, or

"(ii) the date such fiduciary or party in interest (or other person) knew, or reasonably should have known, the facts that would cause the transaction (without regard to this paragraph) to constitute a violation of section 406(a).

"(E) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof),

"(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) of such Code (without regard to subparagraph (D)(iii) thereof), and

"(iii) the terms 'correction' and 'correct' mean, with respect to a transaction, undoing the transaction to the extent possible, but in any case, making good to the plan or affected account any losses resulting from the transaction and restoring to the plan or affected account any profits made through use of the plan.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4975(d) of such Code, as amended by subsection (e)(2), is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) except as provided in subparagraph (B) or (C) of subsection (f)(8), a transaction described in subparagraph (A), (B), (C), or (D) of subsection (c)(1) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.".

(B) Section 4975(f) of such Code is amended by adding at the end the following new paragraph:

"(8) CORRECTION PERIOD.—

"(A) IN GENERAL.—For purposes of subsection (d)(21), the term 'correction period' means the 14-day period beginning on the later of—

"(i) the date on which such transaction occurs, or

"(ii) the date such fiduciary or disqualified person (or other person) knew, or reasonably should have known, the facts that would cause the transaction (without regard to subsection (d)(21) or this paragraph) to constitute a violation of subparagraph (A), (B), (C), or (D) of subsection (c)(1).

"(B) EXCEPTION FOR EMPLOYER SECURITIES AND REAL PROPERTY.—Subsection (d)(21) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1) of the Employee Retirement Income Security Act) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2) of such Act).

"(C) EXCEPTION FOR KNOWING VIOLATIONS.—In the case of any fiduciary or other disqualified person (or any other person knowingly participating in such transaction), subsection (d)(21) does not apply to any prohibited transaction if, at the time such transaction occurs, such fiduciary or disqualified person (or other person) knew that the transaction would (without regard to subsection (d)(21) or this paragraph) constitute a violation of subparagraph (A), (B), (C), or (D) of subsection (c)(1).

"(D) ABATEMENT OF TAX WHERE THERE IS A CORRECTION.—If a transaction is not treated as a prohibited transaction by reason of subsection (d)(21), then no tax under subsections (a) and (b) shall be assessed with respect to such transaction, and, if assessed, the assessment shall be abated, and, if collected, shall be credited or refunded as an overpayment.

"(E) OTHER DEFINITIONS.—For purposes of this paragraph and subsection (d)(21)—

"(i) the term 'security' has the meaning given such term by section 475(c)(2) (without regard to subparagraph (F)(iii) and the last sentence thereof),

"(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) (without regard to subparagraph (D)(iii) thereof), and

"(iii) the terms 'correction' and 'correct' mean, with respect to a transaction, undoing the transaction to the extent possible, but in any case, making good to the plan or affected account any losses resulting from the transaction and restoring to the plan or affected account any profits made through use of the plan.".

(C) Section 4975(f)(5) of such Code is amended by striking "The terms" and inserting "Except as provided in paragraph (8)(E)(iii), the terms".

(h) CROSS TRADING.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (g)(1), is amended by adding at the end the following new paragraph:

"(19) CROSS TRADING.—Any transaction involving the purchase and sale of a security or other property between a plan and any other account managed by the same fiduciary, if—

"(A) the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security or other property for which market quotations are readily available,

"(B) the transaction is effected at the independent current market price of the security or other property (within the meaning of section 270.17a-7(b) of title 17, Code of Federal Regulations),

"(C) no brokerage commission, fee (except for customary transfer fees or similar fees, the fact of which is disclosed pursuant to subparagraph (D)), or other remuneration is paid to the fiduciary directing the transaction in connection with the transaction,

"(D) a fiduciary for each plan participating in the transaction authorizes (in a document that is separate from any other written agreement of the parties or in the terms of the plan) the investment manager to engage in cross trades at the investment manager's discretion, after such fiduciary has received disclosure regarding the conditions under which cross trades may take place (but only if such disclosure is separate from any other agreement or disclosure involving the asset management relationship),

"(E) each plan participating in the transaction has assets of at least $50,000,000 (unless the plan is invested in a pooled account), except that if the assets of a plan are invested in a master trust containing the assets of plans maintained by employers in the same controlled group (as defined in section 407(d)(7)), the master trust has assets of at least $50,000,000,

"(F) the investment manager provides a quarterly report detailing the cross trades in which the plan participated to the plan fiduciary who authorized cross trading under subparagraph (D), and

"(G) the fiduciary does not base its fee schedule on the plan's consent to cross trading, and no other service (other than the investment opportunities and cost savings available through a cross trade) is conditioned on the plan's consent to cross trading.".

(2) CONFORMING AMENDMENT.—Section 4975(d) of such Code, as amended by subsection (g)(2)(A), is amended—

(A) by striking "or" at the end of paragraph (20),

(B) by striking the period at the end of paragraph (21) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(22) any transaction involving the purchase and sale of a security or other property between a plan and any other account managed by the same fiduciary, if—

"(A) the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security or other property for which market quotations are readily available,

"(B) the transaction is effected at the independent current market price of the security or other property (within the meaning of section 270.17a–7(b) of title 17, Code of Federal Regulations),

"(C) no brokerage commission, fee (except for customary transfer fees or similar fees, the fact of which is disclosed pursuant to subparagraph (D)), or other remuneration is paid to the fiduciary directing the transaction in connection with the transaction,

"(D) a fiduciary for each plan participating in the transaction authorizes (in a document that is separate from any other written agreement of the parties or in the terms of the plan) the investment manager to engage in cross trades at the investment manager's discretion, after such fiduciary has received disclosure regarding the conditions under which cross trades may take place (but only if such disclosure is separate from any other agreement or disclosure involving the asset management relationship),

"(E) each plan participating in the transaction has assets of at least $50,000,000 (unless the plan is invested in a pooled account), except that if the assets of a plan are invested in a master trust containing the assets of plans maintained by employers in the same controlled group (as defined in section 407(d)(7) of the Employee Retirement Security Act), the master trust has assets of at least $50,000,000,

"(F) the investment manager provides a quarterly report detailing the cross trades in which the plan participated to the plan fiduciary who authorized cross trading under subparagraph (D), and

"(G) the fiduciary does not base its fee schedule on the plan's consent to cross trading, and no other service (other than the investment opportunities and cost savings available through a cross trade) is conditioned on the plan's consent to cross trading.".

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any transaction after the date of the enactment of this Act.

(2) CORRECTION PERIOD.—The amendments made by subsection (g) shall apply to any transaction which the fiduciary or disqualified person discovers, or reasonably should have discovered, after the date of the enactment of this Act, constitutes a prohibited transaction.

SA 1968. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", up to $3,000,000 may be available to deploy a modern, scalable visualization environment for Ship Engineering and Analysis Technology Research (SEATech).

SA 1969. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) The Secretary of the Navy may donate the World War II-era marine railway located at the United States Naval Academy, Annapolis, Maryland, to the Richardson Maritime Heritage Center, Cambridge, Maryland.

(b) The marine railway donated under subsection (a) may not be used for commercial purposes.

SA 1970. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.—

(1) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(3) REGULATIONS NOT REQUIRED FOR REIMBURSEMENT.—Reimbursements may be made under this subsection in advance of the promulgation by the Secretary of Defense of regulations, if any, relating to the administration of this section.

(b) PROTECTIVE EQUIPMENT REIMBURSEMENT FUND.—

(1) ESTABLISHMENT.—There is hereby established an account to be known as the "Protective Equipment Reimbursement Fund" (in this subsection referred to as the "Fund").

(2) ELEMENTS.—The Fund shall consist of amounts deposited in the Fund from amounts available for the Fund under subsection (f).

(3) AVAILABILITY.—Amounts in the Fund shall be available directly to the unit commanders of members of the Armed Forces for the making of reimbursements for protective, safety, and health equipment under subsection (a).

(4) DOCUMENTATION.—Each person seeking reimbursement under subsection (a) for protective, safety, or health equipment purchased by or on behalf of a member of the Armed Forces shall submit to the unit commander of such member such documentation as is necessary to establish each of the following:

(A) The nature of such equipment, including whether or not such equipment qualifies as protective, safety, or health equipment under subsection (c).

(B) The cost of such equipment.

(c) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—Protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multi-purpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army, or equivalent programs of the other Armed Forces, such as the advanced (on-the-move) hydration system, the advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, a gun scope and a soldier intercommunication device.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

(1) the cost of such equipment (including shipping cost); or

(2) $1,100.

(e) OWNERSHIP OF EQUIPMENT.—The Secretary shall identify the circumstances, if any, under which the United States shall assume title or ownership of protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(f) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts for reimbursements under subsection (a) shall be derived from any amounts authorized to be appropriated by this Act.

(2) EXCEPTION.—Amounts authorized to be appropriated by this Act and available for the procurement of equipment for members of the Armed Forces deployed, or to be deployed, to Iraq or Afghanistan may not be utilized for reimbursements under subsection (a).

(g) REPEAL OF SUPERSEDED AUTHORITY.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118. Stat. 1857) is repealed.

SA 1971. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to $4,000,000 may be used for the Energy Regeneration and Conversion Program for Naval UUV Propulsion.

SA 1972. Mr. DODD (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $700,000 may be used for Medical Countermeasures to Nerve Agents.

SA 1973. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to retire any F-117A Nighthawk Stealth Fighter aircraft.

SA 1974. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to $5,000,000 may be used for the National Shipbuilding Research Program.

SA 1975. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD", up to $4,000,000 may be used for Enterprise Resource Planning for Army National Guard installations.

SA 1976. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $4,000,000 may be used for the development of light-weight rigid-rod polyphenylene ammunition.

SA 1977. Mr. MCCAIN (for himself, Mr. GRAHAM, Mr. HAGEL, Mr. SMITH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. . PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 1978. Mr. MCCAIN (for himself, Mr. BIDEN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds appropriated or otherwise made available in this Act may be obligated or expended during fiscal year 2006 for paying salaries and expenses or other costs associated with reimbursing or otherwise financially compensating the Government of Uzbekistan for services rendered to the United States at Karshi-Khanabad airbase in Uzbekistan.

SA 1979. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading "ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES", up to $600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

SA 1980. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $1,200,000 may be available for nonlinting silver antimicrobial wound dressing.

SA 1981. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE", up to $2,000,000 may be available for the establishment, in consultation with the Reach Out and Read National Center, of a pilot project on pediatric early literacy on military installations.

SA 1982. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $1,000,000 may be available for further development of the Multipurpose Utility Vehicle.

SA 1983. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. None of the funds appropriated or otherwise made available by this Act may be made available to implement any consolidation of the Training Support System Contractor Support (CLS) Center, or to eliminate any related contractor positions, for the B-1 bomber air crew and maintenance trainer program unless—

(1) the Government Accountability Office performs a study to verify the projected cost savings of such actions; and

(2) not later than 90 days after the date of the enactment of this Act, the Government Accountability Office reports to Congress that such actions would result in savings and would not impact training efficiency.

SA 1984. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) COOPERATIVE THREAT REDUCTION PROGRAMS DEFINED.—In this section, the term "Cooperative Threat Reduction programs" means programs and activities specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) REPEAL OF RESTRICTIONS.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Section 211(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 22 U.S.C. 2551 note) is repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 22 U.S.C. 5952 note) is repealed.

(c) INAPPLICABILITY OF OTHER RESTRICTIONS.—Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 106 Stat. 3338; 22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

(d) MODIFICATIONS OF AUTHORITY TO USE COOPERATIVE THREAT REDUCTION PROGRAM FUNDS OUTSIDE THE FORMER SOVIET UNION.—Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1662; 22 U.S.C. 5963) is amended—

(1) by striking "President" each place it appears and inserting "Secretary of Defense";

(2) in subsection (a)—

(A) by striking paragraph (2); and

(B) by striking "each of the following" and all that follows through the end and inserting the following: "that such project or activity will—

"(1)(A) assist the United States in the resolution of a critical emerging proliferation threat; or

"(B) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

"(2) be completed in a short period of time.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SA 1985. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. DURBIN, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY" is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", as increased by subsection (a), up to $1,000,000 may be used for Combat Vehicle and Automotive Technology (PE#0602601A) for the Multipurpose Utility Vehicle.

(c) OFFSET.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY" is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts available for Industrial Mobilization Capacity/Unutilized Plant Capacity.

SA 1986. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116.(a) The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" is hereby increased by $3,000,000.

(b) Of the amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", as increased by subsection (a), $3,000,000 may be available for land attack technology for the Millennium Gun System.

(c) The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, NAVY RESERVE" is hereby reduced by $3,000,000.

SA 1987. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 8116.(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" is hereby increased by $800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", as increased by subsection (a), up to $800,000 may be used for the Portable Battery Operated Solid-State Electrochemical Oxygen Generator.

(c) OFFSET.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, NAVY RESERVE" is hereby reduced by $800,000.

SA 1988. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and available for advanced technology development, up to $5,000,000 may be available for Intelligent Agent Solutions for Situational Awareness.

SA 1989. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and available for demonstration and validation, up to $10,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit.

SA 1990. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes;

which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY" and available for administrative and servicewide activities, up to $4,000,000 may be available for the Science and Technology for Intelligence Community Predictive Modeling program.

SA 1991. Mr. KENNEDY (for himself, Ms. COLLINS, Mrs. CLINTON, Mrs. DOLE, Ms. MIKULSKI, Ms. SNOWE, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. REED, and Mr. SARBANES,) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) ARMY PROGRAMS.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $10,000,000 may be used for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to $10,000,000 may be used for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", up to $10,000,000 may be used for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE"—

(A) up to $10,000,000 may be used for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) up to $10,000,000 may be used for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Computer Science and Cybersecurity.

(e) SENSE OF SENATE.—It is the sense of the Senate that it should be a goal of the Department of Defense to allocate to basic research programs each fiscal year an amount equal to 15 percent of the funds available to the Department of Defense for science and technology in such fiscal year.

SA 1992. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87), the Department of Defense Appropriations Act, 2005 (Public Law 108–287), and the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) In section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 252), the Senate requested that the President submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year.

(5) The President has yet to submit such an amendment.

(6) The Department of Defense Appropriations Act, 2006, as reported to the Senate by the Committion on Appropriations of the Senate on September 28, 2005, contains a bridge fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(7) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 cost of ongoing military operations in Iraq and Afghanistan could total $85,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the amendment to the budget of the President for fiscal year 2006, requested by the Senate to be submitted to Congress not later than September 1, 2005, by section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, is necessary to describe the anticipated use of the $50,000,000,000 bridge fund appropriated in this Act and set forth all additional appropriations that will be required for the fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

SA 1993. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) MONTHLY BRIEFINGS ON STRATEGY ON IRAQ.—The Department of Defense shall, in conjunction with analysts of the Central Intelligence Agency, provide the appropriate committees of Congress on a monthly basis a briefing on the strategy for success in Iraq recently announced by the Administration, including the measures of evaluation utilized in determining the progress made in the execution of that strategy.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

SA 1994. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, as added by Senate amendment No. ____, add the following:

SEC. 1044. MONTHLY BRIEFINGS ON STRATEGY ON IRAQ.

(a) MONTHLY BRIEFINGS ON STRATEGY ON IRAQ.—The Department of Defense shall, in conjunction with analysts of the Central Intelligence Agency, provide the appropriate committees of Congress on a monthly basis a briefing on the strategy for success in Iraq recently announced by the Administration, including the measures of evaluation utilized in determining the progress made in the execution of that strategy.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations and the Select Committee on Intelligence of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

PRIVILEGE OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent that Awilda Euill, a staff member in my office, be granted floor privileges for October 3, 2005.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that a legislative fellow, Mike Powers, on the staff of Senator DAYTON, be granted the privilege of the floor during the consideration of the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. WARNER). Without objection, the call of the quorum is rescinded.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Without objection, the Senate stands in recess subject to the call of the Chair.

There being no objection, the Senate, at 4:43 p.m., recessed subject to the call of the Chair and at 4:55 p.m. reassembled when called to order by the Presiding Officer (Mr. ALLEN).

FILING OF AMENDMENTS TO H.R. 2863

Mr. FRIST. Mr. President, I ask unanimous consent all first-degree amendments to H.R. 2863, the Defense appropriations bill, be filed at the desk no later than 10:30 a.m. on Tuesday, October 4, and all first-degree amendments be subject to relevant second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING DEPARTMENT OF VETERANS AFFAIRS

Mr. FRIST. I ask unanimous consent the Senate now proceed to consideration of S. Res. 263, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A bill (S. Res. 263) commending the efforts of the Department of Veterans Affairs in responding to Hurricane Katrina.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 263) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 263

Whereas Hurricane Katrina physically devastated many areas in the States of Alabama, Mississippi, and Louisiana;

Whereas the Department of Veterans Affairs operates 11 medical centers, 18 community-based outpatient clinics, 3 regional offices, and 8 national cemeteries in the States of Alabama, Mississippi, and Louisiana;

Whereas, the Department of Veterans Affairs evacuated over 1,000 patients, employees, and their families from facilities in the affected areas without any loss of life due to the evacuations;

Whereas over 1,000 employees of the Department of Veterans Affairs are volunteering to assist veterans and their families affected by Hurricane Katrina throughout the United States;

Whereas the Department of Veterans Affairs is providing shelter to over 550 staff and their families who have been displaced as a result of Hurricane Katrina;

Whereas patients and employees of the Department of Veterans Affairs in Texas provided extraordinary support and medical assistance to veterans, staff, and families affected by Hurricane Katrina and coordinated numerous medical efforts as part of the overall Federal Government response and recovery efforts in the Gulf Region; and

Whereas heroic actions and efforts on the part of numerous employees and volunteers of the Department of Veterans Affairs saved countless lives and provided immeasurable comfort to the victims of Hurricane Katrina: Now, therefore, be it

Resolved, That the Senate commends the employees and volunteers of the Department of Veterans Affairs, who risked life and limb to assist veterans, staff, and their respective families who were affected by Hurricane Katrina.

ORDERS FOR TUESDAY, OCTOBER 4, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, October 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democrat leader or his designee, and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate then resume consideration of H.R. 2863, the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow we will return to the Defense appropriations bill. Moments ago, we locked in the filing deadline for amendments. That will give the two managers a better idea of what to expect on the bill. We are not encouraging Members to file amendments, but Members will have until 10:30 tomorrow morning to file their first degrees. Senators are reminded we will have stacked votes later in the day on Wednesday, and we will remain in session this week until we complete the bill. We have other work to complete this week, including the pensions legislation, so I ask for everyone's cooperation in advance as we move forward on these two items.

NOMINATION PROCESS

Mr. FRIST. Earlier today, or earlier this afternoon, I remarked that this is a momentous day in our Nation's history. For the first time in two decades, a new Chief Justice ascends to the bench of the highest Court of the land. Judge Roberts is leading the Supreme Court as the 17th Chief Justice of the United States today.

Today marks the nomination of Harriet Miers as an Associate Justice for the Supreme Court, and we had yet another opportunity to shape the course of our history. She will be a great addition to the Supreme Court. She does have extensive legal experience, both in the private sector as well as counsel for the President. She understands judicial restraint. She understands that limited role of the judge to interpret the law and not to legislate from the bench.

We are ready to begin this nomination process. Officially, it has now begun with her nomination. We will have a civil process, a dignified process that ultimately will lead to a confirmation of Ms. Miers before Thanksgiving.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:58 p.m., adjourned until Tuesday, October 4, 2005, at 9:45 a.m.

EXTENSIONS OF REMARKS

A PROCLAMATION RECOGNIZING FRANK A. FREGIATO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. NEY. Mr. Speaker:

Whereas, Frank A. Fregiato is a dedicated citizen worthy of merit and recognition; and

Whereas, Frank A. Fregiato was recently presented with the Law Enforcement Commendation Medal; and

Whereas, Frank A. Fregiato should be commended for his excellence and devotion in the field of law enforcement and for establishing the Live Courts to Our High Schools program.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Frank A. Fregiato for his outstanding accomplishment.

HONORING THE PERFORMING RIGHTS ORGANIZATION SESAC ON ITS 75TH ANNIVERSARY

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. COOPER. Mr. Speaker, I rise today to commend the perfomling rights organization SESAC for 75 years of service to the creative forces in music. We in Music City U.S.A. are grateful to SESAC for its continuing work on behalf of the songwriters and publishers who make music happen.

SESAC, which is based in my district in Nashville, has been a valuable force in protecting the rights of songwriters and publishers by defending copyrights against infringement and ensuring that artists receive the royalties they are due. Over the years, the many distinguished artists that have relied on SESAC to protect their artistic creations have included such singer-songwriter legends as Robert Johnson, Bob Dylan and Neil Diamond, Tennessee artists Arlos Smith, Sam and Annie Tate, and Jo Nichols, jazz luminaries Cassandra Wilson and Steve Coleman, R&B/Hip-Hop songwriters Bryan-Michael Cox, Swizz Beatz, and Teddy Riley. SESAC's musical library also includes such classics as Sweet Caroline, I'll Fly Away, and Forever Young, and renowned musicians such as Garth Brooks, U2, LeAnn Rimes, and Luciano Pavarotti, perform songs written by SESAC artists all over the world.

In addition to its representation of songwriters and publishers, SESAC should also be commended for its work to foster public awareness on the importance of copyright protection and the damage done by piracy. As part of the Music United Coalition, SESAC took an active role in the debate surrounding the legality of file-sharing, which was the subject of a recent Supreme Court case. This year, SESAC also sponsored the first Recording Arts Day in Washington, which gave lawmakers an opportunity to learn about the many complex and controversial issues surrounding the music business.

On behalf of my constituents in the Fifth District of Tennessee, I commend SESAC for its years of service and advocacy on behalf of the Nation's songwriters and music publishers, and wish the organization a happy 75th anniversary.

A PROCLAMATION CONGRATULATING GREG PETERSON

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. NEY. Mr. Speaker:

Whereas, Greg Peterson is an exceptional individual worthy of merit and recognition; and

Whereas, Greg Peterson served in the Franklin County Prosecuter's Office for twelve years; and

Whereas, Greg Peterson served as the director of the gang unit at the Franklin County Prosecuter's Office for the past three years and won an extraordinary number of cases; and

Whereas Greg Peterson will be sworn in as Judge at the Franklin County Court of Common Pleas on October 7, 2005, and should be commended for his excellence, for his leadership and integrity, and for his ongoing efforts to affect other people's lives in a positive and in a changing way.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Greg Peterson for his outstanding accomplishments.

THE RYAN WHITE CARE ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. TOWNS. Mr. Speaker, the Ryan White Care Act has played a significant role in the decline of HIV/AIDS cases and deaths. The care act is of utmost importance to the poor and uninsured because it is the primary means by which many receive health services.

Congress must act swiftly to reauthorize and strengthen the care act and I implore Congress to do so on behalf of persons living with HIV/AIDS in our Nation, the State of New York and the 10th Congressional District of Brooklyn in particular.

New York City remains the epicenter of the HIV/AIDS epidemic nationally. According to the HIV Health and Human Services Planning Council of New York, an estimated 92,000 New Yorkers are known to be living with HIV or AIDS and approximately 25,000 individuals are living with HIV but are not diagnosed.

While the reauthorization principles released by the Administration are a start, more must be done to ensure that health care and treatment is provided for New Yorkers and all people in need.

In urban, rural, and suburban communities in every State and territory, the Ryan White Care Act delivers medical care, prescription drugs, and key support services to uninsured and underinsured people living with HIV/AIDS. Still, there are far too many people without access to quality HIV/AIDS care because of limited resources.

Today, I strongly urge Congress to work together to reauthorize and adequately fund the Ryan Care Act in a timely manner, with the goal of improving the lives of all people living with HIV/AIDS.

SUSTAINABLE ENERGY ON DISPLAY

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. SANDERS. Mr. Speaker, I wish to commend the Northeast Sustainable Energy Association for its efforts this past weekend in its 2005 Green Buildings Open House. The Open House consisted of tours of "green" energy facilities in homes and businesses, in all the New England States, as well as in Delaware, New Jersey, New York and Pennsylvania.

In Vermont, there were tours in Burlington, Cavendish, Hartland, Montpelier, Strafford and White River Junction, as well as in Northern, Central and Southern Vermont. The tours included a great variety of sites, including homes, businesses and schools. Alternative energy sources included solar (active and passive), wind, micro-hydro, as well as alternate construction methods and alternative fuel vehicles.

We are overly dependent on fossil fuels. Not only does dependence pose environmental problems ranging from air pollution to acid rain to global warming, it also puts our national security at risk, requiring foreign policies driven more by the needs of oil companies than by the interests of American families and small businesses.

But there are ways to conserve our environment and reduce our dependence on fossil fuels. We can better insulate our homes. The dollars invested in energy conservation pay off over and over again, in reduced energy consumption and reduced costs for heating and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cooling. We can find and develop clean and renewable sources of energy like solar, wind, water and geothermal. They are domestically produced, infinitely renewable, and non-polluting. And we can learn to use more energy-efficient appliances in our homes and offices.

Developing sources of alternative energy and conserving the energy we currently use are smart policies, not only because fossil fuel is encumbered with many problems, but because long-term conservation and alternative energy are more efficient. And moving along those lines creates jobs, jobs here at home, good paying jobs.

So I extend my congratulations to the Northeast Sustainable Energy Association and the many homeowners and building owners, as well as the guides for these tours, who worked to show us all how much can be accomplished if we have a vision of a better and more energy-sustainable future.

A PROCLAMATION HONORING THE JACKSON-VINTON COMMUNITY ACTION

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. NEY. Mr. Speaker:

Whereas, the Jackson-Vinton Community Action has dutifully served the citizens of Jackson and Vinton counties for 40 years; and

Whereas, the Jackson-Vinton Community Action gives hope and aid to the Southeastern Ohio Appalachian Region; and

Whereas, the Jackson-Vinton Community Action has consistently provided health, housing, and economic assistance to the people of their community.

Therefore, I join with entire 18th Congressional District of Ohio in congratulating the Jackson-Vinton Community Action on their 40th anniversary.

TRIBUTE TO JUDGE MYRON THOMPSON

HON. ARTUR DAVIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. DAVIS of Alabama. Mr. Speaker, because of my tremendous personal admiration and professional respect, I am particularly honored to rise today to introduce a resolution that gives tribute to Judge Myron Thompson's 25-year legacy of upholding the Constitution in the U.S. District Court for the Middle District of Alabama—considered one of the most important courts of the American civil rights movement. Judge Thompson's tenure on the bench reflects years of honest, diligent, and fair jurisprudence. This resolution documents Judge Thompson's distinguished service to the federal judiciary, the people of Alabama, and to the United States. I am pleased to ask the House to express its gratitude to U.S. District Judge Myron Thompson.

Judge Thompson was appointed to the Federal bench by President Jimmy Carter in 1980 after an already distinguished legal career. A product of Alabama's segregated public schools, he attended Yale University and proceeded directly to Yale Law School, after which, he returned to Alabama to work for the state Attorney General's Office. Judge Thompson went on to private practice, as the only African-American practitioner in Dothan, AL, his mother's hometown. He later became the founding director and Board Chair of the Legal Services Corporation of Alabama.

Once appointed to the Court, Judge Thompson inherited some of the most significant cases in the Middle District. He addressed the needs of mentally-ill residents in the Wyatt case, upholding principles of humane treatment that have become part of the fabric of American law. He addressed the needs of workers, presiding over numerous employment discrimination cases involving, at times, the claims of hundreds, if not thousands, of employees. Judge Thompson's rulings in voting rights cases broadened the civic participation of Alabama's traditionally disenfranchised. In the Dillard case, Judge Thompson found the Alabama legislature culpable of racial discrimination in fashioning and authorizing at-large election schemes for local jurisdictions. As a result of Dillard, there have been African-American city council members, county commission members, and school board members elected in places where previously there had never been an African-American elected to public office. Judge Thompson upheld the Constitution's promise to insulate every citizen from inhumane conditions while in government custody by finding the conditions at the Julia Tutwiler Prison for Women unconstitutional and pervasively unsafe. These are just some of Judge Thompson's more significant cases.

Judge Thompson's judicial career has thrust him to the forefront of many of the most pressing social and political controversies of the day. His compassion for the marginalized, love of learning, and knowledge of the law are reflected in his courage, insight, and sound judgment. We are fortunate to have Judge Thompson on the federal bench, and America has been a direct beneficiary of his extraordinary service. I ask the House to join me in endorsing this resolution of appreciation and commendation for the service of District Judge Myron Thompson.

PACTOLA RESERVOIR REALLOCATION AUTHORIZATION ACT OF 2005

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Ms. HERSETH. Mr. Speaker, I rise today to introduce the "Pactola Reservoir Reallocation Authorization Act of 2005," a bill to authorize the Secretary of the Interior to reallocate the costs of the Pactola Dam and Reservoir in western South Dakota, in accordance with an agreement that has been reached by the affected parties that rely on that water.

The population in and around Rapid City, South Dakota, has experienced welcome growth in the past several years. As a result, the city is experiencing an increasing demand for municipal water. The city relies upon the Pactola Reservoir, constructed by the Bureau of Reclamation (BOR) in the central Black Hills mountain range approximately 10 miles west of town, for much of its municipal water.

Another group, the Rapid Valley Water Conservancy District (RVWCD), also relies on this reservoir as a source of water for agricultural irrigation. As Rapid City's needs for water has increased, the RVWCD's demands has gone down.

The two entities and the BOR have renegotiated their water service contract and have agreed to reallocate the costs of the Pactola Dam to better reflect the City's growing need for municipal water supply and RVWCD's decreasing need for irrigation.

The BOR is responsible for the operation and maintenance of the Pactola Dam and Reservoir, part of the Rapid Valley Unit under the Pick-Sloan Missouri Basin Program (Flood Control Act of 1944, PL 78–534). In 1992, discussions were initiated to renegotiate water supply contracts with Rapid City and the Rapid Valley Conservancy District to meet municipal, industrial, irrigation, recreation, and wildlife needs. An agreement between both parties and the BOR was reached in December 2000. This legislation would reallocate the benefits and costs of Pactola Dam and Reservoir in accordance with that agreement and it must be enacted before the contract can take effect.

My colleague in the Senate, Senator TIM JOHNSON, worked to get the Pactola Reservoir Reallocation Authorization Act through that chamber last week, and I urge my colleagues in the House of Representatives to support this important legislation.

NATIONAL SPINA BIFIDA AWARENESS MONTH

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to remind my colleagues that October is National Spina Bifida Awareness Month and to pay tribute to the more than 250,000 Americans in the Spina Bifida Community, including family members and caregivers. There are an estimated 70,000 people in the United States who are currently living with Spina Bifida, the most common permanently disabling birth defect.

I am proud to be the Co-Chairman, along with Representative BART STUPAK, of the Congressional Spina Bifida Caucus and encourage all of my colleagues to join the caucus. Together we can help to improve the quality of life of those living with Spina Bifida and their families.

The Spina Bifida Association of America (SBAA) is the organization that has helped those living with and affected by this debilitating disease for over 30 years. The SBAA was founded in 1973 and is the nation's only organization solely dedicated to advocating on behalf of the Spina Bifida community. Through their almost 60 chapters in more than 125 communities, the SBAA brings expectant parents together with those who have a child who suffers from this disease. This interaction helps to answer questions and concerns, but most importantly it lends much needed support. The good news is that due to breakthroughs in research and improvements in health care and treatment, children with Spina Bifida are now living to become adults with Spina Bifida.

Together the SBAA and the SBA of the Tri-State Region work tirelessly to help the families of those living with Spina Bifida meet the challenges and enjoy the rewards of raising their children to adulthood. I would like to commend the local chapter of SBAA in my State of New Jersey for all they have done and all that they will continue to do. As we recently were reminded, in the wake of a natural disaster, people with disabilities are the most vulnerable. The SBAA chapter in my State of New Jersey is a partner in the SB Hurricane Emergency Lifesupport Program, which was established to help get vitally needed supplies to the estimated 10,000 people with Spina Bifida and their families who were victims of the hurricanes in the Gulf Region.

Spina Bifida is a neural tube defect that happens in the first month of pregnancy when the spinal column doesn't close completely. Spina Bifida is a birth defect that can happen to anyone. There are 60 million women at risk of having a baby born with Spina Bifida. Everyday, an average of 8 babies are affected by Spina Bifida or a similar birth defect of the brain and spine. Each year, about 3,000 pregnancies are affected by these birth defects. While we do not know the exact cause of Spina Bifida, research has shown that if a woman takes 400 micrograms of folic acid every day and before she becomes pregnant, she reduces her risk of having a baby with Spina Bifida or another neural tube defect by as much as 70 percent. The cause of the remaining cases is unknown, but it is believed genetics and environment may play a role.

Today, approximately 90 percent of all babies diagnosed with Spina Bifida live into adulthood, approximately 80 percent have normal IQ's, and approximately 75 percent participate in sports and other recreational activities. With proper medical attention and family care these people can live productive full lives with the assistance of braces and/or a wheelchair. There are breakthroughs every year that benefit the quality of life for those living with Spina Bifida. Research is the key to a better life for those who live with Spina Bifida. Our goals are to develop better treatments, better understanding of causes and new ways to prevent Spina Bifida.

The SBAA has many special events throughout the year to engender greater support for the Spina Bifida community. I congratulate them on occasion of their 17th annual Washington event for the media that is taking place this week. I again wish to thank the SBAA and its chapters for all of their hard work to prevent and reduce suffering for those 70,000 individuals living with Spina Bifida throughout the nation. We all owe a great debt to the SBAA for what they have done.

A PROCLAMATION CONGRATULATING VINTON COUNTY LOCAL SCHOOL DISTRICT ON ITS NEW MIDDLE SCHOOL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 2005

Mr. NEY. Mr. Speaker:

Whereas, the Vinton Local School District is at the forefront for excellence in education in Ohio's 18th District; and

Whereas, the Vinton Local School District is dedicated to ensuring all of its students reach their full potential as both students and young adults; and

Whereas, the Vinton Local School District educators are committed to life long learning in order to provide the best possible experience for the students.

Therefore, I join with the Vinton County Local School District and the 18th Congressional District of Ohio in congratulating the school district on the construction of its new middle school.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 4, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

10:30 a.m.

Aging

To hold hearings to examine preparing for and meeting the needs of older Americans during a disaster.

SH–216

2:15 p.m.

Foreign Relations

Business meeting to consider the nominations of Robert A. Mosbacher, of Texas, to be President of the Overseas Private Investment Corporation, Jan E. Boyer, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank, C. Boyden Gray, of the District of Columbia, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador, Francis Rooney, of Florida, to be Ambassador to the Holy See, Alfred Hoffman, of Florida, to be Ambassador to the Republic of Portugal, Thomas A. Shannon, Jr., of Virginia, to be an Assistant Secretary of State for Western Hemisphere Affairs, Charles A. Ford, of Virginia, to be Ambassador to the Republic of Honduras, Mark Langdale, of Texas, to be Ambassador to the Republic of Costa Rica, Brenda LaGrange Johnson, of New York, to be Ambassador to Jamaica, Alexander R. Vershbow, of the District of Columbia, to be Ambassador to the Republic of Korea, Patricia Louise Herbold, of Washington, to be Ambassador to the Republic of Singapore, William Paul McCormick, of Oregon, to be Ambassador to New Zealand, and serve concurrently and without additional compensation as Ambassador to Samoa, John J. Danilovich, of California, to be Chief Executive Officer, Millennium Challenge Corporation, John Hillen, of Virginia, to be Assistant Secretary of State for Political-Military Affairs, Barry F. Lowenkron, of Virginia, to be Assistant Secretary of State for Democracy, Human Rights, and Labor, Kent R. Hill, of Virginia, to be Assistant Administrator of the United States Agency for International Development, Jacqueline Ellen Schafer, of the District of Columbia, to be Assistant Administrator of the United States Agency for International Development, Josette Sheeran Shiner, of Virginia, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development, and Jendayi Elizabeth Frazer, Assistant Secretary of State for African Affairs, to be a Member of the Board of Directors of the African Development Foundation.

S–116, Capitol

2:30 p.m.

Environment and Public Works

To hold hearings to examine the status of efforts to reduce greenhouse gases relating to the Kyoto Protocol.

SD–406

Commerce, Science, and Transportation

Trade, Tourism, and Economic Development Subcommittee

To hold hearings to examine spyware.

SD–562

Intelligence

To receive a closed briefing regarding certain intelligence matters.

SH–219

OCTOBER 6

9:30 a.m.

Armed Services

To hold hearings to examine the nominations of Michael W. Wynne, of Florida, to be Secretary of the Air Force, and

Donald C. Winter, of Virginia, to be Secretary of the Navy.

SD–106

Environment and Public Works

To hold hearings to examine the nominations of Santanu K. Baruah, of Oregon, to be Assistant Secretary of Commerce for Economic Development, George M. Gray, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency, Lyons Gray, of North Carolina, to be Chief Financial Officer, Environmental Protection Agency, H. Dale Hall, of New Mexico, to be Director of the United States Fish and Wildlife Service, and Edward McGaffigan, Jr., of Virginia, to be a Member of the Nuclear Regulatory Commission.

SD–406

Foreign Relations

To hold hearings to examine the nominations of Jennifer L. Dorn, of Nebraska, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development, and Donald A. Gambatesa, of Virginia, to be Inspector General, United States Agency for International Development.

SD–419

Judiciary

Business meeting to consider pending calendar business.

SD–226

9:35 a.m.

Environment and Public Works

To hold hearings to examine actions of the Environmental Protection Agency, the Army Corps of Engineers and the Federal Highway Administration relating to Hurricane Katrina.

SD–406

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the implementation of the Exon-Florio provision by the Committee on Foreign Investment in the United States (CFIUS), Department of the Treasury, which seeks to serve U.S. investment policy through reviews that protect national security while maintaining the credibility of open investment policy.

SD–538

Appropriations

District of Columbia Subcommittee

To hold hearings to examine the potential for Marriage Development Accounts in the District of Columbia.

SD–138

Energy and Natural Resources

To hold hearings to examine Hurricanes Katrina and Rita's effects on energy infrastructure and that status of recovery efforts in the Gulf Coast region.

SD–366

Finance

To hold hearings to examine the future of the Gulf Coast, focusing on the use of tax policy to help rebuild businesses and communities and support families after disasters.

SD–215

Homeland Security and Governmental Affairs

To hold hearings to examine Federal Emergency Management Agency (FEMA) status report on recovery efforts in the Gulf States.

SD–342

2:30 p.m.

Homeland Security and Governmental Affairs

Federal Financial Management, Government Information, and International Security Subcommittee

To hold hearings to examine how the Federal government lease needed space.

SD–562

Foreign Relations

To hold hearings to examine the nominations of David B. Dunn, of California, to be Ambassador to the Togolese Republic, and Carmen Maria Martinez, of Florida, to be Ambassador to the Republic of Zambia, and Michael R. Arietti, of Connecticut, to be Ambassador to the Republic of Rwanda.

SD–419

Judiciary

To hold hearings to examine pending judicial nominations.

SD–226

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold hearings to examine improving Department of Defense logistics, focusing on a piece of the Department's business transformation efforts, supply chain management.

SD–342

Finance

International Trade Subcommittee

To hold hearings to examine the U.S.-Bahrain Free Trade Agreement.

SD–215

Intelligence

To receive a closed briefing regarding certain intelligence matters.

SH–219

3 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings to examine S. 1025, to amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas" to authorize the Equus Beds Division of the Wichita Project, S. 1498, to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District, S. 1529, to provide for the conveyance of certain Federal land in the city of Yuma, Arizona, S. 1578, to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs, and S. 1760, to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District.

SD–366

OCTOBER 7

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the employment situation for September.

1334 LHOB

OCTOBER 18

9:50 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

OCTOBER 19

9:30 a.m.

Indian Affairs

Business meeting to consider S. 1057, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

10 a.m.

Health, Education, Labor, and Pensions

Bioterrorism and Public Health Preparedness Subcommittee

To hold hearings to examine biosurveillance.

SD–430

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

2 p.m.

Health, Education, Labor, and Pensions

Employment and Workplace Safety Subcommittee

To hold hearings to examine national guard and employers.

SD–430

OCTOBER 20

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine Federal employment programs for persons with disabilities.

SD–430

Indian Affairs

To hold hearings to examine Indian water rights settlement policy effects on the Duck Valley Reservation proposed settlement agreement.

SR–485

10:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine USDA Farm Service Agency Office consolidation plan known as FSA Tomorrow.

SR–328A

OCTOBER 26

9:30 a.m.

Indian Affairs

To hold an oversight hearing to examine In Re Tribal Lobbying Matters, Et Al.

Room to be announced

SENATE—*Tuesday, October 4, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable RICHARD BURR, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Great Shepherd of the universe. You are in our coming in and going forth. You are present with us in our mountaintop experiences but also in the valley of the shadow of death.

Lead our Senators today in the green pastures of Your wisdom and beside the still waters of Your righteousness. Let Your love motivate them to be instruments of Your providence in our world.

Inspire each of us to strive not merely for success but for faithfulness. Help us to live not looking for human approval but with our eyes steadfastly fixed on You. Grant us wisdom to clearly know and power to faithfully fulfill Your commands.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BURR led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, October 4, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BURR, a Senator from the State of North Carolina, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BURR thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, following the 1-hour period of morning business, we will resume debate on the Defense appropriations bill. Yesterday afternoon, we locked in an agreement which requires all first-degree amendments to be filed at the desk no later than 10:30 this morning. Senators STEVENS and INOUYE will be here and be able to determine which amendments can be agreed to on both sides.

Senators are expected to come to the Senate today and offer their amendments to the Defense bill. I hope Members will take advantage of today's session and not postpone and delay until later in the week. Although we will not be voting today, the Senate can debate those amendments, and stacked votes begin tomorrow evening. I expect we will have multiple votes tomorrow evening in relation to the amendments on the Defense bill.

We will finish this bill prior to adjourning for next week's recess. We will be voting on Friday of this week. Again, we have not voted on very many Fridays over the last 8 months, but we will be voting on Friday this week.

We are also trying to reach consent agreements for consideration of the pensions bill which the Democrat leader and I were just talking about, a very important bill, and we are in the final stages of preparation of that bill. Once that is available, we will do our best as leadership to bring that to the Senate in a timely fashion. We hope to have that agreement and are also working on potential agreement on the Defense authorization bill as well. Once agreements are in place, we will be ready to bring those to our colleagues.

BALI BOMBINGS

Mr. FRIST. Mr. President, Saturday night, on the Indonesian island of Bali, suicide bombers attacked 3 crowded cafés, killing 25 people and wounding many more. People from 22 nations perished in those deadly blasts. Indonesian officials are on the hunt for the masterminds of this and the October 12, 2002, attacks.

America stands ready to assist in whatever way we possibly can. Our hearts go out to the families of the people of Indonesia who, once again, have suffered at the hands of deranged killers. We know all too well the pain and anguish caused by the terrorist enemies.

Today, the Senate intends to pass a resolution expressing our deep sympathies and condolences. I will come back to the Chamber later today to pass that resolution with unanimous consent. We stand shoulder to shoulder with the Indonesian people as they bring justice to the killers.

We are at war with a barbarous and implacable foe. The killers strike in the name of Islam, but their religion is not to be found in the pages of the Koran. Their religion is found in their corrupted and blackened hearts and in their twisted and hateful minds.

Indonesia, a Muslim country, has been the target of multiple attacks. The killers seek power, squalid and absolute. Their war is on the civilized world.

Istanbul, Turkey, 2003: 56 people killed, more than 450 people injured.

Madrid, Spain, 2004: 190 people killed, 1,500 injured.

Beslan, Russia, September that year: 344 people killed, 186 of them schoolchildren.

London, UK, July 7, this summer: 52 people killed, 700 injured.

The attacks continue on the Iraqi people and the people of Afghanistan. The United States calls on the international community to renew and strengthen our efforts to defeat the killers by dismantling their network and exposing the nihilism and perversion of their aims. We urge the international community to increase the global effort to advance freedom, liberty, and prosperity, and to root out the social injustice that feeds the violence.

These are daunting challenges, to be sure. But just as surely, we have no other choice. The gauntlet was thrown for America on September 11. The enemy offers death. We must offer hope. We must shine the light of freedom wherever they live, wherever they hide, a light so dazzling that not even their shadow remains.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the last 30 minutes now under the control of the majority leader or his designee.

The Senator from Texas.

HARRIET MIERS

Mr. CORNYN. Mr. President, I rise to commend the President on his selection of Harriet Miers to be associate justice of the Supreme Court. I have had the pleasure of knowing both Ms. Miers and the President for a number of years, from our days in Texas in State Government in particular. In Texas, President Bush had the reputation of being a uniter. Literally, we had divided government, with Democrats controlling the House and the Senate. He worked on a daily basis with Lt. Gov. Bob Bullock and Speaker Pete Laney, who were of the other party. When he came to Washington, he hoped he would find a Bob Bullock or a Pete Laney on the other side of the aisle so he could continue in that tradition, doing what he believed was best for the people who had sent him here—all the people. Unfortunately, we know that Washington's political environment is way too partisan and even poisonous.

The President has chosen wisely with this nominee. He has chosen a nominee who should, and I believe will, unite us.

I am proud to say that Harriet Miers is a fellow Texan. She was born and raised in Dallas and attended Southern Methodist University, where she received her bachelor's degree in mathematics and her law degree. That is kind of an unusual combination for lawyers. Most lawyers eschew mathematics, but she nevertheless has a bachelor's degree in mathematics. Following law school, she clerked for a Federal judge and then joined one of the finest law firms in our State, where she practiced for a number of years before she came to the attention of a Governor who would then become our current President.

As proud as I am to say that Harriet is a fellow Texan, I am even more proud to say she is a friend. I have known her for about 15 years. I have come to know her as a fine and decent human being, someone who has dedicated her life to serving others, from the clients in her law firm to the people of Texas, and now to offering herself to serve all of us in this great country.

It is especially fitting that Harriet Miers be nominated to the seat being vacated by another trailblazer, Justice Sandra Day O'Connor. Justice O'Connor was the first woman to serve on the Supreme Court of the United States. But Harriet has blazed a few trails of her own. She was the first woman hired by her law firm. She was the first woman to serve as the president or co-managing partner of that firm. She was the first woman to serve as the president of the Dallas Bar Association, and then she was later selected to be the first woman to serve as president of the State Bar of Texas, which is the association encompassing all members of the legal profession in Texas.

As these accomplishments make clear, she has had a long and distinguished professional career. Her dedication to her clients, to her community, and to the rule of law has made her a leader in my State.

Her accomplishments do not end at the border of Texas. Over the last 25 years, she has worked at the highest levels of our national Government in the White House, including serving as the President's closest legal adviser. Moreover, before she came to Washington, she was known and respected nationally for her legal skills and her advocacy for legal services being provided and available to all Americans. She was very active in the American Bar Association, and she is well known by lawyers throughout the country. We will hear increasingly more and more of them come forward to speak, without regard to partisan affiliation or other considerations.

This long and distinguished career has made Harriet well qualified to serve as an associate justice on the U.S. Supreme Court. I am not alone. She has received praise from Senators on both sides of the aisle, including the Democratic leader, the senior Senator from Nevada. She has also received praise from this side of the aisle, from our majority leader, as well as the senior Senator from Kentucky, our deputy majority leader. She is without question a consensus nominee.

I know that makes some people nervous in a body where we have become so accustomed to locking horns and fighting over so many things, some of which are important. There are contests on principle, but sometimes there are those who would pick a fight to keep that partisanship and bitterness going. The President has chosen well by choosing a consensus nominee. It is not surprising because this President has engaged in an unprecedented act of consultation on the two nominations to the Supreme Court: First, now-Chief Justice John Roberts and now soon-to-be Associate Justice Harriet Miers.

One thing you will not find in Harriet's long and distinguished career is service as a judge. I want to talk about that because some have said that that is actually a weakness. I suggest that it is not a bad thing, nor is it unprecedented. Forty-one of the one hundred and nine Justices who have served on the U.S. Supreme Court had no previous judicial experience. These 41 included some of our Nation's most influential and best-known justices—William Rehnquist, Lewis Powell, Byron White, Robert Jackson, Felix Frankfurter, Lewis Brandeis, Joseph Story, and John Marshall. Indeed, a little bit of diversity of background and experience is important to have on the Supreme Court. The Supreme Court is full of Justices who have served either as academics or as court of appeals justice judges before they have been nominated to the Supreme Court bench. Certainly, while they are a distinguished body of jurists, what the Court is actually missing is someone who has had practical legal experience, someone who will understand the real-world consequences of the Court's decisions for the American people.

I have been one who has been concerned about the fact that the Supreme Court sometimes seems out of touch with America. When you have the Supreme Court decide that the Ten Commandments is legal in Austin but illegal in Kentucky and you have 10 different opinions for 9 Justices to explain it, clearly there is something amiss. Harriet Miers will provide a strong dose of common sense and reconnect the Court with the American people in an important way.

It is also important to have someone who has actually been elected to office, as Harriet Miers has been. She has been elected to city council in Dallas, perhaps not high national office but nevertheless an important one. Once Justice O'Connor leaves the Court, there will be no one left on the Court, but for this nominee, who has ever held elected office. There is already no one there who has ever served at the highest levels of the executive branch of Government. If it were not for newly confirmed Chief Justice John Roberts, none of the Justices would have been actively engaged in law practice in the past 35 years. Even the Chief Justice himself was primarily focused on appeals. A Justice Harriet Miers fills these gaps.

She was elected city councilwoman in Dallas. She served at the highest levels of this administration, now as White House counsel, and she has spent her entire professional career representing clients in courtrooms across the State of Texas and even across the Nation.

I am not the only one who believes practical, real-world experience is important for a nominee. The senior Senator from Nevada, the Democratic leader, yesterday said that he thought this was actually a plus, not a minus. The senior Senator from New York echoed this view, stating that the fact she hasn't been a judge before is actually a positive, not a negative. I think those sentiments are much as I have explained. Certainly, they can speak for themselves.

I know there are many Americans who are unfamiliar with Harriet Miers. This is understandable. She has been working outside of the limelight her entire career, always serving others. I have been fortunate enough to know her for about the last 15 years. I have a good feel for who she is as a person and as a highly competent practitioner. I know that she believes, as I do, that judges should not legislate from the bench. I know she believes, as I do, that judges are not some sort of elite, appointed to impose their will on the rest of us. Rather, I know she understands that unelected judges who serve in a democracy have a necessarily limited but important role—to apply the law as it was written.

Harriet aptly described this judicial philosophy yesterday when she said:

> It is the responsibility of every generation to be true to the founders' vision of the proper role of the courts in our society. If confirmed, I recognize that I will have a tremendous responsibility to keep our judicial system strong and to help ensure that the courts meet their obligations to strictly apply the laws and the Constitution.

I am confident, when the American people get to know Harriet Miers, as I have had the pleasure, they will be as supportive as I am today of this nomination. I believe the President has chosen wisely. Now it is up to us in the Senate to go forward with the confirmation process. That is not to say that her confirmation is preordained by any means but that we now have the obligation to undertake this confirmation process in a civil and dignified and respectful manner.

I would say the Senate did itself proud in the way it handled the confirmation of Chief Justice John G. Roberts. We have not always, in recent memory, done ourselves proud in the judicial confirmation process, and I am speaking specifically of the filibusters that were previously unprecedented. But hopefully this is a new day and we have learned from those lessons of the past, and we will continue in the tradition that I think we have now reestablished with John G. Roberts.

I think we can even do better this time around. For example, the last time around, some of my colleagues insisted that Chief Justice Roberts answer questions about issues and cases that were likely to come before the Court. Indeed, some of my colleagues stated they voted against his confirmation precisely because he refused to precommit on some of the hot-button issues of the day. As I said, I hope we can do even better this time.

My colleagues know that, as was Chief Justice Roberts, Harriet Miers is ethically forbidden from pledging to rule a certain way on these issues or any issues that are likely to come before the Supreme Court. It is simply unfair to her, and I think it is a threat to judicial independence to insist that any nominee pledge a certain performance when confirmed in judicial office. I think it is unfair to her to ask her a question that my colleagues know she simply cannot ethically answer.

Every nominee who has come before the Senate has followed these ethical rules and resisted making promises to politicians during the confirmation process. This tradition has come to be known as the Ginsburg standard, named for Justice Ginsburg nominated in 1993 by President Clinton. Justice Ginsburg was so steadfast and articulate in defending the right of judicial nominees declining to prejudge cases on issues that might come before them once they get on the bench that we have come to call this the Ginsburg standard.

Some of my colleagues on the other side of the aisle expressed displeasure with the Ginsburg standard during the confirmation process for Chief Justice Roberts. The one person who did not express displeasure was Justice Ginsburg. Indeed, in remarks just last week to students at Wake Forest University, Justice Ginsburg reaffirmed the Justice Ginsburg standard, and she affirmed Chief Justice Roberts' refusal to answer questions about issues that will likely come before the Court.

She said:

> Judge Roberts was unquestionably right. My rule was I will not answer a question that attempts to project how I will rule in a case that might come before the court. . . . A judge on a collegial court should never forecast how he or she would vote on particular issues. . . .

Nor, I might interject, should we want a judge who would be willing to trade a confirmation vote for a pledge of performance in office. It would threaten judicial independence, it would violate the rules of ethics, and I think it would be fundamentally unfair to people who look to the Supreme Court as the last bastion of justice in America today.

My hope is that Justice Ginsburg's endorsement of Chief Justice Roberts' confirmation conduct will persuade my Democratic colleagues to change their minds on how we ought to treat judicial nominees, including Harriet Miers. We should not treat this nominee or any nominee unfairly and demand that they inappropriately make commitments on how they will rule on hot-button issues of the day, no matter how curious we are.

I must confess I am as curious as the next person, but I recognize there is a higher duty than merely satisfying my curiosity, or anyone else's for that matter: judicial independence, judicial ethics, and the importance of not prejudging cases so that there will not only be the reality of justice being disseminated on a fair and equal basis, there will be the perception that judges have not prejudged issues or cases.

This is an important nomination for our country. The nomination of any person to serve on the Supreme Court of the United States is a celebration of our Constitution and of our Nation's commitment to the rule of law, perhaps our most important export.

It is all the more important today because this is the nomination of only the third woman to serve on our Nation's highest Court. I look forward to a dignified, civil, and respectful confirmation process in the Senate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that I be allowed to speak for up to 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 1815 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ALEXANDER. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, under the previous order, morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 2863, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. I thank the Chair.

Mr. President, I come to the Chamber today to discuss amendments to promote our success in Iraq as quickly as possible, consistent with accomplishing our mission there, to hold those in charge for implementing our strategy in Iraq accountable for its success, and to do right by those bearing the burden of that conflict on our behalf, our brave military personnel and their loving families.

These amendments are designed to increase the number of armored vehicles for our troops in the field and to promote and to protect their families financially at home but, even more important, to provide a clear picture of what we are doing in Iraq and a way to measure our progress there so that we can bring our troops home with their mission accomplished.

Last week, Generals Casey and Abizaid came to Congress to inform us that the administration had finally heeded bipartisan calls from this body to develop a plan for success, a plan that goes way beyond merely asking the American people to stay the course.

During their testimony before the Armed Services Committee and in private briefings for Senators, the generals talked about the plan and how it was developed jointly with Iraqi leadership. Essentially, if the plan is to be successful, it will lead to a reduction of American forces starting next year.

In a discussion with Senator MCCAIN, General Casey had the following to say:

> Senator McCain: Are you planning on troop withdrawals for next year?
>
> General Casey: I just said that, Senator. Yes. This is a bipartisan goal that we all support. Creating a stable Iraq and bringing American men and women home safely as soon as possible consistent with success is something that we all embrace.

The generals also said that they had developed specific guidelines to allow them to measure the success of this plan. I am pleased that a plan has been developed and measurements created to gauge its success, although belatedly so. But I also know that having a plan is not nearly enough. It is the effective implementation of a strategy that will determine our ultimate success and establishing benchmarks that allow us to determine the progress that is being made. Regrettably, we have had far more of the development of a strategy and far less of the accountability for implementing the strategy so far in the Iraqi conflict. The time for changing that has come.

Successful execution of any plan includes two things that have been lacking so far—accountability and candor. My amendment brings both of these elements into the administration's war effort.

The amendment requires the Pentagon and the CIA to report to Congress and to the American people once a month on the progress they are making with regard to their own strategy and how it is faring on the measurements they have outlined to determine our success. It is their strategy, their benchmarks. If they are not being met, the administration should explain to the American people why. If no adequate explanation exists, those responsible must be held accountable. That is the way you run any business or any State, and that is the least we can expect when waging war.

These benchmarks are crucial to gauging our progress and are vital to achieving our success. They were included in an unclassified document provided to the Congress this last week, the title of which is "Transitional Readiness Assessment." It provides seven different measurements to determine how we are doing in Iraq: first, overall readiness; second, the number of Iraqi personnel; third, their command and control capability; fourth, the level and effectiveness of their training; fifth, the sustainment and logistics of those Iraqi units; sixth, the level of their equipment; and seventh, the quality of their leadership.

It is vitally important that we share our progress or lack thereof in meeting these objectives with the American people. The American people are paying for this conflict with their money and their blood. They deserve to know how we are doing.

One of the challenges of any military effort is to build and maintain public support. To date, the administration has provided rosy assessments that conflict so clearly with the reports from Iraq and the images on television. It is no surprise that the public's patience is growing thin.

The American people can withstand adversity. What they won't stand for—and rightfully so—is being kept in the dark or being misled. That is why it is so critical that we provide the American people with an accurate assessment of our current situation, to plan for our success and let our people know and let them evaluate the progress we are achieving toward making that success.

I hope this amendment can be a bipartisan one. It seeks to achieve the twin goals of accountability and candor that I have heard embraced by our colleagues from both sides of the aisle.

In addition to this amendment, I have also introduced an amendment to provide our troops fighting in Iraq with the equipment they need in the field and the support their families deserve at home.

The Army has chronically underestimated—nine consecutive times, in fact—the need for up-armored vehicles in the Iraqi theater. Nine consecutive times they have gotten it wrong. They no longer deserve the benefit of the doubt. Regrettably, Walter Reed Hospital and our other military hospitals in this Nation are filled with too many of the young men and women who have paid the consequence for these errors. We must do everything humanly possible to make sure no further errors take place.

My armor amendment will provide enough funding to rebuild the Army stocks of up-armored HMMWVs as well as the armored vehicles used for cargo and troop transportation. With it, the military's depleted stock of armored vehicles will be made whole, ensuring that all of our troops have the protection they need while serving in both Iraq and Afghanistan—no more pleas to end hillbilly armor. One of the lessons learned in Iraq, along with the tragic Hurricane Katrina, is that when lives are at stake, it is incumbent upon us to err on the side of doing more rather than less. Let us get it right this time.

For the families of our loved ones serving in harm's way, we must ensure that no one faces financial hardship because of their service overseas. Yet there is a growing body of evidence suggesting that the financial rights of service men and women are being abused or ignored. That must stop.

Guard members who are called to active duty often face what I call a patriot penalty—a pay cut representing the difference between their civilian and Active-Duty pay. As a result, many families struggle to meet their mortgage payments or pay their heating bills. My amendment would eliminate this patriot penalty and ensure that no one takes a pay cut for serving their country.

Some families struggling with bills have even faced eviction or foreclosure despite laws already on the books designed to protect them. Financial institutions say they are not aware of these special protections, but ignorance is no excuse. My amendment would enable the regulators who oversee our financial institutions to put a stop to this odious practice. Financial institutions must learn the law, and they must follow it. My amendment will force the administration to educate our troops about their rights and punish those who wrongfully take away our troops' homes.

When we send troops into battle, we are asking them and their families to be willing to make the ultimate sacrifice. They are giving us everything. Giving them a realistic plan for success, along with the equipment they will need in the field to accomplish that success and the support their families deserve at home, is the least we can do for them. We owe it to them to do it right. That is what these amendments, when taken together, will accomplish.

I thank the Chair and my colleagues for their patience.

I call up the amendments numbered 1993, 1940, 1998, and 1933.

The PRESIDING OFFICER. It would require unanimous consent to take up those amendments en bloc.

Mr. BAYH. Mr. President, I ask unanimous consent to call the amendments up en bloc.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, reserving the right to object, we would like to first examine those amendments.

Mr. BAYH. By all means.

The PRESIDING OFFICER. Does the Senator object?

Mr. STEVENS. I suggest the absence of a quorum.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I should notify the Senator from Indiana that these are amendments offered to the Armed Services Committee amendment, and we do not intend to support any amendments to the amendment until we can determine if there is going to be a time agreement on the basic underlying amendment. The full Armed Services Committee bill contains some 80 amendments already and has some 240 other amendments pending.

I object, and I hope the Senator will confer with us on procedures so we might be able to work this out.

The amendment is subject to rule XVI. I do not believe we should take the time of the Senate to agree to the amendments on which we are going to raise a point of order under XVI unless there is a time agreement on the overall amendment offered by the Armed Services Committee.

We will object to any amendments to this amendment, and we will further, at the appropriate time, raise this point of order under rule XVI to the amendment offered by the Senator from Virginia, the chairman of the Armed Services Committee.

Mr. BAYH. Mr. President, I would be pleased to work with my colleagues to clarify the substance of the amendments and to work on the issues regarding any of them.

I have been advised to call up my amendment No. 1933, which is an appropriations amendment.

Mr. STEVENS. Mr. President, if the Senator from Indiana would confer with us, I find that one of the amendments he has offered is not an amendment to the Armed Services Committee amendment but is, in fact, an amendment to the bill itself. We will be happy to discuss that with the Senator. I again urge him not to pursue this at this time.

AMENDMENT NO. 1933

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. BAYH] proposes an amendment numbered 1933.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with to give us an opportunity to discuss the substance of the amendment and time consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase by $360,800,000 amounts appropriated by title IX for Other Procurement, Army, for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan or to reconstitute Army Prepositioned Stocks-5 and the Joint Readiness Training Center at Fort Polk, Louisiana, and to increase by $5,000,000 amounts appropriated by title IX for Research, Development, Test and Evaluation, Defense-Wide, for industrial preparedness for the implementation of a ballistics engineering research center)

On page 238, between lines 4 and 5, insert the following:

SEC. 9014.(a)(1) The amount appropriated by this title under the heading "OTHER PROCUREMENT, ARMY" is hereby increased by $360,800,000.

(2) Of the amount appropriated by this title under the heading "OTHER PROCUREMENT, ARMY", as increased by paragraph (1)—

(A) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(B) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(i) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks–5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(ii) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b)(1)(A) The amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" is hereby increased by $5,000,000.

(B) Of the amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", as increased by subparagraph (A), $5,000,000 may be available for the establishment of the ballistics engineering research center under paragraph (2).

(2)(A) The Secretary of Defense shall create a collaborative ballistics engineering research center at two major research institutions.

(B) The purpose of the research center established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

Mr. STEVENS. Mr. President, I inform the Senator from Indiana that we would oppose this amendment in any event because the bill already contains an additional $390 million, $30 million more than is already proposed by this amendment, for armored tactical wheeled vehicles.

This bill before us now has $240 million for the up-armored HMMWVs or the armored light tactical vehicles and has $150 million for the armored tactical wheeled vehicles. The Senator's amendment is duplicative of the amendment we have already accepted to the bill, and we cannot add that much more money to the Senator's amendment which is before us, No. 1933.

I urge the Senator to take a look at the RECORD and withdraw the amendment because there we are adding too much to that one section and we could not accept this amendment. It would earmark funding for tactical wheeled vehicles if armory funds are not needed for units deployed in Iraq and Afghanistan. We do not think we should earmark critical force protection equipment funds. Some of this work is done in one place, some in another.

I indicated that we already have added $30 million more than the Senator proposes to add to the bill. We agree with the Senator in terms of the need, and that is why we have already added money, as I mentioned before.

I hope the Senator will look at what we have already done.

Mr. BAYH. Mr. President, I would be delighted to discuss this matter with the Senator.

The heart of my concern is that there has been a consistent pattern of underestimating our need, and the depletion of the stockpile means if they yet again underestimated the need, it would not be available for quick deployment in the theater, which would leave our troops short again. That is the basis of my concern. We would be delighted to discuss it with the Senator.

Mr. STEVENS. I would be happy to do that.

During the past recess the first part of September, along with Senator WARNER and Senator KERRY, I went to Iraq. We saw the vehicles there being up-armored, and we saw, as a matter of fact, some of the trucks that are being up-armored. We have, as I have indicated, since that time increased the amount of money that is available.

Further, we are asking the Army for a detailed list of equipment requirements that are needed. The Army submitted a $6 billion list of requirements, and the funding sought with this amendment was not included in the list. We have already reprogrammed more money which far exceeds the Army's validated requirements. We did that before the end of September. I believe this amendment is unnecessary.

Further, it would be subject to a point of order, I am informed, under section 402 of the budget resolution that allows $350 billion for contingency operations spending for the year 2006. Title IX of this bill uses that entire $350 billion. Any funding in excess of that amount for the contingency operations would score and subsequently would add appropriations to title IX which would be subject to a point of order under section 302(f), far exceeding the committee's 302(b) allocation.

I urge the Senator to again confer with us because we have allocated money twice in this area since the trip we took to Iraq. I think we have provided more money than is necessary, as a matter of fact.

Mr. BAYH. I say to my friend and colleague, I look forward to conferring with him. It is neither his intentions nor his actions which I question: both his intentions and actions have been quite commendable. It is the advice of the Army which has consistently proven to be wrong, which we are relying on, that I question. That is the nature of the discussion I look forward to having.

Mr. STEVENS. What is the status of the amendments at this time?

The PRESIDING OFFICER. The amendment numbered 1933 is pending.

The Senator from Indiana.

Mr. BAYH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1978

Mr. McCAIN. Mr. President, I call up amendment No. 1978, which is at the desk.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself, Mr. BIDEN, Mr. GRAHAM, Mr. LEAHY, and Mr. DEWINE, proposes an amendment numbered 1978.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds to pay salaries and expenses and other costs associated with reimbursing the Government of Uzbekistan for services rendered to the United States at Karshi-Khanabad airbase in Uzbekistan)

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or otherwise made available in this Act may be obligated or expended during fiscal year 2006 for paying salaries and expenses or other costs associated with reimbursing or otherwise financially compensating the Government of Uzbekistan for services rendered to the United States at Karshi-Khanabad airbase in Uzbekistan.

Mr. McCAIN. Mr. President, this amendment is a pretty simple one. It would prohibit for 1 year the transfer of millions of dollars in cash to the Government of Uzbekistan; I believe $22 or $23 million.

I am pleased to be joined by Senators BIDEN, GRAHAM, LEAHY, and DEWINE, who have cosponsored the amendment. The Pentagon notified the Congress this summer that it intends to pay $23 million in "coalition support funds" to Uzbekistan, designed to cover past costs associated with the use of the K2 base there. If you have seen this base in the news lately, it is because it is the location from which the Government of Uzbekistan recently evicted all U.S. personnel. Uzbekistan was at one point a partner in the war on terror. It is no longer. And turning over "coalition support funds," at this point, debases the meaning of the term "coalition."

The amendment I am proposing would prohibit this payment for 1 year at which point the Congress can decide whether to renew the prohibition or make the payment.

America keeps its promises to our coalition partners, but we also expect our partners to keep their promises to us. We are not in the business of paying dictatorial, repressive, brutal governments.

Let me review a few of the more egregious examples of Uzbekistan's relationship with us and their abuse of human rights. In May, the Government launched a brutal crackdown in the city of Andijan after protestors stormed a prison and local government headquarters. Eye witnesses estimated the dead at somewhere between 500 and 1,000 and said that the vast majority were unarmed men, women, and children protesting the Government's corruption, lack of opportunity, and continued oppression. In addition to those killed, many others were wounded, and at least 500 fled across the border into Kyrgyzstan.

The Government has rejected all calls for an independent international inquiry into the massacre. The entire European Union has demanded an investigation into the massacre. Tashkent has put the official death toll at just 187 and blamed a foreign conspiracy for the protest. It even placed blame on the United States for the events saying that rebels received money from the U.S. Embassy in Tashkent.

The Uzbek Government launched a campaign of anti-American propaganda after its massacre, staging rallies to denounce the United States and accusing the United States of fomenting Islamic extremism in the guise of promoting democracy.

President Karimov—and I use the term "president" loosely—President Karimov suggested that the United States was behind both the events in Andijan and the "colored revolutions" in other countries.

I remind my colleagues that Uzbekistan agreed to host U.S. forces on its soil to support continuing coalition combat efforts in Afghanistan. Our troops in Afghanistan are still fighting the Taliban. Insurgents have killed hundreds of people, including dozens of Americans, in the last few months. Yet with this going on and with our mission clearly unfinished, in July Uzbekistan ordered the United States to leave the country.

Just last week, the Washington Post ran an article entitled "Uzbeks Stop Working With U.S. Against Terrorism," which describes how Tashkent has decided to abridge its 2002 agreement with President Bush and terminate its counterterrorism cooperation with America. One sentence in this article bears particular notice: "The Bush administration," the article reads, "has concluded that Karimov fears democracy more than terrorism, officials said."

This is the same country that Pentagon officials were describing quite recently as a "very valuable partner and ally in the global war on terror." But Uzbekistan is not a valuable partner and ally; it is part of the problem. This week, the European Union announced that it will impose sanctions against the Uzbek Government for its refusal to accept an international inquiry into the Andijan massacre. This is the kind of response we should be considering to these outrageous actions, not the best way to transfer $23 million in funds from the U.S. Treasury.

The Pentagon wants to pay Tashkent on the principle that America pays its bills for services rendered. I support that principle, but so, too, do I support America standing up for itself in the world and spending taxpayers' money wisely, avoiding the misimpression that we overlook massacres, and avoiding cash transfers to the treasury of a dictator just months after he permanently evicts American soldiers from his country.

I intend to have printed in the RECORD the assessment of every human rights organization in the world of this brutal, oppressive dictatorship. This is a person who just orchestrated a massacre of somewhere, estimates are, around 1,000 of its citizens. This is a government that is illegitimate in that Karimov keeps himself in power through edict. This is a corrupt government in that there is continued repression and oppression of human rights.

Mr. President, I suggest that if the Government of Uzbekistan allowed a full-scale investigation by the European Union and the results are known, then maybe at that time it would be appropriate to give them this money.

Also, let's keep in mind what this brutal and oppressive dictator will do with $23 million of American money. His prisons are full. There is no free press. There is no freedom of movement. It is an oppressive, repressive regime of the old Stalinist style.

I am not saying the United States should not pay its bills. What I am saying is that we should demand at least an investigation of what happened in Andijan some months ago when hundreds, if not a thousand, of its citizens innocently gathered to protest the policies of their government: they were fired on and killed in the most wanton fashion.

The Washington Post article reads:

> The government of President Islam Karimov, one of the most authoritarian to emerge from the collapse of the Soviet Union, has made a broader strategic decision to move away from the 2002 agreement made with President Bush after the Sept. 11, 2001, attacks and is cooling relations with Europe as well. . . .
>
> The move follows tough criticism from Washington—

I might say not the Pentagon—

> and the European Union over Uzbekistan's crackdown on protests in May in the Andijan province, where human rights and opposition groups say hundreds died. Uzbekistan has charged that terrorists initiated the violence.
>
> As tensions deepen, Karimov is shifting his strategic alliance toward Russia and China. . . . In July, Tashkent banned U.S. troops and warplanes from what is known as the [K2 airbase] which was used for counterterrorism, military and humanitarian missions.

The European Union is not renowned to take the lead on some issues. I am proud that the European Union imposed sanctions on Uzbekistan today seeking to punish, according to the New York Times; October 3, 2005:

> . . . seeking to punish the Central Asian nation for its refusal to allow an international investigation into the bloody crackdown of an uprising in May in the northeastern city of Andijon.
>
> The sanctions against Uzbekistan impose an embargo on exports of arms and equipment that might be used for internal repression and suspend meetings between the European Union and Uzbekistan that were aimed at accelerating the former Soviet state's rapprochement with the West. They will also forbid the travel of Uzbek officials directly involved [in] the crackdown to the 25 European Union states.
>
> Survivors and independent organizations claim—

This is survivors, their actual statements—

> and independent organizations claim that hundreds of people were killed, almost all of them unarmed. Uzbekistan, an autocratic state that had been an ally with the Bush administration's counter-terrorism efforts, has argued that the crackdown was a necessary counter-terrorism operation, and said only 187 people, principally Islamic terrorists, were killed. It has stubbornly resisted calls for an open investigation of its crackdown of the uprising.
>
> As criticism over the violence mounted in the spring and summer, Uzbekistan sharply shifted its foreign policy, aligning itself more closely with Russia and China and trimming its relations with the West. In July, it ordered the United States to leave an airbase it has been using since 2001, an eviction now scheduled for early next year.

Last month, Uzbekistan hosted a small joint military exercise with Russian troops, signaling its new allegiances.

> Meeting in Luxembourg, the foreign ministers of European Union states approved the sanctions an initial period of one year, allowing for a review in 2006 of Uzbekistan's willingness to "adhere to the principles of respect for human rights, rule of law, and fundamental freedoms."

A fundamental pillar of this administration's policy and previous administrations is the adherence to principles of respect for human rights, rule of law, and fundamental freedoms, all of which are routinely violated by this thug Karimov and his government.

Mr. President, I ask unanimous consent that the New York Times article, the Washington Post article I just cited, an article from Defense News, an article from Reuters, and an article entitled "Andijan Show Trial Proceedings" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 3, 2005.]

EUROPEAN UNION IMPOSES SANCTIONS ON UZBEKISTAN

(By C.J. Chivers)

MOSCOW.—European Union nations imposed sanctions on Uzbekistan today, seeking to punish the Central Asian nation for its refusal to allow an international investigation into the bloody crackdown of an uprising in May in the northeastern city of Andijon.

The sanctions against Uzbekistan impose an embargo on exports of arms and equipment that might be used for internal repression and suspend meetings between the European Union and Uzbekistan that were aimed at accelerating the former Soviet state's rapprochement with the West. They will also forbid the travel of Uzbek officials directly involved in the crackdown to the 25 European Union states.

The decision followed months of diplomatic tension between much of the West and Uzbekistan after a prison break and anti-government demonstration on May 13. The demonstration, which survivors said included several thousand people, was scattered by gunfire from Uzbek troops and armored vehicles.

Survivors and independent organizations claim that hundreds of people were killed, almost all of them unarmed. Uzbekistan, an autocratic state that had been an ally with the Bush administration's counterterrorism efforts, has argued that the crackdown was a necessary counter-terrorism operation, and said only 187 people, principally Islamic terrorists, were killed. It has stubbornly resisted calls for an open investigation of its crackdown of the uprising.

As criticism over the violence mounted in the spring and summer, Uzbekistan sharply shifted its foreign policy, aligning itself more closely with Russia and China and trimming its relations with the West. In July, it ordered the United States to leave an airbase that it has been using since 2001, an eviction now scheduled for early next year. Last month, Uzbekistan hosted a small joint military exercise with Russian troops, signaling its new allegiances.

Meeting in Luxembourg, the foreign ministers of European Union states approved the sanctions for an initial period of one year, allowing for a review in 2006 of Uzbekistan's willingness to "adhere to the principles of respect for human rights, rule of law and fundamental freedoms."

The trade ban covers weapons and ammunition, as well as dozens of items that could be used in crackdowns and police work, including helmets and certain types of body armor, vehicles equipped with armor, leg irons, shackles, tear gas, water cannons, riot shields, fingerprint equipment, search lights, equipment for intercepting or jamming communications and night vision goggles.

The sanctions also suspended scheduled meetings under the so-called Partnership and Cooperation Agreement, the blueprint that since 1999 has helped develop the European Union's political relations with Uzbekistan and guide economic relations in trade, transport, customs, postal services, telecommunications and other areas.

Human Rights Watch, the New York-based organization, which has investigated the crackdown and repression in the months since, hailed that move, saying it was the first of its kind in the European Union's history.

But although the sanctions mark a clear rebuke of the Central Asian state, they have a limited ability to undermine Uzbekistan's military or police capabilities.

While Uzbekistan has often accepted Western security aid, its military, intelligence and police forces are overwhelmingly equipped with Soviet-era military hardware, which continues to be manufactured and sold by Russia, China and other states outside of the European Union.

Moreover, Russia has made clear it will not honor the embargo, which may create fresh trade opportunities for its arms industry, a sector that has rebounded in recent years under prodding from President Vladimir V. Putin.

"There are no restrictions on weapons supplies to Uzbekistan," Russia's defense minister, Sergei Ivanov, said last week in anticipation of the embargo, according to the Interfax news agency. "We will continue to develop further relations with Uzbekistan."

The potential effects of the travel restrictions to Western Europe are also uncertain.

The Uzbek president, Islam A. Karimov, and the nation's interior minister, Col. Gen. Zakirdzhon Almatov, were in Andijon during the uprising, and survivors have accused them of ordering and directing the violence against the crowd.

But the European Union has not yet drawn up a public list of officials it suspects of involvement in the violence, so it was not immediately clear which officials might face the travel restrictions. A European Union spokesman said the list will be compiled now that the sanctions have been approved.

[From the Washington Post, Sept. 30, 2005]

UZBEKS STOP WORKING WITH U.S. AGAINST TERRORISM

(By Robin Wright)

After cutting off U.S. access to a key military base, Uzbekistan has also quietly terminated cooperation with Washington on counterterrorism, a move that could affect both countries' ability to deal with al Qaeda and its allies in Central Asia and neighboring Afghanistan, U.S. officials said.

The government of President Islam Karimov, one of the most authoritarian to emerge from the collapse of the Soviet Union, has made a broader strategic decision to move away from the 2002 agreement made with President Bush after the Sept. 11,2001, attacks and is cooling relations with Europe as well, the officials said.

The move follows tough criticism from Washington and the European Union over Uzbekistan's crackdown on protests in May in Andijan province, where human rights and opposition groups say hundreds died. Uzbekistan has charged that terrorists initiated the violence.

As tensions deepen, Karimov is shifting his strategic alliance toward Russia and China, the officials said. In July, Tashkent banned U.S. troops and warplanes from the Karshi-Khanabad air base, which was used for counterterrorism, military and humanitarian missions.

Because of the internal Uzbek crackdown, the European Union laid the groundwork yesterday for a vote expected on Monday to impose new sanctions on Uzbekistan for failing to allow an independent international inquiry of the Andijan incidents. The measures include an embargo on arms and any equipment that could be used for internal repression, and visa restrictions for any Uzbek official linked to the violence, European diplomats said.

Senior officials from the State Department, the Pentagon and the National Security Council held three hours of talks with Karimov on Tuesday to express US. concern about Uzbek human rights violations and the deterioration in relations between the two countries.

"We do want to cooperate, but it has to be across the board, not just on counterterrorism and security but also to support democratic and market reforms," Assistant Secretary of State Daniel Fried said yesterday in a telephone interview from Kazakhstan. He called the recent Uzbek decision to cut back on counterterrorism cooperation "very disappointing."

A spokesman from the Uzbek Embassy in Washington said his nation is still cooperating with the United States but would not comment further.

The E.U. has been pressuring Washington to impose similar sanctions, but the Bush administration wants to give Karimov one last chance to renew cooperation. "The United States is going to look very closely at whether Karimov responds to our message, and, if not, we will draw conclusions," Fried said. "We're not talking about six months. My purpose was not to drag out the process."

The Bush administration has concluded that Karimov fears democracy more than terrorism, officials said. The biggest threat to his government is the Islamic Movement of Uzbekistan, which a State Department report says has been involved in attacks on U.S. forces in Afghanistan and has plotted attacks on U.S. diplomatic facilities in Central Asia. Aligned with al Qaeda, it seeks to overthrow Karimov and create an Islamic government, the report says.

The Uzbek issue is gaining more attention on Capitol Hill. Reps. William D. Delahunt (D-Mass.) and Lloyd Doggett (D-Tex.) held a news conference yesterday to urge the White House to end all Pentagon payments to Tashkent and to go to the United Nations to bring the Uzbek leader to justice.

Karimov "inflicts immeasurable pain and misery on his own people and then evicts us from a strategic military facility—and the Pentagon's idea of a penalty is the gift of millions of U.S. tax dollars," Delahunt said. The Pentagon recently agreed to pay $23 million for past use of the K-2 air base.

[From Defense News, Sept. 28, 2005]

U.S. TO LEAVE UZBEK AIR BASE: OFFICIAL)

(By Agence France-Presse)

The U.S. military will vacate a military air base it had been using in Uzbekistan without further discussion, as demanded by the Uzbek authorities, a senior U.S. official confirmed on Sept. 27. "We intend to leave the base without further discussion," Dan Fried, assistant secretary of state for European and Eurasian affairs, told reporters after meeting here with Uzbek President Islam Karimov.

Fried also confirmed Washington would pay Uzbekistan 23 million dollars for the past use of Karshi-Khanabad air base, also known as K-2, despite objections by members of the U.S. Congress. Uzbekistan in July gave the U.S. military six months to end operations at K-2, effectively severing a partnership that sprang up in 2001 on the eve of the U.S. military campaign to oust the Taliban in Afghanistan.

Uzbek lawmakers ratified the eviction notice last month. The base was a crucial staging area for U.S. forces operating in northern Afghanistan, and after the war became a hub for flights carrying supplies for U.S. and NATO forces in the country.

The eviction notice came after Washington called for an international investigation into last May's crackdown in the eastern city of Andijan that the government said left 187 people dead but which human rights groups said amounted to a massacre of civilians. Fried admitted to differences with Karimov during his meeting with the Uzbek leader.

"We did not agree on all issues and made it clear we support civil society and NGOs around the world just like foreign NGOs can operate in the U.S.," he said. Several international non-governmental organizations accuse the Uzbek authorities of having killed hundreds of unarmed civilians in Andijan. Fried said his visit came after a difficult period in U.S.-Uzbek relations, "which included human rights issues and Andijan events."

He said his message to Uzbek officials was to determine a basis on which U.S.-Uzbek relations and cooperation could move ahead, provided such notions as democracy, human rights and political reforms were taken into account. He also denied allegations by one of 15 alleged Islamist insurgents on trial over the Andijan bloodshed that the U.S. embassy had provided funding to his group.

"The assertions about helping Islamic insurgents are ludicrous and no credible," he said. Fried was scheduled to meet representatives of Uzbek civil society groups on Wednesday, and was later due to visit Kazakhstan and Kyrgyzstan for talks on bilateral and regional issues, including the fight against terrorism, officials said.

[From Reuters Foundation, Sept. 30, 2005]

CENTRAL ASIA: WEEKLY NEWS WRAP

(Source: IRIN)

ANKARA.—The trial of 15 men accused of plotting to overthrow the Uzbek government in the eastern city of Andijan entered its second week in the Uzbek capital, Tashkent.

Upwards of 1,000 civilians may have been killed in Andijan on 13 May, according to some rights groups, when security forces opened fire on protesters demonstrating against the government of Uzbek President Islam Karimov, who has ruled Central Asia's most populous state since the collapse of the former Soviet Union in 1991.

Despite international pressure, Tashkent has rejected all requests for an independent international inquiry, placing the official death toll at 187.

The 15 men have pleaded guilty to trying to overthrow the Uzbek government and create an Islamic state in a violent uprising that prosecutors maintain was stoked by Western media. More than 100 people face charges that include murder, fomenting mass arrest and an attempted coup.

On Monday, three defendants testified they had trained at military camps in neighbouring Kyrgyzstan, further backing Tashkent's claim of a conspiracy that included foreign fighters and funding, one AFP report said.

"We were given money by the U.S. embassy to achieve our goals," Tavakkalbek Hojiyev, one of the alleged insurgents, reportedly told the court.

But human rights groups, who have repeatedly called for international pressure, maintain the well orchestrated trial was merely a concerted effort to bury the truth.

On Thursday, the European Union (EU) answered those calls by announcing it would impose "smart sanctions" on Tashkent following its refusal to allow for an international inquiry.

The decision, to be approved by EU foreign ministers on Monday, marks a hardening stance by the international community against Tashkent, Britain's Telegraph newspaper reported. Criticism of the Uzbek authorities from Washington has already led to the U.S. being ordered to remove its airbase at Karshi-Khanabad, in the southeast, the report added.

Once a staunch ally in America's wars against terror, relations between the two countries have soured over Andijan. On Monday, the U.S. vowed not to trade democratic principle for continued use of the base, the AFP reported.

EU diplomats reportedly said the sanctions would include redirecting EU funds from the Uzbek government to grassroots organisations, banning senior Uzbek government figures from visiting European countries and halting the sale of weapons.

Moving to Tajikistan, Tajik President Emomali Rahmonov on Tuesday told a conference on coordinating donor aid to protect the Tajik-Afghan border that the situation with regard to drug proliferation was in hand.

Despite a lack of military equipment, Tajik border guards had proved they could protect their 1,206 km border on their own, following the departure of Russian troops in the area in June, the president claimed. The country has become a major route for drugs smuggled to Europe and Russia from Afghanistan.

One day earlier, U.S. Ambassador to Tajikistan Richard Hoagland and Minister of Foreign Affairs Talbak Nazarov signed a Letter of Agreement for U.S. $9 million to assist the country's border guards. According to an embassy statement, the funding would provide infrastructure improvements, border outpost development, transportation and other necessary equipment for the guards.

The funding is part of the U.S. Department of State's Bureau of Narcotics and Law Enforcement Affairs continuing support for Tajikistan's border guards, the Tajik Drug Control Agency and the Ministry of Interior. Since December 2004, Washington has provided or is in the process of providing over $16 million worth of assistance to the former Soviet republic's law enforcement agencies.

Staying in Tajikistan, Tajik authorities on Tuesday confirmed the arrest of a Russian citizen who allegedly belonged to the outlawed Islamic Movement of Uzbekistan (IMU), the AP said.

Blamed for a series of armed incursions into Uzbekistan in 1999–2001, as well as other attacks, the IMU has been designated by the U.S. State Department as a terrorist organisation, the report added.

Kyrgyzstan's parliament on Tuesday turned down six of 16 candidates proposed by President Kurmanbek Bakiyev to form a new cabinet, including his close ally Roza Otunbayeva, who was nominated to head the foreign ministry.

According to the AP, many lawmakers, many of whom were holdovers from the era of Bakiyev's ousted predecessor, Askar Akayev, also rejected the appointment of Bakiyev's nominees for the cabinet's chief of staff as well as culture, labour and transport ministers and the head of the migration service.

On 1 September, parliament approved Felix Kulov as prime minister. Kulov was a former security chief who had been jailed by Akayev for alleged corruption, the reported said.

Meanwhile in Kazakhstan, Reporters Without Borders (RSF) on Wednesday condemned the action of the Kazakh printing press Vremia Print in unilaterally terminating contracts to print seven opposition newspapers without explanation on Monday.

"It is unacceptable that the Kazakh public is being deprived of independent and opposition news in the run-up to the 4 December presidential elections," the press watchdog group said. "We call on President Nursultan Nazarbayev to respect press diversity, especially at such a crucial moment in the country's political life."

Print media had proven the only source of independent news in Central Asia's largest state, as all TV stations were controlled by Nazarbayev associates, RSF claimed.

Lastly in Turkmenistan, the Turkmen Initiative for Human Rights announced that all Russian schools which used to operate had been transformed into Turkmen schools. Yet, one class with Russian as the language of instruction would remain in each of the schools.

With Russian schools being closed and demand for Russian instruction exceeding available places, only those children whose parents held Russian citizenship or a migrant status to Russia would be allowed to attend, the Vienna-based group noted on Tuesday.

ANDIJON SHOW TRIAL PROCEEDINGS: TESTIMONY OF HOSTAGES, ACCUSATIONS AGAINST THE U.S. AND PRESS

UZBEKISTAN: DEFENDANTS IN ANDIJON TRIAL REITERATE GUILT, BLAME OTHERS

PRAGUE.—The defendants allegedly behind the May uprising in the eastern Uzbek town of Andijon are confessing to the charges and saying foreign countries instigated the revolt.

One of the defendants, Tavakalbek Hojiev, said yesterday that the U.S. Embassy in Tashkent financially supported the uprising. He did not provide any evidence but said he was informed about the fact by another man—Qobiljon Parpiev—whom the Uzbek government has accused of helping instigate the violence.

"He [Parpiev] told me that the U.S. Embassy has allocated the money [for the uprising.]" Hojiev said. "And if our action in Andijon would not succeed we had to leave for Kyrgyzstan. He said that this was the plan. According to this plan, we left for Kyrgyzstan."

Parpiev was among the protesters who seized the regional administration building in Andijon on 13 May. He escaped when Uzbek forces opened fire on protesters, and fled the country.

Hojiev said the aim of foreign countries allegedly assisting the revolt was to overthrow the Uzbek government by provoking a "colored revolution."

U.S. State Department spokesman Sean McCormack, speaking yesterday at a news briefing in Washington, denied any links between the U.S. Embassy in Tashkent and the Andijon unrest.

"With respect to Andijon, we continue to support an independent, international inquiry," McCormack said. "As for Embassy involvement in this tragic incident, this has come up before and there's just no basis for it."

Three defendants—all ethnic Uzbeks with Kyrgyz citizenship—said yesterday that they received training at a camp in Kyrgyzstan. One of them, identified as Burkhanov, said one of the instructors was a red-haired, blue-eyed Chechen named Mamed who taught them how to operate weapons and dig trenches.

"Three of us were brought to a firing range in Teke (a village in the Osh region of Kyrgyzstan)," Burkhanov said. "When we arrived, there were three strangers besides people we already knew. We greeted them and (alleged militant) Akrom Mamadaliev introduced them to us. One of them was named Mamed. He had red hair, blue eyes, and a beard. Then Akrom Mamadaliev told that man (Mamed) and another man to train us. Then we stepped into a room and Mamed showed us how to disassemble and assemble [a weapon]."

Kyrgyz authorities have refuted any efforts to link Kyrgyzstan to the events in Andijon.

FORMER HOSTAGES TESTIFY IN UZBEK UPRISING TRIAL

TASHKENT—Former hostages and other witnesses testified Wednesday in the trial of 15 alleged participants in a May uprising that was brutally suppressed by Uzbek government troops.

Former hostage Rakhimjon Kurbonov, a van driver, said he was shot in the back and the leg when rebels used him as a human shield. He also said he had been beaten up by relatives of some of the 23 religious businessmen whose trial on extremism charges sparked the uprising.

Former hostage Bakhtiyor Murodov, a government official, said he was severely beaten and tortured by rebels and urged judges to sentence the defendants to death for "betraying humanity and their motherland."

Another ex-hostage, Oibek Tojiboev, said the rebels had threatened to soak the hostages in petrol and set them on fire.

Dilshodbek Usmonov, a police officer, told court on Wednesday he had been taken hostage by "a crowd of armed plainclothes men."

Usmonov also accused some journalists who entered regional government headquarters seized by the rebels to talk to their leaders of ignoring "wounded and bloodied hostages."

"What kind of journalists are they?" he asked. "They don't care about the suffering of ordinary people."

UZBEK "VICTIMS" URGE CAPITAL PUNISHMENT FOR TERROR SUSPECTS

TASHKENT—Victims of the Andijon events are demanding capital punishment for defendants in court in Tashkent. Capital punishment is executed by firing squad in Uzbekistan.

Giving testimony, Odiljon Mansurov, director of a transport company, said that his car had been stopped by unknown armed people in the early morning of 12 May, and that he had been taken to the regional administration building.

'According to him, terrorists tried to take as many hostages as possible. "At first they wanted to exchange us for their supporters held in prison, but they later decided to use us as 'human shields' against law-enforcement officers," Mansurov said.

He also said that hostages had been beaten up, and that two law-enforcement officers had been killed before his eyes.

"They said they were acting in the name of religion and [to protect their] business interests, but their goals were completely different. They cannot be forgiven. I ask the court to give them capital punishment," he said.

DEFENDANTS PIN THE BLAME ON THE AMERICANS AND JOURNALISTS

Yesterday, the U.S. Department of State denounced the accusations that the U.S. Embassy in Uzbekistan had allegedly orchestrated and financed the May revolt in Andizhan. Defendants standing trial for participation in the revolt announced that the conspiracy against the Uzbek authorities had been arranged by the Americans, journalists, and human rights activists. This newspaper contacted some of the "conspirators" who managed to escape from Uzbekistan.

The United States was first accused in the trial in Tashkent by defendant Tavakkol Khodzhiyev on Monday. Khodzhiyev told the Supreme Court that the revolt in Andizhan had been financed by the U.S. Embassy. "We got money from the U.S. Embassy," Khodzhiyev confessed. "The Americans intended to provoke a "color revolution" and disrupt the constitutional system of Uzbekistan." Dwelling on the so called conspiracy, defendants could not say how much the Americans had invested in the coup d'etat and concentrated on its details instead. According to defendant Husanzhon Turabekov, one Kelly (a citizen of the United States) was in contact with the Akramians. She drove a red Jeep and was always accompanied by human rights activists and journalists. Matlyuba Azamatova of Uzbekistan, BBC reporter in the Ferghana Valley, was usually with the American. Turabekov said that Azamatova and experts on human rights had become the main agitators and instigators. "When the Andizhan khokimijat was overrun, they made speeches in the square all day long, condemning the powers-that-be and urging rebels to hold on. They said that help was coming."

Pleading guilty and demanding capital punishment for themselves at the very first meeting of the Supreme Court, the defendants became prosecutors. They go on

> confessing and exposing the anti-Uzbek conspiracy of Washington. International terrorism, journalists, and human rights activists. The defendants maintain that they are treated properly in prison and that they are shocked by how outrageously media outlets and human rights activists spread lies about the Uzbek regime. The prosecution, Deputy Prosecutor General Anvar Nabiyev, had appraised the media in a similar manner when the trial was just beginning. Nabiyev called journalists "jackals" and "carrion eaters". The deputy prosecutor general put on the list of enemies of Uzbekistan IWPR Tashkent Division Director Galima Bukharbayeva, Ferghana. Ru correspondent Aleksei Volosevich, RL correspondent Andrei Babitsky, and Amazatova. According to Nabiyev, they had depicted terrorists as freedom fighters and promoters of democracy. BBC got the worst of it. Nabiyev announced that its correspondents had "shamelessly spread prejudiced lies on what was happening on the orders from certain external forces."

Mr. McCAIN. Mr. President, let me tell you what the Uzbek Government did. They arrested some people. Here is what happened. This is Reuters:

> Uzbekistan: Defendants in Andijon Trial Reiterate Guilt, Blame Others. The defendants allegedly behind the May uprising in the eastern Uzbek town of Andijon are confessing to the charges and saying foreign countries initiated the revolt.
>
> One of the defendants, Tavakkalbek Hojiyev, said yesterday that the U.S. Embassy in Tashkent financially supported the uprising.

Mr. President, here is the old Stalinist trial where they beat the defendant into submission, have him confess, and then blame the U.S. Embassy in Tashkent, and we are going to give them 23 million bucks?

As I said:

> . . . that the U.S. Embassy in Tashkent financially supported the uprising. He did not provide any evidence but said he was informed about the fact by another man . . . whom the Uzbek government has accused of helping instigate the violence.
>
> "He told me that the U.S. Embassy has allocated the money [for the uprising.]" Hojiyev said. "And if our action in Andijon would not succeed we had to leave for Kyrgystan. He said that this was the plan. . . .
>
> Parpiev was among the protesters who seized the regional administration building in Andijon on 13 May. He escaped when Uzbek forces fired on protesters. . . .

It goes on and on. It is the age-old Stalinist tactic: Take somebody, torture them, and force them to confess. And they are blaming the United States of America.

This is the Karimov Government that we are going to give $23 million and that is now alleging that the United States of America not only was responsible for this uprising in Andijon, but the "colored revolutions" all over the world—Lebanon, Georgia, Kyrgyzstan, Ukraine.

> Former hostages and other witnesses testified Wednesday in the trial of 15 alleged participants in a May uprising that was brutally suppressed by Uzbek government troops. . . .Former hostage Rakhimjon Kurbonov, a van driver, said he was shot in the back and leg when rebels used him as a human shield. He also said he had been beaten up by relatives of some of the 23 religious businessmen. . . .

On and on and on.

> Yesterday, the U.S. Department of State denounced the accusations that the U.S. Embassy in Uzbekistan had allegedly orchestrated and financed the May revolt in Andijon. Defendants standing trial for participation in the revolt announced the conspiracy against the Uzbek authorities had been arranged by the Americans, journalists, and human rights activists.

This is an echo of the days of the Cold War, Mr. President. This is when the Stalinists were in charge.

Finally:

> Upwards of 1,000 civilians may have been killed in Andijon on 13 May, according to some human rights groups, when security forces opened fire on protesters demonstrating against the government of President Islam Karimov, who has ruled Central Asia's most populous state since the collapse of the Soviet Union in 1991.
>
> Despite international pressure, Tashkent has rejected all requests for an independent international inquiry, placing the official death toll at 187.
>
> The 15 men—

Guess what—

> have pleaded guilty . . .

Is that a surprise that the defendants have all pleaded guilty, condemning themselves to life sentences or death?

> The 15 men have pleaded guilty to trying to overthrow the Uzbek Government and create an Islamic state in a violent uprising that prosecutors maintain was stoked by Western media. More than 100 people face charges that include murder, fomenting mass arrest and an attempted coup.

Mr. President, I will curtail my remarks and just say to my friend from Alaska—I know he has a very busy agenda—if I were able to authorize on an appropriations bill—which I am not—I would say at the completion of a thorough investigation of the massacre of Andijon. I cannot do that because this is an appropriations bill, so the amendment basically says no money shall be spent in 2006.

My whole purpose in this is to have the investigation by an international organization, find out who is guilty, and recognize we are dealing with a very brutal, repressive, old-time Stalinist regime.

I thank the chairman for his courtesy.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. McCAIN. At a time to be determined by the distinguished chairman.

The ACTING PRESIDENT pro tempore. There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I thank the Senator from Arizona. Mr. President, I ask unanimous consent that there be 4 minutes equally divided on this amendment before the vote when it does occur.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. I say to the Senator, I will be pleased to work with the Senator from Arizona to amend this so even though it might be legislation, it urge, at least, an investigation that the Senator has mentioned. Perhaps we can work it out before the time for the vote.

Mr. McCAIN. I yield the floor.

Mr. STEVENS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator's amendment No. 1978 not be subject to a second-degree amendment, but would be subject to an amendment by the Senator from Arizona should he wish to amend the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. I thank the Senator.

Mr. STEVENS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF HARRIET MIERS

Mr. REID. Yesterday, President Bush announced that he will nominate White House Counsel Harriet Miers to the Supreme Court. I congratulate Ms. Miers on this high honor, and I pledge that Senate Democrats will work in good faith to ensure a dignified and thorough confirmation process. It is now well known that I suggested to the President that Harriet Miers would be worthy of the President's consideration. The President has chosen her as a replacement for retiring Supreme Court Justice Sandra Day O'Connor. I am grateful that the President took account of my views.

Over the coming days and weeks, we will learn more about Harriet Miers. The Judiciary Committee will hold comprehensive hearings. I do not intend to make up my mind about whether to support or oppose confirmation of this nominee until after the committee hearings, and I hope everyone in the

Senate will follow that. I think the hearings that were held previously in the Roberts nomination were dignified. I thought that Senator SPECTER and LEAHY did a remarkably good job. I am confident that they will do it in this matter, also.

The reason that we must proceed in the manner that we did in the Roberts hearing is that the Supreme Court is the final guardian of the rights and liberties of all Americans. With so much at stake, we should not rush to judgment about this or any other nominee. But even at this early stage of the confirmation process, I will say that I am impressed by what I know about Harriet Miers. She overcame difficult family circumstances to become the managing partner of a successful 400-lawyer Dallas law firm. That is a big law firm. She was the first woman president of the Dallas Bar Association and then the first woman President of the Texas State bar association.

In those roles, she advocated the importance of racial and gender diversity in the legal profession and was a strong supporter of legal services for the poor. Ms. Miers has not been a judge, but I regard that as a strength of her nomination, not a weakness. In my view, the Supreme Court would benefit from the addition of a Justice who has real experience as a practicing lawyer. A nominee with relevant nonjudicial experience would bring a different and a useful perspective to the Court. The nomination of Harriet Miers bears similarity to the nomination of Lewis Powell. At the time he was nominated by President Nixon in 1971, Powell had never been a judge. He had been a pillar of the Richmond, VA, bar just as Ms. Miers was a pillar of the Dallas, TX, bar. And he served as President of the American Bar Association just as Ms. Miers served as President of the Dallas and Texas bar associations.

Mr. President, I have been told that about 45 percent of all Justices who served on the Supreme Court have had no judicial experience before they were chosen by a President. I think that speaks volumes about the need to diversify the Supreme Court.

I had lunch at the Supreme Court 6 weeks ago or thereabouts—I do not recall exactly when—and at the little table at which I was seated were three Supreme Court Justices. I will not mention their names, other than to say one was a woman and two were men. So it had to either be Justice Ginsburg or Sandra Day O'Connor, one of them. And they were very clear in saying that they agreed that there should be strong consideration given to someone who had not been a judge. I have been told that Byron White, who was selected by President Kennedy, had no judicial experience. He had a qualification I am not sure we are going to find in many lawyers out there, but he was an All-American football player. If you look at the qualifications of appellate judges, I think that is important, but remember these people sit in their offices usually alone writing opinions. Three of my sons have clerked for Federal judges. Those jobs are very lonely and very confining. They don't see much of the real world, in my opinion. So I would welcome a return to the days when distinguished practicing lawyers and bar leaders are recognized as suitable candidates for high judicial office.

In recent years, Supreme Court Justices have been chosen exclusively from the ranks of Federal courts of appeal. The judges on the courts of appeal are often very smart, well credentialed, but the life of a Federal appeals judge, as I have indicated, is insular and isolated. They know the law in an abstract way but don't appreciate the impact of the law on the lives of real people.

I asked Harriet Miers in one of the first conversations I had with her, "Have you ever tried a case?" She was a trial lawyer. That is what she did. She is a little different kind of trial lawyer than I was. She was a corporate lawyer and tried cases involving corporate problems. But she stated to me in a conversation that I had with her that she did divorce work.

I believe that is so important, that in the future we try to make our Presidents aware that the Supreme Court does not have to have all appellate judges to go into their ranks. Federal judges are often wise, but there is a different kind of wisdom that comes from the day-to-day practice of law where they talk to clients, where they pick juries, where they argue cases to a jury, and where they talk to clients about fees they are going to charge. They participate in the community doing work for the poor.

In any event, there is certainly room for both kinds of judicial nominees on the Supreme Court—those with judicial experience and those without judicial experience. I hope in the years to come that we look favorably upon both—not just someone with appellate experience.

One thing we certainly need on the Supreme Court is independent thinking. Ms. Miers has been George Bush's lawyer for more than a decade. He is her friend. I have no problem at all with her being his friend. I think that speaks well of both of them—that they have confidence in each other, so to speak. But she needs to demonstrate to the Senate that she will put those close ties aside when necessary and stand in judgment of a President who has elevated her to this Court.

In the press conference today, just a few hours ago, President Bush said, "Harriet Miers knows the kind of judge I am looking for." But if she is confirmed, I say Ms. Miers must become the kind of judge the American people are looking for—a judge committed to fundamental rights and freedom.

I look forward to the Judiciary Committee's process which will help the American people learn more about this nominee and help the Senate determine whether she deserves a lifetime seat on the historic Supreme Court. But I remind the Senate that the nomination of Harriet Miers will not reach the floor for some time, and we are going to cooperate fully, as I have indicated, as we did with Judge Roberts. The Democrats want the process to move forward expeditiously but fairly.

After we get back from the week-long recess that will start this Friday, we will have 5 weeks. We have a lot of things to do during that 5-week period. We have many pressing pieces of legislation that need to be dealt with in this period of time.

After the failures of Katrina—I should not say the failures of Katrina, Katrina did pretty well on its own as a storm, but what happened afterward was failure. And I must say that we now have a string of scandals hovering over the Capitol. It is more important than ever that we get to work on all the many things we have to do. The American people are tired of business as usual in Washington and want us to come together to get things done. They want a change. They want reform. They want a new direction. And that is what Democrats will be looking for in the months ahead.

We believe it is time for all of us to unite because America can do better.

Together, we can reform the culture of corruption and cronyism that is spreading throughout the Nation's Capitol, a culture that led to Michael Brown at FEMA and the failure of Katrina and the Republican scandals we are now reading about.

Together, we can come together to help working families who are being pinched at the gas pump. In the short term we can investigate price gouging, and in the long run we can move our country closer to energy independence by the year 2020.

Together, we can meet our obligation to keep America strong and secure. We can make a real commitment to finding out what went wrong during Katrina and fixing it. And we can pass the Department of Defense authorization bill to protect our fighting men and women in uniform representing our great country. We can insist that the President provide our troops with a clear strategy and paths for success in Iraq. Yesterday I spoke to a marine major who spent 8 months in Iraq in combat. The cities he worked to clear of terrorists and insurgents are not clear anymore.

In addition to that—a clear path for success in Iraq that the President must give us because certainly the mission has not been accomplished—we also have to confront the health care crisis—and it is a crisis. We have to confront it by bringing down costs and helping over 40 million uninsured Americans get the care they need.

Together, we can show the American people that we understand our budget priorities must change following the worst natural disaster in our Nation's history and that we understand it is not time to cut Medicaid, a program that was set up years ago to protect the poorest of the poor with their medical problems.

We can't cut education. Why would we do that? So the administration can spend more on tax breaks for multi- interests and multimillionaires? In calling for spending cuts, the President talked like a fiscal conservative, but in his 5 years in office, he has spent like a fiscal wreck. While our deficits were mounting, he had no problem spending trillions of dollars on tax breaks for the few. But now, in the wake of this disaster, when the Federal Government begins to help rebuild the lives of Americans who have lost everything, he says he is interested in fiscal discipline. Yet whose benefits would he cut?

Just weeks after the economic and social divide in our country had been ripped open for all to see, he is proposing deep cuts in the crucial services that help American families get ahead. Around the gulf coast, some of America's most neediest families suffered the most. Why? Simply because they were poor. Now, while continuing to push for tax breaks for special interests, financed with more debt, the President wants Katrina's survivors and other vulnerable Americans to pay for reconstruction also. America can do better. We must do better. And Democrats are committed to leading the way.

There is another area where we will not give up the fight—helping Katrina victims. Today, the President made a point of mentioning how he wants to pay for "rebuilding the gulf," but let us not forget that we still have to do the work that I call rebuilding lives.

This morning, the President was also asked about relief efforts and whether families are getting what they need. He said things are going "pretty good." But anyone who has seen the news would question that is the case.

On Sunday, newspapers all over the country had different titles. But the Washington Post ran an article titled, "Housing Promises Made to Evacuees Have Fallen Short." That is an understatement. This article talks about tens of thousands of evacuees still living in hotel rooms, if they are lucky, and facing the possibility of eviction in less than 2 weeks. That is not pretty good.

Another story over the weekend explained that FEMA is stopping its cash assistance program for hurricane survivors. When that happens, many victims will have only unemployment insurance to turn to, if they are lucky. Those who didn't have a job when Katrina hit won't be eligible for unemployment, and those who are eligible will find their benefits grossly inadequate.

Is this just a term I am using, "grossly inadequate"? Let us look at it. For example, a formerly self-employed person in Mississippi can expect to receive $86 a week to meet his or her family's needs. That is not "pretty good." If you lost your home, your job, and all your possessions, would you be feeling "pretty good" about $86 a week? I don't think so. America can do better than that.

For weeks, Democrats have been trying to get victims the relief they need. Unfortunately, too many of my colleagues on the other side of the aisle have not shared our sense of urgency.

Days after the storm, Democrats proposed a plan for comprehensive emergency relief. It was introduced as S. 1637, the Katrina Emergency Relief Act of 2005. This legislative package was designed to get families assistance in four areas: housing, health care, education, and financial relief. Here it is more than a month later while Senators GRASSLEY and BAUCUS, a Democrat and a Republican, chairman and ranking member of our Finance Committee, have been working hard. This Republican Senate has made virtually no progress. In fact, most of the Senate's time has been taken up by legislation that has little or no help for the victims. Last spring, Republicans in Congress and the President moved mountains in the middle of the night to intervene in one Florida family's tragedy. But today, when thousands of displaced families are struggling to survive, Republicans are sitting on their hands.

America can do better. We can start tomorrow by finally addressing the needs of Katrina's victims in a comprehensive manner.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THUNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF HARRIET MIERS

Mr. McCONNELL. Mr. President, today I rise to commend President Bush for his choice of Harriet Miers to be the Nation's next Associate Justice of the Supreme Court. Ms. Miers has an exemplary record of service to our country. She will bring to the Court a lifetime of experience in various levels of government and at the highest levels of the legal profession. She is a woman of tremendous ability and very sound judgment.

Ms. Miers received her bachelor's degree and law degree from Southern Methodist University in her native Texas. Upon graduation, she clerked for District Judge Joe Estes in the early 1970s. Ms. Miers has a distinguished career as one of the foremost lawyers in this country. She served has a role model for women lawyers everywhere. After clerking with Judge Estes for 2 years, Harriet was the first woman ever hired at the renowned Dallas law firm of Locke Purnell Rain Harrell in 1972. By 1978, she had made partner. And 24 years after first entering the firm's doors, her colleagues elected her to be the first female president. She was the first woman to lead a Texas firm of that size and stature. That is a remarkable rise and a testament to her ability to lead and, for that matter, to inspire others.

Further evidence of her administrative skill came when her firm merged with another firm to become the larger Locke Liddell & Sapp, LLP, and Ms. Miers became the comanaging partner, overseeing 400 lawyers. As an accomplished trial litigator, Ms. Miers has skillfully represented clients as varied as Microsoft, Walt Disney, and SunGuard Data Systems. Her peers have recognized her many talents, as the National Law Journal has repeatedly honored her as one of the top lawyers in our country.

Complex corporate litigation is a notoriously challenging practice area. Ms. Miers' ability to master a wide range of substantive legal issues has served her well time and time again, both in government and in the private sector.

In 1985, Harriet Miers became the first woman president of the Dallas Bar Association, and in 1992, she became the first woman president of the State Bar of Texas. She has played a large role in the American Bar Association, serving in various leadership positions in that organization, including as chair of the board of editors of the prestigious ABA Bar Journal.

Ms. Miers has great experience in government, as well as at the local, State, and Federal levels. In 1989, she was elected to the Dallas city council. From 1995 to 2000, she volunteered to serve as chairwoman of the Texas Lottery Commission, while fulfilling her time-consuming duties as a leader in a prestigious law firm. She was a powerful force for the fair and honest administration of the State lottery which had previously suffered from scandal. In an editorial, the Dallas Morning News commended her for her meritorious service and for her integrity.

Ms. Miers has great experience in the Federal Government, as we all know, serving as assistant to the President and staff secretary, Deputy Chief of Staff to the President, and in her current role as Counsel to the President, where I and others have had a good deal of dealings with her over the last few months. She succeeded Attorney General Gonzales as White House Counsel. All of my dealings with her have been of the highest order. I really couldn't compliment her more, both for her personality and for her legal skills. My interaction with her could not have gone better in every respect.

In these duties, she has grappled with the challenging issues that face not only the White House but our entire country these days. She is an accomplished lawyer who has won the respect of Republicans and Democrats alike. She understands the role of a judge is not to legislate from the bench but to interpret the law. She will bring to the Supreme Court her broad experiences in the worlds of government and the law. She is well qualified to join our Nation's highest court and the President, after unprecedented consultation with the great majority of us in the Senate, has made an outstanding nomination. She will make a fine addition to the Supreme Court, and I look forward to her confirmation.

Now that we have a nominee, it is the Senate's responsibility to provide advice and consent in a fair, dignified, and responsible manner. We did that on the Roberts nomination. I fully expect the Senate to conduct itself in the same way on the Miers nomination.

In doing so, we should follow three basic principles: We should treat Harriet Miers respectfully. We should have a fair process, and we should complete our process with an up-or-down vote in a timely manner.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. REED. Madam President, I also ask the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1943

Mr. REED. I ask to call up amendment No. 1943.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED] proposes an amendment numbered 1943.

The amendment is as follows:

(Purpose: To transfer certain amounts from the supplemental authorizations of appropriations for Iraq, Afghanistan, and the Global War on Terrorism to amounts for Operation and Maintenance, Army, Operation and Maintenance, Marine Corps, Operation and Maintenance, Defense-wide activities, and Military Personnel in order to provide for increased personnel strengths for the Army and the Marine Corps for fiscal year 2006)

At the appropriate place, insert the following:

SEC. . (a) ADDITIONAL AMOUNTS FOR INCREASED PERSONNEL STRENGTHS FOR ARMY AND MARINE CORPS FOR FISCAL YEAR 2006.—

(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY" is hereby increased by $1,081,640,000.

(2) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, MARINE CORPS" is hereby increased by $31,431,000.

(3) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby increased by $121,397,000.

(4) ADDITIONAL AMOUNT FOR MILITARY PERSONNEL, ARMY.—The amount appropriated by title I under the heading "MILITARY PERSONNEL, ARMY" is hereby increased by $2,527,520,000.

(5) ADDITIONAL AMOUNT FOR MILITARY PERSONNEL, MARINE CORPS.—The amount appropriated by title I under the heading "MILITARY PERSONNEL, MARINE CORPS" is hereby increased by $170,571,000.

(b) OFFSETS FROM SUPPLEMENTAL AMOUNTS FOR IRAQ, AFGHANISTAN, AND GLOBAL WAR ON TERRORISM.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by title IX under the heading "MILITARY PERSONNEL, ARMY" is hereby reduced by $2,527,520,000.

(2) MILITARY PERSONNEL, MARINE CORPS.—The amount appropriated by title IX under the heading "MILITARY PERSONNEL, MARINE CORPS" is hereby reduced by $170,571,000.

(3) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by title IX under the heading "OPERATION AND MAINTENANCE, ARMY" is hereby reduced by $1,081,640,000.

(4) OPERATION AND MAINTENANCE, MARINE CORPS.—The amount appropriated by title IX under the heading "OPERATION AND MAINTENANCE, MARINE CORPS" is hereby reduced by $31,431,000.

(5) OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount appropriated by title IX under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby reduced by $121,397,000.

Mr. REED. I also ask unanimous consent to add Senator HAGEL as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, I rise to offer an amendment which would move funding for the end-strength increases included in this bill from emergency funding to regular funding, thereby increasing the top lines of the Army and Marine Corps budgets.

Let me first begin by commending Chairman STEVENS and Senator INOUYE for including the end-strength numbers, the increase in this legislation. There are no more dedicated individuals committed to the welfare and the efficiency of our military forces than Senator STEVENS and Senator INOUYE, and they have raised the end-strength numbers of the Army by 40,000, and they have raised the end-strength numbers of the Marine Corps by 3,000, and this was over the request included in the President's budget.

I think it is patently clear that additional personnel are necessary, and I am pleased to see that this is the conclusion of the Appropriations Committee. But simply raising the end-strength number, in my view, is not enough. I believe we also have to pay for these troops in a very straightforward fashion—not through emergency supplementals but through the regular budget process. If we do not start doing this now, I believe the Army and the Marine Corps will begin to pay a far greater price in the future as supplemental funding may diminish, but still the needs for an increased end strength persist.

There is an obvious need for increased end strength. On January 24, 2004, Army Chief of Staff General Schoomaker announced he had received emergency authority to temporarily increase the size of the Army by 30,000 soldiers for the following 4 years. At that time the leaders of the Department of Defense were working on a couple of assumptions.

First, they were working with a plan formulated in the fall of 2003 that calculated the numbers of forces in Iraq in mid-2005 to be approximately 40,000 troops. Remember, at that time the Pentagon was predicting our force levels in Iraq would be 40,000 troops. In the fall of 2005, at this moment, we have approximately 139,000 Army troops in Iraq, together with 25,000 marines—far above the predicted level of troops necessary, in the Pentagon's view 2 years ago, to conduct these operations.

Now this number of about 130,000 troops, Army troops and significant Marine Corps forces, has been steady or even higher from the period of March 2003, the time of the invasion, to today.

In addition, General Schoomaker recently told the Associated Press he is planning for over 100,000 troops to remain in Iraq through fiscal year 2009.

I think this is very prudent and I commend General Schoomaker for doing that which I think is necessary, of publicly stating that we at least have to assume for planning purposes a commitment of that number.

This initial assumption of 40,000 troops in place in Iraq by 2005 is clearly inadequate. It has been overtaken by events. Again I think this argues for not a temporary increase in troops but a permanent increase in end strength and regular funding.

The second point I make is that in addition to our obligations in Iraq, which require significant forces—and to have the forces in Iraq, we have to have many more forces in the Army and Marine Corps training and getting ready to go and recover—in addition to that. Secretary Rumsfeld was ambitiously moving forward on a transformation of the Army to increase the number of brigades from 33 to 48 and replace 10,000 military slots with civilian slots, significantly reducing the number of soldiers in support positions. This is a very difficult and in some cases dynamic experience. We have an army at war and an army in transformation simultaneously, but the Army is doing a magnificent job in both cases.

Secretary Rumsfeld argued that this transformation would initially cause a spike requiring again a temporary increase of 30,000 soldiers, but then within 4 years his projection was that spike would be eliminated. However, under the Army's own analysis and even if all anticipated efficiencies are widely successful, if we get the transformation of military positions and civilian positions, we are able to form these brigades to perform as they were expected to perform, and all these efficiencies are squeezed out of this transformation, the Army has suggested we will not be back down to pre-911 end strength of 482,400 until fiscal year 2011, 6 years from now.

Now that is not right. You have two demands, our commitment in Iraq and our transformation process, that drive up end strength numbers, not in the short term but actually over many years, and we know this right now.

Third, the Pentagon could not have anticipated in some cases their involvement in natural disasters such as Hurricane Katrina which is creating demand for forces, particularly National Guard forces. As we understand, the National Guard is the first responders. They have in some respects a dual capacity. They serve the Governors of States, as the State militia, as a State force, and then they have a Federal role. So these demands on military forces right now, including individual units, including demands in the planning process, are a third issue that is increasing end strength numbers and, I would argue, also argue strongly for regularly paying for these forces.

Now even before General Schoomaker made his announcement in 2004 of an increase temporarily in end strength, Senator HAGEL and I were arguing that we needed more troops and we needed them for a considerable length of time. I think, as I have tried to suggest, this need is even more obvious today than several years ago when Senator HAGEL and I first took the floor. Yet surprisingly the President's fiscal year 2006 budget request did not ask for any additional troops in terms of end strength. They were operating on this emergency mechanism but, as I said initially, I am delighted and pleased to see that the Appropriations Committee, under the leadership of Senator STEVENS and Senator INOUYE, has recognized the need to formally increase end strength. What I am asking is that this formal increase of 40,000 Army troops and 3,000 marines be also complemented by including their funding in the regular baseline of these forces and not through an emergency supplemental.

This issue of funding is the purpose of my amendment. An end-strength increase of 40,000 soldiers and 3,000 marines will cost approximately $3.9 billion for 1 year of paid training, housing, and equipment. This bill funds the cost through supplemental funding, a mechanism which the Department of Defense agrees with. They have always been supportive of this, but I would argue again the assumptions that they have articulated of a temporary spike, do not consider, I think, fully the demands of transformation, and the other external demands of supporting foreign deployments and domestic operations such as Hurricane Katrina.

This funding mechanism is not the best because there are several problems with this approach. The first problem is that supplemental funding is supposed to be reserved for unforeseen or emergency events. The Army and marines have required more troops than their authorized end strengths for the past 2 years and it is likely this trend will continue for at least 4 more years. That should not be a surprise to anyone. These soldiers and marines are clearly not an unforeseen happenstance today. So I would argue it should be included in the regular budget and not through emergency supplemental funding.

The second problem is that to continue with supplemental funding creates a potentially unhealthy pattern. We pass supplemental funding many times. This funding runs out quickly before the end of the year—usually in about 9 months—and we are presented with a second supplemental bill. But these extra soldiers and marines will be in the field, we know, beyond 9 months; in fact, as I have suggested, probably for several years in terms of their total end strength.

But the Department of Defense is caught up in this cycle of asking for supplementals, running out of money and asking for another supplemental.

Again, I think with respect to this issue of predictable increases in end strength of several years, we can avoid that through regular funding.

Another problem with supplementals is the growing concern and uneasiness of the American public with respect to funding some of our operations.

Congress, to date, has appropriated $218 billion for the war in Iraq.

That does not go unnoticed by the American people.

All of this funding has been through supplementals—in effect, deficit spending.

The Congressional Budget Office points out that we will run a deficit in 2005 of about $331 billion—again, a fact not escaping the American public.

This deficit number does not include the significant costs associated with Hurricane Katrina and Hurricane Rita.

In an AP poll conducted 2 weeks ago, 42 percent of those polled stated that they preferred to pay for this hurricane relief by cutting spending in Iraq.

That is potentially an ominous note with respect to the priority that the American people are suggesting in this poll.

Only 14 percent, by the way, were willing to continue to add to the Federal debt to pay for our operations overseas and our operations in the gulf coast with respect to recovery from Katrina and Rita.

My concern is that the time we can come up and automatically fill all the needs of our military forces in Iraq through supplementals may be drawing to a close. It will be increasingly more difficult to move these supplemental bills to fully pay for our forces as the American public begins to be more and more concerned with both the deficit and the unexpected increasing costs of contingencies and the cost of our operations overseas.

I believe, if this happens, there is a real potential for both the Army and Marine Corps to be caught short having troops in the field which they must pay, equip, train, support, and also their families at home, but yet being squeezed because supplemental funding will not be sufficient. That will require them to look within their own budget to cut programs, to cut training, to cut modernization, which is very critical not only to their present posture but also to their future posture as the world's most formidable land force.

If these supplementals can't resolve the personnel costs of additional troops, the Army will have to look for $3.5 billion within their budget, and the Marine Corps would have to look at $400 million.

These are significant numbers for these services.

This could put excruciating pressure upon our military forces that are already under excruciating pressure, and we can see that reflected in many different dimensions.

Recently, we read about the recruiting shortfall. I believe Secretary Harvey of the Army announced today that they are going to increase the category of enlistees they would accept that do not meet the previous standards that were being used or increase the lower category of enlistees.

That is a reflection of the difficulty we have to man the force, at least at the recruitment level. Retention is good. But once again, if this pattern of operations persists for several years, and we see soldiers who have served with magnificent valor and dedication to the country faced with a third or fourth deployment into Iraq or into Afghanistan. those pressures will build.

I believe very strongly that not only should we follow the lead in the Appropriations Committee by formally increasing the end strength, but that we should begin to think seriously about and in fact begin to pay for these forces through the regular account.

My amendment moves the appropriate amount of money from the Army and Marine Corps personnel and operations and maintenance accounts included in the bridge supplemental, and moves them to the Army and Marine Corps personnel and operations and maintenance accounts in the underlying bill. The funding move will, I hope, ensure several things. First, it will be much more honest about how we are paying for our operations overseas with respect to the Army and Marines Corps. Secondly, it will enable us to better ensure that these funds will be available if, in fact, it becomes more difficult in terms of both the fiscal climate and the overall opinion climate in the country to send up on a regular basis very substantial supplemental appropriations bills for our consideration.

I think we should do it today. I urge my colleagues to support this measure. I thank my colleague, Senator HAGEL, for joining me in this effort.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Alaska.

Mr. STEVENS. Mr. President, this is a difficult situation.

I have great respect for the Senator from Rhode Island. We know his background as a graduate of West Point and his role on the Armed Services Committee.

Our subcommittee doesn't disagree with the intent of the Senator's amendment. It is our feeling that right now it would cause much disruption because of the way we have handled these funds since the beginning of the Afghanistan and Iraq wars and the war on terror.

Senator REED's amendment would move funding for additional Army and Marine Corps end strength from the emergency portion of this bill to the regular portion of the bill, and it would not have a corresponding offset.

Over the years we have been involved, we have, for both the Army and the Marine Corps, requested temporary increases in their end strength to fight the war on terrorism, which to me includes both Afghanistan and Iraq. But we have done so because of the argument from the Department that these increases should be provided from supplemental emergency funding rather than regular appropriations because regular appropriations tend to invade the money that is necessary to maintain the regular forces and the total confirmation of the Department. If we force the DOD to pay these war-related bills out of regular appropriations, the net result, unless there are some changes, would be to punish the Army and Marine Corps because it would have to be offset from other moneys. Only moneys in the bill of this large amount and of this magnitude would be from the acquisition programs, and that right now would be very disruptive.

We can't take the money from O&M because that is where the regular end strength is. I am sure that we can't offset on the one hand and add on the other. It would just balance out. So we feel this money should come from the reserve fund.

That was the recommendation to us from the Armed Services Committee in the bill last year. Again, this year, the bill contains emergency funding for the global war on terrorism.

Our current bill is consistent with the budget resolution for 2006, which Congress approved, and provides $50 billion in emergency spending to cover these costs involved in the wars we are carrying out today.

The additional soldiers and marines that are needed to fight in Iraq and Afghanistan should be in our bill and are paid from those supplemental emergency funds. We have a bill that is very tightly put together, very carefully done.

We realigned $3.9 billion to pay for war-related military end strength and associated operations and maintenance, and if we have to take that out of the bill itself, as I said, it is the acquisition programs that would be affected immediately.

That would be a major reduction.

We would have to take it from Navy shipbuilding accounts or from the Army's future combat system or the Air Force fighter aircraft or the space satellite programs. Just a few of those major programs, and it would take almost $4 billion from those programs in the bill.

As much as we agree with the Senator, and we have provided the funds, the Senator from Rhode Island and I aren't disagreeing over the funds or over the end strength. It is really how to pay for them at this time. This is something we have argued since the beginning of these engagements that we have been involved in.

I remind the Senate that I made those arguments in connection with President Clinton's move in Bosnia and Kosovo.

But that is the way Presidents have done it. They want us to pay for these funds out on an emergency basis. And, in some instances, past administrations have borrowed money from the current fiscal year and forced us to have a supplemental later in the fiscal year. Under this President, we have had supplementals at the beginning of the fiscal year, and that is where we are today.

We have $50 billion in this bill to pay for these costs.

I urge the Senator not to pursue this amendment. We are not in disagreement over principle. We both support the end strength. It is a question of how to pay for it, and the bill now before us pays for that additional end strength out of the supplemental reserve account.

I urge him to continue to support that basis. As I said, the Armed Services Committee ended up supporting it once again this year. We hope we will find a way to come to an end of that process and not have to use emergency moneys to pay for end strength. It is a temporary increase in end strength; it is not a permanent increase. Therefore, it should be paid for out of the contingency funds that are set aside on this bill on an emergency basis.

I again want to say how much we appreciate the Senator's interest in the manpower situation—manpower requirements of the services. We look forward to working with him on that.

I hope he will not pursue this amendment.

Mr. REED. Mr. President, I have immense respect for the chairman. I appreciate the difficulty of the job in trying to balance all these conflicting requests for funds. He has done a tremendous job with this appropriations bill. Certainly, I will consider his advice with respect to the position of the legislation. I would like to consider it a little further. But I appreciate the difficulty that the committee has in trying to meet all these amendments.

I say, finally, that what I am trying to do now is avoid a situation next year or the following year, as the chairman very well pointed out, where supplementals are not sufficient and the Army and Marine Corps have to look to their acquisition programs, cut combat systems, they have to look to other issues, quality of life for families, since these do keep these forces in uniform.

There is no disagreement, as the chairman pointed out, with respect to the need of these troops. There is no disagreement with respect to the fact that they will be on our books, if you will, for several years into the future.

I am pleased that the chairman and Senator INOUYE formally increased the end strength, as Senator WARNER and Senator LEVIN have done in the Defense authorization bill.

He is very right. The argument is how we pay for it. Do we pay for it through the emergency, or do we pay for them through the regular accounts?

I argue that a day of reckoning is coming where, if we don't face up to this by including it in the regular accounts, we will be dipping into acquisition and into other necessary programs of both the Army and Marine Corps.

But again, I will take the Senator's good advice very closely to mind, and I appreciate the fact that we agree on so much.

We are trying to figure out what is most appropriate—not just for the near term but in the long term—way to pay for these forces.

I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DEWINE are printed in today's RECORD under "Morning Business.")

Mr. DEWINE. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, yesterday, in anticipation of the unanimous consent agreement, the Senator from Virginia, joined by the Senator from Michigan, Mr. LEVIN, the managers and chairman and ranking member of the Armed Services Committee, filed an amendment, which amendment is the entire authorization bill prepared by the Committee on Armed Services and reported out favorably earlier this year. It was the subject of floor debate for some time. Some 30 amendments were added.

I also filed a second amendment, which represented 80 amendments which had been reconciled by the Senator from Michigan and myself and placed into the amendment to constitute a managers' amendment.

In other words, we agree as managers that they should be accepted subject to a unanimous consent agreement, which is the conventional way of handling a managers' amendment.

I now have with me today a third amendment, which represents another 16 amendments that the Senator from Michigan and I have agreed upon should be eventually added to our bill.

My first inquiry to the Chair is: Is it appropriate, at this time, given the unanimous consent that was agreed to this morning, to send to the desk and ask be filed a third amendment representing another managers' amendment for 16 reconciled amendments?

The PRESIDING OFFICER. A third second-degree amendment may be filed.

Mr. WARNER. Then I do so at this time, and I ask it be assigned a number.

Mr. President, I have had the opportunity to consult with the distinguished manager and the ranking member. I have advised him of steps that I would like to take at this time.

I now ask that amendment No. 1955, which is the authorization bill, be called up for the purpose of sending to the desk a modification to that amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

AMENDMENT NO. 1955

Mr. WARNER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 1955.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Monday, October 3, 2005, under "Text of Amendments.")

Mr. WARNER. Mr. President, I now send to the desk a modification to that amendment and ask that it be so modified.

The PRESIDING OFFICER. Is there objection to the modification?

The amendment is so modified.

The amendment (No. 1955), as modified, is as follows:

At the end, add the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2006".

TABLE OF CONTENTS.—The table of contents for the Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for AH-64D Apache attack helicopter block II conversions.
Sec. 112. Multiyear procurement authority for modernized target acquisition designation/pilot night vision sensors for AH-64D Apache attack helicopters.
Sec. 113. Multiyear procurement authority for utility helicopters.

Subtitle C—Navy Programs

Sec. 121. Prohibition on acquisition of next generation destroyer (DD(X)) through a single naval shipyard.
Sec. 122. Split funding authorization for CVN-78 aircraft carrier.
Sec. 123. LHA replacement (LHA(R)) ship.
Sec. 124. Refueling and complex overhaul of the U.S.S. Carl Vinson.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C-17 aircraft.
Sec. 132. Prohibition on retirement of KC-135E aircraft.
Sec. 133. Use of Tanker Replacement Transfer Fund for modernization of aerial refueling tankers.
Sec. 134. Prohibition on retirement of F-117 aircraft.
Sec. 135. Prohibition on retirement of C-130E/H tactical airlift aircraft.
Sec. 136. Procurement of C-130J/KC-130J aircraft after fiscal year 2005.
Sec. 137. Aircraft for performance of aeromedical evacuations.

Subtitle E—Defense-Wide Programs

Sec. 151. Advanced SEAL Delivery System.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Contract for the procurement of the Future Combat System (FCS).
Sec. 212. Joint field experiment on stability and support operations.
Sec. 213. Towed Array Handler.
Sec. 214. Telemedicine and Advanced Technology Research Center.
Sec. 215. Chemical demilitarization facilities.

Subtitle C—Missile Defense Programs

Sec. 221. One-year extension of Comptroller General assessments of ballistic missile defense programs.
Sec. 222. Fielding of ballistic missile defense capabilities.
Sec. 223. Plans for test and evaluation of operational capability of the Ballistic Missile Defense System.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

Sec. 231. Research and development.
Sec. 232. Transition of transformational manufacturing processes and technologies to the defense manufacturing base.
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SEC. . CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Army as follows:

(1) For aircraft, $2,800,880,000.

(2) For missiles, $1,265,850,000.

(3) For weapons and tracked combat vehicles, $1,692,549,000.

(4) For ammunition, $1,830,672,000.

(5) For other procurement, $4,339,434,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Navy as follows:

(1) For aircraft, $9,946,926,000.

(2) For weapons, including missiles and torpedoes, $2,749,441,000.

(3) For shipbuilding and conversion, $9,057,865,000.

(4) For other procurement, $5,596,218,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Marine Corps in the amount of $1,386,705,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement of ammunition for the Navy and the Marine Corps in the amount of $892,849,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Air Force as follows:

(1) For aircraft, $13,212,633,000.

(2) For missiles, $5,500,287,000.

(3) For ammunition, $1,031,207,000.

(4) For other procurement, $14,027,889,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2006 for Defense-wide procurement in the amount of $2,784,832,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR AH-64D APACHE ATTACK HELICOPTER BLOCK II CONVERSIONS.

Beginning with the fiscal year 2006 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for procurement of AH-64D Apache attack helicopter block II conversions.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR MODERNIZED TARGET ACQUISITION DESIGNATION/PILOT NIGHT VISION SENSORS FOR AH-64D APACHE ATTACK HELICOPTERS.

Beginning with the fiscal year 2006 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for procurement of modernized target acquisition designation/pilot night vision sensors for AH-64D Apache attack helicopters.

SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR UTILITY HELICOPTERS.

(a) UH-60M BLACK HAWK HELICOPTERS.—Beginning with the fiscal year 2006 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for the procurement of UH-60M Black Hawk helicopters.

(b) MH-60S SEAHAWK HELICOPTERS.—Beginning with the fiscal year 2007 program year, the Secretary of the Army, acting as executive agent for the Department of the Navy, may, in accordance with section 2306b of title 10, United States Code, enter into one or more multiyear contracts for the procurement of MH-60S Seahawk helicopters.

Subtitle C—Navy Programs

SEC. 121. PROHIBITION ON ACQUISITION OF NEXT GENERATION DESTROYER (DD(X)) THROUGH A SINGLE NAVAL SHIPYARD.

(a) PROHIBITION.—Destroyers under the next generation destroyer (DD(X)) program may not be acquired through a winner-take-all acquisition strategy.

(b) PROHIBITION ON USE OF FUNDS.—No funds authorized to be appropriated by this Act, or any other Act, may be obligated or expended to prepare for, conduct, or implement a strategy for the acquisition of destroyers under the next generation destroyer program through a winner-take-all acquisition strategy.

(c) WINNER-TAKE-ALL ACQUISITION STRATEGY DEFINED.—In this section, the term "winner-take-all acquisition strategy", with respect to the acquisition of destroyers under the next generation destroyer program, means the acquisition (including design and construction) of such destroyers through a single shipyard.

SEC. 122. SPLIT FUNDING AUTHORIZATION FOR CVN–78 AIRCRAFT CARRIER.

(a) AUTHORITY TO USE SPLIT FUNDING.—The Secretary of the Navy is authorized to fund the detail design and construction of the aircraft carrier designated CVN–78 using split funding in the Shipbuilding and Conversion, Navy account in fiscal years 2007, 2008, 2009, and 2010.

(b) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into for the detail design and construction of the aircraft carrier designated CVN–78 shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for such fiscal year.

SEC. 123. LHA REPLACEMENT (LHA(R)) SHIP.

(a) AMOUNT AUTHORIZED FROM SCN ACCOUNT FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, $325,447,000 shall be available for design, advance procurement, advance construction, detail design, and construction with respect to the LHA Replacement (LHA(R)) ship.

(b) AMOUNTS AUTHORIZED FROM SCN ACCOUNT FOR FISCAL YEARS 2007 AND 2008.—Amounts authorized to be appropriated for fiscal years 2007 and 2008 for shipbuilding and conversion, Navy, shall be available for construction with respect to the LHA Replacement ship.

(c) CONTRACT AUTHORITY.—

(1) DESIGN, ADVANCE PROCUREMENT, AND ADVANCE CONSTRUCTION.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for design, advance procurement, and advance construction with respect to the LHA Replacement ship.

(2) DETAIL DESIGN AND CONSTRUCTION.—The Secretary may enter into a contract during fiscal year 2006 for the detail design and construction of the LHA Replacement ship.

(d) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (c) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for such fiscal year.

(e) FUNDING AS INCREMENT OF FULL FUNDING.—The amounts available under subsections (a) and (b) for the LHA Replacement Ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

SEC. 124. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) AMOUNT AUTHORIZED FROM SCN ACCOUNT.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, $1,493,563,000 shall be available for the commencement of the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70). The amount available under the preceding sentence is the first increment in the incremental funding planned for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson.

(b) CONTRACT AUTHORITY.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson.

(c) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (b) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for such fiscal year.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C–17 AIRCRAFT.

(a) MULTIYEAR PROCUREMENT AUTHORIZED.—Beginning with the fiscal year 2006 program year, the Secretary of the Air Force may exercise the option on the existing multiyear procurement contract for C–17 aircraft in order to enter into a multiyear contract for the procurement of up to 42 additional C–17 aircraft. A contract entered into under this subsection shall be entered into in accordance with section 2306b of title 10, United States Code.

(b) REQUIRED CERTIFICATION.—Prior to the exercise of the authority in subsection (a), the Secretary of Defense shall certify to the congressional defense committees that the additional airlift capability to be provided by the C–17 aircraft to be procured under that authority is consistent with the results of the Mobility Capabilities Study to be completed in fiscal year 2005.

SEC. 132. PROHIBITION ON RETIREMENT OF KC–135E AIRCRAFT.

The Secretary of the Air Force may not retire any KC–135E aircraft of the Air Force in fiscal year 2006.

SEC. 133. USE OF TANKER REPLACEMENT TRANSFER FUND FOR MODERNIZATION OF AERIAL REFUELING TANKERS.

In addition to providing funds for a tanker acquisition program as specified in section 8132 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1001), funds in the Tanker Replacement Transfer Fund established by that section may be used for the modernization of existing aerial refueling tankers if the modernization of such tankers is consistent with the results of the analysis of alternatives for meeting the aerial refueling requirements of the Air Force as required by section 134(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1413).

SEC. 134. PROHIBITION ON RETIREMENT OF F–117 AIRCRAFT.

The Secretary of the Air Force may not retire any F–117 Nighthawk stealth attack aircraft of the Air Force in fiscal year 2006.

SEC. 135. PROHIBITION ON RETIREMENT OF C–130E/H TACTICAL AIRLIFT AIRCRAFT.

The Secretary of the Air Force may not retire any C–130E/H tactical airlift aircraft of the Air Force in fiscal year 2006.

SEC. 136. PROCUREMENT OF C–130J/KC–130J AIRCRAFT AFTER FISCAL YEAR 2005.

Any C–130J/KC–130J aircraft procured after fiscal year 2005 (including C–130J/KC–130J aircraft procured through a multiyear contract continuing in force from a fiscal year before fiscal year 2006) shall be procured through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items (48 C.F.R. 12.000 et seq.).

SEC. 137. AIRCRAFT FOR PERFORMANCE OF AEROMEDICAL EVACUATIONS.

(a) REQUIREMENT TO PROCURE.—The Secretary of the Air Force shall procure aircraft for the purpose of providing aeromedical evacuation services to severely injured or ill personnel.

(b) REQUIRED CAPABILITIES.—The aircraft procured under subsection (a) shall be capable of providing nonstop aeromedical evacuations across the Atlantic Ocean.

(c) EQUIPPING.—Any aircraft procured under subsection (a) shall be equipped with current aeromedical support facilities, including electrical systems, sanitation, temperature controls, pressurization capacity, safe medical storage, equipment and medicines for life support and emergency purposes, food preparation facilities, and such other facilities as the Secretary considers appropriate for the provision of aeromedical evacuation services.

(d) DEDICATED MISSION.—Each aircraft procured and equipped under this section shall be assigned the dedicated mission of providing aeromedical evacuation services as described in subsection (a).

(e) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated by section 103(1) for aircraft procurement for the Air Force, $200,000,000 shall be available for the procurement and equipping of up to two aircraft under this section.

Subtitle E—Defense-Wide Programs

SEC. 151. ADVANCED SEAL DELIVERY SYSTEM.

(a) LIMITATION ON AVAILABILITY OF FUNDS FOR ADVANCE PROCUREMENT.—No funds authorized to be appropriated by this Act for fiscal year 2006 for advance procurement of components for the Advanced SEAL Delivery System may be obligated or expended for that purpose until 30 days after the date on which the Secretary of Defense certifies to the congressional defense committees that the Under Secretary of Defense for Acquisition, Technology, and Logistics has made a favorable milestone C decision regarding the Advanced SEAL Delivery System. The certification shall be submitted together with the comprehensive report on the Advanced SEAL Delivery System required by subsection (b).

(b) REPORT.—As soon as possible after completion of the review of the Advanced SEAL Delivery System by the Defense Acquisition Board, the Secretary shall submit to the congressional defense committees a report that includes the following:

(1) The result of the milestone C decision on the Advanced SEAL Delivery System made by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) Such recommendations as the Secretary considers appropriate regarding the continuation, restructuring, or termination of the Advanced SEAL Delivery System program, including recommendations on adjustments to contractual arrangements in connection with the continuation, restructuring, or termination of the program.

(3) A detailed summary of the revised cost estimate and future cost estimates for the Advanced SEAL Delivery System program, which cost estimates shall be validated for purposes of the report by the Cost Analysis and Improvement Group within the Office of the Secretary of Defense.

(4) A detailed acquisition strategy for the Advanced SEAL Delivery System, if the Secretary recommends the continuation or restructuring of the Advanced SEAL Delivery System program under paragraph (2).

(5) A plan to demonstrate realistic strategies for solving any technical and performance problems identified during the final operational test and evaluation of the Advanced SEAL Delivery System proposed to be conducted during the summer of 2005.

(c) COMPTROLLER GENERAL REVIEW.—

(1) IN GENERAL.—In order to achieve the purposes set forth in paragraph (2), the Comptroller General of the United States shall—

(A) review the adequacy of the final operational test and evaluation test plan for the Advanced SEAL Delivery System;

(B) review the results of the operational test of the Advanced SEAL Delivery System; and

(C) update the March 2003 Comptroller General report entitled Defense Acquisition, Advanced SEAL Delivery System Program Needs Increased Oversight (GAO-03-442).

(2) PURPOSES.—The purposes of the review and update under paragraph (1) are as follows:

(A) To examine the progress made toward meeting operational requirements and technical challenges with respect to the Advanced SEAL Delivery System.

(B) To assess the capacity of the Advanced SEAL Delivery System program to meet schedule and cost projections for that program.

(C) To identify and evaluation any remaining factors that may contribute to potential future problems for the Advanced SEAL Delivery System program.

(3) REPORT.—The Comptroller General shall submit to the congressional defense committees a report on the activities of the Comptroller General under paragraph (1) not later than February 1, 2006.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,717,824,000.

(2) For the Navy, $18,398,091,000.

(3) For the Air Force, $22,636,568,000.

(4) For Defense-wide activities, $19,011,754,000, of which $168,458,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR SCIENCE AND TECHNOLOGY.

(a) AMOUNT FOR PROJECTS.—Of the total amount authorized to be appropriated by section 201, $10,924,401,000 shall be available for science and technology projects.

(b) SCIENCE AND TECHNOLOGY DEFINED.—In this section, the term "science and technology project" means work funded in program elements for defense research, development, test, and evaluation under Department of Defense budget activities 1, 2, or 3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. CONTRACT FOR THE PROCUREMENT OF THE FUTURE COMBAT SYSTEM (FCS).

The Secretary of the Army shall procure the Future Combat System (FCS) through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 C.F.R. 15.000 et seq.), rather than through a transaction under section 2371 of title 10, United States Code.

SEC. 212. JOINT FIELD EXPERIMENT ON STABILITY AND SUPPORT OPERATIONS.

(a) JOINT FIELD EXPERIMENT REQUIRED.—The Secretary of Defense shall, in fiscal year 2006, carry out a joint field experiment to address matters relating to stability and support operations.

(b) PURPOSES.—The purposes of the joint field experiment under subsection (a) are as follows:

(1) To explore critical challenges associated with the planning and execution of military and support activities required in the post-conflict environment following major combat activities.

(2) To facilitate the development of recommendations for appropriate policy, doctrine, training infrastructure, and organizational structures to best facilitate the conduct of effective stability and support operations in such an environment.

(c) PARTICIPATING ELEMENTS AND FORCES.—

(1) IN GENERAL.—The joint field experiment under subsection (a) shall involve—

(A) elements of the Army, the Marine Corps, and the Special Operations Command selected by the Secretary for purposes of the field experiment;

(B) representatives of policy elements within the Department selected by the Secretary for such purposes; and

(C) any other forces or elements of the Department that the Secretary considers appropriate for such purposes.

(2) ADDITIONAL ELEMENTS.—The Secretary shall also invite the participation in the field experiment of appropriate elements of other departments and agencies of the United States Government, and of such elements and forces of coalition nations, as the Secretary considers appropriate for purposes of the field experiment.

(d) REPORT.—Not later than January 31, 2007, the Secretary shall submit to the congressional defense committees a report on the joint field experiment under subsection (a). The report shall include—

(1) a description of the field experiment;

(2) the findings of the Secretary as a result of the field experiment; and

(3) such recommendations, including recommendations for additional legislative or administrative actions and recommendations on funding required to implement such actions, as the Secretary considers appropriate in light of the field experiment.

SEC. 213. TOWED ARRAY HANDLER.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604503N for the design, development, and test of improvements to the towed array handler is hereby increased by $5,000,000 in order to increase the reliability of the towed array and the towed array handler by capitalizing on ongoing testing and evaluation of such systems.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, the amount available for Program Element 0604558N for new design for the Virginia Class submarine for the large aperture bow array is hereby reduced by $5,000,000.

SEC. 214. TELEMEDICINE AND ADVANCED TECHNOLOGY RESEARCH CENTER.

Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, $1,000,000 may be available for Medical Advanced Technology (PE #603002A) for the Telemedicine and Advanced Technology Research Center.

SEC. 215. CHEMICAL DEMILITARIZATION FACILITIES.

(a) AUTHORITY TO USE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS TO CONSTRUCT FACILITIES.—The Secretary of Defense may, using amounts authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide and available for chemical weapons demilitarization activities under the Assembled Chemical Weapons Alternatives program, carry out construction projects, or portions of construction projects, for facilities necessary to support chemical demilitarization operations at each of the following:

(1) Pueblo Army Depot, Colorado.

(2) Blue Grass Army Depot, Kentucky.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to carry out a construction project for facilities includes authority to carry out planning and design and the acquisition of land for the construction or improvement of such facilities.

(c) LIMITATION ON AMOUNT OF FUNDS.—The amount of funds that may be utilized under the authority in subsection (a) may not exceed $51,000,000.

(d) DURATION OF AUTHORITY.—A construction project, or portion of a construction project, may not be commenced under the authority in subsection (a) after September 30, 2006.

(e) NOTICE AND WAIT.—The Secretary may not carry out a construction project, or portion of a construction project, under the authority in subsection (a) until the end of the 21-day period beginning on the date on which the Secretary notifies the congressional defense committees of the intent to carry out such project.

Subtitle C—Missile Defense Programs

SEC. 221. ONE-YEAR EXTENSION OF COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) EXTENSION.—Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2431 note) is amended—

(1) in paragraph (1), by striking "through 2006" and inserting "through 2007"; and

(2) in paragraph (2), by striking "through 2007" and inserting "through 2008".

(b) MODIFICATION OF SUBMITTAL DATE.—Paragraph (2) of such section is further amended by striking "February 15" and inserting "March 15".

SEC. 222. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

(a) AUTHORITY TO USE FUNDS.—Funds referred to in subsection (b) may, upon approval by the Secretary of Defense, be used for the development and fielding of ballistic missile defense capabilities.

(b) COVERED FUNDS.—Funds referred to in this subsection are funds authorized to be appropriated for fiscal year 2006 or 2007 for research, development, test, and evaluation for the Missile Defense Agency.

SEC. 223. PLANS FOR TEST AND EVALUATION OF OPERATIONAL CAPABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM.

(a) PLANS REQUIRED.—

(1) IN GENERAL.—With respect to block 06, and each subsequent block, of the Ballistic Missile Defense System, the appropriate joint and service operational test and evaluation components of the Department of Defense concerned with such block shall, in coordination with the Missile Defense Agency and subject to the review and approval of the Director of Operational Test and Evaluation, prepare a plan to test, evaluate, and characterize the operational capability of such block.

(2) NATURE OF PLANS.—Each plan prepared under this subsection shall be appropriate for the level of technological maturity of the block to be tested.

(b) REPORTS ON TEST AND EVALUATION OF BLOCKS.—At the conclusion of the test and evaluation of block 06, and of each subsequent block, of the Ballistic Missile Defense

System, the Director of Operational Test and Evaluation shall submit to the Secretary of Defense, and to the congressional defense committees, a report providing—

(1) the assessment of the Director as to whether or not such test and evaluation was adequate to evaluate the operational capability of such block; and

(2) the characterization of the Director as to the operational effectiveness, suitability, and survivability of such block, as appropriate for the level of technological maturity of the block to be tested.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

SEC. 231. RESEARCH AND DEVELOPMENT.

(a) IDENTIFICATION OF ENHANCED PROCESSES AND TECHNOLOGIES.—The Under Secretary of the Defense for Acquisition, Technology, and Logistics shall identify advanced manufacturing processes and technologies whose utilization will achieve significant productivity and efficiency gains in the defense manufacturing base.

(b) RESEARCH AND DEVELOPMENT.—The Under Secretary shall undertake research and development on processes and technologies identified under subsection (a) that addresses, in particular—

(1) innovative manufacturing processes and advanced technologies; and

(2) the creation of extended production enterprises using information technology and new business models.

(c) DEFENSE PRIORITIES.—In undertaking research and development under subsection (b), the Under Secretary shall consider defense priorities established in the most current Joint Warfighting Science and Technology Plan.

SEC. 232. TRANSITION OF TRANSFORMATIONAL MANUFACTURING PROCESSES AND TECHNOLOGIES TO THE DEFENSE MANUFACTURING BASE.

(a) ACCELERATION OF TRANSITION FROM SCIENCE AND TECHNOLOGY.—

(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall undertake appropriate actions to accelerate the transition of transformational manufacturing technologies and processes (including processes and technologies identified under section 231) from the research stage to utilization by manufacturers in the defense manufacturing base.

(2) EXECUTION.—The actions undertaken under paragraph (1) shall include a memorandum of understanding among the Director of Defense Research and Engineering, other appropriate elements of the Department of Defense, and the Joint Defense Manufacturing Technology Panel to accelerate the transition of technologies and processes as described in that paragraph.

(b) PROTOTYPES AND TESTBEDS.—

(1) IN GENERAL.—The Under Secretary shall, utilizing the Manufacturing Technology Program, undertake the development of prototypes and testbeds to promote the purposes of this section.

(2) COORDINATION OF ACTIVITIES.—The Under Secretary shall coordinate activities under this subsection with activities under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

(c) DEVELOPMENT OF IMPROVEMENT PROCESS.—The Under Secretary shall, in consultation with persons and organizations in the defense manufacturing base, develop and implement a program to continuously identify and utilize improvements and innovative processes in appropriate defense acquisition programs and by manufacturers in the defense manufacturing base.

(d) DIFFUSION OF ENHANCEMENTS INTO DEFENSE MANUFACTURING BASE.—The Under Secretary shall ensure the utilization in industry of enhancements in productivity and efficiency identified by reason of activities under this subtitle through the following:

(1) Research and development activities under the Manufacturing Technology Program, including the establishment of public-private partnerships.

(2) Outreach through the Manufacturing Extension Partnership Program under memoranda of agreement, cooperative programs, and other appropriate arrangements.

(3) Coordination with activities under such other current programs for the dissemination of manufacturing technology as the Under Secretary considers appropriate.

(4) Identification of incentives for contractors in the defense manufacturing base to incorporate and utilize manufacturing enhancements in the manufacturing activities.

SEC. 233. MANUFACTURING TECHNOLOGY STRATEGIES.

(a) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics may—

(1) identify an area of technology where the development of an industry-prepared roadmap for new manufacturing and technology processes applicable to defense manufacturing requirements would be beneficial to the Department of Defense; and

(2) establish a task force, and act in cooperation, with the private sector to map the strategy for the development of manufacturing processes and technologies needed to support technology development in the area identified under paragraph (1).

(b) COMMENCEMENT OF ROADMAPPING.—The Under Secretary shall commence any roadmapping identified pursuant to subsection (a)(1) not later than January 2007.

SEC. 234. REPORT.

(a) IN GENERAL.—Not later than December 31, 2007, the Under Secretary of the Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the actions undertaken by the Under Secretary under this subtitle during fiscal year 2006.

(b) ELEMENTS.—The report under subsection (a) shall include—

(1) a comprehensive description of the actions undertaken under this subtitle during fiscal year 2006;

(2) an assessment of effectiveness of such actions in enhancing research and development on manufacturing technologies and processes, and implementation of such within the defense manufacturing base; and

(3) such recommendations as the Under Secretary considers appropriate for additional actions to be undertaken in order to increase the effectiveness of the actions undertaken under this subtitle in enhancing manufacturing activities within the defense manufacturing base.

SEC. 235. DEFINITIONS.

In this subtitle:

(1) DEFENSE MANUFACTURING BASE.—The term "defense manufacturing base" includes any supplier of the Department of Defense, including a supplier of raw materials.

(2) EXTENDED PRODUCTION ENTERPRISE.—The term "extended production enterprise" means a system in which key entities, including entities engaged in product development, manufacturing, sourcing, and user entities, in the manufacturing chain are linked together through information technology and other means to promote efficiency and productivity.

(3) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—The term "Manufacturing Extension Partnership Program" means the Manufacturing Extension Partnership Program of the Department of Commerce.

(4) MANUFACTURING TECHNOLOGY PROGRAM.—The term "Manufacturing Technology Program" means the Manufacturing Technology Program under the Director of Defense Research and Engineering under section 2521 of title 10, United States Code.

(5) SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—The term "Small Business Innovation Research Program" has the meaning given that term in section 2055(11) of title 10, United States Code.

(6) SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.—The term "Small Business Technology Transfer Program" has the meaning given that term in section 2500(12) of title 10, United States Code.

Subtitle E—Other Matters

SEC. 241. EXPANSION OF ELIGIBILITY FOR LEADERSHIP OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) DIRECTOR OF CENTER.—Paragraph (1) of section 196(b) of title 10, United States Code, is amended by striking "commissioned officers" and all that follows through the end of the sentence and inserting "individuals who have substantial experience in the field of test and evaluation.".

(b) DEPUTY DIRECTOR OF CENTER.—Paragraph (2) of such section is amended by striking "senior civilian officers and employees of the Department of Defense" and inserting "individuals".

SEC. 242. TECHNOLOGY TRANSITION.

(a) CLARIFICATION OF DUTIES OF TECHNOLOGY TRANSITION COUNCIL.—Paragraph (2) of section 2359a(g) of title 10, United States Code, is amended to read as follows:

"(2) The duty of the Council shall be to support the Undersecretary of Defense for Acquisition, Technology, and Logistics in the development of policies to facilitate the rapid transition of technologies from science and technology programs of the Department of Defense into acquisition programs of the Department.".

(b) REPORT ON TECHNOLOGY TRANSITION.—

(1) IN GENERAL.—The Secretary of Defense, working through the Technology Transition Council, shall submit to the congressional defense committees a report on the challenges associated with technology transition from the science and technology programs of the Department of Defense to the acquisition programs of the Department, and a strategy to address such challenges, including—

(A) a description of any organizational barriers to technology transition between operations, acquisition, and technology development components of the Department;

(B) an assessment of the effect of Department acquisition regulations on technology transition;

(C) a description of the role of technology transition in the planning, programming, and budgeting processes of the Department;

(D) a description of any other challenges associated with technology transition in the Department that are identified by the Secretary;

(E) a Department-wide strategy for pursuing technology transition; and

(F) such recommendations as the Secretary considers appropriate for the improvement of technology transition and for the elimination of internal barriers within the Department to technology transition.

(2) SUBMITTAL DATE.—The report under paragraph (1) shall be submitted at the same

time the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for fiscal year 2007.

SEC. 243. PREVENTION, MITIGATION, AND TREATMENT OF BLAST INJURIES.

(a) Designation of Executive Agent.—The Secretary of Defense shall designate a senior official of the Department of Defense as the executive agent responsible for coordinating and managing the programs and efforts of the Department of Defense with respect to the prevention, mitigation, and treatment of blast injuries.

(b) General Responsibility.—The executive agent designated under subsection (a) shall be responsible for ensuring that—

(1) the programs and efforts of the Department of Defense on the prevention, mitigation, and treatment of blast injuries are adequate to meet requirements relating to the prevention, mitigation, and treatment of such injuries; and

(2) the resources devoted to such programs and efforts facilitate the achievement of the objective specified in paragraph (1).

(c) Research Efforts.—The executive agent designated under subsection (a) shall—

(1) review and assess the adequacy of current research efforts of the Department of Defense on the prevention, mitigation, and treatment of such injuries;

(2) establish requirements for such research efforts in order to enhance and accelerate such research efforts; and

(3) establish, coordinate, and oversee Department-wide research efforts on the prevention, mitigation, and treatment of such injuries, including—

(A) in the case of blast injury prevention, research on—

(i) blast characterization in a variety of environments;

(ii) modeling and simulation of safe blast stand-off distances;

(iii) detect and defeat capabilities; and

(iv) such other matters as such official considers appropriate;

(B) in the case of blast injury mitigation, research on—

(i) armor design and materials testing for blast and ballistic protection;

(ii) the design of a comprehensive, integrated, flexible armor system which provides blast, ballistic, and fire protection for the head, neck, ears, eyes, torso, and extremities; and

(iii) such other matters as such official considers appropriate; and

(C) in the case of blast injury treatment, research on emerging military medical technologies, pharmacological agents, devices, and treatment and rehabilitation techniques.

(d) Studies.—The executive agent designated under subsection (a) shall conduct studies on the prevention, mitigation, and treatment of blast injuries, including—

(1) studies to improve the clinical evaluation and treatment of blast injuries, with an emphasis on traumatic brain injuries and other consequences of blast injury, including acoustic and eye injuries and injuries resulting from over-pressure wave; and

(2) studies to develop improved clinical protocols by which physicians—

(A) can more accurately evaluate traumatic brain injuries and discriminate between traumatic brain injuries and post traumatic stress disorder (including improved diagnostic and cognitive measures);

(B) can identify members of the Armed Forces who may have both traumatic brain injury and post traumatic stress disorder; and

(C) can develop integrated treatment approaches for servicemembers who have both traumatic brain injuries and post traumatic stress disorder and other multiple injuries.

(e) Pilot Projects.—The executive agent designated under subsection (a) shall commence in fiscal year 2006 not less than three pilot projects on the prevention, mitigation, and treatment of blast injuries, including pilot projects—

(1) to study the incidence in returning soldiers of traumatic brain injuries attributable to blast injuries;

(2) to develop protocols for medical tracking of members of the Armed Forces for up to five years following blast injuries; and

(3) to refine and improve educational interventions for blast injury survivors and their families.

(f) Training Program.—The executive agent designated under subsection (a) shall establish a training program for medical and non-medical personnel on the prevention, mitigation, and treatment of blast injuries which program shall be intended to improve field and clinical training on early identification of blast injury consequences, both seen and unseen, including traumatic brain injuries, acoustic injuries, and internal injuries.

(g) Treatment Program.—The executive agent designated under subsection (a) shall conduct a treatment program intended to enhance the evaluation and care of members of the Armed Forces with traumatic brain injuries in medical facilities in the United States and in deployed medical facilities.

(h) Annual Reports on Blast Injury Matters.—

(1) Reports required.—Not later than February 15, 2006, and annually thereafter through 2010, the Secretary of Defense shall submit to the congressional defense committees a report on the efforts of the Department of Defense to prevent, mitigate, and treat blast injuries.

(2) Elements.—Each report under paragraph (1) shall include the following:

(A) A description of the activities undertaken under this section during the year preceding the report to improve the prevention, mitigation, and treatment of blast injuries.

(B) A consolidated budget presentation for the programs and activities of the Department of Defense during the fiscal year beginning in the year of the report for the prevention, mitigation, and treatment of blast injuries.

(C) A description of any gaps in the capabilities of the Department under its programs and activities for the prevention, mitigation, and treatment of blast injuries, and a description of any plans or projects to address such gaps.

(D) A description of collaboration, if any, with other departments and agencies of the Federal Government, and with other countries, during the year preceding the report in efforts for the prevention, mitigation, and treatment of blast injuries.

(E) A description of any efforts during the year preceding the report to disseminate findings on the mitigation and treatment of blast injuries through civilian and military research and medical communities.

(F) A description of the status of efforts during the year preceding the report to design a comprehensive force protection system that is effective in confronting blast, ballistic, and fire threats.

(i) Blast Injuries Defined.—In this section, the term "blast injuries" means injuries that occur as the result of the detonation of high explosives, including vehicle-borne and person-borne explosive devices, rocket-propelled grenades, and improvised explosive devices.

SEC. 244. MODIFICATION OF REQUIREMENTS FOR REPORTS ON PROGRAM TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Subsection (e) of section 2374a of title 10, United States Code, is amended to read as follows:

"(e) Annual Report.—(1) Not later than March 1 each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities undertaken by the Defense Advanced Research Projects Agency in the preceding year under the authority of this section.

"(2) The report for a year under this subsection shall include the following:

"(A) The results of consultations between the Director and officials of the military departments regarding the areas of research, technology development, or prototype development for which prizes would be awarded under the program under this section.

"(B) A description of the proposed goals of the competitions established under the program, including the areas of research, technology development, or prototype development to be promoted by such competitions and the relationship of such areas to the military missions of the Department.

"(C) The total amount of cash prizes awarded under the program, including a description of the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the Defense Advanced Research Projects Agency for recording as obligations and expenditures.

"(D) The methods used for the solicitation and evaluation of submissions under the program, together with an assessment of the effectiveness of such methods.

"(E) A description of the resources, including personnel and funding, used in the execution of the program, together with a detailed description of the activities for which such resources were used.

"(F) A description of any plans to transition the technologies or prototypes developed as a result of the program into acquisition programs of the Department.

"(G) For each competition under the program, a statement of the reasons why the competition was a preferable means of promoting basic, advanced, or applied research, technology development, or prototype development projects to other means of promoting such projects, including contracts, grants, cooperative agreements, or other transactions.".

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,951,460,000.

(2) For the Navy, $30,547,489,000.

(3) For the Marine Corps, $3,842,026,000.

(4) For the Air Force, $31,425,919,000.

(5) For Defense-wide activities, $18,584,469,000.

(6) For the Army Reserve, $1,989,382,000.

(7) For the Naval Reserve, $1,245,695,000.

(8) For the Marine Corps Reserve, $199,934,000.

(9) For the Air Force Reserve, $2,559,686,000.

(10) For the Army National Guard, $4,528,019,000.

(11) For the Air National Guard, $4,772,991,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,236,000.

(13) For Environmental Restoration, Army, $407,865,000.

(14) For Environmental Restoration, Navy, $305,275,000.

(15) For Environmental Restoration, Air Force, $406,461,000.

(16) For Environmental Restoration, Defense-wide, $28,167,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $261,921,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $61,546,000.

(19) For Cooperative Threat Reduction programs, $415,549,000.

(20) For the Overseas Contingency Operations Transfer Fund, $20,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $1,471,340,000.

(2) For the National Defense Sealift Fund, $1,011,304,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) Defense Health Program.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Defense Health Program, $19,900,812,000, of which—

(1) $19,351,337,000 is for Operation and Maintenance;

(2) $174,156,000 is for Research, Development, Test, and Evaluation; and

(3) $375,319,000 is for Procurement.

(b) Chemical Agents and Munitions Destruction, Defense.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,425,827,000, of which—

(A) $1,241,514,000 is for Operation and Maintenance;

(B) $67,786,000 is for Research, Development, Test, and Evaluation; and

(C) $116,527,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) Drug Interdiction and Counter-Drug Activities, Defense-wide.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $895,741,000.

(d) Defense Inspector General.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $209,687,000, of which—

(1) $208,687,000 is for Operation and Maintenance; and

(2) $1,000,000 is for Procurement.

Subtitle B—Environmental Provisions

SEC. 311. ELIMINATION AND SIMPLIFICATION OF CERTAIN ITEMS REQUIRED IN THE ANNUAL REPORT ON ENVIRONMENTAL QUALITY PROGRAMS AND OTHER ENVIRONMENTAL ACTIVITIES.

Section 2706(b)(2) of title 10, United States Code, is amended—

(1) by striking subparagraphs (D) and (E);

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) A summary of fines and penalties imposed or assessed against the Department of Defense and the military departments under Federal, State, or local environmental laws during the fiscal year in which the report is submitted and the four preceding fiscal years, which summary shall include—

"(i) a trend analysis of such fines and penalties for military installations inside and outside the United States; and

"(ii) a list of such fines or penalties that exceeded $500,000 and the provisions of law under which such fines or penalties were imposed or assessed.";

(3) by redesignating subparagraph (F) as subparagraph (E); and

(4) in subparagraph (E), as redesignated by paragraph (3), by striking "and amounts for conferences" and all that follows through "such activities".

SEC. 312. PAYMENT OF CERTAIN PRIVATE CLEAN-UP COSTS IN CONNECTION WITH THE DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) Payment for Activities at Former Defense Property That is Subject to Covenant for Additional Remedial Action.—Subsection (d) of section 2701 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "paragraph (3)" and inserting "paragraphs (3) and (4)";

(B) by inserting "any owner of covenant property," after "tribe," the first place it appears; and

(C) by inserting "owner of covenant property," after "tribe," the second place it appears;

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Performance of services on covenant property.—An owner of covenant property may not be paid on a reimbursable or other basis for services performed under an agreement under paragraph (1) unless such services are performed on such covenant property."; and

(4) in paragraph (5), as redesignated by paragraph (2), by adding at the end the following new subparagraph:

"(C) The term 'owner of covenant property' means an owner of property subject to a covenant provided by the United States in accordance with section 120(h)(3)(A)(ii)(II) of CERCLA (42 U.S.C. 9620(h)(3)(A)(ii)(II)).".

(b) Applicable Cleanup Standards.—Paragraph (3) of such subsection is further amended—

(1) by striking "An agreement" and inserting "(A) An agreement"; and

(2) by inserting at the end the following new subparagraph:

"(B) An agreement under paragraph (1) may not change the cleanup standards applicable to the site as established by law.".

(c) Source of Funds for Former Base Closure and Realignment Property Subject to Covenant for Additional Remedial Action.—Section 2703 of such title is amended—

(1) in subsection (g)(1), by striking "The sole source" and inserting "Except as provided in subsection (h), the sole source"; and

(2) by adding at the end the following new subsection:

"(h) Sole Source of Funds for Certain Environmental Remediation at Base Realignment and Closure Sites.—In the case of property disposed of pursuant to a base closure law and subject to a covenant described in subsection (d)(5)(C) of section 2701 of this title, the sole source of funds for services under subsection (d)(1) of such section shall be the base closure account established under the base closure law under which such property was disposed of.".

Subtitle C—Other Matters

SEC. 321. AIRCRAFT CARRIERS.

(a) Funding for Repair and Maintenance of U.S.S. John F. Kennedy.—Of the amounts authorized to be appropriated for operation and maintenance for the Navy by this Act and any other Act for fiscal year 2005 and 2006, $288,000,000 shall be available only for repair and maintenance to extend the life of U.S.S. John F. Kennedy.

(b) Limitation on Reduction in Number of Active Aircraft Carriers.—

(1) Limitation.—The Secretary of the Navy may not reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(A) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(B) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to the congressional defense committees that such agreements have been entered into to provide port facilities for the permanent forward deployment of such number of aircraft carriers as is necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(2) Active aircraft carriers.—For purposes of this subsection, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance.

SEC. 322. LIMITATION ON TRANSITION OF FUNDING FOR EAST COAST SHIPYARDS FROM FUNDING THROUGH NAVY WORKING CAPITAL FUND TO DIRECT FUNDING.

(a) Limitation.—The Secretary of the Navy may not convert funding for the shipyards of the Navy on the Eastern Coast of the United States from funding through the working capital fund of the Navy to funding on a direct basis (also known as "mission funding") until the later of—

(1) the date that is six months after the date on which the Secretary submits to the congressional defense committees the report required by subsection (b); or

(2) October 1, 2006.

(b) Report on Direct Funding for Puget Sound Naval Shipyard.—The Secretary shall submit to the congressional defense committees a report that contains the assessment of the Secretary on the effects on Puget Sound Naval Shipyard, Washington, of the conversion of funding for Puget Sound Naval Shipyard from funding through the working capital fund of the Navy to funding on a direct basis.

SEC. 323. USE OF FUNDS FROM NATIONAL DEFENSE SEALIFT FUND TO EXERCISE PURCHASE OPTIONS ON MARITIME PREPOSITIONING SHIP VESSELS.

(a) USE OF FUNDS.—Notwithstanding the provisions of section 2218(f)(1) of title 10, United States Code, the Secretary of Defense may obligate and expend any funds in the National Defense Sealift Fund to exercise options to purchase three Maritime Prepositioning Ship (MPS) vessels under charter to the Navy as of the date of the enactment of this Act, the contracts for which charters expire in 2009.

(b) NATIONAL DEFENSE SEALIFT FUND DEFINED.—In this section, the term "National Defense Sealift Fund" means the National Defense Sealift Fund established by section 2218 of title 10, United States Code.

SEC. 324. PURCHASE AND DESTRUCTION OF WEAPONS OVERSEAS.

(a) AUTHORITY TO USE FUNDS.—

(1) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2249d. Use of appropriated funds for purchase and destruction of weapons overseas

"(a) PURCHASE OF WEAPONS.—Amounts appropriated or otherwise available to the Department of Defense for operation and maintenance may be used to purchase weapons overseas from any person, foreign government, international organization, or other entity for the purpose of protecting United States forces engaged in military operations overseas.

"(b) DESTRUCTION OF WEAPONS.—Weapons purchased under the authority in subsection (a) may be destroyed.

"(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the congressional defense committees of any use of the authority in subsection (a) to purchase weapons.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2249d. Use of appropriated funds for purchase and destruction of weapons overseas.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005, and shall apply with respect to funds appropriated or otherwise made available for fiscal years after fiscal year 2005.

SEC. 325. INCREASE IN MAXIMUM CONTRACT AMOUNT FOR PROCUREMENT OF SUPPLIES AND SERVICES FROM EXCHANGE STORES OUTSIDE THE UNITED STATES.

Section 2424(b)(1) of title 10, United States Code, is amended by striking "$50,000" and inserting "$100,000".

SEC. 326. EXTENSION OF AUTHORITY TO PROVIDE LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

Section 365(g)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2520; 10 U.S.C. 2302 note) is amended by striking "September 30, 2007" and inserting "September 30, 2010".

SEC. 327. ARMY TRAINING STRATEGY.

(a) TRAINING STRATEGY.—

(1) STRATEGY REQUIRED.—The Secretary of the Army shall develop and implement a training strategy to ensure the readiness of brigade-based combat teams and functional supporting brigades.

(2) ELEMENTS.—The training strategy shall include the following:

(A) A statement of the purpose of training for brigade-based combat teams and supporting brigades.

(B) Performance goals for both active and reserve brigade-based combat teams and supporting brigades, including goals for live, virtual, and constructive training for each component and brigade type.

(C) Metrics to quantify performance against the performance goals specified under subparagraph (B).

(D) A process to report the accomplishment of collective training by which Army leadership can monitor the training performance of brigade-based combat teams and functional supporting brigades.

(E) A model to quantify, and to forecast, operation and maintenance funding required to attain training goals.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the requirements to be fulfilled in order to implement the training strategy developed under subsection (a).

(2) ELEMENTS.—The report shall include the following:

(A) A discussion of the training strategy developed under subsection (a), including a description of performance goals and metrics developed under that subsection.

(B) A discussion and description of the training range requirements necessary to implement the training strategy.

(C) A discussion and description of the training aids, devices, simulations and simulators necessary to implement the training strategy.

(D) A list of the funding requirements, itemized by fiscal year and specified in a format consistent with the future-years defense program to accompany the budget of the President for fiscal year 2007 under section 221 of title 10, United States Code, necessary to fulfill the range requirements described in subparagraph (B) and to provide the training aids, devices, simulations, and simulators described in subparagraphs (C).

(E) A schedule for the implementation of the training strategy.

(F) A discussion of the challenges that the Army anticipates in the implementation of the training strategy.

(c) COMPTROLLER GENERAL REVIEW OF IMPLEMENTATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall monitor the implementation of the training strategy developed under subsection (a).

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report containing the assessment of the Comptroller General of the current progress of the Army in implementing the training strategy.

SEC. 328. LIMITATION ON FINANCIAL MANAGEMENT IMPROVEMENT AND AUDIT INITIATIVES WITHIN THE DEPARTMENT OF DEFENSE.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 may not be obligated or expended for the purposes of financial management improvement activities relating to the preparation, processing, or auditing of financial statements until the Secretary of Defense prepares and submits to the congressional defense committees the following:

(1) A comprehensive and integrated financial management improvement plan that—

(A) describes specific actions to be taken to correct financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information; and

(B) systematically ties such actions to process and control improvements and business systems modernization efforts described in the business enterprise architecture and transition plan required by section 2222 of title 10, United States Code.

(2) A written determination that each of the financial management improvement activities to be undertaken are—

(A) consistent with the financial management improvement plan submitted pursuant to paragraph (1); and

(B) likely to improve internal controls or otherwise result in sustained improvements in the ability of the Department to produce timely, reliable, and complete financial management information.

SEC. 329. STUDY ON USE OF ETHANOL FUEL.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study on the use of ethanol fuel by the Armed Forces and the Defense Agencies.

(b) ELEMENTS.—The study shall include—

(1) an evaluation of the historical utilization of ethanol fuel by the Armed Forces and the Defense Agencies, including the quantity of ethanol fuel acquired by the Department of Defense for the Armed Forces and the Defense Agencies during the 5-year period ending on the date of the report under subsection (c);

(2) a forecast of the requirements of the Armed Forces and the Defense Agencies for ethanol fuel for each of fiscal years 2007 through 2012;

(3) an assessment of the current and future commercial availability of ethanol fuel, including facilities for the production, storage, transportation, distribution, and commercial sale of such fuel;

(4) an assessment of the utilization by the Department of the commercial infrastructure for ethanol fuel as described in paragraph (3);

(5) a review of the actions of the Department to coordinate with State, local, and private entities to support the expansion and use of alternative fuel refueling stations that are accessible to the public; and

(6) an assessment of the fueling infrastructure on military installations in the United States, including storage and distribution facilities, that could be adapted or converted to the delivery of ethanol fuel, including—

(A) an assessment of cost of the adaptation or conversion of such infrastructure to the delivery of ethanol fuel; and

(B) an assessment of the feasibility and advisability of that adaptation or conversion.

(c) REPORT.—Not later than February 1, 2006, the Secretary shall submit to the congressional defense committees a report on the study conducted under subsection (a).

(d) ETHANOL FUEL DEFINED.—In this section, the term "ethanol fuel" means fuel that is 85 percent ethyl alcohol.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2006, as follows:

(1) The Army, 522,400.
(2) The Navy, 352,700.
(3) The Marine Corps, 178,000.
(4) The Air Force, 357,400.

SEC. 402. REVISION OF PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

(a) REVISION.—Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 522,400.

"(2) For the Navy, 352,700.

"(3) For the Marine Corps, 178,000.

"(4) For the Air Force, 357,400.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to fiscal years beginning on or after that date.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2006, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 73,100.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 74,000.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2006, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 27,396.

(2) The Army Reserve, 15,270.

(3) The Naval Reserve, 13,392.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 13,123.

(6) The Air Force Reserve, 2,290.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2006 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,649.

(2) For the Army National Guard of the United States, 25,563.

(3) For the Air Force Reserve, 9,852

(4) For the Air National Guard of the United States, 22,971.

SEC. 414. FISCAL YEAR 2006 LIMITATIONS ON NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2006, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2006, may not exceed 695.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2006, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given the term in section 10217(a) of title 10, United States Code.

Subtitle C—Authorizations of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2006 a total of $109,179,601,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2006.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2006 from the Armed Forces Retirement Home Trust Fund the sum of $58,281,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. EXCLUSION OF GENERAL AND FLAG OFFICERS ON LEAVE PENDING SEPARATION OR RETIREMENT FROM COMPUTATION OF ACTIVE DUTY OFFICERS FOR GENERAL AND FLAG OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS.

(a) DISTRIBUTION LIMITATIONS.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In determining the total number of general officers or flag officers of an armed force on active duty for purposes of this section, an officer of that armed force in the grade of brigadier general or above, or an officer in the grade of rear admiral (lower half) or above in the Navy, who is on leave pending the separation, retirement, or release of such officer from active duty shall not be counted, but only during the 60-day period beginning on the date of the commencement of leave of such officer.".

(b) ACTIVE DUTY STRENGTH LIMITATIONS.—

(1) IN GENERAL.—Section 526 of such title is amended by adding at the end the following new subsection:

"(e) EXCLUSION OF CERTAIN OFFICERS ON LEAVE PENDING SEPARATION OR RETIREMENT.—The limitations of this section do not apply to general or flag officers on leave pending separation, retirement, or release from active duty as described in section 525(e) of this title.".

(2) CONFORMING AMENDMENT.—The heading of subsection (d) of such section is amended by striking "CERTAIN OFFICERS" and inserting "CERTAIN RESERVE OFFICERS ON ACTIVE DUTY".

SEC. 502. EXPANSION OF JOINT DUTY ASSIGNMENTS FOR RESERVE COMPONENT GENERAL AND FLAG OFFICERS.

(a) INCREASE IN AUTHORIZED NUMBER.—Section 526(b)(2)(A) of title 10, United States Code, is amended by striking "10" and inserting "11".

(b) ASSIGNMENT TO JOINT STAFF.—Such section is further amended by inserting ", and on the Joint Staff," after "commands".

SEC. 503. DEADLINE FOR RECEIPT BY PROMOTION SELECTION BOARDS OF CORRESPONDENCE FROM ELIGIBLE OFFICERS.

(a) OFFICERS ON ACTIVE DUTY LIST.—Section 614(b) of title 10, United States Code, is amended by inserting "the date before" after "not later than".

(b) OFFICERS ON RESERVE ACTIVE-STATUS LIST.—Section 14106 of such title is amended by inserting "the date before" after "not later than".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on March 1, 2006, and shall apply with respect to selection boards convened on or after that date.

SEC. 504. FURNISHING TO PROMOTION SELECTION BOARDS OF ADVERSE INFORMATION ON OFFICERS ELIGIBLE FOR PROMOTION TO CERTAIN SENIOR GRADES.

(a) OFFICERS ON ACTIVE-DUTY LIST.—

(1) IN GENERAL.—Section 615(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an eligible officer considered for promotion to the grade of lieutenant colonel, or commander in the case of the Navy, or above, any information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(B) in paragraph (5), as so redesignated, by striking "and (3)" and inserting ", (3), and (4)";

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting ", or in paragraph (3)," after "paragraph (2)"; and

(ii) in subparagraph (B), by inserting "or (3), as applicable" after "paragraph (2)"; and

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting "or (3)" after "paragraph (2)(B)".

(b) RESERVE OFFICERS.—

(1) IN GENERAL.—Section 14107(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of an eligible officer considered for promotion to the grade of lieutenant colonel, or commander in the case of the Navy, or above, any information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).".

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(B) in paragraph (5), as so redesignated, by striking "and (3)" and inserting ", (3), and (4)";

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting ", or in paragraph (3)," after "paragraph (2)"; and

(ii) in subparagraph (B), by inserting "or (3), as applicable" after "paragraph (2)"; and

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting "or (3)" after "paragraph (2)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006, and shall apply with respect to promotion selection boards convened on or after that date.

SEC. 505. GRADES OF THE JUDGE ADVOCATES GENERAL.

(a) JUDGE ADVOCATE GENERAL OF THE ARMY.—Section 3037(a) of title 10, United States Code, is amended by striking the last sentence and inserting the following new sentences: "The Judge Advocate General, while so serving, has the grade of lieutenant general. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.".

(b) JUDGE ADVOCATE GENERAL OF THE NAVY.—Section 5148(b) of such title is amended by striking the last sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, has the grade of vice admiral or lieutenant general, as appropriate.".

(c) JUDGE ADVOCATE GENERAL OF THE AIR FORCE.—Section 8037(a) of such title is amended by striking the last sentence and inserting the following new sentence: "The Judge Advocate General, while so serving, has the grade of lieutenant general.".

(d) EXCLUSION FROM LIMITATION ON GENERAL AND FLAG OFFICER DISTRIBUTION.—Section 525(b) of such title is amended by adding at the end the following new paragraph:

"(9) An officer while serving as the Judge Advocate General of the Army, the Judge Advocate General of the Navy, or the Judge Advocate General of the Air Force is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above major general or rear admiral under paragraph (1) or (2), as the case may be.".

SEC. 506. TEMPORARY EXTENSION OF AUTHORITY TO REDUCE MINIMUM LENGTH OF COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.

(a) ARMY.—Section 3911(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in paragraph (1), as so designated, by striking ", during the period beginning on October 1, 1990, and ending on December 31, 2001,"; and

(3) by adding at the end the following new paragraph:

"(2) The authority in paragraph (1) may be exercised during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.".

(b) NAVY AND MARINE CORPS.—Section 6323(a)(2) of such title is amended—

(1) by inserting "(A)" after "(2)";

(2) in subparagraph (A), as so designated, by striking ", during the period beginning on October 1, 1990, and ending on December 31, 2001,"; and

(3) by adding at the end the following new subparagraph:

"(B) The authority in subparagraph (A) may be exercised during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.".

(c) AIR FORCE.—Section 8911(b) of such title is amended—

(1) by inserting "(1)" after "(b)";

(2) in paragraph (1), as so designated, by striking ", during the period beginning on October 1, 1990, and ending on December 31, 2001,"; and

(3) by adding at the end the following new paragraph:

"(2) The authority in paragraph (1) may be exercised during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.".

SEC. 507. MODIFICATION OF STRENGTH IN GRADE LIMITATIONS APPLICABLE TO RESERVE FLAG OFFICERS IN ACTIVE STATUS.

(a) LINE OFFICERS.—Paragraph (1) of section 12004(c) of title 10, United States Code, is amended in the item in the table relating to Line officers by striking "28" and inserting "33".

(b) MEDICAL DEPARTMENT STAFF CORPS OFFICERS.—Such paragraph is further amended in the item in the table relating to the Medical Department staff corps officers by striking "9" and inserting "5".

(c) SUPPLY CORPS OFFICERS.—Paragraph (2)(A) of such section is amended by striking "seven" and inserting "six".

(d) CONFORMING AMENDMENT.—Paragraph (1) of such section is further amended in the matter preceding the table by striking "39" and inserting "40".

SEC. 508. UNIFORM AUTHORITY FOR DEFERMENT OF SEPARATION OF RESERVE GENERAL AND FLAG OFFICERS FOR AGE.

(a) IN GENERAL.—Section 14512 of title 10, United States Code, is amended to read as follows:

"§ 14512. Separation at age 64

"(a) IN GENERAL.—The Secretary of the military department concerned may, subject to subsection (b), defer the retirement under section 14510 or 14511 of this title of a reserve officer of the Army, Air Force, or Marine Corps in a grade above colonel, or a reserve officer of the Navy in a grade above captain, and retain such officer in active status until such officer becomes 64 years of age.

"(b) LIMITATION ON NUMBER OF DEFERMENTS.—(1) Not more than 10 officers may be deferred by the Secretary of a military department under subsection (a) at any one time.

"(2) Deferments by the Secretary of the Navy may be distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1407 of such title is amended by striking the item relating to section 14512 and inserting the following new item:

"14512. Separation at age 64.".

Subtitle B—Enlisted Personnel Policy

SEC. 521. UNIFORM CITIZENSHIP OR RESIDENCY REQUIREMENTS FOR ENLISTMENT IN THE ARMED FORCES.

(a) UNIFORM REQUIREMENTS.—Section 504 of title 10, United States Code, is amended—

(1) by inserting "(a) INSANITY, DESERTION, FELONS, ETC..—" before "No person"; and

(2) by adding at the end the following new subsection:

"(b) CITIZENSHIP OR RESIDENCY.—(1) No person may be enlisted in any armed force unless such person is a citizen or national of the United States, a habitual resident of the Federal States of Micronesia, the Republic of Palau, or the Republic of the Marshall Islands, or has been lawfully admitted to the United States for permanent residence under the applicable provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

"(2) The Secretary concerned may waive the applicability of paragraph (1) to a person if such Secretary determines that the enlistment of such person is vital to the national interest.".

(b) REPEAL OF SUPERSEDED LIMITATIONS FOR THE ARMY AND AIR FORCE.—Sections 3253 and 8253 of such title are repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 333 of such title is amended by striking the item relating to section 3253.

(2) The table of sections at the beginning of chapter 833 of such title is amended by striking the item relating to section 8253.

Subtitle C—Reserve Component Personnel Matters

SEC. 531. REQUIREMENTS FOR PHYSICAL EXAMINATIONS AND MEDICAL AND DENTAL READINESS FOR MEMBERS OF THE SELECTED RESERVE NOT ON ACTIVE DUTY.

(a) IN GENERAL.—Subsection (a) of section 10206 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "examined" and all that follows through the semicolon and inserting "provided a comprehensive physical examination on an annual basis;"; and

(2) in paragraph (2), by striking "annually to the Secretary concerned" and all that follows and inserting "to the Secretary concerned on an annual basis documentation of the medical and dental readiness of the member to perform military duties.".

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**periodic**".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1007 of such title is amended by striking "periodic".

SEC. 532. REPEAL OF LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE UNDER RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 2107(c) of title 10, United States Code, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in subparagraph (B) of paragraph (4), as so redesignated, by striking ", (3), or (4)" and inserting "or (3)".

(b) ARMY RESERVE AND ARMY NATIONAL GUARD MEMBERS.—Section 2107a(c) of such title is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—Section 524(c) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1889) is amended by striking "paragraph (5)" and all that follows through "subsection (b)" and inserting "paragraph (4) of section 2107(c) of title 10, United States Code (as added by subsection (a) of this section and redesignated by section 532(a)(2) of the National Defense Authorization Act for Fiscal Year 2006), and under paragraph (3) of section 2107a(c) of title 10, United States Code (as added by subsection (b) of this section and redesignated by section 532(b)(2) of such Act)".

SEC. 533. PROCEDURES FOR SUSPENDING FINANCIAL ASSISTANCE AND SUBSISTENCE ALLOWANCE FOR SENIOR ROTC CADETS AND MIDSHIPMEN ON THE BASIS OF HEALTH-RELATED CONDITIONS.

(a) Requirements.—Section 2107 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Payment of financial assistance under this section for, and payment of a monthly subsistence allowance under section 209 of title 37 to, a cadet or midshipman appointed under this section may be suspended on the basis of health-related incapacity of the cadet or midshipman only in accordance with regulations prescribed under paragraph (2).

"(2) The Secretary of Defense shall prescribe in regulations the policies and procedures for suspending payments under paragraph (1). The regulations shall apply uniformly to all of the military departments. The regulations shall include the following matters:

"(A) The standards of health-related fitness that are to be applied.

"(B) Requirements for—

"(i) the health-related condition and prognosis of a cadet or midshipman to be determined, in relation to the applicable standards prescribed under subparagraph (A), by a health care professional on the basis of a medical examination of the cadet or midshipman; and

"(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in deciding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition.

"(C) A requirement for the Secretary concerned to transmit to a cadet or midshipman proposed for suspension under this subsection a notification of the proposed suspension together with the determinations made under subparagraph (B)(i) in the case of the proposed suspension.

"(D) A procedure for a cadet or midshipman proposed for suspension under this subsection to submit a written response to the proposal for suspension, including any supporting information.

"(E) Requirements for—

"(i) one or more health-care professionals to review, in the case of such a response of a cadet or midshipman, each health-related condition and prognosis addressed in the response, taking into consideration the matters submitted in such response; and

"(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in making a final decision regarding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition, and the conditions under which such suspension may be lifted.".

(b) Time for Promulgation of Regulations.—The Secretary of Defense shall prescribe the regulations required under subsection (j) of section 2107 of title 10, United States Code (as added by subsection (a)), not later than May 1, 2006.

SEC. 534. INCREASE IN MAXIMUM NUMBER OF ARMY RESERVE AND ARMY NATIONAL GUARD CADETS UNDER RESERVE OFFICERS' TRAINING CORPS.

Section 2107a(h) of title 10, United States Code, is amended by striking "208 cadets" and inserting "416 cadets".

SEC. 535. MODIFICATION OF EDUCATIONAL ASSISTANCE FOR RESERVES SUPPORTING CONTINGENCY AND OTHER OPERATIONS.

(a) Official Receiving Elections of Benefits.—Section 16163(e) of title 10, United States Code, is amended by striking "Secretary concerned" and inserting "Secretary of Veterans Affairs".

(b) Exception to Immediate Termination of Assistance.—Section 16165 of such title is amended—

(1) by striking "Educational assistance" and inserting "(a) In General.—Except as provided in subsection (b), educational assistance"; and

(2) by adding at the end the following new subsection:

"(b) Exception.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve of not more than 90 days if the member continues to serve in the Ready Reserve during and after such break in service.".

SEC. 536. REPEAL OF LIMITATION ON AUTHORITY TO REDESIGNATE THE NAVAL RESERVE AS THE NAVY RESERVE.

Section 517(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1884; 10 U.S.C. 10101 note) is amended by striking ", which date" and all that follows through the end and inserting a period.

SEC. 537. PERFORMANCE BY RESERVE COMPONENT PERSONNEL OF OPERATIONAL TEST AND EVALUATION AND TRAINING RELATING TO NEW EQUIPMENT.

(a) Pilot Program.—The Secretary of the Army shall carry out a pilot program to evaluate the feasibility and advisability of—

(1) utilizing members of the reserve components of the Army, rather than contractor personnel, to perform test, evaluation, new equipment training, and related activities for one or more acquisition programs selected by the Secretary for purposes of the pilot program; and

(2) utilizing funds otherwise available for multi-year purposes for such activities in appropriations for research, development, test, and evaluation, and for procurement, in order to reimburse appropriations for personnel for the costs of pay, allowances, and expenses of such members in the performance of such activities.

(b) Nonwaiver of Personnel and Training Policies and Procedures.—Nothing in this section may be construed to authorize any deviation from established personnel or training policies or procedures that are applicable to the reserve components of the personnel used under the pilot program.

(c) Reimbursement Authority.—

(1) In general.—Subject to paragraph (2), the Secretary may transfer from appropriations for research, development, test, and evaluation, or for procurement, for an acquisition program under the pilot program under subsection (a) to appropriations for reserve component personnel of the Army amounts necessary to reimburse appropriations for reserve component personnel of the Army for pay, allowances, and expenses of reserve component personnel of the Army in performing activities under the pilot program.

(2) Limitation.—The amount that may be transferred under paragraph (1) in any fiscal year may not exceed $10,000,000.

(3) Merger of funds.—Amounts transferred to an account under paragraph (1) shall be merged with other amounts in such account, and shall be available for the same period, and subject to the same limitations, as the amounts with which merged.

(4) Relationship to other transfer authority.—The authority to transfer funds under paragraph (1) is in addition to any other authority to transfer funds under law.

(d) Termination.—The authority to carry out the pilot program under subsection (a) shall expire on September 30, 2010.

(e) Report.—Not later than March 1, 2010, the Secretary of the Army shall, in consultation with the Secretary of Defense, submit to the congressional defense committees a report on the pilot program under subsection (a). The report shall include—

(1) a comprehensive description of the pilot program, including the acquisition programs covered by the pilot program and the activities performed by members of the reserve components of the Army under the pilot program;

(2) an assessment of the benefits, including cost savings and other benefits, of the performance of activities under the pilot program by members of the reserve components of the Army rather than by contractor personnel; and

(3) any recommendations for legislative or administrative action that the Secretary considers appropriate in light of the pilot program.

Subtitle D—Military Justice and Related Matters

SEC. 551. MODIFICATION OF PERIODS OF PROSECUTION BY COURTS-MARTIAL FOR MURDER, RAPE, AND CHILD ABUSE.

(a) Unlimited Period for Murder and Rape.—Subsection (a) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking "or with any offense" and inserting "with murder or rape, or with any other offense".

(b) Extended Period for Child Abuse.—Subsection (b)(2) of such section (article) is amended—

(1) in subparagraph (A), by striking "before the child attains the age of 25 years" and all that follows through the period and inserting "by an officer exercising summary court-martial jurisdiction with respect to that person during the life of the victim or the date that is five years after the date of the offense, whichever is the later date.";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "sexual or physical"; and

(B) in clause (v), by striking "Indecent assault," and inserting "Kidnapping, indecent assault,"; and

(3) by adding at the end the following new subparagraph:

"(C) In subparagraph (A), the term 'child abuse offense' also includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117 or section 1591 of title 18.".

SEC. 552. ESTABLISHMENT OF OFFENSE OF STALKING.

(a) Establishment of Offense.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 893 (article 93) the following new section (article):

"§ 893a. Art. 93a. Stalking

"(a) Any person subject to this chapter—

"(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family;

"(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family; and

"(3) whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or to a member of his or her immediate family,

is guilty of stalking and shall be punished as a court-martial may direct.

"(b) For purposes of this section:

"(1) The term 'course of conduct' means—

"(A) a repeated maintenance of visual or physical proximity to a specific person; or

"(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

"(2) The term 'repeated', with respect to conduct, means two or more occasions of such conduct.

"(3) The term 'immediate family', in the case of a specific person, means a spouse, parent, child, or sibling of the person, or any other family member or relative of the person who regularly resides in the household of the person or who within the six months preceding the commencement of the course of conduct regularly resided in the household of the person.".

(b) Clerical Amendment.—The table of sections at the beginning of subchapter X of such chapter is amended by inserting after the item relating to section 893 (article 93) the following new item:

"893a. Art. 93a. Stalking.".

SEC. 553. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL.

Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

"(2) In this subsection, the term 'military legal assistance' includes—

"(A) legal assistance provided under this section; and

"(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.".

SEC. 554. ADMINISTRATIVE CENSURES OF MEMBERS OF THE ARMED FORCES.

(a) Authority To Issue Administrative Censures.—

(1) Authority of Secretary of Defense.—The Secretary of Defense may issue, in writing, an administrative censure to any member of the Armed Forces.

(2) Authority of Secretaries of Military Departments.—The Secretary of a military department may issue, in writing, an administrative censure to any member of the Armed Forces under the jurisdiction of such Secretary.

(3) Regulations.—Administrative censures shall be issued under this section pursuant to regulations prescribed by the Secretary of Defense. The regulations shall apply uniformly throughout the military departments.

(b) Administrative Censure.—For purposes of this section, an administrative censure is a statement of adverse opinion or criticism with respect to the conduct or performance of duty of a member of the Armed Forces.

(c) Finality.—An administrative censure issued under this section is final and may not be appealed by the member of the Armed Forces concerned.

(d) Construction.—The authority under this section to issue administrative censures with respect to the conduct or performance of duty of a member of the Armed Forces is in addition to the authority to impose nonjudicial punishment with respect to such conduct or performance of duty under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

SEC. 555. REPORTS BY OFFICERS AND SENIOR ENLISTED PERSONNEL OF MATTERS RELATING TO VIOLATIONS OR ALLEGED VIOLATIONS OF CRIMINAL LAW.

(a) Requirement for Reports.—

(1) In general.—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces, whether on the active-duty list or on the reserve active-status list, shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report on any investigation, arrest, charge, detention, adjudication, or conviction of such member by any law enforcement authority of the United States for a violation of a criminal law of the United States, whether or not such member is on active duty at the time of the conduct that provides the basis of such investigation, arrest, charge, detention, adjudication, or conviction. The regulations shall apply uniformly throughout the military departments.

(2) Covered members.—In this section, the term "covered member of the Armed Forces" means the following:

(A) An officer.

(B) An enlisted member in the grade of E-7 or above.

(b) Law Enforcement Authority of the United States.—For purposes of this section, a law enforcement authority of the United States includes—

(1) a military or other Federal law enforcement authority;

(2) a State or local law enforcement authority; and

(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(c) Criminal Law of the United States.—

(1) In general.—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

(A) any military or other Federal criminal law;

(B) any State, county, municipal, or local criminal law or ordinance; and

(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(2) Exception.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as determined by the Secretary for purposes of such regulations).

(d) Actions Subject To Report.—

(1) In general.—The regulations prescribed pursuant to subsection (a) shall specify each action of a law enforcement authority of the United States for which a report under that subsection shall be required.

(2) Multiple reports on single conduct.—If the conduct of a covered member of the Armed Forces would provide the basis for actions of a law enforcement authority of the United States warranting more than one report under this section, the regulations shall specify which of such actions such be subject to a report under this section.

(e) Timeliness of Reports.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

(f) Forwarding of Information.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to an investigation, arrest, charge, detention, adjudication, or conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

(g) Deadline for Regulations.—The regulations required by subsection (a), including the requirement in subsection (f), shall go into effect not later than January 1, 2006.

Subtitle E—Military Service Academies

SEC. 561. AUTHORITY TO RETAIN PERMANENT MILITARY PROFESSORS AT THE NAVAL ACADEMY AFTER MORE THAN 30 YEARS OF SERVICE.

(a) Authority To Retain.—

(1) In general.—Chapter 603 of title 10, United States Code, is amended by inserting after section 6952 the following new section:

"§ 6952a. Faculty: retention of permanent military professors

"(a) Retirement for Years of Service.—(1) Except as provided in subsection (b), an officer serving as a permanent military professor at the Naval Academy in the grade of commander who is not on a list of officers recommended for promotion to the grade of captain shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

"(2) Except as provided in subsection (b), an officer serving as a permanent military professor at the Naval Academy in the grade of captain who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

"(b) Continuation on Active Duty.—(1) An officer subject to retirement under subsection (a) may be continued on active duty by the Secretary of the Navy after the date otherwise provided for retirement under such subsection—

"(A) upon the recommendation of the Superintendent of the Naval Academy; and

"(B) with the concurrence of the Chief of Naval Operations.

"(2) The Secretary of the Navy shall determine the period of continuation on active duty of an officer under this subsection.

"(c) ELIGIBILITY FOR PROMOTION.—A permanent military professor at the Naval Academy who has been retained on active duty as a permanent military professor after more than 28 years of active commissioned service in the grade of commander under subsection (b) is eligible for consideration for promotion to the grade of captain.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6952 the following new item:

"6952a. Faculty: retention of permanent military professors.".

(b) CONFORMING AMENDMENTS.—

(1) Section 633 of such title is amended—

(A) by striking "and an officer" and inserting ", an officer"; and

(B) by inserting ", and an officer who is a permanent military professor at the Naval Academy to whom section 6952a of this title applies," after "section 6383 of this title applies".

(2) Section 634 of such title is amended by inserting "and an officer who is a permanent military professor at the Naval Academy to whom section 6952a of this title applies," after "section 6383(a)(4) of this title".

Subtitle F—Administrative Matters

SEC. 571. CLARIFICATION OF LEAVE ACCRUAL FOR MEMBERS ASSIGNED TO A DEPLOYABLE SHIP OR MOBILE UNIT OR OTHER DUTY.

Subparagraph (B) of section 701(f)(1) of title 10, United States Code, is amended to read as follows:

"(B) This subsection applies to a member who—

"(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37; or

"(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section.".

SEC. 572. LIMITATION ON CONVERSION OF MILITARY MEDICAL AND DENTAL BILLETS TO CIVILIAN POSITIONS.

(a) LIMITATION.—Commencing as of the date of the enactment of this Act, no military medical or dental billet may be converted to a civilian position until 90 days after the date on which the Secretary of Defense certifies to the congressional defense committees each of the following:

(1) That the conversion of military medical or dental billets to civilian positions, whether before the date of the enactment or as scheduled after the limitation under this subsection no longer applies, will not result in an increase in civilian health care costs.

(2) That the conversion of such billets to such positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

(3) That, as determined pursuant to market surveys conducted under subsection (b), the civilian medical and dental care providers available in each affected area are adequate to fill the civilian positions created by the conversion of such billets to such positions in such affected area.

(b) MARKET SURVEYS.—The Secretary of Defense shall conduct in each affected area a survey of the availability of civilian medical and dental care providers in such area in order to determine, for purposes of subsection (a)(3), whether or not the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of medical and dental billets to civilian positions in such area.

(c) DEFINITIONS.—In this section:

(1) The term "affected area" means an area in which the conversion of military medical or dental billets to civilian positions has taken place as of the date of the enactment of this Act or is scheduled to take place after the limitation under subsection (a) no longer applies.

(2) The term "uniformed services" has the meaning given that term in section 1072(1) of title 10, United States Code.

Subtitle G—Defense Dependents Education Matters

SEC. 581. EXPANSION OF AUTHORIZED ENROLLMENT IN DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS OVERSEAS.

The Defense Dependents' Education Act of 1978 (20 U.S.C. 931 et seq.) is amended by inserting after section 1404 the following new section:

"ENROLLMENT OF CERTAIN ADDITIONAL CHILDREN ON TUITION-FREE BASIS

"SEC. 1404A. (a) The Secretary of Defense may, under regulations to be prescribed by the Secretary, authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States.

"(b) The Secretary may utilize funds available for the defense dependents' education system, including funds for construction, in order to provide for the education of children enrolled in the defense dependents' education system under subsection (a).".

SEC. 582. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES WITH SIGNIFICANT ENROLLMENT INCREASES IN MILITARY DEPENDENT STUDENTS DUE TO TROOP RELOCATIONS, CREATION OF NEW UNITS, AND REALIGNMENTS UNDER BRAC.

(a) AVAILABILITY OF ASSISTANCE.—To assist communities in making adjustments resulting from the creation of new units and other large-scale relocations of members of the Armed Forces between military installations, the Secretary of Defense may make payments to local educational agencies described in subsection (b) that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had an overall increase in the number of military dependent students enrolled in schools of such local educational agencies equal to or greater than 250 military dependent students.

(b) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this section for a fiscal year only if the Secretary of Defense determines that—

(1) the local educational agency is eligible for educational agencies assistance for the same fiscal year; and

(2) the required overall increase in the number of military dependent students enrolled in schools of that local educational agency, as provided in subsection (a), occurred as a result of the relocation of military personnel due to—

(A) the global rebasing plan of the Department of Defense;

(B) the official creation or activation of one or more new military units; or

(C) the realignment of forces as a result of the base closure process.

(c) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each of the next two fiscal years, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for such fiscal year of—

(1) the eligibility of the local educational agency for the assistance; and

(2) the amount of the assistance for which that local educational agency is eligible, as determined under subsection (d).

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—In making assistance available to local educational agencies under this section, the Secretary of Defense shall, in consultation with the Secretary of Education, make assistance available to such local educational agencies for a fiscal year on a pro rata basis based on the size of the overall increase in the number of military and Department of Defense civilian dependent students enrolled in schools of those local educational agencies for such fiscal year.

(2) LIMITATION.—No local educational agency may receive more than $1,000,000 in assistance under this section for any fiscal year.

(e) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) for that fiscal year.

(f) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Education.

(g) REPORTS.—

(1) REPORTS REQUIRED.—Not later than May 1 of each of 2007, 2008, and 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year preceding the date of such report.

(2) ELEMENT.—Each report on the assistance provided during a fiscal year under this section shall include an assessment and description of the current compliance of each local educational agency receiving such assistance with the requirements of the No Child Left Behind Act of 2001 (Public Law 107-110).

(h) FUNDING.—Of the amount authorized to be appropriated to the Department of Defense for fiscal years 2006, 2007, and 2008 for operation and maintenance for Defense-wide activities, $15,000,000 shall be available for each such fiscal year only for the purpose of providing assistance to local educational agencies under this section.

(i) TERMINATION.—The authority of the Secretary of Defense to provide financial assistance under this section shall expire on September 30, 2008.

(j) DEFINITIONS.—In this section:

(1) The term "base closure process" means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(3) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(4) The term "military dependent students" refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

SEC. 583. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) Continuation of Department of Defense Program for Fiscal Year 2006.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) Notification.—Not later than June 30, 2006, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2006 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) Disbursement of Funds.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) Definitions.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "basic support payment" means a payment authorized under section 8003(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

SEC. 584. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

Subtitle H—Other Matters

SEC. 591. POLICY AND PROCEDURES ON CASUALTY ASSISTANCE TO SURVIVORS OF MILITARY DECEDENTS.

(a) Comprehensive Policy on Casualty Assistance.—

(1) Policy required.—Not later than January 1, 2006, the Secretary of Defense shall develop and prescribe a comprehensive policy for the Department of Defense on the provision of casualty assistance to survivors and next of kin of members of the Armed Forces who die during military service (in this section referred to as "military decedents").

(2) Consultation.—The Secretary shall develop the policy in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Homeland Security with respect to the Coast Guard

(3) Incorporation of past experience and practice.—The policy shall be based on—

(A) the experience and best practices of the military departments;

(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of survivors of military decedents; and

(C) such other matters as the Secretary of Defense considers appropriate.

(4) Procedures.—The policy shall include procedures to be followed by the military departments in the provision of casualty assistance to survivors and next of kin of military decedents. The procedures shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department.

(b) Elements of Policy.—The comprehensive policy developed under subsection (a) shall address the following matters:

(1) The initial notification of primary and secondary next of kin of the deaths of military decedents and any subsequent notifications of next of kin warranted by circumstances.

(2) The transportation and disposition of remains of military decedents, including notification of survivors of the performance of autopsies.

(3) The qualifications, assignment, training, duties, supervision, and accountability for the performance of casualty assistance responsibilities.

(4) The relief or transfer of casualty assistance officers, including notification to survivors and next of kin of the reassignment of such officers to other duties.

(5) Centralized, short-term and long-term case-management procedures for casualty assistance by each military department, including rapid access by survivors of military decedents and casualty assistance officers to expert case managers and counselors.

(6) The provision, at no cost to survivors of military decedents, of personalized, integrated information on the benefits and financial assistance available to such survivors from the Federal Government.

(7) The provision, at no cost to survivors of military decedents, of legal assistance by military attorneys on matters arising from the deaths of such decedents, including tax matters, on an expedited, prioritized basis.

(8) The provision of financial counseling to survivors of military decedents, particularly with respect to appropriate disposition of death gratuity and insurance proceeds received by surviving spouses, minor dependent children, and their representatives.

(9) The provision of information to survivors and next of kin of military decedents on mechanisms for registering complaints about, or requests for, additional assistance related to casualty assistance.

(10) Liaison with the Department of Veterans Affairs and the Social Security Administration in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for survivors of military decedents.

(11) Data collection regarding the incidence and quality of casualty assistance provided to survivors of military decedents, including surveys of such survivors and military and civilian members assigned casualty assistance duties.

(c) Adoption by Military Departments.—Not later than March 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of casualty assistance to survivors and next of kin of military decedents in order to conform such policies and procedures to the policy developed under subsection (a).

(d) Report on Improvement of Casualty Assistance Programs.—Not later than May 1, 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes—

(1) the assessment of the Secretary of the adequacy and sufficiency of the current casualty assistance programs of the military departments;

(2) a plan for a system for the uniform provision to survivors of military decedents of personalized, accurate, and integrated information on the benefits and financial assistance available to such survivors through the casualty assistance programs of the military departments under subsection (c); and

(3) such recommendations for other legislative or administrative action as the Secretary considers appropriate to enhance and improve such programs to achieve their intended purposes.

(e) GAO Report.—

(1) Report required.—Not later than August 1, 2006, the Comptroller General of the United States shall submit to the congressional defense committees a report on the evaluation by the Comptroller General of the casualty assistance programs of the Department of Defense and of such other departments and agencies of the Federal Government as provide casualty assistance to survivors and next of kin of military decedents.

(2) Assessment.—The report shall include the assessment of the Comptroller General of the adequacy of the current policies and procedures of, and funding for, the casualty assistance programs covered by the report to achieve their intended purposes.

SEC. 592. MODIFICATION AND ENHANCEMENT OF MISSION AND AUTHORITIES OF THE NAVAL POSTGRADUATE SCHOOL.

(a) Combat-Related Focus for Naval Postgraduate School.—

(1) In general.—Section 7041 of title 10, United States Code, is amended by striking "for the advanced instruction" and all that follows and inserting "for the provision of advanced instruction, and professional and technical education, to commissioned officers of the naval service to enhance combat effectiveness and the national security.".

(2) Conforming amendment.—Section 7042(b)(1) of such title is amended by striking "and technical education" and inserting ", and technical and professional education,".

(b) Expanded Eligibility of Enlisted Personnel for Instruction.—Section 7045 of such title is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The Secretary may permit an eligible member of the armed forces to receive instruction from the Postgraduate School in certificate programs and courses required for the performance of the member's duties."; and

(C) in subparagraph (D), as so redesignated, by striking "(A) and (B)" and inserting "(A), (B), and (C)"; and

(2) in subsection (b)(2), by striking "(a)(2)(C)" and inserting "(a)(2)(D)".

SEC. 593. EXPANSION AND ENHANCEMENT OF AUTHORITY TO PRESENT RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION PURPOSES.

(a) In General.—(1) Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2261. Presentation of recognition items for recruitment and retention purposes

"(a) Expenditures for Recognition Items.—Under regulations prescribed by the

Secretary of Defense, appropriated funds may be expended—

"(1) to procure recognition items of nominal or modest value for recruitment or retention purposes; and

"(2) to present such items—

"(A) to members of the armed forces, including members of the reserve components of the armed forces; and

"(B) to members of the families of members of the armed forces, and to other individuals recognized as providing support that substantially facilitates service in the armed forces.

"(b) Provision of Meals and Refreshments.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions, and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

"(c) Definition.—The term 'recognition items of nominal or modest value' means commemorative coins, medals, trophies, badges, flags, posters, paintings, or other similar items that are valued at less than $50 per item and are designed to recognize or commemorate service in the armed forces.

"(d) Termination of Authority.—The authority under this section shall expire December 31, 2007.".

(2) The table of sections at the beginning of subchapter II of chapter 134 of such title is amended by adding at the end the following new item:

"2261. Presentation of recognition items for recruitment and retention purposes.".

(b) Repeal of Superseded Authorities.—

(1) Army reserve.—(A) Section 18506 of title 10, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 1805 of such title is amended by striking the item relating to section 18506.

(2) National guard.—(A) Section 717 of title 32, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 717.

SEC. 594. REQUIREMENT FOR REGULATIONS ON POLICIES AND PROCEDURES ON PERSONAL COMMERCIAL SOLICITATIONS ON DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) Requirement.—Not later than January 1, 2006, the Secretary of Defense shall prescribe regulations, or modify existing regulations, on the policies and procedures relating to personal commercial solicitations, including the sale of life insurance and securities, on Department of Defense installations.

(b) Repeal of Superseded Limitations.—The following provisions of law are repealed:

(1) Section 586 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1493).

(2) Section 8133 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1002).

SEC. 595. FEDERAL ASSISTANCE FOR STATE PROGRAMS UNDER THE NATIONAL GUARD YOUTH CHALLENGE PROGRAM.

(a) In General.—Section 509(d) of title 32, United States Code, is amended by striking paragraphs (1), (2), (3), and (4) and inserting the following new paragraphs:

"(1) for fiscal year 2006, 65 percent of the costs of operating the State program during that fiscal year;

"(2) for fiscal year 2007, 70 percent of the costs of operating the State program during that fiscal year; and

"(3) for fiscal year 2008 and each subsequent fiscal year, 75 percent of the costs of operating the State program during such fiscal year.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 596. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY AWARD OF DEGREE OF MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.

(a) Joint Forces Staff College Program.—Section 2163 of title 10, United States Code, is amended to read as follows:

"§2163. National Defense University: master of science degrees

"(a) Authority to Award Specified Degrees.—The President of the National Defense University, upon the recommendation of the faculty of the respective college or other school within the University, may confer the master of science degrees specified in subsection (b).

"(b) Authorized Degrees.—The following degrees may be awarded under subsection (a):

"(1) Master of science in national security strategy.—The degree of master of science in national security strategy, to graduates of the University who fulfill the requirements of the program of the National War College.

"(2) Master of science in national resource strategy.—The degree of master of science in national resource strategy, to graduates of the University who fulfill the requirements of the program of the Industrial College of the Armed Forces.

"(3) Master of science in joint campaign planning and strategy.—The degree of master of science in joint campaign planning and strategy, to graduates of the University who fulfill the requirements of the program of the Joint Advanced Warfighting School at the Joint Forces Staff College.

"(c) Regulations.—The authority provided by this section shall be exercised under regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The item relating to section 2163 in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

"2163. National Defense University: master of science degrees.".

(c) Effective Date.—Paragraph (3) of section 2163(b) of title 10, United States Code, as amended by subsection (a), shall take effect for degrees awarded after May 2005.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. ELIGIBILITY FOR ADDITIONAL PAY OF PERMANENT MILITARY PROFESSORS AT THE UNITED STATES NAVAL ACADEMY WITH OVER 36 YEARS OF SERVICE.

Section 203(b) of title 37, United States Code, is amended by inserting ", the United States Naval Academy," after "the United States Military Academy".

SEC. 602. ENHANCED AUTHORITY FOR AGENCY CONTRIBUTIONS FOR MEMBERS OF THE ARMED FORCES PARTICIPATING IN THE THRIFT SAVINGS PLAN.

(a) Authority To Make Contributions for Certain First-Time Enlistees.—Section 211(d) of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "(i)" after "(A)";

(B) by redesignating subparagraph (B) as clause (ii) of subparagraph (A);

(C) in clause (ii) of subparagraph (A), as so redesignated, by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new subparagraph (B):

"(B) in the case of a member first enlisting in the armed forces, the period of the member's enlistment is not less than two years.";

(2) in paragraph (2), by striking "paragraph (1)" the first place it appears and inserting "paragraph (1)(A)"; and

(3) by adding at the end the following new paragraph:

"(3) In the case of a member described by paragraph (1)(B), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the enlistment of the member described in that paragraph for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof). The second sentence of paragraph (2) applies to the Secretary's obligation to make contributions under this paragraph to the same extent as such paragraph applies to the Secretary's obligation to make contributions under such paragraph.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 603. PERMANENT AUTHORITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE FOR LOW-INCOME MEMBERS WITH DEPENDENTS.

Section 402a of title 37, United States Code, is amended by striking subsection (i).

SEC. 604. MODIFICATION OF PAY CONSIDERED AS SAVED PAY UPON APPOINTMENT OF AN ENLISTED MEMBER AS AN OFFICER.

(a) In General.—Section 907(d) of title 37, United States Code, is amended to read as follows:

"(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for such pay and would otherwise be eligible to receive such pay in the officer's former grade:

"(1) Incentive pay for hazardous duty under section 301 of this title.

"(2) Submarine duty incentive pay under section 301c of this title.

"(3) Diving duty special pay under section 304 of this title.

"(4) Hardship duty special pay under section 305 of this title.

"(5) Career sea pay under section 305a of this title.

"(6) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b of this title.

"(7) Assignment incentive pay under section 307a of this title.

"(8) Hostile fire pay or imminent danger pay under section 310 of this title.

"(9) Special pay for extension of overseas tour of duty under section 314 of this title.

"(10) Foreign language proficiency pay under section 316 of this title.

"(11) Critical skill retention bonus under section 323 of this title, if payable in periodic installments.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to acceptances of enlisted members of appointments as officers on or after that date.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) Selected Reserve Reenlistment Bonus.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Special Pay for Enlisted Members Assigned to Certain High Priority Units.—Section 308d(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) Ready Reserve Non-Prior Service Enlistment Bonus.—Section 308g(h) of such title is amended by striking "an enlistment after September 30, 1992." and inserting "an enlistment—

"(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

"(2) after September 30, 2006.".

(d) Ready Reserve Enlistment and Reenlistment Bonus.—Section 308h(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Prior Service Enlistment Bonus.—Section 308i(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of such title is amended by striking "before January 1, 2006" and inserting "on or before December 31, 2006".

(c) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Special Pay for Selected Reserve Health Professionals in Critically Short Wartime Specialties.—Section 302g(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) Accession Bonus for Dental Officers.—Section 302h(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(g) Accession Bonus for Pharmacy Officers.—Section 302j(a) of such title is amended by striking "the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and ending on September 30, 2005" and inserting "October 30, 2000, and ending on December 31, 2006".

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Nuclear Career Accession Bonus.—Section 312b(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Assignment Incentive Pay.—Section 307a(f) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) Reenlistment Bonus for Active Members.—Section 308(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) Enlistment Bonus for Active Members.—Section 309(e) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Retention Bonus for Members With Critical Military Skills.—Section 323(i) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) Accession Bonus for New Officers in Critical Skills.—Section 324(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 615. PAYMENT AND REPAYMENT OF ASSIGNMENT INCENTIVE PAY.

(a) Flexible Payment.—Section 307a of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "monthly"; and

(B) by adding at the end the following new sentence: "Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.";

(2) in subsection (b)—

(A) by inserting "(1)" before "The Secretary concerned";

(B) in paragraph (1), as so designated, by striking "incentive pay" in the first sentence and inserting "the payment of incentive pay on a monthly basis"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay."; and

(3) by striking subsection (c) and inserting the following new subsection (c):

"(c) Maximum Rate or Amount.—(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is $1,500.

"(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

"(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

"(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

"(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

"(A) the product of (i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and (ii) the number of months in the period for which incentive pay will be paid; divided by

"(B) the number of installments over such period.

"(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.".

(b) Repayment.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c), as amended by subsection (a)(3) of this section, the following new subsection (d):

"(d) Repayment of Incentive Pay.—(1)(A) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service.

"(B) The Secretary concerned may waive repayment of an amount of incentive pay under subparagraph (A), whether in whole or in part, if the Secretary determines that conditions and circumstances warrant.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).".

SEC. 616. INCREASE IN AMOUNT OF SELECTIVE REENLISTMENT BONUS FOR CERTAIN SENIOR SUPERVISORY NUCLEAR QUALIFIED ENLISTED PERSONNEL.

(a) In General.—Section 308 of title 37, United States Code, is amended—

(1) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) An enlisted member of the naval service who—

"(A) has completed at least ten, but not more than fourteen, years of active duty;

"(B) is currently qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

"(C) is qualified in a military skill designated as critical by the Secretary of Defense; and

"(D) reenlists or voluntarily extends the member's enlistment for a period of at least three years in the regular component of the naval service,

may be paid a bonus as provided in paragraph (2).

"(2) The bonus to be paid a member under paragraph (1) may not exceed the lesser of the following amounts:

"(A) The amount determined with respect to the member in accordance with subsection (a)(2)(A).

"(B) $75,000.

"(3) Subsection (a)(3) applies to the computation under paragraph (2)(A) of any bonus payable under this subsection.

"(4) Subsection (a)(4) applies to the payment of any bonus payable under this subsection.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2005, and shall apply with respect to reenlistments or voluntary extensions of enlistments that occur on or after that date.

SEC. 617. CONSOLIDATION AND MODIFICATION OF BONUSES FOR AFFILIATION OR ENLISTMENT IN THE SELECTED RESERVE.

(a) Consolidation and Modification of Bonuses.—Section 308c of title 37, United States Code, is amended to read as follows:

"§ 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

"(a) Affiliation Bonus Authorized.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may pay an affiliation bonus to an enlisted member of an armed force who—

"(1) has completed fewer than 20 years of military service; and

"(2) executes a written agreement to serve in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years in a skill, unit, or pay grade designated under subsection (b) after being discharged or released from active duty under honorable conditions.

"(b) Designation of Skills, Units, and Pay Grades.—The Secretary concerned shall designate the skills, units, and pay grades for which an affiliation bonus may be paid under subsection (a). Any skill, unit, or pay grade so designated shall be a skill, unit, or pay grade for which there is a critical need for personnel in the Selected Reserve of the Ready Reserve of an armed force, as determined by the Secretary concerned.

"(c) Accession Bonus Authorized.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may pay an accession bonus to a person who—

"(1) has not previously served in the armed forces; and

"(2) executes a written agreement to serve as an enlisted member in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years upon acceptance of the agreement by the Secretary concerned.

"(d) Limitation on Amount of Bonus.—The amount of a bonus under subsection (a) or (c) may not exceed $10,000.

"(e) Payment Method.—Upon acceptance of a written agreement by the Secretary concerned, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus shall be paid by the Secretary concerned in a lump sum or in installments.

"(f) Continued Entitlement to Bonus Payments.—A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

"(g) Repayment for Failure to Commence or Complete Obligated Service.—(1) An individual who, after being paid all or part of a bonus under an agreement under subsection (a) or (c), does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in such agreement shall repay to the United States the amount of such bonus so paid, except as otherwise prescribed under paragraph (2).

"(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

"(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) or (c) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(h) Termination of Bonus Authority.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after December 31, 2006.".

(b) Repeal of Superseded Affiliation Bonus Authority.—Section 308e of such title is repealed.

(c) Clerical Amendments.—The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking the item relating to section 308c and inserting the following new item:

"308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve.";

and

(B) by striking the item relating to section 308e.

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2005, and shall apply with respect to agreements entered into under section 308c of title 37, United States Code (as amended by subsection (a)), on or after that date.

SEC. 618. EXPANSION AND ENHANCEMENT OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.

(a) Eligibility for Pay.—Subsection (a) of section 308d of title 37, United States Code, is amended by striking "an enlisted member" and inserting "a member".

(b) Amount of Pay.—Such subsection is further amended by striking "$10" and inserting "$50".

(c) Conforming and Clerical Amendments.—

(1) Conforming amendment.—The heading of such section is amended to read as follows:

"§ 308d. Special pay: members of the Selected Reserve assigned to certain high priority units".

(2) Clerical amendment.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 308d and inserting the following new item:

"308d. Special pay: members of the Selected Reserve assigned to certain high priority units.".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2005, and shall apply to inactive-duty training performed on or after that date.

SEC. 619. RETENTION INCENTIVE BONUS FOR MEMBERS OF THE SELECTED RESERVE QUALIFIED IN A CRITICAL MILITARY SKILL OR SPECIALTY.

(a) Bonus Authorized.—

(1) In general.—Chapter 5 of title 37, United States Code, is amended by inserting after section 308j the following new section:

"§ 308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill or specialty

"(a) Retention Bonus Authorized.—An eligible officer or enlisted member of the armed forces may be paid a retention bonus as provided in this section if—

"(1) in the case of an officer or warrant officer, the member executes a written agreement to remain in the Selected Reserve for at least 2 years;

"(2) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment in the Selected Reserve for a period of at least 2 years; or

"(3) in the case of an enlisted member serving on an indefinite reenlistment, the member executes a written agreement to remain in the Selected Reserve for at least 2 years.

"(b) Eligible Members.—Subject to subsection (d), an officer or enlisted member is eligible for a bonus under this section if the member—

"(1) is qualified in a military skill or specialty designated as critical for purposes of this section under subsection (c); or

"(2) agrees to train or retrain in a military skill or specialty so designated as critical.

"(c) Designation of Critical Skills or Specialties.—The Secretary of Defense shall designate the military skills and specialties that shall be treated as critical military skills and specialties for purposes of this section.

"(d) Certain Members Ineligible.—A bonus may not be paid under subsection (a) to a member of the armed forces who—

"(1) has completed more than 25 years of qualifying service under section 12732 of title 10; or

"(2) will complete the member's twenty-fifth year of qualifying service under section 12732 of title 10 before the end of the period of service for which the bonus is being offered.

"(e) Maximum Bonus Amount.—A member may enter into an agreement under this section, or reenlist or voluntarily extend the member's enlistment, more than once to receive a bonus under this section. However, a member may not receive a total of more than $100,000 in payments under this section.

"(f) Payment Methods.—(1) A bonus under subsection (a) may be paid in a single lump sum or in installments.

"(2) In the case of a member who agrees to train or retrain in a military skill or specialty designated as critical under subsection (b)(2), no payment may be made until the member successfully completes the training or retraining and is qualified in such skill or specialty.

"(g) Relationship To Other Incentives.—A bonus paid to a member under subsection (a) is in addition to any other pay and allowances to which the member is entitled under any other provision of law.

"(h) Repayment for Failure to Commence or Complete Obligated Service.—(1) An individual who, after receiving all or part of the bonus under an agreement, or a reenlistment or voluntary extension of enlistment, referred to in subsection (a), does not commence to serve in the Selected Reserve, or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, or under such reenlistment or voluntary extension of enlistment, as applicable, shall repay to the United States such bonus, except under conditions established by the Secretary concerned.

"(2) The Secretary concerned shall establish, in accordance with the regulations prescribed under subsection (i)—

"(A) whether repayment of a bonus under paragraph (1) is required in whole or in part;

"(B) the method for computing the amount of such repayment; and

"(C) the conditions under which an exception to repayment otherwise required under that paragraph would apply.

"(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under subsection (a), or a reenlistment or voluntary extension of enlistment under subsection (a), does not discharge the individual signing the agreement, reenlisting, or voluntarily extending enlistment, as applicable, from a debt arising under paragraph (1).

"(i) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

"(j) TERMINATION OF AUTHORITY.—No bonus may be paid under this section with respect to any agreement, reenlistment, or voluntary extension of enlistment in the armed forces entered into after December 31, 2006.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 308j the following new item:

"308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill or specialty.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 620. TERMINATION OF LIMITATION ON DURATION OF PAYMENT OF IMMINENT DANGER SPECIAL PAY DURING HOSPITALIZATION.

(a) TERMINATION OF LIMITATION.—Section 310(b) of title 37, United States Code, is amended by striking "not more than three additional months" and inserting "any month, or any portion of a month,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months beginning on or after that date.

SEC. 621. AUTHORITY FOR RETROACTIVE PAYMENT OF IMMINENT DANGER SPECIAL PAY.

Section 310 of title 37, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) DATE OF COMMENCEMENT OF PAYMENT OF IMMINENT DANGER PAY.—Payment of special pay under this section to a member covered by subsection (a)(2)(D) may be made from any date, as determined by the Secretary of Defense, on or after which such member was assigned to duty in a foreign area determined by the Secretary to be covered by such subsection.".

SEC. 622. AUTHORITY TO PAY FOREIGN LANGUAGE PROFICIENCY PAY TO MEMBERS ON ACTIVE DUTY AS A BONUS.

(a) AUTHORITY TO PAY.—Section 316 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "OR BONUS" after "SPECIAL PAY"; and

(B) by inserting "or a bonus" after "monthly special pay";

(2) in subsection (d)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) The amount of the bonus paid under subsection (a) may not exceed $12,000 for the one-year period covered by the certification of the member. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period."; and

(3) in subsection (f)(1)(C), by inserting "or a bonus" after "special pay".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 623. INCENTIVE BONUS FOR TRANSFER BETWEEN THE ARMED FORCES.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§327. Incentive bonus: transfer between armed forces

"(a) INCENTIVE BONUS AUTHORIZED.—A bonus under this section may be paid to an eligible member of a regular component or reserve component of an armed force who executes a written agreement—

"(1) to transfer from such regular component or reserve component to a regular component or reserve component of another armed force; and

"(2) to serve pursuant to such agreement for a period of not less than three years in the component to which transferred.

"(b) ELIGIBLE MEMBERS.—A member is eligible to enter into an agreement under subsection (a) if, as of the date of the agreement, the member—

"(1) has not failed to satisfactorily complete any term of enlistment in the armed forces;

"(2) is eligible for reenlistment in the armed forces or, in the case of an officer, is eligible to continue in service in a regular or reserve component of the armed forces; and

"(3) has fulfilled such requirements for transfer to the component of the armed force to which the member will transfer as the Secretary having jurisdiction over such armed force shall establish.

"(c) LIMITATION.—A member may enter into an agreement under subsection (a) to transfer to a regular component or reserve component of another armed force only if the Secretary having jurisdiction over such armed force determines that there is shortage of trained and qualified personnel in such component.

"(d) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $2,500.

"(2) A bonus under this section shall be paid by the Secretary having jurisdiction of the armed force to which the member to be paid the bonus is transferring.

"(3) A bonus under this section shall, at the election of the Secretary paying the bonus—

"(A) be disbursed to the member in one lump sum when the transfer for which the bonus is paid is approved by the chief personnel officer of the armed force to which the member is transferring; or

"(B) be paid to the member in annual installments in such amounts as may be determined by the Secretary paying the bonus.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(f) REPAYMENT OF BONUS.—(1) A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid such member as the period which such member failed to serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under paragraph (1).

"(g) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

"(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2006.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new item:

"327. Incentive bonus: transfer between armed forces.".

Subtitle C—Travel and Transportation Allowances

SEC. 631. TRANSPORTATION OF FAMILY MEMBERS IN CONNECTION WITH THE REPATRIATION OF SERVICEMEMBERS OR CIVILIAN EMPLOYEES HELD CAPTIVE.

(a) MILITARY CAPTIVES.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 411i the following new section:

"§411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive

"(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (d) may be provided for not more than 3 family members of a member described in subsection (b).

"(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the Secretary concerned may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in that paragraph if the Secretary determines that—

"(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the Secretary; and

"(B) no other family member who is eligible for travel and transportation under paragraph (1) is able to serve as an attendant for the family member.

"(3) If no family member of a member described in subsection (b) is able to travel to the repatriation site of the member, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the member.

"(b) COVERED MEMBERS.—A member described in this subsection is a member of the uniformed services who—

"(1) is serving on active duty;

"(2) was held captive, as determined by the Secretary concerned; and

"(3) is repatriated to a site inside or outside the United States.

"(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term 'family member' has the meaning given the term in section 411h(b) of this title.

"(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the member is located.

"(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of this title.

"(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of this title.

"(4) An allowance under this subsection may be paid in advance.

"(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411i the following new item:

"411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive.".

(b) CIVILIAN CAPTIVES.—(1) Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive

"(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the heads of agencies, travel and transportation described in subsection (d) may be provided for not more than 3 family members of an employee described in subsection (b).

"(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the head of an agency may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in subsection (b) if the head of an agency determines—

"(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the head of the agency; and

"(B) no other family member who is eligible for travel and transportation under subsection (a) is able to serve as an attendant for the family member.

"(3) If no family member of an employee described in subsection (b) is able to travel to the repatriation site of the employee, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the employee.

"(b) COVERED EMPLOYEES.—An employee described in this subsection is an employee (as defined in section 2105 of this title) who—

"(1) was held captive, as determined by the head of an agency concerned; and

"(2) is repatriated to a site inside or outside the United States.

"(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term 'family member' has the meaning given the term in section 411h(b) of title 37.

"(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the employee is located.

"(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of title 37.

"(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of title 37.

"(4) An allowance under this subsection may be paid in advance.

"(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.".

(2) The table of sections at the beginning of chapter 57 of such title is amended by adding at the end the following new item:

"5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive.".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. ENHANCEMENT OF DEATH GRATUITY AND ENHANCEMENT OF LIFE INSURANCE BENEFITS FOR CERTAIN COMBAT RELATED DEATHS.

(a) INCREASED AMOUNT OF DEATH GRATUITY.—

(1) INCREASED AMOUNT.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$100,000".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

(3) COORDINATION WITH OTHER ENHANCEMENTS.—If the date of the enactment of this Act occurs before October 1, 2005—

(A) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13) are repealed; and

(B) effective immediately before the execution of the amendment made by paragraph (1), the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of the Act referred to in subparagraph (A), shall be revived.

(b) SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENTS.—

(1) INCREASED MAXIMUM AMOUNT OF SGLI.—Section 1967 of title 38, United States Code, is amended—

(A) in subsection (a)(3)(A), by striking clause (i) and inserting the following new clause:

"(i) In the case of a member—

"(I) $400,000 or such lesser amount as the member may elect as provided in subparagraph (B);

"(II) in the case of a member covered by subsection (e), the amount provided for or elected by the member under subclause (I) plus the additional amount of insurance provided for the member by subsection (e); or

"(III) in the case of a member covered by subsection (e) who has made an election under paragraph (2)(A) not to be insured under this subchapter, the amount of insurance provided for the member by subsection (e)."; and

(B) in subsection (d), by striking "$250,000" and inserting "$400,000".

(2) INCREMENTS OF DECREASED AMOUNTS ELECTABLE BY MEMBERS.—Subsection (a)(3)(B) of such section is amended by striking "member or spouse" in the last sentence and inserting "member, be evenly divisible by $50,000 and, in the case of a member's spouse".

(3) ADDITIONAL AMOUNT FOR MEMBERS SERVING IN CERTAIN AREAS OR OPERATIONS.—

(A) INCREASED AMOUNT.—Section 1967 of such title is further amended—

(i) by redesignating subsection (e) as subsection (f); and

(ii) by inserting after subsection (d) the following new subsection (e):

"(e)(1) A member covered by this subsection is any member as follows:

"(A) Any member who dies as a result of one or more wounds, injuries, or illnesses incurred while serving in an operation or area that the Secretary of Defense designates, in writing, as a combat operation or a zone of combat, respectively, for purposes of this subsection.

"(B) Any member who formerly served in an operation or area so designated and whose death is determined (under regulations prescribed by the Secretary of Defense) to be the direct result of injury or illness incurred or aggravated while so serving.

"(2) The additional amount of insurance under this subchapter that is provided for a member by this subsection is $150,000, except that in a case in which the amount provided for or elected by the member under subsection (a)(3)(A)(i)(I) exceeds $250,000, the additional amount of insurance under this subchapter that is provided for the member by this subsection shall be reduced to such amount as is necessary to comply with the limitation in paragraph (3).

"(3) The total amount of insurance payable for a member under this subchapter may not exceed $400,000.

"(4) While a member is serving in an operation or area designated as described in paragraph (1), the cost of insurance of the member under this subchapter that is attributable to $150,000 of insurance coverage shall, at the election of the Secretary concerned—

"(A) be contributed as provided in section 1969(b)(2) of this title, rather through deduction or withholding from the member's pay; or

"(B) if deducted or withheld from the member's pay, be reimbursed to the member through such mechanism as the Secretary concerned determines appropriate.".

(B) FUNDING.—Section 1969(b) of such title is amended—

(i) by inserting "(1)" after "(b)"; and

(ii) by adding at the end the following new paragraph:

"(2) For each month for which a member insured under this subchapter is serving in an operation or area designated as described by paragraph (1)(A) of section 1967(e) of this title, there may, at the election of the Secretary concerned under paragraph (4)(A) of such section, be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary and certified to the Secretary concerned to be the cost of Servicemembers' Group Life Insurance which is traceable to the cost of providing insurance for the member under section 1967 of this title in the amount of $150,000.".

(4) CONFORMING AMENDMENT.—Section 1967(a)(2)(A) of such title is amended by inserting before the period at the end the following: ", except with respect to insurance provided under paragraph (3)(A)(i)(III)".

(5) COORDINATION WITH VGLI.—Section 1977(a) of such title is amended—

(A) by striking "$250,000" each place it appears and inserting "$400,000"; and

(B) by adding at the end of paragraph (1) the following new sentence: "Any additional amount of insurance provided a member under section 1967(e) of this title may not be treated as an amount for which Veterans' Group Life Insurance shall be issued under this section.".

(6) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(A) in paragraph (2), by adding at the end the following new subparagraph:

"(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election of a member with a spouse not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(i)(I), shall be provided to the spouse of the member."; and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(D) Whenever a member who is not married elects not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided for under subparagraph (A)(i)(I), the Secretary concerned shall provide a notice of such election to any person designated by the member as a beneficiary or designated as the member's next-of-kin for the purpose of emergency notification, as determined under regulations prescribed by the Secretary of Defense.".

(7) REQUIREMENT REGARDING REDESIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection:

"(j) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without providing written notice of such modification to the spouse.".

(8) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on October 1, 2005, immediately after the termination of the amendments made to sections 1967, 1969, 1970, and 1977 of title 38, United States Code, by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

SEC. 642. IMPROVEMENT OF MANAGEMENT OF ARMED FORCES RETIREMENT HOME.

(a) REDESIGNATION OF CHIEF OPERATING OFFICER AS CHIEF EXECUTIVE OFFICER.—

(1) IN GENERAL.—Section 1515 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 415) is amended—

(A) by striking "Chief Operating Officer" each place it appears and inserting "Chief Executive Officer"; and

(B) in subsection (e)(1), by striking "Chief Operating Officer's" and inserting "Chief Executive Officer's".

(2) CONFORMING AMENDMENTS.—Such Act is further amended by striking "Chief Operating Officer" each place it appears in a provision as follows and inserting "Chief Executive Officer":

(A) In section 1511 (24 U.S.C. 411).

(B) In section 1512 (24 U.S.C. 412).

(C) In section 1513(a) (24 U.S.C. 413(a)).

(D) In section 1514(c)(1) (24 U.S.C. 414(c)(1)).

(E) In section 1516(b) (24 U.S.C. 416(b)).

(F) In section 1517 (24 U.S.C. 417).

(G) In section 1518(c) (24 U.S.C. 418(c)).

(H) In section 1519(c) (24 U.S.C. 419(c)).

(I) In section 1521(a) (24 U.S.C. 421(a)).

(J) In section 1522 (24 U.S.C. 422).

(K) In section 1523(b) (24 U.S.C. 423(b)).

(L) In section 1531 (24 U.S.C. 431).

(3) CLERICAL AMENDMENTS.—(A) The heading of section 1515 of such Act is amended to read as follows:

"SEC. 1515. CHIEF EXECUTIVE OFFICER.".

(B) The table of contents for such Act is amended by striking the item relating to section 1515 and inserting the following new item:

"Sec. 1515. Chief Executive Officer.".

(4) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Chief Operating Officer of the Armed Forces Retirement Home shall be considered to be a reference to the Chief Executive Officer of the Armed Forces Retirement Home.

(b) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—Section 1513 of such Act (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b), (c), and (d)"; and

(2) by adding at the end the following new subsection:

"(c) PHYSICIANS AND DENTISTS FOR EACH RETIREMENT HOME FACILITY.—(1) In providing for the health care needs of residents under subsection (c), the Retirement Home shall have in attendance at each facility of the Retirement Home, during the daily business hours of such facility, a physician and a dentist, each of whom shall have skills and experience suited to residents of such facility.

"(2) In providing for the health care needs of residents, the Retirement shall also have available to residents of each facility of the Retirement Home, on an on-call basis during hours other than the daily business hours of such facility, a physician and a dentist each of whom have skills and experience suited to residents of such facility.

"(3) In this subsection, the term 'daily business hours' means the hours between 9 o'clock ante meridian and 5 o'clock post meridian, 'local time, on each of Monday through Friday.".

(c) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—Section 1513 of such Act is further amended—

(1) in the third sentence of subsection (b), by inserting ", except as provided in subsection (d)," after "shall not"; and

(2) by adding at the end the following new subsection:

"(d) TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.—The Retirement Home shall provide to any resident of a facility of the Retirement Home, upon request of such resident, transportation to any medical facility located not more than 30 miles from such facility for the provision of medical care to such resident. The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.".

(d) MILITARY DIRECTOR FOR EACH RETIREMENT HOME.—Section 1517(b)(1) of such Act (24 U.S.C. 417(b)(1)) is amended by striking "a civilian with experience as a continuing care retirement community professional or".

Subtitle E—Other Matters

SEC. 651. PAYMENT OF EXPENSES OF MEMBERS OF THE ARMED FORCES TO OBTAIN PROFESSIONAL CREDENTIALS.

(a) PAYMENT AUTHORIZED.—Chapter 101 of title 10, United States Code, is amended by inserting after section 2007 the following new section:

"§ 2007a. Payment of expenses of members of the armed forces to obtain professional credentials

"(a) PAYMENT AUTHORIZED.—Except as provided in subsection (b), the Secretary of Defense may pay for—

"(1) expenses of members of the armed forces to obtain professional credentials, including expenses of professional accreditation, State-imposed and professional licenses, and professional certification; and

"(2) examinations to obtain such credentials.

"(b) EXCEPTION.—The authority in subsection (a) may not be exercised on behalf of any member of the armed forces for expenses to obtain the basic qualifications for membership in a profession or officer community.

"(c) FUNDS AVAILABLE.—Funds appropriated or otherwise made available to the Secretary of Defense may be used to pay expenses under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2007a. Payment of expenses of members of the armed forces to obtain professional credentials.".

SEC. 652. PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMED FORCES.

(a) PILOT PROGRAM REQUIRED.—During fiscal year 2006, the Secretary of the Army shall carry out within the Army a pilot program in order to assess the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces described in subsection (b) would—

(1) assist the Armed Forces in recruiting efforts; and

(2) assist such members in establishing habits of financial responsibility during their initial enlistments in the Armed Forces.

(b) COVERED MEMBERS.—A member of the Armed Forces described in this subsection is a member of the Armed Forces who is serving in the Armed Forces under an initial enlistment for a period of not less than two years.

(c) CONTRIBUTIONS TO THRIFT SAVINGS FUND.—

(1) IN GENERAL.—The Secretary of the Army may make contributions to the Thrift Savings Fund on behalf of any participant in the pilot program under subsection (a) for any pay period during the period of the pilot program.

(2) LIMITATIONS.—The amount of any contributions made with respect to a member under paragraph (1) shall be subject to the provisions of section 8432(c) of title 5, United States Code.

(d) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot program under subsection (a).

(2) ELEMENTS.—The report shall include the following:

(A) A description of the pilot program, including the number of members of the Army who participated in the pilot program and the contributions made by the Army to the Thrift Savings Fund on behalf of such members during the period of the pilot program.

(B) An assessment, based on the pilot program and taking into account the views of officers and senior enlisted personnel of the Army, and of field recruiters, of the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces similar to the participants in the pilot program—

(i) would enhance the recruiting efforts of the Armed Forces; and

(ii) would assist such members in establishing habits of financial responsibility during their initial enlistments in the Armed Forces.

SEC. 653. MODIFICATION OF REQUIREMENT FOR CERTAIN INTERMEDIARIES UNDER CERTAIN AUTHORITIES RELATING TO ADOPTIONS.

(a) REIMBURSEMENT FOR ADOPTION EXPENSES.—Section 1052(g)(1) of title 10, United States Code, is amended by inserting "or other source authorized to place children for adoption under State or local law" after "qualified adoption agency".

(b) TREATMENT AS CHILDREN FOR MEDICAL AND DENTAL CARE PURPOSES.—Section 1072(6)(D)(i) of such title is amended by inserting ", or by any other source authorized by State or local law to provide adoption placement," after "(recognized by the Secretary of Defense)".

SEC. 654. EXTENSION OF EFFECTIVE DATE.

Section 6 of the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1070 note) is amended by striking "September 30, 2005" and inserting "September 30 2007".

TITLE VII—HEALTH CARE

Subtitle A—Benefits Matters

SEC. 701. CLARIFICATION OF ELIGIBILITY OF RESERVE OFFICERS FOR HEALTH CARE PENDING ACTIVE DUTY FOLLOWING ISSUANCE OF ORDERS TO ACTIVE DUTY.

Section 1074(a)(2)(B)(iii) of title 10, United States Code, is amended by inserting before the semicolon the following: ", or the orders have been issued but the member has not entered on active duty".

SEC. 702. LIMITATION ON DEDUCTIBLE AND COPAYMENT REQUIREMENTS FOR NURSING HOME RESIDENTS UNDER THE PHARMACY BENEFITS PROGRAM.

Section 1074g(a)(6) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(C) In the case of a beneficiary who is a resident of a nursing home and who is required, by State law, to use nursing home pharmacy services utilizing pre-packaged pharmaceuticals, any deductible or copayment requirements for such pharmaceuticals under the cost sharing requirements may not exceed such deductible or copayment requirements as are applicable under the cost sharing requirements to a beneficiary who uses a network provider pharmacy under the pharmacy benefits program.".

SEC. 703. ELIGIBILITY OF SURVIVING ACTIVE DUTY SPOUSES OF DECEASED MEMBERS FOR ENROLLMENT AS DEPENDENTS IN A TRICARE DENTAL PLAN.

Section 1076a(k)(2) of title 10, United States Code, is amended—

(1) by striking "under subsection (f), or" and inserting "under subsection (f),"; and

(2) by inserting after "is not enrolled because the dependent is a child under the minimum age for enrollment," the following: "or is not enrolled because the dependent is a spouse who did not qualify for enrollment on the date of the member's death because the spouse was also on active duty for a period of more than 30 days on the date of the member's death,".

SEC. 704. INCREASED PERIOD OF CONTINUED TRICARE PRIME COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(g)";

(2) by striking the second sentence; and

(3) by adding at the end the following new paragraph:

"(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

"(A) Three years.

"(B) The period ending on the date on which such dependent attains 21 years of age.

"(C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

"(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

"(ii) The date on which such dependent attains 23 years of age.

"(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

"(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

"(5) In this subsection, the term 'TRICARE Prime' means the managed care option of the TRICARE program.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

SEC. 705. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) ELIGIBILITY.—A member" and inserting "(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking "(b) PERIOD OF COVERAGE.—(1) TRICARE Standard" and all that follows through "(3) Eligibility" and inserting "(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility".

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

"§ 1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve".

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

Subtitle B—Planning, Programming, and Management

SEC. 711. TRICARE STANDARD COORDINATORS IN TRICARE REGIONAL OFFICES.

(a) COORDINATOR IN EACH REGIONAL OFFICE.—

(1) IN GENERAL.—In each TRICARE Regional Office there shall be a position the responsibilities of which shall be the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned.

(2) DESIGNATION.—The position under paragraph (1) in a TRICARE Regional Office shall be filled by an individual in such Regional Office designated for that purpose.

(b) DUTIES OF POSITION.—

(1) IN GENERAL.—The specific duties of the positions required under subsection (a) shall be as set forth in regulations prescribed by the Secretary of Defense, in consultation with the other administering Secretaries.

(2) ELEMENTS.—The duties shall include—

(A) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

(B) communicating with beneficiaries who receive the TRICARE Standard option;

(C) outreach to community health care providers to encourage their participation in the TRICARE program; and

(D) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the plans to implement the requirements of the section.

(d) DEFINITIONS.—In this section:

(1) The terms "administering Secretaries" and "TRICARE program" have the meaning given such terms in section 1072 of title 10, United States Code.

(2) The term "TRICARE Standard" means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program.

SEC. 712. REPORT ON DELIVERY OF HEALTH CARE BENEFITS THROUGH MILITARY HEALTH CARE SYSTEM.

(a) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the delivery of health care benefits through the military health care system.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An analysis of the organization and costs of delivering health care benefits to current and retired members of the Armed Forces and their families.

(2) An analysis of the costs of ensuring medical readiness throughout the Armed Forces in support of national security objectives.

(3) An assessment of the role of health benefits in the recruitment and retention of members of the Armed Forces, whether in the regular components or the reserve components of the Armed Forces.

(4) An assessment of the experience of the military departments during fiscal years 2003, 2004, and 2005 in recruitment and retention of military and civilian medical and dental personnel, whether in the regular components or the reserve components of the Armed Forces, in light of military and civilian medical manpower requirements.

(5) A description of requirements for graduate medical education for military medical care providers and options for meeting such requirements, including civilian medical training programs.

(c) RECOMMENDATIONS.—In addition to the matters specified in subsection (b), the report under subsection (a) shall also include such recommendations for legislative or administrative action as the Secretary considers necessary to improve efficiency and quality in the provision of health care benefits through the military health care system, including recommendations on—

(1) the organization and delivery of health care benefits;

(2) mechanisms required to measure costs more accurately;

(3) mechanisms required to measure quality of care, and access to care, more accurately;

(4) other improvements in the efficiency of the military health care system; and

(5) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

SEC. 713. COMPTROLLER GENERAL REPORT ON DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS FOR HEALTH CARE FOR CHILDREN DEPENDENTS UNDER TRICARE.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the effectiveness of the current system of differential payments to children's hospitals for health care services for severely ill dependent children of members of the uniformed services under the TRICARE program in achieving the objective of securing adequate health care services for such dependent children under that program.

(b) ELEMENTS OF STUDY.—The study required by subsection (a) shall include the following:

(1) A description of the current participation of children's hospitals in the TRICARE program.

(2) An assessment of the current system of differential payments to children's hospitals for health care services described in that subsection, including an assessment of—

(A) the extent to which the calculation of such differential payments takes into account the complexity and extraordinary resources required for the provision of such health care services;

(B) the extent to which such differential payments provide appropriate compensation to such hospitals for the provision of such services; and

(C) any obstacles or challenges to the development of future modifications to the system of differential payments.

(3) An assessment of the adequacy of the access of dependent children described in that subsection to specialized hospital services for their illnesses under the TRICARE program.

(c) REPORTS.—Not later than May 1, 2006, the Comptroller General shall submit to the Secretary of Defense and the congressional defense committees a report on the study required by subsection (a), together with such recommendations, if any, as the Comptroller General considers appropriate for modifications of the current system of differential payments to children's hospitals in order to achieve the objective described in that subsection.

(d) TRANSMITTAL TO CONGRESS.—

(1) IN GENERAL.—Not later than November 1, 2006, the Secretary of Defense shall transmit to the congressional defense committees the report submitted by the Comptroller General to the Secretary under subsection (c).

(2) IMPLEMENTATION OF MODIFICATIONS.—If the report under paragraph (1) includes recommendations of the Comptroller General for modifications of the current system of differential payments to children's hospitals, the Secretary shall transmit with the report—

(A) a proposal for such legislative or administration action as may be required to implement such modifications; and

(B) an assessment and estimate of the costs associated with the implementation of such modifications.

(e) DEFINITIONS.—In this section:

(1) DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS.—The term "differential payments to children's hospitals" means the additional amounts paid to children's hospitals under the TRICARE program for health care procedures for severely ill children in order to take into account the additional costs associated with such procedures for such children when compared with the costs associated with such procedures for adults and other children.

(2) TRICARE PROGRAM.—The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

SEC. 714. REPEAL OF REQUIREMENT FOR COMPTROLLER GENERAL REVIEWS OF CERTAIN DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS PROJECTS ON SHARING OF HEALTH CARE RESOURCES.

(a) JOINT INCENTIVES PROGRAM.—Section 8111(d) of title 38, United States Code, is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.—Section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2595; 38 U.S.C. 8111 note) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in paragraph (2) of subsection (h), as so redesignated, by striking "based on recommendations" and all that follows and inserting "as determined by the Secretaries based on information available to the Secretaries to warrant such action.".

SEC. 715. SURVEYS ON TRICARE STANDARD.

Section 723(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1532; 10 U.S.C. 1073 note) is amended by adding at the end the following new paragraph:

"(4) The surveys required by paragraph (1) shall include questions designed to determine from health care providers participating in such surveys whether such providers are aware of the TRICARE program, what percentage of the current patient population of such providers receive any benefit option under the TRICARE program, and whether such providers accept patients under the medicare program or new patients under the medicare program.".

SEC. 716. MODIFICATION OF HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT REPORT REQUIREMENTS.

Section 723(e) of the National Defense Authorization Act for Fiscal Year 2000 (10 U.S.C. 1071 note) is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

"(1) Quality measures, including structure, process, and outcomes concerning—

"(A) patient safety;

"(B) timeliness and accessibility of care;

"(C) patient satisfaction; and

"(D) the use of evidence-based practices.

"(2) Population health.

"(3) Biosurveillance.".

SEC. 717. MODIFICATION OF AUTHORITIES RELATING TO PATIENT CARE REPORTING AND MANAGEMENT SYSTEM.

(a) REPEAL OF REQUIREMENT TO LOCATE DEPARTMENT OF DEFENSE PATIENT SAFETY CENTER WITHIN ARMED FORCES INSTITUTE OF PATHOLOGY.—Subsection (c)(3) of section 754 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into lay by Public Law 106–398; 114 Stat. 1654A–196) is amended by striking "within the Armed Forces Institute of Pathology".

(b) RENAMING OF MEDTEAMS PROGRAM.—The caption of subsection (d) of such section is amended by striking "MEDTEAMS" and inserting "MEDICAL TEAM TRAINING".

SEC. 718. QUALIFICATIONS FOR INDIVIDUALS SERVING AS TRICARE REGIONAL DIRECTORS.

(a) QUALIFICATIONS.—Effective as of the date of the enactment of this Act, no individual may serve in the position of Regional Director under the TRICARE program unless the individual—

(1) is—

(A) an officer of the Armed Forces in a general or flag officer grade; or

(B) a civilian employee of the Department of Defense in the Senior Executive Service; and

(2) has at least 10 years of experience, or equivalent expertise or training, in the military health care system, managed care, and health care policy and administration.

(b) TRICARE PROGRAM DEFINED.—In this section, the term "TRICARE program" has the meaning given such term in section 1072(7) of title 10, United States Code.

Subtitle C—Other Matters

SEC. 731. REPORT ON ADVERSE HEALTH EVENTS ASSOCIATED WITH USE OF ANTI-MALARIAL DRUGS.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study of adverse health events that may be associated with use of anti-malarial drugs, including mefloquine.

(2) PARTICIPATION OF CERTAIN RESEARCHERS.—The Secretary shall ensure the participation in the study of epidemiological and clinical researchers of the Federal Government outside the Department of Defense, and of epidemiological and clinical researchers outside the Federal Government.

(b) MATTERS COVERED.—The study required by subsection (a) shall include the following:

(1) A comparison of adverse health events that may be associated with different anti-malarial drugs, including mefloquine.

(2) An analysis of the extent to which mefloquine may be a risk factor contributing to suicides among members of the Armed Forces.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a).

SEC. 732. PILOT PROJECTS ON EARLY DIAGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) PILOT PROJECTS REQUIRED.—The Secretary of Defense shall carry out not less than three pilot projects to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of Post Traumatic Stress Disorder (PTSD) and other mental health conditions.

(b) PILOT PROJECT REQUIREMENTS.—

(1) MOBILIZATION-DEMOBILIZATION FACILITY.—

(A) IN GENERAL.—One of the pilot projects under subsection (a) shall be carried out at a military medical facility at a large military installation at which the mobilization or demobilization of members of the Armed Forces occurs.

(B) ELEMENTS.—The pilot project under this paragraph shall be designed to evaluate and produce effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat Post Traumatic Stress Disorder in a manner that avoids the referral of patients to specialty care by a psychiatrist or other mental health professional.

(2) NATIONAL GUARD OR RESERVE FACILITY.—

(A) IN GENERAL.—One of the pilot projects under subsection (a) shall be carried out at the location of a National Guard or Reserve unit or units that are located more than 40 miles from a military medical facility and whose personnel are served primarily by civilian community health resources.

(B) ELEMENTS.—The pilot project under this paragraph shall be designed—

(i) to evaluate approaches for providing evidence-based clinical information on Post Traumatic Stress Disorder to civilian primary care providers; and

(ii) to develop educational materials and other tools for use by members of the National Guard or Reserve who come into contact with other members of the National Guard or Reserve who may suffer from Post Traumatic Stress Disorder in order to encourage and facilitate early reporting and referral for treatment.

(3) INTERNET-BASED DIAGNOSIS AND TREATMENT.—One of the pilot projects under subsection (a) shall be designed to evaluate—

(A) Internet-based automated tools available to military and civilian health care providers for the early diagnosis and treatment of Post Traumatic Stress Disorder, and for tracking patients who suffer from Post Traumatic Stress Disorder; and

(B) Internet-based tools available to family members of members of the Armed Forces in order to assist such family members in the identification of the emergence of Post Traumatic Stress Disorder.

(c) REPORT.—Not later than June 1, 2006, the Secretary shall submit to the congressional defense committees a report on the pilot projects to be carried out under this section. The report shall include a description of each such pilot project, including the location of the pilot projects under paragraphs (2) and (3) of subsection (b), and the scope and objectives of each such pilot project.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

SEC. 801. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE.

(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

(1) IN GENERAL.—For each non-defense agency of the Federal Government that procured property or services in excess of $100,000,000 on behalf of the Department of Defense during fiscal year 2005, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2006, jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) determine in writing whether—

(i) such non-defense agency is compliant with defense procurement requirements;

(ii) such non-defense agency is not compliant with defense procurement requirements, but made significant progress during 2005 toward ensuring compliance with defense procurement requirements; or

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency.

(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of such paragraph is correct in the case of a non-defense agency, those Inspectors General shall, not later than March 15, 2007, jointly—

(A) conduct a second review, as described in paragraph (1)(A), regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2006; and

(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Defense and the Inspector General of each non-defense agency referred to in subsection (a) shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section.

(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a non-defense agency may by mutual agreement conduct separate reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraphs (1) and (2) of subsection (a), as applicable, with respect to each such separate review.

(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2006, and before March 16, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a non-defense agency for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

(2) LIMITATION AFTER REVIEW PERIOD.—After March 15, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of $100,000 through a non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a particular non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary of Defense for Acquisition, Technology, and Logistics shall specify in the written determination. The Under Secretary may extend from time to time, for up to one year at a time, the period for which the written determination remains in effect.

(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of that agency jointly—

(1) determine that such non-defense agency is compliant with defense procurement requirements; and

(2) notify the Secretary of Defense of that determination.

(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR.—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

(h) INAPPLICABILITY TO CERTAIN GSA CONTRACTS.—This section does not apply as follows:

(1) To Client Support Centers of the Federal Technology Service of the General Services Administration, which are subject to review under section 802 of the ‘Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2004; 10 U.S.C. 2302).

(2) To any purchase through the multiple award schedules established by the Administrator of General Services, as described in section 2302(2)(C) of title 10, United States Code, unless such purchase is made through—

(A) a non-defense agency other than the General Services Administration; or

(B) a business unit of the General Services Administration that is not responsible for administering the multiple award schedules program.

(i) DEFINITIONS.—In this section:

(1) The term "non-defense agency" means a department or agency of the Federal Government outside the Department of Defense, except as excluded under subsection (h).

(2) The term "governmentwide acquisition contract", with respect to a non-defense agency, means a task or delivery order contract that—

(A) is entered into by the non-defense agency; and

(B) may be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

SEC. 802. CONTRACT SUPPORT ACQUISITION CENTERS.

(a) ESTABLISHMENT.—

(1) ORGANIZATION; DUTIES.—Subchapter I of chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 197. Contract Support Acquisition Centers

"(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish within the Defense Logistics Agency a Defense Contract Support Acquisition Center.

"(2) The Secretary of each military department shall establish a Contract Support Acquisition Center for that military department.

"(b) DIRECTOR.—(1) The Director of a Contract Support Acquisition Center is the head of the Center.

"(2)(A) The Secretary of Defense shall appoint the Director of the Defense Contract Support Acquisition Center.

"(B) The Secretary of a military department shall appoint the Director of the Contract Support Acquisition Center of that department.

"(3) The Director of a Contract Support Acquisition Center shall be selected from among commissioned officers of the armed forces on active duty and senior civilian officers and employees of the Department of Defense who have substantial experience in the acquisition of contract services.

"(c) DUTIES REGARDING ACQUISITIONS.—(1)(A) The Director of the Defense Contract Support Acquisition Center shall act as the executive agent within the Department of Defense for each acquisition of contract services in excess of the simplified acquisition threshold for the Department of Defense, other than an acquisition referred to in subparagraph (B).

"(B) The Director of the Contract Support Acquisition Center of a military department shall act as the executive agent within that military department for each acquisition of contract services in excess of the simplified acquisition threshold for such military department.

"(2) In carrying out paragraph (1), the Director of a Center shall—

"(A) develop and maintain policies, procedures, and best practices guidelines addressing the acquisition of contract services for the Secretary appointing the Director, including policies, procedures, and best practices guidelines for—

"(i) acquisition planning;

"(ii) solicitation and contract award;

"(iii) requirements development and management;

"(iv) contract tracking and oversight;

"(v) performance evaluation; and

"(vi) risk management;

"(B) assign responsibility for carrying out the acquisition of contract services to employees of the Center and other appropriate organizational elements under the jurisdiction of that Secretary;

"(C) dedicate fulltime commodity managers to coordinate the acquisition of key categories of services;

"(D) ensure that contract services being acquired to meet the Secretary's requirements for those services are acquired by means of a contract, or a task or delivery order, that—

"(i) is in the best interests of the Department of Defense or, in the case of the Director of the Center for a military department, the best interests of that military department; and

"(ii) is entered into or issued, and is managed, in compliance with applicable laws, regulations, and directives, and other applicable requirements;

"(E) ensure that competitive procedures and performance-based contracting are used to the maximum extent practicable for the acquisition of contract services for that Secretary; and

"(F) monitor data collection under section 2330a of this title and periodically conduct a spending analysis to ensure that funds expended for the acquisition of contract services for the Secretary are being expended in the most rational and economical manner practicable.

"(d) DUTIES REGARDING ACQUISITION PERSONNEL.—The Directors of the Contract Support Acquisition Centers shall work with appropriate officials of the Department of Defense—

"(1) to identify the critical skills and competencies needed to carry out the acquisition of contract services on behalf of the Department of Defense; and

"(2) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for those skills and competencies.

"(e) SCOPE OF AUTHORITY.—The authority of the Director of a Contract Support Acquisition Center under this section applies to acquisitions in excess of the simplified acquisition threshold.

"(f) EXCLUSIVITY OF AUTHORITY.—(1) After September 30, 2009, no officer or employee of the Federal Government outside the Defense Contract Support Acquisition Center may, without the prior written approval of the Director of the Center or the Secretary of Defense, engage in a procurement action for the acquisition of contract services for the Department of Defense that is valued in excess of the simplified acquisition threshold, other than a procurement action covered by paragraph (2).

"(2) After September 30, 2009, no officer or employee of the Federal Government outside the Contract Support Acquisition Center of a military department may, without the prior written approval of the Director of the Center, the Secretary of Defense, or the Secretary of that military department, engage in a procurement action for the acquisition of contract services for that military department that is valued in excess of the simplified acquisition threshold.

"(3) In this subsection, the term 'procurement action' includes the following actions:

"(A) Entry into a contract or any other form of agreement.

"(B) Issuance of a task order, delivery order, or military interdepartmental purchase request.

"(g) STAFF AND SUPPORT.—(1) The Secretary appointing the Director of a Contract Support Acquisition Center shall ensure that the Director of the Center is provided a staff and administrative support that are adequate for the Director to perform the duties of the position under this section effectively.

"(2) The Secretary of Defense may transfer to the Defense Contract Support Acquisition Center any personnel within the Department of Defense whose principal duty is the acquisition of contract services for the Department of Defense.

"(3) The Secretary of a military department may transfer to the Contract Support Acquisition Center of that military department any personnel within such military department whose principal duty is the acquisition of contract services for that military department.

"(h) TRANSFERS OF NONDEFENSE ORGANIZATIONS.—(1) Except as provided in paragraph (5), the Secretary of Defense may accept from the head of a department or agency outside the Department of Defense a transfer to any of the Contract Support Acquisition Centers of all or part of any organizational unit of such other department or agency that is primarily engaged in the acquisition of contract services if, during the most recent year for which data are available before such transfer, more than 50 percent of the contract services acquired by such organizational unit (determined on the basis of cost) were acquired on behalf of the Department of Defense.

"(2) The head of a department or agency outside the Department of Defense may transfer in accordance with this section an organizational unit that is authorized to be accepted under paragraph (1).

"(3) A transfer under this subsection may be made and accepted only pursuant to a memorandum of understanding that is entered into by the head of the department or agency making the transfer and the Secretary of Defense.

"(4) A transfer of an organizational unit under this section shall include the transfer of the personnel of such organizational unit, the assets of such organizational unit, and the contracts of such organizational unit, to the extent provided in the memorandum of understanding governing the transfer of the unit.

"(5) This section does not authorize a transfer of the multiple award schedule program of the General Services Administration described in section 2302(2)(C) of this title.

"(i) SIMPLIFIED ACQUISITION THRESHOLD.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 2302(7) of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"197. Contract Support Acquisition Centers.".

(b) IMPLEMENTATION.—

(1) PHASED IMPLEMENTATION OF DIRECTOR'S AUTHORITY TO ACT AS EXECUTIVE AGENT.—Notwithstanding subsections (c)(1) and (e) of section 197 of title 10, United States Code (as added by subsection (a)), the authority of the Director of a Contract Support Acquisition Center to act under such section as executive agent for acquisitions of contract services before October 1, 2009, applies only with respect to—

(A) contracts in excess of $10,000,000 that are entered into after September 30, 2006, and before October 1, 2009; and

(B) any other acquisitions of contract services that, as designated by the Secretary who appointed the Director, are to be carried out for that Secretary by the Director.

(2) PROCUREMENT MANAGEMENT STRUCTURE.—The Secretary of Defense shall implement section 2330 of title 10, United States Code (relating to a management structure for the procurement of services for the Department of Defense), by designating each Director of the Contract Support Acquisition Center appointed under section 197 of such title (as added by subsection (a)) to act as executive agent for the management of the procurements of services carried out for the Secretary appointing such Director with respect to—

(A) all contracts in excess of $10,000,000 that are entered into after September 30, 2006, and before October 1, 2009; and

(B) all contracts in excess of the simplified acquisition threshold (as defined in section 2302(7) of such title) that are entered into after September 30, 2009.

(3) COMPLIANCE WITH CERTAIN PUBLIC LAW 108–375 REQUIREMENTS.—For compliance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2022, 10 U.S.C. 2304 note), the Secretary concerned shall designate the Director of the Contract Support Acquisition Center appointed by that Secretary to act as the executive agent of that Secretary to review and approve the use of a contract for the acquisition of contract services that—

(A) is entered into after September 30, 2006, by a department or agency outside the Department of Defense; and

(B) if entered into—

(i) before October 1, 2009, is valued in excess of $10,000,000; or

(ii) after September 30, 2009, is valued in excess of the simplified acquisition threshold (as defined in section 2302(7) of title 10, United States Code).

(4) SECRETARY CONCERNED DEFINED.—In paragraph (3), the term "Secretary concerned" means the head of an agency named in subsection (f)(1) of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2022; 10 U.S.C. 2304 note).

SEC. 803. AUTHORITY TO ENTER INTO ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS NOT A MEMBER.

(a) ACQUISITION AGREEMENTS.—Section 2341(1) of title 10, United States Code, is amended by striking "of which the United States is a member".

(b) CROSS-SERVICING AGREEMENTS.—Section 2342(a)(1)(C) of such title is amended by striking "of which the United States is a member".

(c) CONFORMING AMENDMENT.—Section 2344(b)(4) of such title is amended by striking "of which the United States is a member".

SEC. 804. REQUIREMENT FOR AUTHORIZATION FOR PROCUREMENT OF MAJOR WEAPON SYSTEMS AS COMMERCIAL ITEMS.

(a) REQUIREMENT FOR AUTHORIZATION.—

(1) IN GENERAL.—Chapter 140 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2379. Requirement for authorization for procurement of major weapon systems as commercial items

"(a) REQUIREMENT FOR AUTHORIZATION.—A major weapon system of the Department of Defense may be treated as a commercial item, or purchased under procedures established for the procurement of commercial items, only if specifically authorized by Congress.

"(b) TREATMENT OF SUBSYSTEMS AND COMPONENTS AS COMMERCIAL ITEMS.—A subsystem or component of a major weapon system shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items if such subsystem or component otherwise meets the requirements for treatment as a commercial item.

"(c) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term 'major weapon system' means a weapon system acquired pursuant to a major defense acquisition program (as that term is defined in section 2430 of this title).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 140 of such title is amended by adding at the end the following new item:

"2379. Requirement for authorization for procurement of major weapon systems as commercial items.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to contracts entered on or after such date.

SEC. 805. REPORT ON SERVICE SURCHARGES FOR PURCHASES MADE FOR MILITARY DEPARTMENTS THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES.

(a) REPORTS BY MILITARY DEPARTMENTS.—For each of fiscal years 2005 and 2006, the Secretary of each military department shall, not later than 60 days after the last day of that fiscal year, submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the service charges imposed on such military department for purchases in amounts greater than the simplified acquisition threshold that were made for that military department during such fiscal year through a contract entered into by an agency of the Department of Defense other than that military department. The report shall specify the amounts of the service charges and identify the services provided in exchange for such charges.

(b) ANALYSIS OF MILITARY DEPARTMENT REPORTS.—Not later than 90 days after receiving a report of the Secretary of a military department for a fiscal year under subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review the service charges delineated in such report for the acquisitions covered by the report and the services provided in exchange for such charges and shall compare those charges with the costs of the alternative means for making such acquisitions. The analysis shall include the Under Secretary's determinations of whether the imposition and amounts of the service charges were reasonable.

(c) REPORT TO CONGRESS.—Not later than April 1, 2006 (for reports for fiscal year 2005 under subsection (a)), and not later than April 1, 2007 (for reports for fiscal year 2006 under subsection (a)), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the reports submitted by the Secretaries of the military departments under subsection (a), together with the Under Secretary's determinations under subsection (b) with regard to the matters set forth in those reports.

(d) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SEC. 806. REVIEW OF DEFENSE ACQUISITION STRUCTURES.

(a) REVIEW BY DEFENSE ACQUISITION UNIVERSITY.—The Defense Acquisition University, acting under the direction and authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall conduct a review of the acquisition structure of the Department of Defense, including the acquisition structure of the following:

(1) Each military department.

(2) Each defense agency.

(3) Any other element of the Department of Defense that has an acquisition function.

(b) ELEMENTS.—

(1) IN GENERAL.—In reviewing the acquisition structure of an organization under subsection (a), the Defense Acquisition University shall—

(A) determine the current structure of the organization;

(B) review the evolution of the current structure of the organization, including the reasons for each reorganization of the structure, and identify any acquisition structures or capabilities that have been divested from the organization during the last 15 years;

(C) identify the capabilities needed by the organization to fulfill its function and assess the capacity of the organization, as currently structured, to provide such capabilities; and

(D) identify any gaps, shortfalls, or inadequacies relating to acquisitions in the current structure of the organization.

(2) EMPHASIS IN REVIEW.—In conducting the review of acquisition structures under subsection (a), the University shall place special emphasis on consideration of—

(A) structures and processes for joint acquisition, including actions that may be needed to improve such structures and processes; and

(B) actions that may be needed to improve acquisition outcomes.

(c) PRIORITY ON COMPLETION OF REVIEW OF ACQUISITION STRUCTURE OF DEPARTMENT OF AIR FORCE.—In conducting the review of acquisition structures under subsection (a), the Defense Acquisition University shall give a priority to a review of the acquisition structure of the Department of the Air Force.

(d) FUNDING.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide the Defense Acquisition University the funds required to conduct the review under subsection (a).

(e) REPORTS.—

(1) INTERIM REPORT ON STRUCTURE OF DEPARTMENT OF AIR FORCE.—Not later than one year after the date of the enactment of this Act, the Defense Acquisition University shall submit to the congressional defense committees an interim report addressing the acquisition structure of the Department of the Air Force.

(2) FINAL REPORT ON REVIEW.—Not later than 180 days after the completion of the review required by subsection (a), the University shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the review. The report shall include a separate annex on the acquisition structure on each organization covered by the review, which annex—

(A) shall address the matters specified under subsection (b) with respect to such organization; and

(B) may include such recommendations with respect to such organization as the University considers appropriate.

(3) TRANSMITTAL OF FINAL REPORT.—Not later than 90 days after the receipt of the report under paragraph (2), the Under Secretary shall transmit to the congressional defense committees a copy of the report, together with the comments of the Under Secretary on the report.

(f) DEFENSE ACQUISITION UNIVERSITY DEFINED.—In this section, the term "Defense Acquisition University" means the Defense Acquisition University established pursuant to section 1746 of title 10, United States Code.

Subtitle B—Defense Industrial Base Matters

SEC. 811. CLARIFICATION OF EXCEPTION FROM BUY AMERICAN REQUIREMENTS FOR PROCUREMENT OF PERISHABLE FOOD FOR ESTABLISHMENTS OUTSIDE THE UNITED STATES.

Section 2533a(d)(3) of title 10, United States Code, is amended by inserting ", or for," after "perishable foods by".

SEC. 812. CONDITIONAL WAIVER OF DOMESTIC SOURCE OR CONTENT REQUIREMENTS FOR CERTAIN COUNTRIES WITH RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS WITH THE UNITED STATES.

(a) AUTHORITY FOR ANNUAL WAIVER.—Subchapter V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2539c. Domestic source or content requirements: one-year waiver for certain countries with reciprocal defense procurement agreements with the United States

"(a) WAIVER AUTHORITY.—Subject to subsection (g), upon making a determination under subsection (b) that a foreign country described by that subsection has not qualitatively or quantitatively increased exports of defense items, as determined by the Secretary of Defense for purposes of this section, to the People's Republic of China during the fiscal year in which such determination is made, the Secretary of Defense may waive the application of any domestic source requirement or domestic content requirement referred to in subsection (c) and thereby authorize the procurement of items that are grown, reprocessed, reused, produced, or manufactured in such foreign country during the fiscal year following the fiscal year in which such determination is made.

"(b) ANNUAL DETERMINATIONS.—Not later than September 30 each fiscal year, the Secretary of Defense may determine whether or not a foreign country with which the United States had in force during such fiscal year a reciprocal defense procurement memorandum of understanding or agreement qualitatively or quantitatively increased exports of defense items to the People's Republic of China during such fiscal year. Each such determination shall be in writing.

"(c) COVERED REQUIREMENTS.—For purposes of this section:

"(1) A domestic source requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item that is grown, reprocessed, reused, produced, or manufactured in the United States or by a manufacturer that is a part of the national technology and industrial base (as defined in section 2500(1) of this title).

"(2) A domestic content requirement is any requirement under law that the Department of Defense satisfy its requirements for an item by procuring an item produced or manufactured partly or wholly from components and materials grown, reprocessed, reused, produced, or manufactured in the United States.

"(d) EFFECTIVE PERIOD OF WAIVER.—Any waiver of the application of any domestic source requirement or domestic content with respect to a foreign country under subsection (a) shall be effective only for the fiscal year following the fiscal year in which is made the determination on which such waiver is based.

"(e) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to waive the application of domestic source or content requirements under subsection (a) may not be delegated to any officer or employee other than the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(f) CONSULTATIONS.—The Secretary of Defense may grant a waiver of the application of a domestic source or content requirement under subsection (a) only after consultation with the United States Trade Representative, the Secretary of Commerce, and the Secretary of State.

"(g) LAWS NOT WAIVABLE.—The Secretary of Defense may not exercise the authority under subsection (a) to waive any domestic source or content requirement contained in any of the following laws:

"(1) The Small Business Act (15 U.S.C. 631 et seq.).

"(2) The Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(3) Section 2533a of this title.

"(4) Sections 7309 and 7310 of this title.

"(h) RELATIONSHIP TO OTHER WAIVER AUTHORITY.—The authority under subsection (a) to waive a domestic source requirement or domestic content requirement is in addition to any other authority to waive such requirement.

"(i) CLARIFICATION OF RELATIONSHIP WITH BUY AMERICAN ACT.—Nothing in this section shall be construed to alter in any way the applicability of the Buy American Act (41 U.S.C. 10a), or the authority of the Secretary of Defense to waive the requirements of such Act, with respect to the procurement of any item to which such Act would apply without regard to this section.

"(j) CONSTRUCTION WITH RESPECT TO LATER ENACTED LAWS.—This section may not be construed as being inapplicable to a domestic source requirement or domestic content requirement that is set forth in a law enacted after the enactment of this section solely on the basis of the later enactment of such law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end the following new item:

"2539c. Domestic source or content requirements: one-year waiver for certain countries with reciprocal defense procurement agreements with the United States.".

SEC. 813. CONSISTENCY WITH UNITED STATES OBLIGATIONS UNDER TRADE AGREEMENTS.

No provision of this Act or any amendment made by this Act shall apply to a procurement by or for the Department of Defense to the extent that the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with United States obligations under a trade agreement.

SEC. 814. IDENTIFICATION OF AREAS OF RESEARCH AND DEVELOPMENT EFFORT FOR PURPOSES OF SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) REVISION AND UPDATE OF CRITERIA AND PROCEDURES OF IDENTIFICATION.—The Secretary of Defense shall, not less often than once every four years, revise and update the criteria and procedures utilized to identify areas of the research and development effort of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program.

(b) UTILIZATION OF PLANS.—The criteria and procedures described in subsection (a) shall be developed through the use of the most current versions of the following plans:

(1) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

(2) The Defense Technology Area Plan of the Department of Defense.

(3) The Basic Research Plan of the Department of Defense.

(c) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in subsection (a) shall include input in the identification of areas of research and development effort described in that subsection from Department of Defense program managers (PMs) and program executive officers (PEOs).

(d) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—

(1) IN GENERAL.—The Secretary of each military department shall identify research programs that have successfully completed Phase II of the Small Business Innovation Research Program and that have the potential for rapid transitioning to Phase III and into the acquisition process.

(2) LIMITATION.—No research program may be identified under paragraph (1) unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

(3) REPORT.—The Secretary shall submit to the congressional defense committees a report setting forth the research programs identified under paragraph (1). The report shall include a description of the requirements intended to be met by each program identified in the report.

(e) SMALL BUSINESS INNOVATION RESEARCH PROGRAM DEFINED.—In this section, the term "Small Business Innovation Research Program" has the meaning given that term in section 2500(11) of title 10, United States Code.

Subtitle C—Defense Contractor Matters

SEC. 821. REQUIREMENTS FOR DEFENSE CONTRACTORS RELATING TO CERTAIN FORMER DEPARTMENT OF DEFENSE OFFICIALS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410p. Defense contractors: requirements concerning former Department of Defense officials

"(a) IN GENERAL.—Each contract for the procurement of goods or services in excess of $10,000,000, other than a contract for the procurement of commercial items, that is entered into by the Department of Defense shall include a provision under which the contractor agrees to submit to the Secretary of Defense, not later than April 1 of each year such contract is in effect, a written report setting forth the information required by subsection (b).

"(b) REPORT INFORMATION.—A report by a contractor under subsection (a) shall—

"(1) list the name of each person who—

"(A) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(B) during the preceding calendar year was provided compensation by the contractor, if such compensation was first provided by the contractor—

"(i) not more than two years after such officer, employee, or member left service in the Department of Defense; and

"(ii) not more than two years before the date on which the report is required to be submitted; and

"(2) in the case of each person listed under paragraph (1)—

"(A) identify the agency in which such person was employed or served on active duty during the last two years of such person's service with the Department of Defense;

"(B) state such person's job title and identify each major defense system, if any, on which such person performed any work with the Department of Defense during the last two years of such person's service with the Department; and

"(C) state such person's current job title with the contractor and identify each major defense system on which such person has performed any work on behalf of the contractor.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

"2410p. Defense contractors: requirements concerning former Department of Defense officials.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to contracts entered into on or after that date.

SEC. 822. REVIEW OF CERTAIN CONTRACTOR ETHICS MATTERS.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Director of the Office of Government Ethics and the Administrator for Federal Procurement Policy, conduct a review of the ethics considerations raised by the following:

(1) The performance by contractor employees of functions closely associated with inherently governmental functions.

(2) The performance by contractor employees of other functions historically performed by Government employees in the Federal workplace.

(b) OPTIONS TO BE ADDRESSED.—The review under subsection (a) shall include the consideration of a broad range of options for addressing the ethics considerations described in that subsection, including—

(1) amending the Federal Acquisition Regulation to address ethics and personal conflict of interest concerns for contractor employees;

(2) implementing the Federal Acquisition Regulation, as so amended, through the incorporation of appropriate provisions in Federal agency contracts and in the solicitations for such contracts;

(3) requiring such contracts and solicitations to state that contractor employees will be bound by certain ethics standards, whether contractor-imposed or Government-imposed;

(4) encouraging Federal agency personnel to consider including provisions in contracts and solicitations that address conflict of interest issues and require contractor personnel to receive training on Government ethics rules; and

(5) continuing to identify and mitigate conflicts and ethics concerns involving contractor personnel on a case-by-case basis.

(c) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the findings and recommendations of the Secretary as a result of the review under subsection (a) and the consideration of options under subsection (b).

(2) ADDITIONAL VIEWS.—The report under paragraph (1) shall set forth the views, if any, of the Director of the Office of Government Ethics and the Administrator for Federal Procurement Policy on the matters covered by the report.

(d) FUNCTIONS CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS DEFINED.—In this section, the term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

SEC. 823. CONTRACT FRAUD RISK ASSESSMENT.

(a) RISK ASSESSMENT TEAM.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish a risk assessment team to assess the vulnerability of Department of Defense contracts to fraud, waste, and abuse.

(2) The risk assessment team shall be chaired by the Inspector General of the Department of Defense and shall include representatives of the Defense Logistics Agency, the Defense Contract Management Agency, the Defense Contract Audit Agency, the Army, the Navy, and the Air Force.

(3) The risk assessment team shall—

(A) review the contracting systems and internal controls of the Department of Defense and the systems and controls of prime contractors of the Department of Defense to identify areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse; and

(B) prepare a report on the results of its review.

(4) Not later than six months after the date of the enactment of this Act, the chairman of the risk assessment team shall submit the report prepared under paragraph (3)(B) to the Secretary of Defense and the congressional defense committees.

(b) COMPTROLLER GENERAL REVIEW.—(1) Not later than 60 days after the date on which the report of the risk assessment team is submitted under subsection (a)(4), the Comptroller General of the United States shall—

(A) review the methodology used by the risk assessment team and the results of the team's review; and

(B) submit a report on the Comptroller General's review to the congressional defense committees.

(2) The report under paragraph (1)(B) shall include the Comptroller General's findings and any recommendations that the Comptroller considers appropriate.

(c) ACTION PLAN.—Not later than three months after receiving the report of the risk assessment team under subsection (a)(4), the Secretary of Defense shall develop and submit to the congressional defense committees a plan of actions for addressing the areas of vulnerability identified in the report. If the Secretary determines that no action is necessary with regard to an area of vulnerability, the report shall include a discussion of the rationale for that determination.

Subtitle D—Defense Acquisition Workforce Matters

SEC. 831. AVAILABILITY OF FUNDS IN ACQUISITION WORKFORCE TRAINING FUND FOR DEFENSE ACQUISITION WORKFORCE IMPROVEMENTS.

(a) AVAILABILITY OF DEPARTMENT OF DEFENSE CONTRACT FEES FOR DEFENSE ACQUISITION UNIVERSITY.—Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended—

(1) in subsection (a), by striking "This section" and inserting "Except as otherwise provided, this section"; and

(2) in subsection (h)(3)—

(A) in subparagraph (B), by striking "(other than the Department of Defense)" in the first sentence;

(B) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (H), respectively;

(C) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The Administrator of General Services shall credit to the Defense Acquisition University fees collected in accordance with subparagraph (B) from the Department of Defense. Amounts so credited shall be used to develop and expand training for the defense acquisition workforce."; and

(D) in subparagraph (E), as so redesignated, by striking "the purpose specified in subparagraph (A)" and inserting "the purposes specified in subparagraphs (A) and (D)".

(b) CONFORMING AMENDMENT.—Section 1412 of the National Defense Authorization Act for Fiscal year 2004 (Public Law 108–136; 117 Stat. 1664; 41 U.S.C. 433 note) is amended by striking subsection (c).

SEC. 832. LIMITATION AND REINVESTMENT AUTHORITY RELATING TO REDUCTION OF THE DEFENSE ACQUISITION AND SUPPORT WORKFORCE.

(a) LIMITATION.—Notwithstanding any other provision of law, the defense acquisition and support workforce may not be reduced, during fiscal years 2006, 2007, and 2008, below the level of that workforce as of September 30, 2004, determined on the basis of full-time employee equivalence, except as may be necessary to strengthen the defense acquisition and support workforce in higher priority positions in accordance with this section.

(b) INCREASE AND REALIGNMENT OF WORKFORCE.—(1)(A) During fiscal years 2006, 2007, and 2008, the Secretary of Defense shall increase the number of persons employed in the defense acquisition and support workforce as follows:

(i) During fiscal year 2006, to 105 percent of the baseline number (as defined in subparagraph (B)).

(ii) During fiscal year 2007, to 110 percent of the baseline number.

(iii) During fiscal year 2008, to 115 percent of the baseline number.

(B) In this paragraph, the term "baseline number", with respect to persons employed in the defense acquisition and support workforce, means the number of persons employed in such workforce as of September 30, 2004 (determined on the basis of full-time employee equivalence).

(C) The Secretary of Defense may waive a requirement in subparagraph (A) and, subject to subsection (a), employ in the defense acquisition and support workforce a lesser number of employees if the Secretary determines and certifies to the congressional defense committees that the cost of increasing such workforce to the larger size as required under that subparagraph would exceed the savings to be derived from the additional oversight that would be achieved by having a defense acquisition and support workforce of such larger size.

(2) During fiscal years 2006, 2007, and 2008, the Secretary of Defense may realign any part of the defense acquisition and support workforce to support reinvestment in other, higher priority positions in such workforce.

(c) HIGHER PRIORITY POSITIONS.—For the purposes of this section, higher priority positions in the defense acquisition and support workforce include the following positions:

(1) Positions the responsibilities of which include system engineering.

(2) Positions the responsibilities of which include drafting performance-based work statements for services contracts and overseeing the performance of contracts awarded pursuant to such work statements.

(3) Positions the responsibilities of which include conducting spending analyses, negotiating company-wide pricing agreements, and taking other measures to reduce contract costs.

(4) Positions the responsibilities of which include reviewing contractor quality control systems, assessing and analyzing quality deficiency reports, and taking other measures to improve product quality.

(5) Positions the responsibilities of which include effectively conducting public-private competitions in accordance with Office of Management and Budget Circular A-76.

(6) Any other positions in the defense acquisition and support workforce that the Secretary of Defense identifies as being higher priority positions that are staffed at levels not likely to ensure efficient and effective performance of all of the responsibilities of those positions.

(d) STRATEGIC ASSESSMENT AND PLAN.—(1) The Secretary of Defense shall—

(A) assess the extent to which the Department of Defense can recruit, retain, train, and provide professional development opportunities for acquisition professionals over the 10-fiscal year period beginning with fiscal year 2006; and

(B) develop a human resources strategic plan for the defense acquisition and support workforce that includes objectives and planned actions for improving the management of such workforce.

(2) The Secretary shall submit to Congress, not later than April 1, 2006, a report on the progress made in—

(A) completing the assessment required under paragraph (1); and

(B) completing and implementing the strategic plan required under such paragraph.

(e) DEFENSE ACQUISITION AND SUPPORT WORKFORCE DEFINED.—In this section, the term "defense acquisition and support workforce" means members of the Armed Forces and civilian personnel who are assigned to, or are employed in, an organization of the Department of Defense that has acquisition as its predominant mission, as determined by the Secretary of Defense.

SEC. 833. TECHNICAL AMENDMENTS RELATING TO DEFENSE ACQUISITION WORKFORCE IMPROVEMENTS.

Section 1732 of title 10, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "(b)(2)(A) and (b)(2)(B)" each place it appears in paragraphs (1) and (2) and inserting "(b)(1)(A) and (b)(1)(B)"; and

(B) by striking paragraph (3); and

(2) in subsection (d)(2), by striking "(b)(2)A)(ii)" and inserting "(b)(1)(A)(ii)".

Subtitle E—Other Matters

SEC. 841. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESS AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking "2006" both places it appears and inserting "2009".

SEC. 842. CODIFICATION AND MODIFICATION OF LIMITATION ON MODIFICATION OF MILITARY EQUIPMENT WITHIN FIVE YEARS OF RETIREMENT OR DISPOSAL.

(a) CODIFICATION AND MODIFICATION OF LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by section 821(a)(1) of this Act, is further amended by adding at the end the following new section:

"§ 2410q. Modification of equipment within five years of retirement or disposal

"(a) IN GENERAL.—Except as provided in subsection (b), a military department may not modify an aircraft, vessel, weapon, or other item of equipment if the military department plans to retire or otherwise dispose of such equipment within 5 years of the date of the completion of such modification.

"(b) EXCEPTIONS.—The prohibition in subsection (a) shall not apply to any modification as follows:

"(1) A modification for safety purposes.

"(2) Any other modification but only if the aggregate cost of all such modifications for the aircraft, vessel, weapon, or other item of equipment concerned during any fiscal year, including any procurement, installation, or removal costs, is less than $100,000.

"(c) WAIVER.—The Secretary of a military department may waive the prohibition in subsection (a) with respect to a modification referred to in that subsection if such Secretary—

"(1) determines that the waiver is in the national security interests of the United States; and

"(2) notifies the congressional defense committees of such determination in writing.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 821(a)(2) of this Act, is further amended by adding at the end the following new item:

"2410q. Modification of equipment within five years of retirement or disposal.".

(b) REPEAL OF SUPERSEDED LIMITATION.—Section 8053 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56; 111 Stat. 1232; 10 U.S.C. 2241 note) is repealed.

SEC. 843. CLARIFICATION OF RAPID ACQUISITION AUTHORITY TO RESPOND TO COMBAT EMERGENCIES.

(a) SCOPE OF AUTHORITY.—Subsection (c) of section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note) is amended—

(1) by striking "combat capability" each place it appears; and

(2) by striking "fatalities" each place it appears and inserting "casualties".

(b) DELEGATION OF AUTHORITY.—Such subsection is further amended in paragraph (1) by inserting "below the Deputy Secretary of Defense" after "delegation".

(c) WAIVER AUTHORITY.—Subsection (d)(1) of such section is further amended—

(1) in subparagraph (B), by striking "or";

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) domestic source or content restrictions that would inhibit or impede the rapid acquisition of the equipment.".

SEC. 844. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in subsection (a)—

(A) by striking "The Director" and inserting "(1) Subject to paragraph (2), the Director"; and

(B) by adding at the end the following new paragraph:

"(2) The authority of this section—

"(A) does not extend to any prototype project that is expected to cost in excess of $100,000,000; and

"(B) may be exercised for a prototype project that is expected to cost in excess of $20,000,000 only upon a written determination by the senior procurement executive for the agency (as designated for the purpose of section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) that—

"(i) the requirements of subsection (d) will be met; and

"(ii) the use of a standard contact, grant, or cooperative agreement for such project is not feasible or appropriate.";

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

"(h) APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.—An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the purposes of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).".

SEC. 845. EXTENSION OF CERTAIN AUTHORITIES ON CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2021) is amended by striking "September 30, 2005" in subsections (a)(2)(A) and (b)(2)(A) and inserting "September 30, 2006".

SEC. 846. INCREASED LIMIT APPLICABLE TO ASSISTANCE PROVIDED UNDER CERTAIN PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

Section 2414(a)(2) of title 10, United States Code, is amended by striking "$150,000" and inserting "$300,000".

SEC. 847. PILOT PROGRAM ON EXPANDED PUBLIC-PRIVATE PARTNERSHIPS FOR RESEARCH AND DEVELOPMENT.

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program to authorize the organizations referred to in subsection (b) to enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to assess the benefits of such agreements for such organizations and for the Department of Defense as a whole.

(b) COVERED ORGANIZATIONS.—The organizations referred to in this subsection are as follows:

(1) The National Defense University.

(2) The Defense Acquisition University.

(3) The Joint Forces Command.

(4) The United States Transportation Command.

(c) LIMITATION.—No agreement may be entered into, or continue in force, under the pilot program under subsection (a) after September 30, 2009.

(d) REPORT.—Not later than February 1, 2009, the Secretary shall submit to the congressional defense committees a report on the pilot program under subsection (a). The report shall include—

(1) a description of any agreements entered into under the pilot program; and

(2) the assessment of the Secretary of the benefits of the agreements entered into under the pilot program for the organizations referred to in subsection (b) and for the Department of Defense as a whole.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Duties and Functions of Department of Defense Officers and Organizations

SEC. 901. DIRECTORS OF SMALL BUSINESS PROGRAMS.

(a) REDESIGNATION OF EXISTING POSITIONS AND OFFICES.—(1) Each of the following positions within the Department of Defense is redesignated as the Director of Small Business Programs:

(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense.

(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army.

(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy.

(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force.

(2) Each of the following offices within the Department of Defense is redesignated as the Office of Small Business Programs:

(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense.

(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army.

(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy.

(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force.

(3) Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.

(b) DEPARTMENT OF DEFENSE POSITION AND OFFICE.—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 133b the following new section:

"§ 133c. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133b the following new item:

"133c. Director of Small Business Programs.".

(c) DEPARTMENT OF THE ARMY POSITION AND OFFICE.—(1) Chapter 303 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3024. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Army. The Director is appointed by the Secretary of the Army.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Army is the office that is established within the Department of the Army under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small' Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Army, and shall exercise such powers regarding those programs, as the Secretary of the Army may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3024. Director of Small Business Programs.".

(d) DEPARTMENT OF THE NAVY POSITION AND OFFICE.—(1) Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 5028. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Navy. The Director is appointed by the Secretary of the Navy.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Navy is the office that is established within the Department of the Navy under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Navy, and shall exercise such powers regarding those programs, as the Secretary of the Navy may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5028. Director of Small Business Programs.".

(d) DEPARTMENT OF THE AIR FORCE POSITION AND OFFICE.—(1) Chapter 803 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8024. Director of Small Business Programs

"(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Air Force. The Director is appointed by the Secretary of the Air Force.

"(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Air Force is the office that is established within the Department of the Air Force under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

"(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Air Force, and shall exercise such powers regarding those programs, as the Secretary of the Air Force may prescribe.

"(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8024. Director of Small Business Programs.".

SEC. 902. EXECUTIVE AGENT FOR ACQUISITION OF CAPABILITIES TO DEFEND THE HOMELAND AGAINST CRUISE MISSILES AND OTHER LOW-ALTITUDE AIRCRAFT.

(a) DESIGNATION OF EXECUTIVE AGENT.—The Secretary of Defense shall designate an official within the Department of Defense to act as executive agent to manage the acquisition of capabilities necessary to defend the homeland against cruise missiles, unmanned aerial vehicles, and other low altitude aircraft that may be launched against the United States.

(b) COORDINATION OF ACTIVITIES.—The official designated as executive agent under subsection (a) shall, in order to promote commonality and limit duplication of effort, coordinate in the acquisition of capabilities described in that subsection with appropriate officials of the following:

(1) The Missile Defense Agency.

(2) The Joint Theater Air and Missile Defense Organization.

(3) The United States Northern Command.

(4) The United States Strategic Command.

(5) Such other elements of the Department of Defense, and of other departments and agencies of the United States Government, as the Secretary considers appropriate for purposes of this section.

(c) PLAN FOR DEFENSE AGAINST ATTACK.—

(1) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan for the defense of the United States against cruise missiles, unmanned aerial vehicles, and other low altitude aircraft that may be launched against the United States.

(2) FOCUS OF PLAN.—In developing the plan, the Secretary shall focus on the role of Department of Defense components in the defense of the United States against an attack described in paragraph (1), but shall also address the role, if any, of other departments and agencies of the United States Government in that defense.

(3) ELEMENTS.—The plan shall include the following:

(A) An identification of the capabilities required by the Department of Defense in order to fulfill its mission to defend the homeland against cruise missiles, unmanned aerial vehicles, and other low altitude aircraft, and an identification of any current shortfalls in such capabilities.

(B) A schedule for implementing the plan.

(C) A statement of the funding required to implement the Department of Defense portion of the plan.

(D) An identification of the roles and missions, if any, of other departments and agencies of the United States Government in contributing to the defense of the United States against attack described in subparagraph (A).

(4) SCOPE OF PLAN.—The plan shall be coordinated with Department of Defense plans for defending the United States against attack by short-range to medium-range ballistic missiles.

SEC. 903. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY THE WHITE HOUSE COMMUNICATIONS AGENCY.

(a) PROVISION ON NONREIMBURSABLE BASIS.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2623; 10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection caption, by inserting "AND AUDIOVISUAL SUPPORT SERVICES" after "TELECOMMUNICATIONS SUPPORT"; and

(B) by inserting "and audiovisual support services" after "provision of telecommunications support"; and

(2) in subsection (b), by inserting "and audiovisual" after "other than telecommunications".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to the provision of audiovisual support services by the White House Communications Agency in fiscal years beginning on or after that date.

Subtitle B—Space Activities

SEC. 911. ADVISORY COMMITTEE ON DEPARTMENT OF DEFENSE REQUIREMENTS FOR SPACE CONTROL.

(a) ADVISORY COMMITTEE REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall provide for an advisory committee to review and assess Department of Defense requirements for space control.

(2) NEW OR EXISTING ADVISORY COMMITTEE.—The Secretary may carry out paragraph (1) through the establishment of a new advisory committee, or the utilization of a current advisory committee, meeting the requirements of subsection (b)(1).

(b) MEMBERSHIP AND ADMINISTRATION OF ADVISORY COMMITTEE.—

(1) MEMBERSHIP.—The advisory committee under subsection (a) shall consist of individuals from among officers and employees of the Federal Government, and private citizens of the United States, with knowledge and expertise in national security space policy.

(2) ADMINISTRATION.—The Secretary shall establish appropriate procedures for the administration of the advisory committee for purposes of this section, including designation of the chairman of the advisory committee from among its members.

(3) SECURITY CLEARANCES.—All members of the advisory committee shall hold security clearances appropriate for the work of the advisory committee.

(4) FIRST MEETING.—The advisory committee shall convene its first meeting for purposes of this section not later than 30 days after the date on which all members of the advisory committee have been selected for such purposes.

(c) DUTIES.—The advisory committee shall conduct a review and assessment of the following:

(1) The requirements of the Department of Defense for its space control mission and the efforts of the Department to fulfill such requirements.

(2) Whether or not the Department of Defense is allocating appropriate resources to fulfill the current space control mission of the Department when compared with the allocation by the Department of resources to other military space missions.

(3) The plans of the Department of Defense to meet its future space control mission.

(d) INFORMATION FROM FEDERAL AND STATE AGENCIES.—

(1) IN GENERAL.—The advisory committee may secure directly from the Department of Defense, from any other department or agency of the Federal Government, and any State government any information that the advisory committee considers necessary to carry out its duties under this section.

(2) LIAISON.—The Secretary of Defense shall designate at least one senior civilian employee of the Department of Defense and at least one general or flag officer of an Armed Force to serve as liaison between the Department, the Armed Forces, and the advisory committee for purposes of this section.

(e) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of the first meeting of the advisory committee under subsection (b)(4), the advisory committees shall submit to the Secretary of Defense and the congressional defense committees a report on the results of the review and assessment under subsection (c).

(2) ELEMENTS.—The report shall include—

(A) the findings and conclusions of the advisory committee on the requirements of the Department of Defense for its space control mission and the efforts of the Department to fulfill such requirements; and

(B) any recommendations that the advisory committee considers appropriate regarding the best means by which the Department may fulfill such requirements.

(f) TERMINATION.—The advisory committee shall terminate for purposes of this section 10 months after the date of the first meeting of the advisory committee under subsection (b)(4).

(g) SPACE CONTROL MISSION.—In this section, the term "space control mission" means the mission of the Department of Defense involving the following:

(1) Space situational awareness.

(2) Defensive counterspace operations.

(3) Offensive counterspace operations.

(h) FUNDING.—Amounts authorized to be appropriated to the Department of Defense shall be available to the Secretary of Defense for purposes of the activities of the advisory committee under this section.

Subtitle C—Other Matters

SEC. 921. ACCEPTANCE OF GIFTS AND DONATIONS FOR DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT.—

(1) IN GENERAL.—Section 2611 of title 10, United States Code, is amended to read as follows:

"§ 2611. Regional centers for security studies: acceptance of gifts and donations

"(a) AUTHORITY TO ACCEPT GIFTS AND DONATIONS.—Subject to subsection (c), the Secretary of Defense may, on behalf of any Department of Defense regional center for security studies, any combination of such centers, or such centers generally, accept from any source specified in subsection (b) any gift or donation for purposes of defraying the costs, or enhancing the operation, of such center, combination of centers, or centers generally, as the case may be.

"(b) SOURCES.—The sources from which gifts and donations may be accepted under subsection (a) are the following:

"(1) The government of a State or a political subdivision of a State.

"(2) The government of a foreign country.

"(3) A foundation or other charitable organization, including a foundation or charitable organization this is organized or operates under the laws of a foreign country.

"(4) Any source in the private sector of the United States or a foreign country.

"(c) LIMITATION.—The Secretary may not accept a gift or donation under subsection (a) if acceptance of the gift or donation would compromise or appear to compromise—

"(1) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

"(2) the integrity of any program of the Department, or of any person involved in such a program.

"(d) CRITERIA FOR ACCEPTANCE.—The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift or donation would have a result described in subsection (c).

"(e) CREDITING OF FUNDS.—(1) There is established on the books of the Treasury of the United States an account to be known as the 'Regional Centers for Security Studies Account'.

"(2) Gifts and donations of money accepted under subsection (a) shall be credited to the

Account, and shall be available until expended, without further appropriation, to defray the costs, or enhance the operation, of the regional center, combination of centers, or centers generally for which donated under that subsection.

"(f) Gift or Donation Defined.—In this section, the term 'gift or donation' means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).".

(2) Clerical amendment.—The table of sections at the beginning of chapter 155 of such title is amended by striking the item relating to section 2611 and inserting the following new item:

"2611. Regional centers for security studies: acceptance of gifts and donations.".

(b) Conforming Amendments.—

(1) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892) is amended by striking subsection (a).

(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 113 note) is amended—

(A) by striking subsection (a); and

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 922. OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY.

(a) Protection of Operational Files of Defense Intelligence Agency.—(1) Title VII of the National Security Act of 1947 (50 U.S.C. 431 et. seq.) is amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY

"Sec. 705. (a) Exemption of Operational Files.—The Director of the Defense Intelligence Agency, in coordination with the Director of National Intelligence, may exempt operational files of the Defense Intelligence Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(b) Operational Files Defined.—(1) In this section, the term 'operational files' means—

"(A) files of the Directorate of Human Intelligence of the Defense Intelligence Agency (and any successor organization of that directorate) that document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services; and

"(B) files of the Directorate of Technology of the Defense Intelligence Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems.

"(2) Files that are the sole repository of disseminated intelligence are not operational files.

"(c) Search and Review for Information.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning:

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

"(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

"(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive Order, or Presidential directive, in the conduct of an intelligence activity:

"(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(C) The Intelligence Oversight Board.

"(D) The Department of Justice.

"(E) The Office of General Counsel of the Department of Defense or of the Defense Intelligence Agency.

"(F) The Office of Inspector General of the Department of Defense or of the Defense Intelligence Agency.

"(G) The Office of the Director of the Defense Intelligence Agency.

"(d) Information Derived or Disseminated From Exempted Operational Files.—(1) Files that are not exempted under subsection (a) and contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.

"(3) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.

"(e) Allegation; Improper Withholding of Records; Judicial Review.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, alleges that the Defense Intelligence Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

"(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Defense Intelligence Agency, such information shall be examined ex parte, in camera by the court.

"(B) The court shall determine, to the fullest extent practicable, issues of fact based on sworn written submissions of the parties.

"(C) When a complainant alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in subsection (b).

"(ii) The court may not order the Defense Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Defense Intelligence Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(E) In proceedings under subparagraphs (C) and (D), the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36.

"(F) If the court finds under this subsection that the Defense Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Defense Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (f)).

"(G) If at any time following the filing of a complaint pursuant to this paragraph the Defense Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint; and

"(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

"(f) Decennial Review of Exempted Operational Files.—(1) Not less than once every 10 years, the Director of the Defense Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determinations to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that the Defense Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether the Defense Intelligence Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether the Defense Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(2) The table of contents for that Act is amended by inserting after the item relating to section 704 the following new item:

"Sec. 705. Operational files of the Defense Intelligence Agency.".

(b) SEARCH AND REVIEW OF CERTAIN OTHER OPERATIONAL FILES.—The National Security Act of 1947 is further amended—

(1) in section 702(a)(3)(C) (50 U.S.C. 432(a)(3)(C)), by adding the following new clause:

"(vi) The Office of the Inspector General of the National Geospatial-Intelligence Agency.";

(2) in section 703(a)(3)(C) (50 U.S.C. 432a(a)(3)(C)), by adding at the end the following new clause:

"(vii) The Office of the Inspector General of the NRO."; and

(3) in section 704(c)(3) (50 U.S.C. 432b(c)(3)), by adding at the end the following subparagraph:

"(H) The Office of the Inspector General of the National Security Agency.".

SEC. 923. PROHIBITION ON IMPLEMENTATION OF CERTAIN ORDERS AND GUIDANCE ON FUNCTIONS AND DUTIES OF THE GENERAL COUNSEL AND THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE.

No funds authorized to be appropriated by this Act may be obligated or expended to implement or enforce either of the following:

(1) The order of the Secretary of the Air Force dated May 15, 2003, and entitled "Functions and Duties of the General Counsel and the Judge Advocate General".

(2) Any internal operating instruction or memorandum issued by the General Counsel of the Department of the Air Force in reliance upon the order referred to in paragraph (1).

SEC. 924. UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2117. United States Military Cancer Institute

"(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

"(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

"(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

"(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

"(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

"(B) The prevention and early detection of cancer.

"(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

"(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

"(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

"(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

"(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2117. United States Military Cancer Institute.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) AGGREGATE LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee on Armed Services of the Senate to accompany its report on the bill S. 1042 of the One Hundred Ninth Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1003. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2006.

(a) FISCAL YEAR 2006 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2006 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2005, of funds appropriated for fiscal years before fiscal year 2006 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $763,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $238,364,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1004. REDUCTION IN CERTAIN AUTHORIZATIONS DUE TO SAVINGS RELATING TO LOWER INFLATION.

(a) REDUCTION.—The aggregate amount authorized to be appropriated by titles I, II, and III is the amount equal to the sum of all the amounts authorized to be appropriated by such titles reduced by $1,300,000,000.

(b) SOURCE OF SAVINGS.—Reductions required in order to comply with subsection (a) shall be derived from savings resulting from lower-than-expected inflation as a result of the annual review of the budget conducted by the Congressional Budget Office.

(c) ALLOCATION OF REDUCTION.—The Secretary of Defense shall allocate the reduction required by subsection (a) among the amounts authorized to be appropriated for accounts in titles I, II, and III to reflect the extent to which net savings from lower-than-expected inflation are allocable to amounts authorized to be appropriated to such accounts.

SEC. 1005. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2005.

Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to title I or chapter 2 of title IV of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

SEC. 1006. INCREASE IN FISCAL YEAR 2005 TRANSFER AUTHORITY.

Section 1001(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2034) is amended by striking "$3,500,000,000" and inserting "$6,185,000,000".

SEC. 1007. MONTHLY DISBURSEMENT TO STATES OF STATE INCOME TAX VOLUNTARILY WITHHELD FROM RETIRED OR RETAINER PAY.

Section 1045(a) of title 10, United States Code, is amended—

(1) by striking "quarter" the first place it appears and inserting "month"; and

(2) by striking "during the month following that calendar quarter" and inserting "during the following calendar month".

SEC. 1008. REESTABLISHMENT OF LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE.

(a) Costs of Goods and Services Provided to Department of State.—Funds appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that fiscal year in providing goods and services to the Department of State.

(b) Construction of Limitation.—The provisions of subsection (a) shall be applicable without regard to the following provisions of law:

(1) The provisions of subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999, as added by section 629 of division B of Public Law 108–447 (118 Stat. 2920; 22 U.S.C. 4865 note).

(2) The provisions of section 630 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B of Public Law 108–447 (118 Stat. 2921)).

(c) Effective Date.—This section shall take effect as of October 1, 2005.

Subtitle B—Naval Vessels and Shipyards

SEC. 1021. TRANSFER OF BATTLESHIPS.

(a) Transfer of Battleship Wisconsin.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia.

(b) Transfer of Battleship Iowa.—The Secretary of the Navy is authorized—

(1) to strike the Battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) subject to section 7306 of title 10, United States Code, to transfer the vessel by gift or otherwise provided that the Secretary requires, as a condition of transfer, that the transferee locate the vessel in the State of California.

(c) Inapplicability of Notice and Wait Requirement.—Notwithstanding any provision of subsection (a) or (b), section 7306(d) of title 10, United States Code, shall not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) Repeal of Superseded Requirements and Authorities.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

SEC. 1022. CONVEYANCE OF NAVY DRYDOCK, JACKSONVILLE, FLORIDA.

(a) Conveyance Authorized.—The Secretary of the Navy may convey to Atlantic Marine Property Holding Company (in this section referred to as the "Company") all right, title, and interest of the United States in and to Navy Drydock No. AFDM 7 (the SUSTAIN), located in Duval County, Florida. The Company is the current user of the drydock.

(b) Condition of Conveyance.—The conveyance under subsection (a) shall be subject to the condition that the drydock remain at the facilities of the Company until September 30, 2010.

(c) Consideration.—As consideration for the conveyance under subsection (a), the Company shall pay the Secretary an amount equal to the fair market value of the drydock as determined by the Secretary.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle C—Counterdrug Matters

SEC. 1031. USE OF UNMANNED AERIAL VEHICLES FOR UNITED STATES BORDER RECONNAISSANCE.

(a) In General.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 383. Use of unmanned aerial vehicles for United States border reconnaissance

"(a) In General.—The Secretary of Defense is authorized to use Department of Defense personnel and equipment to conduct aerial reconnaissance within the area of responsibility of the United States Northern Command with unmanned aerial vehicles in order to conduct, for the purposes specified in subsection (b), the following:

"(1) The detection and monitoring of, and communication on, the movement of air and sea traffic along the United States border.

"(2) The detection and monitoring of, and communication on, the movement of surface traffic that is—

"(A) outside of the geographic boundary of the United States; or

"(B) inside the United States, but within not more than 25 miles of the geographic boundary of the United States, with respect to surface traffic first detected outside the geographic boundary of the United States.

"(b) Purposes of Authorized Activities.—The purposes of activities authorized by subsection (a) are as follows:

"(1) To detect and monitor suspicious air, sea, and surface traffic.

"(2) To communicate information on such traffic to appropriate Federal law enforcement officials, State law enforcement officials, and local law enforcement officials.

"(c) Funds.—Amounts available to the Department of Defense for counterdrug activities shall be available for activities authorized by subsection (a).

"(d) Limitations.—Any limitations and restrictions under this chapter with respect to the use of personnel, equipment, and facilities under this chapter shall apply to the exercise of the authority in subsection (a).

"(e) Annual Reports on Use of Unmanned Aerial Vehicles.—(1) The Secretary of Defense shall submit to the congressional defense committees each year a report on the operation of unmanned aerial vehicles along the United States border under this section during the preceding year. Each report shall include, for the year covered by such report, the following:

"(A) A description of the aerial reconnaissance missions carried out along the United States border by unmanned aerial vehicles under this section, including the total number of sorties and flight hours.

"(B) A statement of the costs of such missions.

"(C) A statement of the number of times data collected by the Department of Defense from such missions was communicated to other authorities of the Federal Government or to State or local authorities.

"(2) A report is not required under this subsection for a year if no operations of unmanned aerial vehicles along the United States border occurred under this section during such year.

"(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

"(f) Definitions.—In this section:

"(1) The term 'suspicious air, sea, and surface traffic' means any air, sea, or surface traffic that is suspected of illegal activities, including involvement in activities that would constitute a violation of any provision of law set forth in or described under section 374(b)(4)(A) of this title.

"(2) The term 'State law enforcement officials' includes authorized members of the National Guard operating under authority of title 32.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 18 of such title is amended by adding at the end the following new item:

"383. Use of unmanned aerial vehicles for United States border reconnaissance.".

SEC. 1032. USE OF COUNTERDRUG FUNDS FOR CERTAIN COUNTERTERRORISM OPERATIONS.

(a) Authority To Use Funds.—In conjunction with counterdrug activities authorized by law, the Secretary of Defense may use funds authorized to be appropriated to the Department of Defense for drug interdiction and counterdrug activities in fiscal years 2006 and 2007 for the detection, monitoring, and interdiction of terrorists, terrorism-related activities, and other related transnational threats along the borders and within the territorial waters of the United States.

(b) CONSTRUCTION WITH OTHER AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided in section 124 of title 10, United States Code.

SEC. 1033. SUPPORT FOR COUNTER-DRUG ACTIVITIES THROUGH BASES OF OPERATION AND TRAINING FACILITIES IN AFGHANISTAN.

In providing support for counterdrug activities under section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note), the Secretary of Defense may, in accordance with a request under subsection (a) of such section, provide through or utilizing bases of operation or training facilities in Afghanistan—

(1) any type of support specified in subsection (b) of such section for counter-drug activities; and

(2) any type of support for counter-drug related Afghan criminal justice activities.

Subtitle D—Reports and Studies

SEC. 1041. MODIFICATION OF FREQUENCY OF SUBMITTAL OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.

(a) SUBMITTAL OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.—Section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note) is amended by striking "(a) ANNUAL PLAN REQUIRED.—On March 1 of each year," and inserting "Not later than March 1 of each year through 2006, and March 1 every two years thereafter,".

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking "**ANNUAL**".

SEC. 1042. REVIEW AND ASSESSMENT OF DEFENSE BASE ACT INSURANCE.

(a) IN GENERAL.—The Secretary of Defense shall, in coordination with the Director of the Office of Management and Budget and appropriate officials of the Department of Labor, the Department of State and the United States Agency for International Development, review current and future needs, options, and risks associated with Defense Base Act insurance.

(b) MATTERS TO BE ADDRESSED.—The review under subsection (a) shall address the following matters:

(1) Cost-effective options for acquiring Defense Base Act insurance.

(2) Methods for coordinating data collection efforts among agencies and contractors on numbers of employees, costs of insurance, and other information relevant to decisions on Defense Base Act insurance.

(3) Improved communication and coordination within and among agencies on the implementation of Defense Base Act insurance.

(4) Actions to be taken to address difficulties in the administration of Defense Base Act insurance, including on matters relating to cost, data, enforcement, and claims processing.

(c) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the review under subsection (a). The report shall set forth the findings of the Secretary as a result of the review and such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate in light of the review.

(d) DEFENSE BASE ACT INSURANCE DEFINED.—In this section, the term "Defense Base Act insurance" means workers' compensation insurance provided to contractor employees pursuant to the Defense Base Act (42 U.S.C. 1651 et seq.).

SEC. 1043. COMPTROLLER GENERAL REPORT ON CORROSION PREVENTION AND MITIGATION PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) REPORT REQUIRED.—Not later than April 1, 2007, the Comptroller General of the United States shall submit to the congressional defense committees a report on the effectiveness of the corrosion prevention and mitigation programs of the Department of Defense.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An assessment of the document of the Department of Defense entitled "Long-Term Strategy to Reduce Corrosion and the Effects of Corrosion on the Military Equipment and Infrastructure of the Department of Defense", dated November 2004.

(2) An assessment of the adequacy for purposes of the strategy set forth in that document of the funding requested in the budget of the President for fiscal year 2006, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and the associated Future-Years Defense Program under section 221 of title 10, United States Code.

(3) An assessment of the adequacy and effectiveness of the organizational structure of the Department of Defense in implementing that strategy.

(4) An assessment of the progress made as of the date of the report in establishing throughout the Department common metrics, definitions, and procedures on corrosion prevention and mitigation.

(5) An assessment of the progress made as of the date of the report in establishing a baseline estimate of the scope of the corrosion problems of the Department.

(6) An assessment of the extent to which the strategy of the Department on corrosion prevention and mitigation has been revised to incorporate the recommendations of the October 2004 Defense Science Board report on corrosion control.

(7) An assessment of the implementation of the corrosion prevention and mitigation programs of the Department during fiscal year 2006.

(8) Recommendations by the Comptroller General for addressing any shortfalls or areas of potential improvement identified in the review for purposes of the report.

Subtitle E—Technical Amendments

SEC. 1051. TECHNICAL AMENDMENTS RELATING TO CERTAIN PROVISIONS OF ENVIRONMENTAL DEFENSE LAWS.

(a) DEFINITION OF "MILITARY MUNITIONS".—Section 101(e)(4)(B)(ii) of title 10, United States Code, is amended by striking "explosives, and" and inserting "explosives and".

(b) DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Section 2703(b) of such title is amended by striking "'unexploded ordnance', 'discarded military munitions', and" and inserting "'discarded military munitions' and".

Subtitle F—Military Mail Matters

SEC. 1061. SAFE DELIVERY OF MAIL IN THE MILITARY MAIL SYSTEM.

(a) PLAN REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall promptly develop and implement a plan to ensure that the mail within the military mail system is safe for delivery.

(2) SCREENING.—The plan under this subsection shall provide for the screening of all mail within the military mail system in order to detect the presence in such mail of biological, chemical, or radiological weapons, agents, or pathogens, or explosive devices, before such mail is delivered to its intended recipients.

(b) FUNDING FOR PLAN.—The budget justification materials that are submitted to Congress with the budget of the President for any fiscal year after fiscal year 2006, as submitted under section 1105(a) of title 31, United States Code, shall include a description of the amounts required in such fiscal year to carry out the plan under subsection (a).

(c) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the safety of mail within the military mail system for delivery.

(2) ELEMENTS.—The report shall include the following:

(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within such system is safe for delivery.

(B) The plan developed under subsection (a).

(C) An estimate of the time and resources required to implement the plan.

(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to that system in order to ensure the safety of such mail for delivery.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

(d) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

(1) IN GENERAL.—Except as provided in paragraph (2), in this section, the term "mail within the military mail system"—

(A) means—

(i) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

(ii) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces; and

(B) includes any official mail posted by the Department of Defense.

(2) EXCEPTION.—The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before its posting as so described.

SEC. 1062. DELIVERY OF MAIL ADDRESSED TO ANY SERVICE MEMBER.

(a) PROGRAM OF DELIVERY OF MAIL.—The Secretary of Defense shall carry out a program under which mail and packages addressed to Any Service Member that are posted in the United States shall be delivered to deployed members of the Armed Forces overseas at or through such Army Post Offices (APOs) and Fleet Post Offices (FPOs) as the Secretary shall designate for purposes of the program.

(b) SCREENING OF MAIL.—In carrying out the program required by subsection (a), the Secretary shall take appropriate actions to ensure that the mail and packages covered by the program are screened in order to detect the presence in such mail and packages of biological, chemical, or radiological weapons, agents, or pathogens, or explosive devices, before such mail and packages are delivered to members of the Armed Forces.

(c) DISTRIBUTION.—The Secretary shall ensure that mail and packages delivered under the program required by subsection (a) are widely distributed on an equitable basis among all the Armed Forces in their overseas areas.

(d) OUTREACH.—

(1) IN GENERAL.—The Secretary shall, in collaboration with the Postmaster General, take appropriate actions to provide information to the public on the program required by subsection (a).

(2) OUTLETS.—Information shall be provided to the public under this subsection through Department of Defense facilities and communications outlets, Postal Service facilities, and such other means as the Secretary and the Postmaster General consider appropriate.

(e) ANY SERVICE MEMBER DEFINED.—In this section, the term "Any Service Member" means an undesignated or unspecified member of the Armed Forces (often addressed on mail or packages as "Any American Service Member or Soldier"), rather than any particular or specified member of the Armed Forces.

Subtitle G—Other Matters

SEC. 1071. POLICY ON ROLE OF MILITARY MEDICAL AND BEHAVIORAL SCIENCE PERSONNEL IN INTERROGATION OF DETAINEES.

(a) POLICY REQUIRED.—The Secretary of Defense shall establish the policy of the Department of Defense on the role of military medical and behavioral science personnel in the interrogation of persons detained by the Armed Forces. The policy shall apply uniformly throughout the Armed Forces.

(b) REPORT.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report on the policy established under subsection (a). The report shall set forth the policy, and shall include such additional matters on the policy as the Secretary considers appropriate.

SEC. 1072. CLARIFICATION OF AUTHORITY TO ISSUE SECURITY REGULATIONS AND ORDERS UNDER INTERNAL SECURITY ACT OF 1950.

Section 21(a) of the Internal Security Act of 1950 (Public Law 81–831; 64 Stat. 1005) is amended by inserting "or military or civilian director" after "military commander".

SEC. 1073. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This section may be cited as the "Support Our Scouts Act of 2005".

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Federal agency" means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term "youth organization"—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—

(i) SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year. This clause shall be subject to the availability of appropriations

(ii) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—Clause (i) shall not apply to any youth organization that ceases to exist.

(iii) WAIVERS.—The head of a Federal agency may waive the application of clause (i) to any youth organization with respect to each conviction or investigation described under subclause (I) or (II) for a period of not more than 2 fiscal years if—

(I) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(II) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a "tent city" capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.".

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting "or (e)" after "subsection (a)"; and

(2) by adding at the end the following:

"(e) EQUAL ACCESS.—

"(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

"(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.".

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL POLICY

SEC. 1101. EXTENSION OF AUTHORITY FOR VOLUNTARY SEPARATIONS IN REDUCTIONS IN FORCE.

Section 3502(f)(5) of title 5, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2010".

SEC. 1102. COMPENSATORY TIME OFF FOR NONAPPROPRIATED FUND EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

Section 5543 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary of Defense may, on request of a Department of Defense employee paid from nonappropriated funds, grant such employee compensatory time off from duty instead of overtime pay for overtime work.".

SEC. 1103. EXTENSION OF AUTHORITY TO PAY SEVERANCE PAYMENTS IN LUMP SUMS.

Section 5595(i)(4) of title 5, United States Code, is amended by striking "October 1, 2006" and inserting "October 1, 2010".

SEC. 1104. CONTINUATION OF FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM ELIGIBILITY.

Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) in clause (i), by striking "October 1, 2006" and inserting "October 1, 2010"; and

(2) in clause (ii)—

(A) by striking "February 1, 2007" and inserting "February 1, 2011"; and

(B) by striking "October 1, 2006" and inserting "October 1, 2010".

SEC. 1105. PERMANENT AND ENHANCED AUTHORITY FOR SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE EDUCATION PROGRAM.

(a) PERMANENT AUTHORITY FOR PROGRAM.—Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended—

(1) in subsection (a)—

(A) by striking "(1)"; and

(B) by striking paragraph (2); and

(2) by striking "pilot" each place it appears.

(b) ASSISTANCE UNDER PROGRAM.—Such section is further amended—

(1) in subsection (b)—

(A) by striking "(b)" and all that follows through "a scholarship" and inserting "(b) ASSISTANCE.—(1) Under the program under this section, the Secretary of Defense may award a scholarship or fellowship";

(B) in paragraph (1)(B), by inserting "accredited" before "institution of higher education";

(C) in paragraph (2)—

(i) by inserting "or fellowship" after "scholarship";

(ii) by inserting "equipment expenses," after "laboratory expenses,"; and

(iii) by striking the second sentence; and

(D) by adding at the end the following new paragraph:

"(3) Any assistance payable to a person under this subsection may be paid directly to the person awarded such assistance or to an administering entity that shall disburse such assistance to the person."; and

(2) in subsection (c)(2)—

(A) by striking "a scholarship" and inserting "financial assistance";

(B) by striking "the financial assistance provided under the scholarship" and inserting "such financial assistance"; and

(C) by striking "the scholarship." and inserting "such financial assistance.".

(c) EMPLOYMENT OF PROGRAM PARTICIPANTS.—Such section is further amended—

(1) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) EMPLOYMENT OF PROGRAM PARTICIPANTS.—(1) The Secretary of Defense may—

"(A) appoint or retain a person participating in the program under this section in a position on an interim basis during the period of such person's pursuit of a degree under the program and for a period not to exceed 2 years after completion of the degree, but only if, in the case of the period after completion of the degree—

"(i) there is no readily available appropriate permanent position for such person; and

"(ii) there is an active and ongoing effort to identify and assign such person to an appropriate permanent position as soon as practicable; and

"(B) if there is no appropriate permanent position available after the end of the periods described in subparagraph (A), separate such person from employment with the Department without regard to any other provision of law, in which event the service agreement of such person under subsection (c) shall terminate.

"(2) The period of service of a person covered by paragraph (1) in a position on an interim basis under that paragraph shall, after completion of the degree, be treated as a period of service for purposes of satisfying the obligated service requirements of the person under the service agreement of the person under subsection (c).".

(d) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—Paragraph (1) of subsection (e) of such section, as redesignated by subsection (c)(1) of this section, is amended to read as follows:

"(1)(A) A participant in the program under this section who is not an employee of the Department of Defense and who voluntarily fails to complete the educational program for which financial assistance has been provided under this section, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary of Defense, shall refund to the United States an appropriate amount, as determined by the Secretary.

"(B) A participant in the program under this section who is an employee of the Department of Defense and who—

"(i) voluntarily fails to complete the educational program for which financial assistance has been provided, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary; or

"(ii) before completion of the period of obligated service required of such participant—

"(I) voluntarily terminates such participant's employment with the Department; or

"(II) is removed from such participant's employment with the Department on the basis of misconduct,

shall refund the United States an appropriate amount, as determined by the Secretary.".

(e) CONFORMING AMENDMENTS.—

(1) Subsection (f) of such section, as redesignated by subsection (c)(1) of this section, is further amended by striking "PILOT".

(2) The heading of such section is amended to read as follows:

"SEC. 1105. SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE EDUCATION PROGRAM.".

(3) Section 3304(a)(3)(B)(ii) of title 5, United States Code, is—

(A) by striking "Scholarship Pilot Program" and inserting "Defense Education Program"; and

(B) by inserting "(10 U.S.C. 2912 note)" after "for Fiscal Year 2005".

SEC. 1106. INCREASE IN AUTHORIZED NUMBER OF DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE EMPLOYEES.

Section 1606(a) of title 10, United States Code, is amended by striking "544" and inserting "the following:

"(1) In fiscal year 2005, 544.

"(2) In fiscal year 2006, 619.

"(3) In fiscal years after fiscal year 2006, 694.".

SEC. 1107. STRATEGIC HUMAN CAPITAL PLAN FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) PLAN REQUIRED.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall develop and submit to the appropriate committees of Congress a strategic plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The plan shall be known as the "strategic human capital plan".

(b) CONTENTS.—The strategic human capital plan required by subsection (a) shall include—

(1) a workforce gap analysis, including an assessment of—

(A) the critical skills and competencies that will be needed in the future civilian employee workforce of the Department of Defense to support national security requirements and effectively manage the Department over the next decade;

(B) the skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(C) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraph (A); and

(2) a plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

(A) specific recruiting and retention goals, including the program objectives of the Department to be achieved through such goals; and

(B) specific strategies for development, training, deploying, compensating, and motivating the civilian employee workforce of the Department, including the program objectives of the Department to be achieved through such strategies.

(c) INAPPLICABILITY OF CERTAIN LIMITATIONS.—The recruitment and retention of civilian employees to meet the goals established under subsection (b)(2)(A) shall not be subject to any limitation or constraint under statute or regulations on the end strength of the civilian workforce of the Department of Defense or any part of the workforce of the Department.

(d) ANNUAL UPDATES.—Not later than March 1 of each year from 2007 through 2012, the Secretary shall update the strategic human capital plan required by subsection (a), as previously updated under this subsection.

(e) ANNUAL REPORTS.—Not later than March 1 of each year from 2007 through 2012, the Secretary shall submit to the appropriate committees of Congress—

(1) the update of the strategic human capital plan prepared in such year under subsection (d); and

(2) the assessment of the Secretary, using results-oriented performance measures, of the progress of the Department of Defense in implementing the strategic human capital plan.

(f) COMPTROLLER GENERAL REVIEW.—(1) Not later than 90 days after the Secretary submits under subsection (a) the strategic human capital plan required by that subsection, the Comptroller General shall submit to the appropriate committees of Congress a report on the plan.

(2) Not later than 90 days after the Secretary submits under subsection (e) an update of the strategic human capital plan under subsection (d), the Comptroller General shall submit to the appropriate committees of Congress a report on the update.

(3) A report on the strategic human capital plan under paragraph (1), or on an update of the plan under paragraph (2), shall include the assessment of the Comptroller General of the extent to which the plan or update, as the case may be—

(A) complies with the requirements of this section; and

(B) complies with applicable best management practices (as determined by the Comptroller General).

(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Homeland Security and Governmental Affairs of the Senate; and

(2) the Committees on Armed Services and Government Reform of the House of Representatives.

SEC. 1108. COMPTROLLER GENERAL STUDY ON FEATURES OF SUCCESSFUL PERSONNEL MANAGEMENT SYSTEMS OF HIGHLY TECHNICAL AND SCIENTIFIC WORKFORCES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to identify the features of successful personnel management systems of the highly technical and scientific workforces of the Department of Defense laboratories and similar scientific facilities and institutions.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) An examination of the flexible personnel management authorities, whether under statute or regulations, currently being utilized at Department of Defense demonstration laboratories to assist in the management of the workforce of such laboratories.

(2) An identification of any flexible personnel management authorities, whether under statute or regulations, available for use in the management of Department of Defense laboratories to assist in the management of the workforces of such laboratories that are not currently being utilized.

(3) An assessment of personnel management practices utilized by scientific and technical laboratories and institutions that are similar to the Department of Defense laboratories.

(4) A comparative analysis of the specific features identified by the Comptroller General in successful personnel management systems of highly technical and scientific workforces to attract and retain critical employees and to provide local management authority to Department of Defense laboratory officials.

(c) PURPOSES.—The purposes of the study shall include—

(1) the identification of the specific features of successful personnel management systems of highly technical and scientific workforces;

(2) an assessment of the potential effects of the utilization of such features by Department of Defense laboratories on the missions of such laboratories and on the mission of the Department of Defense as a whole; and

(3) recommendations as to the future utilization of such features in Department of Defense laboratories.

(d) LABORATORY PERSONNEL DEMONSTRATION AUTHORITIES.—The laboratory personnel demonstration authorities set forth in this subsection are as follows:

(1) The authorities in section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–315)).

(2) The authorities in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 5 U.S.C. 3104 note).

(e) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report on the study required by this section. The report shall include—

(1) a description of the study;

(2) an assessment of the effectiveness of the current utilization by the Department of Defense of the laboratory personnel demonstration authorities set forth in subsection (d); and

(3) such recommendations as the Comptroller General considers appropriate for the effective use of available personnel management authorities to ensure the successful personnel management of the highly technical and scientific workforce of the Department of Defense laboratories.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Homeland Security and Governmental Affairs of the Senate; and

(2) the Committees on Armed Services, Appropriations, and Government Reform of the House of Representatives.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

SEC. 1201. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) AUTHORITY FOR FISCAL YEARS 2006 AND 2007.—During fiscal year 2006 and fiscal year 2007, from funds made available to the Department of Defense for operation and maintenance for such fiscal year, not to exceed $500,000,000 may be used in each such fiscal year to provide funds—

(1) for the Commanders' Emergency Response Program; and

(2) for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal-year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

(c) COMMANDERS' EMERGENCY RESPONSE PROGRAM DEFINED.—In this section, the term "Commanders' Emergency Response Program" means the program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people.

SEC. 1202. ENHANCEMENT AND EXPANSION OF AUTHORITY TO PROVIDE HUMANITARIAN AND CIVIC ASSISTANCE.

(a) INCREASE IN AUTHORIZED EXPENSES ASSOCIATED WITH DETECTION AND CLEARANCE OF LANDMINES.—Subsection (c)(3) of section 401 of title 10, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

(b) INCLUSION OF ASSISTANCE ON COMMUNICATIONS AND INFORMATION INFRASTRUCTURE UNDER AUTHORITY.—Such section is further amended—

(1) in subsection (c)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) Expenses covered by paragraph (1) also include expenses incurred in providing communications or information systems equipment or supplies that are transferred or otherwise furnished to a foreign country in furtherance of the provision of other assistance under this section."; and

(2) in subsection (e), by adding at the end the following new paragraph:

"(6) Restoring or improving the information and communications infrastructure of a country, including activities relating to the furnishing of education, training, and technical assistance with respect to information and communications technology.".

(c) EXPANSION OF AUTHORITY TO PROVIDE MEDICAL, DENTAL, AND VETERINARY CARE.—Subsection (e)(1) of such section is amended by inserting before the period the following: ", including education, training, and technical assistance related to the care provided".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 1203. MODIFICATION OF GEOGRAPHIC LIMITATION ON PAYMENT OF PERSONNEL EXPENSES UNDER BILATERAL OR REGIONAL COOPERATION PROGRAMS.

Section 1051(b)(1) of title 10, United States Code, is amended by striking "within the area" and all that follows through "developing country is located" and inserting "to and within the area of responsibility of a unified combatant command (as such term is defined in section 161(c) of this title)".

SEC. 1204. PAYMENT OF TRAVEL EXPENSES OF COALITION LIAISON OFFICERS.

(a) AUTHORITY TO PAY CERTAIN TRAVEL EXPENSES OF MILITARY OFFICERS ON COALITION MISSIONS.—Subsection (b) of section 1051a of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary may pay the travel expenses of a military officer of a developing country involved in coalition operations while temporarily assigned to the headquarters of a combatant command, component command, or subordinate operational command for the mission-related roundtrip travel of such officer, upon the direction of the commander of such command, from such headquarters to one or more locations specified by the commander of such command if such travel is determined to be in support of United States national interests.".

(b) EXTENSION OF AUTHORITY TO PAY TRAVEL EXPENSES.—Subsection (e) of such section is amended by striking "September 30, 2005" and inserting "September 30, 2009".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October, 1, 2005.

SEC. 1205. PROHIBITION ON ENGAGING IN CERTAIN TRANSACTIONS.

(a) APPLICATION OF IEEPA PROHIBITIONS TO THOSE ATTEMPTING TO EVADE OR AVOID THE PROHIBITIONS.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

"PENALTIES

"SEC. 206. (a) It shall be unlawful for—

"(1) a person to violate or attempt to violate any license, order, regulation, or prohibition issued under this title;

"(2) a person subject to the jurisdiction of the United States to take any action to evade or avoid, or attempt to evade or avoid, a license, order, regulation, or prohibition issued this title; or

"(3) a person subject to the jurisdiction of the United States to approve, facilitate, or provide financing for any action, regardless of who initiates or completes the action, if it would be unlawful for such person to initiate or complete the action.

"(b) A civil penalty of not to exceed $250,000 may be imposed on any person who commits an unlawful act described in paragraph (1), (2), or (3) of subsection (a).

"(c) A person who willfully commits, or willfully attempts to commit, an unlawful act described in paragraph (1), (2), or (3) of subsection (a) shall, upon conviction, be fined not more than $500,000, or a natural person, may be imprisoned not more than 10 years, or both; and any officer, director, or agent of any person who knowingly participates, or attempts to participate, in such unlawful act may be punished by a like fine, imprisonment, or both.”.

(b) PRODUCTION OF RECORDS.—Section 203(a)(2) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)(2)) is amended to read as follows:

“(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports, testimony, answers to questions, or otherwise, complete information relative to any act or transaction referred to in paragraph (1), either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. The President may require by subpoena or otherwise the production under oath by any person of all such information, reports, testimony, or answers to questions, as well as the production of any required books of accounts, records, contracts, letters, memoranda, or other papers, in the custody or control of any person. The subpoena or other requirement, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.”.

(c) CLARIFICATION OF JURISDICTION TO ADDRESS IEEPA VIOLATIONS.—Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is further amended by adding at the end the following:

“(d) The district courts of the United States shall have jurisdiction to issue such process described in subsection (a)(2) as may be necessary and proper in the premises to enforce the provisions of this title.”.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2006 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 2006 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $415,549,000 authorized to be appropriated to the Department of Defense for fiscal year 2006 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $78,900,000.

(2) For nuclear weapons storage security in Russia, $74,100,000.

(3) For nuclear weapons transportation security in Russia, $30,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,600,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $60,849,000.

(6) For chemical weapons destruction in Russia, $108,500,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,600,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2006 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2006 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. PERMANENT WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

Section 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 22 U.S.C. 5952 note) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsection (e) as subsection (c).

SEC. 1304. MODIFICATION OF AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) IN GENERAL.—Subsection (a) of section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1662; 22 U.S.C. 5963) is amended—

(1) by striking “the President may” and inserting “the Secretary of Defense may”; and

(2) by striking “if the President” and inserting “if the Secretary of Defense, with the concurrence of the Secretary of State,”.

(b) AVAILABILITY OF FUNDS.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking “The President” and inserting “The Secretary of Defense”; and

(B) by striking “the President” and inserting “the Secretary of Defense, with the concurrence of the Secretary of State,”; and

(2) in paragraph (2)—

(A) by striking “10 days after” and inserting “15 days before”; and

(B) by striking “the President shall notify Congress” and inserting “the Secretary of Defense shall notify the congressional defense committees”.

SEC. 1305. REPEAL OF REQUIREMENT FOR ANNUAL COMPTROLLER GENERAL ASSESSMENT OF ANNUAL DEPARTMENT OF DEFENSE REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended by striking subsection (e).

SEC. 1306. REMOVAL OF CERTAIN RESTRICTIONS ON PROVISION OF COOPERATIVE THREAT REDUCTION ASSISTANCE.

(a) REPEAL OF RESTRICTIONS.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Section 211(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(b) INAPPLICABILITY OF OTHER RESTRICTIONS.—

Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 106 Stat. 3338; 22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

TITLE XIV—AUTHORIZATION FOR SUPPLEMENTAL APPROPRIATIONS FOR IRAQ, AFGHANISTAN, AND THE GLOBAL WAR ON TERRORISM

SEC. 1401. PURPOSE.

The purpose of this title is to authorize supplemental appropriations for the Department of Defense for fiscal year 2006 for operations in Iraq, Afghanistan, and the global war on terrorism that are in addition to the amounts otherwise authorized to be appropriated for the Department of Defense by this Act.

SEC. 1402. DESIGNATION AS EMERGENCY AMOUNTS.

Amounts appropriated pursuant to the authorizations of appropriations in this title are designated as an emergency requirement pursuant to section 402(b) of the conference report to accompany H. Con. Res. 95 (109th Congress).

SEC. 1403. ARMY PROCUREMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts of the Army in amounts as follows:

(1) For aircraft, $70,300,000.

(2) For weapons and tracked combat vehicles, $27,800,000.

(3) For other procurement $376,700,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (a)(3),

$225,000,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Army shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Army has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1404. NAVY AND MARINE CORPS PROCUREMENT.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts of the Navy in amounts as follows:

(1) For aircraft, $183,800,000.

(2) For weapons, including missiles and torpedoes, $165,500,000.

(3) For other procurement, $30,800,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for the Marine Corps in the amount of $429,600,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $104,500,000.

(d) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (b), $340,400,000 shall be available for purposes as follows:

(A) Procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs).

(B) Procurement of wheeled vehicle add-on armor protection, including armor for M1151/M1152 high mobility multipurpose wheeled vehicles.

(C) Procurement of M1151/M1152 high mobility multipurpose wheeled vehicles.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Navy shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Marine Corps has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1405. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $104,700,000.

(2) For other procurement, $51,900,000.

SEC. 1406. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $22,139,775,000, of which $200,000,000 may be made available for linguistic support operations in Iraq and Afghanistan.

(2) For the Navy, $1,944,300,000.

(3) For the Marine Corps, $1,808,231,000.

(4) For the Air Force, $2,635,555,000.

(5) For Defense-wide activities, $3,470,118,000.

(6) For the Naval Reserve, $2,400,000.

SEC. 1407. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $977,778,000, for operation and maintenance.

SEC. 1408. MILITARY PERSONNEL.

Funds are hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2006 in amounts as follows:

(1) For military personnel of the Army, $9,517,643,000.

(2) For military personnel of the Navy, $350,000,000.

(3) For military personnel of the Marine Corps, $811,771,000.

(4) For military personnel of the Air Force, $916,559,000.

SEC. 1409. IRAQ FREEDOM FUND.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund in the amount of $3,880,270,000.

(b) LIMITATION ON AVAILABILITY OF CERTAIN AMOUNT.—Of the amount authorized to be appropriated by subsection (a), not less than $500,000,000 shall be available only for support of activities of the Joint Improvised Explosive Device Task Force.

(c) TRANSFER.—

(1) TRANSFER AUTHORIZED.—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Freedom Fund to any accounts as follows:

(A) Operation and maintenance accounts of the Armed Forces.

(B) Military personnel accounts.

(C) Research, development, test, and evaluation accounts of the Department of Defense.

(D) Procurement accounts of the Department of Defense.

(E) Accounts providing funding for classified programs.

(F) The operating expenses account of the Coast Guard.

(2) NOTICE TO CONGRESS.—A transfer may not be made under the authority in paragraph (1) until 5 days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the transfer.

(3) TREATMENT OF TRANSFERRED FUNDS.—Amounts transferred to an account under the authority in paragraph (1) shall be merged with amounts in such account, and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such account.

(4) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

SEC. 1410. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) TRANSFER AUTHORIZED.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION ON AGGREGATE AMOUNT.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000.

(3) CONSTRUCTION WITH OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) OTHER LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) NOTICE AND WAIT.—A transfer may be made under the authority of this section only after the Secretary—

(1) consults with the Chairmen and Ranking Members of each of the congressional defense committees with respect to such transfer; and

(2) on a date after consultation under paragraph (1), but not later than five days before the date of such transfer, submits to the congressional defense committees written notice of such transfer.

(d) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

Mr. WARNER. Mr. President, my understanding is that amendment 1955, as modified. is available to be brought up for consideration.

I now ask that the amendment be considered.

The PRESIDING OFFICER. The amendment is now pending.

Mr. WARNER. I ask for its consideration.

Mr. STEVENS. Mr. President, it is my understanding that the amendment that the Senator from Virginia, chairman of the Armed Services Committee, has offered is still the authorization bill from the Armed Services Committee. as modified.

May I inquire of the Senator, is that correct?

Mr. WARNER. Mr. President, that is correct.

Mr. STEVENS. Mr. President, that bill offered to this appropriations bill is a massive authorization bill offered as an amendment and, as such, it amounts to legislation on an appropriations bill.

Mr. WARNER. Mr. President, I am having some difficulty—because of the conversations taking place elsewhere in the Chamber—following the distinguished manager's remarks.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. Mr. President, as modified, this is still the authorization bill being offered to an appropriations bill. It amounts to legislation on an appropriations bill—a substantial authorization, I might add. I feel it is a violation of rule XVI. Therefore, as chairman of this subcommittee, I make a point of order that this amendment offered by the Senator from Virginia is subject to the provisions of rule XVI, and I make that point of order very plainly. I ask that it be ruled to be authorization on an appropriations bill.

Mr. WARNER. Mr. President, at this time, I insert the defense of germaneness, and I ask for the yeas and nays.

The PRESIDING OFFICER. At this moment, there is not a sufficient second.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mr. FRIST. Mr. President, pending before the Senate is a nondebatable question as to whether the pending Warner amendment is germane. I now ask consent that this question be temporarily set aside to recur Wednesday evening at 7:30.

Mr. WARNER. Mr. President, reserving the right to object, I do not intend to object, but I wish to advise the Members of the Senate the RECORD will reflect tomorrow the colloquy and actions taken by the distinguished managers and myself which gave rise to this amendment.

The Parliamentarian ruled with regard to my amendment as follows: We, the Parliamentarians, have advised that there is sufficient——

Mr. STEVENS. Will the Senator permit me to interrupt? The Parliamentarian has not ruled. The Parliamentarian has stated and advised that you have the defense of germaneness.

Mr. WARNER. Mr. President, the Senator is right. I said the Parliamentarians have advised—that is as I have read it, in the Parliamentarian's handwriting—there is sufficient language in the House bill to permit Senator WARNER to assert the defense of germaneness with respect to his amendment numbered 1955.

I did just that. I have acted consistently, having been working with the Parliamentarian through much of the day as to how to develop this procedure. I followed the rules as I understood them and advised the Parliamentarian.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2863: the Department of Defense appropriations bill.

Bill Frist, Ted Stevens, Daniel Inouye, Mel Martinez, Mitch McConnell, Bob Bennett, George Allen, Chuck Hagel, Tom Coburn, Richard Burr, Lisa Murkowski, John Thune, Lamar Alexander, Richard Shelby, Jon Kyl, Jeff Sessions, Saxby Chambliss.

Mr. FRIST. Mr. President, the unanimous consent request was to temporarily set aside the pending Warner amendment, the determination of whether it is germane, until 7:30 tomorrow evening. What that means, practically speaking, now that we have filed cloture as well, is we will continue on the Department of Defense appropriations bill; amendments, as they are brought to the Senate, will be debated and considered over the course of tomorrow, throughout the day; that the first vote that will be taken—we are not going to be voting until tomorrow evening—is on the issue of the germaneness of the Warner amendment. There are likely to be—in fact, there will be—other votes stacked after that depending on what comes forward tomorrow. We have two other amendments pending as well.

The cloture motion has been filed. That cloture vote would be on—today is Tuesday, then comes Wednesday—Thursday morning, which will allow us to complete the Department of Defense appropriations bill this week, as we have said all along.

One of the reasons we filed cloture tonight is to allow the full Senate to decide how best to proceed and to move forward so the preferences of Senators can be heard, listened to, and we can bring to closure this particular bill.

Mr. President, I will simply turn to my distinguished colleague from Virginia to allow him to make any statement, but that is the understanding we have had among both the chairman and ranking member of the Department of Defense appropriations bill, the leadership on both sides, and the chairman of the authorizing amendment that has been offered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished leader. I thank him for working with me continuously on this matter in every way to try to get our bill up because the distinguished majority leader, as well as the Democratic leader and Senator LEVIN and others, thinks it is imperative, with this Nation at war, this bill be addressed in a timely manner by the Senate and hopefully passed. It contains so many provisions which are essential to the men and women of the Armed Forces.

I have continuously fought that battle and will continue to do so. I participated in the drafting of this UC in a manner that enables the Senate to continue its work tomorrow, although I could have objected throughout. I would not object to allowing the Senate to continue its business and the Appropriations Committee to work the bill as sent.

I also believe, as you have advised me, you will continue to work, as will the Democratic leader, to seek a UC by which the Defense authorization bill can be brought up as a freestanding measure, at a time agreed upon by the two leaders, with a certain description of provisions that enable us to bring it up and how that further work on the bill will be conducted and in what timeframe. That is important to the two leaders. Hopefully, we can achieve that tomorrow. If we do, then I would take the appropriate parliamentary steps to remove from the appropriations bill these matters.

So I thank the two leaders and reiterate the essential nature of bringing this bill forward. I feel very strongly about it. And I thank my colleague from Alaska with whom I worked today. I am not suggesting—anyway, we worked it out, followed the rules, and that is it. I thank the leadership.

Mr. President, I yield the floor.

NOTICES OF INTENT

Mr. BIDEN. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill, H.R. 2863, the Department of Defense Appropriations Bill, the following amendment: Amendment no. 1999.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mrs. LINCOLN. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing of my intention to move to suspend paragraph 4 rule XVI for the purpose of proposing to the bill, H.R. 2863, the Defense Appropriations bill, the following amendment: No. 2025.

(The amendment is printed in today's RECORD under "Text of Amendments.")

MORNING BUSINESS

HONORING OUR ARMED FORCES

ARMY SPECIALIST ALLEN NOLAN

Mr. DEWINE. Mr. President, I rise today to pay tribute to Army SP Allen Nolan, from Marietta, OH, who was severely injured in Balad, Iraq, while serving in Operation Iraqi Freedom. He died from his injuries on September 30, 2004, at the Brook Army Medical Center in Houston, Texas. He was 38 years old.

Throughout Allen's life, he touched countless people. His family and close friends describe his loyalty and devotion to his family, his community, his church, and his country. Allen's strong religious faith was central to him. As Pastor Ray Witmer III, of Faith Bible Church in Williamstown, OH, where Allen and his family were members, said this about Allen:

> The phrase that keeps coming to mind—words that Allen actually had said many times—is that he is a father, husband, son, soldier, and foremost, a Christian.

Allen Nolan was all of those things—and more. Robin Nolan described her brother-in-law as a "strong family man who enjoyed hunting and fishing." She said that "he was always willing to help out. When my husband was ill last winter, he was such a big help. He was a very, very good brother and father."

Allen Nolan graduated from Warren High School and received an associate degree in business from Washington County Technical College. Later, he attended The Ohio State University and Ohio Valley College, where he earned a bachelor's degree in organizational management. He eventually went on to work for Broughton Foods in Marietta and Century 21 Realty.

Allen loved his family more than anything else in the world. He and his devoted wife, Gail, were the proud parents of five children—Roman, Kennan, Euanna, Bobby, and Frankie. Allen was a terrific father—caring, committed, and supportive of his young family. He protected Gail and his children as a husband and father—and also as a soldier.

Allen loved his country and felt a duty to protect it and make it a better place for his family. He served in the Army Reserves for seven years as a member of the 660th Transportation Company based out of Zanesville, Ohio. As one of the more experienced members of his unit, Allen took it upon himself to mentor the younger soldiers.

Dan Johnson, a close friend in his unit, described Allen as a "completely selfless individual. He would drop anything to help someone. He talked about his family all the time. I feel very lucky that I had the chance to know him and to work with him." Johnson further emphasized, "What I remember most about Allen is that he always had a 'can do' attitude. I never heard him complain or gripe about anything. We got to be close friends."

SP Robert Lovell, who served with Allen since 1997, also cherished their friendship, saying the following:

> Allen was always the first to volunteer. He was deeply committed to his religion. What I miss most about Allen is that he was always there if you needed help or counsel. Allen was one of my best friends and has been since we first met.

BG Michael W. Beasley, commanding general of the 88th Regional Readiness Command, RRC, said that "Allen was a wonderful soldier. He frequently volunteered for the most complex and difficult missions. He was also an excellent mentor and trainer of the younger soldiers." Other men in his company described how he would lead them in prayer before going out on a mission. They talked about how much comfort that gave them.

Not surprisingly, though just three months away from retiring from the Reserves when his unit was deployed to Iraq in February 2004, Allen did not hesitate to fulfill his duty. He and Gail both considered the war in Iraq an integral part of the war on terror. Allen believed he had a mission to carry out and was ready and willing to do whatever was necessary—whatever was needed.

Allen had been in Iraq 9 months, when he was scheduled to return home for 2 weeks on September 20, 2004. However, he was injured on September 18 when the fuel truck that he was driving north of Baghdad was struck by an improvised explosive device and came under a missile attack and a small arms fire. Allen was first evacuated to the 31st combat support hospital in Baghdad and then to Landstuhl Regional Medical Center in Germany. A burn team later transported him to Brook Army Medical Center in Texas, where he died on September 30, following a second surgery.

Thankfully, Allen was able to spend his last days and hours surrounded by loved ones. Gail and their oldest son, Roman, were able to be with him at the hospital. Gail's close friend, Karmen Lockhart, said that "we knew so many people praying for Allen, but God didn't answer our prayers the way we wanted. But, I believe he answered Allen's prayers, not to take other soldiers, but to take him. I believe he gave his life so others could be saved."

Pastor Witmer was also able to be with the Nolans at the Army hospital in Texas. Pastor Witmer said that "Allen was sure of his eternity." His unshakable faith is what allowed him to give so generously of himself and make that ultimate sacrifice.

Young children often have a way of putting even the most tragic of events into perspective for us. After learning of his father's death, Allen and Gail's son Kennan, who was nine years old at the time, said this about his father: "The Lord must have needed him more than I did." In those simple, selfless words, this little boy is saying so much. His father would be very proud.

Appropriately, Allen was remembered in a beautiful funeral service held at the Faith Bible Church, the center of his spiritual life. Nearly 500 people attended the service. Allen received five medals posthumously: The Purple Heart, the Bronze Star, the Meritorious Service Medal, the Army Commendation Medal, and the Good Conduct Medal. His medals were presented to Gail at his funeral, which included full military honors.

When I think about the life of Army SP Allen Nolan, I am reminded of something tennis great, Arthur Ashe, once said about what it means to be a hero. He said that "true heroism is remarkably sober—very undramatic. It is not the urge to surpass all others at whatever cost, but the urge to serve others at whatever cost." That's Allen Nolan. He was a noble man willing to serve others—his family, his fellow soldiers, his country—at whatever cost. And for that, we will never forget him.

I know that Allen's family and friends will forever cherish the memory of their son, brother, husband, and father, whose love knew no bounds. They all remain in our thoughts and prayers.

ARMY CORPORAL KEVIN W. PRINCE

Mr. President, this afternoon I also wish to honor and to remember a fellow Ohioan and a brave soldier. Army CPL Kevin W. Prince, of Plain City, OH, was killed on April 23, 2005, when a homemade bomb detonated under his Humvee. Corporal Prince was on patrol in Iskandariyah, Iraq. At the time of his death. He was 22 years old.

Kevin was born on July 13, 1982, in Canton, OH, to loving parents, Ronald and Susan Prince. When he was 2 years old, his family moved to Plain City, where he grew up. As a youth, Kevin worked part time in his parent's restaurant, the "Main Street Bagel and Deli, and attended Alder High School, where he played soccer and ran cross country. Principal Phil Harris remembers Kevin as a decent young man, who was honest and caring. He was always standing up for the underdogs—the kids who were being picked on or bullied. He made sure they were okay—that they were protected.

Inside and outside of school, Kevin lived life to the fullest. He enjoyed reading, watching movies, running, and playing video games. Kevin also enjoyed playing soccer, something he had done since the age of 5. His grandfather tells a story about one of Kevin's earliest matches. Kevin had the ball and was running down the field—but in the wrong direction. Kevin's grandfather shouted at him to turn around, which he did, but only long enough to shout "Be quiet, Grampa!" He kept on running down the field—the wrong way. Evidently, Kevin had a bit of stubborn streak.

After graduating from high school, Kevin decided to join the military. He planned to attend college when his term of service ended. His father, a Navy veteran, tried his best to convince Kevin to become a fellow sailor, but Kevin refused. He wanted to be a soldier, and so, in 2001, he enlisted in the Army.

Kevin went through boot camp at Fort Benning, GA, where he finished in October 2002. By January 2003, he was sent to Fort Irwin, CA, where he joined the Army's 2nd Division, 11th Armored Cavalry, Echo Troop. At Fort Irwin, Kevin trained other soldiers in the extreme conditions of the Mojave Desert to prepare them for the heat and dust of Iraq's deserts.

On January 9, 2005, Kevin's unit was deployed to Iraq, where they patrolled the area south of Baghdad. Months after Kevin arrived in Iraq, he began April 23 like any other day. He called home and spoke to his parents. He chatted with his sister and brother over the Internet. Only a few hours later, a roadside bomb detonated under his vehicle. In that tragic moment, the Prince family lost their youngest son, and the United States lost a very courageous soldier.

CPL Kevin Prince was more than just a good soldier. He was a good citizen. He was a good friend. Chris Holehouse, a close friend of Kevin's, spoke of his honesty, selflessness, and integrity:

> His handshake was his word. If he found $2,000 in a wallet, he'd give it back. He was not like anybody else. He wasn't apathetic to what was going on. He wasn't lazy, and he wasn't selfish; he was dependable. He reminded me of those books about Camelot. He reminded me of one of those guys.

Just as he had in high school, Kevin fought bullying wherever he found it, even at Fort Irwin. After Kevin's death, a friend from Fort Irwin wrote a brief memorial for the guy who looked out for him and became his friend:

> My name is Specialist Nathan Stern. I met Kevin when I first arrived at Fort Irwin. Being a brand new [Private] mechanic, I naturally got a hard time from a lot of the infantry guys. Kevin didn't [give me a hard time]. He helped me out a lot. We became friends over time and hung out outside of work every now and then. Kevin was a rare person to find, and I will miss him.

Kevin joined the Army to help make the world a better place. And in so many ways, he did just that. Those who knew Kevin all say he hated bullies. In high school, he stood up for his schoolmates. In the Army, he stood up for all of us. He fought for the blessings we sometimes take for granted and the principles and ideals on which our Nation was founded. He fought for it all, and he gave us his all.

Today, we honor Kevin Prince. We will remember him always.

My wife, Fran, and I continue to keep Kevin's many friends and family—especially his parents, Ronald and Susan; his sister Kelly; and his brother Jason—in our thoughts and in our prayers.

ARMY 1LT AARON SEESAN

Mr. President, I also wish to honor a fellow Ohioan and brave soldier. Army First Lieutenant Aaron Seesan of Massillon, OH, was gravely injured on May 21, 2005, when his vehicle struck a roadside bomb near Mosul, Iraq. Having survived the immediate blast, he was transported to a hospital in Germany, where he passed away a short time later. Aaron was 24 years old.

Aaron's dedication and sacrifice knew no bounds. As he lay mortally wounded in the moments following the explosion, he thought not of himself, but of his fellow soldiers around him. Instead of calling out for help, he ordered his troops to tend to other injured soldiers. Those who witnessed First Lieutenant Seesan's incredible act of bravery remember his words: "Take charge Sergeant Arnold, and take care of the others." This last act of selflessness defined Aaron's character, his heroism, his courage.

Aaron attended Massillon Washington High School where he was a member of the National Honor Society, earned several scholarships, and became a delegate to Buckeye Boys State. He played on the offensive line for the Tigers football team, and threw the shot put in track. He also participated in the drama program, Academic Challenge, and the speech team. Aaron was, indeed, a very accomplished young man.

After high school, he enrolled in the U.S. Merchant Marine Academy. At the Academy, Aaron was a member of the rifle team and served on the school's honor board, which he chaired his senior year. In 2003, the day he graduated with a degree in marine systems engineering, Aaron was commissioned as a second lieutenant in the U.S. Army.

Once in the Army, Aaron volunteered to go to Iraq. He didn't have to go. He wanted to go. He joined the 73rd Engineering Company, 1st Brigade, 24th Regiment—a unit that had sustained numerous casualties. Aaron explained to his father that most other soldiers of his rank have families, and that he—as a single man—should go in their place. Aaron went to Iraq so that someone he would never meet could stay home with his or her family. That is just how Aaron saw the world. To him, this was simply the right thing to do.

The other members of the 73rd sometimes joked about Aaron's maritime background. They tell a story about how during live fire exercises, Aaron once yelled "man overboard," instead of "man down" after a mock casualty fell. Though they liked to joke and kid around, his fellow soldiers never questioned Aaron's resolve or his dedication to his service.

Not surprisingly, while in Iraq, Aaron took on one of the riskiest jobs. As a combat engineer, or sapper, he patrolled the most dangerous roads in and around Mosul. While most soldiers did their best to avoid roadside bombs, Aaron Seesan looked for them. He was part of a Stryker brigade that searched for improvised explosive devices along roadways. At a memorial service, LTC Eric Kurilla, commanding officer of the 24th regiment, spoke of the inherent risks involved with what Aaron was doing:

> A Stryker IED Sweep, by its very name, implies great danger and risk. You are traveling the most heavily mined and bombed roads in Iraq, not trying to avoid the mines and bombs, but actually trying to find them. Why? So that others can travel safely without fear of attack.

Without ever giving it a second thought, Aaron went out and did his job to protect others. As SGT John Pavlick, also of the 73rd, said, "[Aaron] fully knew he was walking into a mess. That says a lot about him." Indeed, it does.

On May 22, 2005, our country lost a brave soldier and Aaron's family lost a loving son and brother. Just hours before he went on his last late night explosives sweep, Aaron waited in line until nearly midnight to make a phone call home to his family. One last time, Aaron teased his two sisters and spoke with his parents. His last words to his mother were simply, "I love you."

Upon his death, Aaron posthumously received the Purple Heart, Bronze Star, and Army Commendation Medal. His father, Tom, knows that Aaron died fulfilling a dream. He knows that Aaron wanted more than anything to protect his community and country as a soldier. As he said, "[Aaron] always was interested in the military from a small boy. This was always something that he wanted to do. He died doing something he wanted to do."

Tom Heitger, Aaron's good friend since kindergarten, echoed that sentiment, saying this about Aaron's sacrifice:

> The military was all he ever wanted; it was his dream. He was a very hard working man. It has been both an honor and a privilege to call this man my friend, and I'm very proud of him. He made the ultimate sacrifice.

As I conclude my remarks, I would like to share the heartfelt words of one of Aaron's fellow soldiers, PVT BriAnne Ackerson. In an email message posted to an Internet tribute in Aaron's honor, she wrote the following to Aaron's family:

> Aaron Seesan was an amazing officer. I knew him well. As I served near him in Iraq and became a good friend of his in Kuwait, I realized the potential he had to become such a wonderful officer. He cared so much for so many. He was always asking questions, always wanting to know more. He always

> smiled and did his job to the tee. Aaron will be missed terribly by so many. . . . I hope this letter brings you blessings. I really miss your son. . . . He meant a lot to me. God Bless all of you.

Aaron Seesan joined the Army to protect his country. He volunteered to go to Iraq to protect families he never met. And, he de-mined roads in Iraq to protect the men and women serving alongside him. He never stopped giving, even during the last moments of his life.

Our Nation has lost a truly courageous and selfless young man. May his memory endure and inspire greatness in others.

My wife Fran and I continue to keep Kevin's mom and dad and his sisters and brother in our thoughts and in our prayers.

ARMY SSG RICHARD MORGAN, JR.

Mr. President, I also wish to pay tribute to a fellow Ohioan and dedicated soldier who lost his life while serving in Operation Iraqi Freedom. I honor and remember the life of Army SSG Richard Morgan, Jr.

When I think about the dedication of all our men and women in uniform, I am reminded of something President Ronald Reagan once said about our obligation to protect freedom. He said this:

> For with the privilege of living in . . . America . . . there is a destiny and a duty, a call to preserve and hold in sacred trust mankind's age-old aspirations of peace and freedom and a better life for generations to come.

Richard Morgan, Jr., answered the call to preserve freedom. He fought for peace. And, he made the world a better place for future generations.

Rik—as Richard was known to family and friends—was born in Dayton, OH, on December 20, 1965. He attended St. Clairsville High School, where he was one of the original members of the St. Clairsville Singers and played on the Red Devil football team. After graduation in 1984, Rik briefly worked at Conway Central Express in Uhrichsville, OH, before joining the Army, something his friends say he always wanted to do.

Rik loved Army life. He was a dedicated and dependable soldier. He participated in Operation Just Cause in Panama from 1989 to 1990, and served in the Middle East during Operation Desert Storm. While he was certainly proud to serve and to protect and defend freedom, Rik would undoubtedly say that one of the best things that came about from his time in the Army wasn't so much about his service, but about meeting the love of his life, Diana.

Diana and Rik met while he was serving in Germany almost 20 years ago. They fell deeply in love. Friends say they were meant for each other. Rik and Diana eventually married and had two wonderful children, Richard and Kimberly, whom they raised in Maynard, OH.

Rik and his family were living in Maynard when the war in Iraq began. Having spent a few years out of the full time service as a retired Reservist, he did not want to sit on the sidelines. Rik re-enlisted in the Army, and with the same excitement he had when he first enlisted so many years before.

Rik's sister, Bonita Girty, said this about Rik's re-enlistment:

> He just loved what he did. He wanted to go back. . . . I don't think anyone could stop him from going. . . . He just liked fighting for his country.

Rik's friends agreed. They said he "loved his country and wanted nothing more than to serve and protect it." He was assigned to the 660th Transportation Company of the U.S. Army Reserves, based in Cadiz, OH. He started serving in Iraq in December 2003. Though thousands of miles separated him from his beloved family, Rik kept several Internet connections open to stay in touch. His sister Bonita said that her brother never indicated feelings of nervousness and made sure never to discuss the secret nature of his missions. Rik believed in the war and was devoted to his mission.

Rik and his family had the opportunity to spend time together for 2 weeks in August 2004, when he was on leave. It was time they all cherished. Rik and his wife celebrated their 16th wedding anniversary, as well as Diana's birthday before he went back to Iraq. "He was happy to be home," his sister recalled. "He was happy to be here with his family."

Tragically, that was be the last time Rik would see them. On October 5, 2004, Rik was killed when his military vehicle hit a landmine in Latfiyah, Iraq. He was 38 years of age at the time of his death.

Rik Morgan forever will be remembered as a loving father, devoted husband, attentive son, and caring brother. He touched countless lives.

Rik was given full military honors at the service held in his honor and the Purple Heart and Bronze Star were presented to his family. Hundreds gathered to pay their respects to Rik, including members of the St. Clairsville football team and Rik's coach from so many years ago, Mickey Blatnik.

I had the privilege of meeting several members of Rik's family, and I want to thank them for sharing their memories with me. It was easy to see how proud they are of Rik and how supportive they are of each other. As Rik's sister Bonita said, "He's a hero. He was proud to fight for his country."

In closing, I would like to share an email message that was posted on an Internet tribute to Rik. It is a simple message from Mrs. Arthur's 4th Grade Class in Nelsonville, OH. It reads as follows:

> My class and I want to thank you Richard for helping to keep us all safe. Please know that you will not be forgotten.

Indeed, Army SSG Richard Morgan will not be forgotten, for he answered the call President Reagan talked about to preserve peace and freedom. As that email message attests, he was, in fact, making "a better life for generations to come."

My wife Fran and I continue to keep Richard's family and friends in our thoughts and in our prayers.

ARMY SGT KURT SCHAMBERG

Mr. President, this afternoon I also wish to honor a fellow Ohioan and brave soldier, Army Sergeant Kurt Schamberg, from Orwell. SGT Schamberg died in Baghdad on May 19, 2005, when a roadside bomb detonated alongside his Humvee. He was 26 years of age at the time.

Kurt Schamberg held nothing back from his service to our country. At the time of his death, Kurt was almost done with his second tour of duty in Iraq. He already had been injured by shrapnel from another roadside bombing, but, as soon as he could leave the hospital, Kurt was back on patrol with his unit. Over and over, he gave of himself to protect others. Sergeant Schamberg was the embodiment of endurance and dedication, demonstrating time and time again that he was a model U.S. soldier.

Kurt was born on July 16, 1978, in Warren, OH. He grew up in Orwell, where he graduated from Grand Valley High School in 1997. Kurt was an energetic and creative young man. He enjoyed sports—especially watching the Pittsburgh Steelers—discussing politics, painting, and amateur film-making. Though he loved to talk about politics and current events, when the need presented itself, Kurt did more than just "talk" about the issues of the day with his friends. He acted. He went out into the world to make a difference. After the attacks of 9/11, Kurt Schamberg decided to enlist in the Army and defend our country from the front lines.

Kurt completed his training at Fort Benning, GA, and was then assigned to the 10th Mountain Division out of Fort Drum, NY, where he served as an automatic rifleman. His unit fought in the early stages of Operation Iraqi Freedom before returning home in March 2004. They again deployed again to Iraq in January 2005.

Kurt Schamberg was a man of great conviction, who fought for what he believed in, for what he felt was just and what he felt was right. Kurt joined the war on terrorism and fought to bring freedom to the Iraqi people because he wanted to make the world a stronger, safer, better place for all of us. According to Kurt's mother, Pamela Lindsay:

> [Kurt] among all my children was the peace lover. He was always finding a solution to a conflict. He would always fight the good fight, through talking and joking. If we could fight wars without loss of life and limb . . . Kurt would have lived. But . . . he knew that was not possible at this time.

Sergeant Schamberg loved his family. And, he loved the U.S. Army. He helped a new generation of soldiers learn how to protect themselves and protect our country. In an email message posted on an Internet tribute following Kurt's death, SPC Richard Ellsworth, who was stationed at Fort Campbell, KY, at the time, wrote the following:

> [Kurt], I wanted to tell you that your job as an NCO in the Army is not over yet. You still have to take care of your troops! I will be heading to Iraq for the second time very shortly and I will need an outstanding NCO to look up to. I couldn't think of a better soldier than you. You will be missed, but never forgotten. Remember the soldiers' creed and the warrior ethos—and lead your soldiers to victory.

Kurt Schamberg was an accomplished and well-respected soldier. He was also an energetic, loving, good-humored young man, who endeared himself to all. Kurt's cousin Katie Schamberg remembers this about him: "He was talented. He was funny. He was just everything. He loved life and was proud of what he was doing. . . ."

Kurt lived life to its fullest, whether he was fighting in a war or watching his beloved Steelers play football or creating his artwork or having a lively debate about politics. Everything he did, he did it with passion and zeal and with a love for life.

I would like to close my remarks with something that Kurt's friend Tiffany from Cleveland wrote in his honor:

> Kurt was a wonderful, charismatic and brave individual. He had the remarkable talent of making people laugh. I will always remember him for this. I am immensely saddened by the loss, as is everyone who was privileged enough to know him in this life. Kurt was loved by many and [was] a true friend. My sympathy goes out to Lance and Kurt's family. Farewell Kurt. You will surely be missed.

My wife Fran and I continue to keep Kurt's family in our thoughts and prayers.

TERRORIST ATTACKS IN INDONESIA

Mr. McCONNELL. Mr. President, I come to the floor today to condemn the terrorist attacks in Bali this past weekend that murdered over 20 people and injured scores of others. I ask my colleagues to keep the innocent victims of the attacks—and their families and friends—in our thoughts and prayers.

The indiscriminate murder of men, women, and children in Bali by suicide bombers underscores the viciousness of ideological extremists. Young men and women wooed to the dark side of religious fanaticism should not be fooled that paradise follows their suicide. At the end of the day, there is only death and destruction.

During these turbulent times, the people of Indonesia should know that they do not stand alone. As we share common principles of freedom and human rights, the world's democracies stand with you. I encourage President Susilo Bambang Yudhoyono to let America and other nations know how best we can help in the aftermath of the attacks—and what assistance we can provide to counter terrorism in Indonesia. In the war against terrorism, your struggle is our struggle.

I close by saying that like the Bali bombings in October 2002, the ripple from this weekend's attacks are felt on the shores of all free nations. Indonesia does not stand alone.

THE LIFE OF PAMELA WHITE

Mr. REID. Mr. President, last summer, I came to the Senate floor to say a few words about the untimely death of a great wilderness advocate and friend named Sally Kabisch. I spoke then of how one person can and does make a difference.

It is with a heavy heart that I return today to honor another great Nevadan who died too young and in tragic fashion.

Pam White hailed from Wyoming, she spent time in California, but settled in Ely—in eastern Nevada—and became a great Nevadan. Just last Thursday, Pam joined me and Senator ENSIGN for breakfast here in the Capitol. She had traveled to advocate for wilderness in White Pine County, the place she called home.

Pam's enthusiasm and conviction were infectious. She worked doggedly to build support for wilderness in rural Nevada. She served on local committees and advisory groups because she cared about the management and protection of our public lands. She deserves credit for depoliticizing the wilderness debate in eastern Nevada. She also deserves credit for supporting economic development in her adopted home town of Ely.

What I also appreciated about Pam was that she knew the importance of adoption. She adopted Nevada as her State, Ely as her home, and a young boy named Connor as her son.

Connor White has been dealt some tough cards in his life. His birth parents had serious drug problems and he ended up in foster care. Pam White became his advocate, his protector, and his mother. It takes a special person to care for a special needs child. Pam was a special person who cared. It takes an angel to adopt a special needs child.

The day after I saw Pam last week, she died in a single car crash between Ely and Elko. Pam was and is an angel. As Pam's parents, friends, family, and community rally to remember her life, Connor's future will be their focus. Pam would have wanted it to be so because she knew that affecting the lives of children is the best difference we can make.

TRIBUTE TO COMMANDER KEVIN S. BRENNAN, USN

Mr. BOND. Mr. President, I rise today to recognize and pay tribute to an outstanding Naval Officer, Commander Kevin Brennan, who has served so admirably and faithfully as a liaison to our Appropriations Committee on Defense. I want to recognize his superb service to our Nation and the Navy as he leaves our Nation's Capital to take command of an operational aviation squadron.

On behalf of my colleagues on the Defense Appropriations subcommittee, I want to take this opportunity to thank him for his dedicated and faithful service in pursuing the best for our men and women of the Navy.

As the Navy's primary appropriations matters liaison for aviation and weapons matters, Kevin has been an invaluable asset for the Secretary of the Navy and the Chief of Naval Operations, as well as a wealth of knowledge for my personal staff over the past 3½ years.

In addition to providing timely and accurate information on budget matters and emerging war fighting requirements, CDR Brennan has personally escorted my staff and the subcommittee professional staff on numerous trips to review military operations and confirm the health and welfare of our troops, on the front lines as well as when they return home from action. He provided keen insight on matters of national security and naval aviation's current readiness status, and the direct relationship between the two. His perspective on the needs of the Nation with respect to our sea service has provided me with the clarity and detail I needed to make important decisions regarding appropriations for the Department of Defense in pursuing the Nation's global war on terrorism.

In addition to the respect for the work Commander Brennan did in representing the Navy, I would like to thank him for his congenial demeanor and great sense of humor that he shared with all of us. It is his same sense of purpose and professionalism that I am confident will enable him to be a tremendous role model for those who serve under his command.

It is my honor to recognize Commander Brennan for his distinguished service to our Nation. My wife Lynda and I have the highest respect for those who serve in uniform, and I appreciate and honor all the men and women who have served in the defense of freedom. Recalling our national anthem, to our veterans and Armed Forces, I say, we would not be "the land of the free" if we were not also "the home of the brave."

In closing, I ask my fellow colleagues to join me in expressing our deep appreciation for the numerous contributions Commander Brennan has made on behalf of our Navy. We wish Kevin, his lovely wife Pamela and their four children continued success and the traditional naval wish of "Fair winds and following seas" as he closes out his service to the Congress and continues toward the pinnacle of Naval service, command at sea! BRAVO ZULU shipmate!

ELECTRONIC DUCK STAMP ACT

Mr. BURNS. Mr. President, today I join several of my colleagues in support of S. 1496, the Electronic Duck Stamp Act of 2005.

The Federal Duck Stamp Program has become one of the most popular and successful conservation programs ever initiated. Enacted in 1934, the Duck Stamp Act requires every waterfowl hunter to purchase a duck stamp in order to legally hunt migratory waterfowl. Through the purchase of the Federal duck stamp, sportsmen from across the country have contributed billions of dollars annually to the economy. Nearly $2 billion of this revenue has been used for wildlife conservation.

Times have changed and I believe it is time to modernize the way sportsmen buy duck stamps. The Electronic Duck Stamp Act will change the way Montana sportsmen and hunters across the country purchase their duck stamp. This concept follows on the heels of other programs used by sportsmen to purchase their hunting licenses, permits, and conservation stamps through means of the Internet. The 24-hour access to purchase these stamps will be especially useful in Montana and other States with rural communities. The e-duck stamp will be more cost effective and hunters will be able to forego a trip to town before heading to the field.

The Electronic Duck Stamp Act requires the Secretary of the Interior conduct a 3-year pilot program under which, hopefully, Montana and 14 other States may issue the electronic stamps. The price for the stamp will remain unchanged at $15. Stamps may be purchased over the phone or Internet giving sportsmen additional flexibility. Purchasers will receive immediate access to a verification number which will allow them to legally hunt waterfowl. This number will then eventually be replaced by an actual paper stamp.

This will be a very popular program and will benefit many American men and women who enjoy hunting waterfowl. I look forward to working with my Senate colleagues to pass this piece of legislation for not only my State of Montana but other States as well.

REPORT ENTITLED "CONTINUED PRODUCTION OF THE NAVAL PETROLEUM RESERVES BEYOND APRIL 5, 2006"—PM 25

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

Consistent with section 7422(c)(2) of title 10, United States Code, I am informing you of my decision to extend the period of production of the Naval Petroleum Reserves for a period of 3 years from April 5, 2006, the expiration date of the currently authorized period of production.

Attached is a copy of the report prepared by my Administration investigating the necessity of continued production of the reserves consistent with section 7422(c)(2)(B) of title 10. In light of the findings contained in the report, I certify that continued production from the Naval Petroleum Reserves is in the national interest.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 4, 2005.*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALEXANDER (for himself and Mr. CORNYN):

S. 1815. A bill to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 1816. A bill to amend the Internal Revenue Code of 1986 to allow the manufacturing deduction provided by the American Jobs Creation Act of 2004 with respect to income attributable to domestic production activities in Puerto Rico; to the Committee on Finance.

By Mr. DEMINT:

S. 1817. A bill to suspend the Davis-Bacon Wage rate requirements for Federal contracts in areas declared national disasters; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself, Mr. SCHUMER, and Mrs. CLINTON):

S. 1818. A bill to amend the Internal Revenue Code of 1986 to allow the manufacturing deduction provided by the American Jobs Creation Act of 2004 with respect to income attributable to domestic production activities in any possession of the United States, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. BENNETT):

S. 1819. A bill to amend the Internal Revenue Code of 1986 to increase participation and savings in cash or deferred plans through automatic contribution and default investment arrangements and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. REID, Mr. BUNNING, Mr. FEINGOLD, and Mr. MARTINEZ):

S. Res. 264. A resolution expressing sympathy for the people of Indonesia in the aftermath of the deadly terrorist attacks in Bali on October 1, 2005; considered and agreed to.

ADDITIONAL COSPONSORS

S. 392

At the request of Mr. LEVIN, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 492

At the request of Mr. FRIST, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 492, a bill to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

S. 595

At the request of Mr. SANTORUM, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 695

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 695, a bill to suspend temporarily new shipper bonding privileges.

At the request of Mr. BYRD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 695, supra.

S. 910

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 910, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 1010

At the request of Mr. SANTORUM, the names of the Senator from Mississippi

(Mr. COCHRAN) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 1010, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1086

At the request of Mr. HATCH, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1119

At the request of Mr. CHAMBLISS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1119, a bill to permit an alien to remain eligible for a diversity visa beyond the fiscal year in which the alien applied for the visa, and for other purposes.

S. 1197

At the request of Mr. BIDEN, the names of the Senator from Florida (Mr. NELSON) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

At the request of Mr. SPECTER, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 1197, supra.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1418

At the request of Mr. ENZI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 1419, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1479

At the request of Mr. DODD, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1509

At the request of Mr. JEFFORDS, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1509, a bill to amend the Lacey Act Amendments of 1981 to add non-human primates to the definition of prohibited wildlife species.

S. 1536

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1536, a bill to provide certain members of the Armed Forces with a deferment of all loan payments under title IV of the Higher Education Act of 1965, and to provide such members with the option to reenroll in institutions of higher education after completion of their service.

S. 1538

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1538, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1555

At the request of Ms. CANTWELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1555, a bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes.

S. 1720

At the request of Mr. CORNYN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1720, a bill to provide enhanced penalties for crimes committed using funds appropriated for remediation of any injury or damage caused by Hurricane Katrina.

S. 1723

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1723, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes.

S. 1725

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1725, a bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

S. 1738

At the request of Ms. COLLINS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1738, a bill to expand the responsibilities of the Special Inspector General for Iraq Reconstruction to provide independent objective audits and investigations relating to the Federal programs for Hurricane Katrina recovery.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1793

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1793, a bill to extend certain apportionments to primary airports.

S. 1799

At the request of Ms. MIKULSKI, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1799, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. RES. 219

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 242

At the request of Mr. SESSIONS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Res. 242, a resolution to express the sense of the Senate that the President should appoint an individual to oversee Federal funds for the Hurricane Katrina recovery, and for other purposes.

S. RES. 262

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 262, a resolution condemning the statements of former Education Secretary William J. Bennett.

AMENDMENT NO. 1883

At the request of Mr. CONRAD, the names of the Senator from Utah (Mr. HATCH) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 1883 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1911

At the request of Ms. SNOWE, the names of the Senator from Maine (Ms. COLLINS), the Senator from Rhode Island (Mr. REED) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of amendment No. 1911 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1932

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1932 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1941

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 1941 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1943

At the request of Mr. REED, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 1943 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1978

At the request of Mr. MCCAIN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 1978 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1990

At the request of Mr. ALLEN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 1990 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALEXANDER (for himself and Mr. CORNYN):

S. 1815. A bill to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes; to the Committee on the Judiciary.

Mr. ALEXANDER. Mr. President, Senator CORNYN and I are introducing legislation to amend the Immigration and Nationality Act. The legislation would be called the Strengthening American Citizenship Act.

Over the next several weeks, this body will be engaged in a debate about immigration reform. It is an essential debate which we must have in order to honor our commitment to the rule of law. I believe that real immigration reform must encompass three important steps.

First, we must secure our borders. Senators CORNYN, KYL, MCCAIN, and KENNEDY have introduced differing legislation with that goal in mind.

Second, we need to create a legal status for foreign workers and foreign students who come here. CORNYN-KYL and MCCAIN-KENNEDY also address the question of workers. Later this month, I intend to introduce legislation to ensure that our immigration system creates an appropriate legal status for and welcomes the more than 550,000 foreign students who study at our universities and who, incidentally, contribute to our high standard of living by doing so.

But there is a third step to any real immigration reform. After we secure our borders, after we create a legal status for foreigners who work here and study here, the third indispensable step is to help prospective citizens become Americans. That is why today I am introducing the Strengthening American Citizenship Act. I am pleased to be joined by Senator CORNYN in this effort.

The Strengthening American Citizenship Act helps legal immigrants who are prospective American citizens to learn our common language, our history, and our way of Government in the following ways: First, providing $500 grants for English courses; next, allowing prospective citizens who become fluent in English, not just basic in English, but fluent in English, to apply for citizenship 1 year early; next, providing for grants to organizations to provide courses in American history and civics; authorizing the creation of a new foundation to assist in those efforts; codifying the oath of allegiance to which new citizens swear when they are naturalized; asking the Department of Homeland Security to carry out a strategy to highlight the moving ceremonies in which immigrants become American citizens; and finally, establishing an award to recognize the contributions of new citizens to our great Nation.

This bill is about fulfilling the promise of our national motto that is written right above you, Mr. President, on the Senate wall: "E Pluribus Unum," one from many. It is in the most visible place in the Senate Chamber. As a nation of immigrants, that motto—from many, one—is very important to us. While our unique history makes us a diverse nation, we are still one American Nation. How do we do that? How do we as Americans take all of the magnificent diversity that is the United States and mold it into a single nation? We can be one nation because we are united by principles expressed in our founding documents, such as liberty, democracy, and the rule of law, and not by our multiple ancestries. We are united by our common language, English, and by our history of constantly struggling to reach the high ideals that we have set for ourselves as a nation.

Part of that American history is welcoming new immigrants to join our Nation. We are unique in the world in our attitude toward welcoming others. America is different because under our Constitution becoming an American can have nothing to do with ancestry. That is because America is an idea, not a race. An American can technically become a citizen of Japan, in rare cases, but would never be considered

Japanese. But if a Japanese person wants to become a citizen of the United States, he or she must become an American.

Recently, I was privileged to witness as 99 immigrants from 46 different countries became Americans. It was on a Constitution Day ceremony. I have attended naturalization ceremonies in Nashville and across my State many times in the past. It is a moving experience that I recommend to all of my colleagues.

This naturalization ceremony a few weeks ago was a special one held at the Jefferson Memorial. The same ceremonies are held in courthouses across the country. I watched those 99 new Americans swear an oath of allegiance to this country. It is a powerful oath where they renounce allegiance to their former country and swear allegiance to ours and to the Constitution. It is the oath we will finally enshrine in law in this bill.

That oath is a part of our history. It dates back to the founding of our Nation almost 230 years ago. Those 99 new Americans who took that oath at the Jefferson Memorial a few weeks ago were basically taking the same oath George Washington gave to his soldiers in revolutionary times.

On May 12, 1778, as brave Americans were fighting for our freedom, George Washington himself, and his general officers, signed a very similar oath as they were camped at Valley Forge. Let me read a part of Washington's oath. This is a copy of the oath Washington took. The Archivist of the United States brought it to me. There is Washington's own signature. We can imagine the circumstances and imagine the times. It was in the early stages of the Revolutionary War. Things were not going very well. These soldiers were camped at Valley Forge and this was the oath Washington himself took and that he gave to his officers and required them to sign.

> I, George Washington, Commander in chief of the Armies of the United States of America, do acknowledge the United States of America, to be Free, Independent and Sovereign States, and declare that the people thereof owe no allegiance or obedience to George the Third, King of Great Britain; and I renounce, refuse and abjure any allegiance or obedience to him; and I do swear that I will to the utmost of my power, support, maintain and defend the United States...

That is how George Washington and his officers swore allegiance to our country, and it has set the standard for American citizens from that time forward. Every American should learn about that standard.

Since I was elected to this body in 2002, I have been working to ensure that American children learn American history and civics. With the help of Democratic leader Senator REID and many other Senators on both sides of the aisle, we passed legislation in December of 2003 to establish residential academies for teachers and congressional academies for students of American history and civics. Some are residential academies to help teachers and outstanding students learn more about these important subjects so they can pass it on to their students and classmates.

This year, I hope to pass a bill with Senator KENNEDY to provide for improved testing of American history so we can determine where history is being taught well and where it is being taught poorly so improvements can be made. We also know that when testing is focused on a specific subject, States and school districts are more likely to step up to the challenge and improve performance. So we are beginning to make progress in reaching out to our children so that they understand what this country is all about.

There is another group of Americans we must also reach: New Americans. Last week, there was a report in Florida of a 27-year-old Guatemalan man who posed as an 18-year-old so he could attend public high school and learn English there. So we know immigrants are eager to learn our common language. That is why I, with Senator CORNYN, am introducing this bill to help legal immigrants who are prospective American citizens to learn our common language, our history, and our way of governing.

The Strengthening American Citizenship Act will, No. 1, provide education grants up to $500 for English courses to immigrants who declare intent to become American citizens. They might use these grants to take a class from a local nonprofit organization or a community college. It would also allow citizenship applicants who speak fluent English to meet the residency requirement after 4 years of living in the United States, rather than 5.

Secondly, our legislation would help prospective citizens learn more about the American way of life. It would do it in these two ways: One, establishing a foundation to support the activities of the Office of Citizenship, which is within the Department of Homeland Security, so that organizations that want to support and cooperate in efforts to reach out to prospective citizens can do so.

Second, it would provide for grants to organizations to provide classes in American history and civics. While new citizens are required to demonstrate a knowledge of American history and government in a test, helping them access a history or civics class will allow many to gain a richer understanding of our country and, by doing so, to feel more at home in the United States.

The third major area this legislation covers would be to codify this oath of allegiance which began with George Washington's oath at Valley Forge. The oath today is written only in Federal regulations, not in the law. This would give the oath the same standing as the Pledge of Allegiance and the national anthem.

Finally, we should celebrate our new citizens. Our legislation would instruct the Secretary of Homeland Security to develop and implement a strategy to raise public awareness of naturalization ceremonies. These ceremonies, which happen virtually every day in the United States, embody what it means to become an American. Every U.S. citizen, not just those from foreign countries, ought to see one. It is my hope that more of these ceremonies will be held in prominent locations and televised on C–SPAN.

We also would establish an award for citizens who have been naturalized within the last ten years and have made an outstanding contribution to the American nation. Our new citizens are often our best citizens, and this bill would give the President this responsibility so that we can recognize how new Americans play a critical role in the progress of our country.

We are a nation of immigrants. Almost all of us can trace our ancestry to some part of the globe quite far from here. Over the coming weeks this body will debate how to reform our immigration system. I believe comprehensive reform must include three things: No. 1, securing our borders; No. 2, creating a legal status for foreign workers and foreign students whom we welcome here; and, No. 3, helping prospective citizens become Americans.

The Strengthening American Citizenship Act fulfills that third objective. Comprehensive immigration reform must include efforts to help new Americans become a part of our national family.

By Mr. SANTORUM:

S. 1816. A bill to amend the Internal Revenue Code of 1986 to allow the manufacturing deduction provided by the American Jobs Creation Act of 2004 with respect to income attributable to domestic production activities in Puerto Rico; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I rise today to introduce a bill to bring equity and fairness to the manufacturing and production activities in Puerto Rico. Earlier this Congress, my colleague from the House of Representatives, Delegate LUIS FORTUÑO, introduced H.R. 2181 to extend section 199 to manufacturing and production activities in Puerto Rico.

In the American Jobs Creation Act of 2004, we enacted section 199 that provides a deduction for income attributable to certain manufacturing activities. However, section 199 currently applies only to manufacturing and production activities in the U.S., and does not extend to Puerto Rico. This bill merely places the manufacturing and production activities in Puerto Rico on even footing with those conducted within the United States. It contains the additional safeguard of assuring that the extension of this deduction is only available where the income of the company is subject to immediate U.S. tax.

I have worked with my colleague in the House as he has perfected this language to narrowly meet the needs of his constituents, and I am pleased to be able to help him move this legislation forward in the Senate. I urge my colleagues to support this provision and bring fairness to the treatment of these important and vital economic activities.

By Mr. DEMINT:

S. 1817. A bill to suspend the Davis-Bacon Wage rate requirements for Federal contracts in areas declared national disasters; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, today I introduce the Cleanup and Reconstruction Enhancement Act, CARE Act, legislation that would free those trying to rebuild after emergencies from burdensome regulations imposed by the Davis-Bacon Act.

As Chairman of the Senate Commerce Subcommittee on Disaster Prevention and Prediction, I traveled to the gulf coast to see the destruction caused by Hurricane Katrina. My heart went out to the victims and their families, and my hope was to see the infrastructure there restored as quickly as possible to avoid further destruction and loss of life. Unfortunately, Federal law places barriers on our efforts to respond to Hurricane Katrina quickly and efficiently.

The Inspector General at the U.S. Department of Labor concluded in a May 2004 report that 84 percent of Davis-Bacon wage determination surveys take more than a year and a half to complete, forcing emergency projects to use outdated wage determinations and to suffer needless delays. The Davis-Bacon Act also prohibits the use of entry-level workers classified as "helpers" on federally funded projects, and artificially raises construction costs by up to 33 percent. Furthermore, the Davis-Bacon Act discourages many small businesses from bidding on public projects, because contractors who are unfamiliar with the complex set of laws and regulations often choose not to participate in reconstruction efforts or end up being cited or sued for naively violating laws.

For these reasons, Davis-Bacon regulations were suspended by Executive Order 11 days after Hurricane Katrina ravaged the Gulf Coast. Knowing what we know now, it is unconscionable for us to force victims of future disasters to suffer through any waiting period before we remove barriers to reconstruction. The CARE Act would automatically trigger a year-long suspension of Davis-Bacon Act rules in all future disaster sites that receive an emergency declaration from the President.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cleanup and Reconstruction Enhancement Act" or "CARE Act".

SEC. 2. SUSPENSION OF DAVIS-BACON WAGE REQUIREMENTS IN NATIONAL DISASTER AREAS.

Section 3147 of title 40, United States Code, is amended by adding at the end the following: "In any area that the President determines to be a major disaster under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), the provisions of this subchapter shall not apply for a period of 1 year from the date on which the President makes such determination.".

Mr. KERRY (for himself, Mr. SCHUMER, and Mrs. CLINTON):

S. 1818. A bill to amend the Internal Revenue Code of 1986 to allow the manufacturing deduction provided by the American Jobs Creation Act of 2004 with respect to income attributable to domestic production activities in any possession of the United States, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, the manufacturing deduction provided by the American Jobs Creation Act of 2004 does not include income from goods produced in any possession of the United States. Today along with Senators CLINTON and SCHUMER, I am introducing legislation which would allow the manufacturing deduction to include income attributable to domestic production in possessions of the United States. This legislation would make the manufacturing deduction available only for the possession income of U.S. residents.

During the Senate Finance markup of the manufacturing deduction, I offered an amendment that would extend this deduction to income from goods produced in the possessions of the United States. The amendment was agreed to by the Finance Committee, but unfortunately the provision was not included in the conference agreement. I do not know why the Republican chaired conference committee removed this provision so important to the people of Puerto Rico and elsewhere.

Most United States businesses that operate in the possessions use the possessions tax credit or the Puerto Rican economic activities credits. In 1996, Congress passed the Small Business Job Protection Act of 1996 which included a provision that phased-out the tax credits and completely repeals them beginning in 2006.

The legislation that I am introducing today would help the businesses that are no longer able to benefit from these credits. More importantly, this legislation provides an equitable solution. There is no reason why companies operating in the possessions should not receive the same manufacturing deduction as companies operating in the mainland United States, Alaska, or Hawaii.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 264—EXPRESSING SYMPATHY FOR THE PEOPLE OF INDONESIA IN THE AFTERMATH OF THE DEADLY TERRORIST ATTACKS IN BALI ON OCTOBER 1, 2005

Mr. FRIST (for himself, Mr. REID, Mr. BUNNING, Mr. FEINGOLD, and Mr. MARTINEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 264

Whereas terrorists have planned and conducted attacks around the world since September 11, 2001, including the bombing of a night club on the Indonesian island of Bali on October 12, 2002, that killed 202 people and injured 209, the bombings of two synagogues and the British Embassy in Istanbul, Turkey, in November 2003, that killed 56 people and injured more than 450, the bombing of the train system in Madrid, Spain, on March 11, 2004, that killed more than 190 people and injured approximately 1,500, and the bombing of London's public transportation system during the morning rush hour on July 7, 2005, that killed 52 people and injured approximately 700;

Whereas terrorists have struck Indonesia on multiple occasions, including the December 5, 2002, bombing of a McDonald's restaurant on Sulawesi Island that killed 3 people and injured 11, the August 5, 2003, bombing of the J.W. Marriott Hotel in Jakarta that killed 12 people and injured 150, and the September 9, 2004, bombing of the Australian Embassy in Jakarta that killed 11 people and injured 100;

Whereas on October 1, 2005, terrorists again struck the popular Indonesian resort island of Bali, detonating explosives in three crowded restaurants that killed at least 19 innocent Indonesian civilians and foreign tourists from around the world and injuring approximately 132 others, including at least 6 citizens of the United States;

Whereas the terrorist attacks in Bali, Indonesia were senseless, barbaric, and depraved acts carried out against innocent civilians;

Whereas Indonesia is a friend and ally of the United States and in the past has endured terrorism against its civilians;

Whereas the people of the United States stand in solidarity with the people of Indonesia in fighting terrorism;

Whereas the United States immediately condemned the terrorist attacks and extended the condolences of the people of the United States to the people of Indonesia; and

Whereas Secretary of State Condoleezza Rice denounced the terrorist attacks on Bali, Indonesia, and stated, "The United States stands with the people and government of Indonesia as they work to bring to justice those responsible for these acts of terrorism. We will continue to work together in our common fight against terror.": Now, therefore, be it

Resolved, That the Senate—

(1) expresses deepest sympathies and condolences to the people of Indonesia and the victims and their families of the heinous terrorist attacks that occurred on the Indonesian island of Bali on October 1, 2005;

(2) condemns these barbaric and unwarranted attacks on the innocent people of Indonesia and foreign tourists;

(3) expresses strong and continued solidarity with the people of Indonesia in opposing extremism and pledges to remain shoulder-to-shoulder with the people of Indonesia to bring the terrorists responsible for these and other brutal acts of violence to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedoms, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that contributes to terrorism.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1995. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1996. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1997. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1998. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1999. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2000. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2001. Mr. HATCH (for himself, Mr. Inhofe, Mr. Bennett, and Mr. Chambliss) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2002. Mr. GRASSLEY (for himself, Mr. Harkin, Mr. Durbin, and Mr. Obama) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2003. Mr. GRAHAM (for himself, Mrs. Clinton, and Mr. DeWine) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2004. Mr. GRAHAM (for himself and Mr. McCain) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2005. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2006. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2007. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2008. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2009. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2010. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2011. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2012. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2013. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2014. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2015. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2016. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2017. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2018. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2019. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2020. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2021. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2022. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2023. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2024. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2025. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2026. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2027. Mr. KERRY (for himself and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2028. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2029. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2030. Mr. TALENT (for himself and Mr. Chambliss) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2031. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2032. Mr. KERRY (for himself and Mr. Ensign) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. Levin) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2033. Mr. KERRY (for himself, Mr. Kennedy, Mr. Reed, Mr. Dorgan, Mr. Jeffords, Ms. Mikulski, Mr. Lautenberg, Mr. Corzine, Mr. Kohl, Mr. Bayh, Mr. Durbin, Ms. Cantwell, Mrs. Clinton, Mr. Baucus, Mr. Reid, and Mr. Schumer) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2034. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2035. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2036. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2037. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2038. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2039. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2040. Mrs. CLINTON (for herself, Mr. Salazar, Mr. Corzine, Mrs. Feinstein, Mr. Durbin, Mr. Lautenberg, Mr. Leahy, Mr. Carper, Mr. Jeffords, Mr. Reed, Mr. Harkin, Ms. Stabenow, Mr. Obama, and Mr. Feingold) submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2041. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 2042. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2043. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. Levin) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2044. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. Levin) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2045. Mr. FRIST (for Mr. Specter) proposed an amendment to the bill S. 1197, to reauthorize the Violence Against Women Act of 1994.

TEXT OF AMENDMENTS

SA 1995. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

Subtitle F—Financial Protections for Servicemembers

SEC. 671. SHORT TITLE.

This subtitle may be cited as the "Patriot Penalty Elimination Act of 2005".

SEC. 672. INCOME PRESERVATION PAY FOR RESERVES SERVING ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) Authority.—Chapter 1209 of title 10, United States Code, is amended by inserting after section 12316 the following new section:

"§ 12316a. Reserves: income preservation pay

"(a) Requirement To Pay.—The Secretary of the military department concerned shall pay income preservation pay under this section to an eligible member of a reserve component of the armed forces in connection with the member's active-duty service as described in subsection (b).

"(b) Eligible Member.—A member is eligible for income preservation pay if—

"(1) in the case of a member who is an employee of the Federal Government—

"(A) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(B)(i) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; or

"(ii) in the case of any member who has served on active duty outside the United States at any time pursuant to such a call or order and also serves on active duty pursuant to such a call or order in an area affected by Hurricane Katrina or Hurricane Rita, the member serves on active duty pursuant to such calls or orders to active duty during at least 6 out of 12 consecutive months; and

"(C) with respect to such active-duty service, the amount of the member's preservice earned income determined under subparagraph (A) of subsection (c)(1) exceeds the amount of the member's military service income determined under subparagraph (B) of such subsection; or

"(2) in the case of any other member, the member—

"(A) meets the requirements of paragraph (1); and

"(B) is not receiving employment income preservation payments from the qualifying employer of the member as described in section 12316b of this title.

"(c) Amount.—(1) Subject to paragraph (2), the amount payable under this section to a member in connection with active-duty service is the amount equal to the excess (if any) of—

"(A) the amount computed by multiplying—

"(i) the preservice average monthly earned income of the member, by

"(ii) the total number of the member's service months for such active-duty service, over

"(B) the amount computed by multiplying—

"(i) the military service average monthly income of the member, by

"(ii) the total number of months determined under subparagraph (A)(ii).

"(2) The total amount of income preservation pay that is paid to a member under this section may not exceed $10,000.

"(d) Preservice Average Monthly Earned Income.—For the purposes of this section, the preservice average monthly earned income of a member who serves on active duty as described in subsection (b) shall be computed by dividing 12 into the total amount of the member's earned income for the 12 months immediately preceding the member's first service month of the period for which income preservation pay is to be paid to the member under this section.

"(e) Military Service Average Monthly Income.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (b) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(f) Time and Manner of Payment.—(1) Subject to paragraph (2), the total amount of income preservation pay that is payable under this section to a member in connection with service on active duty is due and payable, in one lump sum, not later than 30 days after the date on which the member is released from the active duty.

"(2) The Secretary concerned may make advance payment of income preservation pay in whole or in part under this section to a member, under such terms and conditions as the Secretary determines appropriate, if it is clear from the circumstances that it is likely that the member's active-duty service will satisfy the requirements of subsection (b). In any case in which advance payment is made to a member whose period of such active-duty service does not satisfy such requirements, the Secretary concerned may waive recoupment of the advance payment if the Secretary determines that recoupment would be against equity and good conscience or would be contrary to the best interests of the United States.

"(g) Definitions.—In this section:

"(1) The term 'area affected by Hurricane Katrina or Hurricane Rita' means an area that is under a designation by the President of a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) in connection with Hurricane Katrina or Hurricane Rita.

"(2) The term 'earned income' has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(3) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) Termination of Authority.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) Recharacterization of Existing Section on Payment of Certain Reserves on Active Duty.—The heading of section 12316 of title 10, United States Code, is amended to read as follows:

"§ 12316. Reserves: payment of other entitlement instead of pay and allowances".

(c) Clerical Amendment.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, is amended by striking the item relating to section 12316 and inserting the following new items:

"12316. Reserves: payment of other entitlement instead of pay and allowances.
"12316a. Reserves: income preservation pay.".

(d) Effective Date.—Section 12316a of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

SEC. 673. EMPLOYMENT INCOME PRESERVATION ASSISTANCE GRANTS FOR EMPLOYERS OF RESERVES.

(a) Authority.—Chapter 1209 of title 10, United States Code, as amended by section 672(a) of this Act, is further amended by inserting after section 12316a the following new section:

"§ 12316b. Reserves: employment income preservation assistance grants for employers of reserves

"(a) Requirement To Make Grants.—The Secretary of the military department concerned shall make a grant to each qualifying employer to assist such employer in making employment income preservation payments to a covered member of a reserve component of the armed forces who is an employee of such employer to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(b) Qualifying Employer.—(1) Except as provided in paragraph (2), for the purposes of this section, a qualifying employer is any employer who makes employment income preservation payments to a covered member to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(2) A State or local government is not a qualifying employer for the purpose of this section.

"(c) COVERED MEMBER.—For the purposes of this section, a member is a covered member if—

"(1) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(2)(A) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; or

"(B) in the case of any member who has served on active duty outside the United States at any time pursuant to such a call or order and also serves on active duty pursuant to such a call or order in an area affected by Hurricane Katrina or Hurricane Rita, the member serves on active duty pursuant to such calls or orders to active duty during at least 6 out of 12 consecutive months; and

"(3) with respect to such active-duty service, the amount of the member's preservice average monthly wage or salary (as determined under subsection (e)) exceeds the amount of the member's military service average monthly income (as determined under subsection (f)).

"(d) EMPLOYMENT INCOME PRESERVATION PAYMENTS.—(1) For the purposes of this section, employment income preservation payments are any payments made by a qualifying employer to a covered member in connection with the active-duty service of the member described in subsection (c) in order to make up any excess of the member's preservice average monthly wage or salary over the member's military service average monthly income.

"(2) The total amount of employment income preservation payments with respect to a covered member for which a grant may be made under subsection (a) may not exceed $10,000.

"(e) PRESERVICE AVERAGE MONTHLY WAGE OR SALARY.—For the purposes of this section, the preservice average monthly wage or salary of a covered member who serves on active duty as described in subsection (c) shall be computed by dividing—

"(1) the number of months of employment of the member with the qualifying employer during the 12-month period preceding the member's commencement on active duty as described in subsection (c); into

"(2) the total amount of the member's wage or salary paid by the qualifying employer during such months.

"(f) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (c) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(g) DEFINITIONS.—In this section:

"(1) The term 'area affected by Hurricane Katrina or Hurricane Rita' means an area that is under a designation by the President of a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) in connection with Hurricane Katrina or Hurricane Rita.

"(2) The term 'earned income' has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(3) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, as amended by section 672(c) of this Act, is further by inserting after the item relating to section 12316a the following new item:

"12316b. Reserves: income preservation assistance grants for employers of reserves.".

(c) EFFECTIVE DATE.—Section 12316b of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

(d) OFFSET.—The Secretary of Defense shall transfer from the Iraq Freedom Fund to accounts for the payment of income preservation pay under section 12316a of title 10, United States Code (as added by subsection (a)), and for the making of income preservation assistance grants under section 12316b of title 10, United States Code (as added by subsection (b)), such amount of unobligated balances in the Iraq Freedom Fund as of the date of the enactment of this Act as the Secretary determines appropriate for the payment of such pay and the making of such grants during fiscal year 2006.

SA 1996. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading "OTHER PROCUREMENT, NAVY", up to $3,000,000 may be made available for the Joint Aviation Technical Data Intergration Program.

SA 1997. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading "OTHER PROCUREMENT, AIR FORCE", up to $3,000,000 may be made available for the Laser Marksmanship Training System.

SA 1998. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE X—FINANCIAL PROTECTIONS FOR SERVICEMEMBERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Patriot Penalty Elimination Act of 2005".

SEC. 1002. INCOME PRESERVATION PAY FOR RESERVES SERVING ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION.

(a) AUTHORITY.—Chapter 1209 of title 10, United States Code, is amended by inserting after section 12316 the following new section:

"§ 12316a. Reserves: income preservation pay

"(a) REQUIREMENT TO PAY.—The Secretary of the military department concerned shall pay income preservation pay under this section to an eligible member of a reserve component of the armed forces in connection with the member's active-duty service as described in subsection (b).

"(b) ELIGIBLE MEMBER.—A member is eligible for income preservation pay if—

"(1) in the case of a member who is an employee of the Federal Government—

"(A) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(B)(i) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; or

"(ii) in the case of any member who has served on active duty outside the United States at any time pursuant to such a call or order and also serves on active duty pursuant to such a call or order in an area affected by Hurricane Katrina or Hurricane Rita, the member serves on active duty pursuant to such calls or orders to active duty during at least 6 out of 12 consecutive months; and

"(C) with respect to such active-duty service, the amount of the member's preservice earned income determined under subparagraph (A) of subsection (c)(1) exceeds the amount of the member's military service income determined under subparagraph (B) of such subsection; or

"(2) in the case of any other member, the member—

"(A) meets the requirements of paragraph (1); and

"(B) is not receiving employment income preservation payments from the qualifying employer of the member as described in section 12316b of this title.

"(c) AMOUNT.—(1) Subject to paragraph (2), the amount payable under this section to a member in connection with active-duty service is the amount equal to the excess (if any) of—

"(A) the amount computed by multiplying—

"(i) the preservice average monthly earned income of the member, by

"(ii) the total number of the member's service months for such active-duty service, over

"(B) the amount computed by multiplying—

"(i) the military service average monthly income of the member, by

"(ii) the total number of months determined under subparagraph (A)(ii).

"(2) The total amount of income preservation pay that is paid to a member under this section may not exceed $10,000.

"(d) PRESERVICE AVERAGE MONTHLY EARNED INCOME.—For the purposes of this section, the preservice average monthly earned income of a member who serves on active duty as described in subsection (b) shall be computed by dividing 12 into the total amount of the member's earned income for the 12 months immediately preceding the member's first service month of the period for which income preservation pay is to be paid to the member under this section.

"(e) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (b) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(f) TIME AND MANNER OF PAYMENT.—(1) Subject to paragraph (2), the total amount of income preservation pay that is payable under this section to a member in connection with service on active duty is due and payable, in one lump sum, not later than 30 days after the date on which the member is released from the active duty.

"(2) The Secretary concerned may make advance payment of income preservation pay in whole or in part under this section to a member, under such terms and conditions as the Secretary determines appropriate, if it is clear from the circumstances that it is likely that the member's active-duty service will satisfy the requirements of subsection (b). In any case in which advance payment is made to a member whose period of such active-duty service does not satisfy such requirements, the Secretary concerned may waive recoupment of the advance payment if the Secretary determines that recoupment would be against equity and good conscience or would be contrary to the best interests of the United States.

"(g) DEFINITIONS.—In this section:

"(1) The term 'area affected by Hurricane Katrina or Hurricane Rita' means an area that is under a designation by the President of a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) in connection with Hurricane Katrina or Hurricane Rita.

"(2) The term 'earned income' has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(3) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) RECHARACTERIZATION OF EXISTING SECTION ON PAYMENT OF CERTAIN RESERVES ON ACTIVE DUTY.—The heading of section 12316 of title 10, United States Code, is amended to read as follows:

"§ 12316. Reserves: payment of other entitlement instead of pay and allowances".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, is amended by striking the item relating to section 12316 and inserting the following new items:

"12316. Reserves: payment of other entitlement instead of pay and allowances.
"12316a. Reserves: income preservation pay.".

(d) EFFECTIVE DATE.—Section 12316a of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

SEC. 1003. EMPLOYMENT INCOME PRESERVATION ASSISTANCE GRANTS FOR EMPLOYERS OF RESERVES.

(a) AUTHORITY.—Chapter 1209 of title 10, United States Code, as amended by section 1002(a) of this Act, is further amended by inserting after section 12316a the following new section:

"§ 12316b. Reserves: employment income preservation assistance grants for employers of reserves

"(a) REQUIREMENT TO MAKE GRANTS.—The Secretary of the military department concerned shall make a grant to each qualifying employer to assist such employer in making employment income preservation payments to a covered member of a reserve component of the armed forces who is an employee of such employer to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(b) QUALIFYING EMPLOYER.—(1) Except as provided in paragraph (2), for the purposes of this section, a qualifying employer is any employer who makes employment income preservation payments to a covered member to assist the member in preserving the preservice average monthly wage or salary of the member in connection with the member's active-duty service as described in subsection (c).

"(2) A State or local government is not a qualifying employer for the purpose of this section.

"(c) COVERED MEMBER.—For the purposes of this section, a member is a covered member if—

"(1) the member is called or ordered to active duty (other than voluntarily) under a provision of law referred to in section 101(a)(13)(B) of this title;

"(2)(A) pursuant to such call or order, the member serves on active duty outside the United States during at least 6 out of 12 consecutive months; or

"(B) in the case of any member who has served on active duty outside the United States at any time pursuant to such a call or order and also serves on active duty pursuant to such a call or order in an area affected by Hurricane Katrina or Hurricane Rita, the member serves on active duty pursuant to such calls or orders to active duty during at least 6 out of 12 consecutive months; and

"(3) with respect to such active-duty service, the amount of the member's preservice average monthly wage or salary (as determined under subsection (e)) exceeds the amount of the member's military service average monthly income (as determined under subsection (f)).

"(d) EMPLOYMENT INCOME PRESERVATION PAYMENTS.—(1) For the purposes of this section, employment income preservation payments are any payments made by a qualifying employer to a covered member in connection with the active-duty service of the member described in subsection (c) in order to make up any excess of the member's preservice average monthly wage or salary over the member's military service average monthly income.

"(2) The total amount of employment income preservation payments with respect to a covered member for which a grant may be made under subsection (a) may not exceed $10,000.

"(e) PRESERVICE AVERAGE MONTHLY WAGE OR SALARY.—For the purposes of this section, the preservice average monthly wage or salary of a covered member who serves on active duty as described in subsection (c) shall be computed by dividing—

"(1) the number of months of employment of the member with the qualifying employer during the 12-month period preceding the member's commencement on active duty as described in subsection (c); into

"(2) the total amount of the member's wage or salary paid by the qualifying employer during such months.

"(f) MILITARY SERVICE AVERAGE MONTHLY INCOME.—For the purposes of this section, the military service average monthly income of a member who serves on active duty as described in subsection (c) is the amount determined by dividing—

"(1) the sum of the total amount of the member's earned income (other than basic pay, special and incentive pays, and allowances) and the total amount of the member's basic pay (under section 204 of title 37), any special and incentive pays paid to the member (under chapter 5 of title 37), and any allowances paid to the member (under chapter 7 of title 37) for the member's service months for such active-duty service, by

"(2) the total number of such months.

"(g) DEFINITIONS.—In this section:

"(1) The term 'area affected by Hurricane Katrina or Hurricane Rita' means an area that is under a designation by the President of a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) in connection with Hurricane Katrina or Hurricane Rita.

"(2) The term 'earned income' has the meaning given such term in section 32(c)(2) of the Internal Revenue Code of 1986.

"(3) The term 'service month', with respect to service of a member of a reserve component of the armed forces on active duty, means a month during any part of which the member serves on active duty.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on the first day of the first month that begins on or after the date that is five years after the date of the enactment of the Patriot Penalty Elimination Act of 2005.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of title 10, United States Code, as amended by section 1002(c) of this Act, is further by inserting after the item relating to section 12316a the following new item:

"12316b. Reserves: income preservation assistance grants for employers of reserves.".

(c) EFFECTIVE DATE.—Section 12316b of title 10, United States Code (as added by subsection (a)), shall take effect as of January 1, 2003, and shall apply with respect to active-duty service that begins on or after such date.

(d) OFFSET.—The Secretary of Defense shall transfer from the Iraq Freedom Fund to accounts for the payment of income preservation pay under section 12316a of title 10, United States Code (as added by subsection (a)), and for the making of income preservation assistance grants under section 12316b of title 10, United States Code (as added by subsection (b)), such amount of unobligated balances in the Iraq Freedom Fund as of the date of the enactment of this Act as the Secretary determines appropriate for the payment of such pay and the making of such grants during fiscal year 2006.

SA 1999. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ AND AFGHANISTAN AND FOR OTHER DEFENSE-RELATED ACTIVITIES THROUGH REPEAL OF THE SCHEDULED PHASEOUT OF THE LIMITATIONS ON PERSONAL EXEMPTIONS AND ITEMIZED DEDUCTIONS.—The Internal Revenue Code of 1986 is amended—

(1) by striking subparagraphs (E) and (F) of section 151(d)(3), and

(2) by striking subsections (f) and (g) of section 68.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2000. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

SA 2001. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

In an appropriate place insert the following:

SEC.   . SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) 1 of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in dramatically reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 2002. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. DURBIN, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $1,000,000 may be used for Combat Vehicle and Automotive Technology (PE#0602601A) for the Multipurpose Utility Vehicle.

SA 2003. Mr. GRAHAM (for himself, Mrs. CLINTON, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . (a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) ELIGIBILITY.—A member" and inserting "(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking "(b) PERIOD OF COVERAGE.—(1) TRICARE Standard" and all that follows through "(3) Eligibility" and inserting "(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility".

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

"§1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve".

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

(g) FUNDING.—Of the amount appropriated by title VI under the heading "DEFENSE HEALTH PROGRAM", up to $180,000,000 may be used to carry out the amendments made by this section.

SA 2004. Mr. GRAHAM (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____.(a) AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Administrative Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are the procedures that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Administrative Review Board on July 1, 2005.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion.

(B) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term "lawful enemy combatant" means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term "unlawful enemy combatant", with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, regardless of location.

SA 2005. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds appropriated by this Act may be obligated or expended for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

SA 2006. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Notwithstanding any other provision of this Act, none of the funds appropriated by this Act may be made available to the Centers for Disease Control and Prevention for activities relating to the avian flu epidemic.

SA 2007. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . CREDITABLE SERVICE FOR FEDERAL RETIREMENT FOR CERTAIN INDIVIDUALS.

(a) AMENDMENTS.—

(1) IN GENERAL.—Section 8332(b) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and";

(C) by adding after paragraph (17) the following:

"(18) any period of service performed before 1977, while a citizen of the United States, in the employ of Air America, Incorporated, Air Asia Company Limited (a subsidiary of Air America, Incorporated), or the Pacific Division of Southern Air Transport, Incorporated, at a time when that corporation (or subsidiary) was owned or controlled by the Government of the United States and operated or managed by the Central Intelligence Agency."; and

(D) by adding at the end the following: "For purposes of this subchapter, service of the type described in paragraph (18) of this subsection shall be considered to have been service as an employee, and the Office of Personnel Management shall accept the certification of the Director of the Central Intelligence Agency or his designee concerning any such service.".

(2) EXEMPTION FROM DEPOSIT REQUIREMENT.—Section 8334(g) of title 5, United States Code, is amended—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding after paragraph (6) the following:

"(7) any service for which credit is allowed under section 8332(b)(18) of this title.".

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to annuities commencing on or after the effective date of this section.

(2) PROVISIONS RELATING TO CURRENT ANNUITANTS.—Any individual who is entitled to an annuity for the month in which this section becomes effective may, upon application submitted to the Office of Personnel Management within 2 years after the effective date of this section, have the amount of such annuity recomputed as if the amendments made by this section had been in effect throughout all periods of service on the basis of which such annuity is or may be based. Any such recomputation shall be effective as of the commencement date of the annuity, and any additional amounts becoming payable for periods before the first month for which the recomputation is reflected in the individual's regular monthly annuity payments shall be payable to such individual in the form of a lump-sum payment.

(3) PROVISIONS RELATING TO INDIVIDUALS ELIGIBLE FOR (BUT NOT CURRENTLY RECEIVING) AN ANNUITY.—

(A) IN GENERAL.—Any individual (not described in paragraph (2)) who becomes eligible for an annuity or for an increased annuity as a result of the enactment of this section may elect to have such individual's rights under subchapter III of chapter 83 of title 5, United States Code, determined as if the amendments made by this section had been in effect, throughout all periods of service on the basis of which such annuity is or would be based, by submitting an appropriate application to the Office of Personnel Management within 2 years after—

(i) the effective date of this section; or

(ii) if later, the date on which such individual separates from service.

(B) COMMENCEMENT DATE, ETC.—

(i) IN GENERAL.—Any entitlement to an annuity or to an increased annuity resulting from an application under subparagraph (A) shall be effective as of the commencement date of such annuity (subject to clause (ii), if applicable), and any amounts becoming payable for periods before the first month for which regular monthly annuity payments begin to be made in accordance with the amendments made by this section shall be payable to such individual in the form of a lump-sum payment.

(ii) RETROACTIVITY.—Any determination of the amount, or of the commencement date, of any annuity, all the requirements for entitlement to which (including separation, but disregarding any application requirement) would have been satisfied before the effective date of this section if this section had then been in effect (but would not then otherwise have been satisfied absent this section) shall be made as if application for such annuity had been submitted as of the earliest date that would have been allowable, after such individual's separation from service, if such amendments had been in effect throughout the periods of service referred to in the first sentence of subparagraph (A).

(4) RIGHT TO FILE ON BEHALF OF A DECEDENT.—The regulations under subsection (d)(1) shall include provisions, consistent with the order of precedence set forth in section 8342(c) of title 5, United States Code, under which a survivor of an individual who performed service described in section 8332(b)(18) of such title (as amended by subsection (a) of this section) shall be allowed to submit an application on behalf of and to receive any lump-sum payment that would otherwise have been payable to the decedent under paragraph (2) or (3) of this subsection. Such an application shall not be valid unless it is filed within 2 years after the effective date of this section or 1 year after the date of the decedent's death, whichever is later.

(c) FUNDING.—

(1) LUMP-SUM PAYMENTS.—Any lump-sum payments under subsection (b) shall be payable out of the Civil Service Retirement and Disability Fund.

(2) UNFUNDED LIABILITY.—Any increase in the unfunded liability of the Civil Service Retirement System attributable to the enactment of this section shall be financed in accordance with section 8348(f) of title 5, United States Code.

(d) REGULATIONS AND SPECIAL RULE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Director of the Office of Personnel Management, in consultation with the Director of the Central Intelligence Agency, shall prescribe any regulations necessary to carry out this section. Such regulations shall include provisions under which rules similar to those established pursuant to section 201 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 514) shall be applied with respect to any service described in section 8332(b)(18) of title 5, United States Code (as amended by subsection (a) of this section) that was subject to title II of the Social Security Act.

(2) OTHER REGULATIONS.—The Director of the Central Intelligence Agency, in consultation with the Director of the Office of Personnel Management, shall prescribe any regulations which may become necessary, with

respect to any retirement system administered by the Director of the Central Intelligence Agency, as a result of the enactment of this section.

(3) SPECIAL RULE.—For purposes of any application for any benefit which is computed or recomputed taking into account any service described in section 8332(b)(18) of title 5, United States Code (as amended by subsection (a) of this section), section 8345(i)(2) of such title shall be applied by deeming the reference to the date of the "other event which gives rise to title to the benefit" to refer to the effective date of this section, if later than the date of the event that would otherwise apply.

(e) DEFINITIONS.—For purposes of this section—

(1) the terms "unfunded liability", "survivor", and "survivor annuitant" have the meanings given under section 8331 of title 5, United States Code; and

(2) the term "annuity", as used in paragraphs (2) and (3) of subsection (b), includes a survivor annuity.

(f) EFFECTIVE DATE.—This section shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this section.

SA 2008. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", up to $2,500,000 may be available for advanced technology for IRCM component improvement.

SA 2009. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to $3,000,000 may be available for the Field Rapid Assay Biological System.

SA 2010. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY, up to $2,000,000 may be used for Program Element #0603235N for the Shipboard Automated Reconstruction Capability.

SA 2011. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $3,000,000 may be used for the Joint Service Small Arms Program.

SA 2012. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) Compensation.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) Oversight.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) Administrative support.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) Access to facilities.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) Report.—

(1) In general.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) Transmittal to congress.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) Termination.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

SA 2013. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. EXCLUSION OF SPECIAL PAY AND ALLOWANCES FROM INCOME FOR SUPPLEMENT SECURITY INCOME BENEFITS.

(a) In General.—Paragraph (20) of section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)(20)) is amended to read as follows:

"(20) special pay receive pursuant to chapter 5 of title 37, United States Code, and allowances received pursuant to chapter 7 of title 37, United States Code;".

(b) Effective Date.—The amendment made by this section shall apply to eligibility determinations made and benefit amounts payable after the date of the enactment of this Act.

SA 2014. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 160, strike line 16 and all that follows through page 161, line 5, and insert the following:

(B) $10,000,000.

SA 2015. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ___. (a) Promotion of Family Formation and Healthy Marriage.—Section 402(a)(1)(A) of the Social Security Act (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

"(vii) Encourage equitable treatment of healthy 2-parent married families under the program referred to in clause (i).".

(b) Healthy Marriage Promotion Grants; Repeal of Bonus for Reduction of Illegitimacy Ratio.—Section 403(a)(2) of such Act (42 U.S.C. 603(a)(2)) is amended to read as follows:

"(2) Healthy marriage promotion grants.—

"(A) Authority.—

"(i) In general.—The Secretary shall award competitive grants to States and Indian tribes and tribal organizations for not more than 50 percent of the cost of developing and implementing innovative programs to promote and support healthy 2-parent married families.

"(ii) Use of other tanf funds.—A State or Indian tribe or tribal organization with an approved tribal family assistance plan may use funds provided under other grants made under this part for all or part of the expenditures incurred for the remainder of the costs described in clause (i). In the case of a State, any such funds expended shall not be considered qualified State expenditures for purposes of section 409(a)(7).

"(B) Healthy marriage promotion activities.—Funds provided under subparagraph (A) and corresponding State matching funds shall be used to support any of the following programs or activities:

"(i) Public advertising campaigns on the value of marriage and the skills needed to increase marital stability and health.

"(ii) Education in high schools on the importance of healthy marriages and the characteristics of other healthy relationships experienced throughout life, including education on the importance of grounding all relationships in mutual respect and how earlier healthy relationships are the building blocks for later healthy marital relationships.

"(iii) Marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women, non-married expectant fathers, and non-married recent parents.

"(iv) Pre-marital education and marriage skills training for engaged couples and for couples or individuals interested in marriage.

"(v) Marriage enhancement and marriage skills training programs for married couples.

"(vi) Divorce reduction programs that teach relationship skills.

"(vii) Marriage mentoring programs which use married couples as role models and mentors.

"(viii) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

"(C) Voluntary participation.—

"(i) In general.—Participation in programs or activities described in any of clauses (iii) through (vii) of subparagraph (B) shall be voluntary.

"(ii) Assurance of informed consent and option to disenroll.—Each State or Indian tribe or tribal organization that carries out programs or activities described in any of clauses (iii) through (vii) of subparagraph (B) shall provide the Secretary with an assurance that each recipient of assistance under the State program funded under this part who elects to participate in such programs or activities shall be informed, prior to making such election—

"(I) that such participation is voluntary;

"(II) that the recipient may elect at any time to disenroll from such programs or activities by notifying the State or Indian tribe or tribal organization that the recipient no longer wants to participate in such programs or activities;

"(III) of the process, if any, by which a recipient who chooses to withdraw from, or fails to participate in, such programs or activities may be required to follow to become engaged in other programs or activities that are not programs or activities described in clauses (iii) through (vii) of subparagraph (B); and

"(IV) that the State may reassign a recipient at any time, in accordance with the requirements of section 408(b), to other activities that are not programs or activities described in clauses (iii) through (vii) of subparagraph (B).

"(iii) No sanction for refusal or failure to participate.—

"(I) In general.—No State or Indian tribe or tribal organization shall deny or reduce assistance to a recipient of assistance under the State program funded under this part solely on the basis of the recipient's withdrawal from, or failure to, participate in programs or activities described in clauses (iii) through (vii) of subparagraph (B).

"(II) Rule of construction.—Nothing in this subparagraph shall be construed as precluding a State or Indian tribe or tribal organization from requiring a recipient of assistance under the State program funded under this part to engage in programs or activities that are not programs or activities described in clauses (iii) through (vii) of subparagraph (B) or to sanction a recipient for failure to engage in such programs or activities or to follow any such procedures the State may establish to enroll a recipient in such other programs or activities.

"(D) General rules governing use of funds.—The rules of section 404, other than subsection (b) of that section, shall not apply to a grant made under this paragraph.

"(E) Requirements for receipt of funds.—A State or Indian tribe or tribal organization may not be awarded a grant under this paragraph unless the State or Indian tribe or tribal organization, as a condition of receiving funds under such a grant—

"(i) consults with domestic violence organizations that have demonstrated expertise working with survivors of domestic violence in developing policies, procedures, programs and training necessary to appropriately address domestic violence in families served by programs and activities funded under such grant;

"(ii) describes in the application for a grant under this paragraph—

"(I) how the programs or activities proposed to be conducted will appropriately address issues of domestic violence; and

"(II) what the State or Indian tribe or tribal organization, will do, to the extent relevant, to ensure that participation in such programs or activities is voluntary, and to inform potential participants that their involvement is voluntary;

"(iii) establishes a written protocol for providers and administrators of programs and activities relevant to the grant that—

"(I) provides for helping identify instances or risks of domestic violence; and

"(II) specifies the procedures for making service referrals and providing protections and appropriate assistance for identified individuals and families;

"(iv) establishes performance goals for funded programs and activities that clarify the primary objective of such funded programs and activities is to increase the incidence and quality of healthy marriages and not solely to expand the number or percentage of married couples; and

"(v) submits the annual reports required under subparagraph (F).

"(F) ANNUAL REPORTS TO THE SECRETARY.—Each State and Indian tribe or tribal organization awarded a grant under this paragraph shall submit to the Secretary an annual report on the programs and activities funded under the grant that includes the following:

"(i) A description of the written protocols developed in accordance with the requirements of subparagraph (E)(iii) for each program or activity funded under the grant and how such protocols are used, including specific policies and procedures for addressing domestic violence issues within each program or activity funded under the grant and how confidentiality issues are addressed.

"(ii) The name of each individual, organization, or entity that was consulted in the development of such protocols.

"(iii) A description of each individual, organization, or entity (if any) that provided training on domestic violence for the State, Indian tribe or tribal organization, or for any subgrantees.

"(iv) A description of any implementation issues identified with respect to domestic violence and how such issues were addressed.

"(G) BIANNUAL REPORTS TO CONGRESS.—Not later than 24 months after the date of enactment of the Personal Responsibility and Individual Development for Everyone Act, and every 6 months thereafter, the Secretary shall submit to Congress a report regarding the programs and activities funded with grants awarded under this paragraph. Each report submitted in accordance with this subparagraph shall include the following:

"(i) The name of each program or activity funded with such grants and the name of each grantee and subgrantee.

"(ii) The total number of individuals served under programs or activities funded under the grant.

"(iii) The total number of individuals who—

"(I) completed a program or activity funded under the grant, including the number of such individuals who received assistance under the State program funded under this part or with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) while participating in such program or activity; and

"(II) did not complete such a program or activity, including due to ceasing to receive assistance under the State program funded under this part or with qualified State expenditures (as defined in section 409(a)(7)(B)(i)) or for other reasons.

"(iv) A description of the types of services offered under such programs or activities.

"(v) The criteria for selection of programs or activities to be funded under such grant with respect to the award of grants by the Secretary and the awarding of funds to subgrantees.

"(vi) A description of the activities carried out by the Secretary to support grantees and subgrantees in responding to domestic violence issues.

"(vii) A summary of the written domestic violence protocols used by grantees and subgrantees.

"(viii) A summary of who the grantees and subgrantees consulted with in developing such protocols.

"(ix) A summary of the training provided to grantees and subgrantees on domestic violence.

"(x) A list of the organizations, entities, and activities funded under sections 103(c) and 114(e) of the Personal Responsibility and Individual Development for Everyone Act.

"(H) DOMESTIC VIOLENCE DEFINED.—In this paragraph, the term 'domestic violence' has the meaning given that term in section 402(a)(7)(B).

"(I) APPROPRIATION.—

"(i) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2005 through 2010, $100,000,000 for grants under this paragraph.

"(ii) EXTENDED AVAILABILITY OF FUNDS.—

"(I) IN GENERAL.—Funds appropriated under clause (i) for each of fiscal years 2006 through 2010 shall remain available to the Secretary until expended.

"(II) AUTHORITY FOR GRANT RECIPIENTS.—A State or Indian tribe or tribal organization may use funds made available under a grant awarded under this paragraph without fiscal year limitation pursuant to the terms of the grant.".

(c) BEST PRACTICES FOR ADDRESSING DOMESTIC VIOLENCE.—Section 413 of such Act (42 U.S.C. 613) is amended by adding at the end the following:

"(k) BEST PRACTICES FOR ADDRESSING DOMESTIC VIOLENCE.—

"(1) IN GENERAL.—The Secretary shall, by grant, contract, or interagency agreement, develop and implement programs that are designed to address domestic violence as a barrier to healthy relationships, marriage, and economic security. Programs developed and implemented under this subsection shall include—

"(A) training for caseworkers administering the State program funded under this part;

"(B) technical assistance;

"(C) the provision of voluntary services for victims of such violence; and

"(D) activities related to the prevention of domestic violence.

"(2) DOMESTIC VIOLENCE DEFINED.—In this subsection, the term 'domestic violence' has the meaning given that term in section 402(a)(7)(B).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $10,000,000 for each of fiscal years 2006 through 2010. Amounts appropriated to carry out this subsection shall be in addition to and not in lieu of amounts otherwise appropriated to carry out programs to address domestic violence.".

(d) COUNTING OF SPENDING ON NON-ELIGIBLE FAMILIES TO PREVENT AND REDUCE INCIDENCE OF OUT-OF-WEDLOCK BIRTHS, ENCOURAGE FORMATION AND MAINTENANCE OF HEALTHY 2-PARENT MARRIED FAMILIES, OR ENCOURAGE RESPONSIBLE FATHERHOOD.—Section 409(a)(7)(B)(i) of such Act (42 U.S.C. 609(a)(7)(B)(i)) is amended by adding at the end the following:

"(V) COUNTING OF SPENDING ON NON-ELIGIBLE FAMILIES TO PREVENT AND REDUCE INCIDENCE OF OUT-OF-WEDLOCK BIRTHS, ENCOURAGE FORMATION AND MAINTENANCE OF HEALTHY 2-PARENT MARRIED FAMILIES, OR ENCOURAGE RESPONSIBLE FATHERHOOD.—Subject to subclauses (II) and (III), the term 'qualified State expenditures' includes the total expenditures by the State during the fiscal year under all State programs for a purpose described in paragraph (3) or (4) of section 401(a).".

(e) PURPOSES.—Section 401(a)(4) of such Act (42 U.S.C. 601(a)(4)) is amended by striking "two-parent families" and inserting "healthy 2-parent married families, and encourage responsible fatherhood".

SA 2016. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. (a) PROHIBITION ON TRANSFER OF AUTHORITY ON TACTICAL UNMANNED AERIAL VEHICLES.—None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) EXTENDED RANGE MULTI-PURPOSE UNMANNED AERIAL VEHICLES.—The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

SA 2017. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page between lines and , insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $1,000,000 may be used for Chemical Biological Defense Material Test and Evaluation Initiative.

SA 2018. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page , between lines and , insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to $3,000,000 may be used for development of solid oxide fuel cells for unmanned undersea vehicles.

SA 2019. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table: as follows:

On page ____ between lines ____ and ____, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $2,000,000 may be used for the development of a Lightweight Tactical All Terrain Vehicle (LTATV).

SA 2020. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page , between lines and , insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $2,500,000 may be used for the Transportable Pathogen Reduction & Blood Safety System.

SA 2021. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SECTION 8116. HURRICANE KATRINA EMERGENCY ASSISTANCE VOUCHERS.

(a) SHORT TITLE.—This section may be cited as the "Helping to House the Victims of Hurricane Katrina Act of 2005".

(b) HURRICANE KATRINA EMERGENCY ASSISTANCE VOUCHERS.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following:

"(20) HURRICANE KATRINA EMERGENCY ASSISTANCE VOUCHERS.—

"(A) IN GENERAL.—During the 6-month period beginning on the date of enactment of the Helping to House the Victims of Hurricane Katrina Act of 2005, the Secretary shall provide temporary rental assistance to any individual or family, if—

"(i) the individual or family resides, or resided on August 29, 2005, in any area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina; and

"(ii) the residence of the individual or family became uninhabitable or inaccessible as result of that major disaster or emergency.

"(B) REGULATIONS.—Not later than 30 days after the date of enactment of the Helping to House the Victims of Hurricane Katrina Act of 2005, the Secretary shall issue final rules to establish the procedures applicable to the issuance of assistance under subparagraph (A).

"(C) NOTICE.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and such other agencies as the Secretary determines appropriate, shall establish procedures for providing notice of the availability of assistance under this paragraph to individuals or families that may be eligible for such assistance.

"(D) AUTHORITY TO CONTRACT WITH PHA'S AND OTHERS.—The Secretary may contract with any State or local government agency or public housing agency, or in consultation with any State or local government agency, with any other entity, to ensure that assistance payments under this paragraph are provided in an efficient and expeditious manner.

"(E) WAIVER OF ELIGIBILITY REQUIREMENTS.—In providing assistance under this paragraph, the Secretary shall waive the requirements under—

"(i) paragraph (2), relating to tenant contributions towards rent, except that any such waiver shall expire on an individual's return to work;

"(ii) paragraph (4), relating to the eligibility of individuals to receive assistance;

"(iii) subsection (k) and paragraph (5) of this subsection, relating to verification of income;

"(iv) paragraph (7)(A), relating to the requirement that leases shall be for a term of 1 year;

"(v) paragraph (8), relating to initial inspection of housing units by a public housing agency; and

"(vi) subsection (r)(1)(B), relating to restrictions on portability.

"(F) USE OF FUNDS.—Notwithstanding any other provision of law, funds available for assistance under this paragraph—

"(i) shall be made available by the Secretary to individuals to cover the cost of —

"(I) rent;

"(II) security and utility deposits;

"(III) relocation expenses, including expenses incurred in relocating back to the major disaster area when such relocation is permitted; and

"(IV) such additional expenses as the Secretary determines necessary; and

"(ii) shall be used by the Secretary—

"(I) for payments to public housing agencies, State or local government agencies, or other voucher administrators for vouchers used to assist individuals or families affected by the major disaster or emergency described in this paragraph up to their authorized level of vouchers, if any such vouchers are not otherwise funded; and

"(II) to provide operating subsidies to public housing agencies for public housing units provided to individuals or families affected by the major disaster or emergency described in this paragraph, if such a subsidy was not previously provided for those units.

"(G) PAYMENT STANDARD.—For purposes of this paragraph, the payment standard for each size of dwelling unit in a market area may not exceed 150 percent, or higher if the Secretary approves of such increase, of the fair market rental established under subsection (c) for the same size dwelling unit in the same market area, and shall be not less than 90 percent of that fair market rental.

"(H) NONDISCRIMINATION.—In selecting individuals or families for tenancy, a landlord or owner may not exclude or penalize an individual or family solely because any portion of the rental payment of that individual or family is provided under this paragraph.

"(I) TERMINATION OF ASSISTANCE.—Assistance provided under this paragraph shall—

"(i) terminate 6 months after the date on which such assistance was received; and

"(ii) extend for an additional 6 months unless at that time the Secretary makes a determination that assistance under this paragraph is no longer needed.

"(21) ASSISTANCE FOR CURRENT VOUCHER RECIPIENTS AFFECTED BY HURRICANE KATRINA.—

"(A) IN GENERAL.—The Secretary shall waive any of the requirements described in clauses (i) through (vi) of paragraph (20)(E) for any individual or family receiving assistance under this section on August 29, 2005, if—

"(i) the individual or family resides, or resided on August 29, 2005, in any area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina; and

"(ii) the residence of the individual or family became uninhabitable or inaccessible as result of that major disaster or emergency.

"(B) ADDITIONAL USES OF FUNDS.—Notwithstanding any other provision of law, the Secretary shall provide, as the Secretary determines appropriate, supplemental assistance to an individual or family receiving assistance under this section on August 29, 2005, and meeting the requirements described in subparagraph (A), to assist the individual or family with the additional costs of relocating to new housing, including to cover—

"(i) the additional cost of rent and utilities;

"(ii) security and utility deposits;

"(iii) relocation expenses, including expenses incurred in relocating back to the major disaster area when such relocation is permitted; and

"(iv) such additional expenses as the Secretary determines necessary.

"(C) PAYMENT STANDARD.—For purposes of this paragraph, the payment standard for each size of dwelling unit in a market area may not exceed 150 percent, or higher if the Secretary approves of such increase, of the fair market rental established under subsection (c) for the same size dwelling unit in the same market area, and shall be not less than 90 percent of that fair market rental.

"(D) NONDISCRIMINATION.—A landlord or owner may not exclude or penalize an individual or family solely because that individual or family is eligible for any waivers or benefits provided under this paragraph.

"(E) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this paragraph shall—

"(i) apply during the 6-month period beginning on the date of enactment of the Helping to House the Victims of Hurricane Katrina Act of 2005; and

"(ii) extend for an additional 6 months after that period, unless if at that time the Secretary makes a determination that assistance under this paragraph is no longer needed.

"(22) AUTHORITY OF THE SECRETARY TO DIRECTLY ADMINISTER VOUCHERS WHEN PHA'S ARE UNABLE TO DO SO.—If the Secretary determines that a public housing agency is unable to implement the provisions of this subsection due to the effects of Hurricane Katrina, the Secretary may—

"(A) directly administer any voucher program described in paragraphs (1) through (20); and

"(B) perform the functions assigned to a public housing agency by this subsection.".

(c) REPORT ON INVENTORY OF AVAILABILITY OF TEMPORARY HOUSING.—Not later than 10 days after the date of enactment of this Act, the Secretary of Defense, the Administrator of the General Services Administration, the Secretary of Agriculture, and such other agency heads as the Secretary determines appropriate, shall compile and report to the Secretary an inventory of Federal civilian and defense facilities that can be used—

(1) to provide emergency housing; or

(2) as locations for the construction or deployment of temporary housing units.

(d) Appropriation of Funding.—

(1) In general.—There are authorized to be appropriated and are appropriated $3,500,000,000 to provide assistance under this Act.

(2) Emergency designation.—The amount appropriated under paragraph (1) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SA 2022. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Sec. ____. (a) Hardship Duty Pay for Certain Duty in Areas Affected by Hurricane Katrina or Hurricane Rita.—Duty of members of the Armed Forces and other individuals described in subsection (b) in an area affected by Hurricane Katrina or Hurricane Rita, during the period beginning on August 27, 2005, and ending on the date of the termination of a declaration by the President of a major disaster with respect to such area, shall be deemed to be hardship duty for which hardship duty pay under section 305 of title 37, United States Code, is payable.

(b) Covered Members and Individuals.—The members of the Armed Forces and individuals described in this subsection are as follows:

(1) Members of the Armed Forces on active duty, including members of the reserve components of the Armed Forces on active duty.

(2) Members of the National Guard on full-time State active duty service that is treated as service in title 32, United States Code, status pursuant to the September 7, 2005, memorandum of the Acting Deputy Secretary of Defense regarding Hurricane Katrina Relief Efforts.

(c) Area Affected by Hurricane Katrina or Hurricane Rita Defined.—In this section, the term "area affected by Hurricane Katrina or Hurricane Rita" means an area that is under a designation by the President of a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) in connection with Hurricane Katrina or Hurricane Rita.

(d) Funding.—Amounts appropriated by title I for Military Personnel shall be available for the payment of hardship duty pay under this section for fiscal years 2005 and 2006.

SA 2023. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . COMPTROLLER GENERAL REPORT ON AUTHORITIES APPLICABLE TO THE DEPARTMENT OF DEFENSE RESPONSE TO INCIDENTS OF NATIONAL SIGNIFICANCE.

(a) Report Required.—

(1) In general.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the officials and committees of Congress referred to in paragraph (2) a report setting forth the authorities governing or otherwise applicable to the Department of Defense response to incidents of national significance.

(2) Officials and committees.—The officials and committees of Congress referred to in this paragraph are—

(A) the Speaker of the House of Representatives;

(B) the President pro tempore of the Senate;

(C) the Committees on Armed Services of the Senate and the House of Representatives; and

(D) the Secretary of Defense.

(b) Report Elements.—The report required by subsection (a) shall include the following:

(1) A description of the authorities in Federal law governing or otherwise applicable to the Department of Defense response to incidents of national significance, including any authorities in the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) A description of the authorities, responsibilities, and missions afforded the Department of Defense in responding to incidents of national significance under current Administration directives and guidelines, including Homeland Security Presidential Directive 8, the National Response Plan, Department of Defense Directive 3025.1, and Department of Defense Joint Publications 3–07 and 3–26.

(3) A description of the authorities, responsibilities, and missions afforded the Department of Defense under Federal law (including the provisions of title 32, United States Code) and current Administration directives and guidelines for coordinating the mobilization and deployment of National Guard units in responding to incidents of national significance, including the mobilization and deployment of National Guard units in State status.

(4) A description and assessment of Department of Defense operations in response to previous domestic major national disasters, including the following:

(A) The earthquake in San Francisco, California, in 1994.

(B) The flood in the Midwest in 1993.

(C) Hurricane Andrew in 1992.

(D) Hurricane Betsy in 1965.

(E) The flood of the Mississippi River in 1927.

(F) The Great San Francisco Earthquake in 1906.

(5) The assessment of the Comptroller General as to whether or not the authorities governing or otherwise applicable to the Department of Defense response to incidents of national significance, and the current Administration directives and guidelines on the authority, responsibilities, and mission afforded the Department in responding to such incidents, are adequate to permit the Department to respond effectively to incidents of national significance.

(6) The assessment of the Comptroller General as to whether or not the Department of Defense fully exercised its authorities, and fully discharged its responsibilities and missions, during the Department response to Hurricane Katrina.

(c) Prohibition on Modification of Authority, Responsibilities, or Missions.—No authority, responsibility, or mission of or applicable to the Department of Defense response to incidents of national significance may be modified during period beginning on the date of the enactment of this Act and ending on the date of the submittal to the officials and committees of Congress referred to in paragraph (2) of subsection (a) of the report required by paragraph (1) of that subsection.

(d) Incident of National Significance Defined.—In this section, the term "incident of national significance"—

(1) means an incident of national significance as defined in the White House National Response Plan, issued December 2004, and Homeland Security Presidential Directive 8; and

(2) includes disasters declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) and emergencies declared in accordance with section 501 of that Act (42 U.S.C. 5191).

SA 2024. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

Sec. 8116. Of the amount appropriated by title IV under the heading "Research, Development, Test and Evaluation, Army", up to $3,500,000 may be available for Maryland Emergency Medical Services for using shock trauma as a resuscitation research testbed.

SA 2025. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____. TEMPORARY MEDICAID DISASTER RELIEF

SEC. 01. SHORT TITLE OF TITLE; PURPOSE.

(a) Short Title of Title.—This title may be cited as the "Temporary Medicaid Disaster Relief Act of 2005".

(b) Purpose.—The purpose of this title is to ensure all those affected by Hurricane Katrina have access to health coverage and medical care through the medicaid program and to authorize temporary changes in such program to guarantee and expedite that coverage and access to care.

SEC. ___02. DISASTER RELIEF PERIOD.

(a) In General.—For purposes of this title, the term "disaster relief period" means the period beginning on August 29, 2005, and, subject to subsection (b), ending on February 28, 2006.

(b) Presidential Authority To Extend Disaster Relief Period.—

(1) In general.—The President shall extend the application of section 03 and

paragraphs (1) and (2) of section ___04(a) until September 30, 2006, unless the President determines that all Katrina Survivors would have sufficient access to health care without such an extension. In the case of such an extension, the reference to "February 28, 2006" in subsection (a) shall be considered to be a reference to "September 30, 2006".

(2) NOTICE TO CONGRESS.—The President shall notify the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, and the Chairs and Ranking Members of the Committee on Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives at least 30 days prior to—

(A) extending the application of such sections; or

(B) if the President determines not to extend the application of such sections, February 28, 2006.

SEC. ___03. TEMPORARY MEDICAID COVERAGE FOR KATRINA SURVIVORS.

(a) DEFINITIONS.—In this title:

(1) KATRINA SURVIVOR.—

(A) IN GENERAL.—The term "Katrina Survivor" means an individual who is described in subparagraph (B) or (C).

(B) RESIDENTS OF DISASTER LOCALITIES.—

(i) IN GENERAL.—An individual who, on any day during the week preceding the declaration of a public health emergency on August 29, 2005, had a residence in—

(I) a parish in the State of Louisiana that is among the parishes that the Federal Emergency Management Agency of the Emergency Preparedness and Response Directorate of the Department of Homeland Security declared on September 4, 2005, to be Federal Disaster Parishes; or

(II) a county in the State of Alabama or Mississippi that is among the counties such Agency declared Federal Disaster Counties on September 4, 2005.

(ii) AUTHORITY TO RELY ON WEBSITE POSTED DESIGNATIONS.—The Secretary of Health and Human Services shall post on the Internet website for the Centers for Medicare & Medicaid Services a list of parishes and counties identified as Federal Disaster Parishes or Counties. Any State which provides medical assistance to Katrina Survivors on the basis of such posting and in accordance with this title shall be held harmless if it is subsequently determined that the provision of such assistance was in error.

(C) INDIVIDUALS WHO LOST EMPLOYMENT.—An individual who, on any day during the week preceding the declaration of a public health emergency on August 29, 2005, had a residence in a direct impact State and lost their employment since Hurricane Katrina.

(D) CONSTRUCTION.—A Katrina Survivor shall be treated as being "from" the State of residence described in subparagraph (B)(i) or (C), as the case may be.

(E) TREATMENT OF CURRENT MEDICAID BENEFICIARIES.—Nothing in this title shall be construed as preventing an individual who is otherwise entitled to medical assistance under title XIX of the Social Security Act from being treated as a Katrina Survivor under this title.

(F) TREATMENT OF HOMELESS PERSONS.—For purposes of this title, in the case of an individual who was homeless on any day during the week described in subparagraph (B)(i), the individual's "residence" shall be deemed to be the place of residence as otherwise determined for such an individual under title XIX of the Social Security Act.

(2) DIRECT IMPACT STATE.—The term "direct impact State" means the State of Louisiana, Alabama, and Mississippi.

(b) RULES FOR PROVIDING TEMPORARY MEDICAL ASSISTANCE TO KATRINA SURVIVORS.—During the disaster relief period, any State may provide medical assistance to Katrina Survivors under a State medicaid plan established under title XIX of the Social Security Act in accordance with the following:

(1) UNIFORM ELIGIBILITY RULES.—

(A) NO INCOME, RESOURCES, RESIDENCY, OR CATEGORICAL ELIGIBILITY REQUIREMENTS.—Such assistance shall be provided without application of any income or resources test, State residency, or categorical eligibility requirements.

(B) STREAMLINED ELIGIBILITY PROCEDURES.—The State shall use the following streamlined procedures in processing applications and determining eligibility for medical assistance for Katrina Survivors:

(i) A common 1-page application form developed by the Secretary of Health and Human Services in consultation with the National Association of State Medicaid Directors. Such form shall include notice regarding the penalties for making a fraudulent application under paragraph (4) and shall require the applicant to assign to the State any rights of the applicant (or any other person who is a Katrina Survivor and on whose behalf the applicant has the legal authority to execute an assignment of such rights) under any group health plan or other third-party coverage for health care.

(ii) Self-attestation by the applicant that the applicant is a Katrina Survivor.

(iii) No requirement for documentation evidencing the basis on which the applicant qualifies to be a Katrina Survivor.

(iv) Issuance of a Medicaid eligibility card to an applicant who completes such application, including the self-attestation required under clause (ii). Such card shall be valid during the disaster relief period.

(v) If an applicant completes the application and presents it to a provider or facility participating in the State medicaid plan that is qualified to make presumptive eligibility determinations under such plan (which at a minimum shall consist of facilities identified in section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) and it appears to the provider that the applicant is a Katrina Survivor based on the information in the application, the applicant will be deemed to be a Katrina Survivor eligible for medical assistance in accordance with this section, subject to paragraph (3).

(vi) Continuous eligibility, without the need for any redetermination of eligibility, for the duration of the disaster relief period.

(C) DETERMINATION OF ELIGIBILITY FOR COVERAGE AFTER THE TERMINATION OF THE DISASTER RELIEF PERIOD.—In the case of a Katrina Survivor who is receiving medical assistance from a State, prior to the termination of the disaster relief period, the State providing such assistance shall determine whether the Katrina Survivor is eligible for continued medical assistance under the State's eligibility rules otherwise applicable under the State medicaid plan. If a State determines that the individual is so eligible, the State shall provide the individual with written notice of the determination and provide the individual with continued coverage for such medical assistance for so long as the individual remains eligible under such otherwise applicable eligibility rules. If a State determines that the individual is not so eligible, the State shall provide the individual with written notice of the determination, including the reasons for such determination.

(2) SCOPE OF COVERAGE SAME AS CATEGORICALLY NEEDY.—The State shall treat Katrina Survivors as individuals eligible for medical assistance under the State plan under title XIX of the Social Security Act on the basis of section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)), with coverage for such assistance retroactive to August 29, 2005.

(3) VERIFICATION OF STATUS AS A KATRINA SURVIVOR.—

(A) IN GENERAL.—The State shall make a good faith effort to verify the status of a Katrina Survivor enrolled in the State Medicaid plan under the provisions of this section after the determination of the eligibility of the Survivor for medical assistance under such plan.

(B) EVIDENCE OF VERIFICATION.—A State may satisfy the verification requirement under subparagraph (A) with respect to a Katrina Survivor by showing that the State providing medical assistance obtained information from the Social Security Administration, the Internal Revenue Service, or the State Medicaid Agency for the direct impact State.

(C) DISALLOWANCE OF PAYMENTS FOR FAILURE TO MAKE GOOD FAITH EFFORT.—If, with respect to the status of a Katrina Survivor enrolled in a State Medicaid plan, the State fails to make the good faith effort required under subparagraph (A), and the Secretary determines that the individual so enrolled is not a Katrina Survivor, the Secretary shall disallow all Federal payments made to the State that are directly attributable to medical assistance provided or administrative costs incurred with respect to the individual during the disaster relief period.

(4) PENALTY FOR FRAUDULENT APPLICATIONS.—

(A) INDIVIDUAL LIABLE FOR COSTS.—If a State, as the result of verification activities conducted under paragraph (3), determines after a fair hearing that an individual has knowingly made a false self-attestation described in paragraph (1)(B)(ii), the State may, subject to subparagraph (B), seek recovery from the individual for the full amount of the cost of medical assistance provided to the individual under this section.

(B) EXCEPTION.—The Secretary shall exempt a State from seeking recovery under subparagraph (A) if the Secretary determines that it would not be cost-effective for the State to do so.

(C) REIMBURSEMENT TO THE FEDERAL GOVERNMENT.—Any amounts recovered by a State in accordance with this paragraph shall be returned to the Federal government, except that a State's administrative costs attributable to obtaining such recovery shall be reimbursed by the Federal government in accordance with section 04(a)(2).

(5) EXEMPTION FROM ERROR RATE PENALTIES.—All payments attributable to providing medical assistance to Katrina Survivors in accordance with this section shall be disregarded for purposes of section 1903(u) of the Social Security Act.

SEC. ___04. TEMPORARY DISASTER RELIEF FOR STATES UNDER MEDICAID.

(a) INCREASE IN FEDERAL MATCHING RATE.—

(1) 100 PERCENT FMAP FOR MEDICAL ASSISTANCE.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), the Federal medical assistance percentage for providing medical assistance under a State medicaid plan under title XIX of such Act to Katrina Survivors or, in the case of a direct impact State, to any individual who is provided medical assistance under the State medicaid plan during the disaster relief period, shall be 100 percent.

(2) 100 PERCENT FEDERAL MATCH FOR CERTAIN ADMINISTRATIVE COSTS.—Notwithstanding paragraph (7) of section 1903(a) of such Act (42 U.S.C. 1396b(a)), or any other paragraph of such section, the Federal matching rate for costs directly attributable to all administrative activities that relate to the enrollment of Katrina Survivors under section ___03 in a State medicaid plan, verification of the status of such Survivors, processing of claims for payment for medical assistance provided to such Survivors under such section, and recovery costs under section 03(b)(4)(C), shall be 100 percent. The Secretary shall issue guidance not later 30 days after the date of enactment of this Act on the implementation of this paragraph.

(b) LIMITATION ON REDUCTION OF FMAP FOR FISCAL YEAR 2006 FOR ANY STATE.—If the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) determined for a State for fiscal year 2006 is less than the Federal medical assistance percentage determined for the State for fiscal year 2005, the Federal medical assistance percentage for the State for fiscal year 2005 shall apply to the State for fiscal year 2006 only for purposes of title XIX of the Social Security Act.

(c) TEMPORARY SUSPENSION OF MEDICARE "CLAWBACK" AND POSTPONEMENT OF CUT-OFF OF MEDICAID PRESCRIPTION DRUG FUNDING IN AFFECTED STATES.—

(1) SUSPENSION IN APPLICATION OF "CLAWBACK".—Section 1935(c) of the Social Security Act (42 U.S.C. 1396u-5(c)) shall not apply, subject to paragraph (3), before January 2007 to a direct impact State or to a State that experiences a significant influx of Katrina Survivors.

(2) CONTINUATION OF MEDICAID DRUG COVERAGE FOR DUAL ELIGIBLES.—Section 1935(d)(1) of such Act shall also not apply, subject to paragraph (3), before January 2007 to a part D eligible individual who is a Katrina Survivor.

(3) TERMINATION OF APPLICATION OF SUBSECTION.—Paragraphs (1) and (2) shall no longer apply to a State or a Katrina Survivor, respectively, if the Secretary determines, after consultation with the State, that enrollment of all part D eligible individuals in the State under part D of title XVIII of the Social Security Act who are described in section 1935(c)(6)(A)(ii) of such Act can be achieved without a discontinuation in prescription drug coverage for any such individual.

(4) DEFINITION.—For purposes of this subsection, the term "State that experiences a significant influx of Katrina Survivors" means those States, including Arkansas, Florida, Oklahoma, and Texas, that the Secretary of Health and Human Services identifies as having a significant in-migration of Katrina Survivors.

SEC. 05. ACCOMMODATION OF SPECIAL NEEDS OF KATRINA SURVIVORS UNDER MEDICARE PROGRAM..

(a) EXCLUSION OF DISASTER RELIEF PERIOD IN COMPUTING PART B LATE ENROLLMENT PENALTY.—In applying the first sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) in the case of a Katrina Survivor, there shall not be taken into account any month any part of which is within the disaster relief period or within the 2-month period following the end of such disaster relief period.

(b) PART D.—

(1) EXTENSION OF INITIAL ENROLLMENT PERIOD.—In the case of a Katrina Survivor, the initial enrollment period under section 1860D-1(b)(2) of the Social Security Act (42 U.S.C. 1395w-101(b)(2)) shall in no case end before May 15, 2007.

(2) FLEXIBILITY IN DOCUMENTATION FOR LOW-INCOME SUBSIDIES.—For purposes of carrying out section 1860D–14 of the Social Security Act (42 U.S.C. 1395w-114), with respect to Katrina Survivors, the Secretary of Health and Human Services shall establish documentation rules for Katrina Survivors which take into account the loss and unavailability of documents due to Hurricane Katrina.

SA 2026. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $1,000,000 may be made available for combating terrorism, technology development, for the development of scanning from a distance with backscatter imaging.

SA 2027. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", $1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle.

SA 2028. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $2,000,000 may be used for Moldable Armor.

SA 2029. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 2030. Mr. TALENT (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Beginning with the fiscal year 2006 program year, the Secretary of the Air Force shall exercise the option on the existing multiyear procurement contract for C-17 aircraft in order to enter into a multiyear contract for the procurement of 42 additional C–17 aircraft.

SA 2031. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . The report on stability and security in Iraq to be submitted under the Joint Explanatory Statement of the Committee on Conference to accompany the conference report on the bill H.R. 1268 of the 109th Congress shall include, in addition to the matters otherwise provided in that Joint Explanatory Statement the following:

(1) A statement of the number and types of Iraq security forces that, assuming progress is made in political and other areas, must be capable of operating without, or with minimal support from, the Armed Forces of the United States and coalition forces before the United States can commence a reduction of the number of members of the Armed Forces in Iraq.

(2) A projected schedule for the achievement of numbers and types of Iraq security forces meeting the goal specified in paragraph (1).

SA 2032. Mr. KERRY (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REPORT ON EDUCATIONAL BENEFITS FOR VETERANS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report containing the information described in subsection (b) to—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Armed Services of the House of Representatives;

(3) the Committee on Veterans' Affairs of the Senate; and

(4) the Committee on Veterans' Affairs of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) an analysis by the Department of Defense of the effect on recruitment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage of personnel who sign up for such educational benefits; and

(B) the importance of such educational benefits in the decision of an individual to enlist;

(2) an analysis by the Department of Veterans Affairs of the effect on readjustment to civilian life of educational benefits under the Montgomery GI Bill, including—

(A) the percentage who use partial benefits;

(B) the percentage who use full benefits; and

(C) the reasons that veterans choose not to use benefits;

(3) proposals for improving educational benefits in order to improve recruiting, retention, and readjustment to civilian life;

(4) cost estimates for the proposals under paragraph (3);

(5) projected costs of educational benefits under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code, during each of the 5-year and 10-year periods beginning with fiscal year 2006; and

(6) projected costs under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code, during each of the 5-year and 10-year periods beginning with fiscal year 2006, if the baseline 3-year active duty rate is increased to cover the average price of—

(A) a public 4-year secondary education (commuter tuition and fees, room and board, books and supplies, transportation and other expenses);

(B) a public 4-year secondary education (non-commuter tuition and fees, room and board, books and supplies, transportation and other expenses);

(C) a public 4-year secondary education (commuter tuition and fees, room and board); and

(D) a public 4-year secondary education (non-commuter tuition and fees, room and board).

(c) CALCULATION.—In calculating costs under paragraphs (5) and (6) of subsection (b)—

(1) future costs shall be adjusted for inflation using the "college tuition and fees" component of the Consumer Price Index; and

(2) the ratio between the cost of benefits under chapters 1606 and 1607 of title 10, United States Code, and the cost of benefits under section 3015 of title 38, United States Code, shall be the same as the ratio between such costs as of the date of enactment of this Act.

SA 2033. Mr. KERRY (for himself, Mr. KENNEDY, Mr. REED, Mr. DORGAN, Mr. JEFFORDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. CORZINE, Mr. KOHL, MR. BAYH, Mr. DURBIN, Ms. CANTWELL, Mrs. CLINTON, Mr. BAUCUS, Mr. REID, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), $3,100,000,000, for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Act (42 U.S.C. 8623(e)), which amount shall be made available for obligation in fiscal year 2006 and which amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. . Congress finds the following:

(1) An imminent emergency is confronting millions of low-income individuals in the United States who are unable to afford the cost of rising energy prices.

(2) Prior to the devastation caused by Hurricanes Katrina and Rita in the Gulf Coast region of the United States, individuals in the United States were facing record prices for oil, natural gas, and propane. Hurricane Katrina damaged platforms and ports and curtailed production at refineries in the Gulf of Mexico, the source of almost ⅓ of United States oil output, further raising energy prices.

(3) The Short Term Energy Outlook report of the Energy Information Administration of the Department of Energy states that the ranges for expected heating fuel expenditure increases for the winter heating season of 2005–2006 are—

(A) 69 percent to 77 percent for natural gas in the Midwest;

(B) 17 percent to 18 percent for electricity in the South;

(C) 29 percent to 33 percent for heating oil in the Northeast; and

(D) 39 percent to 43 percent for propane in the Midwest.

(4) According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit $1,666 for the 2005–2006 winter heating season. Those costs would represent an increase of $403 over those costs for the 2004–2005 winter heating season, and an increase of $714 over those costs for the 2003–2004 winter heating season. For families using natural gas, prices are projected to hit $1,568 for the 2005–2006 winter heating season, representing an increase of $611 over those costs for the 2004–2005 winter heating season, and an increase of $643 over those costs for the 2003–2004 winter heating season. States need additional funding immediately to help low-income families and seniors to ensure that they can afford to heat their homes.

(5) The Mortgage Bankers Association expects that steep energy costs could increase the number of missed mortgage payments and lost homes beginning later this year.

SA 2034. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, MidAmerica St. Louis Airport in Mascoutah, Illinois, shall be designated as a port of entry.

SA 2035. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision this Act, none of the funds appropriated or otherwise made available under this Act may be used to fund a store located on a military installation, commissary store, exchange store, or other store under chapter 147 of title 10, United States Code, that sells any stimulant-containing dietary supplement for which it has been made known to the Department administering these funds that the manufacturer does not have a policy of submitting all reports of serious adverse events associated with such supplement to the Special Nutritional Adverse Event Monitoring System of the Center for Food Safety and Applied Nutrition of the Food and Drug Administration.

SA 2036. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Amounts appropriated by titles III and IX under the heading "PROCUREMENT OF WEAPONS AND TRACKED VEHICLES COMBAT VEHICLES, ARMY" and available for the Arsenal Support Program Initiative shall be allocated under that Initiative on the basis of applications submitted by facilities that have previously received funds under the Initiative.

SA 2037. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amounts appropriated by titles III and IX under the heading "PROCUREMENT OF WEAPONS AND TRACKED VEHICLES COMBAT VEHICLES, ARMY" and available for the Arsenal Support Program Initiative—

(1) an amount equal to one half of such amounts shall be allocated to Watervliet Arsenal, New York; and

(2) an amount equal to one half of such amounts shall be allocated to Rock Island Arsenal, Illinois.

SA 2038. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) Increase in Amounts for Procurement of Weapons and Tracked Combat Vehicles, Army.—The amounts appropriated by titles III and IX under the heading "Procurement of Weapons and Tracked Combat Vehicles, Army" are hereby increased by $6,000,000.

(b) Availability of Amounts.—Of the amounts appropriated by titles III and IX under the heading "Procurement of Weapons and Tracked Combat Vehicles, Army", as increased by subsection (a), up to $6,000,000 may be used for the Arsenal Support Program Initiative and allocated so that $6,000,000 shall be available to Watervliet Arsenal, New York.

SA 2039. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, line, 21, after the word "Freedom", insert the following: ", along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations"

SA 2040. Mrs. CLINTON (for herself, Mr. Salazar, Mr. Corzine, Mrs. Feinstein, Mr. Durbin, Mr. Launtenberg, Mr. Leahy, Mr. Carper, Mr. Jeffords, Mr. Reed, Mr. Harkin, Ms. Stabenow, Mr. Obama, and Mr. Feingold) submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___ KATRINA COMMISSION

SEC. 01. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this title referred to as the "Commission").

SEC. ___02. COMPOSITION OF COMMISSION.

(a) Members.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) Qualifications; Initial Meeting.—

(1) Political party affiliation.—Not more than 5 members of the Commission shall be from the same political party.

(2) Nongovernmental appointees.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) Other qualifications.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) Deadline for appointment.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) Initial meeting.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) Quorum; Vacancies.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. ___03. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

SEC. ___04. FUNCTIONS OF COMMISSION.

(a) In General.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 05. POWERS OF COMMISSION.

(a) In General.—

(1) Hearings and evidence.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 10.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. ___07. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. ___08. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. ___09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. ___10. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this title, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 11. FUNDING.

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2041. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

Subtitle D—Post Traumatic Stress Disorder and Other Mental Health Conditions

SEC. 741. MENTAL HEALTH SCREENINGS FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) SCREENINGS OF MEMBERS OF ARMED FORCES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(2) NATURE OF SCREENINGS.—The first mental health screening of a member under this subsection shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this subsection shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD), other mental health conditions, alcohol and drug abuse, and traumatic brain injury. The Secretary shall establish uniform guidelines on the scope and character of such screenings.

(3) TIME OF SCREENINGS.—A member shall receive a mental health screening under this subsection at times as follows:

(A) Prior to deployment in a combat operation or to a combat zone.

(B) Not later than 30 days after the date of the member's return from such deployment.

(C) Not later than 90 days after the date of the member's return from such deployment.

(D) Not later than 180 days after the date of the member's return from such deployment.

(E) Not later than one year after the date of the member's return from such deployment, and every year thereafter until such time as the Secretary concerned determines appropriate.

(b) OTHER SCREENINGS.—Nothing in this section shall be construed to prohibit the Secretary concerned from performing other mental health screenings or assessments of a member of the Armed Forces if circumstances so warrant.

SEC. 742. LEADERSHIP TRAINING ON POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) TRAINING REQUIRED.—Each Secretary concerned shall provide training to members of the Armed Forces who serve as commanders of military units at the company level and above on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD), other mental health conditions, alcohol and drug abuse, and traumatic brain injury.

(b) ELEMENTS.—The training provided under subsection (a) shall include the following:

(1) Information on the availability of mental health screenings under section 741 for members of the Armed Forces.

(2) Information on various means of encouraging members of the Armed Forces who may be experiencing Post Traumatic Stress Disorder, other mental health conditions, alcohol or drug abuse, or traumatic brain injury to seek evaluation and treatment.

(3) Such other information on Post Traumatic Stress Disorder, other mental health conditions, alcohol and drug abuse, and traumatic brain injury, and the identification, evaluation, and treatment of such conditions, as the Secretary concerned considers appropriate.

SEC. 743. TRAINING AND EDUCATION OF MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) TRAINING FOR MEMBERS OF ARMED FORCES.—Each Secretary concerned shall provide training to members of the Armed Forces on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD), other mental health conditions, alcohol and drug abuse, and traumatic brain injury.

(b) EDUCATION FOR DEPENDENTS.—Each Secretary concerned shall take appropriate actions to make available to the dependents of members of the Armed Forces information on the causes, symptoms, and effects of Post Traumatic Stress Disorder, other mental health conditions, alcohol and drug abuse, and traumatic brain injury in members of the Armed Forces.

SEC. 744. TREATMENT PROGRAMS FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) PROGRAMS REQUIRED.—The Secretary of Defense shall implement programs, and enhance existing programs, in order to improve the treatment provided by the Department of Defense to members of the Armed Forces for Post Traumatic Stress Disorder (PTSD), other mental health conditions, alcohol and drug abuse, and traumatic brain injury associated with service in combat. Such programs shall facilitate the participation of dependents of members of the Armed Forces in the treatment of such members for such conditions.

(b) REPORT ON PROGRAMS.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken by the Secretary under subsection (a). The report shall include—

(1) a statement of the number of members of the Armed Forces currently experiencing symptoms of traumatic brain injury associated with service in combat;

(2) a description of the programs implemented or enhanced under that subsection, including a description of how such programs will improve the treatment of members of the Armed Forces for Post Traumatic Stress Disorder, other mental health conditions, alcohol or and drug abuse, or traumatic brain injury; and

(3) information on the participation of members of the Armed Forces and their dependents in such programs.

SEC. 745. COLLABORATION WITH DEPARTMENT OF VETERANS AFFAIRS.

The Secretary of Defense shall work with the National Center on Post-Traumatic Stress Disorder of the Department of Veterans Affairs in carrying out activities under this subtitle.

SEC. 746. DEFINITIONS.

In this subtitle:

(1) DEPENDENT.—The term "dependent", with respect to a member of the Armed Forces, has the meaning given such term in section 1072(2) of title 10, United States Code.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" has the meaning given such term in section 101(a) of title 10, United States Code.

SA 2042. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"SEC. . The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations."

SA 2043. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 1411. SENSE OF CONGRESS ON REQUIREMENT FOR REVERSIONARY INTEREST HOLDERS TO COMPENSATE UNITED STATES FOR IMPROVEMENTS MADE TO MILITARY INSTALLATIONS CLOSED OR REALIGNED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

It is the sense of Congress that—

(1) the closure or realignment of a military installation under the 2005 round of defense base closure and realignment does not constitute a closure determination by the Secretary of the Navy for the purpose of requiring a reversionary interest holder to provide compensation for any improvements to the military installation; and

(2) as a matter of public policy, the United States should release or otherwise relinquish any entitlement to receive, pursuant to any agreement providing for such payment, compensation from any holder of a reversionary interest in real property used by the United States for improvements made to any military installation that is closed or realigned as part of the 2005 round of defense base closure and realignment.

SA 2044. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth

and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain uninterrupted preeminence in human spaceflight.

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a)—

(1) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(2) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(A) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ANNUAL REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) REQUIREMENT FOR ANNUAL REPORT.—The Secretary of Defense and the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives an annual report that sets forth all direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions undertaken by the Department of Defense. Each such report shall include an aggregate of all such Department of Defense costs by operation or mission, the percentage of the United States contribution by operation or mission, and the total cost of each operation or mission.

(b) COSTS FOR ASSISTING FOREIGN TROOPS.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all direct and indirect costs (including incremental costs) incurred in training, equipping, and otherwise assisting, preparing, resourcing, and transporting foreign troops for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(d) FORM OF REPORT.—Each annual report required by this section shall be submitted in unclassified form, but may include a classified annex.

On page 237, after line 17, insert the following:

SEC. 846. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

"(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

"(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

"(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

"(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

"(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

"(C) QUALIFIED AREAS.—In this paragraph, the term 'qualified area' means—

"(i) Iraq,

"(ii) Afghanistan, and

"(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.".

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.—

"(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection, regardless of the geographic area in which the contracts will be performed.

"(B) AUTHORIZATION TO USE CONTRACTING MECHANISMS.—Federal agencies are authorized to use any of the contracting mechanisms authorized in this Act for the purpose of complying with the Congressional policy set forth in subparagraph (A).

"(C) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this paragraph, the Administrator and the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship of the Senate and Committee on Small Business of the House of Representatives a report on the activities undertaken by Federal agencies, offices, and departments to carry out this paragraph.".

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.—

"(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection with regard to orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts.

"(B) AUTHORIZATION FOR LIMITED COMPETITION.—The head of a contracting agency may include in any contract entered under section 2304a(d)(1)(B) or 2304b(e) of title 10, United States Code, a clause setting aside a specific share of awards under such contract pursuant to a competition that is limited to small business concerns, if the head of the contracting agency determines that such limitation is necessary to comply with the congressional policy stated in subparagraph (A).

"(C) REPORT REQUIREMENT.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(ii) CONTENTS.—The report required by clause (i) shall include, for the most recent 2-year period for which data are available—

"(I) the total number of multiple-award contracts;

"(II) the total number of small business concerns that received multiple-award contracts;

"(III) the total number of orders under multiple-award contracts;

"(IV) the total value of orders under multiple-award contracts;

"(V) the number of orders received by small business concerns under multiple-award contracts;

"(VI) the value of orders received by small business concerns under multiple-award contracts;

"(VII) the number of small business concerns that received orders under multiple-award contracts; and

"(VIII) such other information as may be relevant.".

On page 218, strike line 1 and all that follows through page 220, line 5, and insert the following:

SEC. 814. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(x) RESEARCH AND DEVELOPMENT FOCUS.—

"(1) REVISION AND UPDATE OF CRITERIA AND PROCEDURES OF IDENTIFICATION.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

"(2) UTILIZATION OF PLANS.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

"(A) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

"(B) The Defense Technology Area Plan of the Department of Defense.

"(C) The Basic Research Plan of the Department of Defense.

"(3) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

"(y) COMMERCIALIZATION PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a 'Commercialization Pilot Program' to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

"(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

"(3) LIMITATION.—No research program may be identified under paragraph (2), unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

"(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

"(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

"(B) shall not be used to make Phase III awards.

"(5) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense and each Secretary of a military department shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

"(A) an accounting of the funds used in the Commercialization Pilot Program;

"(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and by prime contractors; and

"(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and a number of inventions commercialized.

"(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.".

(b) IMPLEMENTATION OF EXECUTIVE ORDER 13329.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) to provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).";

(2) in subsection (g)—

(A) in paragraph (9), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing)."; and

(3) in subsection (o)—

(A) in paragraph (14), by striking "and" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(16) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).".

(c) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.".

On page 237, after line 17, insert the following:

SEC. 846. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following:

"(2) For purposes of section 7(b)(2), the term 'disaster' includes—

"(A) drought; and

"(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.".

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)).is amended—

(A) by inserting "(including drought), with respect to both farm-related and nonfarm-related small business concerns," before "if the Administration"; and

(B) in subparagraph (B), by striking "the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)" and inserting the following: "section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph".

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking "Upon receipt of such certification, the Administration may" and inserting "Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may".

(d) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

On page 237, after line 17, insert the following:

SEC. 846. RADIO FREQUENCY IDENTIFIER TECHNOLOGY.

(a) SMALL BUSINESS STRATEGY.—As part of implementing its requirement that contractors use radio frequency identifier technology, the Secretary of Defense shall develop and implement a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) REPORTING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship and the Committee on Armed Services of the Senate and the Committee on Small Business and the Committee on Armed Services of the House of Representatives detailing the status of the efforts by the Secretary of Defense to establish requirements for radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology.

(C) the status of the efforts of the Secretary of Defense to develop and implement a strategy to educate the small business community, as required by subsection (a)(2).

At the end of subtitle E of title VI, add the following:

SEC. 653. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

At the end of subtitle B of title I, add the following:

SEC. 114. SECOND SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) REQUIREMENT.—The Secretary of the Army shall conduct a study of the feasibility and costs and benefits for the participation of a second source for the production and supply of tires for the Stryker combat vehicle to be procured by the Army with funds authorized to be appropriated in this Act.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the study under subsection (a). The report shall include—

(1) an analysis of the capacity of the industrial base in the United States to meet requirements for a second source for the production and supply of tires for the Stryker combat vehicle; and

(2) to the extent that the capacity of the industrial base in the United States is not adequate to meet such requirements, recommendations on means, over the short-term and the long-term, to address that inadequacy.

At the appropriate place in title VIII, insert the following:

SEC. . ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR PENALTIES AND VIOLATIONS.—(1) The Secretary of Defense shall maintain a publicly-available website that provides information on instances in which major contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct. The website shall be updated not less than once a year.

(2) For the purpose of this subsection, a major contractor is a contractor that receives at least $100,000,000 in Federal contracts in the most recent fiscal year for which data are available.

(b) REPORT ON FEDERAL SOLE SOURCE CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress a report on all sole source contracts in excess of $2,000,000 entered into by executive agencies in connection with Iraq reconstruction from January 1, 2003, through the date of the enactment of this Act.

(2) CONTENT.—The report submitted under paragraph (1) shall include the following information with respect to each such contract:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amount awarded.

(E) A brief description of the work to be performed under the contract.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

At the end of subtitle A of title VIII, add the following:

SEC. 807. GUIDANCE ON USE OF TIERED EVALUATION OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) GUIDANCE REQUIRED.—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers or proposals of offerors for contracts and for task orders under contracts.

(b) ELEMENTS.—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer or proposal of an offeror for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation why such contracting officer was unable to make such determination.

On page 52, between lines 5 and 6, insert the following:

SEC. 304. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 may be available for civilian manpower and personnel for a human resources benefit call center.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

(a) REPORT REQUIRED.—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(b) CONTENT.—Each notification submitted under subsection (a) with respect to the proposed cancellation or change shall include—

(1) the specific justification for the proposed change;

(2) a description of the impact of the proposed change on the Department's ability to achieve the objectives of the program that has been cancelled or changed;

(3) a description of the steps that the Department plans to take to achieve such objectives; and

(4) other information relevant to the change in acquisition strategy.

(c) DEFINITIONS.—In this section:

(1) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.

(2) The term "approved to be fielded" means having received Milestone C approval.

At the end of subtitle C of title III, add the following:

SEC. 330. PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c) by adding at the end the following new paragraphs:

"(4) A sporting event sanctions by the United States Olympic Committee through the Paralympic Military Program.

"(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4)) which is—

"(A) held in the United States or any of its territories or commonwealths;

"(B) governed by the International Paralympic Committee;

"(C) sanctioned by the United States Olympic Committee; and

"(D) for which participation exceeds 100 amateur athletes."; and

(2) in subsection (d)—

(A) by inserting "(1)" before "The Secretary"; and

(B) by adding at the end the following new paragraph:

"(2) Not more than $1,000,000 may be expended in any fiscal year to provide support for events specified under paragraph (5) of subsection (c).".

On page 292, between lines 15 and 16, insert the following:

SEC. 1106. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

"(2) The term 'interested party'—

"(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

"(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, includes—

"(i) any official who submitted the agency tender in such competition; and

"(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.".

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

"§ 3557. Expedited action in protests for Public-Private competitions

"For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.".

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

"3557. Expedited action in protests for public-private competitions.".

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.".

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A–76 on or after the date of the enactment of this Act.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003; and

"(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees.

"(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

"(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

"(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

"(ii) the written waiver is accompanied by a detailed determination that national security interests preclude compliance with the requirement for a public-private competition; and

"(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.".

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(c) REPEAL OF SUPERSEDED LAW.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note) is repealed.

SEC. 808. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A–76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term "National Security Personnel System" means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term "inherently governmental function" has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

At the end of subtitle A of title VIII, add the following:

SEC. 807. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

(a) Modification of Limitation on Conversion to Contractor Performance.—Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108–287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting ", payment that could be used in lieu of such a plan, health savings account, or medical savings account" after "health insurance plan"; and

(2) in subparagraph (B), by striking "that requires" and all that follows through the end and inserting "that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.".

At the appropriate place in title V, insert the following:

SEC.   . PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN THE PARALYMPIC GAMES.

Section 717(a)(1) of title 10, United States Code, is amended by striking "and Olympic Games" and inserting ", Olympic Games, and Paralympic Games,".

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. REPORT ON USE OF GROUND SOURCE HEAT PUMPS AT DEPARTMENT OF DEFENSE FACILITIES.

(a) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) Content.—The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 2045. Mr. FRIST (for Mr. Specter) proposed an amendment to the bill S. 1197, to reauthorize the Violence Against Women Act of 1994; as follows:

On page 272, line 21, strike "a person who is 60 years" and insert "a person who is 50 years".

On page 273, after line 8, insert the following:

(9A) Indian country.—The term "Indian country" has the same meaning given such term in section 1151 of title 18, United States Code.

On page 292, lines 4 and 5, strike ", Indian tribal government,".

On page 292, lines 6 and 7, strike ", Indian tribal government,".

On page 292, lines 23 and 24, strike ", unit of local government, or Indian tribal government" and insert "or unit of local government".

On page 293, lines 1 and 2, strike ", units of local government, and Indian tribal governments" and insert "and units of local government".

On page 322, line 15, strike "2231(b)" and insert "2261(b)".

On page 362, lines 6 and 7, strike "Services, Indian Child Welfare," and insert "Service, tribal child protective services,".

On page 419, strike line 10 and all that follows through page 425, line 16, and insert the following:

"SEC. 41404. COLLABORATIVE GRANTS TO DEVELOP LONG-TERM HOUSING FOR VICTIMS.

"(a) Grants Authorized.—

"(1) In general.—The Secretary of Health and Human Services, acting through the Administration of Children and Families, in consultation with the Secretary of Housing and Urban Development, shall award grants, contracts, or cooperative agreements for a period of not less than 2 years to eligible entities to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, and stalking who are currently homeless or at risk for becoming homeless.

"(2) Amount.—The Secretary of Health and Human Services shall award funds in amounts—

"(A) not less than $25,000 per year; and

"(B) not more than $1,000,000 per year.

"(b) Eligible Entities.—To be eligible to receive funds under this section, an entity shall demonstrate that it is a coalition or partnership, applying jointly, that—

"(1) shall include a domestic violence victim service provider;

"(2) shall include—

"(A) a homeless service provider;

"(B) a nonprofit, nongovernmental community housing development organization or a Department of Agriculture rural housing service program; or

"(C) in the absence of a homeless service provider on tribal lands or nonprofit, nongovernmental community housing development organization on tribal lands, a tribally designated housing entity or tribal housing consortium;

"(3) may include a dating violence, sexual assault, or stalking victim service provider;

"(4) may include housing developers, housing corporations, State housing finance agencies, other housing agencies, and associations representing landlords;

"(5) may include a public housing agency or tribally designated housing entity;

"(6) may include tenant organizations in public or tribally designated housing, as well as nonprofit, nongovernmental tenant organizations;

"(7) may include other nonprofit, nongovernmental organizations participating in the Department of Housing and Urban Development's Continuum of Care process;

"(8) may include a State, tribal, territorial, or local government or government agency; and

"(9) may include any other agencies or nonprofit, nongovernmental organizations with the capacity to provide effective help to adult and youth victims of domestic violence, dating violence, sexual assault, or stalking.

"(c) Application.—Each eligible entity seeking funds under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

"(d) Use of Funds.—

"(1) In general.—Funds awarded to eligible entities under subsection (a) shall be used to design or replicate and implement new activities, services, and programs to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents, who are currently homeless or at risk of becoming homeless.

"(2) Activities, services, programs.—Such activities, services, or programs described in paragraph (1)—

"(A) shall participate in the Department of Housing and Urban Development's Continuum of Care process, unless such a process does not exist in the community to be served;

"(B) shall develop sustainable long-term housing in the community by—

"(i) coordinating efforts and resources among the various groups and organizations comprised in the entity to access existing private and public funding;

"(ii) assisting with the placement of individuals and families in long-term housing; and

"(iii) providing services to help individuals or families find and maintain long-term housing, including financial assistance and support services;

"(3) may develop partnerships with individuals, organizations, corporations, or other entities that provide capital costs for the purchase, preconstruction, construction, renovation, repair, or conversion of affordable housing units;

"(4) may use funds for the administrative expenses related to the continuing operation, upkeep, maintenance, and use of housing described in paragraph (3); and

"(5) may provide to the community information about housing and housing programs, and the process to locate and obtain long-term housing.

"(e) Limitation.—Funds provided under paragraph (a) shall not be used for construction, modernization or renovation.

"(f) Underserved Populations and Priorities.—In awarding grants under this section, the Secretary of Health and Human Services shall—

"(1) give priority to linguistically and culturally specific services;

"(2) give priority to applications from entities that include a sexual assault service provider as described in subsection (b)(3); and

"(3) award a minimum of 15 percent of the funds appropriated under this section in any fiscal year to tribal organizations.

"(g) Definitions.—For purposes of this section:

"(1) Affordable housing.—The term 'affordable housing' means housing that complies with the conditions set forth in section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745).

"(2) Long-term housing.—The term 'long-term housing' means housing that is sustainable, accessible, affordable, and safe for the foreseeable future and is—

"(A) rented or owned by the individual;

"(B) subsidized by a voucher or other program which is not time-limited and is available for as long as the individual meets the eligibility requirements for the voucher or program; or

"(C) provided directly by a program, agency, or organization and is not time-limited and is available for as long as the individual meets the eligibility requirements for the program, agency, or organization.

"(h) EVALUATION, MONITORING, ADMINISTRATION, AND TECHNICAL ASSISTANCE.—For purposes of this section—

"(1) up to 5 percent of the funds appropriated under subsection (i) for each fiscal year may be used by the Secretary of Health and Human Services for evaluation, monitoring, and administration costs under this section; and

"(2) up to 8 percent of the funds appropriated under subsection (i) for each fiscal year may be used to provide technical assistance to grantees under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this section.

On page 472, line 12, strike "**TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANT WOMEN**" and insert "**TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANTS**".

On page 473, line 5, strike "related to" and insert "substantially connected to".

On page 473, strike lines 21 through 24, and insert the following:

"(iii) if the Secretary of Homeland Security determines that a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance described in clause (i)(III)(aa), the request is unreasonable.".

On page 474, strike lines 5 through 10, and insert the following:

(1) in clause (i), by striking "Attorney General" and inserting "Secretary of Homeland Security";

On page 474, line 24, strike "(including physical or electronic stalking)".

On page 475, line 19, insert "substantial" before "connection between the"

On page 476, line 15, strike "1 year" and insert "2 years".

On page 479, strike lines 5 through 25, and insert the following:

(A) in the matter preceding subclause (I), by inserting "or the Secretary of Homeland Security, as appropriate" after "Attorney General"; and

(B) in subclause (II)(bb), by inserting "or the Secretary of Homeland Security" after "Attorney General".

On page 480, strike lines 11 through 14, and insert "information.".

On page 486, line 10, insert "substantial" before "connection between the"

On page 487, lines 10 and 11, strike "occurred before the alien overstayed the grant of voluntary departure" and insert "is substantially connected to the alien's overstaying the grant of voluntary departure".

On page 488, strike beginning with line 21 through page 490, line 8.

On page 530, line 13, insert "of the Department of Health and Human Services" after "Secretary".

On page 532, line 11, strike "representatives from".

On page 533, line 20, strike "for health" and insert "health".

On page 539, line 22, strike "to" and insert "of".

On page 542, strike lines 20 and 21 and insert the following:

(1) in subsection (a)(1)(C), by striking "DNA profiles" and all that follows through ", and";

On page 542, after line 21, insert the following:

(1A) in subsection (d)(1), by striking subparagraph (A), and inserting the following:

"(A) The Director of the Federal Bureau of Investigation shall promptly expunge from the index described in subsection (a) the DNA analysis of a person included in the index—

"(i) on the basis of conviction for a qualifying Federal offense or a qualifying District of Columbia offense (as determined under sections 3 and 4 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a, 14135b), respectively), if the Director receives, for each conviction of the person of a qualifying offense, a certified copy of a final court order establishing that such conviction has been overturned; or

"(ii) on the basis of an arrest under the authority of the United States, if the Attorney General receives, for each charge against the person on the basis of which the analysis was, or could have been, included in the index, a certified copy of a final court order establishing that such charge has been dismissed, has resulted in an acquittal, or that no charge was filed within the applicable time period.";

On page 543, line 4, strike "or resulted in an acquittal" and insert ", or has resulted in an acquittal or that no charge was filed within the applicable time period".

On page 543, line 24, after "or" insert "from non-United States persons who are".

EXPRESSING SYMPATHY FOR THE PEOPLE OF INDONESIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 264, which was submitted early today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 264) expressing sympathy for the people of Indonesia in the aftermath of the deadly terrorist attacks in Bali on October 1, 2005.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 264) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 264

Whereas terrorists have planned and conducted attacks around the world since September 11, 2001, including the bombing of a night club on the Indonesian island of Bali on October 12, 2002, that killed 202 people and injured 209, the bombings of two synagogues and the British Embassy in Istanbul, Turkey, in November 2003, that killed 56 people and injured more than 450, the bombing of the train system in Madrid, Spain, on March 11, 2004, that killed more than 190 people and injured approximately 1,500, and the bombing of London's public transportation system during the morning rush hour on July 7, 2005, that killed 52 people and injured approximately 700;

Whereas terrorists have struck Indonesia on multiple occasions, including the December 5, 2002, bombing of a McDonald's restaurant on Sulawesi Island that killed 3 people and injured 11, the August 5, 2003, bombing of the J.W. Marriott Hotel in Jakarta that killed 12 people and injured 150, and the September 9, 2004, bombing of the Australian Embassy in Jakarta that killed 11 people and injured 100;

Whereas on October 1, 2005, terrorists again struck the popular Indonesian resort island of Bali, detonating explosives in three crowded restaurants that killed at least 19 innocent Indonesian civilians and foreign tourists from around the world and injuring approximately 132 others, including at least 6 citizens of the United States;

Whereas the terrorist attacks in Bali, Indonesia were senseless, barbaric, and depraved acts carried out against innocent civilians;

Whereas Indonesia is a friend and ally of the United States and in the past has endured terrorism against its civilians;

Whereas the people of the United States stand in solidarity with the people of Indonesia in fighting terrorism;

Whereas the United States immediately condemned the terrorist attacks and extended the condolences of the people of the United States to the people of Indonesia; and

Whereas Secretary of State Condoleezza Rice denounced the terrorist attacks on Bali, Indonesia, and stated, "The United States stands with the people and government of Indonesia as they work to bring to justice those responsible for these acts of terrorism. We will continue to work together in our common fight against terror.": Now, therefore, be it

Resolved, That the Senate—

(1) expresses deepest sympathies and condolences to the people of Indonesia and the victims and their families of the heinous terrorist attacks that occurred on the Indonesian island of Bali on October 1, 2005;

(2) condemns these barbaric and unwarranted attacks on the innocent people of Indonesia and foreign tourists;

(3) expresses strong and continued solidarity with the people of Indonesia in opposing extremism and pledges to remain shoulder-to-shoulder with the people of Indonesia to bring the terrorists responsible for these and other brutal acts of violence to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedoms, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that contributes to terrorism.

VIOLENCE AGAINST WOMEN ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 205, S. 1197.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1197) to reauthorize the Violence Against Women Act of 1994.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Violence Against Women Act of 2005".

[SEC. 2. TABLE OF CONTENTS.

[The table of contents for this Act is as follows:

[Sec. 1. Short title.
[Sec. 2. Table of contents.
[Sec. 3. Universal definitions and grant provisions.

[TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE AGAINST WOMEN

[Sec. 101. Stop grants improvements.
[Sec. 102. Grants to encourage arrest and enforce protection orders improvements.
[Sec. 103. Legal assistance for victims improvements.
[Sec. 104. Ensuring crime victim access to legal services.
[Sec. 105. The Violence Against Women Act court training and improvements.
[Sec. 106. Full faith and credit improvements.
[Sec. 107. Privacy protections for victims of domestic violence, dating violence, sexual violence, and stalking.
[Sec. 108. Sex offender management.
[Sec. 109. Stalker database.
[Sec. 110. Federal victim assistants reauthorization.
[Sec. 111. Grants for law enforcement training programs.
[Sec. 112. Reauthorization of the Court-Appointed Special Advocate Program.
[Sec. 113. Preventing cyberstalking.
[Sec. 114. Criminal provision relating to stalking.
[Sec. 115. Repeat offender provision.
[Sec. 116. Prohibiting dating violence.
[Sec. 117. Prohibiting violence in special maritime and territorial jurisdiction.

[TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

[Sec. 201. Findings.
[Sec. 202. Sexual assault services program.
[Sec. 203. Amendments to the rural domestic violence and child abuse enforcement assistance program.
[Sec. 204. Training and services to end violence against women with disabilities.
[Sec. 205. Training and services to end violence against women in later life.
[Sec. 206. Strengthening the national domestic violence hotline.

[TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

[Sec. 301. Findings.
[Sec. 302. Rape prevention and education.
[Sec. 303. Services, education, protection, and justice for young victims of violence.
[Sec. 304. Grants to reduce violence against women on campus.
[Sec. 305. Juvenile justice.
[Sec. 306. Safe havens.

[TITLE IV—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE

[Sec. 401. Preventing violence against women and children.
[Sec. 402. Study conducted by the Centers for Disease Control and Prevention.

[TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

[Sec. 501. Findings.
[Sec. 502. Purpose.
[Sec. 503. Training and education of health professionals in domestic and sexual violence.
[Sec. 504. Grants to foster public health responses to domestic violence, dating violence, sexual assault, and stalking grants.
[Sec. 505. Research on effective interventions in the healthcare setting.

[TITLE VI—HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

[Sec. 601. Addressing the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking.
[Sec. 602. Transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault, or stalking.
[Sec. 603. Public and Indian housing authority plans reporting requirement.
[Sec. 604. Housing strategies.
[Sec. 605. Amendment to the McKinney-Vento Homeless Assistance Act.
[Sec. 606. Amendments to the low-income housing assistance voucher program.
[Sec. 607. Amendments to the public housing program.

[TITLE VII—PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

[Sec. 701. Emergency leave.
[Sec. 702. Grant for national clearinghouse and resource center on workplace responses to assist victims of domestic and sexual violence.

[TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANT WOMEN

[Subtitle A—Victims of Crime

[Sec. 801. Treatment of spouse and children of victims.
[Sec. 802. Presence of victims of a severe form of trafficking in persons.
[Sec. 803. Adjustment of status for victims of trafficking.
[Sec. 804. Protection and assistance for victims of trafficking.
[Sec. 805. Protecting victims of child abuse.
[Sec. 806. Ensuring crime victim access to legal services.

[Subtitle B—VAWA Self-Petitioners

[Sec. 811. Definition of VAWA self-petitioner.
[Sec. 812. Application to fiancees who do not marry within 90-day period.
[Sec. 813. Application in case of voluntary departure.
[Sec. 814. Removal proceedings.
[Sec. 815. Eliminating abusers' control over applications for adjustments of status.
[Sec. 816. Application for VAWA-related relief.
[Sec. 817. Self-petitioning parents.
[Sec. 818. VAWA confidentiality nondisclosure.

[Subtitle C—Miscellaneous Amendments

[Sec. 821. Duration of T and U visas.
[Sec. 822. Technical correction to references in application of special physical presence and good moral character rules.
[Sec. 823. Petitioning rights of certain former spouses under Cuban adjustment.
[Sec. 824. Self-petitioning rights of HRIFA applicants.
[Sec. 825. Deportation proceedings.
[Sec. 826. Limitations on enforcement.
[Sec. 827. Protecting abused juveniles.
[Sec. 828. Rulemaking.

[TITLE IX—SAFETY FOR INDIAN WOMEN

[Sec. 901. Findings.
[Sec. 902. Purposes.
[Sec. 903. Consultation.
[Sec. 904. Analysis and research on violence against Indian women.
[Sec. 905. Tracking of violence against Indian women.
[Sec. 906. Tribal deputy in the Office on Violence Against Women.
[Sec. 907. Enhanced criminal law resources.
[Sec. 908. Domestic assault by an habitual offender.

[SEC. 3. UNIVERSAL DEFINITIONS AND GRANT PROVISIONS.

[(a) IN GENERAL.—The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding after Section 40001 the following:

"[Sec. 40002. DEFINITIONS AND GRANT PROVISIONS.

["(a) DEFINITIONS.—In this Title:

["(1) COURTS.—The term 'courts' means any civil or criminal, tribal, and Alaskan Village, Federal, State, local or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other person with decisionmaking authority.

["(2) CHILD MALTREATMENT.—The term 'child maltreatment' means the physical or psychological abuse or neglect of a child or youth, including sexual assault and abuse.

["(3) COURT-BASED AND COURT-RELATED PERSONNEL.—The term 'court-based' and 'court-related personnel' mean persons working in the court, whether paid or volunteer, including—

["(A) clerks, special masters, domestic relations officers, administrators, mediators, custody evaluators, guardians ad litem, lawyers, negotiators, probation, parole, interpreters, victim assistants, victim advocates, and judicial, administrative, or any other professionals or personnel similarly involved in the legal process;

["(B) court security personnel;

["(C) personnel working in related, supplementary offices or programs (such as child support enforcement); and

["(D) any other court-based or community-based personnel having responsibilities or authority to address domestic violence, dating violence, sexual assault, or stalking in the court system.

["(4) DOMESTIC VIOLENCE.—The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult, youth, or child victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

[‘‘(5) DATING PARTNER.—The term ‘dating partner’ refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and existence of such a relationship based on a consideration of—

[‘‘(A) the length of the relationship;

[‘‘(B) the type of relationship; and

[‘‘(C) the frequency of interaction between the persons involved in the relationship.

[‘‘(6) DATING VIOLENCE.—The term ‘dating violence’ means violence committed by a person—

[‘‘(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

[‘‘(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

[‘‘(i) The length of the relationship.

[‘‘(ii) The type of relationship.

[‘‘(iii) The frequency of interaction between the persons involved in the relationship.

[‘‘(7) ELDER ABUSE.—The term ‘elder abuse’ means any action against a person who is 60 years of age or older that constitutes the willful—

[‘‘(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

[‘‘(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

[‘‘(8) INDIAN.—The tefm ‘Indian’ means a member of an Indian tribe.

[‘‘(9) INDIAN HOUSING.—The term ‘Indian housing’ means housing assistance described in the Native American Assistance and Self-Determination Act of (25 U.S.C. 4101 et seq., as amended).

[‘‘(10) INDIAN TRIBE.—The term ‘Indian tribe’ means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[‘‘(11) INDIAN LAW ENFORCEMENT.—The term ‘Indian law enforcement’ means the departments or individuals under the direction of the Indian tribe that maintain public order.

[‘‘(12) LAW ENFORCEMENT.—The term ‘law enforcement’ means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs), including those referred to in Section 3 of the Indian Enforcement Reform Act (25 U.S.C. 2802).

[‘‘(13) LEGAL ASSISTANCE.—The term ‘legal assistance’ includes assistance to adult and youth victims of domestic violence, dating violence, sexual assault, and stalking in—

[‘‘(A) family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay away order proceedings, and other similar matters; and

[‘‘(B) criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy.

[‘‘(14) LINGUISTICALLY AND CULTURALLY SPECIFIC SERVICES.—The term ‘linguistically and culturally specific services’ means community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward racial and ethnic populations and other underserved communities.

[‘‘(15) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term ‘personally identifying information’ or ‘personal information’ means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

[‘‘(A) a first and last name;

[‘‘(B) a home or other physical address;

[‘‘(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

[‘‘(D) a social security number; and

[‘‘(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.

[‘‘(16) PROSECUTION.—The term ‘prosecution’ means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs).

[‘‘(17) PROTECTION ORDER OR RESTRAINING ORDER.—The term ‘protection order’ or ‘restraining order’ includes—

[‘‘(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

[‘‘(B) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

[‘‘(18) RURAL AREA AND RURAL COMMUNITY.—The term ‘rural area’ and ‘rural community’ mean—

[‘‘(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

[‘‘(B) any area or community, respectively, that is—

[‘‘(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

[‘‘(ii) located in a rural census tract.

[‘‘(19) RURAL STATE.—The term ‘rural State’ means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people, based on the most recent decennial census.

[‘‘(20) SEXUAL ASSAULT.—The term ‘sexual assault’ means any conduct prescribed by chapter 109A of Title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

[‘‘(21) STALKING.—The term ‘stalking’ means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

[‘‘(A) fear for his or her safety or the safety of others; or

[‘‘(B) suffer substantial emotional distress.

[‘‘(22) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and except as otherwise provided, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

[‘‘(23) STATE DOMESTIC VIOLENCE COALITION.—The term ‘State domestic violence coalition’ means a program determined by the Administration for Children and Families under the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)).

[‘‘(24) STATE SEXUAL ASSAULT COALITION.—The term ‘State sexual assault coalition’ means a program determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

[‘‘(25) TERRITORIAL DOMESTIC VIOLENCE OR SEXUAL ASSAULT COALITION.—The term ‘territorial domestic violence or sexual assault coalition’ means a program addressing domestic violence that is—

[‘‘(A) an established nonprofit, nongovernmental territorial coalition addressing domestic violence or sexual assault within the territory; or

[‘‘(B) a nongovernmental organization with a demonstrated history of addressing domestic violence or sexual assault within the territory that proposes to incorporate as a nonprofit, nongovernmental territorial coalition.

[‘‘(26) TRIBAL COALITION.—The term ‘tribal coalition’ means—

[‘‘(A) an established nonprofit, nongovernmental tribal coalition addressing domestic violence and sexual assault against American Indian and Alaskan Native women; or

[‘‘(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaskan Native women.

[‘‘(27) TRIBAL GOVERNMENT.—The term ‘tribal government’ means—

[‘‘(A) the governing body of an Indian tribe; or

[‘‘(B) a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[‘‘(28) TRIBAL ORGANIZATION.—The term ‘tribal organization’ means—

[‘‘(A) the governing body of any Indian tribe;

[‘‘(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body of a tribe or tribes to be served, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; or

[''(C) any tribal nonprofit organization.

[''(29) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General.

[''(30) VICTIM ADVOCATE.—The term 'victim advocate' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a victim services program.

[''(31) VICTIM ASSISTANT.—The term 'victim assistant' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

[''(32) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term 'victim services' or 'victim service provider' means a nonprofit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence women's shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

[''(33) YOUTH.—The term 'youth' means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

[''(b) GRANT CONDITIONS.—

[''(1) MATCH.—No matching funds shall be required for a grant or subgrant made under this title for any unit of local government, tribe, territory, or victim service provider.

[''(2) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

[''(A) IN GENERAL.—In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantee and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

[''(B) NONDISCLOSURE.—Subject to subparagraphs (C) and (D), grantees and subgrantees shall not—

[''(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

[''(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program.

[''(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate—

[''(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information;

[''(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information; and

[''(iii) consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.

[''(D) INFORMATION SHARING.—Grantees and subgrantees may share—

[''(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

[''(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

[''(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

[''(3) APPROVED ACTIVITIES.—In carrying out the activities under this title, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

[''(4) NON-SUPPLANTATION.—Any Federal funds received under this title shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities under this title.

[''(5) USE OF FUNDS.—Funds authorized and appropriated under this title may be used only for the specific purposes described in this title and shall remain available until expended.''.

[''(c) REPORTS.—An entity receiving a grant under this title shall submit to the disbursing agency a report detailing the activities undertaken with the grant funds, including and providing additional information as the agency shall require.

[''(d) EVALUATION.—Federal agencies disbursing funds under this title shall set aside up to 3 percent of such funds in order to conduct—

[''(1) evaluations of specific programs or projects funded by the disbursing agency under this title or related research; or

[''(2) evaluations of promising practices or problems emerging in the field or related research, in order to inform the agency or agencies as to which programs or projects are likely to be effective or responsive to needs in the field.''.

[(b) DEFINITIONS IN CRIME CONTROL ACT.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by inserting before section 2001 the following:

["SEC. 2000. DEFINITIONS.

[''In this title the definitions in Section 40002 of the Violence Against Women Act of 1994 shall apply.''.

[(c) DEFINITIONS IN 2000 ACT.—Section 1002 of the Violence Against Women Act of 2002 (42 U.S.C. 3796-gg note) is amended to read as follows:

["SEC. 1002. DEFINITIONS.

[''In this division the definitions in Section 40002 of the Violence Against Women Act of 1994 shall apply.''.

[TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE AGAINST WOMEN

[SEC. 101. STOP GRANTS IMPROVEMENTS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended by striking "$185,000,000 for each of fiscal years 2001 through 2005'' and inserting "$225,000,000 for each of fiscal years 2006 through 2010''.

[(b) PURPOSE AREA ENHANCEMENTS.—Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

[(1) in paragraph (10), by striking ''and'' after the semicolon;

[(2) in paragraph (11), by striking the period and inserting ''; and''; and

[(3) by adding at the end the following:

[''(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families.''.

[(c) CLARIFICATION OF ACTIVITIES REGARDING UNDERSERVED POPULATIONS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1) is amended—

[(1) in subsection (c)(2), by inserting before the semicolon the following: ''and describe how the State will address the needs of racial and ethnic populations and underserved populations''; and

[(2) in subsection (e)(2), by striking subparagraph (D) and inserting the following:

[''(D) recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund linquistically and culturally specific services and activities for underserved populations are distributed equally among those populations.''.

[(d) TRIBAL AND TERRITORIAL SETASIDES.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1) is amended—

[(1) in subsection (b)—

[(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'';

[(B) in paragraph (2), striking by ''1/54'' and inserting ''1/56'';

[(C) in paragraph (3), by striking ''and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54'' and inserting "coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56'';

[(D) in paragraph (4), by striking ''1/54'' and inserting ''1/56'';

[(E) in paragraph (5), by striking ''and'' after the semicolon; and

[(F) in paragraph (6), by striking the period and inserting ''; and'';

[(2) in subsection (d)—

[(A) in paragraph (2), by striking ''and'' after the semicolon;

[(B) in paragraph (3), by striking the period and inserting ''; and''; and

[(C) by adding at the end the following:

[''(4) documentation showing that tribal, territorial, State or local prosecution, law enforcement, and court and victim service providers have consulted with tribal, territorial, State, or local victim services programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.''.

[(e) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1) is amended by adding at the end the following:

["(i) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—

["(1) IN GENERAL.—Of the total amounts appropriated under this part, not less than 3 percent and up to 8 percent shall be available for providing training and technical assistance relating to the purpose areas of this part to improve the capacity of grantees, subgrantees and other entities.

["(2) INDIAN TRAINING.—The Director of the Office on Violence Against Women shall ensure that training or technical assistance regarding violence against Indian women will be developed and provided by entities having expertise in tribal law and culture.".

[(f) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—Section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4) is amended by adding at the end the following:

["(c) USE OF FUNDS.—A State or Indian tribal government may use Federal grant funds under this part to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State or Indian tribal government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

["(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.

["(e) JUDICIAL NOTIFICATION.—

["(1) IN GENERAL.—A State, Indian tribal government, or unit of local government shall not be entitled to funds under this part unless the State, Indian tribal government, or unit of local government—

["(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in Section 922(g)(8) and (g)(9) of Title 18, United States Code, and any applicable related Federal, State, or local laws; or

["(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of—

["(i) the period ending on the date on which the next session of the State legislature ends; or

["(ii) 2 years.

["(2) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal governments, pro rata.".

[(g) POLYGRAPH TESTING PROHIBITION.—Part T of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

["SEC. 2012. POLYGRAPH TESTING PROHIBITION.

["(a) IN GENERAL.—In order to be eligible for grants under this part, a State, Indian tribal government, territorial government, or unit of local government must certify within 3 years of the date of enactment of this section that their laws, policies, or practices ensure that no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense.

["(b) PROSECUTION.—The refusal of a victim to submit to an examination described in subsection (a) shall not prevent the investigation, charging, or prosecution of the offense.".

[SEC. 102. GRANTS TO ENCOURAGE ARREST AND ENFORCE PROTECTION ORDERS IMPROVEMENTS.

[(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(19) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(19)) is amended by striking "$65,000,000 for each of fiscal years 2001 through 2005" and inserting "$75,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this paragraph shall remain available until expended.".

[(b) GRANTEE REQUIREMENTS.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

[(1) in subsection (a), by striking "to treat domestic violence as a serious violation" and inserting "to treat domestic violence, dating violence, sexual assault, and stalking as serious violations";

[(2) in subsection (b)—

[(A) in the matter before paragraph (1), by inserting after "State" the following: ", tribal, territorial,";

[(B) in paragraph (1), by—

[(i) striking "mandatory arrest or"; and

[(ii) striking "mandatory arrest programs and";

[(C) in paragraph (2), by—

[(i) inserting after "educational programs," the following: "protection order registries,";

[(ii) striking "domestic violence and dating violence" and inserting "domestic violence, dating violence, sexual assault, and stalking. Policies, educational programs, registries, and training described in this paragraph shall incorporate confidentiality, and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking";

[(D) in paragraph (3), by—

[(i) striking "domestic violence cases" and inserting "domestic violence, dating violence, sexual assault, and stalking cases"; and

[(ii) striking "groups" and inserting "teams";

[(E) in paragraph (5), by striking "domestic violence and dating violence" and inserting "domestic violence, dating violence, sexual assault, and stalking";

[(F) in paragraph (6), by—

[(i) striking "other" and inserting "civil"; and

[(ii) inserting after "domestic violence" the following: ", dating violence, sexual assault, and stalking"; and

[(G) by adding at the end the following:

["(9) To develop State, territorial, or local policies, procedures, and protocols, and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

["(10) To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from non-profit, non-governmental victim services organizations, law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to improve safety, access to services, and confidentiality for victims and families.

["(11) To develop and implement policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.";

[(3) in subsection (c)—

[(A) in paragraph (3), by striking "and" after the semicolon;

[(B) in paragraph (4), by striking the period and inserting "; and"; and

[(C) by adding at the end the following:

["(5) certify, not later than 3 years after the date of enactment of this section, that their laws, policies, or practices ensure that—

["(A) no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense; and

["(B) the refusal of a victim to submit to an examination described in subparagraph (A) shall not prevent the investigation of the offense."; and

[(4) by striking subsections (d) and (e) and inserting the following:

["(d) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.".

[(c) APPLICATIONS.—Section 2102(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-1(b)) is amended in each of paragraphs (1) and (2) by inserting after "involving domestic violence" the following: ", dating violence, sexual assault, or stalking".

[(d) TRAINING, TECHNICAL ASSISTANCE, CONFIDENTIALITY.—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

["SEC. 2106. TRAINING AND TECHNICAL ASSISTANCE.

["Of the total amounts appropriated under this part, not less than 5 percent and up to 8 percent shall be available for providing training and technical assistance relating to the purpose areas of this part to improve the capacity of grantees and other entities to offer services and assistance to victims of domestic violence and dating violence.".

[SEC. 103. LEGAL ASSISTANCE FOR VICTIMS IMPROVEMENTS.

[Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg-6) is amended—

[(1) in subsection (a), by—

[(A) inserting before "legal assistance" the following: "civil and criminal";

[(B) inserting after "effective aid to" the following: "adult and youth"; and

[(C) inserting at the end the following: "Criminal legal assistance provided for under this section shall be limited to criminal matters relating to domestic violence, sexual assault, dating violence, and stalking.";

[(2) in subsection (c), by inserting "and tribal organizations, territorial organizations" after "Indian tribal governments";

[(3) in subsection (d)—

[(A) by striking paragraph (2) and inserting the following:

[''(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organization or coalition, as well as appropriate tribal, State, territorial, and local law enforcement officials; and

[(B) in paragraph (4), by inserting "dating violence," after "domestic violence,";

[(4) in subsection (e), by inserting "dating violence," after "domestic violence,"; and

[(5) in subsection (f)—

[(A) by striking paragraph (1) and inserting the following:

[''(1) In General.—There is authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 2006 through 2010."; and

[(B) in paragraph (2)(A), by—

[(i) striking "5 percent" and inserting "10 percent"; and

[(ii) inserting "adult and youth" after "that assist".

[SEC. 104. ENSURING CRIME VICTIM ACCESS TO LEGAL SERVICES.

[(a) In General.—Section 502 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119; 111 Stat. 2510) is amended—

[(1) in subsection (a)(2)(C)—

[(A) in the matter preceding clause (i), by striking "using funds derived from a source other than the Corporation to provide" and inserting "providing";

[(B) in clause (i), by striking "in the United States" and all that follows and inserting "or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or"; and

[(C) in clause (ii), by striking "has been battered" and all that follows and inserting ", without the active participation of the alien, has been battered or subjected to extreme cruelty or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U))."; and

[(2) in subsection (b)(2), by striking "described in such subsection" and inserting ", sexual assault or trafficking, or the crimes listed in Section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii))".

[(b) Savings Provision.—Nothing in this Act, or the amendments made by this Act, shall be construed to restrict the legal assistance provided to victims of trafficking and certain family members authorized under Section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)).

[SEC. 105. THE VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS.

[(a) Violence Against Women Act Court Training and Improvements.—The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

["Subtitle J—Violence Against Women Act Court Training and Improvements

["SEC. 41001. SHORT TITLE.

[''This subtitle may be cited as the 'Violence Against Women Act Court Training and Improvements Act of 2005'.

["SEC. 41002. PURPOSE.

[''The purpose of this subtitle is to enable the Attorney General, though the Director of the Office on Violence Against Women, to award grants to improve court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking to be used for—

[''(1) improved internal civil and criminal court functions, responses, practices, and procedures;

[''(2) education for court-based and court-related personnel on issues relating to victims' needs, including safety, security, privacy, confidentiality, and economic independence, as well as information about perpetrator behavior and best practices for holding perpetrators accountable;

[''(3) collaboration and training with Federal, State, and local public agencies and officials and nonprofit, nongovernmental organizations to improve implementation and enforcement of relevant Federal, State, tribal, territorial, and local law;

[''(4) enabling courts or court-based or court-related programs to develop new or enhance current—

[''(A) court infrastructure (such as specialized courts, dockets, intake centers, or interpreter services);

[''(B) community-based initiatives within the court system (such as court watch programs, victim assistants, or community-based supplementary services);

[''(C) offender management, monitoring, and accountability programs;

[''(D) safe and confidential information-storage and -sharing databases within and between court systems;

[''(E) education and outreach programs to improve community access, including enhanced access for racial and ethnic communities and underserved populations; and

[''(F) other projects likely to improve court responses to domestic violence, dating violence, sexual assault, and stalking; and

[''(5) providing technical assistance to Federal, State, tribal, territorial, or local courts wishing to improve their practices and procedures or to develop new programs.

["SEC. 41003. GRANT REQUIREMENTS.

[''Grants awarded under this subtitle shall be subject to the following conditions:

[''(1) Eligible grantees.—Eligible grantees may include—

[''(A) Federal, State, tribal, territorial, or local courts or court-based programs; and

[''(B) national, State, tribal, or local private, nonprofit organizations with demonstrated expertise in developing and providing judicial education about domestic violence, dating violence, sexual assault, or stalking.

[''(2) Conditions of eligibility.—To be eligible for a grant under this section, applicants shall certify in writing that—

[''(A) any courts or court-based personnel working directly with or making decisions about adult or minor parties experiencing domestic violence, dating violence, sexual assault, and stalking have completed or will complete education about domestic violence, dating violence, sexual assault, and stalking;

[''(B) any education program developed under Section 41002 has been or will be developed with significant input from and in collaboration with a national, tribal, State, territorial, or local victim services provider or coalition; and

[''(C) the grantee's internal organizational policies, procedures, or rules do not require mediation or counseling between offenders and victims physically together in cases where domestic violence, dating violence, sexual assault, or stalking is an issue.

["SEC. 41004. NATIONAL EDUCATION CURRICULA.

[''(a) In General.—The Attorney General, through the Director of the Office on Violence Against Women, shall fund efforts to develop a national education curriculum for use by State and national judicial educators to ensure that all courts and court personnel have access to information about relevant Federal, State, territorial, or local law, promising practices, procedures, and policies regarding court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking.

[''(b) Eligible Entities.—Any curricula developed under this section—

[''(1) shall be developed by an entity or entities having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; or

[''(2) if the primary grantee does not have demonstrated expertise with such issues, shall be developed by the primary grantee in partnership with an organization having such expertise.

["SEC. 41005. TRIBAL CURRICULA.

[''(a) In General.—The Attorney General, through the Office on Violence Against Women, shall fund efforts to develop education curricula for tribal court judges to ensure that all tribal courts have relevant information about promising practices, procedures, policies, and law regarding tribal court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking.

[''(b) Eligible Entities.—Any curricula developed under this section—

[''(1) shall be developed by a tribal organization having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; and

[''(2) if the primary grantee does not have such expertise, the curricula shall be developed by the primary grantee through partnership with organizations having such expertise.

["SEC. 41006. AUTHORIZATION OF APPROPRIATIONS.

[''(a) In General.—There is authorized to be appropriated to carry out this subtitle $5,000,000 for each of fiscal years 2006 to 2010.

[''(b) Availability.—Funds appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this subtitle.

[''(c) Set Aside.—Of the amounts made available under this subsection in each fiscal year, not less than 10 percent shall be used for grants to tribes.".

[SEC. 106. FULL FAITH AND CREDIT IMPROVEMENTS.

[(a) Enforcement of Protection Orders Issued by Territories.—Section 2265 of Title 18, United States Code, is amended by—

[(1) striking "or Indian tribe" each place it appears and inserting ", Indian tribe, or territory"; and

[(2) striking "State or tribal" each place it appears and inserting "State, tribal, or territorial".

[(b) Clarification of Entities Having Enforcement Authority and Responsibilities.—Section 2265(a) of title 18, United States Code, is amended by striking "and enforced as if it were" and inserting "and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were".

[(c) Limits on Internet Publication of Protection Order Information.—Section 2265(d) of title 18, United States Code, is amended by adding at the end the following:

["(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.—A State, Indian tribe, or territory shall not publish publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.".

[(d) DEFINITIONS.—Section 2266 of title 18, United States Code, is amended—

[(1) by striking paragraph (5) and inserting the following:

["(5) PROTECTION ORDER.—The term 'protection order' includes—

["(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

["(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking."; and

[(2) in clauses (i) and (ii) of paragraph (7)(A), by striking "2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser" and inserting "2261A—

["(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or

["(II) a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship".

[SEC. 107. PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING.

[The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

["Subtitle K—Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking

["SEC. 41101. GRANTS TO PROTECT THE PRIVACY AND CONFIDENTIALITY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

["The Attorney General, through the Director of the Office on Violence Against Women, may award grants under this subtitle to States, tribes, territories, or local agencies or nonprofit, nongovernmental organizations to ensure that personally identifying information of adult, youth, and child victims of domestic violence, sexual violence, stalking, and dating violence shall not be released or disclosed to the detriment of such victimized persons.

["SEC. 41102. PURPOSE AREAS.

["Grants made under this subtitle may be used—

["(1) to develop or improve protocols, procedures, and policies for the purpose of preventing the release of personally identifying information of victims (such as developing alternative identifiers);

["(2) to defray the costs of modifying or improving existing databases, registries, and victim notification systems to ensure that personally identifying information of victims is protected from release, unauthorized information sharing and disclosure;

["(3) to develop confidential opt out systems that will enable victims of violence to make a single request to keep personally identifying information out of multiple databases, victim notification systems, and registries; or

["(4) to develop safe uses of technology (such as notice requirements regarding electronic surveillance by government entities), to protect against abuses of technology (such as electronic or GPS stalking), or providing training for law enforcement on high tech electronic crimes of domestic violence, dating violence, sexual assault, and stalking.

["SEC. 41103. ELIGIBLE ENTITIES.

["Entities eligible for grants under this subtitle include—

["(1) jurisdictions or agencies within jurisdictions having authority or responsibility for developing or maintaining public databases, registries or victim notification systems;

["(2) nonprofit nongovernmental victim advocacy organizations having expertise regarding confidentiality, privacy, and information technology and how these issues are likely to impact the safety of victims;

["(3) States or State agencies;

["(4) local governments or agencies;

["(5) tribal governments, agencies, or organizations;

["(6) territorial governments, agencies, or organizations; or

["(7) nonprofit nongovernmental victim advocacy organizations, including statewide domestic violence and sexual assault coalitions.

["SEC. 41104. GRANT CONDITIONS.

["Applicants described in paragraphs (3) through (7) shall demonstrate that they have entered into a significant partnership with a State, tribal, territorial, or local victim service or advocacy organization in order to develop safe, confidential, and effective protocols, procedures, policies, and systems for protecting personally identifying information of victims.

["SEC. 41105. AUTHORIZATION OF APPROPRIATIONS.

["(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $5,000,000 for each of fiscal years 2006 through 2010.

["(b) TRIBAL ALLOCATION.—Of the amount made available under this section in each fiscal year, 10 percent shall be used for grants for programs that assist victims of domestic violence, dating violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe.

["(c) TECHNICAL ASSISTANCE AND TRAINING.—Of the amount made available under this section in each fiscal year, not less than 5 percent shall be used for grants to organizations that have expertise in confidentiality, privacy, and technology issues impacting victims of domestic violence, dating violence, sexual assault, and stalking to provide technical assistance and training to grantees and non-grantees on how to improve safety, privacy, confidentiality, and technology to protect victimized persons.".

[SEC. 108. SEX OFFENDER MANAGEMENT.

[Section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941) is amended by striking subsection (c) and inserting the following:

["(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2010.".

[SEC. 109. STALKER DATABASE.

[Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended—

[(1) by striking "2001" and inserting "2006"; and

[(2) by striking "2006" and inserting "2010".

[SEC. 110. FEDERAL VICTIM ASSISTANTS REAUTHORIZATION.

[Section 40114 of the Violence Against Women Act of 1994 (Public Law 103–322) is amended to read as follows:

["SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM ASSISTANTS.

["There are authorized to be appropriated for the United States attorneys for the purpose of appointing victim assistants for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia), $1,000,000 for each of fiscal years 2006 through 2010.".

[SEC. 111. GRANTS FOR LAW ENFORCEMENT TRAINING PROGRAMS.

[(a) DEFINITIONS.—In this section:

[(1) ACT OF TRAFFICKING.—The term "act of trafficking" means an act or practice described in paragraph (8) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

[(2) ELIGIBLE ENTITY.—The term "eligible entity" means a State or a local government.

[(3) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.

[(4) VICTIM OF TRAFFICKING.—The term "victim of trafficking" means a person subjected to an act of trafficking.

[(b) GRANTS AUTHORIZED.—The Attorney General may award grants to eligible entities to provide training to State and local law enforcement personnel to identify and protect victims of trafficking.

[(c) USE OF FUNDS.—A grant awarded under this section shall be used to—

[(1) train law enforcement personnel to identify and protect victims of trafficking, including training such personnel to utilize Federal, State, or local resources to assist victims of trafficking;

[(2) train law enforcement or State or local prosecutors to identify, investigate, or prosecute acts of trafficking; or

[(3) train law enforcement or State or local prosecutors to utilize laws that prohibit acts of trafficking and to assist in the development of State and local laws to prohibit acts of trafficking.

[(d) RESTRICTIONS.—

[(1) ADMINISTRATIVE EXPENSES.—An eligible entity that receives a grant under this section may use not more than 5 percent of the total amount of such grant for administrative expenses.

[(2) NONEXCLUSIVITY.—Nothing in this section may be construed to restrict the ability of an eligible entity to apply for or obtain funding from any other source to carry out the training described in subsection (c).

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out the provisions of this section.

[SEC. 112. REAUTHORIZATION OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

[(a) FINDINGS.—Section 215 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13011) is amended by striking paragraphs (1) and (2) and inserting the following:

["(1) Court Appointed Special Advocates, who may serve as guardians ad litem, are trained volunteers appointed by courts to advocate for the best interests of children who are involved in the juvenile and family court system due to abuse or neglect;

["(2) the National Court Appointed Special Advocate Association maintains a system of accountability, including standards, quality assurance, training, and technical assistance for a network of 70,000 volunteers in more than 850 programs operating in 49 States, the District of Columbia, and the Virgin Islands; and

["(3) in 2003, Court Appointed Special Advocate volunteers represented 288,000 children, more than 50 percent of the estimated 540,000 children in foster care because of substantiated cases of child abuse or neglect.".

[(b) IMPLEMENTATION DATE.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "January 1, 1995" and inserting "January 1, 2010".

[(c) CLARIFICATION OF PROGRAM GOALS.—Section 217 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13013) is amended—

[(1) in subsection (a), by striking "to expand" and inserting "to initiate, sustain, and expand";

[(2) subsection (b)—

[(A) in paragraph (1), by striking "to initiate or expand" and inserting "to initiate, sustain, and expand"; and

[(B) in paragraph (2), by—

[(i) striking "(1)(a)" and inserting "(1)(A)"; and

[(ii) striking "to initiate and to expand" and inserting "to initiate, sustain, and expand"; and

[(3) by adding at the end the following:

["(d) BACKGROUND CHECKS.—State and local Court Appointed Special Advocate programs are authorized to request criminal background checks from the Federal Bureau of Investigation National Crime Information Center for prospective volunteers. The requesting program is responsible for the reasonable costs associated with the Federal records check.".

[(d) REAUTHORIZATION.—Section 218 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014) is amended by striking subsection (a) and inserting the following:

["(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this subtitle $17,000,000 for each of fiscal years 2006 through 2010.".

[SEC. 113. PREVENTING CYBERSTALKING.

[(a) IN GENERAL.—Paragraph (1) of section 223(h) of the Communications Act of 1934 (47 U.S.C. 223(h)(1)) is amended—

[(1) in subparagraph (A), by striking "and" at the end;

[(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

[(3) by adding at the end the following new subparagraph:

["(C) in the case of subparagraph (C) of subsection (a)(1), includes any device or software that can be used to originate telecommunications or other types of communications that are transmitted, in whole or in part, by the Internet (as such term is defined in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note)).".

[(b) RULE OF CONSTRUCTION.—This section and the amendment made by this section may not be construed to affect the meaning given the term "telecommunications device" in section 223(h)(1) of the Communications Act of 1934, as in effect before the date of the enactment of this section.

[SEC. 114. CRIMINAL PROVISION RELATING TO STALKING.

[(a) INTERSTATE STALKING.—Section 2261A of title 18, United States Code, is amended to read as follows:

["§ 2261A. Stalking

["Whoever—

["(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, place under surveillance, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional harm to that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

["(2) with the intent—

["(A) to kill, injure, harass, place under surveillance, intimidate, or cause substantial emotional harm to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

["(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

["(i) that person;

["(ii) a member of the immediate family (as defined in section 115 of that person; or

["(iii) a spouse or intimate partner of that person;

[uses the mail or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional harm to that person or places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B);

[shall be punished as provided in section 2261(b) of this title.".

[SEC. 115. REPEAT OFFENDER PROVISION.

[Chapter 110A of title 18, United States Code, is amended by adding after section 2265 the following:

["§ 2265A. Repeat offender provision .

["The maximum term of imprisonment for a violation of this chapter after a prior interstate domestic violence offense (as defined in section 2261) or interstate violation of protection order (as defined in section 2262) or interstate stalking (as defined in sections 2261A(a) and 2261A(b)) may be twice the term otherwise provided for the violation.".

[SEC. 116. PROHIBITING DATING VIOLENCE.

[(a) IN GENERAL.—Section 2261(a) of title 18, United States Code, is amended—

[(1) in paragraph (1), striking "or intimate partner" and inserting ", intimate partner, or dating partner"; and

[(2) in paragraph (2), striking "or intimate partner" and inserting ", intimate partner, or dating partner".

[(b) DEFINITION.—Section 2266 of title 18, United States Code, is amended by adding at the end the following:

["(10) DATING PARTNER.—The term 'dating partner' refers to person who is or has been in a social relationship of a romantic or intimate nature with the abuser and the existence of such a relationship based on a consideration of—

["(A) the length of the relationship; and

["(B) the type of relationship; and

["(C) the frequency of interaction between the persons involved in the relationship.".

[SEC. 117. PROHIBITING VIOLENCE IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

[(a) DOMESTIC VIOLENCE.—Section 2261(a)(1) of title 18, United States Code, is amended by inserting after "Indian country" the following: "or within the special maritime and territorial jurisdiction of the United States".

[(b) PROTECTION ORDER.—Section 2262(a)(1) of title 18, United States Code, is amended by inserting after "Indian country" the following: "or within the special maritime and territorial jurisdiction of the United States".

[TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

[SEC. 201. FINDINGS.

[Congress finds the following:

[(1) Nearly ⅓ of American women report physical or sexual abuse by a husband or boyfriend at some point in their lives.

[(2) According to the National Crime Victimization Survey, 248,000 Americans 12 years of age and older were raped or sexually assaulted in 2002.

[(3) Rape and sexual assault in the United States is estimated to cost $127,000,000,000 per year, including—

[(A) lost productivity;

[(B) medical and mental health care;

[(C) police and fire services;

[(D) social services;

[(E) loss of and damage to property; and

[(F) reduced quality of life.

[(4) Nonreporting of sexual assault in rural areas is a particular problem because of the high rate of nonstranger sexual assault.

[(5) Geographic isolation often compound the problems facing sexual assault victims. The lack of anonymity and accessible support services can limit opportunities for justice for victims.

[(6) Domestic elder abuse is primarily family abuse. The National Elder Abuse Incidence Study found that the perpetrator was a family member in 90 percent of cases.

[(7) Barriers for older victims leaving abusive relationships include—

[(A) the inability to support themselves;

[(B) poor health that increases their dependence on the abuser;

[(C) fear of being placed in a nursing home; and

[(D) ineffective responses by domestic abuse programs and law enforcement.

[(8) Disabled women comprise another vulnerable population with unmet needs. Women with disabilities are more likely to be the victims of abuse and violence than women without disabilities because of their increased physical, economic, social, or psychological dependence on others.

[(9) Many women with disabilities also fail to report the abuse, since they are dependent on their abusers and fear being abandoned or institutionalized.

[(10) Of the 598 battered women's programs surveyed—

[(A) only 35 percent of these programs offered disability awareness training for their staff; and

[(B) only 16 percent dedicated a staff member to provide services to women with disabilities.

[(11) Problems of domestic violence are exacerbated for immigrants when spouses control the immigration status of their family members, and abusers use threats of refusal to file immigration papers and threats to deport spouses and children as powerful tools to prevent battered immigrant women from seeking help, trapping battered immigrant women in violent homes because of fear of deportation.

[(12) Battered immigrant women who attempt to flee abusive relationships may not have access to bilingual shelters or bilingual professionals, and face restrictions on public or financial assistance. They may also lack assistance of a certified interpreter in court, when reporting complaints to the police or a 9-1-1 operator, or even in acquiring information about their rights and the legal system.

[(13) More than 500 men and women call the National Domestic Violence Hotline every day to get immediate, informed, and confidential assistance to help deal with family violence.

[(14) The National Domestic Violence Hotline service is available, toll-free, 24 hours a day and 7 days a week, with bilingual staff, access to translators in 150 languages, and a TTY line for the hearing-impaired.

[(15) With access to over 5,000 shelters and service providers across the United States, Puerto Rico, and the United States Virgin Islands, the National Domestic Violence Hotline provides crisis intervention and immediately connects callers with sources of help in their local community.

[(16) Approximately 60 percent of the callers indicate that calling the Hotline is their first attempt to address a domestic violence situation and that they have not called the police or any other support services.

[(17) Between 2000 and 2003, there was a 27 percent increase in call volume at the National Domestic Violence Hotline.

[(18) Improving technology infrastructure at the National Domestic Violence Hotline and training advocates, volunteers, and other staff on upgraded technology will drastically increase the Hotline's ability to answer more calls quickly and effectively.

[SEC. 202. SEXUAL ASSAULT SERVICES PROGRAM.

[Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by inserting after section 2012, as added by this Act, the following:

["SEC. 2013. SEXUAL ASSAULT SERVICES.

["(a) PURPOSES.—The purposes of this section are—

["(1) to assist States, tribes, and territories in providing intervention, advocacy, accompaniment, support services, and related assistance for—

["(A) adult, youth, and child victims of sexual assault;

["(B) family and household members of such victims; and

["(C) those collaterally affected by the victimization, except for the perpetrator of such victimization;

["(2) to provide for technical assistance and training relating to sexual assault to—

["(A) Federal, State, tribal, territorial and local governments, law enforcement agencies, and courts;

["(B) professionals working in legal, social service, and health care settings;

["(C) nonprofit organizations;

["(D) faith-based organizations; and

["(E) other individuals and organizations seeking such assistance.

["(b) GRANTS TO STATES AND TERRITORIES.—

["(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States and territories to support the establishment, maintenance, and expansion of rape crisis centers and other programs and projects to assist those victimized by sexual assault.

["(2) ALLOCATION AND USE OF FUNDS.—

["(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by a State or territory governmental agency under this subsection for any fiscal year may be used for administrative costs.

["(B) GRANT FUNDS.—Any funds received by a State or territory under this subsection that are not used for administrative costs shall be used to provide grants to rape crisis centers and other nonprofit, nongovernmental organizations for programs and activities within such State or territory that provide direct intervention and related assistance.

["(C) INTERVENTION AND RELATED ASSISTANCE.—Intervention and related assistance under subparagraph (B) may include—

["(i) 24 hour hotline services providing crisis intervention services and referral;

["(ii) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

["(iii) crisis intervention, short-term individual and group support services, and comprehensive service coordination and supervision to assist sexual assault victims and family or household members;

["(iv) information and referral to assist the sexual assault victim and family or household members;

["(v) community-based, linguistically and culturally specific services and support mechanisms, including outreach activities for racial and ethnic, and other underserved communities; and

["(vi) the development and distribution of materials on issues related to the services described in clauses (i) through (v).

["(3) APPLICATION.—

["(A) IN GENERAL.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time and in such manner as the Attorney General may reasonably require.

["(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

["(i) set forth procedures designed to assure meaningful involvement of the State or territorial sexual assault coalition and representatives from racial and ethnic and other underserved communities in the development of the application and the implementation of the plans;

["(ii) set forth procedures designed to ensure an equitable distribution of grants and grant funds within the State or territory and between urban and rural areas within such State or territory;

["(iii) identify the State or territorial agency that is responsible for the administration of programs and activities; and

["(iv) meet other such requirements as the Attorney General reasonably determines are necessary to carry out the purposes and provisions of this section.

["(4) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, the District of Columbia, Puerto Rico, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriations.

["(c) GRANTS FOR CULTURALLY SPECIFIC PROGRAMS ADDRESSING SEXUAL ASSAULT.—

["(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to eligible entities to support the establishment, maintenance, and expansion of culturally specific intervention and related assistance for victims of sexual assault.

["(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

["(A) be a private nonprofit organization that focuses primarily on racial and ethnic communities;

["(B) must have documented organizational experience in the area of sexual assault intervention or have entered into a partnership with an organization having such expertise;

["(C) have expertise in the development of community-based, linguistically and culturally specific outreach and intervention services relevant for the specific racial and ethnic communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of racial and ethnic populations; and

["(D) have an advisory board or steering committee and staffing which is reflective of the targeted racial and ethnic community.

["(3) AWARD BASIS.—The Attorney General shall award grants under this section on a competitive basis.

["(4) DISTRIBUTION.—

["(A) The Attorney General shall not use more than 2.5 percent of funds appropriated under this subsection in any year for administration, monitoring, and evaluation of grants made available under this subsection.

["(B) Up to 5 percent of funds appropriated under this section in any year shall be available for technical assistance by a national, nonprofit, nongovernmental organization or organizations whose primary focus and expertise is in addressing sexual assault within racial and ethnic communities.

["(5) TERM.—The Attorney General shall make grants under this section for a period of no less than 2 fiscal years.

["(6) REPORTING.—Each entity receiving a grant under this subsection shall submit a report to the Attorney General that describes the activities out with such grant funds.

["(d) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

["(1) GRANTS AUTHORIZED.—

["(A) IN GENERAL.—The Attorney General shall award grants to State, territorial, and tribal sexual assault coalitions to assist in supporting the establishment, maintenance, and expansion of such coalitions.

["(B) MINIMUM AMOUNT.—Not less than 10 percent of the total amount appropriated to carry out this section shall be used for grants under subparagraph (A).

["(C) ELIGIBLE APPLICANTS.—Each of the State, territorial, and tribal sexual assault coalitions.

["(2) USE OF FUNDS.—Grant funds received under this subsection may be used to—

["(A) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or tribe;

[“(B) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

[“(C) work with courts, child protective services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

[“(D) design and conduct public education campaigns;

[“(E) plan and monitor the distribution of grants and grant funds to their State, territory, or tribe; or

[“(F) collaborate with and inform Federal, State, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

[“(3) ALLOCATION AND USE OF FUNDS.—From amounts appropriated for grants under this subsection for each fiscal year—

[“(A) not less than 10 percent of the funds shall be available for grants to tribal sexual assault coalitions;

[“(B) the remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to 1/56 of the amounts so appropriated to each of those States and territorial coalitions.

[“(4) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

[“(5) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection during any fiscal year for which funds are available under this subsection because such entity has not previously applied or received funding under this subsection.

[“(e) GRANTS TO TRIBES.—

[“(1) GRANTS AUTHORIZED.—The Attorney General may award grants to Indian tribes, tribal organizations, and nonprofit tribal organizations for the operation of a sexual assault programs or projects in Indian country and Alaskan native villages to support the establishment, maintenance, and expansion of programs and projects to assist those victimized by sexual assault.

[“(2) ALLOCATION AND USE OF FUNDS.—

[“(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by an Indian tribe, tribal organization, and nonprofit tribal organization under this subsection for any fiscal year may be used for administrative costs.

[“(B) GRANT FUNDS.—Any funds received under this subsection that are not used for administrative costs shall be used to provide grants to tribal organizations and nonprofit tribal organizations for programs and activities within Indian country and Alaskan native villages that provide direct intervention and related assistance.

[“(f) AUTHORIZATION OF APPROPRIATIONS.—

[“(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2010 to carry out the provisions of this section.

[“(2) ALLOCATIONS.—Of the total amounts appropriated for each fiscal year to carry out this section—

[“(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring, and other administrative costs under this section;

[“(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and subgrantees under this section;

[“(C) not less than 65 percent shall be used for grants to States and territories under subsection (b);

[“(D) not less than 7 percent shall be used for making grants to State, territorial, and tribal sexual assault coalitions under subsection (d);

[“(E) not less than 7 percent shall be used for grants to tribes under subsection (c); and

[“(F) not less than 7 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c).”.

[SEC. 203. AMENDMENTS TO THE RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

[Section 40295 of the Safe Homes for Women Act of 1994 (42 U.S.C. 13971) is amended to read as follows:

[“SEC. 40295. RURAL DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

[“(a) PURPOSES.—The purposes of this section are—

[“(1) to identify, assess, and appropriately respond to child, youth, and adult victims of domestic violence, sexual assault, dating violence, and stalking in rural communities, by encouraging collaboration among—

[“(A) domestic violence, dating violence, sexual assault, and stalking victim service providers;

[“(B) law enforcement agencies;

[“(C) prosecutors;

[“(D) courts;

[“(E) other criminal justice service providers;

[“(F) human and community service providers;

[“(G) educational institutions; and

[“(H) health care providers;

[“(2) to establish and expand nonprofit, nongovernmental, State, tribal, territorial, and local government victim services in rural communities to child, youth, and adult victims; and

[“(3) to increase the safety and well-being of women and children in rural communities, by—

[“(A) dealing directly and immediately with domestic violence, sexual assault, dating violence, and stalking occurring in rural communities; and

[“(B) creating and implementing strategies to increase awareness and prevent domestic violence, sexual assault, dating violence, and stalking.

[“(b) GRANTS AUTHORIZED.—The Attorney General, acting through the Director of the Office on Violence Against Women (referred to in this section as the ‘Director’), may award grants to States, Indian tribes, local governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities that address domestic violence, dating violence, sexual assault, and stalking by—

[“(1) implementing, expanding, and establishing cooperative efforts and projects among law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, and stalking;

[“(2) providing treatment, counseling, advocacy, and other long- and short-term assistance to adult and minor victims of domestic violence, dating violence, sexual assault, and stalking in rural communities; and

[“(3) working in cooperation with the community to develop education and prevention strategies directed toward such issues.

[“(c) USE OF FUNDS.—Funds appropriated pursuant to this section shall be used only for specific programs and activities expressly described in subsection (a).

[“(d) ALLOTMENTS AND PRIORITIES.—

[“(1) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants to Indian tribes or tribal organizations.

[“(2) ALLOTMENT FOR SEXUAL ASSAULT SERVICES.—Not less than 25 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants that meaningfully address sexual assault in rural communities.

[“(3) ALLOTMENT FOR TECHNICAL ASSISTANCE.—Of the amounts appropriated for each fiscal year to carry out this section, not more than 8 percent may be used by the Director for technical assistance costs.

[“(4) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall give priority to racial, ethnic, and other underserved populations.

[“(5) ALLOCATION OF FUNDS FOR RURAL STATES.—Not less than 75 percent of the total amount made available for each fiscal year to carry out this section shall be allocated to eligible entities located in rural States.

[“(e) AUTHORIZATION OF APPROPRIATIONS.—

[“(1) IN GENERAL.—There are authorized to be appropriated $55,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

[“(2) ADDITIONAL FUNDING.—In addition to funds received through a grant under subsection (b), a law enforcement agency may use funds received through a grant under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) to accomplish the objectives of this section.”.

[SEC. 204. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN WITH DISABILITIES.

[(a) IN GENERAL.—Section 1402 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–7) is amended to read as follows:

[“SEC. 1402. EDUCATION, TRAINING, AND ENHANCED SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

[“(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to eligible entities—

[“(1) to provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against women and girls who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

[“(2) to enhance direct services to such individuals.

[“(b) USE OF FUNDS.—Grants awarded under this section shall be used—

[“(1) to provide personnel, training, technical assistance, advocacy, intervention, risk reduction and prevention of domestic violence, dating violence, stalking, and sexual assault against disabled women and girls;

[“(2) to conduct outreach activities to ensure that disabled women and girls who are victims of domestic violence, dating violence, stalking, or sexual assault receive appropriate assistance;

[“(3) to conduct cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving individuals with disabilities about risk reduction, intervention, prevention and the nature of domestic violence, dating violence, stalking, and sexual assault for disabled women and girls;

["(4) to provide technical assistance to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities of victim service organizations for disabled women and girls;

["(5) to provide training and technical assistance on the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including—

["(A) the Americans with Disabilities Act of 1990; and

["(B) section 504 of the Rehabilitation Act of 1973;

["(6) to rehabilitate facilities, purchase equipment, and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled women and girls;

["(7) to provide advocacy and intervention services for disabled women and girls who are victims of domestic violence, dating violence, stalking, or sexual assault; or

["(8) to develop model programs providing advocacy and intervention services within organizations serving disabled women and girls who are victims of domestic violence, dating violence, sexual assault, or stalking.

["(c) ELIGIBLE ENTITIES.—

["(1) IN GENERAL.—An entity shall be eligible to receive a grant under this section if the entity is—

["(A) a State;

["(B) a unit of local government;

["(C) an Indian tribal government or tribal organization; or

["(D) a nonprofit and nongovernmental victim services organization, such as a State domestic violence or sexual assault coalition or a nonprofit, nongovernmental organization serving disabled women and girls.

["(2) LIMITATION.—A grant awarded for the purpose described in subsection (b)(8) shall only be awarded to an eligible agency (as defined in section 410 of the Rehabilitation Act of 1973 (29 U.S.C. 796f-5).

["(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall ensure that the needs of underserved populations are being addressed.

["(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.".

[SEC. 205. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN IN LATER LIFE.

[(a) TRAINING PROGRAMS.—Section 40802 of the Violence Against Women Act of 1994 (42 U.S.C. 14041a) is amended to read as follows:

["SEC. 40802. ENHANCED TRAINING AND SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN LATER IN LIFE.

["(a) GRANTS AUTHORIZED.—The Attorney General, through the Director of the Office on Violence Against Women, may award grants, which may be used for—

["(1) training programs to assist law enforcement, prosecutors, governmental agencies, victim assistants, and relevant officers of Federal, State, tribal, territorial, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect and exploitation, including domestic violence or sexual assault, against victims who are 60 years of age or older;

["(2) providing or enhancing services for victims of elder abuse, neglect, and exploitation, including domestic and sexual violence, who are 60 years of age or older;

["(3) increasing the physical accessibility of buildings in which services are or will be rendered for victims of elder abuse, neglect, and exploitation, including domestic and sexual violence, who are 60 years of age or older;

["(4) creating or supporting multidisciplinary collaborative community responses to victims of elder abuse, neglect, and exploitation, including domestic and sexual violence, who are 60 years of age or older; and

["(5) conducting cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving victims of domestic and sexual abuse who are 60 years of age or older.

["(b) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this section if the entity is—

["(1) a State;

["(2) a unit of local government;

["(3) an Indian tribal government or tribal organization; or

["(4) a nonprofit and nongovernmental victim services organization with demonstrated experience in assisting elderly women or demonstrated experience in addressing domestic violence or sexual assault.".

[(c) AUTHORIZATION OF APPROPRIATIONS.—Section 40803 of the Violence Against Women Act of 1994 (42 U.S.C. 14041b) is amended by striking "$5,000,000 for each of fiscal years 2001 through 2005" and inserting "$10,000,000 for each of the fiscal years 2006 through 2010".

[SEC. 206. STRENGTHENING THE NATIONAL DOMESTIC VIOLENCE HOTLINE.

[Section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416) is amended—

[(1) in subsection (d), by adding at the end the following:

["(5) provide technology and telecommunication training and assistance for advocates, volunteers, staff, and others affiliated with the hotline so that such persons are able to effectively use improved equipment made available through the Connections Campaign."; and

[(2) in subsection (g)—

[(A) in paragraph (1), by striking "$3,500,000" and all that follows and inserting "$5,000,000 for each of fiscal years 2006 through 2010.";

[(B) by striking paragraph (2); and

[(C) by redesignating paragraph (3) as paragraph (2).

[TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

[SEC. 301. FINDINGS.

[Congress finds the following:

[(1) Youth, under the age of 18, account for 67 percent of all sexual assault victimizations reported to law enforcement officials.

[(2) The Department of Justice consistently finds that young women between the ages of 16 and 24 experience the highest rate of non-fatal intimate partner violence.

[(3) In 1 year, over 4,000 incidents of rape or sexual assault occurred in public schools across the country.

[(4) Young people experience particular obstacles to seeking help. They often do not have access to money, transportation, or shelter services. They must overcome issues such as distrust of adults, lack of knowledge about available resources, or pressure from peers and parents.

[(5) A needs assessment on teen relationship abuse for the State of California, funded by the California Department of Health Services, identified a desire for confidentiality and confusion about the law as 2 of the most significant barriers to young victims of domestic and dating violence seeking help.

[(6) Only one State specifically allows for minors to petition the court for protection orders.

[(7) Many youth are involved in dating relationships, and these relationships can include the same kind of domestic violence and dating violence seen in the adult population. In fact, more than 40 percent of all incidents of domestic violence involve people who are not married.

[(8) 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend, and 13 percent of college women report being stalked.

[(9) Of college women who said they had been the victims of rape or attempted rape, 12.8 percent of completed rapes, 35 percent of attempted rapes, and 22.9 percent of threatened rapes took place on a date. Almost 60 percent of the completed rapes that occurred on campus took place in the victim's residence.

[(10) According to a 3-year study of student-athletes at 10 Division I universities, male athletes made up only 3.3 percent of the general male university population, but they accounted for 19 percent of the students reported for sexual assault and 35 percent of domestic violence perpetrators.

[SEC. 302. RAPE PREVENTION AND EDUCATION.

[Section 393B(c) of part J of title III of the Public Health Service Act (42 U.S.C. 280b-1c(c)) is amended to read as follows:

["(c) AUTHORIZATION OF APPROPRIATIONS.—

["(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $80,000,000 for each of fiscal years 2006 through 2010.

["(2) NATIONAL SEXUAL VIOLENCE RESOURCE CENTER ALLOTMENT.—Of the total amount made available under this subsection in each fiscal year, not less than $1,500,000 shall be available for allotment under subsection (b).".

[SEC. 303. SERVICES, EDUCATION, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE.

[The Violence Against Women Act of 1994 (Public Law 103-322, Stat. 1902 et seq.) is amended by adding at the end the following:

["Subtitle L—Services, Education, Protection and Justice for Young Victims of Violence

["SEC. 41201. SERVICES TO ADVOCATE FOR AND RESPOND TO TEENS.

["(a) GRANTS AUTHORIZED.—The Secretary of the Department of Health and Human Services (in this section referred to as the 'Secretary'), acting through the Family and Youth Services Bureau, in consultation with the Department of Justice, shall award grants to eligible entities to conduct programs to serve victims of domestic violence, dating violence, sexual assault, and stalking who are between the ages of 12 and 24. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

["(b) ELIGIBLE GRANTEES.—To be eligible to receive a grant under this section, an entity shall be—

["(1) a nonprofit, nongovernmental entity, the primary purpose of which is to provide services to teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking;

[“(2) a community-based organization specializing in intervention or violence prevention services for youth;

[“(3) an Indian Tribe or tribal organization providing services primarily to tribal youth or tribal victims of domestic violence, dating violence, sexual assault or stalking; or

[“(4) a nonprofit, nongovernmental entity providing services for runaway or homeless youth affected by domestic or sexual abuse.

[“(c) USE OF FUNDS.—

[“(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services, using domestic violence, dating violence, sexual assault, and stalking intervention models to respond to the needs of youth who are victims of domestic violence, dating violence, sexual assault or stalking.

[“(2) TYPES OF PROGRAMS.—Such a program—

[“(A) shall provide direct counseling and advocacy for teens and young adults, who have experienced domestic violence, dating violence, sexual assault or stalking;

[“(B) shall include linguistically, culturally, and community relevant services for racial, ethnic, and other underserved populations or linkages to existing services in the community tailored to the needs of underserved populations;

[“(C) may include mental health services for teens and young adults who have experienced domestic violence, dating violence, sexual assault, or stalking;

[“(D) may include legal advocacy efforts on behalf of minors and young adults with respect to domestic violence, dating violence, sexual assault or stalking;

[“(E) may work with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking against youth and young adults; and

[“(F) may use not more than 25 percent of the grant funds to provide additional services and resources for youth, including childcare, transportation, educational support, and respite care.

[“(d) AWARDS BASIS.—

[“(1) GRANTS TO INDIAN TRIBES.—Not less than 7 percent of funds appropriated under this section in any year shall be available for grants to Indian Tribes or tribal organizations.

[“(2) ADMINISTRATION.—The Secretary shall not use more than 2.5 percent of funds appropriated under this section in any year for administration, monitoring, and evaluation of grants made available under this section.

[“(3) TECHNICAL ASSISTANCE.—Not less than 5 percent of funds appropriated under this section in any year shall be available to provide technical assistance for programs funded under this section.

[“(e) TERM.—The Secretary shall make the grants under this section for a period of 3 fiscal years.

[“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2006 through 2010.

[“SEC. 41202. ACCESS TO JUSTICE FOR TEENS.

[“(a) PURPOSE.—It is the purpose of this section to encourage cross training and collaboration between the courts, domestic violence and sexual assault service providers, youth organizations and service providers, violence prevention programs, and law enforcement agencies, so that communities can establish and implement policies, procedures, and practices to protect and more comprehensively and effectively serve young victims of dating violence, domestic violence, sexual assault, and stalking who are between the ages of 12 and 24, and to engage, where necessary, other entities addressing the safety, health, mental health, social service, housing, and economic needs of young victims of domestic violence, dating violence, sexual assault, and stalking, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions.

[“(b) GRANT AUTHORITY.—

[“(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women (in this section referred to as the ‘Director’), shall make grants tp eligible entities to carry out the purposes of this section.

[“(2) GRANT PERIODS.—Grants shall be awarded under this section for a period of 2 fiscal years.

[“(3) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, a grant applicant shall establish a collaboration that—

[“(A) shall include a victim service provider that has a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking and the effect that those forms of abuse have on young people;

[“(B) shall include a court; and

[“(C) may include—

[“(i) batterer intervention programs or sex offender treatment programs with specialized knowledge and experience working with youth offenders;

[“(ii) community-based youth organizations that deal specifically with the concerns and problems faced by youth, including programs that target teen parents and racial, ethnic, and other underserved communities;

[“(iii) schools or school-based programs designed to provide prevention or intervention services to youth experiencing problems;

[“(iv) faith-based entities that deal with the concerns and problems faced by youth;

[“(v) healthcare entities eligible for reimbursement under title XVIII of the Social Security Act, including providers that target the special needs of youth;

[“(vi) education programs on HIV and other sexually transmitted diseases that are designed to target teens; or

[“(vii) Indian Health Services, Indian Child Welfare, the Bureau of Indian Affairs, or the Federal Bureau of Investigations.

[“(c) USES OF FUNDS.—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts—

[“(1) addressing domestic violence, dating violence, sexual assault, and stalking, assessing and analyzing currently available services for youth and young adult victims, determining relevant barriers to such services in a particular locality, and developing a community protocol to address such problems collaboratively;

[“(2) to establish and enhance linkages and collaboration between—

[“(A) domestic violence and sexual assault service providers; and

[“(B) where applicable, law enforcement agencies, courts, Federal agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of young victims of abuse, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions—

[“(i) to respond effectively and comprehensively to the varying needs of young victims of abuse;

[“(ii) to include linguistically, culturally, and community relevant services for racial, ethnic, and other underserved populations or linkages to existing services in the community tailored to the needs of underserved populations; and

[“(iii) to include where appropriate legal assistance, referral services, and parental support;

[“(3) to educate the staff of courts, domestic violence and sexual assault service providers, and, as applicable, the staff of law enforcement agencies, Indian child welfare agencies, youth organizations, schools, healthcare providers, and other community prevention and intervention programs to responsibly address minor victims and perpetrators of domestic violence, dating violence, sexual assault, and stalking;

[“(4) to identify, assess, and respond appropriately to dating violence, domestic violence, sexual assault, or stalking against minors and young adults and meet the needs of young victims of violence; and

[“(5) to provide appropriate resources in juvenile court matters to respond to dating violence, domestic violence, sexual assault, and stalking and ensure necessary services dealing with the health and mental health of victims are available.

[“(d) GRANT APPLICATIONS.—To be eligible for a grant under this section, the entities that are members of the applicant collaboration described in subsection (b)(3) shall jointly submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

[“(e) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with community organizations and service providers that work primarily with youth, especially teens, and who have demonstrated a commitment to coalition building and cooperative problem solving in dealing with problems of dating violence, domestic violence, sexual assault, and stalking in teen populations.

[“(f) DISTRIBUTION.—In awarding grants under this section—

[“(1) not less than 7 percent of funds appropriated under this section in any year shall be available for grants to collaborations involving tribal courts, tribal coalitions, tribal organizations, or domestic violence or sexual assault service providers the primary purpose of which is to provide culturally relevant services to American Indian or Alaska Native women or youth;

[“(2) the Director shall not use more than 2.5 percent of funds appropriated under this section in any year for monitoring and evaluation of grants made available under this section;

[“(3) the Attorney General of the United States shall not use more than 2.5 percent of funds appropriated under this section in any year for administration of grants made available under this section; and

[“(4) up to 8 percent of funds appropriated under this section in any year shall be available to provide technical assistance for programs funded under this section.

[“(g) DISSEMINATION OF INFORMATION.—Not later than 12 months after the end of the grant period under this section, the Director shall prepare, submit to Congress, and make widely available, including through electronic means, summaries that contain information on—

["(1) the activities implemented by the recipients of the grants awarded under this section; and

["(2) related initiatives undertaken by the Director to promote attention to dating violence, domestic violence, sexual assault, and stalking and their impact on young victims by—

["(A) the staffs of courts;

["(B) domestic violence, dating violence, sexual assault, and stalking service providers; and

["(C) law enforcement agencies and community organizations.

["(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 in each of fiscal years 2006 through 2010.

["SEC. 41203. GRANTS FOR TRAINING AND COLLABORATION ON THE INTERSECTION BETWEEN DOMESTIC VIOLENCE AND CHILD MALTREATMENT.

["(a) PURPOSE.—The purpose of this section is to support efforts by child welfare agencies, domestic violence or dating violence victim services providers, courts, law enforcement, and other related professionals and community organizations to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence.

["(b) GRANTS AUTHORIZED.—The Secretary of the Department of Health and Human Services (in this section referred to as the 'Secretary'), through the Family and Youth Services Bureau, and in consultation with the Office on Violence Against Women, shall award grants on a competitive basis to eligible entities for the purposes and in the manner described in this section.

["(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended. Of the amounts appropriated to carry out this section for each fiscal year, the Secretary shall—

["(1) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section;

["(2) set aside not more than 7 percent for grants to programs addressing child maltreatment and domestic violence or dating violence that are operated by, or in partnership with, a tribal organization; and

["(3) set aside up to 8 percent for technical assistance and training to be provided by organizations having demonstrated expertise in developing collaborative community and system responses to families in which there is both child maltreatment and domestic violence or dating violence, which technical assistance and training may be offered to jurisdictions in the process of developing community responses to families in which children are exposed to child maltreatment and domestic violence or dating violence, whether or not they are receiving funds under this section.

["(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Secretary shall consider the needs of racial, ethnic, and other underserved populations.

["(e) GRANT AWARDS.—The Secretary shall award grants under this section for periods of not more than 2 fiscal years.

["(f) USES OF FUNDS.—Entities receiving grants under this section shall use amounts provided to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence or dating violence. Amounts distributed under this section may only be used for programs and activities described in subsection (g).

["(g) PROGRAMS AND ACTIVITIES.—The programs and activities developed under this section shall—

["(1) encourage cross training, education, service development, and collaboration among child welfare agencies, domestic violence victim service providers, and courts, law enforcement agencies, community-based programs, and other entities, in order to ensure that such entities have the capacity to and will identify, assess, and respond appropriately to—

["(A) domestic violence or dating violence in homes where children are present and may be exposed to the violence;

["(B) domestic violence or dating violence in child protection cases; and

["(C) the needs of both the child and nonabusing parent;

["(2) establish and implement policies, procedures, programs, and practices for child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities, that are consistent with the principles of protecting and increasing the immediate and long-term safety and well being of children and nonabusing parents and caretakers;

["(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities to provide more comprehensive community-based services (including health, mental health, social service, housing, and neighborhood resources) to protect and to serve both child and adult victims;

["(4) identify, assess, and respond appropriately to domestic violence or dating violence in child protection cases and to child maltreatment when it co-occurs with domestic violence or dating violence;

["(5) analyze and change policies, procedures, and protocols that contribute to overrepresentation of racial and ethnic minorities in the court and child welfare system; and

["(6) provide appropriate referrals to community-based programs and resources, such as health and mental health services, shelter and housing assistance for adult and youth victims and their children, legal assistance and advocacy for adult and youth victims, assistance for parents to help their children cope with the impact of exposure to domestic violence or dating violence and child maltreatment, appropriate intervention and treatment for adult perpetrators of domestic violence or dating violence whose children are the subjects of child protection cases, programs providing support and assistance to racial and ethnic populations, and other necessary supportive services.

["(i) GRANTEE REQUIREMENTS.—

["(1) APPLICATIONS.—Under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, consistent with the requirements described herein. The application shall—

["(A) ensure that communities impacted by these systems or organizations are adequately represented in the development of the application, the programs and activities to be undertaken, and that they have a significant role in evaluating the success of the project;

["(B) describe how the training and collaboration activities will enhance or ensure the safety and economic security of families where both child maltreatment and domestic violence or dating violence occurs by providing appropriate resources, protection, and support to the victimized parents of such children and to the children themselves; and

["(C) outline methods and means participating entities will use to ensure that all services are provided in a developmentally, linguistically and culturally competent manner and will utilize community-based supports and resources.

["(2) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, an entity shall be a collaboration that—

["(A) shall include a State or local child welfare agency or Indian Tribe;

["(B) shall include a domestic violence or dating violence victim service provider;

["(C) shall include a law enforcement agency or Bureau of Indian Affairs providing tribal law enforcement;

["(D) may include a court; and

["(E) may include any other such agencies or private nonprofit organizations and faith-based organizations, including community-based organizations, with the capacity to provide effective help to the child and adult victims served by the collaboration.".

[SEC. 304. GRANTS TO REDUCE VIOLENCE AGAINST WOMEN ON CAMPUS.

[Section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152) is amended—

[(1) in subsection (a)(2), by adding at the end the following: "The Attorney General, through the Director of the Office on Violence Against Women, shall award the grants in amounts of not more than $500,000 for individual institutions of higher education and not more than $1,000,000 for consortia of such institutions.";

[(2) in subsection (b)—

[(A) in paragraph (2)—

[(i) by inserting "develop and implement campus policies, protocols, and services that" after "boards to"; and

[(ii) by adding at the end the following: "Within 90 days after the date of enactment of the Violence Against Women Act of 2005, the Attorney General shall issue and make available minimum standards of training relating to violent crimes against women on campus, for all campus security personnel and personnel serving on campus disciplinary or judicial boards.";

[(B) in paragraph (4), by striking all that follows "strengthen" and inserting: "victim services programs on the campuses of the institutions involved, including programs providing legal, medical, or psychological counseling, for victims of domestic violence, dating violence, or sexual assault, and to improve delivery of victim assistance on campus. To the extent practicable, such an institution shall collaborate with any entities carrying out nonprofit and other victim services programs, including sexual assault, domestic violence, and dating violence victim services programs in the community in which the institution is located. If appropriate victim services programs are not available in the community or are not accessible to students, the institution shall, to the extent practicable, provide a victim services program on campus or create a victim services program in collaboration with a community-based organization. The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph.";

[(C) by striking paragraphs (6) and (8);

[(D) by redesignating paragraphs (7), (9), and (10) as paragraphs (6), (7), and (8), respectively;

[(3) in subsection (c), by striking paragraph (2)(B) and inserting the following:

["(B) include proof that the institution of higher education collaborated with any nonprofit, nongovernmental entities carrying out other victim services programs, including sexual assault, domestic violence, and dating violence victim services programs in the community in which the institution is located;";

[(4) in subsection (d)—

[(A) by striking paragraph (4);

[(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

[(C) by inserting after paragraph (1) the following:

["(2) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

["(A) IN GENERAL.—In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantee and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

["(B) NONDISCLOSURE.—Subject to subparagraph (C), grantees and subgrantees shall not—

["(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

["(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program.

["(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate—

["(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

["(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

["(D) INFORMATION SHARING.—Grantees and subgrantees may share—

["(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

["(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

["(iii) law-enforcement and prosecution-generated information for law enforcement and prosecution purposes.

["(E) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term 'personally identifying information' or 'personal information' means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

["(i) a first and last name;

["(ii) a home or other physical address;

["(iii) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

["(iv) a social security number; and

["(v) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of clauses (i) through (iv), would serve to identify any individual."; and

[(5) in subsection (g), by—

[(A) striking "$10,000,000" and inserting "$15,000,000";

[(B) striking "2001" and inserting "2006"; and

[(C) striking "2005" and inserting "2010".

[SEC. 305. JUVENILE JUSTICE.

[(a) STATE PLANS.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

[(1) in paragraph (7)(B)—

[(A) by redesignating clauses (i), (ii) and (iii), as clauses (ii), (iii), and (iv), respectively; and

[(B) by inserting before clause (ii) the following:

["(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females;".

[(b) USE OF FUNDS.—Section 223(a)(9) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(9)) is amended—

[(1) in subparagraph (R), by striking "and" at the end;

[(2) in subparagraph (S), by striking the period at the end and inserting "; and"; and

[(3) by adding at the end the following:

["(T) developing and adopting policies to prohibit disparate treatment of female juveniles in placement and treatment, and establishing gender-specific services to ensure that female juveniles have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, education in parenting, education in general, and other training and vocational services.".

[SEC. 306. SAFE HAVENS.

[Section 1301 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420) is amended—

[(1) by striking the section heading and inserting the following:

["SEC. 10402. SAFE HAVENS FOR CHILDREN.";

[(2) in subsection (a)—

[(A) by inserting ", through the Director of the Office on Violence Against Women," after "Attorney General";

[(B) by inserting "dating violence," after "domestic violence,";

[(C) by striking "to provide" and inserting the following:

["(1) to provide";

[(D) by striking the period at the end and inserting a semicolon; and

[(E) by adding at the end the following:

["(2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges;

["(3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation exchanges; and

["(4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges."; and

[(3) by striking subsection (e) and inserting the following:

["(e) AUTHORIZATION OF APPROPRIATIONS.—

["(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended.

["(2) USE OF FUNDS.—Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

["(A) set aside not less than 5 percent for grants to Indian tribal governments or tribal organizations;

["(B) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section; and

["(C) set aside not more than 8 percent for technical assistance and training to be provided by organizations having nationally recognized expertise in the design of safe and secure supervised visitation programs and visitation exchange of children in situations involving domestic violence, dating violence, sexual assault, or stalking.".

[TITLE IV—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE

[SEC. 401. PREVENTING VIOLENCE AGAINST WOMEN AND CHILDREN.

[The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

["Subtitle M—Strengthening America's Families by Preventing Violence Against Women and Children

["SEC. 41301. FINDINGS.

["Congress finds that—

["(1) the former United States Advisory Board on Child Abuse suggests that domestic violence may be the single major precursor to child abuse and neglect fatalities in this country;

["(2) studies suggest that as many as 10,000,000 children witness domestic violence every year;

["(3) studies suggest that among children and teenagers, recent exposure to violence in the home was a significant factor in predicting a child's violent behavior;

["(4) a study by the Nurse-Family Partnership found that children whose parents did not participate in home visitation programs that provided coaching in parenting skills, advice and support, were almost 5 times more likely to be abused in their first 2 years of life;

["(5) a child's exposure to domestic violence seems to pose the greatest independent risk for being the victim of any act of partner violence as an adult;

["(6) children exposed to domestic violence are more likely to believe that using violence is an effective means of getting one's needs met and managing conflict in close relationships;

["(7) children exposed to abusive parenting, harsh or erratic discipline, or domestic violence are at increased risk for juvenile crime; and

["(8) in a national survey of more than 6,000 American families, 50 percent of men who frequently assaulted their wives also frequently abused their children.

["SEC. 41302. PURPOSE.

["The purpose of this subtitle is to—

["(1) prevent crimes involving violence against women, children, and youth;

["(2) increase the resources and services available to prevent violence against women, children, and youth;

["(3) reduce the impact of exposure to violence in the lives of children and youth so that the intergenerational cycle of violence is interrupted;

[“(4) develop and implement education and services programs to prevent children in vulnerable families from becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking;

[“(5) promote programs to ensure that children and youth receive the assistance they need to end the cycle of violence and develop mutually respectful, nonviolent relationships; and

[“(6) encourage collaboration among community-based organizations and governmental agencies serving children and youth, providers of health and mental health services and providers of domestic violence, dating violence, sexual assault, and stalking victim services to prevent violence against women and children.

[“SEC. 41303. GRANTS TO ASSIST CHILDREN AND YOUTH EXPOSED TO VIOLENCE.

[“(a) Grants Authorized.—

[“(1) In general.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Administration for Children, Youth, and Families of the Department of Health and Human Services, is authorized to award grants on a competitive basis to eligible entities for the purpose of mitigating the effects of domestic violence, dating violence, sexual assault, and stalking on children exposed to such violence, and reducing the risk of future victimization or perpetration of domestic violence, dating violence, sexual assault, and stalking.

[“(2) Term.—The Director shall make grants under this section for a period of 2 fiscal years.

[“(3) Award basis.—The Director shall award grants—

[“(A) considering the needs of underserved populations;

[“(B) awarding not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year;

[“(C) awarding up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year; and

[“(D) awarding not less than 66 percent to programs described in subsection (c)(1) from the amounts made available under this section for a fiscal year.

[“(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.

[“(c) Use of Funds.—The funds appropriated under this section shall be used for—

[“(1) programs that provide services for children exposed to domestic violence, dating violence, sexual assault, or stalking, which may include direct counseling, advocacy, or mentoring, and must include support for the nonabusing parent or the child's caretaker; or

[“(2) training, coordination, and advocacy for programs that serve children and youth (such as Head Start, child care, and after-school programs) on how to safely and confidentially identify children and families experiencing domestic violence and properly refer them to programs that can provide direct services to the family and children, and coordination with other domestic violence or other programs serving children exposed to domestic violence, dating violence, sexual assault, or stalking that can provide the training and direct services referenced in this subsection.

[“(d) Eligible Entities.—To be eligible to receive a grant under this section, an entity shall be a—

[“(1) a victim service provider, tribal nonprofit organization or community-based organization that has a documented history of effective work concerning children or youth exposed to domestic violence, dating violence, sexual assault, or stalking, including programs that provide culturally specific services, Head Start, childcare, faith-based organizations, after school programs, and health and mental health providers; or

[“(2) a State, territorial, or tribal, or local unit of government agency that is partnered with an organization described in paragraph (1).

[“(e) Grantee Requirements.—Under this section, an entity shall—

[“(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

[“(2) at a minimum, describe in the application the policies and procedures that the entity has or will adopt to—

[“(A) enhance or ensure the safety and security of children who have been or are being exposed to violence and their nonabusing parent, enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking; and

[“(B) ensure linguistically, culturally, and community relevant services for racial, ethnic, and other underserved communities.

[“SEC. 41304. DEVELOPMENT OF CURRICULA AND PILOT PROGRAMS FOR HOME VISITATION PROJECTS.

[“(a) Grants Authorized.—

[“(1) In general.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Administration for Children, Youth, and Families of the Department of Health and Human Services, shall award grants on a competitive basis to home visitation programs, in collaboration with victim service providers, for the purposes of developing and implementing model policies and procedures to train home visitation service providers on addressing domestic violence, dating violence, sexual assault, and stalking in families experiencing violence, or at risk of violence, to reduce the impact of that violence on children, maintain safety, improve parenting skills, and break intergenerational cycles of violence.

[“(2) Term.—The Director shall make the grants under this section for a period of 2 fiscal years.

[“(3) Award basis.—The Director shall—

[“(A) consider the needs of underserved populations;

[“(B) award not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

[“(C) award up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year.

[“(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2006 through 2010.

[“(c) Eligible Entities.—To be eligible to receive a grant under this section, an entity shall be a national, Federal, State, local, territorial, or tribal—

[“(1) home visitation program that provides services to pregnant women and to young children and their parent or primary caregiver that are provided in the permanent or temporary residence or in other familiar surroundings of the individual or family receiving such services; or

[“(2) victim services organization or agency in collaboration with an organization or organizations listed in paragraph (1).

[“(d) Grantee Requirements.—Under this section, an entity shall—

[“(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

[“(2) describe in the application the policies and procedures that the entity has or will adopt to—

[“(A) enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking;

[“(B) ensure linguistically, culturally, and community relevant services for racial ethnic and other underserved communities;

[“(C) ensure the adequate training by domestic violence, dating violence, sexual assault or stalking victim service providers of home visitation grantee program staff to—

[“(i) safely screen for and/or recognize domestic violence, dating violence, sexual assault, and stalking;

[“(ii) understand the impact of domestic violence or sexual assault on children and protective actions taken by a nonabusing parent or caretaker in response to violence against anyone in the household; and

[“(iii) link new parents with existing community resources in communities where resources exist; and

[“(D) ensure that relevant State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section, and are included as training partners, where possible.

[“SEC. 41305. ENGAGING MEN AND YOUTH IN PREVENTING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

[“(a) Grants Authorized.—

[“(1) In general.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Administration for Children, Youth, and Families of the Department of Health and Human Services, shall award grants on a competitive basis to eligible entities for the purpose of developing or enhancing programs related to engaging men and youth in preventing domestic violence, dating violence, sexual assault, and stalking by helping them to develop mutually respectful, nonviolent relationships.

[“(2) Term.—The Director shall make grants under this section for a period of 2 fiscal years.

[“(3) Award basis.—The Director shall award grants—

[“(A) considering the needs of underserved populations;

[“(B) awarding not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

[“(C) awarding up to 8 percent for the funding of technical assistance for grantees and non-grantees working in this area from the amounts made available under this section for a fiscal year.

[“(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

[“(c) Use of Funds.—

[“(1) Programs.—The funds appropriated under this section shall be used by eligible entities for—

[“(A) to develop or enhance community-based programs, including gender-specific programs in accordance with applicable laws that—

[“(i) encourage children and youth to pursue nonviolent relationships and reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking; and

[“(ii) that include at a minimum—

[“(I) information on domestic violence, dating violence, sexual assault, stalking, or child sexual abuse and how they affect children and youth; and

[“(II) strategies to help participants be as safe as possible; or

[“(B) create public education campaigns and community organizing to encourage men and boys to work as allies with women and girls to prevent violence against women and girls conducted by entities that have experience in conducting public education campaigns that address domestic violence, dating violence, sexual assault, or stalking.

[“(2) MEDIA LIMITS.—No more than 40 percent of funds received by a grantee under this section may be used to create and distribute media materials.

[“(d) ELIGIBLE ENTITIES.—

[“(1) RELATIONSHIPS.—Eligible entities under subsection (c)(1)(A) are—

[“(A) nonprofit, nongovernmental domestic violence, dating violence, sexual assault, or stalking victim service providers or coalitions;

[“(B) community-based child or youth services organizations with demonstrated experience and expertise in addressing the needs and concerns of young people;

[“(C) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A) or (B); or

[“(D) a program that provides culturally specific services.

[“(2) AWARENESS CAMPAIGN.—Eligible entities under subsection (c)(1)(B) are—

[“(A) nonprofit, nongovernmental organizations or coalitions that have a documented history of creating and administering effective public education campaigns addressing the prevention of domestic violence, dating violence, sexual assault or stalking; or

[“(B) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A).

[“(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

[“(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

[“(2) describe in the application the policies and procedures that the entity has or will adopt to—

[“(A) enhance or ensure the safety and security of children and youth already experiencing domestic violence, dating violence, sexual assault, or stalking in their lives;

[“(B) ensure linguistically, culturally, and community relevant services for racial, ethnic, and other underserved communities;

[“(C) inform participants about laws, services, and resources in the community, and make referrals as appropriate; and

[“(D) ensure that State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section.”.

[SEC. 402. STUDY CONDUCTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

[(a) PURPOSES.—The Secretary of Health and Human Services acting through the National Center for Injury Prevention and Control at the Centers for Disease Control Prevention shall make grants to entities, including sexual assault coalitions and programs, research organizations, tribal organizations, and academic institutions to support research to examine prevention and intervention programs to further the understanding of sexual and domestic violence by and against adults, youth, and children.

[(b) USE OF FUNDS.—The research conducted under this section shall include the following areas:

[(1) Evaluation and study of best practices for reducing and preventing violence against women and children addressed by the strategies included in this title, including strategies addressing racial, ethnic, and other underserved communities.

[(2) An evaluation of the efficacy and effectiveness of interventions and policies targeting offenders and potential offenders to prevent perpetration of sexual and domestic violence.

[(3) An examination of the social norms and family structure that support sexual and domestic violence and to evaluate strategies to change them.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated to carry out this title $2,000,000 for each of the fiscal years 2006 through 2010.

[TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

[SEC. 501. FINDINGS.

[Congress makes the following findings:

[(1) The health-related costs of intimate partner violence in the United States exceed $5,800,000,000 annually.

[(2) Thirty-seven percent of all women who sought care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse, boyfriend, or girlfriend.

[(3) In addition to injuries sustained during violent episodes, physical and psychological abuse is linked to a number of adverse physical and mental health effects. Women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse and sexually transmitted infections, including HIV/AIDS.

[(4) Health plans spend an average of $1,775 more a year on abused women than on general enrollees.

[(5) Each year about 324,000 pregnant women in the United States are battered by the men in their lives. This battering leads to complications of pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding.

[(6) Pregnant and recently pregnant women are more likely to be victims of homicide than to die of any other pregnancy-related cause, and evidence exists that a significant proportion of all female homicide victims are killed by their intimate partners.

[(7) Children who witness domestic violence are more likely to exhibit behavioral and physical health problems including depression, anxiety, and violence towards peers. They are also more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution, and commit sexual assault crimes.

[(8) Recent research suggests that women experiencing domestic violence significantly increase their safety-promoting behaviors over the short- and long-term when health care providers screen for, identify, and provide followup care and information to address the violence.

[(9) Currently, only about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and 9 percent routinely screen for intimate partner abuse during periodic checkups.

[(10) Recent clinical studies have proven the effectiveness of a 2-minute screening for early detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was proven highly effective in increasing the safety of pregnant abused women. Comparable research does not yet exist to support the effectiveness of screening men.

[(11) Seventy to 81 percent of the patients studied reported that they would like their healthcare providers to ask them privately about intimate partner violence.

[SEC. 502. PURPOSE.

[It is the purpose of this title to improve the health care system's response to domestic violence, dating violence, sexual assault, and stalking through the training and education of health care providers, developing comprehensive public health responses to violence against women and children, increasing the number of women properly screened, identified, and treated for lifetime exposure to violence, and expanding research on effective interventions in the health care setting.

[SEC. 503. TRAINING AND EDUCATION OF HEALTH PROFESSIONALS IN DOMESTIC AND SEXUAL VIOLENCE.

[Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end the following:

[“SEC. 758. INTERDISCIPLINARY TRAINING AND EDUCATION ON DOMESTIC VIOLENCE AND OTHER TYPES OF VIOLENCE AND ABUSE.

[“(a) GRANTS.—The Secretary, acting through the Director of the Health Resources and Services Administration, shall award grants under this section to develop interdisciplinary training and education programs that provide undergraduate, graduate, post-graduate medical, nursing (including advanced practice nursing students), and other health professions students with an understanding of, and clinical skills pertinent to, domestic violence, sexual assault, stalking, and dating violence.

[“(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

[“(1) be an accredited school of allopathic or osteopathic medicine;

[“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

[“(A) information to demonstrate that the applicant includes the meaningful participation of a school of nursing and at least one other school of health professions or graduate program in public health, dentistry, social work, midwifery, or behavioral and mental health;

[“(B) strategies for the dissemination and sharing of curricula and other educational materials developed under the grant to other interested medical and nursing schools and national resource repositories for materials on domestic violence and sexual assault; and

[“(C) a plan for consulting with, and compensating community-based coalitions or individuals who have experience and expertise in issues related to domestic violence, sexual assault, dating violence, and stalking for services provided under the program carried out under the grant.

[“(c) USE OF FUNDS.—

[“(1) REQUIRED USES.—Amounts provided under a grant under this section shall be used to—

[“(A) fund interdisciplinary training and education projects that are designed to train medical, nursing, and other health professions students and residents to identify and provide health care services (including mental or behavioral health care services and referrals to appropriate community services) to individuals who are or who have experienced domestic violence, sexual assault, and stalking or dating violence; and

[“(B) plan and develop culturally competent clinical components for integration into approved residency training programs that address health issues related to domestic violence, sexual assault, dating violence, and stalking, along with other forms of violence as appropriate, and include the primacy of victim safety and confidentiality.

[“(2) PERMISSIVE USES.—Amounts provided under a grant under this section may be used to—

[“(A) offer community-based training opportunities in rural areas for medical, nursing, and other students and residents on domestic violence, sexual assault, stalking, and dating violence, and other forms of violence and abuse, which may include the use of distance learning networks and other available technologies needed to reach isolated rural areas; or

[“(B) provide stipends to students from racial and ethnic population groups who are underrepresented in the health professions as necessary to promote and enable their participation in clerkships, preceptorships, or other offsite training experiences that are designed to develop health care clinical skills related to domestic violence, sexual assault, dating violence, and stalking.

[“(3) REQUIREMENTS.—

[“(A) CONFIDENTIALITY AND SAFETY.—Grantees under this section shall ensure that all educational programs developed with grant funds address issues of confidentiality and patient safety, and that faculty and staff associated with delivering educational components are fully trained in procedures that will protect the immediate and ongoing security of the patients, patient records, and staff. Advocacy-based coalitions or other expertise available in the community shall be consulted on the development and adequacy of confidentially and security procedures, and shall be fairly compensated by grantees for their services.

[“(B) RURAL PROGRAMS.—Rural training programs carried out under paragraph (2)(A) shall reflect adjustments in protocols and procedures or referrals that may be needed to protect the confidentiality and safety of patients who live in small or isolated communities and who are currently or have previously experienced violence or abuse.

[“(4) CHILD AND ELDER ABUSE.—Issues related to child and elder abuse may be addressed as part of a comprehensive programmatic approach implemented under a grant under this section.

[“(d) REQUIREMENTS OF GRANTEES.—

[“(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

[“(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 25 percent of the total cost of such activities.

[“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $3,000,000 for each of fiscal years 2006 through 2010. Amounts appropriated under this subsection shall remain available until expended.”.

[SEC. 504. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING GRANTS.

[Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

[“SEC. 399P. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

[“(a) AUTHORITY TO AWARD GRANTS.—

[“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible State, tribal, territorial, or local entities to strengthen the response of State, tribal, territorial, or local health care systems to domestic violence, dating violence, sexual assault, and stalking.

[“(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

[“(A) be—

[“(i) a State department (or other division) of health, a State domestic or sexual assault coalition or service-based program, State law enforcement task force, or any other nonprofit, nongovernmental, tribal, territorial, or State entity with a history of effective work in the fields of domestic violence, dating violence, sexual assault or stalking, and health care; or

[“(ii) a local, nonprofit domestic violence, dating violence, sexual assault, or stalking service-based program, a local department (or other division) of health, a local health clinic, hospital, or health system, or any other nonprofit, tribal, or local entity with a history of effective work in the field of domestic or sexual violence and health;

[“(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the grant is to be made; and

[“(C) demonstrate that the entity is representing a team of organizations and agencies working collaboratively to strengthen the response of the health care system involved to domestic violence, dating violence, sexual assault, or stalking and that such team includes domestic violence, dating violence, sexual assault or stalking and health care organizations.

[“(3) DURATION.—A program conducted under a grant awarded under this section shall not exceed 2 years.

[“(b) USE OF FUNDS.—

[“(1) IN GENERAL.—An entity shall use amounts received under a grant under this section to design and implement comprehensive strategies to improve the response of the health care system involved to domestic or sexual violence in clinical and public health settings, hospitals, clinics, managed care settings (including behavioral and mental health), and other health settings.

[“(2) MANDATORY STRATEGIES.—Strategies implemented under paragraph (1) shall include the following:

[“(A) The implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and behavioral and public health staff in responding to domestic violence, dating violence, sexual assault, and stalking, including strategies to ensure that health information is maintained in a manner that protects the patient's privacy and safety and prohibits insurance discrimination.

[“(B) The development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence, dating violence, sexual assault, and stalking, by contracting with or hiring domestic or sexual assault advocates to provide the services, or to model other services appropriate to the geographic and cultural needs of a site.

[“(C) The evaluation of practice and the institutionalization of identification, intervention, and documentation including quality improvement measurements.

[“(D) The provision of training and followup technical assistance to health care professionals, behavioral and public health staff, and allied health professionals to identify, assess, treat, and refer clients who are victims of domestic violence, dating violence, sexual violence, or stalking.

[“(3) PERMISSIVE STRATEGIES.—Strategies implemented under paragraph (1) may include the following:

[“(A) Where appropriate, the development of training modules and policies that address the overlap of child abuse, domestic violence, dating violence, sexual assault, and stalking and elder abuse as well as childhood exposure to domestic violence.

[“(B) The creation, adaptation, and implementation of public education campaigns for patients concerning domestic violence, dating violence, sexual assault, and stalking prevention.

[“(C) The development, adaptation, and dissemination of domestic violence, dating violence, sexual assault, and stalking education materials to patients and health care professionals and behavioral and public health staff.

[“(D) The promotion of the inclusion of domestic violence, dating violence, sexual assault, and stalking into health professional training schools, including medical, dental, nursing school, social work, and mental health curriculum.

[“(E) The integration of domestic violence, dating violence, sexual assault, and stalking into health care accreditation and professional licensing examinations, such as medical, dental, social work, and nursing boards.

[“(c) ALLOCATION OF FUNDS.—Funds appropriated under this section shall be distributed equally between State and local programs.

[“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to award grants under this section, $5,000,000 for each of fiscal years 2006 through 2010.”.

[SEC. 505. RESEARCH ON EFFECTIVE INTERVENTIONS IN THE HEALTHCARE SETTING.

[Subtitle B of the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1902 et seq.), as amended by the Violence Against Women Act of 2000 (114 Stat. 1491 et seq.), and as amended by this Act, is further amended by adding at the end the following:

[“CHAPTER 11—RESEARCH ON EFFECTIVE INTERVENTIONS TO ADDRESS VIOLENCE AGAINST WOMEN

[“SEC. 40297. RESEARCH ON EFFECTIVE INTERVENTIONS IN THE HEALTH CARE SETTING.

[“(a) Purpose.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Research and Quality, shall award grants and contracts to fund research on effective interventions in the health care setting that prevent domestic violence, dating violence, and sexual assault across the lifespan and that prevent the health effects of such violence and improve the safety and health of individuals who are currently being victimized.

[“(b) Use of Funds.—Research conducted with amounts received under a grant or contract under this section shall include the following:

[“(1) With respect to the authority of the Centers for Disease Control and Prevention—

[“(A) research on the effects of domestic violence, dating violence, sexual assault, and childhood exposure to domestic, dating, or sexual violence, on health behaviors, health conditions, and the health status of individuals, families, and populations; and

[“(B) research and testing of best messages and strategies to mobilize public and health care provider action concerning the prevention of domestic, dating, or sexual violence; and

[“(2) With respect to the authority of the Agency for Healthcare Research and Quality—

[“(A) research on the impact on the health care system, health care utilization, health care costs, and health status of domestic and dating violence and childhood exposure to domestic and dating violence; and

[“(B) research on effective interventions within primary care and emergency health care settings and with health care settings that include clinical partnerships within community domestic violence providers for adults and children exposed to domestic or dating violence.

[“(c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2006 through 2010.”.

[TITLE VI—HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

[SEC. 601. ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

[The Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended by adding at the end the following:

[“Subtitle N—Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

[“SEC. 41401. FINDINGS.

[“Congress finds that:

[“(1) There is a strong link between domestic violence and homelessness. Among cities surveyed, 44 percent identified domestic violence as a primary cause of homelessness.

[“(2) 92 percent of homeless women have experienced severe physical or sexual abuse at some point in their lives. Of all homeless women and children, 60 percent had been abused by age 12, and 63 percent have been victims of intimate partner violence as adults.

[“(3) Women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.

[“(4) A recent survey of legal service providers around the country found that these providers have responded to almost 150 documented eviction cases in the last year alone where the tenant was evicted because of the domestic violence crimes committed against her. In addition, nearly 100 clients were denied housing because of their status as victims of domestic violence.

[“(5) Women who leave their abusers frequently lack adequate emergency shelter options. The lack of adequate emergency options for victims presents a serious threat to their safety and the safety of their children. Requests for emergency shelter by homeless women with children increased by 78 percent of United States cities surveyed in 2004. In the same year, 32 percent of the requests for shelter by homeless families went unmet due to the lack of available emergency shelter beds.

[“(6) The average stay at an emergency shelter is 60 days, while the average length of time it takes a homeless family to secure housing is 6 to 10 months.

[“(7) Victims of domestic violence often return to abusive partners because they cannot find long-term housing.

[“(8) There are not enough Federal housing rent vouchers available to accommodate the number of people in need of long-term housing. Some people remain on the waiting list for Federal housing rent vouchers for years, while some lists are closed.

[“(9) Transitional housing resources and services provide an essential continuum between emergency shelter provision and independent living. A majority of women in transitional housing programs stated that had these programs not existed, they would have likely gone back to abusive partners.

[“(10) Because abusers frequently manipulate finances in an effort to control their partners, victims often lack steady income, credit history, landlord references, and a current address, all of which are necessary to obtain long-term permanent housing.

[“(11) Victims of domestic violence in rural areas face additional barriers, challenges, and unique circumstances, such as geographical isolation, poverty, lack of public transportation systems, shortages of health care providers, under-insurance or lack of health insurance, difficulty ensuring confidentiality in small communities, and decreased access to many resources (such as advanced education, job opportunities, and adequate childcare).

[“(12) Congress and the Secretary of Housing and Urban Development have recognized in recent years that families experiencing domestic violence have unique needs that should be addressed by those administering the Federal housing programs.

[“SEC. 41402. PURPOSE.

[“The purpose of this subtitle is to reduce domestic violence, dating violence, sexual assault, and stalking, and to prevent homelessness by—

[“(1) protecting the safety of victims of domestic violence, dating violence, sexual assault, and stalking who reside in homeless shelters, public housing, assisted housing, Indian housing, or other emergency, transitional, permanent, or affordable housing, and ensuring that such victims have meaningful access to the criminal justice system without jeopardizing such housing;

[“(2) creating long-term housing solutions that develop communities and provide sustainable living solutions for victims of domestic violence, dating violence, sexual assault, and stalking;

[“(3) building collaborations between victim service providers, homeless service providers, housing providers, and housing agencies to provide appropriate services, interventions, and training to address the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking; and

[“(4) enabling public and assisted housing agencies, Indian housing authorities, private landlords, property management companies, and other housing providers and agencies to respond appropriately to domestic violence, dating violence, sexual assault, and stalking, while maintaining a safe environment for all housing residents.

[“SEC. 41403. DEFINITIONS.

[“For purposes of this subtitle—

[“(1) the term ‘assisted housing’ means housing assisted—

[“(A) under section 221(d)(3), section 221(d)(4), or section 236 of the National Housing Act (12 U.S.C. 1715l(d)(3), (d)(4), or 1715z-1);

[“(B) under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

[“(C) under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

[“(2) the term ‘continuum of care’ means a community plan developed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and achieve maximum self-sufficiency;

[“(3) the term ‘Indian housing’ means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.);

[“(4) the term ‘low-income housing assistance voucher’ means housing assistance described in section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

[“(5) the term ‘public housing’ means housing described in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1));

[“(6) the term ‘public housing agency’ means an agency described in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6));

[“(7) the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’—

[“(A) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and

[“(B) includes—

[“(i) an individual who—

[“(I) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

[“(II) is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;

[“(III) is living in an emergency or transitional shelter;

[“(IV) is abandoned in a hospital; or

[“(V) is awaiting foster care placement;

[“(ii) an individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

[“(iii) migratory children (as defined in section 1309 of the Elementary and Secondary Education Act of 1965; 20 U.S.C. 6399) who qualify as homeless under this section because the children are living in circumstances described in this paragraph; and

[“(8) the term ‘homeless service provider’ means a nonprofit, nongovernmental homeless service provider, such as a homeless shelter, a homeless service or advocacy program, a tribal organization serving homeless individuals, or coalition or other nonprofit, nongovernmental organization carrying out a community-based homeless or housing program that has a documented history of effective work concerning homelessness.

[“SEC. 41404. COLLABORATIVE GRANTS TO DEVELOP LONG-TERM HOUSING FOR VICTIMS.

[“(a) GRANTS AUTHORIZED.—

[“(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Administration on Children, Youth and Families ('ACYF'), and in consultation with the Secretary of Housing and Urban Development, shall award grants and contracts for a period of not less than 2 years to eligible entities to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, and stalking who are currently homeless or at risk for becoming homeless.

[“(2) AMOUNT.—The Secretary of Health and Human Services shall award—

[“(A) grants for projects that do not include the cost of construction in amounts—

[“(i) not less than $25,000 per year; and

[“(ii) not more than $350,000 per year; and

[“(B) grants for projects that do include the cost of construction in amounts—

[“(i) not less than $75,000 per year; and

[“(ii) not more than $1,000,000 per year.

[“(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall demonstrate that it is a coalition or partnership, applying jointly, that—

[“(1) shall include a domestic violence victim service provider;

[“(2) shall include—

[“(A) a homeless service provider;

[“(B) a nonprofit, nongovernmental community housing development organization or a Department of Agriculture rural housing service program; or

[“(C) in the absence of a homeless service provider on tribal lands or nonprofit, nongovernmental community housing development organization on tribal lands, an Indian housing authority or tribal housing consortium;

[“(3) may include a dating violence, sexual assault, or stalking victim service provider;

[“(4) may include housing developers, housing corporations, State housing finance agencies, other housing agencies, and associations representing landlords;

[“(5) may include a public housing agency or Indian housing authority;

[“(6) may include tenant organizations in public or Indian housing, as well as nonprofit, nongovernmental tenant organizations;

[“(7) may include other nonprofit, nongovernmental organizations participating in the Department of Housing and Urban Development's Continuum of Care process;

[“(8) may include a State, tribal, territorial, or local government or government agency; and

[“(9) may include any other such agencies or nonprofit, nongovernmental organizations with the capacity to provide effective help to adult and youth victims of domestic violence, dating violence, sexual assault, or stalking.

[“(c) APPLICATION.—

[“(1) IN GENERAL.—Each eligible entity seeking a grant under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

[“(2) CONTENTS.—Each application shall be submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

[“(d) USE OF FUNDS.—Grants and contracts awarded to eligible entities pursuant to subsection (a) shall be used to design or replicate and implement new activities, services, and programs to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents, who are currently homeless or at risk of becoming homeless. Such activities, services, or programs—

[“(1) shall participate in the Department of Housing and Urban Development's Continuum of Care process, unless such a process does not exist in the community to be served;

[“(2) shall develop sustainable long-term housing in the community by—

[“(A) coordinating efforts and resources among the various groups and organizations comprised in the entity to access existing private and public funding;

[“(B) placing individuals and families in long-term housing; and

[“(C) providing services to help individuals or families find and maintain long-term housing, including financial and support assistance;

[“(3) may provide capital costs for the purchase, preconstruction, construction, renovation, repair, or conversion of affordable housing units;

[“(4) may use funds for the continuing operation, upkeep, maintenance, and use of housing described in paragraph (3); and

[“(5) may provide to the community information about housing and housing programs, and the process to locate and obtain long-term housing.

[“(e) UNDERSERVED POPULATIONS AND PRIORITIES.—In awarding grants under this section, the Secretary of Health and Human Services, acting through the ACYF, shall—

[“(1) give priority to linguistically and culturally specific services;

[“(2) give priority to applications from entities that include a sexual assault service provider as described in subsection (b)(3);

[“(3) award a minimum of 15 percent of the funds appropriated under this section in any fiscal year to tribal organizations; and

[“(4) ensure that at least 2 of the grants awarded must fund projects that include construction consistent with the purposes in subsection (a)(i).

[“(f) DEFINITIONS.—For purposes of this section—

[“(1) the term 'long-term housing' means housing that is sustainable, accessible, affordable, and safe for the foreseeable future and is—

[“(A) rented or owned by the individual;

[“(B) subsidized by a voucher or other program which is not time-limited and is available for as long as the individual meets the eligibility requirements for the voucher or program; or

[“(C) provided directly by a program, agency, or organization and is not time-limited and is available for as long as the individual meets the eligibility requirements for the program, agency, or organization; and

[“(2) the term 'affordable housing' means housing that complies with the conditions set forth in section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745).

[“(g) EVALUATION, MONITORING, ADMINISTRATION, AND TECHNICAL ASSISTANCE.—For purposes of this section—

[“(1) up to 3 percent of the funds appropriated under subsection (h) for each fiscal year may be used by the Secretary of Health and Human Services for evaluation, monitoring, and administration costs under this section; and

[“(2) up to 8 percent of the funds appropriated under subsection (h) for each fiscal year may be used to provide technical assistance to grantees under this section.

[“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this section.

[“SEC. 41405. GRANTS TO COMBAT VIOLENCE AGAINST WOMEN IN PUBLIC AND ASSISTED HOUSING.

[“(a) PURPOSE.—It is the purpose of this section to assist eligible grantees in responding appropriately to domestic violence, dating violence, sexual assault, and stalking so that the status of being a victim of such a crime is not a reason for the denial or loss of housing. Such assistance shall be accomplished through—

[“(1) education and training of eligible entities;

[“(2) development and implementation of appropriate housing policies and practices;

[“(3) enhancement of collaboration with victim service providers and tenant organizations; and

[“(4) reduction of the number of victims of such crimes who are evicted or denied housing because of crimes and lease violations committed or directly caused by the perpetrators of such crimes.

[“(b) GRANTS AUTHORIZED.—

[“(1) IN GENERAL.—The Attorney General, acting through the Director of the Violence Against Women Office of the Department of Justice ('Director'), and in consultation with the Secretary of Housing and Urban Development ('Secretary'), and the Secretary of Health and Human Services, acting through the Administration for Children, Youth and Families ('ACYF'), shall award grants and contracts for not less than 2 years to eligible grantees to promote the full and equal access to and use of housing by adult and youth victims of domestic violence, dating violence, sexual assault, and stalking.

[“(2) AMOUNTS.—Not less than 15 percent of the funds appropriated to carry out this section shall be available for grants to Indian housing authorities.

[“(3) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis.

[“(4) LIMITATION.—Appropriated funds may only be used for the purposes described in subsections (f) and (i).

[“(c) ELIGIBLE GRANTEES.—

[“(1) IN GENERAL.—Eligible grantees are—

[“(A) public housing agencies;

[“(B) principally managed public housing resident management corporations, as determined by the Secretary;

[“(C) public housing projects owned by public housing agencies;

[“(D) agencies and authorities receiving assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

[“(E) private, for-profit, and nonprofit owners or managers of assisted housing.

[“(2) SUBMISSION REQUIRED FOR ALL GRANTEES.—To receive assistance under this section, an eligible grantee shall certify that—

[“(A) its policies and practices do not prohibit or limit a resident's right to summon police or other emergency assistance in response to domestic violence, dating violence, sexual assault, or stalking;

[“(B) programs and services are developed that give a preference in admission to adult and youth victims of such violence, consistent with local housing needs, and applicable law and the Secretary's instructions;

[''(C) it does not discriminate against any person—

[''(i) because that person is or is perceived to be, or has a family or household member who is or is perceived to be, a victim of such violence; or

[''(ii) because of the actions or threatened actions of the individual who the victim, as certified in subsection (e), states has committed or threatened to commit acts of such violence against the victim, or against the victim's family or household member;

[''(D) plans are developed that establish meaningful consultation and coordination with local victim service providers, tenant organizations, linguistically and culturally specific service providers, State domestic violence and sexual assault coalitions, and, where they exist, tribal domestic violence and sexual assault coalitions; and

[''(E) its policies and practices will be in compliance with those described in this paragraph within the later of 1 year or a period selected by the Attorney General in consultation with the Secretary and ACYF.

[''(d) Application.—Each eligible entity seeking a grant under this section shall submit an application to the Attorney General at such a time, in such a manner, and containing such information as the Attorney General may require.

[''(e) Certification.—

[''(1) In general.—A public housing agency, Indian housing authority, or assisted housing provider receiving funds under this section may request that an individual claiming relief under this section certify that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking. The individual shall provide a copy of such certification to the public housing agency, Indian housing authority, or assisted housing provider within a reasonable period of time after the agency or authority requests such certification.

[''(2) Contents.—An individual may satisfy the certification requirement of paragraph (1) by—

[''(A) providing the public housing agency, Indian housing authority, or assisted housing provider with documentation, signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; or

[''(B) producing a Federal, State, tribal, territorial, or local police or court record.

[''(3) Limitation.—Nothing in this subsection shall be construed to require any housing agency, assisted housing provider, Indian housing authority, owner, or manager to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking, in order to receive any of the benefits provided in this section. A housing authority may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

[''(4) Confidentiality.—

[''(A) In general.—All information provided to any housing agency, assisted housing provider, Indian housing authority, owner, or manager pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in the strictest confidence by such housing authority, and shall neither be entered into any shared database, nor provided to any related housing agency, assisted housing provider, Indian housing authority, owner, or manager, except to the extent that disclosure is—

[''(i) requested or consented to by the individual in writing; or

[''(ii) otherwise required by applicable law.

[''(B) Notification.—An individual shall be notified of the limits of such confidentiality and informed in advance about circumstances in which the housing agency, assisted housing provider, Indian housing authority, owner, or manager will be compelled to disclose the individual's information.

[''(f) Use of Funds.—Grants and contracts awarded pursuant to subsection (a) shall provide to eligible entities personnel, training, and technical assistance to develop and implement policies, practices, and procedures, making physical improvements or changes, and developing or enhancing collaborations for the purposes of—

[''(1) enabling victims of domestic violence, dating violence, sexual assault, and stalking with otherwise disqualifying rental, credit, or criminal histories to be eligible to obtain housing or housing assistance, if such victims would otherwise qualify for housing or housing assistance and can provide documented evidence that demonstrates the causal connection between such violence or abuse and the victims' negative histories;

[''(2) permitting applicants for housing or housing assistance to provide incomplete rental and employment histories, otherwise required as a condition of admission or assistance, if the victim believes that providing such rental and employment history would endanger the victim's or the victim children's safety;

[''(3) protecting victims' confidentiality, including protection of victims' personally identifying information, address, or rental history;

[''(4) assisting victims who need to leave a public housing, Indian housing, or assisted housing unit quickly to protect their safety, including those who are seeking transfer to a new public housing unit, Indian housing unit, or assisted housing unit, whether in the same or a different neighborhood or jurisdiction;

[''(5) enabling the public housing agency, Indian housing authority, or assisted housing provider, or the victim, to remove, consistent with applicable State law, the perpetrator of domestic violence, dating violence, sexual assault, or stalking without evicting, removing, or otherwise penalizing the victim;

[''(6) enabling the public housing agency, Indian housing authority, or assisted housing provider to comply with court orders, including civil protection orders issued to protect the victim, when notified and issued to address the distribution or possession of property among the household members in cases where a family breaks up;

[''(7) developing and implementing more effective security policies, protocols, and services;

[''(8) allotting not more than 15 percent of funds awarded under the grant to make physical improvements;

[''(9) training all personnel to more effectively identify and respond to victims of domestic violence, dating violence, sexual assault, and stalking; and

[''(10) effectively providing notice to applicants and residents of the above housing policies, practices, and procedures.

[''(g) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this section.

[''(h) Technical Assistance.—Up to 12 percent of the amount appropriated under subsection (g) for each fiscal year shall be used by the Attorney General for technical assistance costs under this section.''.

[SEC. 602. TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

[(a) In General.—Section 40299 of the Violence Against Women Act of 1994 (42 U.S.C. 13975) is amended—

[(1) in subsection (a)—

[(A) by inserting "the Department of Housing and Urban Development, and the Department of Health and Human Services," after "Department of Justice,";

[(B) by inserting ", including domestic violence victim service providers, domestic violence coalitions, other nonprofit, nongovernmental organizations, or community-based and culturally specific organizations, that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking" after "other organizations"; and

[(C) in paragraph (1), by inserting ", dating violence, sexual assault, or stalking" after "domestic violence";

[(2) in subsection (b)—

[(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

[(B) in paragraph (3), as redesignated, by inserting ", dating violence, sexual assault, or stalking" after "violence";

[(C) by inserting before paragraph (2), as redesignated, the following:

[''(1) transitional housing, or acquire land or buildings, or rehabilitate or construct buildings for the purpose of providing transitional housing to persons described in subsection (a), including funding for—

[''(A) the predevelopment cost and capital expenses involved in the development of transitional housing; and

[''(B) the operating expenses of newly developed or existing transitional housing.''; and

[(D) in paragraph (3)(B) as redesignated, by inserting "Participation in the support services shall be voluntary. Receipt of the benefits of the housing assistance described in paragraph (2) shall not be conditioned upon the participation of the youth, adults, or their dependents in any or all of the support services offered them." after "assistance.";

[(3) in paragraph (1) of subsection (c), by striking "18 months" and inserting "24 months";

[(4) in subsection (d)(2)—

[(A) by striking "and" at the end of subparagraph (A);

[(B) by redesignating subparagraph (B) as subparagraph (C); and

[(C) by inserting after subparagraph (A) the following:

[''(B) provide assurances that any supportive services offered to participants in programs developed under subsection (b)(3) are voluntary and that refusal to receive such services shall not be grounds for termination from the program or eviction from the victim's housing; and'';

[(5) in subsection (e)(2)—

[(A) in subparagraph (A), by inserting "purpose and" before "amount";

[(B) in clause (ii) of subparagraph (C), by striking "and";

[(C) in subparagraph (D), by striking the period and inserting "; and"; and

[(D) by adding at the end the following new subparagraph:

["(E) the client population served and the number of individuals requesting services that the transitional housing program is unable to serve as a result of a lack of resources."; and

[(6) in subsection (g)—

[(A) in paragraph (1), by striking "$30,000,000" and inserting "$40,000,000";

[(B) in paragraph (1), by striking "2004" and inserting "2006";

[(C) in paragraph (1), by striking "2008." and inserting "2010";

[(D) in paragraph (2), by striking "not more than 3 percent" and inserting "up to 5 percent";

[(E) in paragraph (2), by inserting "evaluation, monitoring, technical assistance," before "salaries"; and

[(F) in paragraph (3), by adding at the end the following new subparagraphs:

["(C) Underserved Populations.—

["(i) A minimum of 7 percent of the total amount appropriated in any fiscal year shall be allocated to tribal organizations serving adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents.

["(ii) Priority shall be given to projects developed under subsection (b) that primarily serve racial, ethnic, or other underserved populations.".

[SEC. 603. PUBLIC AND INDIAN HOUSING AUTHORITY PLANS REPORTING REQUIREMENT.

[Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

[(B) by redesignating paragraph (2) as paragraph (3); and

[(C) by inserting after paragraph (1) the following:

["(2) Statement of Goals.—The 5-year plan shall include a statement by any public housing agency or Indian housing authority of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.";

[(2) in subsection (d), by redesignating paragraphs (13), (14), (15), (16), (17), and (18), as paragraphs (14), (15), (16), (17), (18), and (19), respectively; and

[(3) by inserting after paragraph (12) the following:

["(13) Domestic Violence, Dating Violence, Sexual Assault, or Stalking Programs.—A description of—

["(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

["(B) any activities, services, or programs provided or offered by a public housing agency or Indian housing authority that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

["(C) any activities, services, or programs provided or offered by a public housing agency or Indian housing authority to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.".

[SEC. 604. HOUSING STRATEGIES.

[Section 105(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(1)) is amended by inserting after "immunodeficiency syndrome," the following: "victims of domestic violence, dating violence, sexual assault, and stalking".

[SEC. 605. AMENDMENT TO THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.

[Section 423 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383) is amended—

[(1) by adding at the end of subsection (a) the following:

["(8) Confidentiality.—

["(A) In General.—In the course of awarding grants or implementing programs under this subsection, the Secretary shall instruct any recipient or subgrantee not to disclose to any person, agency, or entity any personally identifying information about any client where the Secretary, recipient, or subgrantee believes based upon reasonable evidence that the client is either a child or an adult victim of domestic violence, dating violence, sexual assault, or stalking, or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking. The Secretary shall not require or ask a recipient or subgrantee of any other Federal or State program to disclose personally identifying information about any clients where the persons, agencies, or entities implementing those programs believe, based upon reasonable evidence, that those clients either are child or adult victims of domestic violence, dating violence, sexual assault, or stalking or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking. The Secretary shall instruct any recipient or subgrantee under this subsection or any recipient or subgrantee of any other Federal or State program participating in the Homeless Management Information System that personally identifying information about any client may only be disclosed if the program seeking to disclose such information has obtained informed, reasonably time-limited, written consent from the client to whom the information relates. The Secretary may require or ask any recipient or subgrantee to share nonpersonally identifying data in the aggregate regarding services to clients and nonpersonally identifying demographic information in order to comply with the data collection requirements of the Homeless Management Information System.

["(B) Personally Identifying Information or Personal Information.—The term 'personally identifying information' or 'personal information' means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

["(i) a first and last name;

["(ii) a home or other physical address;

["(iii) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

["(iv) a social security number; and

["(v) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of clauses (i) through (iv), would serve to identify any individual.".

[SEC. 606. AMENDMENTS TO THE LOW-INCOME HOUSING ASSISTANCE VOUCHER PROGRAM.

[Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

[(1) in subsection (d)—

[(A) in paragraph (1)(B)(ii), by inserting after "other good cause" the following: ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating a lease held by the victim of such violence"; and

[(B) in paragraph (1)(B)(iii), by inserting after "termination of tenancy" the following: ", except that (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy, if the tenant or immediate member of the tenant's family is a victim of domestic violence, dating violence, or stalking and, as a result, could not control or prevent the criminal activity; (II) nothing in subclause (I) may be construed to limit the authority of an owner or manager consistent with applicable State law to evict or the public housing agency or assisted housing provider to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others; and (III) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate, voucher assistance to any tenant if the owner, manager, public housing agency, or assisted housing provider can demonstrate an actual and imminent threat to the larger community if that tenant is not evicted or terminated from assistance.";

[(2) in subsection (f)—

[(A) in paragraph (6), by striking "and";

[(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

[(C) by adding at the end the following new paragraphs:

["(8) the term 'domestic violence' has the same meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2);

["(9) the term 'dating violence' has the same meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2); and

["(10) the term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

["(A) fear for his or her safety or the safety of others; or

["(B) suffer significant emotional or physical distress; and

["(11) the term 'sexual assault' has the same meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2).";

[(3) in subsection (o)—

[(A) by inserting at the end of paragraph (6)(B) the following new sentence: "That an applicant is or is perceived to be, or has been or has been perceived to be, a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by a public housing authority.";

[(B) in paragraph (7)(C), by inserting after "other good cause" the following: ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating a lease held by the victim of such violence"; and

[(C) in paragraph (7)(D), by inserting after "termination of tenancy" the following: "; except that (i) criminal activity relating directly to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy, if the tenant or immediate member of the tenant's family is a victim of domestic violence, dating violence, or stalking and, as a result, could not control or prevent the criminal activity; (ii) nothing in clause (i) may be construed to limit the authority of an owner or manager consistent with applicable State law to evict or the public housing agency or assisted housing provider to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others; and (iii) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate, voucher assistance to any tenant if the owner, manager, public housing agency, or assisted housing provider can demonstrate an actual and imminent threat to the larger community if that tenant is not evicted or terminated from assistance.";

[(4) in subsection (r)(5), by inserting after "violation of a lease" the following: ", except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit"; and

[(5) by adding at the end the following new subsection:

["(ee) CERTIFICATION AND CONFIDENTIALITY.—

["(1) CERTIFICATION.—

["(A) IN GENERAL.—An owner, manager, public housing agency, or assisted housing provider responding to subsections (d)(1)(B(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), and (r)(5) may request that an individual certify that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. The individual shall provide a copy of such certification within a reasonable period of time after the owner, manager, public housing agency, or assisted housing provider requests such certification.

["(B) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

["(i) providing the requesting owner, manager, public housing agency, or assisted housing provider with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse; or

["(ii) producing a Federal, State, tribal, territorial, or local police or court record.

["(C) LIMITATION.—Nothing in this subsection shall be construed to require an owner, manager, public housing agency, or assisted housing provider to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, public housing agency, or assisted housing provider may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

["(2) CONFIDENTIALITY.—

["(A) IN GENERAL.—All information provided to an owner, manager, public housing agency, or assisted housing provider pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in the strictest confidence by an owner, manager, public housing agency, or assisted housing provider, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

["(i) requested or consented to by the individual in writing; or

["(ii) otherwise required by applicable law.

["(B) NOTIFICATION.—An individual must be notified of the limits of such confidentiality and informed in advance about circumstances in which the person or entity will be compelled to disclose the individual's information.".

[SEC. 607. AMENDMENTS TO THE PUBLIC HOUSING PROGRAM.

[Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

[(1) in subsection (c), by redesignating paragraph (3) and (4), as paragraphs (4) and (5), respectively;

[(2) by inserting after paragraph (2) the following:

["(3) the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or is perceived to be, or has been or has been perceived to be, a victim of domestic violence, dating violence, or stalking";

[(3) in subsection (l)(5), by inserting after "other good cause" the following: ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating a lease held by the victim of such violence";

[(4) in subsection (l)(6), by inserting after "termination of tenancy" the following: "; except that (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy, if the tenant or immediate member of the tenant's family is a victim of domestic violence, dating violence, or stalking and, as a result, could not control or prevent the criminal activity; (B) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency consistent with applicable State law to evict, or the public housing agency or assisted housing provider to terminate, voucher assistance to individuals who engage in criminal acts of physical violence against family members or others; and (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to the larger community if that tenant's tenancy is not terminated."; and

[(5) by inserting at the end of subsection (t) the following new subsection:

["(u) CERTIFICATION AND CONFIDENTIALITY.—

["(1) CERTIFICATION.—

["(A) IN GENERAL.—A public housing agency responding to subsection (l) (5) and (6) may request that an individual certify that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. The individual shall provide a copy of such certification within a reasonable period of time after the public housing agency requests such certification.

["(B) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

["(i) providing the requesting public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse; or

["(ii) producing a Federal, State, tribal, territorial, or local police or court record.

["(C) LIMITATION.—Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency's discretion, a public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

["(2) CONFIDENTIALITY.—

["(A) IN GENERAL.—All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in the strictest confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

["(i) requested or consented to by the individual in writing; or

["(ii) otherwise required by applicable law.

["(B) NOTIFICATION.—An individual must be notified of the limits of such confidentiality and informed in advance about circumstances in which the person or entity will be compelled to disclose the individual's information.

["(3) DEFINITIONS.—For purposes of this subsection and subsection (l) (5) and (6)—

["(A) the term 'domestic violence' has the same meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2);

["(B) the term 'dating violence' has the same meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2); and

["(C) the term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

["(i) fear for his or her safety or the safety of others; or

["(ii) suffer significant emotional distress.".

[TITLE VII—PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

[SEC. 701. EMERGENCY LEAVE.

[(a) IN GENERAL.—The Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902) is amended by adding after subtitle N the following:

"Subtitle O—Assistance for Individuals Experiencing Domestic or Sexual Violence

["CHAPTER 1—EMERGENCY LEAVE

"[SEC. 41501. FINDINGS.

["Congress makes the following findings:

["(1) Violence against women is a leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health, financial security, and ability to maintain their jobs, and thus impacts interstate commerce.

["(2) Studies indicate that one of the best predictors of whether a victim of such violence will be able to stay away from her abuser is her degree of economic independence. However, domestic violence, dating violence, sexual assault, and stalking (referred to in this subtitle as 'domestic or sexual violence') often negatively impact victims' ability to maintain employment.

["(3) The Bureau of National Affairs has estimated that domestic violence costs United States employers between $3,000,000,000 and $5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs United States employers between $5,800,000,000 and $13,000,000,000 annually.

["(4) Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.

["(5) Abusers frequently seek to exert financial control over their partners by actively interfering with the ability of their partners to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

["(6) Studies indicate that between 35 and 56 percent of employed battered women surveyed were harassed at work by their abusers.

["(7) Victims of domestic violence also frequently miss work due to injuries, court proceedings, and safety concerns requiring legal protections. Victims of intimate partner violence lose 8,000,000 days of paid work each year—the equivalent of over 32,000 full-time jobs and 5,600,000 days of household productivity.

["(8) According to a 1998 report of the Government Accountability Office, between 25 percent and 50 percent of victims of domestic violence surveyed reported that the victims lost a job due, at least in part, to domestic violence.

["(9) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

["(10) Domestic violence also affects abusers' ability to work. A recent study found that 48 percent of abusers reported having difficulty concentrating at work and 42 percent reported being late to work. 78 percent reported using their own company's resources in connection with the abusive relationship.

["(11) About 36,500 individuals, 80 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1993 through 1999. Half of all female victims of violent workplace crimes know their abusers. Nearly 1 out of 10 violent workplace incidents are committed by spouses or other partners.

["(12) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault victims lose their jobs or are forced to quit in the aftermath of the assaults.

["(13) More than 35 percent of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

["(14) Five States provide victims of domestic or sexual violence with leave from work to attend court proceedings, to go to the doctor, or to take other steps to address the violence in their lives, and several other States provide time off to victims of crimes, which can include victims of domestic or sexual violence, to attend court proceedings.

["SEC. 41502. PURPOSES.

["The purposes of this chapter are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article 1 of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

["(1) to promote the national interest in reducing domestic or sexual violence by enabling victims of domestic or sexual violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences of domestic or sexual violence to employers and employees;

["(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences;

["(3) to reduce the negative impact on interstate commerce produced by dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic or sexual violence, including related intentional efforts to frustrate women's ability to participate in employment and interstate commerce; and

["(4) to enforce the 14th amendment's guarantee of equal protection of the laws by—

["(A) preventing and remedying sex-based discrimination and discrimination against victims of domestic and sexual violence in employment leave by addressing the failure of existing laws to protect the employment rights of women and such victims; and

["(B) thus furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination.

["SEC. 41503. DEFINITIONS.

["In this title, except as otherwise expressly provided:

["(1) COMMERCE.—The terms 'commerce' and 'industry or activity affecting commerce' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

["(2) ELECTRONIC COMMUNICATIONS.—The term 'electronic communications' includes communications via telephone (including mobile phone), computer, e-mail, video recorder, fax machine, telex, or pager.

["(3) EMPLOY; STATE.—The terms 'employ' and 'State' have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

["(4) EMPLOYEE.—

["(A) IN GENERAL.—The term 'employee' means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)).

["(B) BASIS.—The term includes a person employed as described in subparagraph (A)—

["(i) on a full- or part-time basis; or

["(ii) as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

["(5) EMPLOYER.—The term 'employer'—

["(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more individuals for each working day during each of the 20 or more calendar weeks in the current or preceding calendar year; and

["(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

["(6) EMPLOYMENT BENEFITS.—The term 'employment benefits' means all benefits provided or made available to employees by an employer (including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions), regardless of whether such benefits are provided or made available by a practice or written policy of an employer or through an 'employee benefit plan', as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

["(7) FAMILY OR HOUSEHOLD MEMBER.—The term 'family or household member', used with respect to an individual, means a nonabusive spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit as the individual.

["(8) PARENT; SON OR DAUGHTER.—The terms 'parent' and 'son or daughter' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

["(9) PERSON.—The term 'person' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

["(10) PUBLIC AGENCY.—The term 'public agency' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

["(11) PUBLIC ASSISTANCE.—The term 'public assistance' includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

["(12) REDUCED LEAVE SCHEDULE.—The term 'reduced leave schedule' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

["(13) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

["SEC. 41504. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.

["(a) LEAVE REQUIREMENT.—

["(1) BASIS.—An employee who is a victim of domestic or sexual violence may take leave from work to address domestic or sexual violence, by—

["(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee's family or household member;

["(B) obtaining emergency housing, temporary or permanent, or taking other actions to increase the safety of the employee or the employee's family or household member; or

["(C) seeking legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

["(2) PERIOD.—An employee may take not more than 10 days of leave, as described in paragraph (1), in any 12-month period.

["(3) SCHEDULE.—Leave described in paragraph (1) may be taken intermittently or on a reduced leave schedule.

["(b) NOTICE.—The employee shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

["(c) CERTIFICATION.—

["(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requires the certification, that—

["(A) the employee or the employee's family or household member is a victim of domestic or sexual violence; and

["(B) the leave is for 1 of the purposes described in subsection (a)(1).

["(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

["(A) documentation from an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic or sexual violence and the effects of the violence;

["(B) a police or court record; or

["(C) other corroborating evidence.

["(d) CONFIDENTIALITY.—All information provided to the employer pursuant to subsection (b) or (c), and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

["(1) requested or consented to by the employee in writing; or

["(2) otherwise required by applicable Federal or State law.

["(e) EMPLOYMENT AND BENEFITS.—

["(1) RESTORATION TO POSITION.—

["(A) IN GENERAL.—Except as provided in paragraph (2), any employee who takes leave under this section for the intended purpose of the leave shall be entitled, on return from such leave—

["(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

["(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

["(B) LOSS OF BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

["(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

["(i) the accrual of any seniority or employment benefits during any period of leave; or

["(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

["(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

["(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

["(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

["(i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

["(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

["(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

["(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 25 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

["(3) MAINTENANCE OF HEALTH BENEFITS.—

["(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

["(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

["(i) the employee fails to return from leave under this section after the period of leave to which the employee is entitled for the domestic or sexual violence involved has expired; and

["(ii) the employee fails to return to work for a reason other than the continuation or recurrence of domestic or sexual violence, that entitles the employee to leave pursuant to this section.

["(C) CERTIFICATION.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

["(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), and the fact that the employee is not returning to work because of a reason described in subparagraph (B)(ii), shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

["(i) requested or consented to by the employee in writing; or

["(ii) otherwise required by applicable Federal or State law.

["(f) PROHIBITED ACTS.—

["(1) INTERFERENCE WITH RIGHTS.—

["(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

["(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

["(i) exercised any right provided under this section; or

["(ii) opposed any practice made unlawful by this section.

["(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in paragraph (1)(B)) against any individual because such individual—

["(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this section;

["(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

["(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

["(g) ENFORCEMENT.—

["(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

["(A) LIABILITY.—Any employer that violates subsection (f) shall be liable to any individual affected—

["(i) for damages equal to—

["(I) the amount of—

["(aa) any wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation; or

["(bb) in a case in which wages, salary, employment benefits, public assistance, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

["(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

["(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

["(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

["(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

[“(i) the individuals; or

[“(ii) the individuals and other individuals similarly situated.

[“(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

[“(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any affected individual shall terminate—

[“(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer responsible under subparagraph (A) for the payment; or

[“(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer liable under subparagraph (A),

[unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

[“(2) ACTION BY THE SECRETARY.—

[“(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

[“(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

[“(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

[“(3) LIMITATION.—

[“(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under this subsection not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

[“(B) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of subsection (f), such action may be brought within 3 years after the date of the last event constituting the alleged violation for which such action is brought.

[“(C) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

[“(4) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

[“(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, public assistance, or other compensation, plus interest, found by the court to be due to affected individuals; or

[“(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

[“(5) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

[“(6) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer to an individual, for harm suffered relating to the individual's experience of domestic or sexual violence, pursuant to any other Federal or State law, including a law providing for a legal remedy.

[“(7) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Library of Congress, the authority of the Secretary under this subsection shall be exercised by the Librarian of Congress.

[“(8) CERTAIN PUBLIC AGENCIES.—

[“(A) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), subparagraph (B) shall apply.

[“(B) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this chapter provides to that agency, that Board, or any person, respectively, alleging a violation of subsection (f) against an employee who is such an individual.

[“SEC. 41505. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.

[“An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to Federal, State, or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 41504.

[“SEC. 41506. EMERGENCY BENEFITS.

[“(a) IN GENERAL.—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 41504.

[“(b) ELIGIBILITY.—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

[“(c) TIMING.—

[“(1) APPLICATIONS.—An individual seeking emergency benefits under subsection (a) from a State shall submit an application to the State.

[“(2) BENEFITS.—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

[“SEC. 41507. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

[“(a) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this chapter shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

[“(1) greater leave benefits for victims of domestic or sexual violence than the rights established under this chapter; or

[“(2) leave benefits for a larger population of victims of domestic or sexual violence (as defined in such law, agreement, program, or plan) than the victims of domestic or sexual violence covered under this chapter.

[“(b) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic or sexual violence under this chapter shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

[“SEC. 41508. REGULATIONS AND NOTIFICATION.

[“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Secretary shall issue regulations to carry out this chapter. The regulations shall include regulations requiring every employer to post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary, summarizing the provisions of this chapter and providing information on procedures for filing complaints of violations. The Secretary shall develop such a notice and provide copies of such notice to employers upon request without charge.

[“(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress.

[“(c) CERTAIN PUBLIC AGENCIES.—The head of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government) shall prescribe the regulations described in subsection (a) with respect to those individuals.”.

[(b) CONFORMING AMENDMENTS.—

[(1) SOCIAL SECURITY ACT.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

[“(l) AUTHORITY TO PROVIDE EMERGENCY BENEFITS.—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 41506 of the Violence Against Women Act of 1994, to individuals who take leave pursuant to section 40404 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.”.

[(2) REHABILITATION ACT AMENDMENTS OF 1986.—Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d-7(a)(1)) is amended by inserting “chapter 1 of subtitle O of the Violence Against Women Act of 1994,” before “or the provisions”.

[(c) EFFECTIVE DATE.—The amendments made by this section take effect 180 days after the date of enactment of this Act.

[SEC. 702. GRANT FOR NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON WORKPLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

[Subtitle O of the Violence Against Women Act of 1994 (as added by section 701) is amended by adding at the end the following:

[“CHAPTER 2—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER

[“SEC. 41511. GRANT FOR NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON WORKPLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

[“(a) AUTHORITY.—The Attorney General, acting through the Director of the Violence

Against Women Office, may award a grant to an eligible nonprofit nongovernmental entity or tribal organization, in order to provide for the establishment and operation of a national clearinghouse and resource center on workplace responses to assist victims of domestic and sexual violence. The clearinghouse and resource center shall provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic or sexual violence, to aid in their efforts to develop and implement appropriate responses to such violence in order to assist those victims.

[“(b) APPLICATIONS.—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

[“(1) information that demonstrates that the entity or organization has nationally recognized expertise in the area of domestic or sexual violence, and a record of commitment to reducing domestic or sexual violence;

[“(2) a plan to maximize, to the extent practicable, outreach to employers (including private companies and public entities such as public institutions of higher education and State and local governments), labor organizations, and advocates described in subsection (a) concerning developing and implementing appropriate workplace responses to assist victims of domestic or sexual violence; and

[“(3) a plan for developing materials and training for materials for employers that address the needs of employees in cases of domestic violence, dating violence, sexual assault, and stalking impacting the workplace, including the needs of racial and ethnic and other underserved communities.

[“(c) USE OF GRANT AMOUNT.—

[“(1) IN GENERAL.—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information and assistance concerning appropriate workplace responses to assist victims of domestic or sexual violence.

[“(2) RESPONSES.—Responses referred to in paragraph (1) may include—

[“(A) providing training to promote a better understanding of appropriate workplace assistance to victims of domestic or sexual violence;

[“(B) providing conferences and other educational opportunities;

[“(C) developing protocols and model workplace policies;

[“(D) providing employer-sponsored and labor organization-sponsored victim assistance and outreach counseling; and

[“(E) conducting assessments of the workplace costs of domestic or sexual violence.

[“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

[“(e) AVAILABILITY OF GRANT FUNDS.—Funds appropriated under this section shall remain available until expended.”.

[TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANT WOMEN

[Subtitle A—Victims of Crime

[SEC. 801. TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS.

[(a) TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS OF TRAFFICKING.—Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended—

[(1) in clause (i)—

[(A) in the matter preceding subclause (I), by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

[(B) by amending subclause (III) to read as follows:

[“(III)(aa) complied with any reasonable request for assistance in the Federal, State, or local investigation or prosecution of acts of trafficking or crimes related to trafficking; or

[“(bb) has provided credible evidence (as defined in section 204(a)(1)(J)) that physical or psychological abuse, injury, or trauma prohibits such alien from meeting the requirements of item (aa); or

[“(cc) has not attained 18 years of age; and”; and

[(2) by amending clause (ii) to read as follows:

[“(ii) if accompanying, or following to join, the alien described in clause (i)—

[“(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; and

[“(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien;”.

[(b) TREATMENT OF SPOUSES AND CHILDREN OF VICTIMS OF ABUSE.—Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)) is amended—

[(1) in clause (i)—

[(A) in the matter preceding subclause (I), by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

[(B) in subclause (I), by inserting “or injury” after “physical or mental abuse”;

[(2) by amending clause (ii) to read as follows:

[“(ii) if accompanying, or following to join, the alien described in clause (i)—

[“(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; and

[“(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and”; and

[(3) in clause (iii), by inserting “child abuse; stalking (including physical or electronic stalking);” after “false imprisonment;”.

[(c) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

[(A) in subparagraphs (F) and (G), by striking “at least one year” each place it appears and inserting “is more than 1 year”;

[(B) in subparagraph (J), by striking “one year imprisonment or more” and inserting “more than 1 year imprisonment”;

[(C) in subparagraph (P)(ii), by striking “at least 12 months” and inserting “more than 1 year”; and

[(D) in subparagraphs (R) and (S), by striking “at least one year” each place it appears and inserting “more than 1 year”.

[(d) TECHNICAL AMENDMENTS.—Section 101(i) of the Immigration and Nationality Act (8 U.S.C. 1101(i)) is amended—

[(1) in paragraph (1), by striking “Attorney General” and inserting “Secretary of Homeland Security, the Attorney General,”; and

[(2) in paragraph (2), by striking “Attorney General” and inserting “Secretary of Homeland Security”.

[SEC. 802. PRESENCE OF VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.

[(a) IN GENERAL.—Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

[“(V) VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.—Clause (i) shall not apply to an alien who demonstrates that there was a connection between the alien being a victim of a severe form of trafficking (as that term is defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) and the alien's unlawful presence in the United States.”.

[(b) TECHNICAL AMENDMENT.—Paragraphs (13) and (14) of section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) are amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

[SEC. 803. ADJUSTMENT OF STATUS FOR VICTIMS OF TRAFFICKING.

[Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

[(1) in paragraph (1)—

[(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

[(B) in subparagraph (A), by striking “for a continuous period of at least 3 years”;

[(2) in paragraph (2), by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

[(3) in paragraph (5), by striking “Attorney General” and inserting “Secretary of Homeland Security”.

[SEC. 804. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

[(a) CERTIFICATION PROCESS.—Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)) is amended—

[(1) in clause (i)—

[(A) in the matter preceding subclause (I), by striking “Attorney General, that the person referred to in subparagraph (C)(ii)(II)—” and inserting “Attorney General or the Secretary of Homeland Security, as appropriate, that the person referred to in subparagraph (C)(ii)(II) has not attained 18 years of age or—”;

[(B) in subclause (I), by striking “investigation and prosecution” and inserting “investigation or prosecution, by the United States or a State or local government,”; and

[(C) in subclause (II)(bb), by inserting “or the Secretary of Homeland Security” after “Attorney General”;

[(2) in clause (ii), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

[(3) in clause (iii)—

[(A) in subclause (II), by striking “and” at the end;

[(B) in subclause (III), by striking the period at the end and inserting “; or”; and

[(C) by adding at the end the following:

[“(IV) responding to and cooperating with requests for evidence and information.; and

[(4) by striking “investigation and prosecution” each place it appears and inserting “investigation or prosecution”.

[(b) TRAFFICKING VICTIM REGULATIONS.—Section 107(c) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)) is amended—

[(1) in the matter preceding paragraph (1), by inserting “, the Secretary of Homeland Security,” after “Attorney General”; and

[(2) in paragraph (3)—

[(A) by striking "Federal law enforcement officials" and inserting "The Department of Homeland Security"; and

[(B) by adding at the end the following: "State or local law enforcement officials may petition the Department of Homeland Security for the continued presence for trafficking victims. If such a petition contains a certification that a trafficking victim is a victim of a severe form of trafficking, the presence of the trafficking victim may be permitted in accordance with this paragraph.".

[(c) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—Section 107(e)(5) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(e)(5)) is amended by striking "Attorney General" each place it occurs and inserting "Secretary of Homeland Security".

[(d) ANNUAL REPORT.—Section 107(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(g)) is amended by inserting "or the Secretary of Homeland Security" after "Attorney General".

[SEC. 805. PROTECTING VICTIMS OF CHILD ABUSE.

[(a) AGING OUT CHILDREN.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended—

[(1) in clause (i)—

[(A) in subclause (I), by inserting "or section 204(a)(1)(B)(iii)" after "204(a)(1)(A)" each place it appears; and

[(B) in subclause (III), by striking "a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable," and inserting "a VAWA self-petitioner"; and

[(2) by adding at the end the following:

["(iv) Any alien who benefits from this subparagraph may adjust status in accordance with subsections (a) and (c) of section 245 as an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii).".

[(b) APPLICATION OF CSPA PROTECTIONS.—

[(1) IMMEDIATE RELATIVE RULES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

["(4) APPLICATION TO SELF-PETITIONS.—Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.".

[(2) CHILDREN RULES.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by adding at the end the following:

["(4) APPLICATION TO SELF-PETITIONS.—Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.".

[(c) LATE PETITION PERMITTED FOR IMMIGRANT SONS AND DAUGHTERS BATTERED AS CHILDREN.—

[(1) IN GENERAL.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)), as amended by subsection (a), is further amended by adding at the end the following:

["(v) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age. Clauses (i) through (iv) of this subparagraph shall apply to an individual described in this clause in the same manner as an individual filing a petition under subparagraph (A)(iv).".

[(d) REMOVING A 2-YEAR CUSTODY AND RESIDENCY REQUIREMENT FOR BATTERED ADOPTED CHILDREN.—Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(E)(i)) is amended by inserting before the colon the following: "or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household".

[Subtitle B—VAWA Self-Petitioners

[SEC. 811. DEFINITION OF VAWA SELF-PETITIONER.

[Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

["(51) The term 'VAWA self-petitioner' means an alien, or a child of the alien, who qualifies for relief under—

["(A) clause (iii), (iv), or (vii) of section 204(a)(1)(A);

["(B) clause (ii) or (iii) of section 204(a)(1)(B);

["(C) the first section of Public Law 89-732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty;

["(D) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note);

["(E) section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act; or

["(F) section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208).".

[SEC. 812. APPLICATION TO FIANCEES WHO DO NOT MARRY WITHIN 90 DAY PERIOD.

[(a) IN GENERAL.—Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended by inserting before the period at the end the following: ", unless the alien is eligible for status as a VAWA self-petitioner, for relief under section 240A(b)(2), or for relief under section 244(a)(3) (as in effect prior to March 31, 1997), and the alien married the United States citizen who filed the petition under section 101(a)(15)(K)(i)".

[(b) EXEMPTION FOR BATTERED IMMIGRANT WOMEN WHO ENTERED THE UNITED STATES ON FINANCE VISAS FROM CONDITIONAL RESIDENCY STATUS REQUIREMENT.—Section 245(d) of the Immigration and Nationality Act (8 U.S.C. 1255(d)) is amended—

[(1) by inserting "(1)" after "(d)"; and

[(2) by adding at the end the following:

["(2) The failure of a nonimmigrant described in section 101(a)(15)(K) to marry within 3 months of being admitted in such status does not restrict the Secretary of Homeland Security's or the Attorney General's authority to adjust the status of the nonimmigrant, or grant relief under section 240A(b)(2), or under section 244(a)(3) (as in effect prior to March 31, 1997), provided that—

["(A) the alien married the United States citizen who filed the petition under section 101(a)(15)(K)(i); and

["(B) the United States citizen petitioner subjected a VAWA self-petitioner to battery or extreme cruelty.".

[SEC. 813. APPLICATION IN CASE OF VOLUNTARY DEPARTURE.

[Section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)) is amended to read as follows:

["(d) CIVIL PENALTY FOR FAILURE TO DEPART.—

["(1) IN GENERAL.—Subject to paragraph (2), if an alien is permitted to depart voluntarily under this section and voluntarily fails to depart the United States within the time period specified, the alien—

["(A) shall be subject to a civil penalty of not less than $1,000 and not more than $5,000; and

["(B) shall be ineligible, for a period of 10 years, to receive any further relief under this section and sections 240A, 245, 248, and 249.

["(2) APPLICATION OF VAWA PROTECTIONS.—The restrictions on relief under paragraph (1) shall not apply to relief under section 240A or 245 on the basis of a petition filed by a VAWA self-petitioner, or a petition filed under section 240A(b)(2), or under section 244(a)(3) (as in effect prior to March 31, 1997),if the extreme cruelty or battering occurred before the alien overstayed the grant of voluntary departure.

["(3) NOTICE OF PENALTIES.—The order permitting an alien to depart voluntarily shall inform the alien of the penalties under this subsection.".

[SEC. 814. REMOVAL PROCEEDINGS.

[(a) EXCEPTIONAL CIRCUMSTANCES.—

[(1) IN GENERAL.—Section 240(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(e)(1)) is amended by striking "serious illness of the alien" and inserting "battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the alien,".

[(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to a failure to appear that occurs before, on, or after the date of the enactment of this Act.

[(b) NONAPPLICATION OF REINSTATEMENT OF REMOVAL.—

[(1) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended—

[(A) by striking "If the Attorney General" and inserting the following:

["(A) IN GENERAL.—If the Secretary of Homeland Security"; and

[(B) by adding at the end the following:

["(B) EXEMPTION.—The provisions of subparagraph (A) shall not apply to an alien who has been battered or subjected to extreme cruelty or who is a crime victim whom the Attorney General or Secretary of Homeland Security determines may be statutorily eligible for classification under subparagraph (T) or (U) of section 101(a)(15), for classification under subparagraph (A)(1)(iii), (A)(1)(iv), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1), for classification as a VAWA self-petitioner, or for relief under section 240A(b)(2) or section 244(a)(3) (as in effect prior to March 31, 1997).".

[(2) EFFECTIVE DATE.—The amendments made by paragraph (1) and the exemption in paragraph (2) shall apply to those eligible relief before, on, or after the date of enactment of this Act.

[(c) RESTRICTION ON REMOVAL WHILE VAWA PETITION PENDING.—

[(1) IN GENERAL.—Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended by adding at the end the following:

["(f) RESTRICTION ON REMOVAL WHILE PETITION PENDING.—An alien who is a VAWA self-petitioner, the beneficiary under subparagraph (T) or (U) of section 101(a)(15) who meets the requirement of section 240A(b)(2) or subparagraphs (A) through (C) of section 216(c)(4), or who qualifies for relief under section 244(a)(3) (as in effect on March 31, 1997)—

["(1) shall not be removed or deported unless the petition is denied and all opportunities for appeal of the denial have been exhausted; and

[''(2) shall not be detained while in removal proceedings, unless mandatory detention is required under section 236A or 236(c).''.

[(2) WAIVERS AND EXCEPTIONS.—Section 236(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

[(A) in paragraph (2) by inserting ''(A)'' before ''The Attorney General may release an alien described in paragraph (1) only''; and

[(B) adding at the end the following:

[''(B) The Secretary of Homeland Security or the Attorney General may release on their own recognizance an alien described in paragraph (1) if the Secretary or the Attorney General determines that the alien may qualify for—

[''(i) a waiver under section 212(d)(13), 212(d)(14), 212(h), 237(a)(2)(A)(v), or 237(a)(7); or

[''(ii) an exception under section 204(a)(1)(C); or

[''(iii) relief under section 240A(a).''.

[(d) CLARIFYING APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY IN CANCELLATION OF REMOVAL.—

[(1) IN GENERAL.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended—

[(A) in paragraph (1)(C), by striking ''(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)'' and inserting '', subject to paragraph (5)'';

[(B) in paragraph (2)(A)(iv), by striking ''(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)'' and inserting '', subject to paragraph (5)''; and

[(C) by adding at the end the following:

[''(5) APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY.—The authority provided under section 237(a)(7) shall apply under paragraphs (1)(B), (1)(C), and (2)(A)(iv) in a cancellation of removal and adjustment of status proceeding.''.

[SEC. 815. ELIMINATING ABUSERS' CONTROL OVER APPLICATIONS FOR ADJUSTMENTS OF STATUS.

[(a) APPLICATION OF VAWA DEPORTATION PROTECTIONS TO ALIENS ELIGIBLE FOR RELIEF UNDER CUBAN ADJUSTMENT AND HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT.—Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note; division B of Public Law 106–386) is amended—

[(1) in subparagraph (A)—

[(A) by amending clause (i) to read as follows:

[''(i) if the basis of the motion is to apply for relief under—

[''(I) clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A));

[''(II) clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B));

[''(III) section 244(a)(3) of such Act (8 U.S.C. 8 U.S.C. 1254(a)(3));

[''(IV) the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty; or

[''(V) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note); and''; and

[(B) in clause (ii), by inserting ''or adjustment of status'' after ''suspension of deportation''; and

[(2) in subparagraph (B)(ii), by striking ''for relief'' and all that follows through ''1101 note))'' and inserting ''for relief described in subparagraph (A)(i)''.

[(b) EMPLOYMENT AUTHORIZATION FOR VAWA SELF-PETITIONERS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following:

[''(l) An alien who is in the United States and has a petition, pending or approved as a VAWA self-petitioner, that sets forth a prima facie case for status or classification under such clause shall be eligible for employment authorization.''.

[SEC. 816. APPLICATION FOR VAWA-RELATED RELIEF.

[(a) IN GENERAL.—Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100) is amended—

[(1) in subparagraph (B)(ii), by inserting '', or was eligible for adjustment,'' after ''whose status is adjusted''; and

[(2) in subparagraph (E), by inserting '', or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women Act of 2005'' after ''April 1, 2000''.

[(b) TECHNICAL AMENDMENT.—Section 202(d)(3) of such Act (8 U.S.C. 1255 note; Public Law 105–100) is amended by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''.

[(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

[SEC. 817. SELF-PETITIONING PARENTS.

[Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following:

[''(vii) An alien may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under section 201(b)(2)(A)(i) if the alien—

[''(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who, within the past 2 years, lost or renounced citizenship status related to an incident of domestic violence or died;

[''(II) is a person of good moral character;

[''(III) is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i);

[''(IV) resides, or has resided, with the citizen daughter or son; and

[''(V) demonstrates that the alien has been battered or subject to extreme cruelty by the citizen daughter or son.''.

[SEC. 818. VAWA CONFIDENTIALITY NON-DISCLOSURE.

[Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)) is amended—

[(1) in subsection (a)—

[(A) in the matter preceding paragraph (1), by striking ''(including any bureau or agency of such Department)'' and inserting '', the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)''; and

[(B) in paragraph (1)—

[(i) in subparagraph (D), by striking ''or'' at the end;

[(ii) in subparagraph (E), by adding ''or'' at the end; and

[(iii) by inserting after subparagraph (E) the following:

[''(F) in the case of an alien applying for status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)), under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105), under section 244(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(a)(3)), as in effect prior to March 31, 1999, or as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)), the trafficker or perpetrator,''.

[(2) in subsection (b)(2), by inserting ''or his other designee'' after ''the discretion of the Attorney General.''.

[Subtitle C—Miscellaneous Amendments

[SEC. 821. DURATION OF T AND U VISAS.

[(a) T VISAS.—Section 214(o) of the Immigration and Nationality Act (8 U.S.C. 1184(o)) is amended by adding at the end the following:

[''(7)(A) Except as provided in subparagraph (B), an alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may be granted such status for a period of not more than 4 years.

[''(B) An alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may extend the period of such status beyond the period described in subparagraph (A) if a Federal, State, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking or certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of such activity.''.

[(b) U VISAS.—Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended by adding at the end the following:

[''(6) DURATION OF STATUS.—The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be 4 years, but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien's continued presence in the United States is required to assist in the investigation or prosecution of such criminal activity.''.

[(c) PERMITTING CHANGE OF NONIMMIGRANT STATUS TO T AND U NONIMMIGRANT STATUS.—

[(1) IN GENERAL.—Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended—

[(A) by striking ''The Attorney General'' and inserting ''(a) The Secretary of Homeland Security'';

[(B) by inserting ''(subject to subsection (b))'' after ''except''; and

[(C) by adding at the end the following:

[''(b) The exceptions specified in paragraphs (1) through (4) of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15).''.

[(2) CONFORMING AMENDMENT.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by striking ''248(2)'' and inserting ''248(a)(2)''.

[SEC. 822. TECHNICAL CORRECTION TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.

[(a) PHYSICAL PRESENCE RULES.—Section 240A(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(B)) is amended—

[(1) in the first sentence, by striking ''(A)(i)(II)'' and inserting ''(A)(ii)''; and

[(2) in the fourth sentence, by striking "subsection (b)(2)(B) of this section" and inserting "this subparagraph, subparagraph (A)(ii),".

[(b) Moral Character Rules.—Section 240A(b)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(C)) is amended by striking "(A)(i)(III)" and inserting "(A)(iii)".

[(c) Correction of Cross-Reference Error in Applying Good Moral Character.—

[(1) In general.—Section 101(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(3)) is amended by striking "(9)(A)" and inserting "(10)(A)".

[(2) Effective date.—The amendment made by paragraph (1) shall be effective as if included in section 603(a)(1) of the Immigration Act of 1990 (Public Law 101–649; 104 Stat. 5082).

[SEC. 823. PETITIONING RIGHTS OF CERTAIN FORMER SPOUSES UNDER CUBAN ADJUSTMENT.

[(a) In General.—The first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) is amended—

[(1) in the last sentence, by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)"; and

[(2) by adding at the end the following: "An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.".

[(b) Effective Date.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

[SEC. 824. SELF-PETITIONING RIGHTS OF HRIFA APPLICANTS.

[(a) In General.—Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended—

[(1) in clause (i), by striking "whose status is adjusted to that of an alien lawfully admitted for permanent residence" and inserting "who is or was eligible for classification";

[(2) in clause (ii), by striking "whose status is adjusted to that of an alien lawfully admitted for permanent residence" and inserting "who is or was eligible for classification"; and

[(3) in clause (iii), by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

[(b) Effective Date.—The amendment made by subsection (a)(3) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

[SEC. 825. DEPORTATION PROCEEDINGS.

[(a) Deportation or Removal Proceedings.—

[(1) In general.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended—

[(A) in clause (iv), by striking "The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply—" and inserting "No limitation on number of motions or on deadlines for filing motions under other provisions of this section shall apply—"; and

[(B) by adding at the end the following:

["(v) Stay of removal.—The filing of the motion described in clause (iv) shall stay the removal of the alien pending a final disposition of the motion, including the exhaustion of all appeals. Only 1 special motion under clause (iv) is permitted.".

[(2) Effective date.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 442(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1279).

[(b) Motions To Reopen Deportation Proceedings.—Section 1506(c)(2)(A) of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 8 U.S.C. 1229a note) is amended—

[(1) by inserting "on number of motions or deadlines for filing motions" after "Notwithstanding any limitation";

[(2) by inserting ", deadline, or limit on number of motions" after "there is no time limit"; and

[(3) by striking ", and the" and inserting ". The filing of a motion described in clauses (i) and (ii) shall stay the removal of the aliens pending a final disposition of the motion, including the exhaustion of all appeals. Only 1 motion under clauses (i) and (ii) is permitted. The".

[(c) Conforming Amendments.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

[(1) in paragraph (6)(A)(ii)(III), by striking "substantial"; and

[(2) in paragraph (9)(B)(iii)(IV), by striking "who would be described in paragraph (6)(A)(ii)" and inserting "who demonstrates that the alien is described in subclauses (I) and (II) of paragraph (b)(A)(ii)".

[SEC. 826. LIMITATIONS ON ENFORCEMENT.

[Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following:

["(h) Immigration officers and employees shall not undertake any civil immigration enforcement action—

["(1) at a domestic violence shelter, a victims services organization or program, a rape crisis center, a family justice center, or a supervised visitation center; or

["(2) at, or in connection with the appearance at, a courthouse of an alien who is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or who is described in subparagraph (T) or (U) of section 101(a)(15).".

[SEC. 827. PROTECTING ABUSED JUVENILES.

[Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 726, is further amended by adding at the end the following—

["(i) An alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been battered, abused, neglected, or abandoned, shall not be compelled to contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for the consent of the Secretary of Homeland Security under section 101(a)(27)(J)(iii)(I) of such Act.".

[SEC. 828. RULEMAKING.

[Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of Homeland Security, and the Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 (title v of Public Law 106–386), this Act, and the amendments made by this Act.

[TITLE IX—SAFETY FOR INDIAN WOMEN

[SEC. 901. FINDINGS.

[Congress finds that—

[(1) 1 out of every 3 Indian (including Alaska Native) women are raped in their lifetimes;

[(2) Indian women experience 7 sexual assaults per 1,000, compared with 4 per 1,000 among Black Americans, 3 per 1,000 among Caucasians, 2 per 1,000 among Hispanic women, and 1 per 1,000 among Asian women;

[(3) Indian women experience the violent crime of battering at a rate of 23.2 per 1,000, compared with 8 per 1,000 among Caucasian women;

[(4) during the period 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15 to 34, and 75 percent were killed by family members or acquaintances;

[(5) Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women; and

[(6) the unique legal relationship of the United States to Indian tribes creates a Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.

[SEC. 902. PURPOSES.

[The purposes of this title are—

[(1) to decrease the incidence of violent crimes against Indian women;

[(2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women; and

[(3) to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

[SEC. 903. CONSULTATION.

[(a) In General.—The Attorney General shall conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902) and the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

[(b) Recommendations.—During consultations under subsection (a), the Secretary and the Attorney General shall solicit recommendations from Indian tribes concerning—

[(1) administering tribal funds and programs;

[(2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and

[(3) strengthening the Federal response to such violent crimes.

[SEC. 904. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST INDIAN WOMEN.

[(a) National Baseline Study.—

[(1) In general.—The National Institute of Justice, in consultation with the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women in Indian country.

[(2) Scope.—

[(A) In general.—The study shall examine violence committed against Indian women, including—

[(i) domestic violence;

[(ii) dating violence;

[(iii) sexual assault;

[(iv) stalking; and

[(v) murder.

[(B) EVALUATION.—The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in subparagraph (A) committed against Indian women.

[(C) RECOMMENDATIONS.—The study shall propose recommendations to improve the effectiveness of Federal, State, tribal, and local responses to the violation described in subparagraph (A) committed against Indian women.

[(3) TASK FORCE.—

[(A) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under paragraph (1) and guide implementation of the recommendation in paragraph (2)(C).

[(B) MEMBERS.—The Director shall appoint to the task force representatives from—

[(i) national tribal domestic violence and sexual assault nonprofit organizations;

[(ii) tribal governments; and

[(iii) representatives from the national tribal organizations.

[(4) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the study.

[(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 and 2007, to remain available until expended.

[(b) INJURY STUDY.—

[(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Indian Health Service and the Injury Control Division of the Centers for Disease Control and Prevention, shall conduct a study to obtain a national projection of—

[(A) the incidence of injuries and homicides resulting from domestic violence, dating violence, sexual assault, or stalking committed against American Indian and Alaska Native women; and

[(B) the cost of providing health care for the injuries described in subparagraph (A).

[(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the findings made in the study and recommends for health care strategies for reducing the incidence and cost of the injuries described in paragraph (1).

[(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2006 and 2007, to remain available until expended.

[SEC. 905. TRACKING OF VIOLENCE AGAINST INDIAN WOMEN.

[(a) ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.—Section 534 of title 28, United States Code, is amended—

[(1) by redesignating subsection (d) as subsection (e); and

[(2) by inserting after subsection (c) the following:

[''(d) INDIAN LAW ENFORCEMENT AGENCIES.—The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into Federal criminal information databases and to obtain information from the databases.''.

[(b) TRIBAL REGISTRY.—

[(1) ESTABLISHMENT.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

[(A) a national tribal sex offender registry; and

[(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

[(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

[SEC. 906. TRIBAL DEPUTY IN THE OFFICE ON VIOLENCE AGAINST WOMEN.

[Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

["SEC. 2007. TRIBAL DEPUTY.

[''(a) ESTABLISHMENT.—There is established in the Office on Violence Against Women a Deputy Director for Tribal Affairs.

[''(b) DUTIES.—

[''(1) IN GENERAL.—The Deputy Director shall under the guidance and authority of the Director of the Office on Violence Against Women—

[''(A) oversee and manage the administration of grants to and contracts with Indian tribes, tribal courts, tribal organizations, or tribal nonprofit organizations;

[''(B) ensure that, if a grant under this Act or a contract pursuant to such a grant is made to an organization to perform services that benefit more than 1 Indian tribe, the approval of each Indian tribe to be benefited shall be a prerequisite to the making of the grant or letting of the contract;

[''(C) coordinate development of Federal policy, protocols, and guidelines on matters relating to violence against Indian women;

[''(D) advise the Director of the Office on Violence Against Women concerning policies, legislation, implementation of laws, and other issues relating to violence against Indian women;

[''(E) represent the Office on Violence Against Women in the annual consultations under section 903;

[''(F) provide technical assistance, coordination, and support to other offices and bureaus in the Department of Justice to develop policy and to enforce Federal laws relating to violence against Indian women, including through litigation of civil and criminal actions relating to those laws;

[''(G) maintain a liaison with the judicial branches of Federal, State, and tribal governments on matters relating to violence against Indian women;

[''(H) support enforcement of tribal protection orders and implementation of full faith and credit educational projects and comity agreements between Indian tribes and States; and

[''(I) ensure that adequate tribal technical assistance is made available to Indian tribes, tribal courts, tribal organizations, and tribal nonprofit organizations for all programs relating to violence against Indian women.

[''(c) AUTHORITY.—

[''(1) IN GENERAL.—The Deputy Director shall ensure that a portion of the tribal set-aside funds from any grant awarded under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103-322; 108 Stat. 1902), or the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491) is used to enhance the capacity of Indian tribes to address the safety of Indian women.

[''(2) ACCOUNTABILITY.—The Deputy Director shall ensure that some portion of the tribal set-aside funds from any grant made under this part is used to hold offenders accountable through—

[''(A) enhancement to the response of Indian tribes to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including legal services for victims and Indian-specific offender programs;

[''(B) development and maintenance of tribal domestic violence shelters or programs for battered Indian women, including sexual assault services, that are based upon the unique circumstances of the Indian women to be served;

[''(C) development of tribal educational awareness programs and materials;

[''(D) support for customary tribal activities to strengthen the intolerance of an Indian tribe to violence against Indian women; and

[''(E) development, implementation, and maintenance of tribal electronic databases for tribal protection order registries.''.

[SEC. 907. ENHANCED CRIMINAL LAW RESOURCES.

[(a) FIREARMS POSSESSION PROHIBITIONS.—Section 921(33)(A)(i) of title 18, United States Code, is amended to read: ''(i) is a misdemeanor under Federal, State, or Tribal law; and''.

[(b) LAW ENFORCEMENT AUTHORITY.—Section 4(3) of the Indian Law Enforcement Reform Act (25 U.S.C. 2803(3) is amended—

[(1) in subparagraph (A), by striking ''or'';

[(2) in subparagraph (B), by striking the semicolon and inserting '', or''; and

[(3) by adding at the end the following:

[''(C) the offense is a misdemeanor crime of domestic violence and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim, and the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing the crime;''.

[SEC. 908. DOMESTIC ASSAULT BY AN HABITUAL OFFENDER.

[Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

["§117. DOMESTIC ASSAULT BY AN HABITUAL OFFENDER.

[''Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least 2 separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction—

[''(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

[''(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from violation under this section, the offender shall be imprisoned for a term of not more than 10 years.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 2005".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Universal definitions and grant provisions.

TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE AGAINST WOMEN

Sec. 101. Stop grants improvements.
Sec. 102. Grants to encourage arrest and enforce protection orders improvements.
Sec. 103. Legal assistance for victims improvements.
Sec. 104. Ensuring crime victim access to legal services.
Sec. 105. The Violence Against Women Act court training and improvements.
Sec. 106. Full faith and credit improvements.
Sec. 107. Privacy protections for victims of domestic violence, dating violence, sexual violence, and stalking.
Sec. 108. Sex offender management.
Sec. 109. Stalker database.
Sec. 110. Federal victim assistants reauthorization.
Sec. 111. Grants for law enforcement training programs.
Sec. 112. Reauthorization of the Court-Appointed Special Advocate Program.
Sec. 113. Preventing cyberstalking.
Sec. 114. Criminal provision relating to stalking.
Sec. 115. Repeat offender provision.
Sec. 116. Prohibiting dating violence.
Sec. 117. Prohibiting violence in special maritime and territorial jurisdiction.

TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 201. Findings.
Sec. 202. Sexual assault services program.
Sec. 203. Amendments to the rural domestic violence and child abuse enforcement assistance program.
Sec. 204. Training and services to end violence against women with disabilities.
Sec. 205. Training and services to end violence against women in later life.
Sec. 206. Strengthening the national domestic violence hotline.

TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

Sec. 301. Findings.
Sec. 302. Rape prevention and education.
Sec. 303. Services, education, protection, and justice for young victims of violence.
Sec. 304. Grants to reduce violence against women on campus.
Sec. 305. Juvenile justice.
Sec. 306. Safe havens.

TITLE IV—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE

Sec. 401. Preventing violence against women and children.
Sec. 402. Study conducted by the Centers for Disease Control and Prevention.

TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 501. Findings.
Sec. 502. Purpose.
Sec. 503. Training and education of health professionals in domestic and sexual violence.
Sec. 504. Grants to foster public health responses to domestic violence, dating violence, sexual assault, and stalking grants.
Sec. 505. Research on effective interventions in the healthcare setting.

TITLE VI—HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

Sec. 601. Addressing the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking.
Sec. 602. Transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault, or stalking.
Sec. 603. Public and Indian housing authority plans reporting requirement.
Sec. 604. Housing strategies.
Sec. 605. Amendment to the McKinney-Vento Homeless Assistance Act.
Sec. 606. Amendments to the low-income housing assistance voucher program.
Sec. 607. Amendments to the public housing program.

TITLE VII—PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

Sec. 701. Emergency leave.
Sec. 702. Grant for national clearinghouse and resource center on workplace responses to assist victims of domestic and sexual violence.

TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANT WOMEN

Subtitle A—Victims of Crime

Sec. 801. Treatment of spouse and children of victims.
Sec. 802. Presence of victims of a severe form of trafficking in persons.
Sec. 803. Adjustment of status for victims of trafficking.
Sec. 804. Protection and assistance for victims of trafficking.
Sec. 805. Protecting victims of child abuse.

Subtitle B—VAWA Self-Petitioners

Sec. 811. Definition of VAWA self-petitioner.
Sec. 812. Application to fiancees who do not marry within 90-day period.
Sec. 813. Application in case of voluntary departure.
Sec. 814. Removal proceedings.
Sec. 815. Eliminating abusers' control over applications for adjustments of status.
Sec. 816. Application for VAWA-related relief.
Sec. 817. Self-petitioning parents.
Sec. 818. VAWA confidentiality nondisclosure.

Subtitle C—Miscellaneous Amendments

Sec. 821. Duration of T and U visas.
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Sec. 823. Petitioning rights of certain former spouses under Cuban adjustment.
Sec. 824. Self-petitioning rights of HRIFA applicants.
Sec. 825. Deportation proceedings.
Sec. 826. Limitations on enforcement.
Sec. 827. Protecting abused juveniles.
Sec. 828. Rulemaking.

Subtitle D—International Marriage Broker Regulation

Sec. 831. Short title.
Sec. 832. Definitions.
Sec. 833. Regulation of international marriage brokers.
Sec. 834. Information about legal rights and resources for immigrant victims of domestic violence.
Sec. 835. Changes in processing K nonimmigrant visas; consular confidentiality.
Sec. 836. Study and report.
Sec. 837. Effective date.

TITLE IX—SAFETY FOR INDIAN WOMEN

Sec. 901. Findings.
Sec. 902. Purposes.
Sec. 903. Consultation.
Sec. 904. Analysis and research on violence against Indian women.
Sec. 905. Tracking of violence against Indian women.
Sec. 906. Tribal deputy in the Office on Violence Against Women.
Sec. 907. Enhanced criminal law resources.
Sec. 908. Domestic assault by an habitual offender.

TITLE X—DNA FINGERPRINTING

Sec. 1001. Short title.
Sec. 1002. Use of opt-out procedure to remove samples from national DNA index.
Sec. 1003. Expanded use of CODIS grants.
Sec. 1004. Authorization to conduct DNA sample collection from persons arrested or detained under Federal authority.
Sec. 1005. Tolling of statute of limitations for sexual-abuse offenses.

SEC. 3. UNIVERSAL DEFINITIONS AND GRANT PROVISIONS.

(a) IN GENERAL.—The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding after section 40001 the following:

"SEC. 40002. DEFINITIONS AND GRANT PROVISIONS.

"(a) DEFINITIONS.—In this title:

"(1) COURTS.—The term 'courts' means any civil or criminal, tribal, and Alaskan Village, Federal, State, local or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other person with decisionmaking authority.

"(2) CHILD ABUSE AND NEGLECT.—The term 'child abuse and neglect' means any recent act or failure to act on the part of a parent or caregiver which results in death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of serious harm.

"(3) CHILD MALTREATMENT.—The term 'child maltreatment' means the physical or psychological abuse or neglect of a child or youth, including sexual assault and abuse.

"(4) COURT-BASED AND COURT-RELATED PERSONNEL.—The term 'court-based' and 'court-related personnel' mean persons working in the court, whether paid or volunteer, including—

"(A) clerks, special masters, domestic relations officers, administrators, mediators, custody evaluators, guardians ad litem, lawyers, negotiators, probation, parole, interpreters, victim assistants, victim advocates, and judicial, administrative, or any other professionals or personnel similarly involved in the legal process;

"(B) court security personnel;

"(C) personnel working in related, supplementary offices or programs (such as child support enforcement); and

"(D) any other court-based or community-based personnel having responsibilities or authority to address domestic violence, dating violence, sexual assault, or stalking in the court system.

"(5) DOMESTIC VIOLENCE.—The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult, youth, or child victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

"(6) DATING PARTNER.—The term 'dating partner' refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and where the existence of such a relationship shall be determined based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship.

"(7) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person—

"(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

"(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

"(i) The length of the relationship.

"(ii) The type of relationship.

"(iii) The frequency of interaction between the persons involved in the relationship.

"(8) ELDER ABUSE.—The term 'elder abuse' means any action against a person who is 60 years of age or older that constitutes the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

"(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(9) INDIAN.—The term 'Indian' means a member of an Indian tribe.

"(10) INDIAN HOUSING.—The term 'Indian housing' means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq., as amended).

"(11) INDIAN TRIBE.—The term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(12) INDIAN LAW ENFORCEMENT.—The term 'Indian law enforcement' means the departments or individuals under the direction of the Indian tribe that maintain public order.

"(13) LAW ENFORCEMENT.—The term 'law enforcement' means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs), including those referred to in section 3 of the Indian Enforcement Reform Act (25 U.S.C. 2802).

"(14) LEGAL ASSISTANCE.—The term 'legal assistance' includes assistance to adult and youth victims of domestic violence, dating violence, sexual assault, and stalking in—

"(A) family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay away order proceedings, and other similar matters; and

"(B) criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy.

"(15) LINGUISTICALLY AND CULTURALLY SPECIFIC SERVICES.—The term 'linguistically and culturally specific services' means community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward racial and ethnic populations and other underserved communities.

"(16) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term 'personally identifying information' or 'personal information' means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

"(A) a first and last name;

"(B) a home or other physical address;

"(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

"(D) a social security number; and

"(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.

"(17) PROSECUTION.—The term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs).

"(18) PROTECTION ORDER OR RESTRAINING ORDER.—The term 'protection order' or 'restraining order' includes—

"(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

"(B) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

"(19) RURAL AREA AND RURAL COMMUNITY.—The term 'rural area' and 'rural community' mean—

"(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

"(B) any area or community, respectively, that is—

"(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

"(ii) located in a rural census tract.

"(20) RURAL STATE.—The term 'rural State' means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people, based on the most recent decennial census.

"(21) SEXUAL ASSAULT.—The term 'sexual assault' means any conduct prescribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

"(22) STALKING.—The term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

"(A) fear for his or her safety or the safety of others; or

"(B) suffer substantial emotional distress.

"(23) STATE.—The term 'State' means each of the several States and the District of Columbia, and except as otherwise provided, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

"(24) STATE DOMESTIC VIOLENCE COALITION.—The term 'State domestic violence coalition' means a program determined by the Administration for Children and Families under the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)).

"(25) STATE SEXUAL ASSAULT COALITION.—The term 'State sexual assault coalition' means a program determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

"(26) TERRITORIAL DOMESTIC VIOLENCE OR SEXUAL ASSAULT COALITION.—The term 'territorial domestic violence or sexual assault coalition' means a program addressing domestic or sexual violence that is—

"(A) an established nonprofit, nongovernmental territorial coalition addressing domestic violence or sexual assault within the territory; or

"(B) a nongovernmental organization with a demonstrated history of addressing domestic violence or sexual assault within the territory that proposes to incorporate as a nonprofit, nongovernmental territorial coalition.

"(27) TRIBAL COALITION.—The term 'tribal coalition' means—

"(A) an established nonprofit, nongovernmental tribal coalition addressing domestic violence and sexual assault against American Indian or Alaskan Native women; or

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian or Alaskan Native women.

"(28) TRIBAL GOVERNMENT.—The term 'tribal government' means—

"(A) the governing body of an Indian tribe; or

"(B) a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(29) TRIBAL ORGANIZATION.—The term 'tribal organization' means—

"(A) the governing body of any Indian tribe;

"(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body of a tribe or tribes to be served, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; or

"(C) any tribal nonprofit organization.

"(30) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs

(such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General.

"(31) VICTIM ADVOCATE.—The term 'victim advocate' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a victim services program.

"(32) VICTIM ASSISTANT.—The term 'victim assistant' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

"(33) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term 'victim services' or 'victim service provider' means a nonprofit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

"(34) YOUTH.—The term 'youth' means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

"(b) GRANT CONDITIONS.—

"(1) MATCH.—No matching funds shall be required for a grant or subgrant made under this title for any unit of local government, tribe, territory, or victim service provider.

"(2) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

"(A) IN GENERAL.—In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

"(B) NONDISCLOSURE.—Subject to subparagraphs (C) and (D), grantees and subgrantees shall not—

"(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

"(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.

"(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate—

"(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

"(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

"(D) INFORMATION SHARING.—Grantees and subgrantees may share—

"(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

"(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

"(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

"(3) APPROVED ACTIVITIES.—In carrying out the activities under this title, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

"(4) NON-SUPPLANTATION.—Any Federal funds received under this title shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities under this title.

"(5) USE OF FUNDS.—Funds authorized and appropriated under this title may be used only for the specific purposes described in this title and shall remain available until expended.

"(6) REPORTS.—An entity receiving a grant under this title shall submit to the disbursing agency a report detailing the activities undertaken with the grant funds, including and providing additional information as the agency shall require.

"(7) EVALUATION.—Federal agencies disbursing funds under this title shall set aside up to 3 percent of such funds in order to conduct—

"(A) evaluations of specific programs or projects funded by the disbursing agency under this title or related research; or

"(B) evaluations of promising practices or problems emerging in the field or related research, in order to inform the agency or agencies as to which programs or projects are likely to be effective or responsive to needs in the field.

"(8) NONEXCLUSIVITY.—Nothing in this title shall be construed to prohibit male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title.".

(b) DEFINITIONS AND GRANT CONDITIONS IN CRIME CONTROL ACT.—

(1) PART T.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by striking section 2008 and inserting the following:

"SEC. 2008. DEFINITIONS AND GRANT CONDITIONS.

"In this part the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.".

(2) PART U.—Section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 2105. DEFINITIONS AND GRANT CONDITIONS.

"In this part the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.".

(c) DEFINITIONS AND GRANT CONDITIONS IN 2000 ACT.—Section 1002 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–2 note) is amended to read as follows:

"SEC. 1002. DEFINITIONS AND GRANT CONDITIONS.

"In this division the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.".

TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE AGAINST WOMEN

SEC. 101. STOP GRANTS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended by striking "$185,000,000 for each of fiscal years 2001 through 2005" and inserting "$225,000,000 for each of fiscal years 2006 through 2010".

(b) PURPOSE AREA ENHANCEMENTS.—Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon;

(2) in paragraph (11), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families.".

(c) CLARIFICATION OF ACTIVITIES REGARDING UNDERSERVED POPULATIONS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (c)(2), by inserting before the semicolon the following: "and describe how the State will address the needs of racial and ethnic populations and underserved populations"; and

(2) in subsection (e)(2), by striking subparagraph (D) and inserting the following:

"(D) recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund linguistically and culturally specific services and activities for underserved populations are distributed equitably among those populations.".

(d) TRIBAL AND TERRITORIAL SETASIDES.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "5 percent" and inserting "10 percent";

(B) in paragraph (2), striking by "1/54" and inserting "1/56";

(C) in paragraph (3), by striking "and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54" and inserting "coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56"; and

(D) in paragraph (4), by striking "1/54" and inserting "1/56"; and

(2) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) documentation showing that tribal, territorial, State or local prosecution, law enforcement, and court and victim service providers have consulted with tribal, territorial, State, or local victim service programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.".

(e) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended by adding at the end the following:

"(i) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—

"(1) IN GENERAL.—Of the total amounts appropriated under this part, not less than 3 percent and up to 8 percent shall be available for providing training and technical assistance relating to the purpose areas of this part to improve the capacity of grantees, subgrantees and other entities.

"(2) INDIAN TRAINING.—The Director of the Office on Violence Against Women shall ensure that training or technical assistance regarding violence against Indian women will be developed and provided by entities having expertise in *tribal law, customary practices, and Federal Indian law.''.*

(f) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—Section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) is amended by adding at the end the following:

''(c) USE OF FUNDS.—A State or Indian tribal government may use Federal grant funds under this part to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State, Indian tribal government, or territorial government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.

''(e) JUDICIAL NOTIFICATION.—

''(1) IN GENERAL.—A State, Indian tribal government, or unit of local government shall not be entitled to funds under this part unless the State, Indian tribal government, or unit of local government—

''(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of title 18, United States Code, and any applicable related Federal, State, or local laws; or

''(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of—

''(i) the period ending on the date on which the next session of the State legislature ends; or

''(ii) 2 years.

''(2) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal governments, pro rata.''.

(g) POLYGRAPH TESTING PROHIBITION.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

''SEC. 2013. POLYGRAPH TESTING PROHIBITION.

''(a) IN GENERAL.—In order to be eligible for grants under this part, a State, Indian tribal government, territorial government, or unit of local government shall certify that, not later than 3 years after the date of enactment of this section, their laws, policies, or practices will ensure that no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense.

''(b) PROSECUTION.—The refusal of a victim to submit to an examination described in subsection (a) shall not prevent the investigation, charging, or prosecution of the offense.''.

SEC. 102. GRANTS TO ENCOURAGE ARREST AND ENFORCE PROTECTION ORDERS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(19) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(19)) is amended by striking ''$65,000,000 for each of fiscal years 2001 through 2005'' and inserting ''$75,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this paragraph shall remain available until expended.''.

(b) GRANTEE REQUIREMENTS.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (a), by striking ''to treat domestic violence as a serious violation'' and inserting ''to treat domestic violence, dating violence, sexual assault, and stalking as serious violations'';

(2) in subsection (b)—

(A) in the matter before paragraph (1), by inserting after ''State'' the following: '', tribal, territorial,'';

(B) in paragraph (1), by—

(i) striking ''mandatory arrest or''; and

(ii) striking ''mandatory arrest programs and'';

(C) in paragraph (2), by—

(i) inserting after ''educational programs,'' the following: ''protection order registries,'';

(ii) striking ''domestic violence and dating violence'' and inserting ''domestic violence, dating violence, sexual assault, and stalking. Policies, educational programs, protection order registries, and training described in this paragraph shall incorporate confidentiality, and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking'';

(D) in paragraph (3), by—

(i) striking ''domestic violence cases'' and inserting ''domestic violence, dating violence, sexual assault, and stalking cases''; and

(ii) striking ''groups'' and inserting ''teams'';

(E) in paragraph (5), by striking ''domestic violence and dating violence'' and inserting ''domestic violence, dating violence, sexual assault, and stalking'';

(F) in paragraph (6), by—

(i) striking ''other'' and inserting ''civil''; and

(ii) inserting after ''domestic violence'' the following: '', dating violence, sexual assault, and stalking''; and

(G) by adding at the end the following:

''(9) To develop State, tribal, territorial, or local policies, procedures, and protocols for preventing dual arrests and prosecutions in cases of domestic violence, dating violence, sexual assault, and stalking, and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

''(10) To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from non-profit, nongovernmental victim services organizations, law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to improve safety, access to services, and confidentiality for victims and families. Although funds may be used to support the colocation of project partners under this paragraph, funds may not support construction or major renovation expenses or activities that fall outside of the scope of the other statutory purpose areas.

''(11) To develop and implement policies and training for police, prosecutors, probation and parole officers, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.'';

(3) in subsection (c)—

(A) in paragraph (3), by striking ''and'' after the semicolon;

(B) in paragraph (4), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(5) certify that, not later than 3 years after the date of enactment of this section, their laws, policies, or practices will ensure that—

''(A) no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense; and

''(B) the refusal of a victim to submit to an examination described in subparagraph (A) shall not prevent the investigation of the offense.''; and

(4) by striking subsections (d) and (e) and inserting the following:

''(d) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.''.

(c) APPLICATIONS.—Section 2102(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh–1(b)) is amended in each of paragraphs (1) and (2) by inserting after ''involving domestic violence'' the following: '', dating violence, sexual assault, or stalking''.

(d) TRAINING, TECHNICAL ASSISTANCE, CONFIDENTIALITY.—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

''SEC. 2106. TRAINING AND TECHNICAL ASSISTANCE.

''Of the total amounts appropriated under this part, not less than 5 percent and up to 8 percent shall be available for providing training and technical assistance relating to the purpose areas of this part to improve the capacity of grantees and other entities.''.

SEC. 103. LEGAL ASSISTANCE FOR VICTIMS IMPROVEMENTS.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by—

(A) inserting before ''legal assistance'' the following: ''civil and criminal'';

(B) inserting after ''effective aid to'' the following: ''adult and youth''; and

(C) inserting at the end the following: ''Criminal legal assistance provided for under this section shall be limited to criminal matters relating to domestic violence, sexual assault, dating violence, and stalking.'';

(2) in subsection (c), by inserting ''and tribal organizations, territorial organizations'' after ''Indian tribal governments'';

(3) in subsection (d) by striking paragraph (2) and inserting the following:

''(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organization or coalition, as well as appropriate tribal, State, territorial, and local law enforcement officials;

(4) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(5) in subsection (f)—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 2006 through 2010.''; and

(B) in paragraph (2)(A), by—

(i) striking ''5 percent'' and inserting ''10 percent''; and

(ii) inserting ''adult and youth'' after ''that assist''.

SEC. 104. ENSURING CRIME VICTIM ACCESS TO LEGAL SERVICES.

(a) IN GENERAL.—Section 502 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act,

1998 (Public Law 105-119; 111 Stat. 2510) is amended—

(1) in subsection (a)(2)(C)—

(A) in the matter preceding clause (i), by striking "using funds derived from a source other than the Corporation to provide" and inserting "providing";

(B) in clause (i), by striking "in the United States" and all that follows and inserting "or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or"; and

(C) in clause (ii), by striking "has been battered" and all that follows and inserting ", without the active participation of the alien, has been battered or subjected to extreme cruelty or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U))."; and

(2) in subsection (b)(2), by striking "described in such subsection" and inserting ", sexual assault or trafficking, or the crimes listed in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii))".

(b) Savings Provision.—Nothing in this Act, or the amendments made by this Act, shall be construed to restrict the legal assistance provided to victims of trafficking and certain family members authorized under section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)).

SEC. 105. THE VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS.

(a) Violence Against Women Act Court Training and Improvements.—The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

"Subtitle J—Violence Against Women Act Court Training and Improvements

"SEC. 41001. SHORT TITLE.

"This subtitle may be cited as the 'Violence Against Women Act Court Training and Improvements Act of 2005'.

"SEC. 41002. PURPOSE.

"The purpose of this subtitle is to enable the Attorney General, though the Director of the Office on Violence Against Women, to award grants to improve court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking to be used for—

"(1) improved internal civil and criminal court functions, responses, practices, and procedures;

"(2) education for court-based and court-related personnel on issues relating to victims' needs, including safety, security, privacy, confidentiality, and economic independence, as well as information about perpetrator behavior and best practices for holding perpetrators accountable;

"(3) collaboration and training with Federal, State, tribal, territorial, and local public agencies and officials and nonprofit, nongovernmental organizations to improve implementation and enforcement of relevant Federal, State, tribal, territorial, and local law;

"(4) enabling courts or court-based or court-related programs to develop new or enhance current—

"(A) court infrastructure (such as specialized courts, dockets, intake centers, or interpreter services);

"(B) community-based initiatives within the court system (such as court watch programs, victim assistants, or community-based supplementary services);

"(C) offender management, monitoring, and accountability programs;

"(D) safe and confidential information-storage and -sharing databases within and between court systems;

"(E) education and outreach programs to improve community access, including enhanced access for racial and ethnic communities and underserved populations; and

"(F) other projects likely to improve court responses to domestic violence, dating violence, sexual assault, and stalking; and

"(5) providing technical assistance to Federal, State, tribal, territorial, or local courts wishing to improve their practices and procedures or to develop new programs.

"SEC. 41003. GRANT REQUIREMENTS.

"Grants awarded under this subtitle shall be subject to the following conditions:

"(1) Eligible Grantees.—Eligible grantees may include—

"(A) Federal, State, tribal, territorial, or local courts or court-based programs; and

"(B) national, State, tribal, territorial, or local private, nonprofit organizations with demonstrated expertise in developing and providing judicial education about domestic violence, dating violence, sexual assault, or stalking.

"(2) Conditions of Eligibility.—To be eligible for a grant under this section, applicants shall certify in writing that—

"(A) any courts or court-based personnel working directly with or making decisions about adult or youth parties experiencing domestic violence, dating violence, sexual assault, and stalking have completed or will complete education about domestic violence, dating violence, sexual assault, and stalking;

"(B) any education program developed under section 41002 has been or will be developed with significant input from and in collaboration with a national, tribal, State, territorial, or local victim services provider or coalition; and

"(C) the grantee's internal organizational policies, procedures, or rules do not require mediation or counseling between offenders and victims physically together in cases where domestic violence, dating violence, sexual assault, or stalking is an issue.

"SEC. 41004. NATIONAL EDUCATION CURRICULA.

"(a) In General.—The Attorney General, through the Director of the Office on Violence Against Women, shall fund efforts to develop a national education curriculum for use by State and national judicial educators to ensure that all courts and court personnel have access to information about relevant Federal, State, territorial, or local law, promising practices, procedures, and policies regarding court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking.

"(b) Eligible Entities.—Any curricula developed under this section—

"(1) shall be developed by an entity or entities having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; or

"(2) if the primary grantee does not have demonstrated expertise with such issues, shall be developed by the primary grantee in partnership with an organization having such expertise.

"SEC. 41005. TRIBAL CURRICULA.

"(a) In General.—The Attorney General, through the Office on Violence Against Women, shall fund efforts to develop education curricula for tribal court judges to ensure that all tribal courts have relevant information about promising practices, procedures, policies, and law regarding tribal court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking.

"(b) Eligible Entities.—Any curricula developed under this section—

"(1) shall be developed by a tribal organization having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; and

"(2) if the primary grantee does not have such expertise, the curricula shall be developed by the primary grantee through partnership with organizations having such expertise.

"SEC. 41006. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There is authorized to be appropriated to carry out this subtitle $5,000,000 for each of fiscal years 2006 to 2010.

"(b) Availability.—Funds appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this subtitle.

"(c) Set Aside.—Of the amounts made available under this subsection in each fiscal year, not less than 10 percent shall be used for grants for tribal courts, tribal court-related programs, and tribal nonprofits.".

SEC. 106. FULL FAITH AND CREDIT IMPROVEMENTS.

(a) Enforcement of Protection Orders Issued by Territories.—Section 2265 of title 18, United States Code, is amended by—

(1) striking "or Indian tribe" each place it appears and inserting ", Indian tribe, or territory"; and

(2) striking "State or tribal" each place it appears and inserting "State, tribal, or territorial".

(b) Clarification of Entities Having Enforcement Authority and Responsibilities.—Section 2265(a) of title 18, United States Code, is amended by striking "and enforced as if it were" and inserting "and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were".

(c) Limits on Internet Publication of Protection Order Information.—Section 2265(d) of title 18, United States Code, is amended by adding at the end the following:

"(3) Limits on Internet Publication of Registration Information.—A State, Indian tribe, or territory shall not publish publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.".

(d) Definitions.—Section 2266 of title 18, United States Code, is amended—

(1) by striking paragraph (5) and inserting the following:

"(5) Protection Order.—The term 'protection order' includes—

"(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

"(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking."; and

(2) in clauses (i) and (ii) of paragraph (7)(A), by striking "2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser" and inserting "2261A—

"(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or

"(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship".

SEC. 107. PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING.

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

"Subtitle K—Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking

"SEC. 41101. GRANTS TO PROTECT THE PRIVACY AND CONFIDENTIALITY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

"The Attorney General, through the Director of the Office on Violence Against Women, may award grants under this subtitle to States, Indian tribes, territories, or local agencies or nonprofit, nongovernmental organizations to ensure that personally identifying information of adult, youth, and child victims of domestic violence, sexual violence, stalking, and dating violence shall not be released or disclosed to the detriment of such victimized persons.

"SEC. 41102. PURPOSE AREAS.

"Grants made under this subtitle may be used—

"(1) to develop or improve protocols, procedures, and policies for the purpose of preventing the release of personally identifying information of victims (such as developing alternative identifiers);

"(2) to defray the costs of modifying or improving existing databases, registries, and victim notification systems to ensure that personally identifying information of victims is protected from release, unauthorized information sharing and disclosure;

"(3) to develop confidential opt out systems that will enable victims of violence to make a single request to keep personally identifying information out of multiple databases, victim notification systems, and registries; or

"(4) to develop safe uses of technology (such as notice requirements regarding electronic surveillance by government entities), to protect against abuses of technology (such as electronic or GPS stalking), or providing training for law enforcement on high tech electronic crimes of domestic violence, dating violence, sexual assault, and stalking.

"SEC. 41103. ELIGIBLE ENTITIES.

"Entities eligible for grants under this subtitle include—

"(1) jurisdictions or agencies within jurisdictions having authority or responsibility for developing or maintaining public databases, registries or victim notification systems;

"(2) nonprofit nongovernmental victim advocacy organizations having expertise regarding confidentiality, privacy, and information technology and how these issues are likely to impact the safety of victims;

"(3) States or State agencies;

"(4) local governments or agencies;

"(5) Indian tribal governments or tribal organizations;

"(6) territorial governments, agencies, or organizations; or

"(7) nonprofit nongovernmental victim advocacy organizations, including statewide domestic violence and sexual assault coalitions.

"SEC. 41104. GRANT CONDITIONS.

"Applicants described in paragraph (1) and paragraphs (3) through (6) shall demonstrate that they have entered into a significant partnership with a State, tribal, territorial, or local victim service or advocacy organization or condition in order to develop safe, confidential, and effective protocols, procedures, policies, and systems for protecting personally identifying information of victims.

"SEC. 41105. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There is authorized to be appropriated to carry out this subtitle $5,000,000 for each of fiscal years 2006 through 2010.

"(b) Tribal Allocation.—Of the amount made available under this section in each fiscal year, 10 percent shall be used for grants to Indian tribes for programs that assist victims of domestic violence, dating violence, stalking, and sexual assault.

"(c) Technical Assistance and Training.—Of the amount made available under this section in each fiscal year, not less than 5 percent shall be used for grants to organizations that have expertise in confidentiality, privacy, and technology issues impacting victims of domestic violence, dating violence, sexual assault, and stalking to provide technical assistance and training to grantees and non-grantees on how to improve safety, privacy, confidentiality, and technology to protect victimized persons.".

SEC. 108. SEX OFFENDER MANAGEMENT.

Section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941) is amended by striking subsection (c) and inserting the following:

"(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2010.".

SEC. 109. STALKER DATABASE.

Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended—

(1) by striking "2001" and inserting "2006"; and

(2) by striking "2006" and inserting "2010".

SEC. 110. FEDERAL VICTIM ASSISTANTS REAUTHORIZATION.

Section 40114 of the Violence Against Women Act of 1994 (Public Law 103–322) is amended to read as follows:

"SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM ASSISTANTS.

"There are authorized to be appropriated for the United States attorneys for the purpose of appointing victim assistants for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia), $1,000,000 for each of fiscal years 2006 through 2010.".

SEC. 111. GRANTS FOR LAW ENFORCEMENT TRAINING PROGRAMS.

(a) Definitions.—In this section:

(1) Act of trafficking.—The term "act of trafficking" means an act or practice described in paragraph (8) of section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(2) Eligible entity.—The term "eligible entity" means a State or a local government.

(3) State.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.

(4) Victim of trafficking.—The term "victim of trafficking" means a person subjected to an act of trafficking.

(b) Grants Authorized.—The Attorney General may award grants to eligible entities to provide training to State and local law enforcement personnel to identify and protect victims of trafficking.

(c) Use of Funds.—A grant awarded under this section shall be used to—

(1) train law enforcement personnel to identify and protect victims of trafficking, including training such personnel to utilize Federal, State, or local resources to assist victims of trafficking;

(2) train law enforcement or State or local prosecutors to identify, investigate, or prosecute acts of trafficking; or

(3) train law enforcement or State or local prosecutors to utilize laws that prohibit acts of trafficking and to assist in the development of State and local laws to prohibit acts of trafficking.

(d) Restrictions.—

(1) Administrative expenses.—An eligible entity that receives a grant under this section may use not more than 5 percent of the total amount of such grant for administrative expenses.

(2) Nonexclusivity.—Nothing in this section may be construed to restrict the ability of an eligible entity to apply for or obtain funding from any other source to carry out the training described in subsection (c).

(e) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out the provisions of this section.

SEC. 112. REAUTHORIZATION OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) Findings.—Section 215 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13011) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) Court Appointed Special Advocates, who may serve as guardians ad litem, are trained volunteers appointed by courts to advocate for the best interests of children who are involved in the juvenile and family court system due to abuse or neglect;

"(2) the National Court Appointed Special Advocate Association maintains a system of accountability, including standards, quality assurance, training, and technical assistance for a network of 70,000 volunteers in more than 850 programs operating in 49 States, the District of Columbia, and the Virgin Islands; and

"(3) in 2003, Court Appointed Special Advocate volunteers represented 288,000 children, more than 50 percent of the estimated 540,000 children in foster care because of substantiated cases of child abuse or neglect.".

(b) Implementation Date.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "January 1, 1995" and inserting "January 1, 2010".

(c) Clarification of Program Goals.—Section 217 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13013) is amended—

(1) in subsection (a), by striking "to expand" and inserting "to initiate, sustain, and expand";

(2) subsection (b)—

(A) in paragraph (1), by striking "to initiate or expand" and inserting "to initiate, sustain, and expand"; and

(B) in paragraph (2), by—

(i) striking "(1)(a)" and inserting "(1)(A)"; and

(ii) striking "to initiate and to expand" and inserting "to initiate, sustain, and expand"; and

(3) by adding at the end the following:

"(d) Background Checks.—State and local Court Appointed Special Advocate programs are authorized to request criminal background checks from the Federal Bureau of Investigation National Crime Information Center for prospective volunteers. The requesting program is responsible for the reasonable costs associated with the Federal records check.".

(d) Reauthorization.—Section 218 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014) is amended by striking subsection (a) and inserting the following:

"(a) Authorization.—There is authorized to be appropriated to carry out this subtitle $17,000,000 for each of fiscal years 2006 through 2010.".

SEC. 113. PREVENTING CYBERSTALKING.

(a) In General.—Paragraph (1) of section 223(h) of the Communications Act of 1934 (47 U.S.C. 223(h)(1)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) in the case of subparagraph (C) of subsection (a)(1), includes any device or software that can be used to originate telecommunications or other types of communications that are transmitted, in whole or in part, by the Internet (as such term is defined in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note)).".

(b) Rule of Construction.—This section and the amendment made by this section may not be construed to affect the meaning given the term "telecommunications device" in section 223(h)(1) of the Communications Act of 1934, as in effect before the date of the enactment of this section.

SEC. 114. CRIMINAL PROVISION RELATING TO STALKING.

(a) Interstate Stalking.—Section 2261A of title 18, United States Code, is amended to read as follows:

"§ 2261A. Stalking

"Whoever—

"(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, place under surveillance, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional distress to that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

"(2) with the intent—

"(A) to kill, injure, harass, place under surveillance, intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

"(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

"(i) that person;

"(ii) a member of the immediate family (as defined in section 115 of that person; or

"(iii) a spouse or intimate partner of that person;

uses the mail or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B); shall be punished as provided in section 2261(b) of this title.".

(b) Enhanced Penalties for Stalking.—Section 2231(b) of title 18, United States Code, is amended by adding at the end the following:

"(6) Whoever commits the crime of stalking in violation of a temporary or permanent civil or criminal injunction, restraining order, no-contact order, or other order described in section 2266 of title 18, United States Code, shall be punished by imprisonment for not less than 1 year.".

SEC. 115. REPEAT OFFENDER PROVISION.

Chapter 110A of title 18, United States Code, is amended by adding after section 2265 the following:

"§ 2265A. Repeat offenders

"(a) Maximum Term of Imprisonment.—The maximum term of imprisonment for a violation of this chapter after a prior domestic violence or stalking offense shall be twice the term otherwise provided under this chapter.

"(b) Definition.—For purposes of this section—

"(1) the term 'prior domestic violence or stalking offense' means a conviction for an offense—

"(A) under section 2261, 2261A, or 2262 of this chapter; or

"(B) under State law for an offense consisting of conduct that would have been an offense under a section referred to in subparagraph (A) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States, or in interstate or foreign commerce; and

"(2) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.".

SEC. 116. PROHIBITING DATING VIOLENCE.

(a) In General.—Section 2261(a) of title 18, United States Code, is amended—

(1) in paragraph (1), striking "or intimate partner" and inserting ", intimate partner, or dating partner"; and

(2) in paragraph (2), striking "or intimate partner" and inserting ", intimate partner, or dating partner".

(b) Definition.—Section 2266 of title 18, United States Code, is amended by adding at the end the following:

"(10) Dating Partner.—The term 'dating partner' refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser and the existence of such a relationship based on a consideration of—

"(A) the length of the relationship; and

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship.".

SEC. 117. PROHIBITING VIOLENCE IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

(a) Domestic Violence.—Section 2261(a)(1) of title 18, United States Code, is amended by inserting after "Indian country" the following: "or within the special maritime and territorial jurisdiction of the United States".

(b) Protection Order.—Section 2262(a)(1) of title 18, United States Code, is amended by inserting after "Indian country" the following: "or within the special maritime and territorial jurisdiction of the United States".

SEC. 118. UPDATING PROTECTION ORDER DEFINITION.

Section 9534 of title 28, United States Code, is amended by striking subsection (e)(3)(B) and inserting the following:

"(B) the term 'protection order' includes—

"(i) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

"(ii) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.".

TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SEC. 201. FINDINGS.

Congress finds the following:

(1) Nearly ⅓ of American women report physical or sexual abuse by a husband or boyfriend at some point in their lives.

(2) According to the National Crime Victimization Survey, 248,000 Americans 12 years of age and older were raped or sexually assaulted in 2002.

(3) Rape and sexual assault in the United States is estimated to cost $127,000,000,000 per year, including—

(A) lost productivity;

(B) medical and mental health care;

(C) police and fire services;

(D) social services;

(E) loss of and damage to property; and

(F) reduced quality of life.

(4) Nonreporting of sexual assault in rural areas is a particuldr problem because of the high rate of nonstranger sexual assault.

(5) Geographic isolation often compounds the problems facing sexual assault victims. The lack of anonymity and accessible support services can limit opportunities for justice for victims.

(6) Domestic elder abuse is primarily family abuse. The National Elder Abuse Incidence Study found that the perpetrator was a family member in 90 percent of cases.

(7) Barriers for older victims leaving abusive relationships include—

(A) the inability to support themselves;

(B) poor health that increases their dependence on the abuser;

(C) fear of being placed in a nursing home; and

(D) ineffective responses by domestic abuse programs and law enforcement.

(8) Disabled women comprise another vulnerable population with unmet needs. Women with disabilities are more likely to be the victims of abuse and violence than women without disabilities because of their increased physical, economic, social, or psychological dependence on others.

(9) Many women with disabilities also fail to report the abuse, since they are dependent on their abusers and fear being abandoned or institutionalized.

(10) Of the 598 battered women's programs surveyed—

(A) only 35 percent of these programs offered disability awareness training for their staff; and

(B) only 16 percent dedicated a staff member to provide services to women with disabilities.

(11) Problems of domestic violence are exacerbated for immigrants when spouses control the immigration status of their family members, and abusers use threats of refusal to file immigration

papers and threats to deport spouses and children as powerful tools to prevent battered immigrant women from seeking help, trapping battered immigrant women in violent homes because of fear of deportation.

(12) Battered immigrant women who attempt to flee abusive relationships may not have access to bilingual shelters or bilingual professionals, and face restrictions on public or financial assistance. They may also lack assistance of a certified interpreter in court, when reporting complaints to the police or a 9-1-1 operator, or even in acquiring information about their rights and the legal system.

(13) More than 500 men and women call the National Domestic Violence Hotline every day to get immediate, informed, and confidential assistance to help deal with family violence.

(14) The National Domestic Violence Hotline service is available, toll-free, 24 hours a day and 7 days a week, with bilingual staff, access to translators in 150 languages, and a TTY line for the hearing-impaired.

(15) With access to over 5,000 shelters and service providers across the United States, Puerto Rico, and the United States Virgin Islands, the National Domestic Violence Hotline provides crisis intervention and immediately connects callers with sources of help in their local community.

(16) Approximately 60 percent of the callers indicate that calling the Hotline is their first attempt to address a domestic violence situation and that they have not called the police or any other support services.

(17) Between 2000 and 2003, there was a 27 percent increase in call volume at the National Domestic Violence Hotline.

(18) Improving technology infrastructure at the National Domestic Violence Hotline and training advocates, volunteers, and other staff on upgraded technology will drastically increase the Hotline's ability to answer more calls quickly and effectively.

SEC. 202. SEXUAL ASSAULT SERVICES PROGRAM.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by inserting after section 2012, as added by this Act, the following:

"SEC. 2014. SEXUAL ASSAULT SERVICES.

"(a) PURPOSES.—The purposes of this section are—

"(1) to assist States, Indian tribes, and territories in providing intervention, advocacy, accompaniment, support services, and related assistance for—

"(A) adult, youth, and child victims of sexual assault;

"(B) family and household members of such victims; and

"(C) those collaterally affected by the victimization, except for the perpetrator of such victimization;

"(2) to provide for technical assistance and training relating to sexual assault to—

"(A) Federal, State, tribal, territorial and local governments, law enforcement agencies, and courts;

"(B) professionals working in legal, social service, and health care settings;

"(C) nonprofit organizations;

"(D) faith-based organizations; and

"(E) other individuals and organizations seeking such assistance.

"(b) GRANTS TO STATES AND TERRITORIES.—

"(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States and territories to support the establishment, maintenance, and expansion of rape crisis centers and other programs and projects to assist those victimized by sexual assault.

"(2) ALLOCATION AND USE OF FUNDS.—

"(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by a State or territory governmental agency under this subsection for any fiscal year may be used for administrative costs.

"(B) GRANT FUNDS.—Any funds received by a State or territory under this subsection that are not used for administrative costs shall be used to provide grants to rape crisis centers and other nonprofit, nongovernmental organizations for programs and activities within such State or territory that provide direct intervention and related assistance.

"(C) INTERVENTION AND RELATED ASSISTANCE.—Intervention and related assistance under subparagraph (B) may include—

"(i) 24 hour hotline services providing crisis intervention services and referral;

"(ii) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

"(iii) crisis intervention, short-term individual and group support services, and comprehensive service coordination and supervision to assist sexual assault victims and family or household members;

"(iv) information and referral to assist the sexual assault victim and family or household members;

"(v) community-based, linguistically and culturally specific services and support mechanisms, including outreach activities for racial and ethnic, and other underserved communities; and

"(vi) the development and distribution of materials on issues related to the services described in clauses (i) through (v).

"(3) APPLICATION.—

"(A) IN GENERAL.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time and in such manner as the Attorney General may reasonably require.

"(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

"(i) set forth procedures designed to ensure meaningful involvement of the State or territorial sexual assault coalition and representatives from racial and ethnic and other underserved communities in the development of the application and the implementation of the plans;

"(ii) set forth procedures designed to ensure an equitable distribution of grants and grant funds within the State or territory and between urban and rural areas within such State or territory;

"(iii) identify the State or territorial agency that is responsible for the administration of programs and activities; and

"(iv) meet other such requirements as the Attorney General reasonably determines are necessary to carry out the purposes and provisions of this section.

"(4) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 1.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, the District of Columbia, Puerto Rico, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriations. The remaining funds shall be allotted to each State and each territory in an amount that bears the same ratio to such remaining funds as the population of such State and such territory bears to the population of the combined States or the population of the combined territories.

"(c) GRANTS FOR CULTURALLY SPECIFIC PROGRAMS ADDRESSING SEXUAL ASSAULT.—

"(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to eligible entities to support the establishment, maintenance, and expansion of culturally specific intervention and related assistance for victims of sexual assault.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

"(A) be a private nonprofit organization that focuses primarily on racial and ethnic communities;

"(B) must have documented organizational experience in the area of sexual assault intervention or have entered into a partnership with an organization having such expertise;

"(C) have expertise in the development of community-based, linguistically and culturally specific outreach and intervention services relevant for the specific racial and ethnic communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of racial and ethnic populations; and

"(D) have an advisory board or steering committee and staffing which is reflective of the targeted racial and ethnic community.

"(3) AWARD BASIS.—The Attorney General shall award grants under this section on a competitive basis.

"(4) DISTRIBUTION.—

"(A) The Attorney General shall not use more than 2.5 percent of funds appropriated under this subsection in any year for administration, monitoring, and evaluation of grants made available under this subsection.

"(B) Up to 5 percent of funds appropriated under this subsection in any year shall be available for technical assistance by a national, nonprofit, nongovernmental organization or organizations whose primary focus and expertise is in addressing sexual assault within racial and ethnic communities.

"(5) TERM.—The Attorney General shall make grants under this section for a period of no less than 2 fiscal years.

"(6) REPORTING.—Each entity receiving a grant under this subsection shall submit a report to the Attorney General that describes the activities carried out with such grant funds.

"(d) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

"(1) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Attorney General shall award grants to State, territorial, and tribal sexual assault coalitions to assist in supporting the establishment, maintenance, and expansion of such coalitions.

"(B) MINIMUM AMOUNT.—Not less than 10 percent of the total amount appropriated to carry out this section shall be used for grants under subparagraph (A).

"(C) ELIGIBLE APPLICANTS.—Each of the State, territorial, and tribal sexual assault coalitions.

"(2) USE OF FUNDS.—Grant funds received under this subsection may be used to—

"(A) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or tribe;

"(B) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

"(C) work with courts, child protective services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

"(D) design and conduct public education campaigns;

"(E) plan and monitor the distribution of grants and grant funds to their State, territory, or tribe; or

"(F) collaborate with and inform Federal, State, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

"(3) ALLOCATION AND USE OF FUNDS.—From amounts appropriated for grants under this subsection for each fiscal year—

"(A) not less than 10 percent of the funds shall be available for grants to tribal sexual assault coalitions;

"(B) the remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to 1/56 of the amounts so appropriated to each of those State and territorial coalitions.

"(4) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

"(5) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection during any fiscal year for which funds are available under this subsection because such entity has not previously applied or received funding under this subsection.

"(e) GRANTS TO TRIBES.—

"(1) GRANTS AUTHORIZED.—The Attorney General may award grants to Indian tribes, tribal organizations, and nonprofit tribal organizations for the operation of sexual assault programs or projects in Indian country and Alaskan Native villages to support the establishment, maintenance, and expansion of programs and projects to assist those victimized by sexual assault.

"(2) ALLOCATION AND USE OF FUNDS.—

"(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by an Indian tribe, tribal organization, and nonprofit tribal organization under this subsection for any fiscal year may be used for administrative costs.

"(B) GRANT FUNDS.—Any funds received under this subsection that are not used for administrative costs shall be used to provide grants to tribal organizations and nonprofit tribal organizations for programs and activities within Indian country and Alaskan native villages that provide direct intervention and related assistance.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2010 to carry out the provisions of this section.

"(2) ALLOCATIONS.—Of the total amounts appropriated for each fiscal year to carry out this section—

"(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring, and other administrative costs under this section;

"(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and subgrantees under this section;

"(C) not less than 65 percent shall be used for grants to States and territories under subsection (b);

"(D) not less than 10 percent shall be used for making grants to State, territorial, and tribal sexual assault coalitions under subsection (d);

"(E) not less than 10 percent shall be used for grants to tribes under subsection (e); and

"(F) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c).".

SEC. 203. AMENDMENTS TO THE RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

Section 40295 of the Safe Homes for Women Act of 1994 (42 U.S.C. 13971) is amended to read as follows:

"SEC. 40295. RURAL DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

"(a) PURPOSES.—The purposes of this section are—

"(1) to identify, assess, and appropriately respond to child, youth, and adult victims of domestic violence, sexual assault, dating violence, and stalking in rural communities, by encouraging collaboration among—

"(A) domestic violence, dating violence, sexual assault, and stalking victim service providers;

"(B) law enforcement agencies;

"(C) prosecutors;

"(D) courts;

"(E) other criminal justice service providers;

"(F) human and community service providers;

"(G) educational institutions; and

"(H) health care providers;

"(2) to establish and expand nonprofit, nongovernmental, State, tribal, territorial, and local government victim services in rural communities to child, youth, and adult victims; and

"(3) to increase the safety and well-being of women and children in rural communities, by—

"(A) dealing directly and immediately with domestic violence, sexual assault, dating violence, and stalking occurring in rural communities; and

"(B) creating and implementing strategies to increase awareness and prevent domestic violence, sexual assault, dating violence, and stalking.

"(b) GRANTS AUTHORIZED.—The Attorney General, acting through the Director of the Office on Violence Against Women (referred to in this section as the 'Director'), may award grants to States, Indian tribes, local governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities that address domestic violence, dating violence, sexual assault, and stalking by—

"(1) implementing, expanding, and establishing cooperative efforts and projects among law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, and stalking;

"(2) providing treatment, counseling, advocacy, and other long- and short-term assistance to adult and minor victims of domestic violence, dating violence, sexual assault, and stalking in rural communities, including assistance in immigration matters; and

"(3) working in cooperation with the community to develop education and prevention strategies directed toward such issues.

"(c) USE OF FUNDS.—Funds appropriated pursuant to this section shall be used only for specific programs and activities expressly described in subsection (a).

"(d) ALLOTMENTS AND PRIORITIES.—

"(1) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants to Indian tribes or tribal organizations.

"(2) ALLOTMENT FOR SEXUAL ASSAULT.—

"(A) IN GENERAL.—Not less than 25 percent of the total amount appropriated in a fiscal year under this section shall fund services that meaningfully address sexual assault in rural communities, however at such time as the amounts appropriated reach the amount of $45,000,000, the percentage allocated shall rise to 30 percent of the total amount appropriated, at such time as the amounts appropriated reach the amount of $50,000,000, the percentage allocated shall rise to 35 percent of the total amount appropriated, and at such time as the amounts appropriated reach the amount of $55,000,000, the percentage allocated shall rise to 40 percent of the amounts appropriated.

"(B) MULTIPLE PURPOSE APPLICATIONS.—Nothing in this section shall prohibit any applicant from applying for funding to address sexual assault, domestic violence, stalking, or dating violence in the same application.

"(3) ALLOTMENT FOR TECHNICAL ASSISTANCE.—Of the amounts appropriated for each fiscal year to carry out this section, not more than 8 percent may be used by the Director for technical assistance costs. Of the amounts appropriated in this section, no less than 25 percent of such amounts shall be available to a nonprofit, nongovernmental organization or organizations whose focus and expertise is in addressing sexual assault to provide technical assistance to sexual assault grantees.

"(4) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall give priority to the needs of racial, ethnic, and other underserved populations.

"(5) ALLOCATION OF FUNDS FOR RURAL STATES.—Not less than 75 percent of the total amount made available for each fiscal year to carry out this section shall be allocated to eligible entities located in rural States.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $55,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

"(2) ADDITIONAL FUNDING.—In addition to funds received through a grant under subsection (b), a law enforcement agency may use funds received through a grant under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) to accomplish the objectives of this section.".

SEC. 204. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN WITH DISABILITIES.

(a) IN GENERAL.—Section 1402 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–7) is amended to read as follows:

"SEC. 1402. EDUCATION, TRAINING, AND ENHANCED SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

"(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to eligible entities—

"(1) to provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

"(2) to enhance direct services to such individuals.

"(b) USE OF FUNDS.—Grants awarded under this section shall be used—

"(1) to provide personnel, training, technical assistance, advocacy, intervention, risk reduction and prevention of domestic violence, dating violence, stalking, and sexual assault against disabled individuals;

"(2) to conduct outreach activities to ensure that disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault receive appropriate assistance;

"(3) to conduct cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving individuals with disabilities about risk reduction, intervention, prevention and the nature of domestic violence, dating violence, stalking, and sexual assault for disabled individuals;

"(4) to provide technical assistance to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities of victim service organizations for disabled individuals;

"(5) to provide training and technical assistance on the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including—

"(A) the Americans with Disabilities Act of 1990; and

"(B) section 504 of the Rehabilitation Act of 1973;

"(6) to rehabilitate facilities, purchase equipment, and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled individuals;

"(7) to provide advocacy and intervention services for disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault; or

"(8) to develop model programs providing advocacy and intervention services within organizations serving disabled individuals who are victims of domestic violence, dating violence, sexual assault, or stalking.

"(c) ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—An entity shall be eligible to receive a grant under this section if the entity is—

"(A) a State;

"(B) a unit of local government;

"(C) an Indian tribal government or tribal organization; or

"(D) a nonprofit and nongovernmental victim services organization, such as a State domestic violence or sexual assault coalition or a nonprofit, nongovernmental organization serving disabled individuals.

"(2) LIMITATION.—A grant awarded for the purpose described in subsection (b)(8) shall only be awarded to an eligible agency (as defined in section 410 of the Rehabilitation Act of 1973 (29 U.S.C. 796f-5).

"(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall ensure that the needs of racial and ethnic and other underserved populations are being addressed.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.".

SEC. 205. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN IN LATER LIFE.

(a) TRAINING PROGRAMS.—Section 40802 of the Violence Against Women Act of 1994 (42 U.S.C. 14041a) is amended to read as follows:

"SEC. 40802. ENHANCED TRAINING AND SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN LATER IN LIFE.

"(a) GRANTS AUTHORIZED.—The Attorney General, through the Director of the Office on Violence Against Women, may award grants, which may be used for—

"(1) training programs to assist law enforcement, prosecutors, governmental agencies, victim assistants, and relevant officers of Federal, State, tribal, territorial, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, or stalking against victims who are 50 years of age or older;

"(2) providing or enhancing services for victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, or stalking, who are 50 years of age or older;

"(3) increasing the physical accessibility of buildings in which services are or will be rendered for victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, and stalking, who are 50 years of age or older;

"(4) creating or supporting multidisciplinary collaborative community responses to victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, and stalking, who are 50 years of age or older; and

"(5) conducting cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, and stalking, who are 50 years of age or older.

"(b) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this section if the entity is—

"(1) a State;

"(2) a unit of local government;

"(3) an Indian tribal government or tribal organization; or

"(4) a nonprofit and nongovernmental victim services organization with demonstrated experience in assisting elderly women or demonstrated experience in addressing domestic violence, dating violence, sexual assault, and stalking.

"(c) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall ensure that services are culturally and linguistically relevant and that the needs of racial, ethnic, and other underserved populations are being addressed.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 40803 of the Violence Against Women Act of 1994 (42 U.S.C. 14041b) is amended by striking "$5,000,000 for each of fiscal years 2001 through 2005" and inserting "$10,000,000 for each of the fiscal years 2006 through 2010".

SEC. 206. STRENGTHENING THE NATIONAL DOMESTIC VIOLENCE HOTLINE.

Section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416) is amended—

(1) in subsection (d), by adding at the end the following:

"(5) provide technology and telecommunication training and assistance for advocates, volunteers, staff, and others affiliated with the hotline so that such persons are able to effectively use improved equipment made available through the Connections Campaign.";

(2) in subsection (g)—

(A) in paragraph (1), by striking "$3,500,000" and all that follows and inserting "$5,000,000 for each of fiscal years 2006 through 2010.";

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(3) by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

SEC. 301. FINDINGS.

Congress finds the following:

(1) Youth, under the age of 18, account for 67 percent of all sexual assault victimizations reported to law enforcement officials.

(2) The Department of Justice consistently finds that young women between the ages of 16 and 24 experience the highest rate of non-fatal intimate partner violence.

(3) In 1 year, over 4,000 incidents of rape or sexual assault occurred in public schools across the country.

(4) Young people experience particular obstacles to seeking help. They often do not have access to money, transportation, or shelter services. They must overcome issues such as distrust of adults, lack of knowledge about available resources, or pressure from peers and parents.

(5) A needs assessment on teen relationship abuse for the State of California, funded by the California Department of Health Services, identified a desire for confidentiality and confusion about the law as 2 of the most significant barriers to young victims of domestic and dating violence seeking help.

(6) Only one State specifically allows for minors to petition the court for protection orders.

(7) Many youth are involved in dating relationships, and these relationships can include the same kind of domestic violence and dating violence seen in the adult population. In fact, more than 40 percent of all incidents of domestic violence involve people who are not married.

(8) 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend, and 13 percent of college women report being stalked.

(9) Of college women who said they had been the victims of rape or attempted rape, 12.8 percent of completed rapes, 35 percent of attempted rapes, and 22.9 percent of threatened rapes took place on a date. Almost 60 percent of the completed rapes that occurred on campus took place in the victim's residence.

(10) According to a 3-year study of student-athletes at 10 Division I universities, male athletes made up only 3.3 percent of the general male university population, but they accounted for 19 percent of the students reported for sexual assault and 35 percent of domestic violence perpetrators.

SEC. 302. RAPE PREVENTION AND EDUCATION.

Section 393B(c) of part J of title III of the Public Health Service Act (42 U.S.C. 280b-1c(c)) is amended to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $80,000,000 for each of fiscal years 2006 through 2010.

"(2) NATIONAL SEXUAL VIOLENCE RESOURCE CENTER ALLOTMENT.—Of the total amount made available under this subsection in each fiscal year, not less than $1,500,000 shall be available for allotment under subsection (b).".

SEC. 303. SERVICES, EDUCATION, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE.

The Violence Against Women Act of 1994 (Public Law 103–322, Stat. 1902 et seq.) is amended by adding at the end the following:

"Subtitle L—Services, Education, Protection and Justice for Young Victims of Violence

"SEC. 41201. SERVICES TO ADVOCATE FOR AND RESPOND TO YOUTH.

"(a) GRANTS AUTHORIZED.—The Attorney General, in consultation with the Department of Health and Human Services, shall award grants to eligible entities to conduct programs to serve victims of domestic violence, dating violence, sexual assault, and stalking who are between the ages of 12 and 24. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

"(b) ELIGIBLE GRANTEES.—To be eligible to receive a grant under this section, an entity shall be—

"(1) a nonprofit, nongovernmental entity, the primary purpose of which is to provide services to teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking;

"(2) a community-based organization specializing in intervention or violence prevention services for youth;

"(3) an Indian Tribe or tribal organization providing services primarily to tribal youth or tribal victims of domestic violence, dating violence, sexual assault or stalking; or

"(4) a nonprofit, nongovernmental entity providing services for runaway or homeless youth affected by domestic or sexual abuse.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services, using domestic violence, dating violence, sexual assault, and stalking intervention models to respond to the needs of youth who are victims of domestic violence, dating violence, sexual assault or stalking.

"(2) TYPES OF PROGRAMS.—Such a program—

"(A) shall provide direct counseling and advocacy for youth and young adults, who have experienced domestic violence, dating violence, sexual assault or stalking;

“(B) shall include linguistically, culturally, and community relevant services for racial, ethnic, and other underserved populations or linkages to existing services in the community tailored to the needs of underserved populations;

“(C) may include mental health services for youth and young adults who have experienced domestic violence, dating violence, sexual assault, or stalking;

“(D) may include legal advocacy efforts on behalf of youth and young adults with respect to domestic violence, dating violence, sexual assault or stalking;

“(E) may work with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking against youth and young adults; and

“(F) may use not more than 25 percent of the grant funds to provide additional services and resources for youth, including childcare, transportation, educational support, and respite care.

“(d) AWARDS BASIS.—

“(1) GRANTS TO INDIAN TRIBES.—Not less than 7 percent of funds appropriated under this section in any year shall be available for grants to Indian Tribes or tribal organizations.

“(2) ADMINISTRATION.—The Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for administration, monitoring, and evaluation of grants made available under this section.

“(3) TECHNICAL ASSISTANCE.—Not less than 5 percent of funds appropriated under this section in any year shall be available to provide technical assistance for programs funded under this section.

“(e) TERM.—The Attorney General shall make the grants under this section for a period of 3 fiscal years.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2006 through 2010.

“SEC. 41202. ACCESS TO JUSTICE FOR YOUTH.

“(a) PURPOSE.—It is the purpose of this section to encourage cross training and collaboration between the courts, domestic violence and sexual assault service providers, youth organizations and service providers, violence prevention programs, and law enforcement agencies, so that communities can establish and implement policies, procedures, and practices to protect and more comprehensively and effectively serve young victims of dating violence, domestic violence, sexual assault, and stalking who are between the ages of 12 and 24, and to engage, where necessary, other entities addressing the safety, health, mental health, social service, housing, and economic needs of young victims of domestic violence, dating violence, sexual assault, and stalking, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions.

“(b) GRANT AUTHORITY.—

“(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women (in this section referred to as the ‘Director’), shall make grants to eligible entities to carry out the purposes of this section.

“(2) GRANT PERIODS.—Grants shall be awarded under this section for a period of 2 fiscal years.

“(3) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, a grant applicant shall establish a collaboration that—

“(A) shall include a victim service provider that has a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking and the effect that those forms of abuse have on young people;

“(B) shall include a court or law enforcement agency partner; and

“(C) may include—

“(i) batterer intervention programs or sex offender treatment programs with specialized knowledge and experience working with youth offenders;

“(ii) community-based youth organizations that deal specifically with the concerns and problems faced by youth, including programs that target teen parents and racial, ethnic, and other underserved communities;

“(iii) schools or school-based programs designed to provide prevention or intervention services to youth experiencing problems;

“(iv) faith-based entities that deal with the concerns and problems faced by youth;

“(v) healthcare entities eligible for reimbursement under title XVIII of the Social Security Act, including providers that target the special needs of youth;

“(vi) education programs on HIV and other sexually transmitted diseases that are designed to target teens;

“(vii) Indian Health Services, Indian Child Welfare, the Bureau of Indian Affairs, or the Federal Bureau of Investigations; or

“(viii) law enforcement agencies of the Bureau of Indian Affairs providing tribal law enforcement.

“(c) USES OF FUNDS.—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts—

“(1) addressing domestic violence, dating violence, sexual assault, and stalking, assessing and analyzing currently available services for youth and young adult victims, determining relevant barriers to such services in a particular locality, and developing a community protocol to address such problems collaboratively;

“‘(2) to establish and enhance linkages and collaboration between—

“(A) domestic violence and sexual assault service providers; and

“(B) where applicable, law enforcement agencies, courts, Federal agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of young victims of abuse, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions—

“(i) to respond effectively and comprehensively to the varying needs of young victims of abuse;

“(ii) to include linguistically, culturally, and community relevant services for racial, ethnic, and other underserved populations or linkages to existing services in the community tailored to the needs of underserved populations; and

“(iii) to include where appropriate legal assistance, referral services, and parental support;

“(3) to educate the staff of courts, domestic violence and sexual assault service providers, and, as applicable, the staff of law enforcement agencies, Indian child welfare agencies, youth organizations, schools, healthcare providers, and other community prevention and intervention programs to responsibly address youth victims and perpetrators of domestic violence, dating violence, sexual assault, and stalking;

“(4) to identify, assess, and respond appropriately to dating violence, domestic violence, sexual assault, or stalking against teens and young adults and meet the needs of young victims of violence; and

“(5) to provide appropriate resources in juvenile court matters to respond to dating violence, domestic violence, sexual assault, and stalking and ensure necessary services dealing with the health and mental health of victims are available.

“(d) GRANT APPLICATIONS.—To be eligible for a grant under this section, the entities that are members of the applicant collaboration described in subsection (b)(3) shall jointly submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(e) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with community organizations and service providers that work primarily with youth, especially teens, and who have demonstrated a commitment to coalition building and cooperative problem solving in dealing with problems of dating violence, domestic violence, sexual assault, and stalking in teen populations.

“(f) DISTRIBUTION.—In awarding grants under this section—

“(1) not less than 10 percent of funds appropriated under this section in any year shall be available to Indian tribal governments to establish and maintain collaborations involving the appropriate tribal justice and social services departments or domestic violence or sexual assault service providers, the purpose of which is to provide culturally appropriate services to American Indian women or youth;

“(2) the Director shall not use more than 2.5 percent of funds appropriated under this section in any year for monitoring and evaluation of grants made available under this section;

“(3) the Attorney General of the United States shall not use more than 2.5 percent of funds appropriated under this section in any year for administration of grants made available under this section; and

“(4) up to 8 percent of funds appropriated under this section in any year shall be available to provide technical assistance for programs funded under this section.

“(g) DISSEMINATION OF INFORMATION.—Not later than 12 months after the end of the grant period under this section, the Director shall prepare, submit to Congress, and make widely available, including through electronic means, summaries that contain information on—

“(1) the activities implemented by the recipients of the grants awarded under this section; and

“(2) related initiatives undertaken by the Director to promote attention to dating violence, domestic violence, sexual assault, and stalking and their impact on young victims by—

“(A) the staffs of courts;

“(B) domestic violence, dating violence, sexual assault, and stalking victim service providers; and

“(C) law enforcement agencies and community organizations.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 in each of fiscal years 2006 through 2010.

“SEC. 41203. GRANTS FOR TRAINING AND COLLABORATION ON THE INTERSECTION BETWEEN DOMESTIC VIOLENCE AND CHILD MALTREATMENT.

“(a) PURPOSE.—The purpose of this section is to support efforts by child welfare agencies, domestic violence or dating violence victim services providers, courts, law enforcement, and other related professionals and community organizations to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence.

“(b) GRANTS AUTHORIZED.—The Secretary of the Department of Health and Human Services (in this section referred to as the ‘Secretary’), through the Family and Youth Services Bureau, and in consultation with the Office on Violence Against Women, shall award grants on a competitive basis to eligible entities for the purposes and in the manner described in this section.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry

out this section $5,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended. Of the amounts appropriated to carry out this section for each fiscal year, the Secretary shall—

"(1) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section;

"(2) set aside not more than 7 percent for grants to Indian tribes to develop programs addressing child maltreatment and domestic violence or dating violence that are operated by, or in partnership with, a tribal organization; and

"(3) set aside up to 8 percent for technical assistance and training to be provided by organizations having demonstrated expertise in developing collaborative community and system responses to families in which there is both child maltreatment and domestic violence or dating violence, which technical assistance and training may be offered to jurisdictions in the process of developing community responses to families in which children are exposed to child maltreatment and domestic violence or dating violence, whether or not they are receiving funds under this section.

"(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Secretary shall consider the needs of racial, ethnic, and other underserved populations.

"(e) GRANT AWARDS.—The Secretary shall award grants under this section for periods of not more than 2 fiscal years.

"(f) USES OF FUNDS.—Entities receiving grants under this section shall use amounts provided to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence or dating violence. Amounts distributed under this section may only be used for programs and activities described in subsection (g).

"(g) PROGRAMS AND ACTIVITIES.—The programs and activities developed under this section shall—

"(1) encourage cross training, education, service development, and collaboration among child welfare agencies, domestic violence victim service providers, and courts, law enforcement agencies, community-based programs, and other entities, in order to ensure that such entities have the capacity to and will identify, assess, and respond appropriately to—

"(A) domestic violence or dating violence in homes where children are present and may be exposed to the violence;

"(B) domestic violence or dating violence in child protection cases; and

"(C) the needs of both the child and non-abusing parent;

"(2) establish and implement policies, procedures, programs, and practices for child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities, that are consistent with the principles of protecting and increasing the immediate and long-term safety and well being of children and non-abusing parents and caretakers;

"(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities to provide more comprehensive community-based services (including health, mental health, social service, housing, and neighborhood resources) to protect and to serve both child and adult victims;

"(4) identify, assess, and respond appropriately to domestic violence or dating violence in child protection cases and to child maltreatment when it co-occurs with domestic violence or dating violence;

"(5) analyze and change policies, procedures, and protocols that contribute to overrepresentation of racial and ethnic minorities in the court and child welfare system; and

"(6) provide appropriate referrals to community-based programs and resources, such as health and mental health services, shelter and housing assistance for adult and youth victims and their children, legal assistance and advocacy for adult and youth victims, assistance for parents to help their children cope with the impact of exposure to domestic violence or dating violence and child maltreatment, appropriate intervention and treatment for adult perpetrators of domestic violence or dating violence whose children are the subjects of child protection cases, programs providing support and assistance to racial and ethnic populations, and other necessary supportive services.

"(i) GRANTEE REQUIREMENTS.—

"(1) APPLICATIONS.—Under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, consistent with the requirements described herein. The application shall—

"(A) ensure that communities impacted by these systems or organizations are adequately represented in the development of the application, the programs and activities to be undertaken, and that they have a significant role in evaluating the success of the project;

"(B) describe how the training and collaboration activities will enhance or ensure the safety and economic security of families where both child maltreatment and domestic violence or dating violence occurs by providing appropriate resources, protection, and support to the victimized parents of such children and to the children themselves; and

"(C) outline methods and means participating entities will use to ensure that all services are provided in a developmentally, linguistically and culturally competent manner and will utilize community-based supports and resources.

"(2) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, an entity shall be a collaboration that—

"(A) shall include a State or local child welfare agency or Indian Tribe;

"(B) shall include a domestic violence or dating violence victim service provider;

"(C) shall include a law enforcement agency or Bureau of Indian Affairs providing tribal law enforcement;

"(D) may include a court; and

"(E) may include any other such agencies or private nonprofit organizations and faith-based organizations, including community-based organizations, with the capacity to provide effective help to the child and adult victims served by the collaboration.".

SEC. 304. GRANTS TO REDUCE VIOLENCE AGAINST WOMEN ON CAMPUS.

Section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152) is amended—

(1) in subsection (a)(2), by adding at the end the following: "The Attorney General, through the Director of the Office on Violence Against Women, shall award the grants in amounts of not more than $500,000 for individual institutions of higher education and not more than $1,000,000 for consortia of such institutions.";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting "develop and implement campus policies, protocols, and services that" after "boards to"; and

(ii) by adding at the end the following: "Within 90 days after the date of enactment of the Violence Against Women Act of 2005, the Attorney General shall issue and make available minimum standards of training relating to violent crimes against women on campus, for all campus security personnel and personnel serving on campus disciplinary or judicial boards.";

(B) in paragraph (4), by striking all that follows "strengthen" and inserting: "victim services programs on the campuses of the institutions involved, including programs providing legal, medical, or psychological counseling, for victims of domestic violence, stalking, dating violence, or sexual assault, and to improve delivery of victim assistance on campus. To the extent practicable, such an institution shall collaborate with any entities carrying out nonprofit and other victim services programs, including sexual assault, domestic violence, stalking, and dating violence victim services programs in the community in which the institution is located. If appropriate victim services programs are not available in the community or are not accessible to students, the institution shall, to the extent practicable, provide a victim services program on campus or create a victim services program in collaboration with a community-based organization. The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph.";

(C) by striking paragraphs (6) and (8);

(D) by redesignating paragraphs (7), (9), and (10) as paragraphs (6), (7), and (8), respectively;

(3) in subsection (c), by striking paragraph (2)(B) and inserting the following:

"(B) include proof that the institution of higher education collaborated with a nonprofit, nongovernmental entities carrying out other victim services programs, including sexual assault, domestic violence, stalking, and dating violence victim services programs in the community in which the institution is located;";

(4) in subsection (f), by striking the text and inserting the following: "In this section, the definitions and grant conditions provided in section 40002 of the Violence Against Women Act of 1994 shall apply."; and

(5) in subsection (g), by—

(A) striking "$10,000,000" and inserting "$15,000,000";

(B) striking "2001" and inserting "2006"; and

(C) striking "2005" and inserting "2010".

SEC. 305. JUVENILE JUSTICE.

(a) STATE PLANS.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (7)(B)—

(A) by redesignating clauses (i), (ii) and (iii), as clauses (ii), (iii), and (iv), respectively; and

(B) by inserting before clause (ii) the following:

"(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females;".

(b) USE OF FUNDS.—Section 223(a)(9) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(9)) is amended—

(1) in subparagraph (R), by striking "and" at the end;

(2) in subparagraph (S), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(T) developing and adopting policies to prohibit disparate treatment of female juveniles in placement and treatment, and establishing gender-specific services to ensure that female juveniles have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, education in parenting, education in general, and other training and vocational services.".

SEC. 306. SAFE HAVENS.

Section 1301 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 10402. SAFE HAVENS FOR CHILDREN.";

(2) in subsection (a)—

(A) by inserting ", through the Director of the Office on Violence Against Women," after "Attorney General";

(B) by inserting "dating violence," after "domestic violence,";

(C) by striking "to provide" and inserting the following:

"(1) to provide";

(D) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges;

"(3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation exchanges; and

"(4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges."; and

(3) by striking subsection (e) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended.

"(2) USE OF FUNDS.—Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

"(A) set aside not less than 7 percent for grants to Indian tribal governments or tribal organizations;

"(B) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section; and

"(C) set aside not more than 8 percent for technical assistance and training to be provided by organizations having nationally recognized expertise in the design of safe and secure supervised visitation programs and visitation exchange of children in situations involving domestic violence, dating violence, sexual assault, or stalking.".

TITLE IV—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE

SEC. 401. PREVENTING VIOLENCE AGAINST WOMEN AND CHILDREN.

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

"Subtitle M—Strengthening America's Families by Preventing Violence Against Women and Children

"SEC. 41301. FINDINGS.

"Congress finds that—

"(1) the former United States Advisory Board on Child Abuse suggests that domestic violence may be the single major precursor to child abuse and neglect fatalities in this country;

"(2) studies suggest that as many as 10,000,000 children witness domestic violence every year;

"(3) studies suggest that among children and teenagers, recent exposure to violence in the home was a significant factor in predicting a child's violent behavior;

"(4) a study by the Nurse-Family Partnership found that children whose parents did not participate in home visitation programs that provided coaching in parenting skills, advice and support, were almost 5 times more likely to be abused in their first 2 years of life;

"(5) a child's exposure to domestic violence seems to pose the greatest independent risk for being the victim of any act of partner violence as an adult;

"(6) children exposed to domestic violence are more likely to believe that using violence is an effective means of getting one's needs met and managing conflict in close relationships;

"(7) children exposed to abusive parenting, harsh or erratic discipline, or domestic violence are at increased risk for juvenile crime; and

"(8) in a national survey of more than 6,000 American families, 50 percent of men who frequently assaulted their wives also frequently abused their children.

"SEC. 41302. PURPOSE.

"The purpose of this subtitle is to—

"(1) prevent crimes involving violence against women, children, and youth;

"(2) increase the resources and services available to prevent violence against women, children, and youth;

"(3) reduce the impact of exposure to violence in the lives of children and youth so that the intergenerational cycle of violence is interrupted;

"(4) develop and implement education and services programs to prevent children in vulnerable families from becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking;

"(5) promote programs to ensure that children and youth receive the assistance they need to end the cycle of violence and develop mutually respectful, nonviolent relationships; and

"(6) encourage collaboration among community-based organizations and governmental agencies serving children and youth, providers of health and mental health services and providers of domestic violence, dating violence, sexual assault, and stalking victim services to prevent violence against women and children.

"SEC. 41303. GRANTS TO ASSIST CHILDREN AND YOUTH EXPOSED TO VIOLENCE.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, is authorized to award grants on a competitive basis to eligible entities for the purpose of mitigating the effects of domestic violence, dating violence, sexual assault, and stalking on children exposed to such violence, and reducing the risk of future victimization or perpetration of domestic violence, dating violence, sexual assault, and stalking.

"(2) TERM.—The Director shall make grants under this section for a period of 2 fiscal years.

"(3) AWARD BASIS.—The Director shall award grants—

"(A) considering the needs of underserved populations;

"(B) awarding not less than 10 percent of such amounts to Indian tribes for the funding of tribal projects from the amounts made available under this section for a fiscal year;

"(C) awarding up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year; and

"(D) awarding not less than 66 percent to programs described in subsection (c)(1) from the amounts made available under this section for a fiscal year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.

"(c) USE OF FUNDS.—The funds appropriated under this section shall be used for—

"(1) programs that provide services for children exposed to domestic violence, dating violence, sexual assault, or stalking, which may include direct counseling, advocacy, or mentoring, and must include support for the nonabusing parent or the child's caretaker; or

"(2) training, coordination, and advocacy for programs that serve children and youth (such as Head Start, child care, and after-school programs) on how to safely and confidentially identify children and families experiencing domestic violence and properly refer them to programs that can provide direct services to the family and children, and coordination with other domestic violence or other programs serving children exposed to domestic violence, dating violence, sexual assault, or stalking that can provide the training and direct services referenced in this subsection.

"(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a—

"(1) a victim service provider, tribal nonprofit organization or community-based organization that has a documented history of effective work concerning children or youth exposed to domestic violence, dating violence, sexual assault, or stalking, including programs that provide culturally specific services, Head Start, childcare, faith-based organizations, after school programs, and health and mental health providers; or

"(2) a State, territorial, or tribal, or local unit of government agency that is partnered with an organization described in paragraph (1).

"(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

"(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

"(2) at a minimum, describe in the application the policies and procedures that the entity has or will adopt to—

"(A) enhance or ensure the safety and security of children who have been or are being exposed to violence and their nonabusing parent, enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking; and

"(B) ensure linguistically, culturally, and community relevant services for racial and ethnic, and other underserved communities.

"SEC. 41304. DEVELOPMENT OF CURRICULA AND PILOT PROGRAMS FOR HOME VISITATION PROJECTS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, shall award grants on a competitive basis to home visitation programs, in collaboration with victim service providers, for the purposes of developing and implementing model policies and procedures to train home visitation service providers on addressing domestic violence, dating violence, sexual assault, and stalking in families experiencing violence, or at risk of violence, to reduce the impact of that violence on children, maintain safety, improve parenting skills, and break intergenerational cycles of violence.

"(2) TERM.—The Director shall make the grants under this section for a period of 2 fiscal years.

"(3) AWARD BASIS.—The Director shall—

"(A) consider the needs of underserved populations;

"(B) award not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

"(C) award up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2006 through 2010.

"(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a national, Federal, State, local, territorial, or tribal—

"(1) home visitation program that provides services to pregnant women and to young children and their parent or primary caregiver that are provided in the permanent or temporary residence or in other familiar surroundings of the individual or family receiving such services; or

"(2) victim services organization or agency in collaboration with an organization or organizations listed in paragraph (1).

"(d) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

"(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

"(2) describe in the application the policies and procedures that the entity has or will adopt to—

"(A) enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking;

"(B) ensure linguistically, culturally, and community relevant services for racial and ethnic and other underserved communities;

"(C) ensure the adequate training by domestic violence, dating violence, sexual assault or stalking victim service providers of home visitation grantee program staff to—

"(i) safely screen for and/or recognize domestic violence, dating violence, sexual assault, and stalking;

"(ii) understand the impact of domestic violence or sexual assault on children and protective actions taken by a nonabusing parent or caretaker in response to violence against anyone in the household; and

"(iii) link new parents with existing community resources in communities where resources exist; and

"(D) ensure that relevant State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section, and are included as training partners, where possible.

"SEC. 41305. ENGAGING MEN AND YOUTH IN PREVENTING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, shall award grants on a competitive basis to eligible entities for the purpose of developing or enhancing programs related to engaging men and youth in preventing domestic violence, dating violence, sexual assault, and stalking by helping them to develop mutually respectful, nonviolent relationships.

"(2) TERM.—The Director shall make grants under this section for a period of 2 fiscal years.

"(3) AWARD BASIS.—The Director shall award grants—

"(A) considering the needs of racial and ethnic and other underserved populations;

"(B) awarding not less than 10 percent of such amounts for the funding of Indian tribes from the amounts made available under this section for a fiscal year; and

"(C) awarding up to 8 percent for the funding of technical assistance for grantees and nongrantees working in this area from the amounts made available under this section for a fiscal year.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

"(c) USE OF FUNDS.—

"(1) PROGRAMS.—The funds appropriated under this section shall be used by eligible entities—

"(A) to develop or enhance community-based programs, including gender-specific programs in accordance with applicable laws that—

"(i) encourage children and youth to pursue nonviolent relationships and reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking; and

"(ii) that include at a minimum—

"(I) information on domestic violence, dating violence, sexual assault, stalking, or child sexual abuse and how they affect children and youth; and

"(II) strategies to help participants be as safe as possible; or

"(B) to create public education campaigns and community organizing to encourage men and boys to work as allies with women and girls to prevent violence against women and girls conducted by entities that have experience in conducting public education campaigns that address domestic violence, dating violence, sexual assault, or stalking.

"(2) MEDIA LIMITS.—No more than 40 percent of funds received by a grantee under this section may be used to create and distribute media materials.

"(d) ELIGIBLE ENTITIES.—

"(1) RELATIONSHIPS.—Eligible entities under subsection (c)(1)(A) are—

"(A) nonprofit, nongovernmental domestic violence, dating violence, sexual assault, or stalking victim service providers or coalitions;

"(B) community-based child or youth services organizations with demonstrated experience and expertise in addressing the needs and concerns of young people;

"(C) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A) or (B); or

"(D) a program that provides culturally specific services.

"(2) AWARENESS CAMPAIGN.—Eligible entities under subsection (c)(1)(B) are—

"(A) nonprofit, nongovernmental organizations or coalitions that have a documented history of creating and administering effective public education campaigns addressing the prevention of domestic violence, dating violence, sexual assault or stalking; or

"(B) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A).

"(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

"(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

"(2) eligible entities pursuant to subsection (c)(1)(A) shall describe in the application the policies and procedures that the entity has or will adopt to—

"(A) enhance or ensure the safety and security of children and youth already experiencing domestic violence, dating violence, sexual assault, or stalking in their lives;

"(B) ensure linguistically, culturally, and community relevant services for racial and ethnic, and other underserved communities;

"(C) inform participants about laws, services, and resources in the community, and make referrals as appropriate; and

"(D) ensure that State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section.".

SEC. 402. STUDY CONDUCTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) PURPOSES.—The Secretary of Health and Human Services acting through the National Center for Injury Prevention and Control at the Centers for Disease Control Prevention shall make grants to entities, including domestic and sexual assault coalitions and programs, research organizations, tribal organizations, and academic institutions to support research to examine prevention and intervention programs to further the understanding of sexual and domestic violence by and against adults, youth, and children.

(b) USE OF FUNDS.—The research conducted under this section shall include evaluation and study of best practices for reducing and preventing violence against women and children addressed by the strategies included in Department of Health and Human Services-related provisions this title, including strategies addressing racial, ethnic, and other underserved communities.

(c) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated to carry out this title $2,000,000 for each of the fiscal years 2006 through 2010.

TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) The health-related costs of intimate partner violence in the United States exceed $5,800,000,000 annually.

(2) Thirty-seven percent of all women who sought care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse, boyfriend, or girlfriend.

(3) In addition to injuries sustained during violent episodes, physical and psychological abuse is linked to a number of adverse physical and mental health effects. Women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse and sexually transmitted infections, including HIV/AIDS.

(4) Health plans spend an average of $1,775 more a year on abused women than on general enrollees.

(5) Each year about 324,000 pregnant women in the United States are battered by the men in their lives. This battering leads to complications of pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding.

(6) Pregnant and recently pregnant women are more likely to be victims of homicide than to die of any other pregnancy-related cause, and evidence exists that a significant proportion of all female homicide victims are killed by their intimate partners.

(7) Children who witness domestic violence are more likely to exhibit behavioral and physical health problems including depression, anxiety, and violence towards peers. They are also more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution, and commit sexual assault crimes.

(8) Recent research suggests that women experiencing domestic violence significantly increase their safety-promoting behaviors over the short- and long-term when health care providers screen for, identify, and provide followup care and information to address the violence.

(9) Currently, only about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and 9 percent routinely screen for intimate partner abuse during periodic checkups.

(10) Recent clinical studies have proven the effectiveness of a 2-minute screening for early

detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was proven highly effective in increasing the safety of pregnant abused women. Comparable research does not yet exist to support the effectiveness of screening men.

(11) Seventy to 81 percent of the patients studied reported that they would like their healthcare providers to ask them privately about intimate partner violence.

SEC. 502. PURPOSE.

It is the purpose of this title to improve the health care system's response to domestic violence, dating violence, sexual assault, and stalking through the training and education of health care providers, developing comprehensive public health responses to violence against women and children, increasing the number of women properly screened, identified, and treated for lifetime exposure to violence, and expanding research on effective interventions in the health care setting.

SEC. 503. TRAINING AND EDUCATION OF HEALTH PROFESSIONALS IN DOMESTIC AND SEXUAL VIOLENCE.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end the following:

"SEC. 758. INTERDISCIPLINARY TRAINING AND EDUCATION ON DOMESTIC VIOLENCE AND OTHER TYPES OF VIOLENCE AND ABUSE.

"(a) GRANTS.—The Secretary, acting through the Director of the Health Resources and Services Administration, shall award grants under this section to develop interdisciplinary training and education programs that provide undergraduate, graduate, post-graduate medical, nursing (including advanced practice nursing students), and other health professions students with an understanding of, and clinical skills pertinent to, domestic violence, sexual assault, stalking, and dating violence.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

"(1) be an accredited school of allopathic or osteopathic medicine;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) information to demonstrate that the applicant includes the meaningful participation of a school of nursing and at least one other school of health professions or graduate program in public health, dentistry, social work, midwifery, or behavioral and mental health;

"(B) strategies for the dissemination and sharing of curricula and other educational materials developed under the grant to other interested medical and nursing schools and national resource repositories for materials on domestic violence and sexual assault; and

"(C) a plan for consulting with, and compensating community-based coalitions or individuals who have experience and expertise in issues related to domestic violence, sexual assault, dating violence, and stalking for services provided under the program carried out under the grant.

"(c) USE OF FUNDS.—

"(1) REQUIRED USES.—Amounts provided under a grant under this section shall be used to—

"(A) fund interdisciplinary training and education projects that are designed to train medical, nursing, and other health professions students and residents to identify and provide health care services (including mental or behavioral health care services and referrals to appropriate community services) to individuals who are or who have experienced domestic violence, sexual assault, and stalking or dating violence; and

"(B) plan and develop culturally competent clinical components for integration into approved residency training programs that address health issues related to domestic violence, sexual assault, dating violence, and stalking, along with other forms of violence as appropriate, and include the primacy of victim safety and confidentiality.

"(2) PERMISSIVE USES.—Amounts provided under a grant under this section may be used to—

"(A) offer community-based training opportunities in rural areas for medical, nursing, and other students and residents on domestic violence, sexual assault, stalking, and dating violence, and other forms of violence and abuse, which may include the use of distance learning networks and other available technologies needed to reach isolated rural areas; or

"(B) provide stipends to students from racial and ethnic population groups who are underrepresented in the health professions as necessary to promote and enable their participation in clerkships, preceptorships, or other offsite training experiences that are designed to develop health care clinical skills related to domestic violence, sexual assault, dating violence, and stalking.

"(3) REQUIREMENTS.—

"(A) CONFIDENTIALITY AND SAFETY.—Grantees under this section shall ensure that all educational programs developed with grant funds address issues of confidentiality and patient safety, and that faculty and staff associated with delivering educational components are fully trained in procedures that will protect the immediate and ongoing security of the patients, patient records, and staff. Advocacy-based coalitions or other expertise available in the community shall be consulted on the development and adequacy of confidentially and security procedures, and shall be fairly compensated by grantees for their services.

"(B) RURAL PROGRAMS.—Rural training programs carried out under paragraph (2)(A) shall reflect adjustments in protocols and procedures or referrals that may be needed to protect the confidentiality and safety of patients who live in small or isolated communities and who are currently or have previously experienced violence or abuse.

"(4) CHILD AND ELDER ABUSE.—Issues related to child and elder abuse may be addressed as part of a comprehensive programmatic approach implemented under a grant under this section.

"(d) REQUIREMENTS OF GRANTEES.—

"(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

"(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 25 percent of the total cost of such activities.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $3,000,000 for each of fiscal years 2006 through 2010. Amounts appropriated under this subsection shall remain available until expended.".

SEC. 504. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING GRANTS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399O. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

"(a) AUTHORITY TO AWARD GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible State, tribal, territorial, or local entities to strengthen the response of State, tribal, territorial, or local health care systems to domestic violence, dating violence, sexual assault, and stalking.

"(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

"(A) be—

"(i) a State department (or other division) of health, a State domestic or sexual assault coalition or service-based program, State law enforcement task force, or any other nonprofit, nongovernmental, tribal, territorial, or State entity with a history of effective work in the fields of domestic violence, dating violence, sexual assault or stalking, and health care; or

"(ii) a local, nonprofit domestic violence, dating violence, sexual assault, or stalking service-based program, a local department (or other division) of health, a local health clinic, hospital, or health system, or any other nonprofit, tribal, or local entity with a history of effective work in the field of domestic or sexual violence and health;

"(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the grant is to be made; and

"(C) demonstrate that the entity is representing a team of organizations and agencies working collaboratively to strengthen the response of the health care system involved to domestic violence, dating violence, sexual assault, or stalking and that such team includes domestic violence, dating violence, sexual assault or stalking and health care organizations.

"(3) DURATION.—A program conducted under a grant awarded under this section shall not exceed 2 years.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—An entity shall use amounts received under a grant under this section to design and implement comprehensive strategies to improve the response of the health care system involved to domestic or sexual violence in clinical and public health settings, hospitals, clinics, managed care settings (including behavioral and mental health), and other health settings.

"(2) MANDATORY STRATEGIES.—Strategies implemented under paragraph (1) shall include the following:

"(A) The implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and behavioral and public health staff in responding to domestic violence, dating violence, sexual assault, and stalking, including strategies to ensure that health information is maintained in a manner that protects the patient's privacy and safety and prohibits insurance discrimination.

"(B) The development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence, dating violence, sexual assault, and stalking, by contracting with or hiring domestic or sexual assault advocates to provide the services, or to model other services appropriate to the geographic and cultural needs of a site.

"(C) The evaluation of practice and the institutionalization of identification, intervention, and documentation including quality improvement measurements.

"(D) The provision of training and followup technical assistance to health care professionals, behavioral and public health staff, and

allied health professionals to identify, assess, treat, and refer clients who are victims of domestic violence, dating violence, sexual violence, or stalking.

"(3) PERMISSIVE STRATEGIES.—Strategies implemented under paragraph (1) may include the following:

"(A) Where appropriate, the development of training modules and policies that address the overlap of child abuse, domestic violence, dating violence, sexual assault, and stalking and elder abuse as well as childhood exposure to domestic violence.

"(B) The creation, adaptation, and implementation of public education campaigns for patients concerning domestic violence, dating violence, sexual assault, and stalking prevention.

"(C) The development, adaptation, and dissemination of domestic violence, dating violence, sexual assault, and stalking education materials to patients and health care professionals and behavioral and public health staff.

"(D) The promotion of the inclusion of domestic violence, dating violence, sexual assault, and stalking into health professional training schools, including medical, dental, nursing school, social work, and mental health curriculum.

"(E) The integration of domestic violence, dating violence, sexual assault, and stalking into health care accreditation and professional licensing examinations, such as medical, dental, social work, and nursing boards.

"(c) ALLOCATION OF FUNDS.—Funds appropriated under this section shall be distributed equally between State and local programs.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to award grants under this section, $5,000,000 for each of fiscal years 2006 through 2010.".

SEC. 505. RESEARCH ON EFFECTIVE INTERVENTIONS IN THE HEALTHCARE SETTING.

Subtitle B of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902 et seq.), as amended by the Violence Against Women Act of 2000 (114 Stat. 1491 et seq.), and as amended by this Act, is further amended by adding at the end the following:

"CHAPTER 11—RESEARCH ON EFFECTIVE INTERVENTIONS TO ADDRESS VIOLENCE AGAINST WOMEN

"SEC. 40297. RESEARCH ON EFFECTIVE INTERVENTIONS IN THE HEALTH CARE SETTING.

"(a) PURPOSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Research and Quality, shall award grants and contracts to fund research on effective interventions in the health care setting that prevent domestic violence, dating violence, and sexual assault across the lifespan and that prevent the health effects of such violence and improve the safety and health of individuals who are currently being victimized.

"(b) USE OF FUNDS.—Research conducted with amounts received under a grant or contract under this section shall include the following:

"(1) With respect to the authority of the Centers for Disease Control and Prevention—

"(A) research on the effects of domestic violence, dating violence, sexual assault, and childhood exposure to domestic, dating, or sexual violence, on health behaviors, health conditions, and the health status of individuals, families, and populations; and

"(B) research and testing of best messages and strategies to mobilize public and health care provider action concerning the prevention of domestic, dating, or sexual violence; and

"(2) With respect to the authority of the Agency for Healthcare Research and Quality—

"(A) research on the impact on the health care system, health care utilization, health care costs, and health status of domestic violence, dating violence, and childhood exposure to domestic and dating violence, sexual violence and stalking and childhood exposure; and

"(B) research on effective interventions within primary care and emergency health care settings and with health care settings that include clinical partnerships within community domestic violence providers for adults and children exposed to domestic or dating violence.

"(c) USE OF DATA.—Research funded under this section shall be utilized by eligible entities under section 399O of the Public Health Service Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2006 through 2010.".

TITLE VI—HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

SEC. 601. ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

The Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended by adding at the end the following:

"Subtitle N—Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

"SEC. 41401. FINDINGS.

"Congress finds that:

"(1) There is a strong link between domestic violence and homelessness. Among cities surveyed, 44 percent identified domestic violence as a primary cause of homelessness.

"(2) 92 percent of homeless women have experienced severe physical or sexual abuse at some point in their lives. Of all homeless women and children, 60 percent had been abused by age 12, and 63 percent have been victims of intimate partner violence as adults.

"(3) Women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.

"(4) A recent survey of legal service providers around the country found that these providers have responded to almost 150 documented eviction cases in the last year alone where the tenant was evicted because of the domestic violence crimes committed against her. In addition, nearly 100 clients were denied housing because of their status as victims of domestic violence.

"(5) Women who leave their abusers frequently lack adequate emergency shelter options. The lack of adequate emergency options for victims presents a serious threat to their safety and the safety of their children. Requests for emergency shelter by homeless women with children increased by 78 percent of United States cities surveyed in 2004. In the same year, 32 percent of the requests for shelter by homeless families went unmet due to the lack of available emergency shelter beds.

"(6) The average stay at an emergency shelter is 60 days, while the average length of time it takes a homeless family to secure housing is 6 to 10 months.

"(7) Victims of domestic violence often return to abusive partners because they cannot find long-term housing.

"(8) There are not enough Federal housing rent vouchers available to accommodate the number of people in need of long-term housing. Some people remain on the waiting list for Federal housing rent vouchers for years, while some lists are closed.

"(9) Transitional housing resources and services provide an essential continuum between emergency shelter provision and independent living. A majority of women in transitional housing programs stated that had these programs not existed, they would have likely gone back to abusive partners.

"(10) Because abusers frequently manipulate finances in an effort to control their partners, victims often lack steady income, credit history, landlord references, and a current address, all of which are necessary to obtain long-term permanent housing.

"(11) Victims of domestic violence in rural areas face additional barriers, challenges, and unique circumstances, such as geographical isolation, poverty, lack of public transportation systems, shortages of health care providers, under-insurance or lack of health insurance, difficulty ensuring confidentiality in small communities, and decreased access to many resources (such as advanced education, job opportunities, and adequate childcare).

"(12) Congress and the Secretary of Housing and Urban Development have recognized in recent years that families experiencing domestic violence have unique needs that should be addressed by those administering the Federal housing programs.

"SEC. 41402. PURPOSE.

"The purpose of this subtitle is to reduce domestic violence, dating violence, sexual assault, and stalking, and to prevent homelessness by—

"(1) protecting the safety of victims of domestic violence, dating violence, sexual assault, and stalking who reside in homeless shelters, public housing, assisted housing, Indian housing, or other emergency, transitional, permanent, or affordable housing, and ensuring that such victims have meaningful access to the criminal justice system without jeopardizing such housing;

"(2) creating long-term housing solutions that develop communities and provide sustainable living solutions for victims of domestic violence, dating violence, sexual assault, and stalking;

"(3) building collaborations among victim service providers, homeless service providers, housing providers, and housing agencies to provide appropriate services, interventions, and training to address the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking; and

"(4) enabling public and assisted housing agencies, tribally designated housing entities, private landlords, property management companies, and other housing providers and agencies to respond appropriately to domestic violence, dating violence, sexual assault, and stalking, while maintaining a safe environment for all housing residents.

"SEC. 41403. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'assisted housing' means housing assisted—

"(A) under sections 213, 220, 221(d)(3), 221(d)(4), 223(e), 231, or 236 of the National Housing Act (12 U.S.C. 1715l(d)(3), (d)(4), or 1715z–1);

"(B) under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

"(C) under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

"(D) under section 811 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 8013);

"(E) under title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12701 et seq.);

"(F) under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

"(G) under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); or

"(H) under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

"(2) the term 'continuum of care' means a community plan developed to organize and deliver housing and services to meet the specific

needs of people who are homeless as they move to stable housing and achieve maximum self-sufficiency;

"(3) the term 'Indian housing' means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.);

"(4) the term 'low-income housing assistance voucher' means housing assistance described in section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

"(5) the term 'public housing' means housing described in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1));

"(6) the term 'public housing agency' means an agency described in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6));

"(7) the terms 'homeless', 'homeless individual', and 'homeless person'—

"(A) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and

"(B) includes—

"(i) an individual who—

"(I) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

"(II) is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;

"(III) is living in an emergency or transitional shelter;

"(IV) is abandoned in a hospital; or

"(V) is awaiting foster care placement;

"(ii) an individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

"(iii) migratory children (as defined in section 1309 of the Elementary and Secondary Education Act of 1965; 20 U.S.C. 6399) who qualify as homeless under this section because the children are living in circumstances described in this paragraph; and

"(8) the term 'homeless service provider' means a nonprofit, nongovernmental homeless service provider, such as a homeless shelter, a homeless service or advocacy program, a tribal organization serving homeless individuals, or coalition or other nonprofit, nongovernmental organization carrying out a community-based homeless or housing program that has a documented history of effective work concerning homelessness.

"SEC. 41404. COLLABORATIVE GRANTS TO DEVELOP LONG-TERM HOUSING FOR VICTIMS.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary of Housing and Urban Development, shall award grants and contracts for a period of not less than 2 years to eligible entities to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, and stalking who are currently homeless or at risk for becoming homeless.

"(2) AMOUNT.—The Secretary of Health and Human Services shall award—

"(A) grants for projects that do not include the cost of construction in amounts—

"(i) not less than $25,000 per year; and

"(ii) not more than $350,000 per year; and

"(B) grants for projects that do include the cost of construction in amounts—

"(i) not less than $75,000 per year; and

"(ii) not more than $1,000,000 per year.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall demonstrate that it is a coalition or partnership, applying jointly, that—

"(1) shall include a domestic violence victim service provider;

"(2) shall include—

"(A) a homeless service provider;

"(B) a nonprofit, nongovernmental community housing development organization or a Department of Agriculture rural housing service program; or

"(C) in the absence of a homeless service provider on tribal lands or nonprofit, nongovernmental community housing development organization on tribal lands, a tribally designated housing entity or tribal housing consortium;

"(3) may include a dating violence, sexual assault, or stalking victim service provider;

"(4) may include housing developers, housing corporations, State housing finance agencies, other housing agencies, and associations representing landlords;

"(5) may include a public housing agency or tribally designated housing entity;

"(6) may include tenant organizations in public or Tribally designated housing, as well as nonprofit, nongovernmental tenant organizations;

"(7) may include other nonprofit, nongovernmental organizations participating in the Department of Housing and Urban Development's Continuum of Care process;

"(8) may include a State, tribal, territorial, or local government or government agency; and

"(9) may include any other such agencies or nonprofit, nongovernmental organizations with the capacity to provide effective help to adult and youth victims of domestic violence, dating violence, sexual assault, or stalking.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity seeking a grant under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

"(2) CONTENTS.—Each application shall be submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) USE OF FUNDS.—Grants and contracts awarded to eligible entities pursuant to subsection (a) shall be used to design or replicate and implement new activities, services, and programs to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents, who are currently homeless or at risk of becoming homeless. Such activities, services, or programs—

"(1) shall participate in the Department of Housing and Urban Development's Continuum of Care process, unless such a process does not exist in the community to be served;

"(2) shall develop sustainable long-term housing in the community by—

"(A) coordinating efforts and resources among the various groups and organizations comprised in the entity to access existing private and public funding;

"(B) placing individuals and families in long-term housing; and

"(C) providing services to help individuals or families find and maintain long-term housing, including financial assistance and support services;

"(3) may provide capital costs for the purchase, preconstruction, construction, renovation, repair, or conversion of affordable housing units;

"(4) may use funds for the continuing operation, upkeep, maintenance, and use of housing described in paragraph (3); and

"(5) may provide to the community information about housing and housing programs, and the process to locate and obtain long-term housing.

"(e) UNDERSERVED POPULATIONS AND PRIORITIES.—In awarding grants under this section, the Secretary of Health and Human Services shall—

"(1) give priority to linguistically and culturally specific services;

"(2) give priority to applications from entities that include a sexual assault service provider as described in subsection (b)(3); and

"(3) award a minimum of 15 percent of the funds appropriated under this section in any fiscal year to tribal organizations.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'long-term housing' means housing that is sustainable, accessible, affordable, and safe for the foreseeable future and is—

"(A) rented or owned by the individual;

"(B) subsidized by a voucher or other program which is not time-limited and is available for as long as the individual meets the eligibility requirements for the voucher or program; or

"(C) provided directly by a program, agency, or organization and is not time-limited and is available for as long as the individual meets the eligibility requirements for the program, agency, or organization; and

"(2) the term 'affordable housing' means housing that complies with the conditions set forth in section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745).

"(g) EVALUATION, MONITORING, ADMINISTRATION, AND TECHNICAL ASSISTANCE.—For purposes of this section—

"(1) up to 3 percent of the funds appropriated under subsection (h) for each fiscal year may be used by the Secretary of Health and Human Services for evaluation, monitoring, and administration costs under this section; and

"(2) up to 8 percent of the funds appropriated under subsection (h) for each fiscal year may be used to provide technical assistance to grantees under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this section.

"SEC. 41405. GRANTS TO COMBAT VIOLENCE AGAINST WOMEN IN PUBLIC AND ASSISTED HOUSING.

"(a) PURPOSE.—It is the purpose of this section to assist eligible grantees in responding appropriately to domestic violence, dating violence, sexual assault, and stalking so that the status of being a victim of such a crime is not a reason for the denial or loss of housing. Such assistance shall be accomplished through—

"(1) education and training of eligible entities;

"(2) development and implementation of appropriate housing policies and practices;

"(3) enhancement of collaboration with victim service providers and tenant organizations; and

"(4) reduction of the number of victims of such crimes who are evicted or denied housing because of crimes and lease violations committed or directly caused by the perpetrators of such crimes.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General, acting through the Director of the Violence Against Women Office of the Department of Justice ('Director'), and in consultation with the Secretary of Housing and Urban Development ('Secretary'), and the Secretary of Health and Human Services, acting through the Administration for Children, Youth and Families ('ACYF'), shall award grants and contracts for not less than 2 years to eligible grantees to promote the full and equal access to and use of housing by adult and youth victims of domestic violence, dating violence, sexual assault, and stalking.

"(2) AMOUNTS.—Not less than 15 percent of the funds appropriated to carry out this section shall be available for grants to tribally designated housing entities.

"(3) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis.

"(4) LIMITATION.—Appropriated funds may only be used for the purposes described in subsection (f).

"(c) ELIGIBLE GRANTEES.—

"(1) IN GENERAL.—Eligible grantees are—

"(A) public housing agencies;

"(B) principally managed public housing resident management corporations, as determined by the Secretary;

"(C) public housing projects owned by public housing agencies;

"(D) agencies and authorities receiving assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

"(E) private, for-profit, and nonprofit owners or managers of assisted housing.

"(2) SUBMISSION REQUIRED FOR ALL GRANTEES.—To receive assistance under this section, an eligible grantee shall certify that—

"(A) its policies and practices do not prohibit or limit a resident's right to summon police or other emergency assistance in response to domestic violence, dating violence, sexual assault, or stalking;

"(B) programs and services are developed that give a preference in admission to adult and youth victims of such violence, consistent with local housing needs, and applicable law and the Secretary's instructions;

"(C) it does not discriminate against any person—

"(i) because that person is or is perceived to be, or has a family or household member who is or is perceived to be, a victim of such violence; or

"(ii) because of the actions or threatened actions of the individual who the victim, as certified in subsection (e), states has committed or threatened to commit acts of such violence against the victim, or against the victim's family or household member;

"(D) plans are developed that establish meaningful consultation and coordination with local victim service providers, tenant organizations, linguistically and culturally specific service providers, State domestic violence and sexual assault coalitions, and, where they exist, tribal domestic violence and sexual assault coalitions; and

"(E) its policies and practices will be in compliance with those described in this paragraph within the later of 1 year or a period selected by the Attorney General in consultation with the Secretary and ACYF.

"(d) APPLICATION.—Each eligible entity seeking a grant under this section shall submit an application to the Attorney General at such a time, in such a manner, and containing such information as the Attorney General may require.

"(e) CERTIFICATION.—

"(1) IN GENERAL.—A public housing agency, tribally designated housing entity, or assisted housing provider receiving funds under this section may request that an individual claiming relief under this section certify that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking. The individual shall provide a copy of such certification to the public housing agency, tribally designated housing entity, or assisted housing provider within a reasonable period of time after the agency or authority requests such certification.

"(2) CONTENTS.—An individual may satisfy the certification requirement of paragraph (1) by—

"(A) providing the public housing agency, tribally designated housing entity, or assisted housing provider with documentation, signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; or

"(B) producing a Federal, State, tribal, territorial, or local police or court record.

"(3) LIMITATION.—Nothing in this subsection shall be construed to require any housing agency, assisted housing provider, tribally designated housing entity, owner, or manager to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking, in order to receive any of the benefits provided in this section. A housing authority may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

"(4) CONFIDENTIALITY.—

"(A) IN GENERAL.—All information provided to any housing agency, assisted housing provider, tribally designated housing entity, owner, or manager pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in the strictest confidence by such housing authority, and shall neither be entered into any shared database, nor provided to any related housing agency, assisted housing provider, tribally designated housing entity, owner, or manager, except to the extent that disclosure is—

"(i) requested or consented to by the individual in writing; or

"(ii) otherwise required by applicable law.

"(B) NOTIFICATION.—An individual shall be notified of the limits of such confidentiality and informed in advance about circumstances in which the housing agency, assisted housing provider, tribally designated housing entity, owner, or manager will be compelled to disclose the individual's information.

"(f) USE OF FUNDS.—Grants and contracts awarded pursuant to subsection (a) shall provide to eligible entities personnel, training, and technical assistance to develop and implement policies, practices, and procedures, making physical improvements or changes, and developing or enhancing collaborations for the purposes of—

"(1) enabling victims of domestic violence, dating violence, sexual assault, and stalking with otherwise disqualifying rental, credit, or criminal histories to be eligible to obtain housing or housing assistance, if such victims would otherwise qualify for housing or housing assistance and can provide documented evidence that demonstrates the causal connection between such violence or abuse and the victims' negative histories;

"(2) permitting applicants for housing or housing assistance to provide incomplete rental and employment histories, otherwise required as a condition of admission or assistance, if the victim believes that providing such rental and employment history would endanger the victim's or the victim children's safety;

"(3) protecting victims' confidentiality, including protection of victims' personally identifying information, address, or rental history;

"(4) assisting victims who need to leave a public housing, Indian housing, or assisted housing unit quickly to protect their safety, including those who are seeking transfer to a new public housing unit, Indian housing unit, or assisted housing unit, whether in the same or a different neighborhood or jurisdiction;

"(5) enabling the public housing agency, tribally designated housing entity, or assisted housing provider, or the victim, to remove, consistent with applicable State law, the perpetrator of domestic violence, dating violence, sexual assault, or stalking without evicting, removing, or otherwise penalizing the victim;

"(6) enabling the public housing agency, tribally designated housing entity, or assisted housing provider to comply with court orders, including civil protection orders issued to protect the victim, when notified and issued to address the distribution or possession of property among the household members in cases where a family breaks up;

"(7) developing and implementing more effective security policies, protocols, and services;

"(8) allotting not more than 15 percent of funds awarded under the grant to make physical improvements;

"(9) training personnel to more effectively identify and respond to victims of domestic violence, dating violence, sexual assault, and stalking; and

"(10) effectively providing notice to applicants and residents of the above housing policies, practices, and procedures.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this section.

"(h) TECHNICAL ASSISTANCE.—Up to 12 percent of the amount appropriated under subsection (g) for each fiscal year shall be used by the Attorney General for technical assistance costs under this section.".

SEC. 602. TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) IN GENERAL.—Section 40299 of the Violence Against Women Act of 1994 (42 U.S.C. 13975) is amended—

(1) in subsection (a)—

(A) by inserting "the Department of Housing and Urban Development, and the Department of Health and Human Services," after "Department of Justice,";

(B) by inserting ", including domestic violence and sexual assault victim service providers, domestic violence and sexual assault coalitions, other nonprofit, nongovernmental organizations, or community-based and culturally specific organizations, that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking" after "other organizations"; and

(C) in paragraph (1), by inserting ", dating violence, sexual assault, or stalking" after "domestic violence";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) in paragraph (3), as redesignated, by inserting ", dating violence, sexual assault, or stalking" after "violence";

(C) by inserting before paragraph (2), as redesignated, the following:

"(1) transitional housing, or acquire land or buildings, or rehabilitate or construct buildings for the purpose of providing transitional housing to persons described in subsection (a), including funding for—

"(A) the predevelopment cost and capital expenses involved in the development of transitional housing; and

"(B) the operating expenses of newly developed or existing transitional housing."; and

(D) in paragraph (3)(B) as redesignated, by inserting "Participation in the support services shall be voluntary. Receipt of the benefits of the housing assistance described in paragraph (2) shall not be conditioned upon the participation of the youth, adults, or their dependents in any or all of the support services offered them." after "assistance.";

(3) in paragraph (1) of subsection (c), by striking "18 months" and inserting "24 months";

(4) in subsection (d)(2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) provide assurances that any supportive services offered to participants in programs developed under subsection (b)(3) are voluntary and that refusal to receive such services shall not be grounds for termination from the program or eviction from the victim's housing; and";

(5) in subsection (e)(2)—

(A) in subparagraph (A), by inserting "purpose and" before "amount";

(B) in clause (ii) of subparagraph (C), by striking "and";

(C) in subparagraph (D), by striking the period and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(E) the client population served and the number of individuals requesting services that the transitional housing program is unable to serve as a result of a lack of resources."; and

(6) in subsection (g)—

(A) in paragraph (1), by striking "$30,000,000" and inserting "$40,000,000";

(B) in paragraph (1), by striking "2004" and inserting "2006";

(C) in paragraph (1), by striking "2008." and inserting "2010";

(D) in paragraph (2), by striking "not more than 3 percent" and inserting "up to 5 percent";

(E) in paragraph (2), by inserting "evaluation, monitoring, technical assistance," before "salaries"; and

(F) in paragraph (3), by adding at the end the following new subparagraphs:

"(C) UNDERSERVED POPULATIONS.—

"(i) A minimum of 7 percent of the total amount appropriated in any fiscal year shall be allocated to tribal organizations serving adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents.

"(ii) Priority shall be given to projects developed under subsection (b) that primarily serve racial, ethnic, or other underserved populations.".

SEC. 603. PUBLIC HOUSING AUTHORITY PLANS REPORTING REQUIREMENT.

Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) STATEMENT OF GOALS.—The 5-year plan shall include a statement by any public housing agency of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.";

(2) in subsection (d), by redesignating paragraphs (13), (14), (15), (16), (17), and (18), as paragraphs (14), (15), (16), (17), (18), and (19), respectively; and

(3) by inserting after paragraph (12) the following:

"(13) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING PROGRAMS.—A description of—

"(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

"(B) any activities, services, or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

"(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.".

SEC. 604. HOUSING STRATEGIES.

Section 105(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(1)) is amended by inserting after "immunodeficiency syndrome," the following: "victims of domestic violence, dating violence, sexual assault, and stalking".

SEC. 605. AMENDMENT TO THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.

Section 423 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383) is amended—

(1) by adding at the end of subsection (a) the following:

"(8) CONFIDENTIALITY.—

"(A) IN GENERAL.—In the course of awarding grants or implementing programs under this subsection, the Secretary shall instruct any recipient or subgrantee not to disclose to any person, agency, or entity any personally identifying information about any client where the Secretary, recipient, or subgrantee believes based upon reasonable evidence that the client is either a child or an adult victim of domestic violence, dating violence, sexual assault, or stalking, and has immediate safety concerns, or is the parent or guardian of a child victim of domestic violence, dating violence, sexual assault, or stalking, and has immediate safety concerns. The Secretary shall not require or ask a recipient or subgrantee of any other Federal or State program to disclose personally identifying information about any clients where the persons, agencies, or entities implementing those programs believe, based upon reasonable evidence, that those clients either are child or adult victims of domestic violence, dating violence, sexual assault, or stalking, and has immediate safety concerns or are the parents or guardians of child victims of domestic violence, dating violence, sexual assault, or stalking, and has immediate safety concerns. The Secretary shall instruct any recipient or subgrantee under this subsection or any recipient or subgrantee of any other Federal or State program participating in the Homeless Management Information System that personally identifying information about any client may only be disclosed if the program seeking to disclose such information has obtained informed, reasonably time-limited, written consent from the client to whom the information relates. The Secretary may require or ask any recipient or subgrantee to share nonpersonally identifying data in the aggregate regarding services to clients and nonpersonally identifying demographic information in order to comply with the data collection requirements of the Homeless Management Information System.

"(B) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term 'personally identifying information' or 'personal information' means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

"(i) a first and last name;

"(ii) a home or other physical address;

"(iii) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

"(iv) a social security number; and

"(v) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of clauses (i) through (iv), would serve to identify any individual.".

SEC. 606. AMENDMENTS TO THE LOW-INCOME HOUSING ASSISTANCE VOUCHER PROGRAM.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (c)—

(A) in the first sentence by inserting "; miscellaneous provisions" after "monthly assistance payments"; and

(B) by adding at the end the following new paragraph:

"(9)(A) That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission.

"(B) An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence.

"(C)(i) Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of tenancy or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

"(ii) A public housing agency or an owner or manager under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

"(iii) Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to comply with court orders, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

"(iv) Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency or assisted housing provider to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household; provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

"(v) Nothing in clause (i) may be construed to limit the authority of an owner or manager to evict any tenant or lawful occupant if the owner or manager can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

"(vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.".

(2) in subsection (d)—

(A) in paragraph (1)(A), by inserting after "public housing agency" the following: "and that an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission";

(B) in paragraph (1)(B)(ii), by inserting after "other good cause" the following: ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened *victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence"; and*

(C) in paragraph (1)(B)(iii), by inserting after "termination of tenancy" the following: ", except that (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (II) a public housing agency or an owner or manager under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to comply with court orders, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency or assisted housing provider to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance, to any tenant if the owner, manager, public housing agency, or assisted housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.";

(3) in subsection (f)—

(A) in paragraph (6), by striking "and";

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(8) the term 'domestic violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

"(9) the term 'dating violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994; and

"(10) the term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

"(A) fear for his or her safety or the safety of others; or

"(B) suffer significant emotional or physical distress; and

"(11) the term 'sexual assault' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994.";

(4) in subsection (o)—

(A) by inserting at the end of paragraph (6)(B) the following new sentence: "That an applicant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by or for denial of admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.";

(B) in paragraph (7)(C), by inserting after "other good cause" the following: ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence";

(C) in paragraph (7)(D), by inserting after "termination of tenancy" the following: "; except that (i) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) a public housing agency or an owner or manager under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to comply with court orders, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household member sin cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency or assisted housing provider to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate, voucher assistance to any tenant if the owner, manager, public housing agency, or assisted housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."; and

(D) by adding at the end the following new paragraph:

"(20) PROHIBITED BASIS FOR TERMINATION OF ASSISTANCE.—

"(A) IN GENERAL.—A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

"(B) CONSTRUAL OF LEASE PROVISIONS.—Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal activity justifying termination of assistance to the victim or threatened victim.

"(C) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant's family who is a victim of the domestic violence, dating violence, or stalking.

"(D) EXCEPTIONS.—

"(i) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE FOR CRIMINAL ACTS.—Nothing in subparagraphs (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

"(ii) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE ASSISTANCE FOR IMMINENT THREAT.—Nothing in subparagraphs (A), (B), or (C) may be construed to limit the authority of a public housing agency to terminate assistance to any individual who has been evicted from housing assisted under the program based on a showing that he or she presented an actual and imminent threat to other tenants or to staff of the owner or public housing agency.

"(iii) COMPLIANCE WITH COURT ORDERS.—Nothing in subparagraphs (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to comply with court orders, including civil protection orders issued to protect the victim and issued to address the distribution possession of property among the household members in cases where a family breaks up.

"(iv) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR ACTS OF VIOLENCE.—Nothing in subparagraphs (A), (B), or (C) limit any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

"(v) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR IMMINENT THREAT.—Nothing in subparagraphs (A), (B), (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

"(vi) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.";

(5) in subsection (r)(5), by inserting after "violation of a lease" the following: ", except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit"; and

(6) by adding at the end the following new subsection:

"(ee) CERTIFICATION AND CONFIDENTIALITY.—

"(1) CERTIFICATION.—

"(A) IN GENERAL.—An owner, manager, public housing agency, or assisted housing provider responding to subsections (c)(9), (d)(1)(B(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. The individual shall provide such certification within 14 business days after the owner, manager, public housing agency, or assisted housing provider requests such certification.

"(B) FAILURE TO PROVIDE CERTIFICATION.—If the individual does not provide the certification within 14 business days after the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing, nothing in this subsection may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that commits violations of a lease. The owner, manager, public housing agency, or assisted housing provider may extend the 14-day deadline at their discretion.

"(C) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

"(i) providing the requesting owner, manager, public housing agency, or assisted housing provider with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

"(ii) producing a Federal, State, tribal, territorial, or local police or court record.

"(D) LIMITATION.—Nothing in this subsection shall be construed to require an owner, manager, public housing agency, or assisted housing provider to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, public housing agency, or assisted housing provider may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

"(E) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with this statute by an owner, manager, public housing agency, or assisted housing provider based on the certification specified in paragraph (1)(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by paragraph (1)(C) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manger, public housing agency, or assisted housing provider, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(9), or (r)(5).

"(F) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—All information provided to an owner, manager, public housing agency, or assisted housing provider pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in the strictest confidence by an owner, manager, public housing agency, or assisted housing provider, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

"(i) requested or consented to by the individual in writing; or

"(ii) otherwise required by applicable law.

"(B) NOTIFICATION.—An individual must be notified of the limits of such confidentiality and informed in advance about circumstances in which the person or entity will be compelled to disclose the individual's information.".

SEC. 607. AMENDMENTS TO THE PUBLIC HOUSING PROGRAM.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (c), by redesignating paragraph (3) and (4), as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

"(3) the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking";

(3) in subsection (l)(5), by inserting after "other good cause" the following: ", and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence";

(4) in subsection (l)(6), by inserting after "termination of tenancy" the following: "; except that (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (B) a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to comply with court orders, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking."; and

(5) by inserting at the end of subsection (t) the following new subsection:

"(u) CERTIFICATION AND CONFIDENTIALITY.—

"(1) CERTIFICATION.—

"(A) IN GENERAL.—A public housing agency responding to subsection (l) (5) and (6) may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. The individual shall provide such certification within 14 business days after the public housing agency requests such certification.

"(B) FAILURE TO PROVIDE CERTIFICATION.—If the individual does not provide the certification within 14 business days after the public housing agency has requested such certification in writing, nothing in this subsection may be construed to limit the authority of the public housing agency to evict any tenant or lawful occupant that commits violations of a lease. The public housing agency may extend the 14-day deadline at its discretion.

"(C) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

"(i) providing the requesting public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

"(ii) producing a Federal, State, tribal, territorial, or local police or court record.

"(D) LIMITATION.—Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual's status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency's discretion, a public housing agency may provide benefits to an individual based solely on the individual's statement or other corroborating evidence.

"(E) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

"(F) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with this statute by a public housing

agency, or assisted housing provider based on the certification specified in subparagraphs (A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by subparagraph (D) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manager, public housing agency, or assisted housing provider, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection l(5) and (6).

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in the strictest confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

"(i) requested or consented to by the individual in writing; or

"(ii) otherwise required by applicable law.

"(B) NOTIFICATION.—An individual must be notified of the limits of such confidentiality and informed in advance about circumstances in which the person or entity will be compelled to disclose the individual's information.

"(3) DEFINITIONS.—For purposes of this subsection, subsection (c)(3), and subsection (l)(5) and (6)—

"(A) the term 'domestic violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

"(B) the term 'dating violence' has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994; and

"(C) the term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

"(i) fear for his or her safety or the safety of others; or

"(ii) suffer significant emotional distress.".

TITLE VII—PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

SEC. 701. GRANT FOR NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON WORKPLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

Subtitle N of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902) is amended by adding at the end the following:

"Subtitle O—National Clearinghouse and Resource Center

"SEC. 41501. GRANT FOR NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON WORKPLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

"(a) AUTHORITY.—The Attorney General, acting through the Director of the Office on Violence Against Women, may award a grant to an eligible nonprofit nongovernmental entity or tribal organization, in order to provide for the establishment and operation of a national clearinghouse and resource center on workplace responses to assist victims of domestic and sexual violence. The clearinghouse and resource center shall provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic or sexual violence, to aid in their efforts to develop and implement appropriate responses to such violence in order to assist those victims.

"(b) APPLICATIONS.—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

"(1) information that demonstrates that the entity or organization has nationally recognized expertise in the area of domestic or sexual violence, and a record of commitment to reducing domestic or sexual violence;

"(2) a plan to maximize, to the extent practicable, outreach to employers (including private companies and public entities such as public institutions of higher education and State and local governments), labor organizations, and advocates described in subsection (a) concerning developing and implementing appropriate workplace responses to assist victims of domestic or sexual violence; and

"(3) a plan for developing materials and training for materials for employers that address the needs of employees in cases of domestic violence, dating violence, sexual assault, and stalking impacting the workplace, including the needs of facial and ethnic and other underserved communities.

"(c) USE OF GRANT AMOUNT.—

"(1) IN GENERAL.—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information and assistance concerning appropriate workplace responses to assist victims of domestic or sexual violence.

"(2) RESPONSES.—Responses referred to in paragraph (1) may include—

"(A) providing training to promote a better understanding of appropriate workplace assistance to victims of domestic or sexual violence;

"(B) providing conferences and other educational opportunities;

"(C) developing protocols and model workplace policies;

"(D) providing employer-sponsored and labor organization-sponsored victim assistance and outreach counseling; and

"(E) conducting assessments of the workplace costs of domestic or sexual violence.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

"(e) AVAILABILITY OF GRANT FUNDS.—Funds appropriated under this section shall remain available until expended.".

TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANT WOMEN

Subtitle A—Victims of Crime

SEC. 801. TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS.

(a) TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS OF TRAFFICKING.—Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking "Attorney General" and inserting "Secretary of Homeland Security";

(B) in subclause (III)(aa)—

(i) by inserting "Federal, State, or local" before "investigation"; and

(ii) by striking ", or" and inserting "or crimes related to trafficking; or"; and

(C) in subclause (IV), by striking "and" at the end;

(2) by amending clause (ii) to read as follows:

"(ii) if accompanying, or following to join, the alien described in clause (i)—

"(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; and

"(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and"; and

(3) by inserting after clause (ii) the following:

"(iii) if a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance described in clause (i)(III)(aa), the request is not reasonable.

(b) TREATMENT OF SPOUSES AND CHILDREN OF VICTIMS OF ABUSE.—Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking "Attorney General" and inserting "Secretary of Homeland Security"; and

(B) in subclause (I), by inserting "or injury" after "physical or mental abuse";

(2) by amending clause (ii) to read as follows:

"(ii) if accompanying, or following to join, the alien described in clause (i)—

"(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; and

"(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and"; and

(3) in clause (iii), by inserting "child abuse; stalking (including physical or electronic stalking);" after "false imprisonment;".

(c) TECHNICAL AMENDMENTS.—Section 101(i) of the Immigration and Nationality Act (8 U.S.C. 1101(i)) is amended—

(1) in paragraph (1), by striking "Attorney General" and inserting "Secretary of Homeland Security, the Attorney General,"; and

(2) in paragraph (2), by striking "Attorney General" and inserting "Secretary of Homeland Security".

SEC. 802. PRESENCE OF VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.

(a) IN GENERAL.—Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

"(V) VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.—Clause (i) shall not apply to an alien who demonstrates that there was a connection between the alien being a victim of a severe form of trafficking (as that term is defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) and the alien's unlawful presence in the United States.".

(b) TECHNICAL AMENDMENT.—Paragraphs (13) and (14) of section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) are amended by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security".

SEC. 803. ADJUSTMENT OF STATUS FOR VICTIMS OF TRAFFICKING.

Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(1) in paragraph (1)—

(A) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(B) in subparagraph (A), by striking "3 years" and inserting "1 year";

(2) in paragraph (2), by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(3) in paragraph (5), by striking "Attorney General" and inserting "Secretary of Homeland Security".

SEC. 804. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) CLARIFICATION OF DEPARTMENT OF JUSTICE AND DEPARTMENT OF HOMELAND SECURITY ROLES.—

(1) TRAFFICKING VICTIMS.—Section 107 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) is amended—

(A) in subsections (b)(1)(E), (e)(5), and (g), by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(B) in subsection (c), by inserting ", the Secretary of Homeland Security" after "Attorney General".

(2) NONIMMIGRANT ALIENS.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended—

(A) in subsection (a)(15)(T), by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security; and

(B) in subsection (i)—

(i) in paragraph (1), by striking "Attorney General" and inserting "Secretary of Homeland Security, the Attorney General,"; and

(ii) in paragraph (2), by striking "Attorney General" and inserting "Secretary of Homeland Security".

(3) INADMISSIBLE ALIENS.—Section 212(d)(13) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(13)) is amended—

(A) in subparagraph (A), by striking "Attorney General" and inserting "Secretary of Homeland Security";

(B) in subparagraph (B)—

(i) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(ii) by striking ", in the Attorney General's discretion,".

(4) ADJUSTMENT OF STATUS FOR VICTIMS OF TRAFFICKING.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(A) in paragraphs (1), (2), and (4), by striking "Attorney General" the first place it appears in each such paragraph and inserting "Secretary of Homeland Security";

(B) in paragraphs (1) and (2), by striking "Attorney General" the second place it appears in each such paragraph and inserting "Secretary"; and

(C) in paragraph (2), by striking ", in the Attorney General's discretion,".

(b) CERTIFICATION , PROCESS.—Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking "Attorney General, that the person referred to in subparagraph (C)(ii)(II)—" and inserting "Attorney General or the Secretary of Homeland Security, as appropriate, that the person referred to in subparagraph (C)(ii)(II)—

"(I) has not attained 18 years of age; or—";

(B) in subclause (I)—

(i) by striking "(I)" and inserting "(II)"; and

(ii) by striking "investigation and prosecution" and inserting "investigation or prosecution, by the United States or a State or local government,"; and

(C) in subclause (II)—

(i) by striking "(II)" and inserting "(III)"; and

(ii) in item (bb), by inserting "or the Secretary of Homeland Security" after "Attorney General";

(2) in clause (ii), by striking "Attorney General" and inserting "Secretary of Homeland Security";

(3) in clause (iii)—

(A) in subclause (II), by striking "and" at the end;

(B) in subclause (III), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(IV) responding to and cooperating with requests for evidence and information.; and

(4) by striking "investigation and prosecution" each place it appears and inserting "investigation or prosecution".

(b) TRAFFICKING VICTIM REGULATIONS.—Section 107(c) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)) is amended—

(1) in the matter preceding paragraph (1), by inserting ", the Secretary of Homeland Security," after "Attorney General"; and

(2) in paragraph (3)—

(A) by striking "Federal law enforcement officials" and inserting "The Department of Homeland Security"; and

(B) by adding at the end the following: "State or local law enforcement officials may petition the Department of Homeland Security for the continued presence for trafficking victims. If such a petition contains a certification that a trafficking victim is a victim of a severe form of trafficking, the presence of the trafficking victim may be permitted in accordance with this paragraph.".

(c) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—Section 107(e)(5) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(e)(5)) is amended by striking "Attorney General" each place it occurs and inserting "Secretary of Homeland Security".

(d) ANNUAL REPORT.—Section 107(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(g)) is amended by inserting "or the Secretary of Homeland Security" after "Attorney General".

SEC. 805. PROTECTING VICTIMS OF CHILD ABUSE.

(a) AGING OUT CHILDREN.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended—

(1) in clause (i)—

(A) in subclause (I), by inserting "or section 204(a)(1)(B)(iii)" after "204(a)(1)(A)" each place it appears; and

(B) in subclause (III), by striking "a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable," and inserting "a VAWA self-petitioner"; and

(2) by adding at the end the following:

"(iv) Any alien who benefits from this subparagraph may adjust status in accordance with subsections (a) and (c) of section 245 as an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii).".

(b) APPLICATION OF CSPA PROTECTIONS.—

(1) IMMEDIATE RELATIVE RULES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

"(4) APPLICATION TO SELF-PETITIONS.—Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.".

(2) CHILDREN RULES.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by adding at the end the following:

"(4) APPLICATION TO SELF-PETITIONS.—Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.".

(c) LATE PETITION PERMITTED FOR IMMIGRANT SONS AND DAUGHTERS BATTERED AS CHILDREN.—

(1) IN GENERAL.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)), as amended by subsection (a), is further amended by adding at the end the following:

"(v) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age and the individual shows a connection between the abuse and the filing delay. Clauses (i) through (iv) of this subparagraph shall apply to an individual described in this clause in the same manner as an individual filing a petition under subparagraph (A)(iv).".

(d) REMOVING A 2-YEAR CUSTODY AND RESIDENCY REQUIREMENT FOR BATTERED ADOPTED CHILDREN.—Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(E)(i)) is amended by inserting before the colon the following: "or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household".

Subtitle B—VAWA Self-Petitioners

SEC. 811. DEFINITION OF VAWA SELF-PETITIONER.

Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(51) The term 'VAWA self-petitioner' means an alien, or a child of the alien, who qualifies for relief under—

"(A) clause (iii), (iv), or (vii) of section 204(a)(1)(A);

"(B) clause (ii) or (iii) of section 204(a)(1)(B);

"(C) section 216(c)(4)(C);

"(D) the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty;

"(E) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note);

"(F) section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act; or

"(G) section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208).".

SEC. 812. APPLICATION TO FIANCEES WHO DO NOT MARRY WITHIN 90-DAY PERIOD.

(a) IN GENERAL.—Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended by inserting before the period at the end the following: ", unless the alien is eligible for status as a VAWA self-petitioner, for relief under section 240A(b)(2), or for relief under section 244(a)(3) (as in effect prior to March 31, 1997), and the alien married the United States citizen who filed the petition under section 101(a)(15)(K)(i)".

(b) EXEMPTION FOR BATTERED IMMIGRANT WOMEN WHO ENTERED THE UNITED STATES ON FIANCEE VISAS FROM CONDITIONAL RESIDENCY STATUS REQUIREMENT.—Section 245(d) of the Immigration and Nationality Act (8 U.S.C. 1255(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) The failure of a nonimmigrant described in section 101(a)(15)(K) to marry within 3 months of being admitted in such status does not restrict the Secretary of Homeland Security's or the Attorney General's authority to adjust the status of the nonimmigrant, or grant relief under section 240A(b)(2), or under section 244(a)(3) (as in effect prior to March 31, 1997), provided that—

"(A) the alien married the United States citizen who filed the petition under section 101(a)(15)(K)(i);

"(B) the United States citizen petitioner subjected a VAWA self-petitioner to battery or extreme cruelty; and

"(C) the alien shows a connection between the battery or extreme cruelty and the failure to marry within the 90-day period.".

SEC. 813. APPLICATION IN CASE OF VOLUNTARY DEPARTURE.

Section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)) is amended to read as follows:

"(d) CIVIL PENALTY FOR FAILURE TO DEPART.—

"(1) IN GENERAL.—Subject to paragraph (2), if an alien is permitted to depart voluntarily under this section and voluntarily fails to depart the United States within the time period specified, the alien—

"(A) shall be subject to a civil penalty of not less than $1,000 and not more than $5,000; and

"(B) shall be ineligible, for a period of 10 years, to receive any further relief under this section and sections 240A, 245, 248, and 249.

"(2) APPLICATION OF VAWA PROTECTIONS.—The restrictions on relief under paragraph (1) shall not apply to relief under section 240A or 245 on the basis of a petition filed by a VAWA self-petitioner, or a petition filed under section 240A(b)(2), or under section 244(a)(3) (as in effect prior to March 31, 1997),if the extreme cruelty or battering occurred before the alien overstayed the grant of voluntary departure.

"(3) NOTICE OF PENALTIES.—The order permitting an alien to depart voluntarily shall inform the alien of the penalties under this subsection.".

SEC. 814. REMOVAL PROCEEDINGS.

(a) EXCEPTIONAL CIRCUMSTANCES.—

(1) IN GENERAL.—Section 240(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(e)(1)) is amended by striking "serious illness of the alien" and inserting "battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the alien,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to a failure to appear that occurs before, on, or after the date of the enactment of this Act.

(b) DISCRETION TO CONSENT TO AN ALIEN'S REAPPLICATION FOR ADMISSION.—

(1) IN GENERAL.—The Secretary of Homeland Security, the Attorney General, and the Secretary of State shall continue to have discretion to consent to an alien's reapplication for admission after a previous order of removal, deportation, or exclusion.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the officials described in paragraph (1) should particularly consider exercising this authority in cases under the Violence Against Women Act of 1994, cases involving nonimmigrants described in subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), and relief under section 240A(b)(2) or 244(a)(3) of such Act (as in effect on March 31, 1997) pursuant to regulations under section 212.2 of title 8, Code of Federal Regulations.

(c) RESTRICTION ON REMOVAL WHILE VAWA PETITION PENDING.—

(1) IN GENERAL.—Section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) is amended by adding at the end the following:

"(f) RESTRICTION ON REMOVAL WHILE PETITION PENDING.—An alien who is a VAWA self-petitioner, the beneficiary under subparagraph (T) or (U) of section 101(a)(15) who meets the requirement of section 240A(b)(2) or subparagraphs (A) through (C) of section 216(c)(4), or who qualifies for relief under section 244(a)(3) (as in effect on March 31, 1997)—

"(1) shall not be removed or deported until the Bureau of Immigration and Customs Enforcement has consulted with the Bureau of Citizenship and Immigration Services to determine whether the alien is entitled to any form of relief; and

"(2) shall not be detained while in removal proceedings, unless mandatory detention is required under section 236A or 236(c).".

(2) WAIVERS AND EXCEPTIONS.—Section 236(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(A) in paragraph (2) by inserting "(A)" before "The Attorney General may release an alien described in paragraph (1) only"; and

(B) adding at the end the following:

"(B) The Secretary of Homeland Security or the Attorney General may release on their own recognizance an alien described in paragraph (1) if the Secretary or the Attorney General determines that the alien may qualify for—

"(i) a waiver under section 212(d)(13), 212(d)(14), 212(h), 237(a)(2)(A)(v), or 237(a)(7); or

"(ii) an exception under section 204(a)(1)(C); or

"(iii) relief under section 240A(a).".

(d) CLARIFYING APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY IN CANCELLATION OF REMOVAL.—

(1) IN GENERAL.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended—

(A) in paragraph (1)(C), by striking "(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)" and inserting ", subject to paragraph (5)";

(B) in paragraph (2)(A)(iv), by striking "(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)" and inserting ", subject to paragraph (5)"; and

(C) by adding at the end the following:

"(5) APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY.—The authority provided under section 237(a)(7) may apply under paragraphs (1)(B), (1)(C), and (2)(A)(iv) in a cancellation of removal and adjustment of status proceeding.".

SEC. 815. ELIMINATING ABUSERS' CONTROL OVER APPLICATIONS FOR ADJUSTMENTS OF STATUS.

(a) APPLICATION OF VAWA DEPORTATION PROTECTIONS TO ALIENS ELIGIBLE FOR RELIEF UNDER CUBAN ADJUSTMENT AND HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT.—Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note; division B of Public Law 106–386) is amended—

(1) in subparagraph (A)—

(A) by amending clause (i) to read as follows:

"(i) if the basis of the motion is to apply for relief under—

"(I) clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A));

"(II) clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B));

"(III) section 244(a)(3) of such Act (8 U.S.C. 8 U.S.C. 1254(a)(3));

"(IV) the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty; or

"(V) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note); and"; and

(B) in clause (ii), by inserting "or adjustment of status" after "suspension of deportation"; and

(2) in subparagraph (B)(ii), by striking "for relief" and all that follows through "1101 note))" and inserting "for relief described in subparagraph (A)(i)".

(b) EMPLOYMENT AUTHORIZATION FOR VAWA SELF-PETITIONERS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following:

"(l) Upon the approval of a petition as a VAWA self-petitioner, the alien—

"(i) is eligible for work authorization; and

"(ii) shall be provided an 'employment authorized' endorsement or appopriate work permit incidental to such approval.".

SEC. 816. APPLICATION FOR VAWA-RELATED RELIEF.

(a) IN GENERAL.—Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100) is amended—

(1) in subparagraph (B)(ii), by inserting ", or was eligible for adjustment," after "whose status is adjusted"; and

(2) in subparagraph (E), by inserting ", or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women Act of 2005" after "April 1, 2000".

(b) TECHNICAL AMENDMENT.—Section 202(d)(3) of such Act (8 U.S.C. 1255 note; Public Law 105–100) is amended by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

SEC. 817. SELF-PETITIONING PARENTS.

Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following:

"(vii) An alien may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under section 201(b)(2)(A)(i) if the alien—

"(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who, within the past 2 years, lost or renounced citizenship status related to an incident of domestic violence or died;

"(II) is a person of good moral character;

"(III) is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i);

"(IV) resides, or has resided, with the citizen daughter or son; and

"(V) demonstrates that the alien has been battered or subject to extreme cruelty by the citizen daughter or son.".

SEC. 818. VAWA CONFIDENTIALITY NON-DISCLOSURE.

Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "(including any bureau or agency of such Department)" and inserting ", the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)"; and

(B) in paragraph (1)—

(i) in subparagraph (D), by striking "or" at the end;

(ii) in subparagraph (E), by adding "or" at the end; and

(iii) by inserting after subparagraph (E) the following:

"(F) in the case of an alien applying for status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)), under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105), under section 244(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(a)(3)), as in effect prior to March 31, 1999, or as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)), the trafficker or perpetrator,".

(2) in subsection (b)(2), by inserting "or his other designee" after "the discretion of the Attorney General.".

Subtitle C—Miscellaneous Amendments

SEC. 821. DURATION OF T AND U VISAS.

(a) T VISAS.—Section 214(o) of the Immigration and Nationality Act (8 U.S.C. 1184(o)) is amended by adding at the end the following:

"(7)(A) Except as provided in subparagraph (B), an alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may be granted such status for a period of not more than 4 years.

"(B) An alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may extend the period of such status beyond the period described in subparagraph (A) if a Federal, State, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking or certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of such activity.".

(b) U VISAS.—Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended by adding at the end the following:

"(6) DURATION OF STATUS.—The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be 4 years, but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien's presence in the United States is required to assist in the investigation or prosecution of such criminal activity.".

(c) PERMITTING CHANGE OF NONIMMIGRANT STATUS TO T AND U NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended—

(A) by striking "The Attorney General" and inserting "(a) The Secretary of Homeland Security";

(B) by inserting "(subject to subsection (b))" after "except"; and

(C) by adding at the end the following:

"(b) The exceptions specified in paragraphs (1) through (4) of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15).".

(2) CONFORMING AMENDMENT.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by striking "248(2)" and inserting "248(a)(2)".

SEC. 822. TECHNICAL CORRECTION TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.

(a) PHYSICAL PRESENCE RULES.—Section 240A(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(B)) is amended—

(1) in the first sentence, by striking "(A)(i)(II)" and inserting "(A)(ii)"; and

(2) in the fourth sentence, by striking "subsection (b)(2)(B) of this section" and inserting "this subparagraph, subparagraph (A)(ii),".

(b) MORAL CHARACTER RULES.—Section 240A(b)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(C)) is amended by striking "(A)(i)(III)" and inserting "(A)(iii)".

(c) CORRECTION OF CROSS-REFERENCE ERROR IN APPLYING GOOD MORAL CHARACTER.—

(1) IN GENERAL.—Section 101(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(3)) is amended by striking "(9)(A)" and inserting "(10)(A)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in section 603(a)(1) of the Immigration Act of 1990 (Public Law 101-649; 104 Stat. 5082).

SEC. 823. PETITIONING RIGHTS OF CERTAIN FORMER SPOUSES UNDER CUBAN ADJUSTMENT.

(a) IN GENERAL.—The first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) is amended—

(1) in the last sentence, by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)"; and

(2) by adding at the end the following: "An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

SEC. 824. SELF-PETITIONING RIGHTS OF HRIFA APPLICANTS.

(a) IN GENERAL.—Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended—

(1) in clause (i), by striking "whose status is adjusted to that of an alien lawfully admitted for permanent residence" and inserting "who is or was eligible for classification";

(2) in clause (ii), by striking "whose status is adjusted to that of an alien lawfully admitted for permanent residence" and inserting "who is or was eligible for classification"; and

(3) in clause (iii), by striking "204(a)(1)(H)" and inserting "204(a)(1)(J)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(3) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

SEC. 825. DEPORTATION PROCEEDINGS.

(a) DEPORTATION OR REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended—

(A) in clause (iv), by striking "The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply—" and inserting "No limitation on number of motions or on deadlines for filing motions under other provisions of this section shall apply—"; and

(B) by adding at the end the following:

"(v) STAY OF REMOVAL.—The filing of the motion described in clause (iv) shall stay the removal of the alien pending a final disposition of the motion, including the exhaustion of all appeals. Only 1 special motion under clause (iv) is permitted.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 442(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat. 1279).

(b) MOTIONS TO REOPEN DEPORTATION PROCEEDINGS.—Section 1506(c)(2)(A) of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 8 U.S.C. 1229a note) is amended—

(1) by inserting "on number of motions or deadlines for filing motions" after "Notwithstanding any limitation";

(2) by inserting ", deadline, or limit on number of motions" after "there is no time limit"; and

(3) by striking ", and the" and inserting ". The filing of a motion described in clauses (i) and (ii) shall stay the removal of the aliens pending a final disposition of the motion, including the exhaustion of all appeals. Only 1 motion under clauses (i) and (ii) is permitted. The".

(c) CONFORMING AMENDMENTS.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

(1) in paragraph (6)(A)(ii)(III), by striking "substantial"; and

(2) in paragraph (9)(B)(iii)(IV), by striking "who would be described in paragraph (6)(A)(ii)" and inserting "who demonstrates that the alien is described in subclauses (I) and (II) of paragraph (b)(A)(ii)".

SEC. 826. PROTECTING ABUSED JUVENILES.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 726, is further amended by adding at the end the following—

"(i) An alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been battered, abused, neglected, or abandoned, shall not be compelled to contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for the consent of the Secretary of Homeland Security under section 101(a)(27)(J)(iii)(I) of such Act.".

SEC. 827. EXCEPTION FOR THE PROTECTION OF DOMESTIC VIOLENCE AND CRIME VICTIMS.

(a) Section 202 of the Real ID Act of 2005 (49 U.S.C. 30301 note; 119 Stat. 312) is amended by adding at the end the following:

"(e) EXCEPTION FOR THE PROTECTION OF VICTIMS OF DOMESTIC VIOLENCE AND CRIME.—

"(1) ALTERNATIVE VALID ADDRESS AUTHORIZED FOR VICTIM PROTECTION AND CONFIDENTIALITY.—Victims who have been subjected to battery, extreme cruelty, domestic violence, dating violence, sexual assault or stalking may be exempt from the requirements of section 202(b)(6) and permitted to use an alternate address on their driver's license or identification card if the applicant—

"(A) is enrolled in a State address confidentiality program;

"(B) has been permitted by a Federal, State, tribal, territorial, or local court (as defined in section 2266 of title 18, United States Code) to keep the applicant's address or location confidential as part of a protection order (as defined in such section 2266) or other injunctive relief to protect the applicant from domestic violence, dating violence, sexual assault, or stalking;

"(C) is determined by the Center for Security and Integrity of the Social Security Administration, which is responsible for requests for changes of information in social security accounts as of May 1, 2005, to have been a victim of battery, extreme cruelty, domestic violence, dating violence, sexual assault or stalking under section 422.110 of title 20, Code of Federal Regulations; or

"(D) has received a prima facie determination or an approved petition as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act);

"(E) has received a bona fide determination or an approved application under subparagraph (T) of section 101(a)(15);

"(F) has received interim relief or an approved application under subparagraph (U) of section 101(a)(15);

"(G) has received continued presence or certification under section 107 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7105);

"(H) meets the requirements of section 240A(b)(2) of the Immigration and Nationality Act; or

"(I) qualifies for relief under section 244(a)(3) of such Act (as in effect on March 31, 1997).

"(2) ALTERNATIVE ADDRESS.—To meet the requirements of this section, a State may issue drivers' licenses by—

"(A) accepting any documentation from the entities described in paragraph (1) that distinguishes the alternative address as a substitute to the principal residential address;

"(B) printing the alternative address on the applicant's driver's license or identification card; and

"(C) entering the alternative address into the state's driver license database.

"(3) FILING AND APPROVAL OF APPLICATIONS.—

"(A) FILING.—Victims shall file applications requesting permission to use an alternative address with the Center for Security and Integrity of the Social Security Administration.

"(B) APPROVAL.—The Social Security Administration shall issue an approval notice containing the alternative address authorized.

"(4) CONFIDENTIALITY OF INFORMATION.—The Secretary of Health and Human Services and any other official or employee of the Department of Health and Human Services, or administration or bureau thereof, may not—

"(A) use the information furnished by the applicant pursuant to an application for alternative address filed under this section for any purpose other than to make a determination on the application;

"(B) make any publication whereby the information furnished by any particular individual can be identified; or

"(C) permit any person other than the sworn officers and employees of the Department or administration or bureau to access such information.

"(5) DEFINITIONS.—For the purposes of this section—

"(A) the term 'State address confidentiality program' means any State-authorized or State-administered program that—

"(i) allows victims of domestic violence, dating violence, sexual assault, stalking, or a severe form of trafficking to keep, obtain and use alternative addresses; or

"(ii) that provides confidential record-keeping regarding the addresses of such victims;

"(B) the term 'battering or extreme cruelty' has the meanings given the term in sections 204, 216, and 240 of the Immigration and Nationality Act (8 U.S.C. 1154, 1186a, and 1229a); and

"(C) the terms 'domestic violence', 'dating violence', 'sexual assault', and 'stalking' have the meanings given the terms in section 2008 of the Violence Against Women Act.".

SEC. 828. RULEMAKING.

Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of Homeland Security, and the Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 (title V of Public Law 106-386), this Act, and the amendments made by this Act.

Subtitle D—International Marriage Broker Regulation

SEC. 831. SHORT TITLE.

This subtitle may be cited as the "International Marriage Broker Regulation Act of 2005".

SEC. 832. DEFINITIONS.

In this subtitle:

(a) CRIME OF VIOLENCE.—The term "crime of violence" has the meaning given such term in section 16 of title 18, United States Code.

(b) DOMESTIC VIOLENCE.—The term "domestic violence" means any crime of violence, or other act forming the basis for a past or outstanding protective order, restraining order, no-contact order, conviction, arrest, or police report, committed against a person by—

(1) a current or former spouse of the person;

(2) an individual with whom the person shares a child in common;

(3) an individual with whom the person is cohabiting or has cohabited;

(4) an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction in which the offense occurs; or

(5) any other individual if the person is protected from that individual's acts pursuant to a court order issued under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

(c) FOREIGN NATIONAL CLIENT.—The term "foreign national client" means an individual who is not a United States citizen, a national of the United States, or an alien lawfully admitted to the United States for permanent residence and who utilizes the services of an international marriage broker, and includes an alien residing in the United States who is in the United States as a result of utilizing the services of an international marriage broker.

(d) INTERNATIONAL MARRIAGE BROKER.—

(1) IN GENERAL.—The term "international marriage broker" means a corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States, that charges fees for providing dating, matrimonial, matchmaking services, or social referrals between United States clients and foreign national clients by providing personal contact information or otherwise facilitating communication between individuals from these respective groups.

(2) EXCEPTIONS.—Such term does not include—

(A) a traditional matchmaking organization of a cultural or religious nature that operates on a nonprofit basis and in compliance with the laws of the countries in which it operates, including the laws of the United States; or

(B) an entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender, country of citizenship, or residence of the individual.

(e) K NONIMMIGRANT VISA.—The term "K nonimmigrant visa" means a nonimmigrant visa issued pursuant to clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)).

(f) PERSONAL CONTACT INFORMATION.—

(1) IN GENERAL.—The term "personal contact information" means information or a forum that would permit individuals to contact each other and includes—

(A) the name, telephone number, postal address, electronic mail address, and voice message mailbox of an individual; and

(B) the provision of an opportunity for an in-person meeting.

(2) EXCEPTION.—Such term does not include a photograph or general information about the background or interests of a person.

(g) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(h) UNITED STATES CLIENT.—The term "United States client" means a United States citizen or other individual who resides in the United States and who makes a payment or incurs a debt in order to utilize the services of an international marriage broker.

SEC. 833. REGULATION OF INTERNATIONAL MARRIAGE BROKERS.

(a) PROHIBITION ON MARKETING CHILDREN.—An international marriage broker shall not provide any United States client or other person with the personal contact information, photograph, or general information about the background or interests of any individual under the age of 18.

(b) LIMITATIONS ON SHARING INFORMATION REGARDING FOREIGN NATIONAL CLIENTS.—

(1) IN GENERAL.—An international marriage broker shall not provide any United States client or other person with the personal contact information of any foreign national client or other individual 18 years of age or older unless and until the international marriage broker has—

(A) collected certain background information from the United States client or other person to whom the personal contact information would be provided, as specified in subsection (c);

(B) provided a copy of that background information to the foreign national client or other individual in the primary language of that client or individual;

(C) provided to the foreign national client or other individual in such primary language the information about legal rights and resources available to immigrant victims of domestic violence and other crimes in the United States developed under section 834;

(D) received from the foreign national client or other individual in such primary language a written consent that is signed (including using an electronic signature) to release such personal contact information to the specific United States client or other person to whom the personal contact information would be provided; and

(E) informed the United States client or other person from whom background information has been collected that, after filing a petition for a K nonimmigrant visa, the United States client or other person will be subject to a criminal background check.

(2) CONFIDENTIALITY AFTER ORDER OF PROTECTION OR CRIME.—

(A) NONDISCLOSURE OF INFORMATION REGARDING INDIVIDUALS WITH PROTECTION ORDERS AND VICTIMS OF CRIMES.—In fulfilling its obligations under this subsection, an international marriage broker shall not disclose the name or location of an individual who obtained a restraining or protection order as described in subsection (c)(2)(A), or of any other victim of a crime as described in subparagraphs (B) through (D) of subsection (c)(2).

(B) DISCLOSURE OF INFORMATION REGARDING UNITED STATES CLIENTS.—An international marriage broker shall disclose the relationship of the United States client or other person to an individual or victim described in paragraph (A).

(c) OBLIGATIONS OF INTERNATIONAL MARRIAGE BROKER WITH RESPECT TO MANDATORY COLLECTION OF INFORMATION.—

(1) IN GENERAL.—Each international marriage broker shall collect the background information listed in paragraph (2) from each United States client or other person to whom the personal contact information of a foreign national client or any other individual would be provided. The background information must be in writing and signed (including using an electronic signature) by the United States client or other person to whom the personal contact information of a foreign national client or any other individual would be provided.

(2) REQUIRED BACKGROUND INFORMATION.—An international marriage broker shall collect from a United States client or other person under paragraph (1) background information about each of the following:

(A) Any court order restricting the client's or person's physical contact or communication with or behavior towards another person, including any temporary or permanent civil restraining order or protection order.

(B) Any arrest or conviction of the client or person for homicide, murder, manslaughter, assault, battery, domestic violence, rape, sexual assault, abusive sexual contact, sexual exploitation, incest, child abuse or neglect, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, stalking, or any similar activity in violation of Federal, State or local criminal law.

(C) Any arrest or conviction of the client or person for—

(i) solely or principally engaging in, or facilitating, prostitution;

(ii) any direct or indirect attempts to procure prostitutes or persons for the purpose of prostitution; or *(iii) any receipt, in whole or in part, of the proceeds of prostitution.*

(D) Any arrest or conviction of the client or person for offenses related to controlled substances or alcohol.

(E) Marital history of the client or person, including—

(i) whether the client or individual is currently married;

(ii) whether the client or person has previously been married and how many times;

(iii) how previous marriages of the client or person were terminated and the date of termination; and

(iv) whether the client or person has previously sponsored the immigration of an alien to whom the client or person was engaged or married.

(F) The ages of any children of the client or person under the age of 18.

(G) All States in which the client or person has resided since the age of 18.

(d) PENALTIES.—

(1) FEDERAL CIVIL PENALTY.—

(A) VIOLATION.—An international marriage broker that violates subsection (a), (b), or (c) is subject to a civil penalty of not less than $20,000 for each such violation.

(B) PROCEDURES FOR IMPOSITION OF PENALTY.—The Secretary of Homeland Security may impose a penalty under paragraph (A) only after notice and an opportunity for an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5, United States Code.

(2) FEDERAL CRIMINAL PENALTY.—An international marriage broker that violates subsection (a), (b), or (c) within the special maritime and territorial jurisdiction of the United States shall be fined in accordance with subchapter B of chapter 229 of title 18, United States Code, or imprisoned for not less than 1 year and not more than 5 years, or both.

(3) STATE ENFORCEMENT.—In any case in which the Attorney General of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of subsection (a), (b), or (c) by an international marriage broker, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States with appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this section; or

(C) obtain damages.

(4) ADDITIONAL REMEDIES.—The penalties and remedies under this subsection are in addition to any other penalties or remedies available under law.

(e) NONPREEMPTION.—Nothing in this section shall preempt—

(1) any State law that provides additional protections for aliens who are utilizing the services of an international marriage broker or other international matchmaking organization; or

(2) any other or further right or remedy available under law to any party utilizing the services of an international marriage broker or other international matchmaking organization.

(f) REPEAL OF MAIL-ORDER BRIDE PROVISION.—Section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1375) is hereby repealed.

SEC. 834. INFORMATION ABOUT LEGAL RIGHTS AND RESOURCES FOR IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE.

(a) DEVELOPMENT OF INFORMATION PAMPHLET.—

(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop an information pamphlet to ensure the consistency and accuracy of information disseminated to—

(A) foreign national clients or other individuals by international marriage brokers pursuant to section 833(b)(1)(C); and

(B) beneficiaries of petitions filed by United States citizens for K nonimmigrant visas.

(2) CONSULTATION WITH EXPERT ORGANIZATIONS.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop such information pamphlet by working in consultation with non-profit, non-governmental immigrant victim advocacy organizations.

(b) CONTENTS OF INFORMATION PAMPHLET.—The information pamphlet required under subsection (a) shall include information on the following:

(1) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.

(2) The requirement that international marriage brokers provide foreign national clients with background information collected from United States clients regarding their marital history and domestic violence or other violent criminal history, but that such information may not be complete or accurate.

(3) The illegality of domestic violence, sexual assault, and child abuse in the United States.

(4) Information on the dynamics of domestic violence.

(5) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline, a project of the Texas Council on Family Violence, a nonprofit organization dedicated to fighting domestic violence, and the National Sexual Assault Hotline, operated by the Rape, Abuse and Incest National Network, and independent anti-sexual assault organization.

(6) A description of immigration relief available to an immigrant victim of domestic violence, sexual assault, trafficking, and other crimes under the Violence Against Women Act, including the amendments made by that Act, section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)), and section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)).

(7) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters.

(8) The obligations of parents to provide child support for children.

(9) The illegality of and penalties for knowingly entering into marriage for the purpose of evading the immigration laws of the United States.

(c) TRANSLATION.—

(1) LANGUAGES.—In order to best serve the language groups most recruited by international marriage brokers and having the greatest concentration of K nonimmigrant visa applicants, the Secretary of Homeland Security, in consultation with the Secretary of State, shall translate the information pamphlet developed under this section, subject to paragraph (2), into the following languages:

(A) Arabic.
(B) Chinese.
(C) French.
(D) Hindi.
(E) Japanese.
(F) Korean.
(G) Polish.
(H) Portuguese.
(I) Russian.
(J) Spanish.
(K) Tagalog.
(L) Thai.
(M) Ukrainian.
(N) Vietnamese.

(2) MODIFICATION OF LANGUAGE.—The Secretary of Homeland Security may modify the translation requirements of paragraph (1) if the report submitted under section 836(b) includes recommendations for such modification.

(d) AVAILABILITY AND DISTRIBUTION.—The information pamphlet under this subsection shall be made available and distributed as follows:

(1) INTERNATIONAL MARRIAGE BROKERS AND VICTIM ADVOCACY ORGANIZATIONS.—The information pamphlet shall be made available to each international marriage broker and to each governmental or non-governmental victim advocacy organization.

(2) K NONIMMIGRANT VISA APPLICANTS.—

(A) MAILING WITH IMMIGRATION FORMS.—The information pamphlet shall be mailed by the National Visa Center, of the Secretary of State, to each applicant for a K nonimmigrant visa at the same time that Form DS-3032 is mailed to such applicant. The pamphlet so mailed shall be in the primary language of the applicant, or in English if no translation into the applicant's primary language is available.

(B) POSTING ON NVC WEB SITE.—The Secretary of State shall post the content of the pamphlet on the web site of the National Visa Center, as well as on the web sites of all consular posts processing K nonimmigrant visa applications.

(C) CONSULAR INTERVIEWS.—The Secretary of State shall require that the pamphlet be distributed directly to such applicants at all consular interviews for K nonimmigrant visas. If no written translation into the applicant's primary language is available, the consular officer conducting the visa interview shall review the pamphlet with the applicant orally in the applicant's primary language, in addition to distributing the pamphlet to the applicant in English.

SEC. 835. CHANGES IN PROCESSING K NONIMMIGRANT VISAS; CONSULAR CONFIDENTIALITY.

(a) K NONIMMIGRANT VISA PROCESSING.—Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(1) by striking "Attorney General" and inserting "Secretary of Homeland Security" each place it appears;

(2) by inserting "(1)" before "A visa"; and

(3) by adding at the end the following:

"(2) A United States citizen may not file a petition under paragraph (1) if such a petition filed by that petitioner for another alien fiancée or fiancé is pending or has been approved and is still valid.

"(3) The Secretary of Homeland Security shall provide to the Secretary of State the criminal background information on a petitioner for a visa under clause (i) or (ii) of section 101(a)(15)(K) to which it has access under existing authority in the course of adjudicating the petition.

"(4) Each petitioner for a visa under clause (i) or (ii) of section 101(a)(15)(K) shall provide, as part of the petition, in writing and signed under penalty of perjury, information described in section 833(c)(2) of the International Marriage Broker Regulation Act of 2005.

"(5) The Secretary of State shall ensure that an applicant for a visa under clause (i) or (ii) of section 101(a)(15)(K)—

"(A) shall be provided, by mail or electronically—

"(i) a copy of the petition for such visa submitted by the United States citizen petitioner; and

"(ii) any information that is contained in the background check described in paragraph (3) relating to any court orders, arrests, or convictions described in subparagraphs (A) through (D) of section 833(c)(2) of the International Marriage Broker Regulation Act of 2005;

"(B) shall be informed that petitioner information described in subparagraph (A) is based on available records and may not be complete; and

"(C) shall be asked in the primary language of the visa applicant whether an international marriage broker has facilitated the relationship between the visa applicant and the United States petitioner and whether that international marriage broker complied with the requirements of section 833 of such Act.

"(6) The Secretary shall provide for the disclosure of information described in paragraph (5) to the visa applicant at the consular interview in the primary language of the visa applicant.

"(7) The fact that an alien described in clause (i) or (ii) of section 101(a)(15)(K) is aware of any information disclosed under paragraph (5) shall not be used against the alien in any determination of eligibility for relief under this Act or the Violence Against Women Act (Public Law 103–322; 108 Stat. 1902), and the amendments made by that Act.

"(8) In fulfilling the requirements of paragraph (5)(A)(ii), a consular officer shall not disclose the name or location of any person who obtained a restraining or protective order against the petitioner, but shall disclose the relationship of the person to the petitioner.".

(b) Sharing of Certain Information.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) shall not be construed to prevent the sharing of information under section 214(d) of such Act (8 U.S.C. 1184(d)).

(c) Effective Date.—The amendment made by subsection (a) shall apply to petitions filed after the date of enactment of this Act.

SEC. 836. STUDY AND REPORT.

(a) Study.—The Secretary of Homeland Security, through the Director of the Bureau of Citizenship and Immigration Services, shall conduct a study of the international marriage broker industry in the United States that—

(1) estimates, for the years 1995 through 2005, the number of international marriage brokers doing business in the United States, the number of marriages resulting from the services provided by such brokers, and the extent of compliance with the applicable requirements of this subtitle;

(2) assess the information gathered under this subtitle from clients by international marriage brokers and from petitioners by the Bureau of Citizenship and Immigration Services;

(3) examine, based on the information gathered, the extent to which persons with a history of violence are using the services of international marriage brokers and the extent to which such persons are providing accurate information to international marriage brokers in accordance with section 833;

(4) assess the accuracy of the criminal background check at identifying past instances of domestic violence; and

(5) assess the extent to which the languages of translation required under section 834(c)(1) continue to accurately reflect the highest markets for recruitment by international marriage brokers and the greatest concentrations of K nonimmigrant visa applicants.

(b) Report.—Not later than 3 years after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives setting forth the results of the study conducted under subsection (a).

SEC. 837. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), section 834, and the amendments made by section 835, this subtitle shall take effect on the date which is 60 days after the date of enactment of this Act.

(b) Additional Time Allowed for Information Pamphlet.—Section 834(b) shall take effect on the date which is 120 days after the date of enactment of this Act.

TITLE IX—SAFETY FOR INDIAN WOMEN

SEC. 901. FINDINGS.

Congress finds that—

(1) 1 out of every 3 Indian (including Alaska Native) women are raped in their lifetimes;

(2) Indian women experience 7 sexual assaults per 1,000, compared with 4 per 1,000 among Black Americans, 3 per 1,000 among Caucasians, 2 per 1,000 among Hispanic women, and 1 per 1,000 among Asian women;

(3) Indian women experience the violent crime of battering at a rate of 23.2 per 1,000, compared with 8 per 1,000 among Caucasian women;

(4) during the period 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15 to 34, and 75 percent were killed by family members or acquaintances;

(5) Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women; and

(6) the unique legal relationship of the United States to Indian tribes creates a Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.

SEC. 902. PURPOSES.

The purposes of this title are—

(1) to decrease the incidence of violent crimes against Indian women;

(2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women; and

(3) to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

SEC. 903. CONSULTATION.

(a) In General.—The Attorney General shall conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902) and the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

(b) Recommendations.—During consultations under subsection (a), the Secretary and the Attorney General shall solicit recommendations from Indian tribes concerning—

(1) administering tribal funds and programs;

(2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and

(3) strengthening the Federal response to such violent crimes.

SEC. 904. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST INDIAN WOMEN.

(a) National Baseline Study.—

(1) In general.—The National Institute of Justice, in consultation with the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women in Indian country.

(2) Scope.—

(A) In general.—The study shall examine violence committed against Indian women, including—

(i) domestic violence;

(ii) dating violence;

(iii) sexual assault;

(iv) stalking; and

(v) murder.

(B) Evaluation.—The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in subparagraph (A) committed against Indian women.

(C) Recommendations.—The study shall propose recommendations to improve the effectiveness of Federal, State, tribal, and local responses to the violation described in subparagraph (A) committed against Indian women.

(3) Task force.—

(A) In general.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under paragraph (1) and guide implementation of the recommendation in paragraph (2)(C).

(B) Members.—The Director shall appoint to the task force representatives from—

(i) national tribal domestic violence and sexual assault nonprofit organizations;

(ii) tribal governments; and

(iii) representatives from the national tribal organizations.

(4) Report.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the study.

(5) Authorization of appropriations.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 and 2007, to remain available until expended.

(b) Injury Study.—

(1) In general.—The Secretary of Health and Human Services, acting through the Indian Health Service and the Centers for Disease Control and Prevention, shall conduct a study to obtain a national projection of—

(A) the incidence of injuries and homicides resulting from domestic violence, dating violence, sexual assault, or stalking committed against American Indian and Alaska Native women; and

(B) the cost of providing health care for the injuries described in subparagraph (A).

(2) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the findings made in the study and recommends for health care strategies for reducing the incidence and cost of the injuries described in paragraph (1).

(3) Authorization of appropriations.—There is authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2006 and 2007, to remain available until expended.

SEC. 905. TRACKING OF VIOLENCE AGAINST INDIAN WOMEN.

(a) Access to Federal Criminal Information Databases.—Section 534 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) Indian Law Enforcement Agencies.—The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into Federal criminal information databases and to obtain information from the databases.".

(b) Tribal Registry.—

(1) Establishment.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

(A) a national tribal sex offender registry; and

(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

(2) Authorization of appropriations.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 906. SAFETY FOR INDIAN WOMEN FORMULA GRANTS PROGRAM.

(a) Establishment of the Safety for Indian Women Grants Program.—

(1) IN GENERAL.—Of the amounts set aside for Indian tribes and tribal organizations in this Act the Attorney General, through the Director of the Office of Violence Against Women (referred to in this section as the "Director"), shall take such set asides and combine them to establish the Safety for Indian Women Formula Grants Program.

(2) SINGLE FORMULA GRANTS.—The Director shall combine the monies appropriated under the Grants To Combat Violent Crimes Against Women (42 U.S.C. 3796gg–1(b)(1)), Grants To Encourage Arrest Policies and Enforce Protection Orders (42 U.S.C. 3796hh sec. 2101(e)), Legal Assistance for Victims (42 U.S.C. 3796gg–6 sec. 1201(f)(2)(A)), Court Training and Improvements, Sexual Assault Services Program, Safe Haven for Children Pilot Program (42 U.S.C. 10420(f)), Rural Domestic Violence and Child Abuse Enforcement Assistance (42 U.S.C. 1397(c)(3)), to create a single formula grant program to enhance the response of Indian tribal governments to address the safety of American Indian and Alaska Native Women.

(3) ADMINISTRATION.—Grants made under the program established under this section shall be administered by the Tribal Division of the Office on Violence Against Women.

(b) GRANTS.—The purpose of the program authorized by this section is to assist Indian tribal governments to—

(1) develop and enhance effective governmental strategies to curtail violent crimes against and increase the safety of Indian women consistent with tribal law and custom;

(2) increase tribal capacity to respond to domestic violence, dating violence, sexual assault, and stalking crimes against Indian women;

(3) strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities; and

(4) enhance services to Indian women victimized by domestic violence, dating violence, sexual assault, and stalking.

SEC. 907. TRIBAL DEPUTY IN THE OFFICE ON VIOLENCE AGAINST WOMEN.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

"SEC. 2007. TRIBAL DEPUTY.

"(a) ESTABLISHMENT.—There is established in the Office on Violence Against Women a Deputy Director for Tribal Affairs.

"(b) DUTIES.—

"(1) IN GENERAL.—The Deputy Director shall under the guidance and authority of the Director of the Office on Violence Against Women—

"(A) oversee and manage the administration of grants to and contracts with Indian tribes, tribal courts, tribal organizations, or tribal nonprofit organizations;

"(B) ensure that, if a grant under this Act or a contract pursuant to such a grant is made to an organization to perform services that benefit more than 1 Indian tribe, the approval of each Indian tribe to be benefited shall be a prerequisite to the making of the grant or letting of the contract;

"(C) coordinate development of Federal policy, protocols, and guidelines on matters relating to violence against Indian women;

"(D) advise the Director of the Office on Violence Against Women concerning policies, legislation, implementation of laws, and other issues relating to violence against Indian women;

"(E) represent the Office on Violence Against Women in the annual consultations under section 903;

"(F) provide technical assistance, coordination, and support to other offices and bureaus in the Department of Justice to develop policy and to enforce Federal laws relating to violence against Indian women, including through litigation of civil and criminal actions relating to those laws;

"(G) maintain a liaison with the judicial branches of Federal, State, and tribal governments on matters relating to violence against Indian women;

"(H) support enforcement of tribal protection orders and implementation of full faith and credit educational projects and comity agreements between Indian tribes and States; and

"(I) ensure that adequate tribal technical assistance is made available to Indian tribes, tribal courts, tribal organizations, and tribal nonprofit organizations for all programs relating to violence against Indian women.

"(c) AUTHORITY.—

"(1) IN GENERAL.—The Deputy Director shall ensure that a portion of the tribal set-aside funds from any grant awarded under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103-322; 108 Stat. 1902), or the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491) is used to enhance the capacity of Indian tribes to address the safety of Indian women.

"(2) ACCOUNTABILITY.—The Deputy Director shall ensure that some portion of the tribal set-aside funds from any grant made under this part is used to hold offenders accountable through—

"(A) enhancement to the response of Indian tribes to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including legal services for victims and Indian-specific offender programs;

"(B) development and maintenance of tribal domestic violence shelters or programs for battered Indian women, including sexual assault services, that are based upon the unique circumstances of the Indian women to be served;

"(C) development of tribal educational awareness programs and materials;

"(D) support for customary tribal activities to strengthen the intolerance of an Indian tribe to violence against Indian women; and

"(E) development, implementation, and maintenance of tribal electronic databases for tribal protection order registries.".

SEC. 908. ENHANCED CRIMINAL LAW RESOURCES.

(a) FIREARMS POSSESSION PROHIBITIONS.—Section 921(33)(A)(i) of title 18, United States Code, is amended to read: "(i) is a misdemeanor under Federal, State, or Tribal law; and".

(b) LAW ENFORCEMENT AUTHORITY.—Section 4(3) of the Indian Law Enforcement Reform Act (25 U.S.C. 2803(3) is amended—

(1) in subparagraph (A), by striking "or";

(2) in subparagraph (B), by striking the semicolon and inserting ", or"; and

(3) by adding at the end the following:

"(C) the offense is a misdemeanor crime of domestic violence, dating violence, stalking, or violation of a protection order and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim, and the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing the crime;".

SEC. 909. DOMESTIC ASSAULT BY AN HABITUAL OFFENDER.

Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§117. Domestic Assault by an Habitual Offender.

"Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least 2 separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction—

"(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

"(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from violation under this section, the offender shall be imprisoned for a term of not more than 10 years.".

TITLE X—DNA FINGERPRINTING

SEC. 1001. SHORT TITLE.

This title may be cited as the "DNA Fingerprint Act of 2005".

SEC. 1002. USE OF OPT-OUT PROCEDURE TO REMOVE SAMPLES FROM NATIONAL DNA INDEX.

Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1)(C), by striking ", provided" and all that follows through "System";

(2) in subsection (d)(2)(A)(ii), by striking "all charges for" and all that follows, and inserting the following: "the responsible agency or official of that State receives, for each charge against the person on the basis of which the analysis was or could have been included in the index, a certified copy of a final court order establishing that such charge has been dismissed or resulted in an acquittal."; and

(3) by striking subsection (e).

SEC. 1003. EXPANDED USE OF CODIS GRANTS.

Section 2(a)(1) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(a)(1)) is amended by striking "taken from individuals convicted of a qualifying State offense (as determined under subsection (b)(3))" and inserting "collected under applicable legal authority".

SEC. 1004. AUTHORIZATION TO CONDUCT DNA SAMPLE COLLECTION FROM PERSONS ARRESTED OR DETAINED UNDER FEDERAL AUTHORITY.

(a) IN GENERAL.—Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "The Director" and inserting the following:

"(A) The Attorney General may, as prescribed by the Attorney General in regulation, collect DNA samples from individuals who are arrested or detained under the authority of the United States. The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28, United States Code, and may also authorize and direct any other agency of the United States that arrests or detains individuals or supervises individuals facing charges to carry out any function and exercise any power of the Attorney General under this section.

"(B) The Director"; and

(B) in paragraphs (3) and (4), by striking "Director of the Bureau of Prisons" each place it appears and inserting "Attorney General, the Director of the Bureau of Prisons,"; and

(2) in subsection (b), by striking "Director of the Bureau of Prisons" and inserting "Attorney General, the Director of the Bureau of Prisons,".

(b) CONFORMING AMENDMENTS.—Subsections (b) and (c)(1)(A) of section 3142 of title 18, United States Code, are each amended by inserting "and subject to the condition that the person cooperate in the collection of a DNA sample from the person if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a)" after "period of release".

SEC. 1005. TOLLING OF STATUTE OF LIMITATIONS FOR SEXUAL-ABUSE OFFENSES.

Section 3297 of title 18, United States Code, is amended by striking "except for a felony offense under chapter 109A.".

Mr. REID. Mr. President, I am pleased that the Senate is passing the Violence Against Women Act of 2005, VAWA. This act is the backbone of our country's fight against domestic violence and sexual assault, and its passage could not be more timely, as October is Domestic Violence Awareness Month.

Sadly, domestic violence remains one the most common violent crimes in the United States. In fact, the American Psychological Association estimates that one in three women will experience a physical assault by an intimate partner during adulthood. While Congress has taken steps to curb domestic violence, significant progress must still be made to ensure that women and children are safe in their homes.

I am from one of the fastest growing States in the Nation, and Nevada's rapid growth poses a unique set of challenges in dealing with the increasing levels of domestic and family violence; however, progress is being made. According to the Violence Policy Center, Nevada ranks second in the Nation for the number of murders of women by men. Almost all of these women knew the perpetrator, and in most cases, it was a husband or boyfriend. In 2004, domestic service providers in Nevada aided more than 25,000 primary victims of domestic violence. These services were made possible because of legislation such as VAWA.

Originally enacted in 1994, VAWA was the beginning of a national commitment to the victims of domestic violence and sexual assault. We continued the commitment in 2000 with the first reauthorization of VAWA which added much needed provisions for victims of rape, violence on college campuses, elder abuse, stalking, legal assistance in civil cases, and transitional housing for victims. I am pleased that the 2005 reauthorization of VAWA will address the needs of immigrants, Native Americans, children, and youth. Since the act's original passage, our commitment has yielded extraordinary progress nationwide. Domestic violence has dropped by almost 50 percent. Incidents of rape are down by 60 percent. The number of women killed by an abusive husband or boyfriend is down by 22 percent, and more than half of all rape victims are stepping forward to report the crime. Additionally, over a million women have found justice in our courtrooms and obtained domestic violence protective orders.

I must, however, make clear my dismay at the last-minute inclusion of a controversial and ill-advised amendment to this legislation allowing for the collection of DNA evidence from people who are arrested or detained. I believe authorizing the collection of DNA evidence without probable cause is an invitation to racial profiling, infringes on privacy rights, and may well be unconstitutional. This provision has no place in this important legislation, and I would urge in the strongest terms that it be removed in conference.

Despite the incredible strides made to end domestic violence, there is still much work to be done. We cannot lose sight of the horror which so many victims experience every day, but which rarely appears on network news. Domestic Violence Awareness Month is an opportunity to raise that awareness. It is especially important to recognize the tragedy that is domestic violence in the aftermath of Hurricanes Katrina and Rita. Many domestic violence shelters and rape crisis centers in the gulf coast region were destroyed by these storms. For this reason, I worked to obtain an additional $9 million in the Senate's Justice Department appropriations bill. It is my hope that these funds will be included in conference and will not only rebuild the damaged facilities but will aid the coalitions that work every day to end domestic and sexual violence and will prove our commitment to their cause.

This legislation addresses the housing crisis that currently exists for victims fleeing their homes, provides more economic stability for victims by taking measures to improve their employment, and creates initiatives to educate and prevent domestic violence from occurring in the first place. The Senate's unanimous passage today of VAWA 2005 demonstrates the Senate's commitment to this important quest.

Mr. BIDEN. Mr. President, because the Violence Against Women Act authorization expires today, it is necessary that we pass legislation to reauthorize this bill immediately. As a result, the Senate does not have an opportunity to debate and vote on all the amendments that Senators may wish to offer to this bill.

One such amendment that the Senator from Oklahoma, Dr. COBURN, had intended to offer would address the issue of HIV and sexual assault and seek greater testing for HIV disease among sexual assault defendants.

I would ask the Senator from Oklahoma, who is a practicing physician, to comment on the merits of this proposal and why it is so important.

Mr. COBURN. Mr. President, I thank Senator BIDEN and all those who have worked hard on this bill. I have a few comments on my amendment about protecting victims of rape and sexual assault from being further victimized by HIV/AIDS.

As a practicing physician, I am deeply concerned about both the physical and emotional well-being of those who have been traumatized by rape and sexual assault. That is why I believe that it is necessary for the reauthorization of the Violence Against Women Act to include timely HIV tests of those accused of rape and sexual assault.

There are countless stories of women and children who have been victims of rape and sexual assault who have been denied access to this potentially life-saving information. In some circumstances, rape defendants have even used HIV status information as a plea bargaining tool to reduce their sentences.

Let me explain why this is important.

Treatment with AIDS drugs immediately following exposure to HIV can significantly reduce the chance of infection. However, because of the toxicity and long-term side effects, these drugs should not be administered without first knowing if HIV exposure has occurred. Victims cannot rely solely on testing themselves because it can take weeks, sometimes months, before HIV antibodies can be detected. Therefore, testing the assailant is the only timely manner in which to determine if someone has been exposed to HIV.

The American Medical Association, AMA, supports this policy because "early knowledge that a defendant is HIV infected would allow the victim to gain access to the ever growing arsenal of new HIV treatment options. In addition, knowing that the defendant was HIV infected would help the victim avoid contact which might put others at risk of infection."

In addition to the AMA, groups such as the Children's AIDS Fund and Women Against Violence support this policy.

The Omnibus Crime Control Act of 1994 already allows victims to request a court order to have alleged perpetrators tested for HIV only in Federal assault cases. In October 2000, the House of Representatives overwhelmingly approved a bill, 380 to 19, that would have provided this right and protection to all those who were the victims of sexual assault, but, unfortunately, the Senate never took up this bill. But now is our chance.

It would be a cruel hoax if the Senate approved the Violence Against Women Act of 2005 without including this amendment that ensures those women who have already been victimized by sexual assault are not further victimized by our legal system and HIV/AIDS.

I propose an amendment that would reduce the overall amount of funding under this act for a State or local government by 10 percent unless the State or local government demonstrates that with respect to a defendant against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, that the defendant be tested for HIV disease if the nature of the alleged crime is such that the sexual activity would have placed the victim at risk of becoming infected with HIV; and the victim requests that the defendant be so tested. The defendant must undergo the test not later than 48 hours after the date on which the information or indictment is presented, and that as soon thereafter as is practicable the results of the test are made available to the victim.

My initiative would not force States to provide this protection, but simply reward those States that do. This right, in fact, already exists in some States but too many women and children are still denied this information that could literally be the difference between life and death.

Do I understand from the Senator from Delaware that constitutional language, ensuring that indicted perpetrators of sexual assault, who have placed the victim at risk of becoming infected with HIV disease, are tested for HIV disease, will be included in the final legislative language agreed upon by the House and Senate conference?

Mr. BIDEN. Yes, that is correct.

Mr. COBURN. I thank the Senator for his commitment to include language in the final reauthorization and for his commitment to reduce violence and protect those who are the victims of sexual assault.

I would also like to recognize the tireless efforts of Deidre Raver of New York who was raped at the age of 19 and has been an effective and compassionate advocate for other survivors of sexual assault. Earlier this month, DNA evidence linked a man on death row in California to the 1988 murder of Deidre's sister, Rachel. My thoughts and prayers are with Deidre and her family at this time and I am hopeful that this discovery will finally bring some closure to her family's long ordeal.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2045) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1197), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD).

AWARDING OF A CONGRESSIONAL GOLD MEDAL TO THE TUSKEGEE AIRMEN

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking be discharged from further consideration of S. 392 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 392) to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 392) was read the third time and passed, as follows:

S. 392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) In 1941, President Franklin D. Roosevelt overruled his top generals and ordered the creation of an all Black flight training program. President Roosevelt took this action one day after the NAACP filed suit on behalf of Howard University student Yancy Williams and others in Federal court to force the Department of War to accept Black pilot trainees. Yancy Williams had a civilian pilot's license and had earned an engineering degree. Years later, Major Yancy Williams participated in an air surveillance project created by President Dwight D. Eisenhower.

(2) Due to the rigid system of racial segregation that prevailed in the United States during World War II, Black military pilots were trained at a separate airfield built near Tuskegee, Alabama. They became known as the "Tuskegee Airmen".

(3) The Tuskegee Airmen inspired revolutionary reform in the Armed Forces, paving the way for full racial integration in the Armed Forces. They overcame the enormous challenges of prejudice and discrimination, succeeding, despite obstacles that threatened failure.

(4) From all accounts, the training of the Tuskegee Airmen was an experiment established to prove that so-called "coloreds" were incapable of operating expensive and complex combat aircraft. Studies commissioned by the Army War College between 1924 and 1939 concluded that Blacks were unfit for leadership roles and incapable of aviation. Instead, the Tuskegee Airmen excelled.

(5) Overall, some 992 Black pilots graduated from the pilot training program of the Tuskegee Army Air Field, with the last class finishing in June 1946, 450 of whom served in combat. The first class of cadets began in July 1941 with 13 airmen, all of whom had college degrees, some with Ph.D.'s, and all of whom had pilot's licenses. One of the graduates was Captain Benjamin O. Davis Jr., a United States Military Academy graduate. Four aviation cadets were commissioned as second lieutenants, and 5 received Army Air Corps silver pilot wings.

(6) That the experiment achieved success rather than the expected failure is further evidenced by the eventual promotion of 3 of these pioneers through the commissioned officer ranks to flag rank, including the late General Benjamin O. Davis, Jr., United States Air Force, the late General Daniel "Chappie" James, United States Air Force, our Nation's first Black 4-star general, and Major General Lucius Theus, United States Air Force (retired).

(7) Four hundred fifty Black fighter pilots under the command of then Colonel Benjamin O. Davis, Jr., fought in World War II aerial battles over North Africa, Sicily, and Europe, flying, in succession, P–40, P–39, P–47, and P–51 aircraft. These gallant men flew 15,553 sorties and 1,578 missions with the 12th Tactical Air Force and the 15th Strategic Air Force.

(8) Colonel Davis later became the first Black flag officer of the United States Air Force, retired as a 3-star general, and was honored with a 4th star in retirement by President William J. Clinton.

(9) German pilots, who both feared and respected the Tuskegee Airmen, called them the "Schwartze Vogelmenshen" (or "Black Birdmen"). White American bomber crews reverently referred to them as the "Black Redtail Angels", because of the bright red painted on the tail assemblies of their fighter aircraft and because of their reputation for not losing bombers to enemy fighters as they provided close escort for bombing missions over strategic targets in Europe.

(10) The 99th Fighter Squadron, after having distinguished itself over North Africa, Sicily, and Italy, joined 3 other Black squadrons, the 100th, the 301st, and the 302nd, designated as the 332nd Fighter Group. They then comprised the largest fighter unit in the 15th Air Force. From Italian bases, they destroyed many enemy targets on the ground and at sea, including a German destroyer in strafing attacks, and they destroyed numerous enemy aircraft in the air and on the ground.

(11) Sixty-six of these pilots were killed in combat, while another 32 were either forced down or shot down and captured to become prisoners of war. These Black airmen came home with 150 Distinguished Flying Crosses, Bronze Stars, Silver Stars, and Legions of Merit, one Presidential Unit Citation, and the Red Star of Yugoslavia.

(12) Other Black pilots, navigators, bombardiers and crewman who were trained for medium bombardment duty as the 477th Bomber Group (Medium) were joined by veterans of the 332nd Fighter Group to form the 477th Composite Group, flying the B–25 and P–47 aircraft. The demands of the members of the 477th Composite Group for parity in treatment and for recognition as competent military professionals, combined with the magnificent wartime records of the 99th Fighter Squadron and the 332nd Fighter Group, led to a review of the racial policies of the Department of War.

(13) In September 1947, the United States Air Force, as a separate service, reactivated the 332d Fighter Group under the Tactical Air command. Members of the 332d Fighter Group were "Top Guns" in the 1st annual Air Force Gunnery Meet in 1949.

(14) For every Black pilot there were 12 other civilian or military Black men and women performing ground support duties. Many of these men and women remained in the military service during the post-World War II era and spearheaded the integration of the Armed Forces of the United States.

(15) Major achievements are attributed to many of those who returned to civilian life and earned leadership positions and respect

as businessmen, corporate executives, religious leaders, lawyers, doctors, educators, bankers, and political leaders.

(16) A period of nearly 30 years of anonymity for the Tuskegee Airmen was ended in 1972 with the founding of Tuskegee Airmen, Inc., in Detroit, Michigan. Organized as a non-military and nonprofit entity, Tuskegee Airmen, Inc., exists primarily to motivate and inspire young Americans to become participants in our Nation's society and its democratic process, and to preserve the history of their legacy.

(17) The Tuskegee Airmen have several memorials in place to perpetuate the memory of who they were and what they accomplished, including—

(A) the Tuskegee Airmen, Inc., National Scholarship Fund for high school seniors who excel in mathematics, but need financial assistance to begin a college program;

(B) a museum in historic Fort Wayne in Detroit, Michigan;

(C) Memorial Park at the Air Force Museum at Wright-Patterson Air Force Base in Dayton, Ohio;

(D) a statue of a Tuskegee Airman in the Honor Park at the United States Air Force Academy in Colorado Springs, Colorado; and

(E) a National Historic Site at Moton Field, where primary flight training was performed under contract with the Tuskegee Institute.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to award to the Tuskegee Airmen, on behalf of Congress, a gold medal of appropriate design honoring the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

(b) DESIGN AND STRIKING.—For the purposes of the award referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under section 2, at a price sufficient to cover the costs of the medals, including labor, materials, dies, use of machinery, and overhead expenses.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, an amount not to exceed $30,000 to pay for the cost of the medals authorized under section 2.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

ORDERS FOR WEDNESDAY, OCTOBER 5, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Wednesday, October 5; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 2863, the Defense appropriations bill. I further ask unanimous consent the Senate stand in recess from 12:30 to 2:15 p.m. to accommodate the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, today we continued on the Defense appropriations bill, and several amendments were offered and debated. As previously announced, any votes ordered will begin tomorrow at sundown. The first vote will occur at approximately 7:30 tomorrow evening. Moments ago, I filed a cloture motion on the Defense appropriations measure. We are working with a compressed Senate schedule this week, and I filed this motion to ensure that the Senate will finish the Defense appropriations bill by the end of this week. The cloture vote will not occur until Thursday. Therefore, we can dispose of amendments throughout tomorrow and tomorrow evening, voting on them prior to Thursday's votes. I will announce again that we need to finish this bill prior to the Senate adjourning for the recess next week.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:36 p.m., adjourned until Wednesday, October 5, 2005, at 10 a.m.

SENATE—*Wednesday, October 5, 2005*

The Senate met at 10:01 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal and ever blessed God, help us to walk in Your steps. Show us the path of humility so that we will seek to serve others. Show us the path of forgiveness so that we will give others the same kind of mercy we so frequently receive from You. Show us the path of courage so that we can choose the challenging and narrow way that leads to life. Show us the path of endurance so that we will not become discouraged in doing well. Show us the path of loyalty so that nothing can tempt us to disappoint You.

Bless the Members of this body as they strive to walk in a way that will honor You. As they seek Your wisdom, guide them by the power of Your loving providence.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, October 5, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. VITTER thereupon assumed the chair as Acting President pro tempore.

Mr. McCAIN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, shortly we will resume debate on the Defense appropriations bill. We began consideration on that bill last Thursday. Since that time, Members have had Thursday night, Friday, and all day Monday. We were here all day Monday, all day yesterday, Tuesday, to offer amendments. We will continue with the amendment process through today.

As I have announced previously, we will stack votes beginning at sometime around 7:30 this evening to accommodate observance of the Jewish holiday. As I have said from the outset, our intentions are we will finish the Department of Defense appropriations bill this week prior to going out on our week-long recess. It is a critically important bill, something we will finish this week.

Last night, I did file cloture on the bill. I filed in order to ensure we finish the bill this week in an orderly way. Everyone has had the opportunity for the last 3 or 4 days to come forward and offer amendments. We will vote on those amendments tonight, and then we would have the cloture vote tomorrow morning.

Again, I encourage, as I have every day for the last several days, Members to come to the Senate and offer those amendments so we can vote on them. We have had more than 100 amendments filed. It is imperative that the Senators who are serious about their amendments and want them considered come forward and work with the managers over the course of this morning and not wait until tonight. We will finish the bill this week.

As a reminder, we will recess from 12:30 until 2:15 for the weekly party luncheons.

Let me turn to the Democratic leader on anything on the schedule before I make a very brief statement.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

AMBASSADOR NEGROPONTE

Mr. REID. Mr. President, my staff received a telephone call this morning, less than an hour ago, indicating Ambassador Negroponte would not be coming today because the leader or his people indicated he shouldn't come.

We have these very important elections taking place in Iraq on October 15. This is an opportunity for Members to visit with Ambassador Negroponte, who is, if not the expert on what is going on in Iraq, certainly one of the two or three top people in the world to tell Members what is going on there. This briefing is open to all Senators, Democrats and Republicans. There certainly is no reason we should not be able to do that. It is an important oversight responsibility we have.

I hope the distinguished Republican leader has not been part of telling Negroponte and his people not to come up here for that briefing at 3 to 4 o'clock. I had a meeting this morning at 9 o'clock. I invited all Senators to come who were with me. We are going to have good attendance at that meeting. This is not a meeting in any way to do with anything other than find out what is going on. We have a responsibility to find out what is going on. I would like to have the Ambassador come often. I don't know why we can't go ahead with this briefing.

Mr. FRIST. Mr. President, with regard to a briefing which was initiated on a partisan basis by the other side of the aisle in spite of their knowledge that we do have an all-Senate briefing that is bipartisan in the tradition—we have had over 20 different briefings, including one very useful one last week, one the week prior to that. On a partisan basis, an all-Senate briefing was scheduled; a counteroffer was made. We already have a meeting scheduled with the Ambassador here in 2 to 3 weeks.

I will continue to work with the Democratic leader coming back and forth. These all-Senator briefings we have, which are on a classified basis, have proven to be a very useful vehicle for all Senators to participate, to be able to ask questions of various representatives, and is a very good model.

I will continue to work with the Democratic leader. As he knows, Ambassador Negroponte is coming in about 2½ or 3 weeks—I don't know exactly what that date is for that particular all-Senate briefing initiated on

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

a bipartisan basis and not on a partisan basis, which this last meeting was.

Mr. REID. Mr. President, I know the distinguished Republican leader has a statement to make, but just on this subject, on a more personal basis, the Republican leader and I had a number of meetings the last several weeks, certainly the last few days, and this issue has never been raised.

I don't see how we can have too many briefings on what is going on in Iraq. Negroponte has simply not been here. I have the greatest respect for him, but in a briefing—in 2 or 3 weeks, the elections will have been over in Iraq. That is one of the reasons people are losing faith in what is going on in Iraq—because we do not have the information to convey to the people. The administration says just stay the course. We want information.

Negroponte, if he is told by the Republican leader not to come, he is not going to come. It is too bad. It is a perfect day for this. The Jewish holiday is still on. Most Members would have the opportunity to come here. Senator LIEBERMAN and a couple of others would not be able to, but we already have on my side about 20 Senators willing and wanting to come.

I am disappointed this will now have to become a political issue. It shouldn't. I like Negroponte. He is good. He is good for the country. I told the President personally that this was a great choice he made to lead this new intelligence agency.

There is no need to belabor the point other than to say I am terribly disappointed that my Senators—and anyone else on the other side of the aisle—want to come and listen to a presentation prior to the elections and now are going to be unable to have this briefing. That is too bad.

Mr. FRIST. Mr. President, I am a bit offended when the Democratic leader knows last week we had defense, we had Generals Myers, Abizaid, and Casey brief Members extensively in a bipartisan way in a tradition we have set up that is working very well. We have the Secretary of State, which he knows, coming on October 19 to have a very similar briefing, addressing issues in Iraq, in Afghanistan. And Negroponte is coming, as I said, the following week.

So we will work together. I do want to make it clear their invitation was initiated in a partisan way, with a letter I was not a part of, not asked to be a part of, in the letter itself, the initial letter. I think we need to continue to work together to continue these briefings, which are very important, as we go forward.

ROSH HASHANAH

Mr. FRIST. Mr. President, I would like to comment on the Jewish holiday at this juncture, if I might.

I would like to take a moment to recognize the Jewish holiday of Rosh Hashanah and to reflect on the importance of Israel to the Jewish people and the United States.

Rosh Hashanah, also called the Jewish New Year, began Monday evening. Jews all across the globe flocked to their synagogues, prepared ceremonial meals, and set aside special time with family to mark the occasion.

Rosh Hashanah celebrates the anniversary of the creation of the world. It is a time for contemplation and prayer, a day to look forward to the year ahead, to reflect on past deeds, and to ask for God's forgiveness.

Rosh Hashanah is followed by Yom Kippur, the most solemn occasion on the Jewish calendar. Beginning on the 10th day of Tishri—the evening of October 12—the Jewish people will observe a day of fasting, of prayer, and reflection. And as with every year, they will end the annual rite with the words: "Next Year in Jerusalem."

Israel, and the city of Jerusalem, a city that both major parties recognize as its capital, is the birthplace to three of the world's great religions. It is rich in tradition, history, and culture, all of which truly touches the soul.

From the mountains of the Golan to the port of Eilat, Israel's natural beauty is as diverse as the religions that share its golden city of Jerusalem.

A land of economic and scientific innovation, the mysticism of the past unites with technology of the future.

Perhaps most significantly, Israel is a symbol of the survival of the Jewish people. It shines as a beacon of hope to Jews all over the world, even as it stands surrounded by a sea of tyrannies.

And to the United States, this small and besieged country is a vital partner in the war on terror. The struggle it fights every day against terrorist forces, within and without its borders, is part of the same struggle our troops fight every day in Iraq and Afghanistan—the same struggle that rocked the island of Bali on Saturday.

Reasonable people can and should debate Israel's policies. Serious, thoughtful debate is crucial to devising effective and correct solutions. It is the cornerstone of democracy.

But we must always distinguish between those who raise legitimate questions about the specific policies of a democratic state and those who use criticism of Israel as a disguise for attacks on the Jewish people.

I urge all of my colleagues to reflect on the longstanding relationship, friendship, between the United States and Israel; to wish our ally peace and prosperity in the year ahead; and to work to strengthen, deepen, and improve our bond as defenders of freedom.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

RETIREMENT OF TIMOTHY SCOTT WINEMAN

Mr. REID. Mr. President, Timothy Wineman has worked for the Senate for 35 years. On September 28, the Senate noted the outstanding service of Tim by adopting S. Res. 258.

He has spent his entire 35 years of Senate service working in the Disbursing Office. That in itself is a commendable feat.

In 1970, Tim began his career as a payroll clerk and was promoted to payroll supervisor 6 years later. He continued to receive promotions and in 1998 became the Senate's financial clerk. Tim's career in the Disbursing Office has been stellar. You could always count on Tim and his staff for topnotch service and to accommodate Members and staff.

Tim and his wife Pat met in high school, got married, and have two children, Matthew and Lory. Matt and Lory have provided Tim and Pat with four grandchildren—two boys and two girls.

Tim plans to spend the first 6 months trying to get his sea legs, enjoying some "downtime" with his family and playing a little golf. He and Pat then plan to do some traveling. They want to go to Alaska to see what is happening there.

I salute Tim on his service to the Senate and congratulate him on a job well done. He certainly was part of the Senate family and always will be. I hope he enjoys his retirement.

IRAQ AND THE DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. REID. Mr. President, let me say this. Ambassador Negroponte came to the Senate the last time this past May. Did he talk anything about what was going on with intelligence in Iraq or what was going on in Iraq, period? No. He talked about international terrorism. It is not as if we have been bothering the Ambassador having him come here all the time.

But I am disappointed to have to report to the American people this is what is going on with this administration: You never get to what the issue is. Put it off. Do not talk about it. Stay the course.

In Iraq we have some problems: almost 2,000 dead Americans; 15,000, 16,000 wounded, many of them very badly.

I in no way say this to disparage the managers of this bill, one of whom is a winner of the Congressional Medal of Honor, Senator DAN INOUYE; the other served valiantly in World War II as a pilot. But their job would be much easier if they had a Defense authorization bill prior to coming here to this floor with an appropriations bill. It makes their job, if not impossible, extremely difficult.

Let me explain what I am talking about. You authorize funding in the

Congress, and then it goes to the all-important Appropriations Committee, and they determine what of the authorization bill deserves money. That is basically what it amounts to. There has to be some limit to spending, and that is what the Appropriation Committee's job is; to determine whether the money should be spent.

Well, here there is no authorization bill. There is legislation in the authorization bill that deals with retirement pay for the military, with pay raises for the military, with all kinds of programs for the veterans, the National Guard and Reserve. The Appropriations Committee does not have the benefit of that. They will be working, in effect, on last year's law.

I do not know how we could ever—I am sure it has happened sometime in the far distant past. I am sure it has happened. I hope it does not happen in the future that they try to do this jury-rigged system, where you take an appropriations bill without having done an authorization bill.

There are matters in that authorization bill dealing with prisoner abuse. A number of people want to offer amendments. They cannot offer an amendment on the appropriations bill dealing with prisoner abuse.

I see my friend, the Senator from South Carolina, in the Chamber, the mover of the legislation to have a look at what has gone on in Abu Ghraib and other prison facilities the military has. I think the author of the bill, Senator MCCAIN from Arizona, may have a little bit of expertise on prisoner of war abuse. I think he may have a little bit of authenticity when he comes before the Senate and says he wants to take a look at that.

JOHN MCCAIN spent years of his life in a prison camp in Vietnam, not days, weeks, months but years—try 5½ years—most of it in solitary confinement. So he wants to offer an amendment. He cannot do it unless he gets unanimous consent that he can have a vote on it. He can offer it, but it falls similar to everything else. But I will bet he is going to get unanimous consent because we want him to be able to debate this issue. Who has more standing than the Senator from Arizona to raise this as an issue?

Mr. President, we—I repeat—had a scheduled briefing at 3 o'clock today to find out what is going on in Iraq dealing with intelligence. We have never, ever had a briefing by Negroponte since he has assumed his duties as head of the so-called DNI on April 21 of this year. We have not been briefed by him on Iraq since he assumed his position. So I do not think we are being greedy taking an hour of his time.

Ducking debates about our national defense has become too topical and typical in this country because we are unable to bring matters before this floor. No amendments, no votes, no debates—that is not the way to do a bill in the Senate.

Why didn't we finish the Defense authorization bill the first time? Because we went to gun liability. So this process is unacceptable. We are a nation at war. We have troops in Iraq, in Afghanistan. We have an opportunity to have an open, honest debate about our national defense.

Our troops and the American people deserve better, and that is not what we are having here. And the distinguished majority leader said he was offended because I asked for a briefing by the Intelligence Director of this country. Offended? I am sorry he is offended.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2863, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Bayh amendment No. 1933, to increase by $360,800,000 amounts appropriated by title IX for Other Procurement, Army, for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan, and to increase by $5,000,000 amounts appropriated by title IX for Research, Development, Test and Evaluation, Defense-Wide, for industrial preparedness for the implementation of a ballistics engineering research center.

McCain amendment No. 1978, to prohibit the use of funds to pay salaries and expenses and other costs associated with reimbursing the Government of Uzbekistan for services rendered to the United States at Karshi-Khanabad airbase in Uzbekistan.

Reed/Hagel amendment No. 1943, to transfer certain amounts from the supplemental authorizations of appropriations for Iraq, Afghanistan, and the Global War on Terrorism to amounts for Operation and Maintenance, Army, Operation and Maintenance, Marine Corps, Operation and Maintenance, Defense-wide activities, and Military Personnel in order to provide for increased personnel strengths for the Army and the Marine Corps for fiscal year 2006.

Warner/Levin modified amendment No. 1955, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

AMENDMENT NO. 1977

Mr. MCCAIN. Mr. President, from my conversations with the Senator from Alaska, the chairman, I believe he agrees we will move forward; therefore, I call up amendment No. 1977, which is filed at the desk.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside for the consideration of this amendment, which the clerk will now report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. GRAHAM, Mr. HAGEL, Mr. SMITH, and Ms. COLLINS, proposes an amendment numbered 1977.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to persons under the detention, custody, or control of the United States Government)

At the appropriate place, insert the following:

SEC. ___. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. ___. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of

Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Mr. McCAIN. Mr. President, this amendment would do two things: one, establish the Army Field Manual as the uniform standard for the interrogation of Department of Defense detainees; and, two, prohibit cruel, inhumane, and degrading treatment of prisoners in the detention of the Government. It is pretty simple and straightforward.

Mr. President, I regret, of course, as all my colleagues do, that this amendment has to be brought up on an appropriations bill. We are only doing so because so far we have been unable to get sufficient agreement to bring up the Defense authorization bill. I have made it very clear, over a long period of time, my feeling about how important it is to take up and complete the authorization bill, but that is a subject for another day. I know good-faith efforts are being made on both sides to try to get the authorization bill up. But that has not happened so, therefore, we are addressing this issue.

By the way, I have had a preliminary ruling that this amendment is germane because there is reference made to it in the House version of the appropriations bill.

The Senate has an obligation to address the authorizing legislation, as it has an obligation to deal with the issue that apparently led to the bill being pulled from the floor, which is America's treatment of its detainees.

Several weeks ago, I received a letter from CPT Ian Fishback, a member of the 82nd Airborne Division at Fort Bragg, and a veteran of combat in Afghanistan and Iraq, and a West Point graduate. Over 17 months, he struggled to get answers from his chain of command to a basic question: What standards apply to the treatment of enemy detainees? But he found no answers.

In his remarkable letter, he pleads with Congress, asking us to take action to establish standards to clear up the confusion, not for the good of the terrorists but for the good of our soldiers and our country. Captain Fishback closes his letter by saying:

> I strongly urge you to do justice to your men and women in uniform. Give them clear standards of conduct that reflect the ideals they risk their lives for.

This comes from a young captain in the U.S. Army who has served his country both in Iraq and Afghanistan and who says it in a far more eloquent fashion than I have ever been able to. By the way, I thank God every day that we have men and women the caliber of Captain Fishback serving in our military. I believe the Congress has a responsibility to answer this call, a call that has come not just from this one brave soldier but from so many of our men and women in uniform. We owe it to them. We sent them to fight for us in Afghanistan and Iraq. We placed extraordinary pressure on them to extract intelligence from detainees, but then we threw out the rules that our soldiers had trained on and replaced them with a confusing and constantly changing array of standards. We demanded intelligence without ever clearly telling our troops what was permitted and what was forbidden. And when things went wrong, we blamed them, and we punished them. I believe we have to do better than that.

I can understand why some administration lawyers might have wanted ambiguity so that every hypothetical option is theoretically open, even those the President has said he does not want to exercise. But war doesn't occur in theory, and our troops are not served by ambiguity. They are crying out for clarity. The Congress cannot shrink from this duty. We cannot hide our heads, pulling bills from the floor and avoiding votes. We owe to it our soldiers during this time of war to take a stand. So while I would prefer to offer this amendment to the DOD authorization bill, I am left with no choice but to offer it to this appropriations measure. I would note that I am offering this amendment in accordance with the options afforded under rule XVI of the Standing Rules of the Senate.

The amendment I am offering combines the two amendments I previously filed to the authorizing measure. To fight terrorism, we need intelligence. That much is obvious. What should also be obvious is that the intelligence we collect must be reliable and acquired humanely, under clear standards understood by all our fighting men and women. To do differently would not only offend our values as Americans but undermine our war effort, because abuse of prisoners harms, not helps, in the war on terror.

First, subjecting prisoners to abuse leads to bad intelligence, because under torture, a detainee will tell his interrogator anything to make the pain stop. Second, mistreatment of our prisoners endangers U.S. troops who might be captured by the enemy—if not in this war, then in the next. And third, prisoner abuses exact on us a terrible toll in the war of ideas, because inevitably these abuses become public. When they do, the cruel actions of a few darken the reputation of our country in the eyes of millions. American values should win against all others in any war of ideas, and we can't let prisoner abuse tarnish our image. Yet reports of detainee abuse continue to emerge, in large part, I believe, because of confusion in the field as to what is permitted and what is not. This amendment will go a long way toward clearing up this confusion.

The first part of the amendment would establish the Army Field Manual as the uniform standard for the interrogation of Department of Defense detainees. The Army Field Manual and its various editions have served America well through wars against both regular and irregular foes. It embodies the values Americans have embraced for generations, while preserving the ability of our interrogators to extract critical intelligence from ruthless foes. Never has this been more important than today in the midst of the war on terror. The Army Field Manual authorizes interrogation techniques that have proven effective in extracting lifesaving information from the most hardened enemy prisoners. It is consistent with our laws and, most importantly, our values. Let's not forget that al-Qaida sought not only to destroy American lives on September 11, but American values, our way of life, and all we cherish.

We fight not just to preserve our lives and liberties, but also American values. We will never allow the terrorists to take those away. In this war—that we must win, that we will win—we must never simply fight evil with evil.

This amendment would establish the Army Field Manual as the standard for interrogation of all detainees held in DOD custody. The manual has been developed by the executive branch for its own uses, and a new edition, written to take into account the needs of the war on terror and with a new classified annex, is due to be issued soon. This amendment would not set the field manual in stone. It could be changed at any time.

The advantage of setting a standard for interrogation based on the field manual is to cut down on the significant level of confusion that still exists with respect to which interrogation techniques are allowed. The Armed Services Committee has held hearings with a slew of high-level Defense Department officials, from regional commanders to judge advocate generals to the Department's deputy general counsel. A chief topic of discussion in these hearings was what specific interrogation techniques are permitted, in what environments, with which DOD detainees, by whom and when. The answers have included a whole lot of confusion. If the Pentagon's top minds can't sort these matters out, after exhaustive debate and preparation, how in the world do we expect our enlisted men and women to do so?

Confusion about the rules results in abuses in the field. We need a clear, simple, and consistent standard, and we have it in the Army Field Manual on interrogation. That is not just my opinion but that of many more distinguished military minds than mine. I refer to a letter expressing strong support for this amendment signed by 28 former high-ranking military officers, including GEN Joseph Hoar, who commanded CENTCOM; GEN John Shalikashvili, former Chairman of the Joint Chiefs of Staff; RADM John

Hutson and RADM Don Guter, who each served as the Navy's top JAG; and LTG Claudia Kennedy, who served as Deputy Chief of Staff for Army Intelligence. These and other distinguished officers believe the abuses at Abu Ghraib, Guantanamo, and elsewhere took place in part because our soldiers received ambiguous instructions which in some cases authorized treatment that went beyond what the field manual allows, and that had the manual been followed across the board, we could have avoided the prisoner abuse scandal.

Why wouldn't any of us do whatever we could to have prevented that?

By passing this amendment, our servicemembers can follow the manual consistently from now on. Our troops deserve no less.

I ask unanimous consent that the letter from 29 retired military officers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER, 2005.

DEAR SENATOR MCCAIN: We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34-52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

Sincerely,

Joseph Hoar, USMC (Ret.), General John Shalikashvili, USA (Ret.), General Donn A. Starry, USA (Ret.), Lieutenant General Ron Adams, USA (Ret.), Lieutenant General Robert G. Gard, Jr., USA (Ret.), Lieutenant General Jay M. Garner, USA (Ret.), Vice Admiral Lee F. Gunn, USN (Ret.), Lieutenant General Claudia J. Kennedy, USA (Ret.), Lieutenant General Charles Otstott, USA (Ret.), Vice Admiral Jack Shanahan, USN (Ret.), Major General Eugene Fox, USA (Ret.), Major General John L. Fugh, USA (Ret.), Rear Admiral Donald J. Guter, USN (Ret.), Major General Fred E. Haynes, USMC (Ret.).

Rear Admiral John D. Hutson, USN (Ret.), Major General Melvyn Montano, ANG (Ret.), Major General Robert H. Scales, USA (Ret.), Major General Michael J. Scotti, USA (Ret.), Brigadier General David M. Brahms, USMC (Ret.), Brigadier General James Cullen, USA (Ret.), Brigadier General Evelyn P. Foote, USA (Ret.), Brigadier General David R. Irvine, USA (Ret.), Brigadier General Richard O'Meara, USA (Ret.), Brigadier General John K. Schmitt, USA (Ret.), Brigadier General Stephen N. Xenakis, USA (Ret.), Ambassador/Former Vietnam POW Douglas "Pete" Peterson, USAF (Ret.), Former Vietnam POW Commander Frederick C. Baldock, USN (Ret.), Former Vietnam POW Commander Phillip N. Butler, USN (Ret.).

Mr. MCCAIN. The second part of this amendment should not be objectionable to anyone since I am actually not proposing anything new. The prohibition against cruel, inhumane, and degrading treatment has been a longstanding principle in both law and policy in the United States. Before I get into why the amendment is necessary, let me first review the history.

The Universal Declaration of Human Rights, adopted in 1948, states simply:

> No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

The International Covenant on Civil and Political Rights, to which the United States is a signatory, states the same. The binding Convention Against Torture, negotiated by the Reagan administration and ratified by this body, prohibits cruel, inhuman, and degrading treatment. On last year's DOD authorization bill, the Senate passed a bipartisan amendment reaffirming that no detainee in U.S. custody can be subject to torture or cruel treatment, as the U.S. has long defined those terms. All of this seems to be common sense, in accordance with longstanding American values. But since last year's DOD bill, a strange legal determination was made that the prohibition in the Convention Against Torture against cruel, inhuman, or degrading treatment does not legally apply to foreigners held outside the United States. They can apparently be treated inhumanely. This is the administration's position, even though Judge Abe Soafer, who negotiated the Convention Against Torture for President Reagan, said in a recent letter that the Reagan administration never intended the prohibition against cruel, inhuman, or degrading treatment to apply only on U.S. soil.

What all this means is that America is the only country in the world that asserts a legal right to engage in cruel and inhuman treatment. But the crazy thing is, it is not even necessary because the administration has said it will not engage in cruel, inhuman, or degrading treatment as a matter of policy. What this also means is that confusion about the rules becomes rampant again. We have so many differing legal standards and loopholes that our lawyers and generals are confused. Just imagine our troops serving in prison in the field.

The amendment I am offering simply codifies what is current policy and reaffirms what was assumed to be existing law for years. In light of the administration's stated commitment, it should require no change in our current interrogation and detention practices. What it would do is restore clarity on a simple and fundamental question: Does America treat people inhumanely? My answer is no. And from all I have seen, America's answer has always been no.

I travel a lot around the world, usually at taxpayers' expense. Everywhere I go, I encounter this issue of the treatment of prisoners and the photos of Abu Ghraib and what is perceived in the world to be continued mistreatment of prisoners. It is harming our image in the world terribly. We have to clarify that that is not what the United States is all about. That is what makes us different. That is what makes us different from the enemy we are fighting. The most important thing about it is not our image abroad but our respect for ourselves at home.

Let me close by noting that I hold no brief for the prisoners. I do hold a brief for the reputation of the United States of America. We are Americans. We hold ourselves to humane standards of treatment of people, no matter how evil or terrible they may be. To do otherwise undermines our security, but it also undermines our greatness as a nation. We are not simply any other country. We stand for something more in the world, a moral mission, one of freedom and democracy and human rights at home and abroad. We are better than these terrorists, and we will win. The enemy we fight has no respect for human life or human rights. They don't deserve our sympathy. But this isn't about who they are; this is about who we are. These are the values that distinguish us from our enemies.

I urge my colleagues to support the amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, this is a difficult subject to discuss, and as the minority leader indicated, no one is more qualified to talk about this than the Senator from Arizona.

It is with some trepidation that I try to explain to him the position of the administration and with which I happen to agree. The problem is not the goal of the Senator from Arizona; the problem is the way it would be carried out under this amendment. This amendment would require that the field manual be changed. Currently the field manual has a general description of the techniques of interrogation, and it allows flexibility to determine what will be used in terms of interrogation techniques based upon the circumstances that exist. We know that terrorists train their people to deal with the techniques of our interrogation, so those techniques change under various circumstances.

One of the situations I would call to the attention of the Senator from Arizona is as we have visited with our people in the field, now we have a unique circumstance of having multinational and multiagency teams that are in the field. The question comes down to who has custody or effective control of a person. Particularly I remember one team we saw which had five different nationalities including the intelligence agencies and military agencies of those nations. If this becomes law, it is my opinion that those teams will be handled so that the United States does not have custody, does not have control, and the kind of treatment we seek will not be given to people who are made prisoners by multinational teams that are searching out terrorists throughout the world.

This is a different war now. I believe we are seeing the beginning of a crusade against freedom from the militant terrorist Islamic entities throughout the world. We see the suicide bombers. We see the people who are inflicting terrible damage from Indonesia, the Philippines, to all throughout the Central Command, and we have teams out trying to find these people.

Of course, one of their first jobs is to interrogate anyone they capture to try to see if we can find out where the rest of them are and how they are functioning. If this amendment passes, the United States will not have effective control of those people. It will be impossible to interrogate under the systems we have used in the past because we cannot list in a field manual all of the interrogation techniques that will be used. It takes thousands of pages anyway. But the techniques vary upon the circumstances and the physical location of the people involved.

I have some memory from World War II in China when I witnessed some of our people—I was just a pilot, but I was conveying some of these people from place to place who had been tortured, and I can tell you they were brutally treated by the Chinese when we were taking these people from place to place and they had prisoners. Some of them were not Chinese. They were prisoners obviously of Japan. We had freed some of them, and they were—I have memory that those who were freed were still the responsibility of the United States.

But as a practical matter, what do you do with regard to a law that says that all of the techniques must be listed in the field manual; regardless of nationality or physical location, if an individual is in the custody or physical control of the United States, they shall be subject to only the means of interrogation listed in the field manual.

I appreciate very much what the Senator is trying to do. I think most of us have gone down to Guantanamo to satisfy ourselves that what is happening down there is in accordance with our concepts. Those people are totally under the custody of the United States, and certainly from my point of view what we saw when we were down there, we were convinced they were receiving the kind of treatment and the interrogations were not such that they would be affected by this amendment.

It is the people in the field, not people really handling prisoner camps or handling interrogation of those persons who are seized by our forces and brought to a camp or brought to a place, a jail such as we all know has gone wrong in Iraq—but I am talking the people in the field now, multinational teams, and their job is to find out what these people who are captured know in order to prevent further acts of terrorism. It is a very touchy thing to deal with, I know, to really talk about it.

The administration has told us that they are complying with all the constitutional, statutory, treaty obligations that apply to U.S. interrogation practices. They are telling us that they know the Convention Against Torture requires the United States to ensure that torture is a crime whether committed anywhere by a U.S. national or to prevent any of the entities that are under the control of the United States from any acts of cruel, inhumane, or degrading treatment or punishment. We totally agree with the efforts of the Senator from Arizona in that regard, and the President has directed the Armed Forces to treat any detainee humanely and comply with the appropriate and consistent military procedures that are consistent with the Geneva Conventions.

That is a given. But this amendment goes further. This amendment will cover those entities with multiple nationalities, multiple agencies, and because of the circumstances our people in the past have taken control of these, and some of the activities of the other nationalities involved would not be consistent with this amendment. I say what will happen in the future is we will just not take control of them. This will be a deterrent to our people from taking the leadership, and as they do, they will do everything they can to comply with the Geneva Conventions. It is those circumstances, the new type of entities we use to combat terrorism that worries the administration. So I can say—and I know the Senator from Arizona understands—it is the position of the administration that this amendment goes too far.

We will not make a point of order. There is no point of order that I know will apply to it anyway. But I do believe it is a matter that ought to be approached with caution. What does a multinational team do if they pick up a prisoner who they believe can give them information as to the location of terrorists who have committed severe acts of terrorism? The decision will be made, I am sure, that we not take custody. The custody will go to other nationalities involved in the team. We will have no control. I believe the amendment of the Senator from Arizona is going to carry, but I believe we have to give serious consideration to the implications I have just mentioned, and I hope the Senate will keep that in mind.

I yield the floor.

The PRESIDING OFFICER (Mr. McCAIN). The Senator from South Carolina.

Mr. GRAHAM. Mr. President, No. 1, I would like to recognize that Senator STEVENS, who has so honorably served our country, is genuinely concerned about the extent of this amendment. For those of you who are listening, Senator STEVENS was a World War II pilot. He has gone in harm's way in defending his country. We have in the Chamber his counterpart on the Appropriations Committee, Senator INOUYE, a Medal of Honor winner, and the Senator occupying the chair is a former POW. The food chain is going down when I am speaking. But what I want to try to discuss today is from a lawyer's point of view and really from a citizen's point of view.

I have had the honor for the last 20-some years to be a member of the Judge Advocate General's Corps of the Air Force, a prosecutor, a defense counsel, and I am now a Reserve military judge. That experience has been a wonderful experience. I have received more out of it than given. Wearing the uniform in any capacity is quite an honor, and to be a military lawyer has been one of the highlights of my life. I have never been shot at. I had some clients who probably wanted to kill me. But other than that, I do understand this debate pretty well. To me, it is not much of a debate. We have as a nation adopted the position that Senator McCAIN described when it comes to how you handle people in your care and custody.

One thing I would respond to Senator STEVENS is that the Army Field Manual has sort of been the bible for interrogation for decades. If you are worried, and I think it is a fair question, is there anything in the Army Field Manual that would unfairly restrict the ability of the United States to gain good information and defend ourselves from a bunch of rogue thug murderers, the answer is no. You don't have to trust me there. Go to Gitmo and ask the question of the people who are doing the interrogation of these terrorists: Is there anything in the Army Field Manual as written or being drafted that would impede your ability to gather good information? And the answer they told me was no.

So what is the value of having it? The value of having standardization when it comes to interrogation, detention, and prosecution is of immeasurable benefit to the force because, as Senator McCAIN indicated, a lot of the people implementing these policies when it comes to interrogation, detention, and prosecution are in harm's way themselves. One of the things we have learned in this whole war on terror is that this Nation needs to have effective interrogation techniques, effective detention policies, and effective prosecution tools to hold the terrorists responsible because you have two audiences.

No. 1, you have the terrorist community. I want every terrorist to know, if you are not killed on the battlefield and you are captured, things are going to happen to you. You are going to be interrogated aggressively, but we are going to treat you humanely, not because we worry about your sensitivities but because we don't want to become who we are interrogating. So we are going to keep that in place.

The President has said whether the Geneva Convention applies or not we are going to treat everybody in our charge humanely, not because of them but because of us. And the debate here is what happens when somebody in your charge is not covered by the Geneva Conventions. It is easy when someone is a legal combatant. We know what the rules are. We have the Geneva Conventions. We have been a signatory for 60 years. The Army Field Manual covers that situation. The war on terror is different. Vietnam was different. We had people who were lawful, whom we were able to interrogate, detain, and prosecute without changing who we were.

The Army Field Manual as a one-stop shop to guide the way we handle lawful combatants and enemy combatants is absolutely necessary if for no other reason than to protect our own troops. That is why we are doing this. That is one of the main reasons—to make sure that your own troops don't get in trouble because they are confused.

I have been a military lawyer for 20 years. We have confused people about as much as you can possibly confuse them. And this all started with the Bybee memo. I think we need to know the history of where we have been, to find where we are before we take corrective action.

Right after 9/11, this Nation was shocked and shaken. We tried to make sure we could secure our freedom and security and do a balancing act, and we have done a pretty good job of it. How can you be secure and still free? How can you fight the worst enemy and still not become the worst of yourself? I think you can.

The Bybee memo was an effort by people at the Justice Department to take international torture statutes that we had ratified and been party of and have the most bizarre interpretation basically where anything goes. It was an effort on the part of the Department of Justice lawyers to stretch the law to the point the law meant nothing. And early on in this process, those in uniform who happened to be military lawyers stood up and spoke.

I am going to read from General Sandkuhler, Brigadier General of the U.S. Marines, who was one of the judge advocates to review this change in policy, this very liberal interpretation of what torture might be. He said:

> The common thread among our recommendation is concern for servicemembers. OLC [Office of Legal Counsel] does not represent the services; thus, understandably, concern for servicemembers is not reflected in their opinion. Notably, their opinion is silent on the UCMJ and foreign views of international law.

The general is telling the civilians that we live in a different world. This is a complex process, and if we interpret a torture statute in the way you are suggesting, we are going to get our own people in trouble.

He says:

> We nonetheless recommend that the Working Group product accurately portray the services' concerns that the authorization of aggressive counter-resistant techniques by servicemembers will adversely impact the following:
>
> a. Treatment of U.S. servicemembers by Captors and Compliance with International Law.

We have been the gold standard. We take this moral high ground to make sure if our people fall into enemy hands that we will have the moral force to say. You better treat them right. If you don't practice what you preach, nobody listens. Sometimes that does not happen, but you don't want to erode the principle because it puts people at risk.

Criminal and Civil Liability of DOD Military and Civilian Personnel in Domestic, Foreign, and International Forums.

All the reasons all the JAGs wanted to push back is that you are going too far if you interpret the statutes as being proposed by the Department of Justice. Some of the techniques violate the Uniform Code of Military Justice.

Senator STEVENS is concerned about joint operations. Here is the rule: If you are wearing America's uniform, you are going to be judged by American standards. You will never be prosecuted unless you do something inconsistent with our law. If you are part of an international group and wondering what to do with a prisoner in front of you, I suggest we let our troops know there are rules they must follow, and if they see anything they think is out of bounds, report it.

The best thing we can do for anybody operating in the war on terror is give them clarity about what to do in very stressful situations. There is the combat role. What do you do with somebody who is captured? You do what the President says: You treat them humanely, you interrogate them by standards we can live by that will not erode our moral authority.

Where have those standards been in the last 50 or 60 years? The Army Field Manual. You can change the Army Field Manual to adapt techniques to the war on terror. There is a classified section of the Army Field Manual. There is nothing about its adoption that limits the ability to aggressively interrogate people to get good intelligence. But if you want to torture people, the Army Field Manual says no and the President says no. It is now time for Congress to say no, and that is what this amendment is about.

Congress has been AWOL when it comes to the war on terror in terms of interrogation, detention, and prosecution, and we have done it in a way that weakens our Nation. We are the strongest when all three branches are on the same sheet of music. It is important, if we are going to win this war on terror, not to give the moral high ground to your enemy and to have laws that every branch of Government understands and the people implementing these laws are not confused and they will not get in trouble by following what we have said. Congress has been AWOL. It is now time for Congress to step up to the plate and offer assistance in the war on terror to the administration. That is exactly what we are doing.

I asked Judge Roberts, during the confirmation process, about this whole line of questioning. I said:

> Do you believe that the Geneva Convention, as a body of law, that it has been good for America to be part of that convention?

> ROBERTS: I do, yes.
> GRAHAM: Why?
> ROBERTS: Well, my understanding in general is it's an effort to bring civilized standards to conduct of war—a generally uncivilized enterprise throughout history; an effort to bring some protection and regularity to prisoners of war in particular. And I think that's a very important international effort.

It is an important international effort, and al-Qaida should not be considered a lawful combatant under Geneva Conventions. But it is about us, as Senator McCAIN said. When we catch someone who is not under the Geneva Conventions, it is important that our people not only follow the dictates of the President—treat them humanely—but they know what to do. We are giving confusing policies in this new war on terror, this hybrid between a lawful combatant, enemy combatant, and regular combatant. We need to standardize our techniques.

How do we do that to make America the strongest? How can we effectively do that? We get the Congress involved, we get the administration involved, and we get the courts involved. Right now we have two court cases that are all over the board. Judges are telling us—Justice Scalia in one of the court cases is screaming out that Congress has been absent here. Congress needs to speak because the courts are not equipped to run Guantanamo Bay. The courts are not well equipped to interpret military policy, and they need guidance from Congress.

I asked Justice Roberts about that. One of his favorite Justices is Justice Jackson. Justice Jackson in the Youngstown steel case basically said that the executive branch is at its strongest when it has the expressed or implied consent of Congress.

When I met with Judge Roberts on this whole issue about detention, interrogation, and prosecution of enemy combatants, he said this is an area where the courts would welcome congressional involvement.

As a result of us being AWOL in Congress, there is a Supreme Court decision, 5 to 4, giving enemy combatants at Guantanamo Bay habeas corpus rights. They are noncitizens, and they are able to go to Federal court because there is no clear direction from Congress about how to treat these people. Mr. President, 185 of them have lawyers, and they are absolutely overrunning the place. To me, it is absurd that an enemy combatant, noncitizen terrorist has habeas corpus rights, and the reason they do is because we are giving no guidance to the courts about how we want these people treated.

I believe it is now time to give guidance to the courts, to the country, to the international community, to those in uniform serving us, and to the terrorists about what we are going to do, and Senator McCAIN's amendment has got it. It is the authority that has been missing in this great effort to win the war on terror. It is now bringing standardization into an area which had been previously chaotic. Every military lawyer who has been looking at the policies proposed has come away confused.

Let me tell you unequivocally that the military legal community understands what Senator McCAIN is doing and wholeheartedly adopts his efforts, that not only would it be good for the Congress to speak with the same authority as the President, but it would help the courts, and it would be good for our troops if they had the protection of standardization.

If you want to help our troops who are trying to win this war on terror, give them the cover they need and the guidance they need. Do not throw them to the wolves. We have had people prosecuted because they have been given an impossible task. They have been given the task of interpreting laws that make no sense. And if you really do want to stand by the troops, give them guidance. Give them the guidance and the tools they can use to get good information, not bad information, and get information in a way that does not embarrass our Nation and put us at risk.

Abu Ghraib has been a giant step back, a huge step back, and one of the reasons we had Abu Ghraib is because nobody there knew what they were doing. They were not trained. They were overwhelmed. They did not have consistency when it came to interpreting the interrogation policies because the policies made no sense. Some people are in jail now. Most of them are in jail because of their own misconduct. Some people have had their careers ruined because they are trying to interpret policies nobody can understand.

That is a huge deviation from the way we conducted war for 50 to 60 years, and we paid the price. We are allowing courts to come in and do things they are not equipped to do because we have been AWOL as Congress. The best thing we can do to win this war is have policies that allow us to effectively interrogate, detain, and prosecute terrorists without ceding the high ground. And this amendment is a start.

I am going to introduce every JAG memo written about the original policies. Their concern is we are putting our own people at risk.

This is General Rives, my current boss:

> Should any information concerning the exceptional techniques—

And they were exceptional—

> become public, it is likely to be exaggerated/distorted in both the U.S. and international media. This could have a negative impact on international, and perhaps even domestic, support for the war on terrorism. It could likewise have a negative impact on public perception of the U.S. military in general.

This was written 6 February 2003. He was foretelling what was going to happen. These are not ACLU lawyers. This is a Marine Corps general and a two-star general in the Air Force who dedicated their lives to defending their country and holding us up to be the great Nation we are.

I urge my colleagues to please adopt this amendment overwhelmingly. It will do a great service to future Presidents. It will be a great turning point in the war on terror. It is needed. It is a simple amendment. It uses the Army Field Manual as the bible for interrogation for lawful combatants and enemy combatants. You can write it the way you need to. It does not lock us into a position that would be undermining our efforts to get good intelligence. It simply will be a document that covers how we behave in every known situation from Guantanamo Bay to the battlefield in Afghanistan. It will be something that will help our troops understand what they can and cannot do. It will make us stronger as a nation.

The second part of the amendment is the most important. It says that we as a nation will do what the President said: We will treat everybody in our charge humanely whether they deserve it or not because, as Senator McCAIN said, it is about us, it is not about them. And it is now time for Congress to speak. It will help us in court. When the courts understand that the Congress has come up with a plan in support of the administration to interrogate detainees, they will give great deference to that situation. When Congress is absent, they are going to be confused, and they are going to do some things they really do not want to do.

This is a very important moment in the war on terror. This brings us back into the light out of the darkness. It allows us to interrogate enemy combatants, unlawful combatants in a way to get good intelligence without undermining who we are as a people. It is necessary, it is legally necessary. It will strengthen our hand in court. It is very necessary to create certainty out of confusion for our troops.

One thing I can say with absolute certainty is that we have let the troops down when it comes to trying to give them guidance about what to do in very stressful situations. We are trying to give them the armor they need to protect themselves from a terrible enemy. We are trying to give them the intelligence they need to get ahead of the enemy. The best thing we can do is give them the guidance they need to make sure we can win this war on terror and never lose the moral high ground.

I urge every person to think long and hard about this amendment. To vote no on this amendment, in my opinion, dramatically weakens us as a nation. To vote yes reinforces our values, provides good guidance to make sure we get good intelligence, and protects our own people from being prosecuted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, it is an honor to serve in the same body with the Senator from Hawaii, a Congressional Medal of Honor winner, and with the Senator from Arizona because of his distinguished service in Vietnam. Whenever the Senator from Alaska, a pilot in World War II, who devoted most of his career here to understanding our defense policies, urges caution, I try to listen and pay attention. But I rise today in support of the amendment by the Senator from Arizona to the Defense appropriations bill, and I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I have listened carefully to the debate about whether it is appropriate for Congress to set the rules on the treatment of detainees. I have listened carefully, but for me the question isn't even close.

The people, through their elected representatives, should set the rules for how detainees and prisoners under U.S. control are treated and interrogated. In the short term, the President can set the rules, but the war on terror is now 4 years old. We do not want judges making up the rules. We Republicans often say we don't like to see judges legislating from the bench. So for the longer term, the people should set the rules. That is why we have an independent Congress. That is our job. In fact, the Constitution says quite clearly that is what Congress should do. Article I, section 8, of the Constitution says that Congress and Congress alone shall have the power to make "Rules concerning Captures on Land and Water." So Congress, as the Senator from South Carolina said, has a responsibility to set clear rules here.

But the spirit of this amendment is really one that I still hope the White House will decide to embrace. In essence, as has been pointed out, the amendment codifies military procedures and policies—procedures in the Army Field Manual and procedures regarding compliance with the Convention Against Torture signed by President Reagan. These amendments uphold or codify policies and procedures the administration says we are following today and intend to follow moving forward.

As the Senator from Arizona pointed out, his amendment would do two things: One, prohibit cruel, inhumane, or degrading treatment or punishment of detainees. It is in specific compliance with the Convention Against Torture that was signed by President Reagan. The administration says we are already upholding that standard when it comes to treatment of detainees, so this should not be a problem.

Secondly, the McCain amendment states simply that the interrogation techniques used by the military on detainees shall be those specified by the Army Field Manual on Intelligence Interrogation. The military, not Congress, writes that manual. We are told that the technique specified in the manual will do the job. Further, it is under revision, as has been pointed out, to include techniques related to unlawful combatants, including classified portions that will continue to give the President and the military a great deal of flexibility.

If the President of the United States thinks these are the wrong rules, I would hope he would submit new rules to Congress so that we can debate them and pass them. I made this same suggestion in July, but no alternative rule has been suggested so far. I am one Senator who would give great weight to the President's views on this matter.

This has been a gray area for the courts over time. In this gray area, the question is, Who should set the rules? In the short term, surely the President can. In the longer term, the people should, through their elected representatives. We are their elected representatives. It is time for us to act. It is time for us to set the rules. We do not want courts legislating from the bench and writing the rules. That leaves us to do our job.

In summary, it is time for Congress, which represents the people, to clarify and set the rules for detention and interrogation of our enemies. If the White House would prefer different rules, I hope the President will tell us what rules and procedures he needs to succeed in the war on terror.

If the argument is whether it is appropriate for Congress to set clear standards, I believe Congress should set standards and will vote to support the amendment of the Senator from Arizona.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the McCain amendment. There has been a lot of discussion about the new challenges we face in dealing with organized terrorist cells around the world. The complexity and the nature of those terrorist threats requires us to engage in ever more combat activity that is nonconventional. We want to make sure we do what we can to secure transportation and infrastructure, that we do what we can to deploy technology, that we improve our preparedness. But it does not change the fact that in dealing with terrorism our greatest asset or our greatest tool will be intelligence gathering. Intelligence gathering will require direct engagement with and interrogation of suspects, trying to gather information that can help us disrupt these networks.

We are trying to gather information that can help us prevent future attacks. That process of interrogation, needless to say, is complex and challenging. We have seen many of the problems and some of the abuses that have been documented by some of the previous speakers.

I think this calls out for a process that is more clear and better defined; interrogation tools, techniques, and procedures that we can be sure are applied consistently in the field. That is why I think this amendment is so important. That is why I think we have a fundamental obligation to support this amendment or at least some approach to clarify these processes, standards, and procedures used for interrogation.

I can think of two basic reasons that this is important and that it will benefit our troops and our country. First, by establishing clear lines, procedures, and process for interrogation, we help our own troops, whether working in the uniformed services or working in covert operations or other intelligence-gathering activities. We can be sure that they know what the allowances are, that they know what the process is, that they know what the procedure is, and, in effect, we provide them with appropriate protection and safeguards in doing their job.

In a similar way, we provide those individuals with protection in the field of combat should they be taken as a prisoner of war. We want to make sure our enemies do not have justification for using any interrogation techniques that we would consider to be improper, cruel, or inhumane.

First, we are providing protection and establishing this clarity. Second, I think we are sending an important message to our allies and our adversaries—a message that while the legal standards that are enshrined in the Constitution do not apply to everyone in the world, our commitment to these basic principles of life, liberty, and the pursuit of happiness, our commitment to basic principles of human dignity and human rights do apply and we must find ways to define these standards, to clarify this commitment, even in the area of interrogating enemy combatants and interrogating potential terrorists, suspected terrorists, in the field.

So we send a clear message to our allies and adversaries that our commitment to these principles is real, that our desire to establish uniform standards is real.

I do not know, not having the experience of some of my colleagues, whether this is the perfect standard, whether the requirements and the precise language in this amendment are ideal, but I think this is a fair-minded approach that allows the military itself, through its code of conduct, to establish these definitions that allows for the establishment of a classified annex to deal with covert operations, deal with the most sensitive of captives and the most sensitive of interrogations so that we are not undermining the intelligence gathering that we are attempting to facilitate.

In fact, the approach that is taken has been endorsed, as was indicated by the Senator from Arizona, by many who have had very close and intimate experience with this type of interrogation. In the letter that Senator MCCAIN entered into the RECORD there were two particular points that were made that I want to underscore, and that is, first, "the abuse of prisoners hurts America's cause." I think that is just a fundamental and important underlying point in this debate, that prisoner abuse hurts our cause. It hurts the moral arguments we are trying to make, the political arguments we are trying to make, and it does put our own men and women serving in uniform or in intelligence-gathering operations at risk.

Second, the United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. That point brings me back to the concern that we send a clear message to our allies and adversaries that our commitment to human dignity and human rights is universal.

So I am pleased to support the amendment. I think it is a very important first step. I think it gives the military the flexibility that it deserves, and I hope the military will use that flexibility well to add clarity, standards, process, and procedure that will enable us to continue to interrogate prisoners and continue to gather intelligence in dealing with these terrorist networks around the world, but do it in a way that is consistent with the intent, the principle, and the philosophy of our Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise today in support of amendment No. 1977, which has been offered by Senator MCCAIN, the Presiding Officer, Senator GRAHAM, Senator HAGEL, Senator SMITH, and Senator COLLINS. First, let me commend Senator MCCAIN for the courage that he has shown, again, in offering this amendment. There is not a single person in Congress who can speak with more authority than Senator JOHN MCCAIN on the treatment of prisoners of war.

I have come to this floor many times to address this issue, but my voice is weak compared to his. He has lived this experience in a way that none of us ever have or ever will. I believe his voice should be listened to more than some because he has given so many years of his life to this country and suffered as a prisoner of war personally.

This should be a noncontroversial amendment. It really requires two very simple and straightforward things: First, that the treatment of detainees comply with the Army's Field Manual on Interrogation; and, second, that the United States may not subject anyone in our custody to torture or cruel, inhumane, or degrading treatment. It is that straightforward.

This amendment would affirm our Nation's very important, longstanding obligation not to engage in torture or other cruel treatment. This standard is enshrined in our U.S. Constitution and in several treaties which our Nation has adopted as the law of the land.

Just as important, this amendment would make the rules clear for our soldiers so they know what the standards are that they should follow in the treatment of detainees. We owe this to our troops. If they are going to risk their lives every day in defense of our country, we should give them standards of conduct that are clear and unequivocal.

The prohibition on torture and other cruel treatment is deeply rooted in the history of America. Our Founding Fathers made it clear in the Bill of Rights that torture and other forms of cruel treatment are prohibited.

These principles have even guided us during the times of great national testing. During the Civil War, President Abraham Lincoln asked Francis Lieber, a military law expert, to create a set of rules to govern the conduct of U.S. soldiers in the Civil War. The result was the Lieber Code. It prohibited torture and other cruel treatment of captured enemy forces. It really was the foundation for the Geneva Conventions.

After World War II, the United States took the lead in establishing a number of treaties that banned the use of torture and other cruel treatment against all persons at all times. There are no exceptions to this prohibition.

The United States has ratified these treaties, including the Geneva Conventions and the torture convention. They are the law of the land.

Twice in the last year and a half, I have authored amendments to affirm our Nation's longstanding position that torture and other cruel treatment are illegal. Twice the Senate unanimously approved my amendments. Both times the amendments were killed behind closed doors of conference committees. Both times these amendments, which I offered and which were accepted by the Senate, were stricken from the bill at the insistence of the administration.

As I understand it, the administration does not support Senator MCCAIN's amendment. I sincerely hope that after this debate, they will.

Why would the administration oppose an amendment that affirms our longstanding obligation not to engage in torture or cruel, inhumane, and degrading treatment? Sadly, it is because the actions that they have taken on this critical question have been unclear and inconsistent.

In early 2002, Alberto Gonzales, who was then-White House Counsel, recommended to President Bush that the Geneva Conventions should not apply to the war on terrorism. Colin Powell, former Chairman of the Joint Chiefs of Staff, who was then-Secretary of State, objected strenuously to Attorney General Gonzales' conclusion. He argued that we could effectively fight the war on terrorism and we could live by the Geneva Conventions, which have been the law of the land in America for over half a century.

Unfortunately, the President rejected Secretary Powell's wise counsel and instead accepted Attorney General Gonzales' recommendations. In February of 2002, he issued a memo determining that the Geneva Conventions would not apply to the war on terrorism.

Then the administration unilaterally created new policies on the use of torture. I am referring to, among other things, the well-known Bybee memo of August 1, 2002, which has been publicly disclosed. They have claimed that the President has the right to set aside the law that makes torture a crime. They have narrowly defined torture as limited only to abuse that causes pain equivalent to organ failure or death.

They claim that it is legal to subject detainees to cruel, inhuman, and degrading treatment even though Congress has ratified the torture convention, which explicitly prohibits cruel, inhuman, and degrading treatment. This fact was verified by Attorney General nominee Gonzales during confirmation hearings before the Senate Judiciary Committee, in response to a question which I asked him directly.

Despite all of this, the administration continues to insist that their policy is not to treat detainees inhumanely.

What does this mean? Recently, I asked Timothy Flanigan this question. He was the Deputy to White House Counsel Alberto Gonzales. Mr. Flanigan has been nominated to be the Deputy Attorney General, the second highest law enforcement official in the Nation. Mr. Flanigan said inhumane treatment is "not susceptible to a succinct definition."

I asked him whether the White House had provided any guidance to our troops on the meaning of inhumane treatment. He acknowledged that they had not.

I asked Mr. Flanigan about specific abuses. I asked him: would it be inhumane to beat prisoners or subject them to mock executions? He said, "It depends on the facts and circumstances."

I cannot imagine facts and circumstances in which it would be humane to subject a detainee to a mock execution. Last week an editorial in the Washington Post called Mr. Flanigan's answers to my questions, "evasive legalisms in response to simple questions about uncivilized conduct."

How are our service men and women supposed to know how to treat detainees when high-ranking administration officials do not seem to know or refuse to respond to these direct questions?

The administration acknowledges that some people held by our Government have been mistreated. Some have been tortured. They say these abuses were committed by a few bad apples, rogue soldiers on a night shift.

But is it any wonder that people have been abused when the administration and Congress do not make it clear that American policy prohibits subjecting detainees to cruel and degrading treatment? Is it any wonder that people have been abused when we refuse to repudiate un-American practices such as beating detainees? The administration should not point the finger of blame at our troops for the logical consequences of muddled and often contradictory policies.

I have been to Iraq. I have spent time with our troops. I have been humbled by their courage and sacrifice. I have visited Walter Reed Hospital many times. I have spoken with young soldiers who have suffered horrible injuries in the war, and I have attended funerals for soldiers who lost their lives in this war, many from my own home State.

Our troops around the world and their families at home deserve our respect, admiration, and support.

Just a few weeks ago, a brave U.S. serviceman stepped forward to say that he and other American soldiers need clear rules and guidance on how to deal with detainees. CPT Ian Fishback is a graduate of West Point. He served in combat both in Afghanistan and Iraq. He was so disturbed by what he had experienced that he wrote to our colleague, Senator MCCAIN. The letter is now public. It was published in the Washington Post last week.

Senator MCCAIN entered part of the letter into the record earlier today. Let me read a little more of the letter, which speaks so powerfully and eloquently to our soldiers' need for guidance and leadership. Listen to what Captain Fishback wrote:

> For 17 months I tried to determine what specific standards governed the treatment of detainees. . . . Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation and degrading treatment. I and troops under my command witnessed some of these abuses in both Afghanistan and Iraq.

This administration should stand by the time-honored Geneva Conventions and the torture convention, rules that have served us well in the past, rules that our soldiers are trained in and understand. To replace them with vague directives to treat detainees humanely fails to provide basic guidance that our troops desperately need.

Listen to what Captain Fishback also wrote:

> I can remember as a cadet at West Point, resolving to ensure that my men would never commit a dishonorable act, that I would protect them from that type of burden. It absolutely breaks my heart that I failed some of them in this regard.

It breaks my heart to think that this soldier, risking his life for America in Afghanistan and Iraq, is now reaching out to us because we have failed to provide him with guidance. I am thankful that Senator MCCAIN has stepped forward, along with you, Mr. President, and many others in this Chamber, to give him that guidance.

Captain Fishback is an honorable man. Like the overwhelming majority of the fine men and women who serve our country, he has not failed. We have failed—to give him clear direction in his conduct as a soldier.

The administration has failed to set clear rules for the treatment of detainees. We need to step in and clarify these with the amendment offered by Senator MCCAIN. Cruel, inhuman, and degrading treatment are prohibited. The Army Field Manual governs the treatment of detainees. Senator MCCAIN's amendment will make that clear.

In the past, the administration has opposed amendments that affirm that cruel, inhuman, or degrading treatment is illegal because they "would have provided legal protections to foreign prisoners to which they are not now entitled."

But the administration is not correct in this assertion. Cruel, inhuman, or degrading treatment is already prohibited by the torture convention.

Their reasoning is revealing, however. They do not seem to understand the real issue at stake in this debate. This is not about legal protections for foreign prisoners. It is about who we are as a people. Torture is not American: abusing detainees is not the American way. Our brave men and women in uniform understand this, and the plaintive plea of Captain Fishback makes that clear.

I correspond with another soldier who served in Iraq and started sending me e-mails late at night about what was really happening on the ground. He keeps in touch with me now from time to time. He recently wrote to me and said:

> We need to go back toward a strict application of the Geneva conventions. That is where our honor lies and that is what I was taught since the day I joined the service.

Retired RADM John Hutson served our country for 28 years, and for the last 3 years of his career he was the Judge Advocate General, the top lawyer of the Navy. He worked with me on the amendments I authored. He supports Senator MCCAIN's amendment. In a letter to me he wrote:

> Clarion opposition to torture and other abuse by the U.S. will help protect U.S. troops who are in harm's way.

Former Congressman Pete Peterson, a good friend of mine and many in this body, was also a prisoner of war in Vietnam, like Senator MCCAIN. He was in prison for 6.5 years.

In a letter to me in support of our efforts he wrote:

> Congress must affirm that America stands by its moral and legal obligation to treat all prisoners, regardless of status, as we would want the enemy to treat our own. Our courageous men and women deserve nothing less.

Let me close finally by a quote from Captain Fishback's letter.

> Some argue that since our actions are not as horrifying as Al-Qaeda's, we should not be concerned. When did Al Qaeda become any type of standard by which we measure the morality of the United States? We are America, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution. . . .If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession. I would rather die fighting than give up even the smallest part of the idea that is "America."

We are so fortunate to have men of his dedication and character serving our country in uniform. We owe it to him, we owe it to the hundreds of thousands of men and women who serve us every single day and risk their lives, to set clear rules so they know how to treat detainees in custody.

I urge my colleagues to support the amendment of Senator MCCAIN. I yield the floor.

Mr. OBAMA. Mr. President, I support the amendment offered by the senior Senator from Arizona. I commend Senator MCCAIN for his leadership on this important issue. This amendment prohibits the cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the U.S. Government. In other words, it outlaws the torture of prisoners by agents of the United States, regardless of their geographic location.

I am, and always have been, opposed to the use of torture. I believe that our brave men and women serving in the Armed Forces share this view. Now more than ever, we must make it absolutely clear to our allies and our enemies that the United States does not and will not condone this practice. This amendment does that in no uncertain terms. It acknowledges and confirms existing obligations under our own Constitution and the United Nations Convention Against Torture.

Let me be clear on another point. I am committed to fighting terrorism and protecting our citizens and troops at home and abroad. I have the utmost respect, gratitude and admiration for our troops who are fighting on the frontlines of the War on Terror, and I have no intention of undermining the important job that they do.

But the use of torture does not enhance our national security. In fact, senior U.S. military officers have argued that practicing torture can place U.S. troops in grave danger—especially if they are taken prisoner. In working to keep our Nation and troops safe, we must not lose sight of this critical truth.

The United States should set an example for the international community. Senator McCAIN's amendment reaffirms a fundamental value of the American people—that torture is morally reprehensible and has no place in this world. I am proud to support this affirmation, and I urge my colleagues to do the same.

Mr. LEAHY. Mr. President, I strongly support Senator McCAIN's amendment to provide clear guidance for the treatment of detainees in U.S. custody. This administration has steadfastly refused to address the black mark on our Nation caused by its interrogation policies and the resulting abuse of detainees. Congress needs to take action.

Our credibility and reputation as a world leader in human rights suffers from our unwillingness to openly address the flaws in our system. More importantly, the failure to provide clear guidance on the treatment of detainees puts our own troops at risk and undermines their efforts in Afghanistan and Iraq. I commend my colleagues across the aisle who are attempting to address this problem, despite resistance from members of their own party and the strong opposition of the White House. The President has threatened to veto any legislation that would regulate the treatment of detainees, claiming that it would impinge on his Commander-in-Chief authority. I fail to see how a bill requiring the humane treatment of detainees—the same treatment the President claims they now receive—would impinge on his authority in any way.

It is Congress's right under the Constitution to issue regulations governing the armed forces. This was something I asked Chief Justice Roberts at his confirmation hearings, and he agreed "that Congress can make rules that may impinge upon the President's command functions." He answered, "Certainly . . . the Constitution vests pertinent authority in [this] area in both branches. The President is the Commander-in-Chief . . . On the other hand; Congress has the authority to issue regulations governing the armed forces, another express provision in the Constitution."

Senator GRAHAM said on the floor this morning that, "Congress has been AWOL when it comes to the war on terror in terms of interrogation, detention and prosecution, and we've done it in a way to weaken our Nation." I agree with my friend, the Senator from South Carolina. Without congressional action, the problem of prisoner abuse will continue to fester.

We continue to learn of abuses from press reports and the court-ordered release of government documents in response to Freedom of Information Act, FOIA, litigation. Documents that were recently made public by the FOIA case demonstrate why Senator McCAIN's amendment is necessary.

These documents reveal a troubling pattern of abuses that occurred because soldiers did not know what was acceptable under this administration's vague detention and interrogation policies. Several of the documents are transcriptions of interviews of military personnel in Iraq that show a systematic failure of the Pentagon to properly train soldiers on how to treat detainees. One report describes soldiers who, because of a lack of guidance and training from their command, engaged in "interrogations using techniques they literally remembered from movies." Another document describes the shooting of an Iraqi detainee in U.S. custody. The report concludes that "this incident could have been prevented if [the soldier] had better training."

Another report, released last week by Human Rights Watch and based on firsthand accounts of soldiers in the 82nd Airborne Division, details the widespread abuse of Iraqi detainees by soldiers at Camp Mercury, a forward operating base near Falluja, Iraq. The report states that detainees were severely beaten and mistreated from 2003 through 2004, even after the photos from Abu Ghraib became public. The witnesses claim that detainees were abused at the request of military intelligence personnel as part of the interrogation process, but also claim that the abuse occurred simply as a way for troops to "relieve stress." One soldier allegedly broke a detainee's leg with a baseball bat. In another incident, detainees were stacked into human pyramids and denied food and water. It is time for this administration to finally acknowledge that such incidents were not the isolated acts of a few bad apples. These horrific acts were not isolated incidents on the night shift at Abu Ghraib. Unfortunately, similar acts occurred at locations throughout Iraq and Afghanistan.

A group of 28 senior military officers, including General John Shalikashvili, recently wrote to Senator McCAIN in support of his amendments addressing detainee treatment. That letter stated, "The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. servicemembers who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. Our servicemembers were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that." I hope the President will consider these words before he vetoes a bill that contains Senator McCAIN's amendment.

Mr. HAGEL. Mr. President, I rise in support of Senator McCAIN's amendment No. 1977 regarding the treatment of individuals who are in the custody or control of the United States.

I cosponsored this amendment because the men and women making sacrifices to defend our country deserve clear standards for the treatment of detainees under U.S. control. It is the responsibility of both the Executive and Congress to provide clear guidance and leadership that will direct the actions of our troops.

We have failed to meet this obligation. Soldiers continue to report that the lack of clear guidance has created an atmosphere of confusion and uncertainty around the world. Our failure to confront this issue puts our troops at greater risk of abuse and mistreatment and undermines our credibility.

This amendment will strengthen our ability to fight those who threaten the United States. This amendment codifies into law that the Army Field Manual must be used as the standard for interrogations. In addition, the amendment codifies that the U.S. will not subject detainees to cruel, inhumane and degrading treatment.

This is a commonsense amendment that protects our troops and upholds the standards that this country has held to since the beginning of our Republic.

I urge my colleagues to vote in support of this amendment.

Mrs. FEINSTEIN. Mr. President, I rise in support of amendment No. 1977, offered by my colleague, Senator McCAIN.

This amendment would bring much-needed clarity to the rules governing how Americans treat captured prisoners and detainees.

It will make clear that the Geneva Conventions apply to all people held in the custody of the Department of Defense.

It provides a workable definition of "cruel and inhumane," based on the rules which govern how we treat criminals in the United States, and based firmly in the constitutional prohibitions of cruel and unusual punishment.

Most importantly, it sets rules that are clear, simple and in accord with basic American values.

First, let me make clear my view that in this modern world of asymmetric warfare, non-state actors, and unconventional threat, there is an absolute necessity to have a program to securely hold prisoners and effectively interrogate them to provide timely intelligence.

But in my judgment, the current system is not working.

Over the course of the past 4 years, there has been a great deal of confusion over the policies and practices of the United States towards individuals the Government has taken into custody.

This confusion has been evident at the highest levels of decisionmaking at the Pentagon, with memoranda authorizing this technique or that technique being issued and rescinded within weeks of one another.

The confusion has been noted here in the Senate. I sit on two committees with jurisdiction, and have sat through hours and hours of hearings and briefings—our Nation's policy with respect to detainees and prisoners of war is still unclear to me.

Frankly, the administration's repeated statements about "wherever possible adhering to law" are confusing and unhelpful.

And the confusion has filtered down to the front lines.

Seventeen months ago, enlisted members of the 82nd Airborne Infantry Division—honorable men risking their lives in Iraq—asked their commanding officer what the rules were for the treatment of prisoners.

For 17 months, their commander, CPT Ian Fishback, diligently searched for the answer up and down his chain of command. Here is what he has found, and I quote:

> We've got people with different views of what "humane" means and there's no Army statement that says "this is the standard for humane treatment for prisoners to Army officers." Army officers are left to come up with their own definition of humane treatment.

Captain Fishback and his men have a right to clear guidance. Their sacrifices entitle them to be allowed to do their job. An infantryman should not need to be a graduate of a law school to know what to do with a prisoner.

What this amendment does is to provide clarity.

It is incumbent on Congress to provide this clarity. In fact, we have a constitutional mandate to do it.

Article VII, section 8 of the Constitution states that Congress shall have the power to "make Rules concerning Captures on Land and Water," and also "To make Rules for the Government and Regulation of the land and naval Forces."

Our men and women in combat badly need this legislation. But there is more at stake here than immediate military necessity.

Our soldiers and our Nation have a long and honorable tradition of ethical behavior. For more than 200 years we have prided ourselves on being different than our adversaries in war. Simply put, there are some things that Americans do not do, not because it is illegal, or some lawyer says we cannot, but because it is wrong.

The laws of war, codified in the Geneva Conventions, represent a bare minimum of acceptable behavior toward captives. The United States has consistently championed the Geneva Conventions for over a century, knowing that our behavior is a beacon to the world, and that our adherence to principle—as well as projecting American values—saves American lives.

I am not naïve. I do not expect our current enemy to respect the Geneva Conventions. Our captured troops cannot expect humane treatment at the hands of al-Qaida. But make no mistake—the eyes of the world are still on us, and our policies have real consequences.

Even now, millions of young Muslims around the world are evaluating the United States. They are deciding whether to take up arms against us, or whether to work with us towards a peaceful resolution with liberty and justice for all. We must show them, clearly, emphatically, that the rhetoric of democracy and freedom is not empty. We must show them that we are a government of laws, clearly written, openly promulgated and fairly enforced.

Captures and interrogations are part of war and, no less than other tools of war, must be wielded intelligently, humanely, and within a set of rules for warfare that govern all who serve in uniform—whether privates or generals, seamen or admirals.

Our men and women in uniform, serving in Afghanistan, Iraq and at Guantanamo Bay, have the right to clear, direct and lawful leadership.

This amendment is good policy, is just, and is long overdue.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, first I thank my friend and colleague from South Carolina for his comments in support of this amendment. He does occupy a unique position in this body, having served 20 years—6½ years on active duty as an Air Force lawyer and member of the JAG Corps, and remains in the Reserves to this day. He obviously brings a perspective to this issue which is very important.

I think the Senator from South Carolina described the confusion that existed over a period of time about this whole issue of treatment of prisoners. There was a set of instructions issued which were in effect for a couple of months, which were strongly objected to by the uniformed legal corps in the Pentagon. Yet their concerns were overridden.

The Senator from South Carolina quoted one of them. Another one was by RADM Michael Lohr, the Navy's Judge Advocate General. He said the situation at the American prison in Guantanamo, Cuba, might be so legalistically unique that the Geneva Conventions and even the Constitution did not necessarily apply. But, he asked,

> Will the American people find we have missed the forest for the trees by condoning practices that, while technically legal, are inconsistent with our most fundamental values?

General Rives said if the White House permitted abusive interrogations at Guantanamo Bay, it would not be able to restrict them to that single prison. He argued that soldiers elsewhere would conclude that their commanders were condoning illegal behavior. And that is precisely what happened at Abu Ghraib after the general who organized the abuse of prisoners at Guantanamo went to Iraq to toughen up the interrogation of prisoners there.

I think it is clear that the White House ignored those military lawyers' advice a couple of years ago. We now have, thanks to the yearlong effort of the Senator from South Carolina, those communications of deep concern to every uniformed JAG in the Department of Defense, about the issuance of instructions which basically violated our commitment to the Geneva Conventions.

In order to have the record complete, a couple of months later those were rescinded and different orders were issued at that time. But what if you are at the end of the chain and you get these kinds of mixed messages?

So I thank the Senator from South Carolina for pointing out from his unique perspective how important this is, since it is the men and women who are in the JAG Corps who are responsible for prosecuting those who violate Geneva Conventions, and they need clear guidance; or defending someone who is accused of violating them, as our men and women of the military are entitled to defense just as they are subject to prosecution.

Again, I thank the Senator from South Carolina. I appreciate the defense of the Senator from Alaska of the administration's position on this issue. I do not think he has been well informed by the administration, particularly concerning the Army Field Manual.

The Army Field Manual has a classified section which would not be available to anyone except for those who have a need to know. The Army Field Manual has been used for decades. The Army Field Manual is being revised as we speak to try to meet the new challenges we face. But the Army Field Manual, I am confident, will be in keeping with the fundamental commitments we have made.

All my career I have supported the rights and prerogatives of the Commander in Chief. We need a strong

President, and in wartime this is more important than ever. I understand the administration would want to preserve the President's flexibility and wartime powers, and I do not believe that we can afford to have 535 Secretaries of State, Secretaries of Defense, or even Presidents of the United States.

I would like to point out the Congress not only has the right but the obligation to act. Article I, section 8 of the Constitution of the United States, clause 11:

> To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water[.]

I repeat:

> . . . make Rules concerning Captures on Land and Water[.]

Someone is going to come down to the floor and say that applied back in the time of the Framers of the Constitution; it didn't apply to today. At least from my point of view, unless there is an overriding need to change the Constitution of the United States—if that clause of the Constitution no longer applies, then lets amend the Constitution and remove it; otherwise, lets live by it.

The Congress has the responsibility:

> To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water[.]

I do not see how anyone could view this as an unwarranted intervention in an issue such as this. The courts, as the Senator from South Carolina pointed out so well, are asking us—that well-known liberal judge, Justice Scalia, has said we need the Congress of the United States involved in this issue. We, the courts, cannot do it ourselves.

As the Senator from South Carolina pointed out, if we do not fulfill our constitutional role, we are negligent. We owe it to our troops and our country to speak on this issue.

I very much respect my friend, the Vice President of the United States, Vice President CHENEY. He and I have been friends for many years. I respect the way that he carefully guards the prerogatives of the President. But on this issue, I hope he and others would understand that we are dutybound to take action.

I would like, again, to refer back to Captain Fishback. He is what I view as the tip of the iceberg that exists in the military today. They know how important this war on terror is. They are the ones who are fighting it. Captain Fishback served in Afghanistan and in Iraq, and the ones I hear from are men and women in the military who have a very strong commitment to winning the war on terror. They have laid their lives on the line to win it. But they want clear, unequivocal guidelines as to how to treat prisoners of war.

I would like to believe that this is the last war in which the United States will ever be involved. I would like to believe that from now on, after we win this war on terror, we will have peace and the United States will never send its men and women in harm's way again.

History shows me otherwise. What happens in the next conflict when American military personnel are held captive by the enemy and they make the argument, with some validity, that we have violated the rules of war? What happens to our men and women in the military then?

There are some who will say they wouldn't respect the rules of war, anyway. If they are not sure they are going to win, as the Germans weren't in World War II, they might treat our prisoners according to certain standards if we insist upon those standards.

I think there is a lot at stake. I respect the position of the administration, that these should be under the authority and responsibility and would erode the flexibility of the President of the United States. I don't believe so.

This amendment basically restates what we have been practicing for certainly all of the 21st and the 20th centuries.

I think we owe it to the people, these brave young Americans such as Captain Fishback, who want and deserve a clarification in the way they can carry out their responsibilities and duties as they travel into harm's way.

I thank the Senator from New Hampshire, the Senator from Tennessee, the Senator from Illinois, and my friend from South Carolina for their eloquent statements on this issue.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, this Senator doesn't agree with anything that has been said about the applicability of this provision to anyone in the military uniform. Most of the speakers have talked about men and women in the armed services. The amendment goes much further than that.

But first, the problem is it requires the field manual to list every type and means of interrogation. Thousands of pages will be required. People will be prosecuted in military courts if they don't know every single one of them, if they even cross the line by accident. This idea of listing all of the possible ways to interrogate a person is impossible. I say that should be changed. Maybe they should issue from time to time additional items to go in the field manual. But to require that no one can use a means of interrogation not listed in advance when we are involved in a war on terror and we are dealing with terrorists is wrong.

Beyond that, this deals with any person—not any military person. The Geneva Conventions were originally intended to deal with military prisoners. This is dealing with anyone who is intercepted now anywhere in the world who, regardless of nationality or physical location, is in custody or physical control of the United States because a person who is American happens to be there.

Again, I mention these teams I have met with, and I respect multinational teams. This, in effect, says that an American is responsible for anything done by any member of that team. That, to me, is wrong.

What is more, I think it is wrong to presume there is no place in this country or in the operation of this country where we should not have the ability to deal with terrorists on their own ground.

These are vicious people, suicidal people. I do not think they should be accorded the rank and treatment of men and women in uniform from other nations. That is what this amendment does. I shall oppose it. I may be all alone, but I shall oppose it because I think there is a place in our operations against individuals involved in the war on terrorism where we deal with them as they deal with us.

These are not military people. They may not even be American nationals who are working for us in an undercover way, but this says we are responsible for treating all these people according to the Geneva Conventions and according to processes listed in the U.S. Army Field Manual. That is wrong. That is all simply wrong, and I shall oppose the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The Journal clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2004

Mr. GRAHAM. Madam President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from South Carolina [Mr. GRAHAM], for himself and Mr. MCCAIN, proposes an amendment numbered 2004.

Mr. GRAHAM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Administrative Review Board to determine the status of detainees held at Guantanamo Bay, Cuba)

At the appropriate place, insert the following:

SEC. .(a) AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Administrative Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are the procedures that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Administrative Review Board on July 1, 2005.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion.

(B) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term "lawful enemy combatant" means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term "unlawful enemy combatant", with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, regardless of location.

Mr. GRAHAM. Madam President, I thank Senator STEVENS for allowing me to do this. I appreciate that we have a busy day.

I totally understand where he is coming from about the interrogation amendment. I come out on a different side. This amendment deals with the combat status review procedure at Guantanamo Bay. I think it is very necessary. I think it strengthens what the administration is trying to do when it comes to enemy combatants. I think it helps the administration in court and is good policy for the country.

No. 1, I totally agree with the President that a member of al-Qaida should not be given Geneva Conventions status. I say to my friend from Alaska that Senator MCCAIN's amendment doesn't confer Geneva Conventions status on enemy combatants. It standardizes the interrogation techniques. The Army Field Manual has a section for lawful combatants, those covered under the Geneva Conventions, and it will have a provision for unlawful combatants. Al-Qaida should not be given Geneva Conventions status. The Geneva Conventions and the signatories to the convention set the rules for the conduct of war. An unlawful enemy combatant is someone who goes around the battlefield without a uniform, doesn't represent a nation—a terrorist, for lack of a better word. They do not deserve the protection of the Geneva Conventions because they are cheating. But they do, in my opinion, deserve what the President said—not so much because they deserve it but because it is about who we are.

The President said even enemy combatants—members of al-Qaida—will be treated humanely. When we capture somebody on the battlefield—throughout the world because the whole world is the battlefield in the war on terror—most of the people we are dealing with are not part of the uniformed force, not like the Iraqi Army.

The President said early on these people will be humanely treated but they will not be given Geneva Convention status. He is absolutely right. When we catch someone, say, in Afghanistan, who is a member of al-Qaida or some other terrorist network, certain people, once screened, go to Guantanamo Bay. The people at Guantanamo Bay have been participating in the allegations, or they have been participating in terrorist activities, supporting terrorist organizations as an unlawful enemy combatant. They are not uniformed soldiers.

We are reviewing everyone that comes to Guantanamo Bay to see if they deserve the status "enemy combatant." The term "enemy combatant" came out of World War II when we had a Supreme Court case recognizing that term for German saboteurs who landed, I think, in Florida and were trying to do sabotage throughout the United States. These six or seven Germans were not in uniform. They were tried by a military commission.

We have a military commission at Guantanamo Bay that I totally support. And I think enemy combatant status was a result of that Supreme Court case. They were given that determination.

What we are trying to do is streamline interrogation techniques to deal with both lawful and unlawful combatants. That helps our troops, gives them guidance.

The second thing we are doing with my amendment is legitimizing, through congressional action, what the administration has done at Guantanamo Bay. The administration, in my opinion, has put together a very good, thorough process to look at each person that comes to Guantanamo Bay to determine whether or not they should be classified as enemy combatants because if they are classified as enemy combatants, they can be detained indefinitely and taken off the battlefield.

The due process rights afforded an enemy combatant have been up to the Supreme Court, and the Supreme Court, for the most part, has blessed the procedure. There have been some concerns expressed by the Court.

My amendment tries to, one, legitimize what the administration has created at Guantanamo Bay in terms of a review process to determine who is an enemy combatant and who is not. We made two small changes. We have learned in the past that sometimes people have been because of a single statement made, while in the hands of a foreign agency, a foreign country, that was given under duress. The amendment says that if a civilian is to determine enemy combatant status in a statement from a foreign interrogation, you have to prove that the statement was not unnecessarily coerced. Most Americans, I think, agree with that, and the people at Guantanamo Bay agree with that.

Second, the civilian who will determine from the appeal process whether or not the enemy combatant status, which is reviewed annually, should be held, would be appointed by the Senate as a Presidential appointment. Gordon England is doing it now, and he is a Presidential appointee. That continues the trend. I think it would be good to have the Senate involved.

What does this mean, very briefly? It means we can go to the world and say we have a procedure in place at Guantanamo Bay that will determine who an enemy combatant is and that these procedures are blessed by the courts, they are blessed by the Congress, and they are blessed by the administration. It would be good to be able to say, as a nation, that all three branches of Government—the executive branch, the judicial branch and the legislative branch—have all agreed on procedures to take enemy combatants off the battlefield and give those people who are suspected of being enemy combatants due process rights consistent with whom we are as a people and give enough flexibility to the military to make sure these people do not go back to the fight.

The truth is, several hundred have been captured and released. The process is working very well at Guantanamo Bay. I compliment the administration for setting up a combat status review process that has been changed a couple of times. It is eminently fair. This amendment blessed that process.

It has two small changes. It would strengthen the process, and it would end this never-ending court debate about what to do.

The courts have been telling us, Congress, if you got involved, it would help us figure out what we should be doing. Justice Scalia, as Senator MCCAIN indicated, screamed out, in a dissenting opinion granting habeas corpus rights to enemy combatants, that the courts are ill-equipped to run this war. Now, with this amendment, the Congress will bless what the administration has put in place, making small changes which will strengthen the administration's hands in the court. The courts will feel more comfortable ratifying this process, and we will be a united nation, a united front in all three branches of Government when it comes to dealing with enemy combatants.

It is very important that anyone who engages in unlawful enemy combatant activities against this Nation be taken off the battlefield and kept off the battlefield as long as necessary to make us safe. They deserve a certain amount of process because whom we are as a people and the process we are blessing gives them very adequate due process rights.

This amendment strengthens those rights. They deserve to be taken off the battlefield, and people engaging in unlawful enemy combatant activities should be taken off the battlefield as long as necessary to protect our country.

Second, they deserve to be prosecuted in some instances. There are three things we are trying to accomplish. We are trying to standardize interrogation techniques to protect our own troops and have a one-stop shopping for what the rules are. That is through Senator MCCAIN's amendment. We are trying to keep the moral high ground, as expressed by the President, to say we are not torturing people, we are not going to treat people inhumanely because that weakens us. The bottom line, it is not the right way to get good information and weakens us. The more standardization the better.

When it comes time to keep people off the battlefield, with this amendment we are stronger as a nation because Congress will have blessed what the administration has done.

In that regard, I offer this amendment as a way to bring clarity to a situation that is very important in the war on terror. We need to keep enemy combatants, once they have been lawfully determined to be an enemy combatant, off the battlefield as long as it takes to secure this Nation. This amendment helps to do that..

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Madam President, I am informed there are objections from Members of the Committee on Armed Services to this amendment. I urge them to come over and defend their position.

This Senator was prepared to accept the amendment. It may be subject to a point of order. I am not sure. I do believe there are detainee items in the House-passed bills that would be germane under the circumstances, but it is another example, I might say, of the problems we get into when items that pertain to legislation end up on appropriations bills.

We are not really prepared to debate the amendment. I urge Members of the Committee on Armed Services who wish to do so to debate this amendment.

My only question is—I know the Senator is an extremely good attorney—has the phrase "unlawful enemy combatant" been used in any other portion of our laws of the Geneva Conventions?

Mr. GRAHAM. Yes. It is in the Geneva Conventions. There is a section about unlawful enemy combatant, illegal enemy combatant.

The conventions are set up to confer status on signatories and to make sure that people who engage in unlawful activity are not covered. The people who wear civilian clothes that go in the population and engage in terrorist activity have never been covered under the convention. Under the convention, that is the definition they are giving.

The administration has used the term that has been legitimized by the courts for quite a while now in international law. In the review process at Guantanamo Bay, they will take the person off the battlefield. They have to make a case whether they fit the definition of enemy combatant. Each year they can challenge the designation. What we are doing in this amendment is basically blessing that procedure, requiring two more things.

One, the idea that the Senate will confirm the person who will ultimately have the release authority or the appeal authority to enemy combatant status; and two, prohibit the use of a single statement to hold somebody as an enemy combatant who was in a foreign government's hands, unless we can show the statement was not a result of torture.

We have learned from our experience at Guantanamo Bay that would be a good change.

Mr. MCCAIN. Will the Senator yield?

Mr. GRAHAM. Yes.

Mr. MCCAIN. Does the Senator know how many detainees have been brought to trial in Guantanamo Bay?

Mr. GRAHAM. Of all the people we have detained—over 500—no one has been brought to trial yet. Two will be brought to trial in November.

One of the reasons that we cannot bring people to trial is because the Federal courts have issued a stay on prosecutions that has now been lifted. We are moving forward.

There is another Supreme Court case dealing with the due process rights of determining whether a person is an enemy combatant. The procedure is in place at Guantanamo Bay and has been generally blessed by the Court because they have been stayed on those proceedings, too.

Mr. MCCAIN. If the Senator will yield, aren't there two different Court decisions now that are in direct contravention of each other as to the disposition of these cases?

Mr. GRAHAM. Yes there is.

Mr. MCCAIN. Could the Senator describe those.

Mr. GRAHAM. There was a stay by Federal district judge, staying military commission trials. The DC Circuit Court of Appeals overrode the lower court. That has gone up to the Supreme Court right now. I am confident the Supreme Court will legitimize military commissions, maybe with some changes.

This amendment deals with detaining somebody who is not being prosecuted yet, who may be prosecuted, but keeping them off the battlefield because we have determined they are an unlawful enemy combatant. The review process to make that determination I feel very comfortable with. And there are some small changes in the amendment. The courts have told us this is an area where Congress needs to act. The courts have many cases, not just one, challenging the Guantanamo Bay procedures and determining unlawful enemy combatant. Justice Scalia said in the dissenting opinion, if this were an area where Congress spoke, the courts would welcome their involvement.

Mr. MCCAIN. If the Senator will yield further for a question, I guess my fundamental question is, aren't things in one heck of a mess?

Mr. GRAHAM. The legal status of military commissions and the combat status review process are in legal limbo unnecessarily.

If you read these opinions, they are a hodgepodge of different dissenting and concurring opinions. The one common theme is the courts are suggesting to Congress we get involved.

When it comes to combat status review, I am totally convinced, after talking with now Chief Justice Roberts, this would be an area where the courts would welcome congressional involvement. He said to me in the hearings that the President or the executive branch is at its strongest when they have the implied or express support of the Congress.

So the purpose of this amendment, if I may say very briefly, is for Congress to legitimize what is going on at Guantanamo Bay about determining enemy combatant status, legitimizing that review process by making some changes. If we would do that, I am convinced the courts would welcome that involvement and a lot of this litigation would end overnight.

Mr. STEVENS. If the Senator will yield, has this matter been discussed in the Committee on Armed Services?

Mr. GRAHAM. I have discussed it with one of the cosponsors of the amendment, Senator WARNER, yes. I have been to Guantanamo Bay with Senator WARNER and others, where we have talked about this. Yes, sir, I am very sure that the chairman knows about this because he is a cosponsor of the amendment.

Mr. STEVENS. I say to the Senator, that is another question. We were prepared to accept the amendment because—I don't claim expertise in this area: it is not within our jurisdiction. It is legislation on an appropriations bill, but I don't intend to raise an objection to it.

Has this been discussed, on a bipartisan basis, in the committee?

Mr. GRAHAM. I was under the assumption the amendment was going to be accepted, as you were, and now I have been told there are some concerns from the minority on the committee. I have talked extensively about these series of amendments. They all work in conjunction with each other. Senator MCCAIN's amendment standardized interrogation techniques and what we as a people want to live by—we do not want to torture people. We are not going to torture people.

My amendment standardizes and makes small changes to the determination of who is an enemy combatant and who is not, because you keep people at Guantanamo Bay indefinitely under this procedure. It needs to be blessed by Congress. The third thing we do, later on, is deal with military commissions, actually how you try these people.

So I was under the understanding, I say to the Senator, that not only was Senator WARNER a cosponsor of these two amendments, but that everybody was on board. The point here is to give the courts some guidance to bring about legal certainty where there is a legal mass, as Senator MCCAIN indicated. So I don't know why anybody is objecting.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I believe the Senator's amendment has real merit. I find no objection to it. It has been conveyed to me by the administration. We still have a very small difference—it sounds like a big difference—on the McCain amendment. But we have no difference on this amendment. We are prepared to accept it, unless someone comes over here and finds a way to articulate an objection.

Mr. MCCAIN. Madam President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, first, I thank the Senator from Alaska for his cooperation. I thank the Senator from South Carolina for his unique and very important perspective on this issue. But I also point out it is very unfortunate—very unfortunate—the Senator from South Carolina has to put this on an appropriations bill. I do not want to get off the subject too much, but there is something wrong with our process here that I have to, for my amendment, find some narrow germaneness in order to get around my commitment to not authorize on an appropriations bill. Technically, I am not authorizing on an appropriations bill.

It is very unfortunate the Senator from South Carolina has to authorize on an appropriations bill. There may be some objection from someone in the minority. There may be some question. That is because we are not going through an orderly process. This should have been as an amendment on the authorization bill, and that should have been taken up. If someone did not like it, they could have voted to take it out. Now we are in a process where the Senator from South Carolina has to put it in.

Our system here is, broken, and we need to properly authorize. I certainly am not blaming the Senator from Alaska. He has his responsibility to get the appropriations bill done. But there is something wrong when we are in a war—in a war; Americans' lives are on the line as we speak—and somehow we do not have room in our agenda to authorize the training, the equipping, the benefits, the pay, all of the things that go with an authorization bill, including the amendment of the Senator from Carolina.

A lot of us have repeatedly decried that this process of legislating is so badly broken today that we cannot even take care of the men and women in the military in an orderly fashion. It cries out for fixing. I would hope at some point we, as a body, would fix this system so we authorize before we appropriate funds. Again, this is meant as no criticism of the Senator from Alaska. He is playing the hand he is dealt. But there is something very badly wrong when we are in a war and somehow we cannot find time in our agenda and ought to authorize the much-needed pay raises, equipment, training, and all of the other things that go along with the authorization of our Nation's defenses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, first, I thank the Senator from Arizona and the Senator from South Carolina for bringing focus to this issue. They are approaching this issue in different ways, but it is a matter of enormous importance and consequence. Both Senators, as members of the Armed Services Committee, remember the good deal of thought, work, and consideration given this subject matter by the Armed Services Committee under the guidance of Senator WARNER and Senator LEVIN.

AMENDMENT NO. 1977

Madam President, now is time for action. That is why I rise to speak in strong support of the McCain amendment and urge our colleagues to understand it and to give it strong support as well.

As we know, nearly 2 years ago, American soldiers at Abu Ghraib were struggling to figure out how to handle the hundreds of detainees who were pouring into that facility. They had no guidance. They had no directions to regulate that treatment. In the absence of that guidance, their treatment of detainees deteriorated into cruel and inhumane and degrading treatment.

They documented their cruelty, and the images are still horrifying—an Iraqi prisoner in a dark hood and cape, standing on a cardboard box with electrodes attached to his body; naked men forced to simulate sex acts on each other; the corpse of a man who had been beaten to death, lying in ice, next to soldiers smiling and giving a "thumbs up" sign; a pool of blood from the wounds of a naked, defenseless prisoner attacked by a military dog.

The reports of widespread abuse by U.S. personnel was initially met with disbelief and then incomprehension. But the reports are too numerous to ignore. We had reports of detainees in Afghanistan shackled to the floor, left out in the elements to freeze to death. We have had reports of detainees in Guantanamo who were subjected to sexual humiliation.

Human Rights Watch recently released a report based on the statements of three soldiers, one officer and two noncommissioned officers, in the 82nd Airborne who described how their battalions routinely used physical and mental torture as means of intelligence gathering and stress relief—torture as a sport.

They stand in sharp contrast to the values America has always stood for: our belief in the dignity and worth of all people, our unequivocal stance against torture and abuse, our commitment to the rule of law. The images horrified us and severely damaged our reputation in the Middle East and around the world.

Instead of taking responsibility for what happened, the generals and senior administration officials tried to minimize the abuse as the work of "a few bad apples"—all conveniently lower rank soldiers—in a desperate effort to emphasize the role of senior military officials in exposing the scandal and insulate the civilian leadership from responsibility for changing the rules.

It is clear what the results of those changes were. CPT Ian Fishback, a

West Point graduate and officer in the 82nd Airborne, wrote: Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage taking, stripping, sleep deprivation and degrading treatment.

For nearly 2½ years—from August 2002 until December 2004—the executive branch of our Government operated under the assumption that it was not bound by the law that prohibits torture. The Office of Legal Counsel promulgated an official opinion stating that the President and everyone acting under his Commander-in-Chief authority was free to ignore this law. It states:

> Any effort to apply [the anti-torture statute] in a manner that interferes with the . . . detention and interrogation of enemy combatants . . . would be unconstitutional.

This opinion was adopted and implemented by the CIA and the Department of Defense. Effectively, what it was saying was that for anybody who was operating under the DOD, if the purpose of their torture was to get information, then it was basically all right. If the purpose of the torture was to bring harm, then it would be illegal. But that decision by the Office of Legal Counsel in the Department of Justice effectively said: The school is out. People can do anything they want to with any detainee. And that was the rule for 2½ years. It is called the Bybee memorandum. We have had extensive hearings on that in both the Armed Services Committee and the Judiciary Committee.

This opinion was adopted and implemented by the CIA and the Department of Defense. Harold Koh, a leading scholar of international law and dean of Yale Law School, who served in both the Reagan and Clinton administrations, called it "the most clearly legally erroneous opinion" he has ever read. That is in reference to the Bybee memorandum that was requested by the CIA and the Department of Defense, through the Attorney General, from the Office of Legal Counsel, to give them a memorandum to effectively permit wholesale torture. They received that memo, and they used it to gut our long-standing laws. That Bybee memo was the law of the land, effectively, in the CIA and the Department of Defense for 2½ years. We saw what the results were. The McCain amendment would make sure that will not happen again.

Our political leaders made deliberate decisions to throw out the well-established legal framework that has long made America the gold standard for human rights throughout the world. The administration left our soldiers, case officers, and intelligence agents in a fog of ambiguity. They were told to "take the gloves off" without knowing what the limits were, and the consequences were foreseeable.

In rewriting our human rights laws, the administration consistently overruled the objections of experienced military personnel and diplomats. The Secretary of State, Colin Powell, warned the White House:

> It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our [own] troops.

Senior Defense officials were warned that changing the rules could lead to so-called "force drift", in which, without clearer guidance, the level of force applied to an uncooperative detainee might well result in torture.

William Taft, the State Department Legal Advisor in President Bush's first term, recently called it a source of amazement and disappointment that the Justice Department severely limited the applicability of the Geneva Conventions to the detainees. In an address at American University, he said the decision to do so:

> unhinged those responsible for the treatment of the detainees . . . from the legal guidelines for interrogation . . . embodied in the Army Field Manual for decades. Set adrift in uncharted waters and under pressure from their leaders to develop information on the plans and practices of al Qaeda, it was predictable that those managing the interrogation would eventually go too far.

And they did.

The Judge Advocates General echoed Mr. Taft's concerns. On July 14, 2005, the JAGs appeared before the Senate Armed Services Committee's Subcommittee on Personnel. In response to questioning by my friend Senator GRAHAM, the witnesses acknowledged that the Justice Department's policy embodied in the Bybee torture memorandum's definition of torture was a violation of international and domestic law and alarmed the Judge Advocates General who reviewed it.

Their alarm was well founded because their concerns were overruled by General Counsel William Haynes, who issued the Defense Department's April 2003 Working Group Report. The report twisted and diluted the definition of "torture," claimed that military personnel who commit torture may invoke the defenses of "necessity" and "superior orders," and advised military personnel that they are not obligated to comply with the Federal prohibition on torture.

Senator GRAHAM himself accurately assessed the impact of the civilian authorities when he told the JAG officers at the hearing: I think it is fair to say that the Department of Defense was secondary to the Department of Justice in a political sense, and that was our problem. If they had listened from the outset, we wouldn't have had a lot of the problems that we have had to deal with in the past.

The President is not an emperor or a king. His administration is not above the law or accountability, and he is certainly not infallible.

The single greatest criticism of this administration's detention and interrogation policies is that it failed to respect history, the collective wisdom of our career military and State Department officials, and that it holds far too expansive a view of executive authority. In short, the White House suffers from the arrogance of thinking they knew best and abandoning the long-standing rules.

As Captain Fishback wrote:

> We owe our soldiers better than this. Give them a clear standard that is in accordance with the bedrock principles of our nation.
>
> We are America, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution.

The McCain amendment takes a strong step forward to giving our troops that standard. I hope it is supported. Madam President, I ask unanimous consent that Captain Fishback's letter, which was published in the Washington Post, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR MCCAIN:

I am a graduate of West Point currently serving as a Captain in the U.S. Army Infantry. I have served two combat tours with the 82nd Airborne Division, one each in Afghanistan and Iraq. While I served in the Global War on Terror, the actions and statements of my leadership led me to believe that United States policy did not require application of the Geneva Conventions in Afghanistan or Iraq. On 7 May 2004, Secretary of Defense Rumsfeld's testimony that the United States followed the Geneva Conventions in Iraq and the "spirit" of the Geneva Conventions in Afghanistan prompted me to begin an approach for clarification. For 17 months, I tried to determine what specific standards governed the treatment of detainees by consulting my chain of command through battalion commander, multiple JAG lawyers, multiple Democrat and Republican Congressmen and their aides, the Ft. Bragg Inspector General's office, multiple government reports, the Secretary of the Army and multiple general officers, a professional interrogator at Guantanamo Bay, the deputy head of the department at West Point responsible for teaching Just War Theory and Law of Land Warfare, and numerous peers who I regard as honorable and intelligent men.

Instead of resolving my concerns, the approach for clarification process leaves me deeply troubled. Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation and degrading treatment. I and troops under my command witnessed some of these abuses in both Afghanistan and Iraq.

This is a tragedy. I can remember, as a cadet at West Point, resolving to ensure that my men would never commit a dishonorable act; that I would protect them from that type of burden. It absolutely breaks my heart that I have failed some of them in this regard.

That is in the past and there is nothing we can do about it now. But, we can learn from our mistakes and ensure that this does not happen again. Take a major step in that direction; eliminate the confusion. My approach for clarification provides clear evidence that confusion over standards was a major contributor to the prisoner abuse. We owe our soldiers better than this. Give them a clear standard that is in accordance with the bedrock principles of our nation.

Some do not see the need for this work. Some argue that since our actions are not as horrifying as Al Qaeda's, we should not be concerned. When did Al Qaeda become any type of standard by which we measure the morality of the United States? We are Americans, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution.

Others argue that clear standards will limit the President's ability to wage the War on Terror. Since clear standards only limit interrogation techniques, it is reasonable for me to assume that supporters of this argument desire to use coercion to acquire information from detainees. This is morally inconsistent with the Constitution and justice in war. It is unacceptable.

Both of these arguments stem from the larger question, the most important question that this generation will answer. Do we sacrifice our ideals in order to preserve security? Terrorism inspires fear and suppresses ideals like freedom and individual rights. Overcoming the fear posed by terrorist threats is a tremendous test of our courage. Will we confront danger and adversity in order to preserve our ideals, or will our courage and commitment to individual rights wither at the prospect of sacrifice? My response is simple. If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession. I would rather die fighting than give up even the smallest part of the idea that is "America."

Once again, I strongly urge you to do justice to your men and women in uniform. Give them clear standards of conduct that reflect the ideals they risk their lives for.

With the Utmost Respect,

CAPT. IAN FISHBACK,
82nd Airborne Division,
Fort Bragg, North Carolina.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KENNEDY. I withhold my suggestion.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

Mr. STEVENS. Mr. President, I have a package we have approved as managers of the bill. I ask unanimous consent that the Chair lay before the Senate amendments 1996, 1887, 1895, 2017, 1925, and 1889. It sounds as though I am reading birthdays.

When the Chair is ready, I will propound a unanimous consent request when those amendments are before us.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Mr. STEVENS. We do not want to offer them en bloc. We want to offer them one by one.

The PRESIDING OFFICER. The clerk will report.

AMENDMENT NO. 1996

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Ms. MIKULSKI, proposes an amendment numbered 1996.

The amendment is as follows:

(Purpose: To provide that, of the amount made available under title III for the Navy for other procurement, up to $3,000,000 may be made available for the Joint Aviation Technical Data Integration Program)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading "OTHER PROCUREMENT, NAVY", up to $3,000,000 may be made available for the Joint Aviation Technical Data Integration Program.

Mr. STEVENS. I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment (No. 1996), as modified, is as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading "OTHER PROCUREMENT, NAVY", up to $3,000,000 may be made available for the Joint Aviation Technical Data Integration Program.

Mr. STEVENS. Mr. President, this is an amendment offered by Senator MIKULSKI for the Joint Aviation Technical Data Integration Program.

Mr. INOUYE. No objections.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to amendment No. 1996, as modified.

The amendment (No. 1996), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1887

Mr. STEVENS. I call up amendment No. 1887.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SALAZAR, proposes an amendment numbered 1887.

The amendment is as follows:

(Purpose: To rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation)

At the appropriate place, insert the following:

SEC. ____. (a) RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking "have a death gratuity paid" and inserting "have fallen hero compensation paid".

(2) In section 1476(a)—

(A) in paragraph (1), by striking "a death gratuity" and inserting "fallen hero compensation"; and

(B) in paragraph (2), by striking "A death gratuity" and inserting "Fallen hero compensation".

(3) In section 1477(a), by striking "A death gratuity" and inserting "Fallen hero compensation".

(4) In section 1478(a), by striking "The death gratuity" and inserting "The amount of fallen hero compensation".

(5) In section 1479(1), by striking "the death gratuity" and inserting "fallen hero compensation".

(6) In section 1489—

(A) in subsection (a), by striking "a gratuity" in the matter preceding paragraph (1) and inserting "fallen hero compensation"; and

(B) in subsection (b)(2), by inserting "or other assistance" after "lesser death gratuity".

(b) CLERICAL AMENDMENTS.—

(1) Such subchapter is further amended by striking "**Death Gratuity:**" each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting "**Fallen Hero Compensation:**".

(2) The table of sections at the beginning of such subchapter is amended by striking "Death gratuity:" in the items relating to sections 1474 through 1480 and 1489 and inserting "Fallen hero compensation:".

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

Mr. STEVENS. This is Senator SALAZAR's fallen hero compensation amendment, which we have agreed to.

Mr. INOUYE. We support it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1887.

The amendment (No. 1887) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1895

Mr. STEVENS. I call up amendment No. 1895.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BINGAMAN, for himself and Mr. DOMENICI, proposes an amendment numbered 1895.

The amendment is as follows:

(Purpose: To make available $3,000,000 from Research, Development, Test, and Evaluation, Air Force, for assurance for the Field Programmable Gate Array)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

Mr. STEVENS. This is Senator BINGAMAN's amendment for field programmable gate array. I have a modification which I send to the desk.

The PRESIDING OFFICER. Is there objection to the modification? If not, the amendment is so modified.

The amendment (No. 1895), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

Mr. STEVENS. I ask for approval of the amendment.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1895, as modified.

The amendment (No. 1895), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2017

Mr. STEVENS. I call up amendment No. 2017 and send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BENNETT, proposes an amendment numbered 2017.

The PRESIDING OFFICER. Is there objection to the modification? If not, the amendment is so modified.

The amendment (No. 2017), as modified, is as follows:

(Purpose: To make available, from amounts appropriated for the Research, Development, Test, and Evaluation, Army account up to $1,000,000 for the Chemical Biological Defense Material Test and Evaluation Initiative (PE 0605602A))

In the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "Research, Development, Test, And Evaluation, Army", up to $1,000,000 may be used for Chemical Biological Defense Material Test and Evaluation Initiative.

Mr. STEVENS. This is Senator BENNETT's amendment for chemical biological defense. We have accepted it as modified.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 2017, as modified.

The amendment (No. 2017), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1925

Mr. STEVENS. Mr. President, I call up amendment No. 1925.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ISAKSON, proposes an amendment numbered 1925.

The amendment is as follows:

(Purpose: To provide that, of the amount made available under title IV for the Army for research, development, test, and evaluation, up to $1,000,000 may be made available for an environmental management and compliance information system)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $1,000,000 may be made available for an environmental management and compliance information system.

Mr. STEVENS. Mr. President, this is Senator ISAKSON's amendment for funds for environmental management. I ask for its consideration.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1925.

The amendment (No. 1925) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1889

Mr. STEVENS. Mr. President, I call up amendment No. 1889.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SANTORUM, proposes an amendment numbered 1889.

The amendment is as follows:

(Purpose: To provide that, of the amount made available for research, development, test and evaluation for the Army, $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

Mr. STEVENS. This is Senator SANTORUM's amendment for hypothermia life support. I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1889), as modified, is as follows:

(Purpose: To provide that, of the amount made available for research, development, test and evaluation for the Army, up to $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

Mr. STEVENS. I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. INOUYE. No objection.

The PRESIDING OFFICER. If not, the question is on agreeing to amendment No. 1889, as modified.

The amendment (No. 1889), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1992

Mr. BYRD. Mr. President, more than 2,000 years have passed since Cicero said, "Endless money forms the sinews of war."

Let me repeat what I have said. More than 2,000 years have passed since Cicero, a great Roman senator, said, "Endless money forms the sinews of war."

How astute he was to point that out and how little the times have changed. Today, the United States is engaged not just in one war but two wars. The first of the two wars began 4 years ago when our country was invaded. Our country was attacked by 19 hijackers sent on their deadly mission by Osama bin Laden. That war continues today in Afghanistan. That is a war that was thrust upon us. That was a war in which the United States was invaded by 19 hijackers, not one of whom was from Iraq—not one. That war, as I say, was thrust upon us. The United States was invaded. The United States was attacked and thousands of Americans lost their lives. That is the war that I support. That is the war that I supported from the beginning.

But there is also another war, a war which the United States started, a war in which the United States was the attacker. We didn't wait to be attacked; we attacked another nation. We invaded, the United States invaded another nation that did not pose a threat, a direct and immediate threat to our national security. We, the United States, invaded another country that did not act to provoke our invasion.

Since March 19, 2003, our troops, Americans troops, have been sent into the breach in Iraq, a country which had no connection—none—no connection to the September 11 attacks on our country. I was against our policy with reference to the invasion of that country, Iraq. I was against that. That country did not pose an immediate threat to our national security, no. I said so then and I was right. No weapons of mass destruction were found. No weapons of mass destruction have been found to this day there in Iraq.

I hold no grief for Saddam Hussein, but we acted under the unconstitutional doctrine of first strike. The first strike doctrine, that is the doctrine that we followed. That is the doctrine that got us into Iraq. It is unconstitutional on its face. Why? Because the Constitution says Congress shall have power to declare war.

How can it be constitutional if a President, one man, Republican or Democrat or independent or whatever, can declare war if Congress has nothing to say about it, if Congress has no opportunity to debate it?

I do not question the inherent power of any President to defend our country. Congress may be out of town. Congress may be in recess. If we are invaded, of course, he has the power to act. But that was not the case here.

I and 22 other Senators voted against shifting that power to declare war, that constitutional power to declare war from the Congress to a President, and that law is still on the books. It has not been repealed.

We can talk about that at another time, but let me say today, these two wars have cost the lives of many Americans. In the first war, the one being fought in Afghanistan and elsewhere against Osama bin Laden, 243 American troops have given their lives in the line of duty. I support our efforts in that war. I have done so from the beginning.

In the second war, the war in Iraq, 1,934 young men and women have perished. I disagree with the policy that sent our troops to Iraq, but I join with all other patriotic Americans in supporting the men and the women who have been sent to Iraq. I don't support the policy that sent them there, but I support those men and women. They went, they heeded the call, they did their duty, and they are still doing their duty. Of course I support them. I join with all other Americans in supporting them and honoring those men and women who have paid the ultimate price in service to the United States.

In addition to lives lost, these wars have also cost our country a fortune, a colossal fortune in our national wealth. According to the Congressional Research Service, the Congress has already appropriated $310 billion to pay for these two wars. The Defense Appropriations Committee bill being debated now in the Senate adds another $50 billion to that figure. Most observers believe that tens of billions more dollars will be required in a matter of months. Who knows, before it is all over, we may find that the ultimate cost in Treasury may amount to $1 trillion. Who knows, when we think of all the things that must be done. We have to replenish the equipment that has worn out, that has rusted, that has been destroyed—the military equipment. Our own military people will have their requests in this year, next year and the next year and the next year, for money to replace that equipment.

Could we fight another war if we should be invaded today? Would we be prepared to fight another war? Could we?

If these estimates are accurate, the cost of the wars in Iraq and Afghanistan could easily exceed $400 billion by early next year—$400 billion. That is $400 for every minute since Jesus Christ was born. That is a lot of money, isn't it?

Once again, "Endless money forms the sinews of war."

That is simply the visible part of the cost of the war. We are slowly, slowly but surely, coming to realize that there are financial costs to the war that are buried deep within the Government's ledgers. In June, the Department of Veterans Affairs admitted to a major shortfall in its budget. Working together with Senator CRAIG and Senator MURRAY, I supported an amendment to add $1.5 billion in emergency funds to the veterans health care budget. My colleagues and I then worked to add $1,977,000,000 to the VA budget for the fiscal year 2006.

Why? Why? Why is the VA running short of funds?

Part of the reason lies in the fact that the administration did not budget enough funds to take care of troops coming home from these wars with serious injuries. But there is more. These injured veterans have earned compensation from the VA for their wounds.

According to the Defense Department, more than 15,000 troops have been wounded in Iraq and Afghanistan. Congress is yet to see a full estimate of the costs of these veterans' benefits.

There is also the matter of revenue that the Government coffers will never see because of the deployment of our troops to these wars. Troops serving in combat zones are exempt from income taxes. National Guardsmen and reservists often must do without their higher civilian pay during their deployment. No one would argue that wounded veterans should not receive compensation from the VA or the troops in war zones ought to pay taxes while they are risking their lives for our country. But the American people are not being told about these hidden costs of these wars. Why? Why is that?

The fact is, the administration has never provided the Congress with a budget estimate of what the war is costing the American taxpayers. Some may argue that the budget resolution passed in Congress by the thinnest of margins included $50 billion for the cost of the wars in Iraq and Afghanistan. That is true. That money is in there. The $50 billion also appears in this appropriations bill. But that estimate is just a number made out of whole cloth. The President did not request a single dime for the wars in his budget estimate submitted to Congress in February—not one thin dime, not even one copper penny. Instead, Congress picked a number out of thin air—$50 billion—and stuck it in the budget resolution.

That number is not backed up by any number crunching, any careful analysis, or any budgetary data. It doesn't even match up with the numbers prepared by the Congressional Budget Office, which estimates that $85 billion will be required to fight these wars next year, nor is that $50 billion paid for. This $50 billion is simply added to our national debt, a debt that will have to be paid by our children and our children's children.

I say one more time, "Endless money forms the sinews of war." I am quoting Cicero, of course.

The administration needs to budget for the wars in Iraq and Afghanistan. It should not be sufficient for Congress to pick a number out of a hat, appropriate funds to match that number, and hope that our troops will be taken care of. The administration needs to step up to the plate and tell Congress and the American people how much it expects to spend on the war, what the money will be used for, and how our Nation is going to foot the bill. It may be easier said than done, but we ought to do our best.

To some observers, the importance of budgeting for the war may seem like a furor over how much paper should be pushed around in Washington, DC. Although the terms used in this debate are arcane—how many people outside the beltway know anything, or much at least, about emergency supplementals, the budget process, or outlays and budget authority—the principles are vitally important to our country.

There is an important principle that a country must share the burdens of war among its citizens. Think back to World War II and what was asked of the American people in that conflict: victory gardens, daylight savings, gasoline rationing, and on and on. We do not see anything like that today. Quite the opposite. For the first time in American history, our Nation has cut taxes during a time of war.

The wars in Iraq and Afghanistan have forced great sacrifice.

Let me say that again.

These wars—the war in Afghanistan, which I support, the war in Iraq, which I have never thought we should engage in—have forced great sacrifice among those who serve our country, and their families as well. Our troops risk life and limb while their spouses, their parents, and their children pray for their safety and for their return home. It is these troops and their families who have had so little relief from the burdens of these wars.

Last year, Congress passed a law to compensate Americans for spending up to $1,000 out of their own pockets to send body armor, boots, gloves, and other equipment to troops serving overseas. But the Pentagon still has not implemented this law, giving short shrift to those who have done the most to support our troops. These families have not been recompensed for their support of the troops. Why is the Defense Department bureaucracy so slow to implement this law? Why? Why is the Defense Department bureaucracy so slow to implement this law? It ought to be a priority to help these Americans who have done so much to help our troops.

The sacrifices demanded by the two wars in Iraq and Afghanistan are falling disproportionately on the few. The President has said our Nation is at war. No. Our Nation is not at war. Our military is at war. Yes. The National Guard, the men and women in the military, they are at war but not the Nation. We scarcely hear much about it.

Our troops are shedding their blood, and their families are doing so much to support them. Meanwhile, the average American goes about his day-to-day business with little interruption, only to pause in solemn reflection upon the occasional news report about the tragic death of another soldier from his community.

When Winston Churchill rallied his country in World War II, he urged the British to "defend our Island, whatever the cost may be, we shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the fields and in the streets."

It was a call not just to English soldiers to fight but for the country to share the burden of the struggle.

What a stark contrast to the wars we are in today in which so little is asked of the American people compared to what is demanded of our military personnel. In light of the incredible toll of these wars on our country, it is time to rethink that unfair balance of sacrifice.

Three times before, the Senate has voted to urge the administration to budget for the cost of the wars in Iraq and Afghanistan so that there may be a debate about how the President intends to spread the sacrifice fairly among all Americans. Three times, the Senate has voted to urge the administration to budget for the cost of the wars in Iraq and Afghanistan, and three times that call has not been honored, it has been dismissed. The enormous cost of keeping hundreds of thousands of troops fighting in two wars, each of them half a world away, continues to be a black hole in the President's budget.

Congress and the American people keep hearing the same old line: The administration cannot budget for the cost of the war because the true cost is unknowable. The Secretary of Defense, Mr. Rumsfeld, when he was asked about the cost, said the cost is unknowable. Of course, he is right. It is unknowable, but surely the administration has some estimate somewhere. Surely the Defense Department has some estimate, and it has had some estimate—some estimate of what the war was going to cost.

We have heard that the cost is unknowable. We have heard that many times before. But it strains one's belief to argue that the Secretary of Defense, with legions of bureaucrats and accountants at his disposal, cannot make an estimate of how much it will take to support our troops for the fiscal year that began last week. With 18,000 American troops in Afghanistan and 149,000 troops in Iraq who are risking their lives each and every day, one would think that the Pentagon could muster the courage to estimate how much money it will take to support our fighting men and women. We are talking about an estimate.

The amendment that I offer to the Defense appropriations bill again states the sense of the Senate that the President should budget for the war. We have been at these two wars a long time now. I could understand how he might not be able to budget for the first few months of a war, but we have been at these wars a long time and we still see no budget for them. Still the American people do not know. Whatever is requested of the Congress, the administration does it with supplemental appropriations bills. There are not very thorough hearings on supplemental appropriations bills. They say: We spent this much and we have to appropriate.

The American people do not realize the cost of these wars. So let me say again, the amendment I offer to the Defense appropriations bill states it is the sense of the Senate that the President should budget for these wars. President Roosevelt did it for World War II, President Johnson did it for Vietnam, President Clinton did it for Bosnia, President Bush did it for Kosovo, and it is time to do it for Iraq and Afghanistan.

Let the American people know how much of their hard-earned tax dollars will be needed for these wars. Let Congress debate how these costs must be borne. Let our Government take a responsible approach on how we pay for our troops in the field.

I urge my colleagues to once again support the President, support my amendment, and urge the President to budget for the war.

Mr. President, I ask unanimous consent that Senator FEINGOLD may have his name added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

AMENDMENT NO. 1992

Mr. BYRD. Mr. President, I call up amendment No. 1992.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1992.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate on budgeting for ongoing military operations in Iraq, Afghanistan, and elsewhere overseas)

At the appropriate place, insert the following:

SEC. . (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108-87), the Department of Defense Appropriations Act, 2005 (Public Law 108-287), and the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) In section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 252), the Senate requested that the President submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year.

(5) The President has yet to submit such an amendment.

(6) The Department of Defense Appropriations Act, 2006, as reported to the Senate by the Committion on Appropriations of the Senate on September 28, 2005, contains a bridge fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(7) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 cost of ongoing military operations in Iraq and Afghanistan could total $85,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the amendment to the budget of the President for fiscal year 2006, requested by the Senate to be submitted to Congress not later than September 1, 2005, by section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, is necessary to describe the anticipated use of the $50,000,000,000 bridge fund appropriated in this Act and set forth all additional appropriations that will be required for the fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

Mr. BYRD. I have indicated the purpose of the amendment and the intent of the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, did the manager of the bill have something?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. It would be the intent of the managers of the bill to indicate to Senator BYRD that we would be pleased to accept that amendment when the time comes. We will leave up to Senator BYRD when he wants to have the vote.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. STEVENS. The Senator indicated he would be willing to have the amendment considered at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1992) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. This is similar to an amendment we have carried in the bill before. We appreciate the Senator's position. It is the position of the Senate. The President has decided otherwise, but we hope next year the regular Defense bill will include the moneys for the ongoing war on terrorism.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from the great State of Alaska for his statement. I thank the very great Senator from the State of Alaska for his statement and his support. I also thank our colleague on this side of the aisle, the other manager of the bill, Senator INOUYE, for his support.

Incidentally, may I say I guess I am the only remaining person in Congress who voted for the entry of both Alaska and Hawaii into the Union. Praise God, I did that in each case. These are two fine Senators, two of the greatest.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me begin by paying my respect to the Senator from West Virginia, Mr. BYRD, who has for several years now on the subject of Iraq been perhaps the most forceful and eloquent and prescient Member of the Senate with respect to the events there. He has been consistent. He has been strong. All Members in the Senate are enormously respectful of his voice and his leadership on this issue.

I know for the Senator from West Virginia, the years I have been here, there has been no more stalwart, dedicated, reliable defender of America's interests anywhere in the world. There has been no one who has stood up more for our young men and women in uniform. I know this journey he has taken with respect to his feelings about the war were not easy, and they were contrary in some ways to that long record on the surface. But it is when you get below the surface and look at some of the continuity of his thinking about the Constitution, about our obligations as Senators, and about the fundamental reasons why you send young men and women to fight anywhere that you see that, indeed, what he is fighting for now is as consistent with what he has fought for throughout his record and career in the Senate. I thank him for that and pay my respect to him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts for his observations, for his loyalty to his country, for his service to his country, and for the costs to his human self. For that great service, I thank him. And I thank him for the statement he has just made.

Mr. KERRY. I thank the Senator.

AMENDMENT NO. 2033

Mr. KERRY. Mr. President, I ask unanimous consent that we set aside the pending amendment, and I call up amendment numbered 2033.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. KENNEDY, Mr. REED, Mr. DORGAN, Mr. JEFFORDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. CORZINE, Mr. KOHL, Mr. BAYH, Mr. DURBIN, Ms. CANTWELL, Mrs. CLINTON, Mr. BAUCUS, Mr. REID, and Mr. SCHUMER, proposes an amendment numbered 2033.

Mr. KERRY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for appropriations for the Low-Income Home Energy Assistance Program)

At the end of title VII, insert the following:

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of

1981 (42 U.S.C. 8621 et seq.), $3,100,000,000, for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Act (42 U.S.C. 8623(e)), which amount shall be made available for obligation in fiscal year 2006 and which amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC.   . Congress finds the following:

(1) An imminent emergency is confronting millions of low-income individuals in the United States who are unable to afford the cost of rising energy prices.

(2) Prior to the devastation caused by Hurricanes Katrina and Rita in the Gulf Coast region of the United States, individuals in the United States were facing record prices for oil, natural gas, and propane. Hurricane Katrina damaged platforms and ports and curtailed production at refineries in the Gulf of Mexico, the source of almost ⅓ of United States oil output, further raising energy prices.

(3) The Short Term Energy Outlook report of the Energy Information Administration of the Department of Energy states that the ranges for expected heating fuel expenditure increases for the winter heating season of 2005-2006 are—

(A) 69 percent to 77 percent for natural gas in the Midwest;

(B) 17 percent to 18 percent for electricity in the South;

(C) 29 percent to 33 percent for heating oil in the Northeast; and

(D) 39 percent to 43 percent for propane in the Midwest.

(4) According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit $1,666 for the 2005-2006 winter heating season. Those costs would represent an increase of $403 over those costs for the 2004-2005 winter heating season, and an increase of $714 over those costs for the 2003-2004 winter heating season. For families using natural gas, prices are projected to hit $1,568 for the 2005-2006 winter heating season, representing an increase of $611 over those costs for the 2004-2005 winter heating season, and an increase of $643 over those costs for the 2003-2004 winter heating season. States need additional funding immediately to help low-income families and seniors to ensure that they can afford to heat their homes.

(5) The Mortgage Bankers Association expects that steep energy costs could increase the number of missed mortgage payments and lost homes beginning later this year.

Mr. KERRY. Mr. President, this amendment is cosponsored by Senators KENNEDY, JACK REED, DORGAN, JEFFORDS, MIKULSKI, LAUTENBERG, CORZINE, KOHL, BAYH, DURBIN, CANTWELL, CLINTON, SCHUMER, BAUCUS, HARRY REID, DAYTON, STABENOW, HARKIN, COLEMAN, SNOWE, DODD, LEVIN, and BINGAMAN. I ask unanimous consent that all of their names be added to the amendment as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I know there is a reluctance, and I understand it, by the managers of the bill to have an amendment on a subject that does not fit neatly and squarely and automatically under the bill. As they know, the number of legislative opportunities here are very few now, and we are on the appropriations track. This amendment has been authorized already, so it is authorized. The question is what we are going to do to effect it.

This is an amendment to deliver $3.1 billion of emergency funding—I emphasize "emergency" funding—to the Low-Income Heating and Energy Assistance Program.

The tight natural gas market and the devastating impact of the recent hurricanes have resulted in what everyone knows and feels in their pocketbooks are unusually high fuel prices and very high fuel price forecasts for the foreseeable future. According to the Energy Information Agency, families are going to pay about 77 percent more for natural gas in the Midwest, 18 percent more for electricity in the South, and 33 percent more for heating oil in the Northeast. Heating oil costs for the average family using heating oil are expected to hit about $1,066 during the upcoming winter. That is $403 more than last winter, and it is $714 more than the winter heating season of 2003-2004.

Rapidly rising energy costs have an incredibly negative impact on the ability of low- and even middle-income but fixed-income individuals to be able to meet their demands. High prices are forcing working families to choose warmth over other basic necessities, or in the South, in certain seasons, obviously, cool. Those are tough choices to make. The National Energy Assistance Directors' Association found that 32 percent of families sacrificed medical care last year in order to be able to meet those prices, 24 percent failed to make rent or meet mortgage payments, and 20 percent went without food for at least a day. We have a whole bunch of people in America who are giving up food or rent or medical care in order to be able to pay for the home heating oil.

Hurricane Katrina is a stark reminder of precisely what happens when the Government does not prepare ahead of time for disaster. We have an opportunity now to prepare ahead of time. If we do not act now, families are going to be forced to choose between medical care and heat during the winter. That is just around the corner. In November, it begins to get cold in a lot of States. The fact is, having to choose between a warm house or a full stomach for your children is not a choice anyone in America, the wealthiest nation on the face of the planet, wealthiest industrial nation, ought to welcome.

The number of households receiving what is known as the LIHEAP assistance has increased from about 4.2 million in fiscal year 2002 to more than 5 million this year, which is the highest in 10 years. LIHEAP applications are expected to increase very significantly this winter. Yet the funding levels for LIHEAP are not keeping pace. LIHEAP's buying power is significantly less than when it was established. According to the Government's Consumer Price Index, what cost $100 in 1982 cost just shy of $200 in 2004. Using the CPI calculation for inflation, that means that a $1.8 billion appropriation for LIHEAP in 1982 should have been a $3.7 billion appropriation in 2004. LIHEAP currently serves less than 15 percent of those people who are eligible in the country.

I understand this amendment can be blocked procedurally. I know that. I hope that will not happen. It is a bipartisan amendment. It is not my preference to attach it to this bill, but it is our only option with the recess coming up in a few days. After the comments of the Secretary of Energy this week that the administration has no plans of asking Congress for more money, we have no choice but to say this is on the congressional agenda, this is on our radar.

I urge my colleagues to support this bipartisan amendment to add $3.1 billion for LIHEAP in the fiscal year 2006 appropriations bill. It is emergency funding. It does not require an offset as a result. It is an emergency. It is the amount we have authorized. It represents the amount we need. It is critical funding to avoid a looming but absolutely preventable crisis for millions of American families who have been hard hit by the additional costs of fuel oil and the diminishing affordability of home heating oil as the winter approaches.

I yield the floor.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2005

(Purpose: To curtail waste under the Department of Defense web-based travel system)

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up Coburn amendment No. 2005.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2005.

At the appropriate place, insert the following:

SEC.   . None of the funds appropriated by this Act may be obligated or expended for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

Mr. COBURN. Mr. President, this is an issue that came to my attention not long after I was sworn in as a Senator. I hope the American public pays attention to the system I am getting ready to describe because way too many things in the Federal Government are bought this way.

The goal of the Defense Travel System was a worthy goal. It said: We travel so much, we ought to have a system that gets us the best fare and can do that on a routine basis so we can save money when Defense Department employees travel. They contracted with a firm to develop that system. It was not necessarily a competitive bid contract either.

What this amendment does is prohibit money from being spent on operations and further development of the system because, quite frankly, it does not work. It works less well than any private travel system that is out there now. It works less well than the GSA's travel system.

We are now close to $500 million being spent with one contractor to develop a system that does not work. The system did not work at the first development stage, which cost $47.3 million, and the Defense Department bailed them out. It did not work. It has never met the requirements or the efficiency or the savings that it was supposed to meet.

It is kind of similar to one of those things you get into and you keep hoping it will work, keep hoping it will work, and then it does not work. Well, the American taxpayers are now on the hook for almost $500 million.

The Defense Department does not even own this program. That was recently changed so the contracting law could be avoided, in terms of going after this contractor on it, because it was not competitively bid, because it was not managed properly.

When you review the DTS system, in 2002, the DOD Inspector General said it should be shut down unless a cost-benefit analysis was prepared that showed the worthiness of its continuation. No analysis has ever been conducted. That was in 2002, and we had only spent about $100 million on it. We are now at $500 million. There is no cost-benefit analysis that has been done. Every Defense Department employee can travel cheaper following some other system than this system. We do not own it. We keep paying for it. We keep paying for the development of it.

The American taxpayers are getting hooked, and yet when we are finished with it, we are still not going to have a system that is as good as what is in the private sector. It is a boondoggle, at best.

Program Assessment and Evaluation testified they were unable to complete an analysis because the DTS office had not even kept enough documentation of their own expenditures to make a reliable assessment.

We have big contracting problems in the Defense Department, and this is the best example I know of that ought to be eliminated tomorrow.

At the end of the seventh year of an 8-year contract, a cumulative total of 370,000 travelers had utilized DTS out of 5.6 million annual DOD travelers. So for $500 million, over the 7 years, we have had 370,000 travelers. It has cost us $1,500 per ticket, not counting the price of the air fare.

There is not anybody in America who would look at this, with any common sense, and say we ought to continue this boondoggle.

The utilization rate for the current calendar year under the Defense Travel System is at 15 percent. That means only one in eight employees of DOD uses this system to buy a ticket. And then they do not always get the best price.

In order to break even with the costs of DTS annualized—in other words, its annual cost—90 percent of DOD employees would have to use it. They are not using it. DTS costs $40 to $50 million per year in operations and maintenance. Orbitz does not come close to it. The GSA accounting system does not come close to it. None of them come close to it. Yet we are continuing to spend $50 million of the American people's taxpayer dollars before we get the first ticket. So it is a system that does not work. It is broken. The contracting mechanism is broken. Yet we still have people who are going to come to the floor to defend a system that is broken.

Travel executive Robert Langsfeld testified at the hearing that DTS performed less effectively than any—any—civilian e-travel system. We have $500 million in it, and it is unending on what we are going to have, and it still works worse than any private e-travel system. We have spent half a billion dollars.

The Federal Government has also spent this money on a system that is not even reliable. It might work one day and does not work the next. It might get you the best fare, it might not.

Unlike DTS, GSA e-travel contracts do not pay operations and maintenance for the programs. They only pay a per-transaction fee.

So for what was a good idea that turned sour, we continue to pour unspoiled milk on soured milk, and it becomes soured milk. So we continue to spend money on it.

The Government still does not own DTS, as I said. It is an intellectual property—computer software and source codes. Last year, Judge George Miller of the Federal Court of Claims decided he would not even look into allegations of violations of the Competition in Contracting Act because the software and source codes are owned by the contractor. So if the contract were opened for bidding and another bidder was awarded the contract, the Government would have nothing left but a $500 million loss.

But last week, before the hearing, the contractor promised to transfer ownership of this intellectual property to the Defense Department at the end of the contract period, if requested. The reason for this, obviously, is to maintain the fiction that the open bidding on the contract in 2006 is on the level. It is not. There is no open bidding. It violates the very laws that were put on the books to try to maintain competition in contracting. Ownership of DTS bounces around to wherever it is most convenient for avoiding serious scrutiny.

One of the secret changes in the contract that was alleged to have violated the Competition in Contracting Act was the shift from a fee per transaction, as we do with all the civilian e-travel systems, to a cost plus guaranteed profit for the contractor. That has proven they are inept at developing a system. So now we have even changed the contract. Now that we spent $500 million on it, we are now going to change it. We are not going to hold them accountable. We are going to guarantee them a profit for incompetency and inefficiency. It is fair to have Defense contractors reimbursed on the same terms as civilian contractors and agency contractors who are doing the same thing. My amendment will permit that, and only that, a cost per service.

Another secret contract change was an agreement by the Government to pay $43.7 million that had been spent in development costs by the original contractor. We got absolutely nothing for that money. It just covered the losses suffered by the contractor in trying to do something they were not capable of doing, and they are still not capable of doing, rather than to go into the private sector and buy one that was already developed.

This is money the Government was not obliged to pay under the original contract, but we paid it anyway. We paid it anyway—$47 million. We are trying to pay for Katrina now. We are trying to fund the war in Iraq. We have a $500 million boondoggle that does not work, and we will have people defend that on the Senate floor. The fact is, they can't compete. That is what the testimony of the GAO is. That is what the testimony of everybody is. They do not even compete. And now they are only at a 15-percent utilization rate.

Failure carries no negative consequences when we contract this way. When we contract this way, we violate our oaths as the defender of the taxpayers of this country to spend their money wisely. I know I am up against a powerful defense contractor as I attack this process. I want to support our defense contractors. I want to make sure they are there to help us fight and win and defend our freedoms, both here and abroad. But this is the kind of garbage that needs to come out of the contracting system. It is the kind of thing that we need to put on the floor and say: Defend this. Defend it. You cannot defend it. It is indefensible that we would spend a half a billion dollars trying to get an e-travel system, when they are out there working nine times better than anything this program has developed.

I am hopeful the Members of this body, and the American public, more importantly, will call this body, will secure this body's attention on issues just like that. If we are going to not steal from our grandchildren, then we have to be about cleaning up the contracting process in the Pentagon. This is a good first step in doing that.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. Does the Senator withhold?

Mr. COBURN. I withdraw my request.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I salute the Senator from Oklahoma. We have been in Iraq for over 3 years. We have been asking for investigations of these no-bid contracts to these large companies. We have to have Congress accept its responsibility with oversight hearings. More oversight hearings have been held by party caucuses in the Senate than by actual committees looking at these same companies we think are profiteering and ripping off taxpayers.

Congress has a responsibility, too, not just the Department of Defense. We have a responsibility in the Senate. We ought to bring this message to both of our caucuses and say, When are we going to have oversight hearings on those contracting with the Pentagon and making millions of dollars and not making us stronger as a nation?

I salute the Senator from Oklahoma. It is a delicate subject. He has the courage to bring it before us.

IRAQ

Mr. DURBIN. Mr. President, I have come to the floor to talk about Iraq as well. I come each and every week. The reason I came the first week was that back home in Illinois someone said: I watch a lot of C-SPAN. Why don't you talk about the war in Iraq? Why doesn't anybody come to the floor and talk about the men and women dying over there? Shouldn't that be brought up every day in the Senate—our sons and daughters, husbands and wives, the bravest and best are dying every day in Iraq?

I thought to myself: How can we be in the middle of a war and go about business as usual on Capitol Hill? We should be talking about this every single day because the war goes on every single day.

This morning, the Pentagon released these figures as of 10 o'clock: 1,942 Americans have been killed in Iraq; 14,902 have been wounded. I have been to these hospitals—Walter Reed, the veterans hospitals back in the Midwest—and I have seen these brave men and women who have come home wounded and, trust me, many of those wounds are extremely serious. They have come home with amputations, serious head injuries, and psychological scars.

Since the Iraqi elections last January, which were greeted by all of us with a great deal of praise for the bravery of the Iraqi people, since those elections took place, 507 of these American soldiers have died, 507 funerals in America. The numbers keep climbing. Some days it is one at a time. Other terrible days it is five or six. Mr. President, 1,942 Americans killed in Iraq; almost 15,000 wounded.

So I will keep coming to the floor to address this issue, to make sure we never forget these men and women and the sacrifice that they, their families, and people who love them make every single day.

I don't want to pretend for a moment this was brought up to me over the weekend. I don't want to pretend for a moment this is the only death and suffering in Iraq. There are innocent Iraqi people who die every day as well. We cannot even put a number on it. I said to my staff: Go to the United Nations, go to the Red Cross, go to some group and tell me how many Iraqis have died since our invasion of Iraq.

They cannot come up with a number. Some estimates are very different. The Brookings Institution, which is recognized as a nonpartisan research organization, puts the estimate between 14,000 and 24,000 Iraqis who have been killed since the start of the war. Others have estimates that go much higher. We don't know. We don't know how many innocent people have died as a result of this war or how many died because of criminal violence.

Iraqis still die every day. Just this last week, we had three coordinated car suicide bombs that went off in a single marketplace. You have seen the photos. You have seen the people, crushed with grief—the mothers, the friends, and fathers, standing next to the mutilated corpses of these victims. These bombs that were detonated recently were staggered to explode at different times so they killed as many innocent people as possible. This is a tactic we have seen over and over again in Israel. Now it has come to pass in Iraq on a regular basis. It is despicable, it is depraved conduct. It is an example of inhumane cruelty.

These attacks on American soldiers and on the innocent Iraqis underline the importance of our mission there and the need for us to be prepared to bring this to the right conclusion. We need to have better training and equipment of the Iraqi security forces and Iraqi police. They must not only have the capability to defend themselves, they must have the will to defend themselves.

Last week, General Abizaid, Commander of the Central Command, and General Casey, Commander of United States and coalition forces in Iraq, testified before Congress. They disclosed a piece of information that had been classified for a long period of time, but they finally brought it out to the American people, and we can speak to it on the floor. It is a piece of information we have known from our classified briefings for some time, and it is this: Of over 100 battalions of Iraqi Army forces in existence today in Iraq, exactly 1 battalion is ready to fight independently—1 out of over 100. That is an incredible number. Billions of dollars that we put in there, promises to the American people that Iraqi soldiers will stand and fight so our soldiers can come home, and as of last week, these two generals testified in open session that one battalion is combat ready as an independent force.

President Bush has said over and over: As Iraqi forces stand up, we will stand down. There is only one Iraqi battalion. That is about 1,000 soldiers. Only 1 battalion standing up; 146,000 American soldiers standing up. They are trying to bring peace to a country that is obviously not ready to defend itself and may not be for a long time.

Many Members on this side of the aisle and the other side are stating very clearly that we need assessments, not platitudes, when it comes to the situation in Iraq. We need to know how many Iraqi forces must be trained so we can start bringing home American troops. We need to know when this administration expects we will reach that number. The fact is over the last 6 months, despite all the promises that have been made, still only one battalion is ready to fight, and the American people need to know the cost, not just in these graphic human terms, but in terms of dollars being spent: $5 billion a month in Iraq. We appropriated $18 billion for the reconstruction of war-torn Iraq, and I remind my colleagues that when we debated that, I don't recall a single Senator coming to the floor and saying: We have to cut spending in some other area before we rebuild Iraq. No, they save that argument for the rebuilding of America after Hurricane Katrina. But we put the $18 billion in place.

Yet when you read the press accounts of the average families in Iraq today, they tell you that life is so much worse than it was a few years ago—no electricity, no sewage, no regular water, no security on the streets, fears that their children will be kidnapped on the way to school. They are trying to leave if they can find a way out. That is the real situation in Iraq on the ground today despite the heroic efforts of our men and women in uniform. Our men and women in uniform have not failed; the political leaders have failed—failed to come up with a plan which said after Saddam Hussein is gone, this is how we will end this war. Sadly, we were not prepared to answer that question, and our soldiers have paid the price.

I am told the President this week will be giving a speech to America about Iraq. It is time for some answers, specific answers, and it is time for accountability. Let's get beyond the generalities. We are talking about real human lives—our sons and daughters—and we need specific answers.

I respectfully suggest the President ought to address four issues: First, how many Iraqi forces must be capable of operating on their own before we can start bringing American soldiers back home, and how soon will we reach those goals?

Second, what specific measures will the Bush administration take before and after the October 15 constitutional referendum to forge the necessary political consensus and reconcile the growing sectarian and religious differences?

Three, what efforts has President Bush made or will he make to bring in broader international support? The coalition of the willing has been shrinking ever since the invasion of Iraq. It is American soldiers and some British soldiers and a few others willing to stand and fight and secure this country. What is this administration doing, if anything, to bring in Muslim forces so we can blunt the criticism that we are somehow a force of occupation, unwelcome in this Muslim country?

Fourth, how should the American people assess the progress in reconstructing Iraq? What are the tangible results of the billions of dollars American taxpayers have provided for Iraq? How is this money being accounted for?

I made the point earlier to the Senator from Oklahoma that we have yet to have a serious oversight hearing about the no-bid contracts in Iraq. Haliburton, all of the names we have heard over and over again, multimillion and billion-dollar contracts, and we won't even ask the hard questions as to whether the money is being well spent. We are shirking our responsibility, our congressional oversight responsibility.

I hope the President goes beyond generalities in his speech. Let's get down to specifics. Let's say to the American people and the soldiers they love: This is our plan for bringing our troops home from Iraq.

I hope this speech is an announcement that we have a new strategy, a strategy for success, a strategy for our soldiers to come home. Staying the course is not a new strategy. I hope on Thursday the President speaks truth to the American people. I hope he offers honest and realistic assessments of what we face.

On October 15, the people of Iraq will vote on a constitution. If it passes, there will be parliamentary elections in December. If it is rejected, the constitutional process will start all over again in December.

There is a lot of speculation about what might happen. A constitution alone is not going to stop the violence, but if the constitution can lead to a unified country or the notion of nationhood making any sense, then that constitution is a step in the right direction.

Sadly, this nation of Iraq is a nation of many different groups who have yet to show us they can come together, and until they do, it is unlikely we can bring our troops home.

There were 23 of us in the Senate who voted against the use-of-force resolution: 23 of us—1 Republican and 22 Democrats who had serious questions about this decision by this administration to invade Iraq. Many of us felt we needed a broader alliance. Many of us felt the information given to the American people prior to the invasion was misleading about weapons of mass destruction, nuclear threats, and alliances with al-Qaida.

Sadly, in the 3 years since, we found that information was just plain wrong. Information given to the American people to ask them to give their sons and daughters in combat was just plain wrong. And here we stand today.

Iraq is a diverse place. The war has made the differences among religious and ethnic groups so much more than they were even before our invasion. To add to these internal tensions, I know there are many neighbors of Iraq who don't want to see that nation succeed. It is a mean neighborhood, no question. Syria, Iran, and others clearly are fomenting trouble, making a terrible situation even worse.

The enemies of Iraqi progress in unity would like to see this division and chaos continue. The Sunnis, the Shi'as, the Kurds, and 24 other recognized groups have the future of Iraq in their hands. The question is whether they believe they have the possibility of becoming a nation and defending themselves.

Many Sunnis did not participate in the last election to choose those who wrote the constitution. We have been told as late as today that they are rewriting the constitution 10 days before the election in the hopes of winning Sunni support.

It is hard to believe this is going to result in what we hope for, but I pray it will. A stable Iraq, moving forward, controlling its own destiny, is the best thing for that country and the best thing for America.

There are a lot of reasons why the Sunnis oppose the constitution. They represent 20 percent of the population, but they represent about 90 percent of these insurgents who are causing these attacks every day, killing innocent Iraqis and our men and women in uniform. Most Sunnis are not insurgents; they are peace-loving people. But they are being overrun by forces they cannot control.

There is a fight over oil. The oil is primarily in Shi'a and Kurdish territory. The Sunnis resent that fact. They want to make certain the riches of that country are shared.

The constitution postpones a lot of critical decisions to a later date, but this constitution is the fundamental underlying law that could guide Iraq in its future.

I am told that when we take a look at the militias and forces in Iraq, we find they are basically split into different factions. Only one battalion combines Iraqis. The others are Kurdish battalions and Shi'a battalions and Sunni battalions. It does not give a positive feeling about this nation moving forward toward one common country.

I hope we can see the changes that are being proposed in this constitution result in its passage and support by all of the different forces that can make Iraq a nation on its own feet.

Secretary of State Colin Powell told President Bush before the war: You break it, you buy it. That is not entirely true. We may well have broken Iraq from what it once was, but we cannot and do not own it. We are unwelcome tenants at this moment in that country, but we need to start thinking about when we will return, and we need to have the hope and the aspirations of the people of Iraq in our minds and be prepared to accept them.

President Bush has a chance tomorrow to tell us that there is a new course, a course that will stop the killing of innocent American soldiers, a course which will avoid those who are wounded and suffering as a result of this war in Iraq, and a course which will bring to an end quickly the insurgency which kills so many innocent Iraqis.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that at 7:30 today, the Senate proceed to votes in relation to the following amendments in the order listed, provided further that no second-degree amendments be in order to the amendments prior to the votes. The first is the Warner amendment No. 1955, which is defense of germaneness; the second is Bayh amendment 1933; the next is McCain amendment 1977. Provided further that there be 6 minutes equally divided for debate prior to each of the above ordered votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator from Illinois.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. If I might just make a parliamentary inquiry of the Chair. Our distinguished colleague from Connecticut has been waiting for a period of time. I wish to respect that, but I ask following his remarks if the Senator from Virginia could be recognized for the purposes of a colloquy with the Senator from Michigan, Mr. LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. I am not sure if I still have the floor. I say to my colleague from Connecticut that I will speak for about 10 or 12 minutes and then will yield the floor.

Mr. DODD. I ask unanimous consent that I follow my distinguished colleague from Illinois.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. WARNER. Did we understand that the Senator from Illinois wants another 15 minutes?

Mr. DURBIN. That is right.

The PRESIDING OFFICER. The Senator had the floor and has that right.

Mr. WARNER. Yes, of course, I recognize that. I was just trying to be informed as to how the rest of us can plan our schedules. The Senator from Connecticut might well desire what period of time?

Mr. DODD. I would say to my colleague, I hope maybe it is 15 minutes or so. Depending upon the reaction of the chairman and the ranking member of the committee, maybe even less time than that. I will try to be brief because I know the Senator from Virginia and the Senator from Michigan are interested in having a colloquy.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in the interest of keeping business moving, I am going to yield the floor at this point and return at a later moment. I will let the Senator from Connecticut take the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1970

Mr. DODD. Mr. President, I thank my colleague from Illinois for his graciousness. I thank my colleague from Virginia as well for his consideration, and I will try to be brief.

I call up amendment No. 1970 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1970.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the authority for reimbursement for protective, safety, and health equipment purchased for members of the Armed Forces deployed in Iraq and Central Asia)

At the appropriate place, insert the following:

SEC. . (a) REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.—

(1) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(3) REGULATIONS NOT REQUIRED FOR REIMBURSEMENT.—Reimbursements may be made under this subsection in advance of the promulgation by the Secretary of Defense of regulations, if any, relating to the administration of this section.

(b) PROTECTIVE EQUIPMENT REIMBURSEMENT FUND.—

(1) ESTABLISHMENT.—There is hereby established an account to be known as the "Protective Equipment Reimbursement Fund" (in this subsection referred to as the "Fund").

(2) ELEMENTS.—The Fund shall consist of amounts deposited in the Fund from amounts available for the Fund under subsection (f).

(3) AVAILABILITY.—Amounts in the Fund shall be available directly to the unit commanders of members of the Armed Forces for the making of reimbursements for protective, safety, and health equipment under subsection (a).

(4) DOCUMENTATION.—Each person seeking reimbursement under subsection (a) for protective, safety, or health equipment purchased by or on behalf of a member of the Armed Forces shall submit to the unit commander of such member such documentation as is necessary to establish each of the following:

(A) The nature of such equipment, including whether or not such equipment qualifies as protective, safety, or health equipment under subsection (c).

(B) The cost of such equipment.

(c) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—Protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multi-purpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army, or equivalent programs of the other Armed Forces, such as the advanced (on-the-move) hydration system, the advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, a gun scope and a soldier intercommunication device.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

(1) the cost of such equipment (including shipping cost); or

(2) $1,100.

(e) OWNERSHIP OF EQUIPMENT.—The Secretary shall identify the circumstances, if any, under which the United States shall assume title or ownership of protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(f) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts for reimbursements under subsection (a) shall be derived from any amounts authorized to be appropriated by this Act.

(2) EXCEPTION.—Amounts authorized to be appropriated by this Act and available for the procurement of equipment for members of the Armed Forces deployed, or to be deployed, to Iraq or Afghanistan may not be utilized for reimbursements under subsection (a).

(g) REPEAL OF SUPERSEDED AUTHORITY.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118. Stat. 1857) is repealed.

Mr. DODD. Mr. President, this is old business in the sense of what I am bringing up was a matter considered a little over a year ago on similar legislation. I regret that I have to come back again this year. My colleagues voted unanimously a year ago to adopt this amendment or an amendment very much like it. The other body as well agreed to this amendment during conference between the two bodies. It became the law of the land.

The amendment basically said that for those men and women in uniform serving in Iraq and Afghanistan who purchased—or family members, neighbors, or others—essential equipment that they needed in their role as service men and women, it would be reimbursed up to a maximum amount of $1,100 over a relatively limited period of time. The amendment was straightforward, clear-cut, and enjoyed the strong support, I might add, of the chairman of the Armed Services Committee, Senator WARNER, as well as others who believed this was the right thing to do.

At the time, the Pentagon objected to the amendment, offered talking points against it, and said it was unmanageable to have a reimbursement program for equipment that our service men and women were having to either buy themselves or having bought for them by family members or others.

Over the last year and almost a half, I have had some 15 or 16 exchanges and correspondence with the leadership of the Pentagon. Up until today, and I mean literally this afternoon, there had been almost no response to this requirement of law. As of today—and I will get to this in a minute—they have decided to issue some regulations. It is not a coincidence that they are offering those proposed regulations the very day I am offering the amendment again on the floor. There is an old expression, "I was born at night but not last night," and I would love to believe that this was strictly a matter of timing, but I am concerned that basically there is still a resistance to the idea that our service men and women ought to be receiving the kind of equipment they need, particularly in a war zone.

As we all know, and again I am stating the obvious, we are at war. The safety and protection of our troops in the field could not be a more serious issue for every single one of us. So why is it that the Pentagon has repeatedly failed to adequately equip these men and women? As far back as June of 2003, the military was regularly reporting that up to a quarter of the troops deployed to Iraq were short of critical body armor needed to protect themselves from shrapnel and AK-47 fire.

Just this last June, the Marine Corps Inspector General estimated that 30,000 marines in Iraq needed twice as many heavy machine guns, more fully protected armored vehicles, and more communications equipment to perform their operations successfully than they were getting. Let me repeat: 30,000 marines in Iraq need twice as much heavy equipment in some areas as they are getting.

The Army has had so many troubles mass-producing body armor that it eventually lost as many as 10,000 armored plates as reported by the Army Inspector General's Office.

Most frustrating of all is that as casualties mounted due to roadside bombs or, in DOD parlance, the improvised explosive devices, IEDs, we found that the Pentagon had gravely underestimated the necessary armor needed to protect Army and Marine ground vehicles.

At a Senate Armed Services Committee hearing in March of 2004, Acting Army Secretary Les Brownlee—a good friend of mine, I might add—testified that the Army had not made fortifications of humvees a priority, saying:

> We simply were not prepared for that kind of counterinsurgency that attacked our convoys.

As a result of all of these failures, our soldiers, our sailors, our airmen and marines, were forced to take matters into their own hands in far too many cases.

As early as 2003, the Army's own Soldier Systems Command reported that soldiers, particularly infantrymen, were paying an average of $400 each out of their own pockets for their equipment that their civilian leaders had failed to provide them. Again, the Soldier Systems Command reported those statistics and that the figure did not even include personal body armor that was being purchased. Because they saw the Pentagon failing our troops, servicemembers and their families have all pitched in to pay for protective gear, even vehicle armor, so they did not have to see their own people going off to war without the equipment they need to keep safe.

Things seemed to come to a head when in December of 2004 a soldier asked Secretary Rumsfeld about having to sift through garbage dumps for scrap metal for Army vehicle armor. The Defense Secretary cavalierly replied:

> You have to go to war with the Army you have, not the Army you want.

Of course, we all recall the reaction of the public to that statement. It was very negative, to put it mildly.

Two weeks ago, my office received a call from a constituent I will call Gordon, his first name. Gordon is a good American. He is a former mayor of a small town in Connecticut and a Vietnam veteran. He asked that he be identified only by his first name because he is afraid of retribution against his son. His only son is a lance corporal, recently deployed in Iraq, in the U.S. Marine Corps.

A loyal Republican, Gordon is not looking for Government handouts or to be challenging the President of the United States. He just wants his son to be safe. That is why last month he contacted the online store Diamond Back Tactical and ordered combat gear for his son totaling $683.36. His purchase included lower back double-plated body armor, CAT NAPP body armor for the lower torso and pelvis area. He willingly paid for the order in full, as would any parent, I suggest. But why is it that this family had to place a purchase order on their own? And how can we bear to let good Americans such as Gordon pay this price when there should be regulations on the books providing reimbursements for these kinds of purchases if we are not going to make them on behalf of these young men and women ourselves?

Last week, I met another marine, SGT Todd Bowers, now a reservist attending George Washington University, who has already pulled two tours in Iraq. On his last deployment, Sergeant Bowers said he was fired on by a sniper. It was not the gear provided by the Marine Corps that saved his life but, rather, a $600 rifle scope that his father had just purchased at a gun show in Arizona and a pair of goggles he himself bought for $100. The bullet from the insurgent's gun lodged into Sergeant Bowers' scope rather than his skull, and the goggles guarded his eyes from scattering shrapnel. Thank goodness Sergeant Bowers' father made these purchases. But why is it these concerned parents had to make these purchases on their own? And what about the hundreds of military families without the resources to buy these items? Are we going to allow these sons and daughters, husbands and wives in uniform to go without the battlefield equipment that is essential for their safety?

This is not a new issue. In fact, we have been sounding the alarm to Secretary Rumsfeld and the Pentagon's leadership for several years now. To address inadequate equipment supplies, in 2003, I proposed an amendment to the emergency supplemental appropriations bill to resolve $322 million in shortfalls in critical health and safety gear, identified by the Army itself, including body armor, camelback hydration systems, and combat helmets. Unfortunately, the administration opposed this legislation, and the amendment was defeated along party lines.

Last year, we tried a different approach—requiring the Pentagon to reimburse military personnel, their families, and charities that bought equipment for military servicemen in Iraq and Afghanistan. Fortunately, in June of 2004, despite ardent objections, I might add, of the Department of Defense, this body approved that amendment 91 to 0.

On October 9, 2004, this body approved the final version of that bill, and the President signed it into law, including a requirement for the Secretary of Defense to implement a reimbursement program by February 25 of this year. It is now October 5, 2005, nearly a year after this provision became the law of the land, over 7 months after the Defense Department was required by law to set up a system for the troops to receive compensation for the protective gear they purchase for use in combat, equipment they bought because the Government failed to provide it. All of this time has passed and still the administration has failed to comply with the law.

My office has made dozens of contacts to the Pentagon, both in phone calls and in letters, and still we heard nothing back and still little action has been taken. Maybe they thought they could just ignore the law or that I might just go away. Instead, under pressure from renewed press interest on this issue, the Defense Department finally issued early guidelines—guess when. Today—for implementing the reimbursement program just over 7 months late.

The regulations are incomplete, with provisions for reimbursement for only a select few items. If one needs any proof that DOD is once again coming up short, all one needs to do is look at the list of reimbursement items. It does not include the gun scope that saved Todd Bowers' life. It does not include the gear that Gordon bought for his son. It does not even include items that were purchased in an attempt to protect humvees with what has been called "hillbilly armor," as depicted by this New York Times story in May of 2004.

In this story, a community in New Jersey went out as a community and bought a lot of this body armor to use on the floor of humvees to protect the young men and women from their own State from those problems, such as bombs going off that were taking so many lives. This goes back to that date. They would not be included in the list provided by the Pentagon.

As I understand it, there are still no plans for each of the military services to actually enforce these regulations. The Pentagon's leadership has done everything in its power, unfortunately, to stop this measure from being implemented, either by circulating talking points against my amendment last year or merely failing to implement the statute as it was enacted a year ago. Why should they stop now, I ask?

In their talking points to Congress last year, the Department of Defense actually said that it "set an unmanageable precedent," and that it would actually "encourage servicemembers and their loved ones to purchase equipment on their own."

Such arguments seem absolutely appalling to me. It is the Pentagon's failure to equip our soldiers that is causing servicemembers to go out and buy equipment, not legislation promoting reimbursement for gear that should have been provided anyway. If only the Defense Department's leadership had kept its commitment to protect our troops, I would not be taking the measures I am taking today.

I regret to say I am telling only part of the story. It seems not only the Pentagon miscalculated what the needs are of our troops, but it also underestimated the need to fix the problem in short order. At the time I originally introduced my amendment, in June of 2004, the Pentagon leadership pledged they would have all the equipment needs addressed by July 31, 2004. All troops deployed in Iraq and Afghanistan would have adequate protective gear, they claimed. All appropriate vehicles would have the necessary body armor, they said. And according to the Pentagon, all our deployed soldiers, sailors, airmen, and marines could rest assured that their equipment needs would be met. We therefore crafted our amendment to reimburse troops for purchases only made between September 11, 2001, and July 31, 2004.

But, as many military members and their family members such as Gordon or Todd Bowers will tell you, private purchases of critical gear are still occurring every day. We owe it to our troops to make sure that they are adequately compensated for these purchases. For all of those reasons, I introduced this additional legislation that I hope will move this Government into action.

Let me briefly describe what it does. First, since Secretary Rumsfeld has demonstrated an inability or unwillingness to comply with the law, we take out of his hands the requirement to devise the reimbursement program, and instead we leave it up to the individual troops' unit commanders to decide which equipment need is worthy of reimbursement. If the unit commander thinks it is necessary, they can say reimburse for it. If they say no, you don't get reimbursed. Leave it to your unit commanders. No one knows the needs of our troops better than the commanders deploying alongside our fighting men and women.

Rather than waiting for some bureaucrat at the Pentagon to decide what kind of armor our soldiers and marines should be entitled to, it is far more appropriate, in my view, to leave that up to their company commanders or squadron leaders.

My colleagues should have no objections to this requirement, since they endorsed the unit commanders' discretion in the original version of the amendment that was unanimously passed by this body in 2004.

Second, as I have already stated, in spite of the Pentagon's assurances, the military has not yet met the troops' armor and equipment needs so the legislation I am offering today will allow reimbursement for equipment purchases made at any time in support of operations Iraqi Freedom or Enduring Freedom, not just the period between September 11, 2001, and June 31, 2004, as originally recommended by the Department of Defense.

Words cannot adequately express this Senator's frustration that in the year 2005, the most powerful nation on Earth cannot even see to it that its military personnel have the safety equipment they need while deployed in harm's way. I believe we owe it to our troops to do the right thing and to pass this measure. This legislation has already received the endorsement of several national military organizations, including the Veterans of Foreign Wars, the Military Officers Association of America, National Guard Association of the United States, and the Enlisted Association of the National Guard.

I particularly thank Retired Brigadier General Green for his strong endorsement of this bill, along with Retired Master Sergeant Kline of the Enlisted Association of the National Guard for their strong endorsement. They appeared with me a few days ago at a press conference in which I announced I was going to offer this amendment and gave very strong statements in support of this effort.

Again, I do not want to take up a lot of time. We have already adopted this amendment a year ago, virtually the same amendment. I regret I am back again more than a year later urging similar action. But, again, I point out it has taken far too long for some response to this. Again, if the problem were over with, if it were not ongoing, I would not offer the amendment. I would be disappointed the administration or Pentagon did not comply with last year's law but, as I testified, we have problems every single day in this area. The Pentagon needs to get to business on this.

Today they have all of a sudden come up with a proposed set of regulations, but I point out no gun scopes, no humvee protection, no GPS receivers, no radios. These and other items that are being purchased by our troops are included on our list. It is a step in the right direction but occurring on the very day I am offering the amendment is not mere coincidence, in my view. I thank them for their action today, but we need to do more.

I urge the adoption of this amendment. I hope my colleagues will make this a unanimous vote here to support the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I commend my colleague from Connecticut.

Mr. STEVENS. Will the Senator yield for a procedural matter?

Mr. WARNER. I yield the floor.

Mr. STEVENS. Just to correct an error to the RECORD.

Mr. WARNER. Certainly.

AMENDMENTS NOS. 1895, 1996, 2017

Mr. WARNER. Mr. President, I have sent modifications to the desk on amendments 1895 for Senator BINGAMAN, 1996 for Senator MIKULSKI, and 2017 for Senator BENNETT. I didn't know the amendments had already been sent to the desk.

I ask unanimous consent these amendments, as submitted, be agreed upon and not the modifications I sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1895) was agreed to.

(The amendment is printed in the RECORD of September 29, 2005.)

The amendment (No. 1996) was agreed to.

(The amendment is printed in the RECORD of October 4, 2005.)

The amendment (No. 2017) was agreed to.

(The amendment is printed in the RECORD of October 4, 2005.)

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 1970

Mr. WARNER. I commend our distinguished colleague from Connecticut. I would say, knowing him through these many years and enjoying a warm and cordial friendship, his indignation was in full control and modest in comparison to other periods, but he is absolutely right. Were I in his position, I would be indignant about the fact that you have tried assiduously to urge the Department to follow the law which I was privileged to work with you in putting into effect last year. That law was Section 351 of the Defense bill last year. It set forth, as the Senator has in this bill, much the same relief for the men and women of the Armed Forces who, on their own initiative, have gone out and expended, and indeed their families have contributed, sums of money.

I am very much in favor of this. I hope the managers of the bill will see fit to accept it. But I do urge upon the managers and my colleague from Connecticut that consideration be given to a clause which was in the law last year. I will read it:

> The protective safety or health equipment was purchased by the member during the period beginning on September 11, 2001, and ending on July 31, 2004.

That enables some period of time within which we have an understanding of what was involved in the expenditures. We, in the legislative body, call that a sunset provision. It is not found in the pending amendment.

Having had modest service myself, as a sailor and so forth, inconsequential though that be, I know a little bit about the life of a service person. The modern GI, this generation, I guess as great as any generation we have ever witnessed in the history of the country—believe me, leave it to them and they can figure out a lot of things that presumably are better than provided by the military.

The Senator pretty well restricted himself to those essential things with which I agree. But if we leave this open, we enable these young men and women, proudly wearing the uniform today, to buy a whole lot of things. Next thing you know we are going to have an open door for a lot of things to be purchased.

A wrong, in my judgment, was done in the early procurement system of this equipment, failure to have it, failure to deliver it in a timely way to some of our troops, and you have made that clear today, as have other Senators on the floor. But I say, I do believe consideration should be given to some terminal date—maybe through 2006—in which to give the military the chance to make certain that everything that can protect the life is there, and there is no requirement for these young people to go out and purchase it on their own.

Mr. DODD. If my colleague will yield.

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my friend, the chairman of the Armed Services Committee, for his support. You were tremendously helpful. At a time when the Pentagon was resistant, the chairman of the committee and others stood up and said we should do this—regrettably, we should be doing this.

We have done two things a little differently in this amendment. The chairman pointed it out. One, we removed the decision from the Pentagon to the field commander to make a decision on what is reimbursable or not, on the theory, as a squadron leader or platoon leader, field commander, they are in a better position to decide whether or not an item a soldier may purchase should be reimbursable, rather than someone at the Pentagon who would not have a firsthand knowledge of the kind of equipment.

Second, we limit the amount that can be collected. This is not an unlimited amount. Some of these items would be in excess of the limitations we put in the amendment. That is what we had last year.

Third, I am willing to consider some outlying date. The reason we limited it last year was because of the assurances we had been given that, in fact, the problem no longer existed. In fact, it still exists. I am prepared to accept an appropriate time, 2006 or something.

I hope we do not have to come back to this amendment, but the idea of having some outside date as a parameter. I am willing to accept that.

Mr. WARNER. Mr. President, if I could regain the floor?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I urge the adoption of the amendment in hopes that the distinguished colleague from Connecticut, with two extraordinary veterans of military life, can sit down and work this out in a mutually satisfactory manner.

Mr. President, under the unanimous consent agreement, we have been recognized, the Senator from Virginia and the Senator from Michigan, to conduct a colloquy?

Mr. STEVENS. Mr. President, we would like to dispose of this amendment if it is possible.

The PRESIDING OFFICER. Does the Senator from Virginia yield?

Mr. WARNER. We yield for the parliamentary desire.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I am constrained to say that even back in World War II we bought some of our own stuff and thought the Government should pay for it. No one did. The question is, How much should we be able to spend? We will work it out. I urge the Senator to allow us to adopt this now by voice vote so it will not be involved in the cloture process tomorrow.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1970) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 1955

Mr. WARNER. Mr. President, I note the presence on the floor of my distinguished colleague, the ranking member of the Armed Services Committee.

During the course of yesterday, the distinguished chairman of the subcommittee on appropriations, Mr. STEVENS, and myself participated in a parliamentary situation, whereby the Senator from Virginia sent an amendment to the desk. It was actually filed. I asked it be called up and it was.

At that time, there was an objection interposed by the Senator from Alaska, referring to the CONGRESSIONAL RECORD of today, at page S10967.

We went through the parliamentary situation, whereby I desired to have the amendment considered. The Senator from Alaska objected. Whereupon, I raised the question of germaneness to the amendment, and it was referred to the Parliamentarian.

I would like to read exactly what the Parliamentarian stated on this occasion. I stated: "the Parliamentarians have advised," and I stress that word "advised"—"the Parliamentarians have advised" that in the Parliamentarians' opinion "there is sufficient language in the House bill to permit Senator WARNER to assert the defense of germaneness with respect to his amendment numbered 1955."

I ask, at this moment in time, a parliamentary inquiry. Has the Senator from Virginia correctly stated what was put forth to the Senate through the Chair? And, if so, what is the nature of the vote that is now before the Senate?

The PRESIDING OFFICER. The Senator has adequately stated the statement that was made with respect to that issue.

The Senate will vote whether or not the amendment is germane under the provisions of rule XVI.

Mr. WARNER. Would that be as requested by the Senator from Alaska?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I thank the Presiding Officer. I thank the Parliamentarian.

I took this action, frankly, on behalf of the men and women in the Armed Forces. Our Nation is engaged in war—a war on terror with two very major engagements, one in Afghanistan and the other of larger proportions in Iraq.

We have men and women in far-flung posts all over the world, men and women on the high seas, men and women back here training, and the men and women of the Armed Forces and their families look to the Congress of the United States to provide for their needs. That is clearly set forth as our responsibility in the Constitution.

The Committee on the Armed Services was established by this body for the purpose of examining the President's budget, examining a wide realm of other issues that come before us, and preparing each year a bill known as the authorization bill for a certain year—in this case it is 2006. Our committee did that and unanimously reported out favorably to the floor that bill. That bill was taken up by this body and debated for a series of days. Some 30 amendments by colleagues were accepted. They are part of the amendment that is now pending and is the subject of this vote this evening.

There came a time when it was the judgment of the majority leader and the Democratic leader that this bill would be taken down to give a higher priority to appropriations bills. That is a leadership decision. Thereafter, Senator LEVIN and I worked with our leadership in an effort to get our bill back at a specific place on the calendar so that it could be considered by the Senate. It had been our hope that that opportunity would have been given to us prior to the appropriations bill. All of us who have been privileged to work on these bills through the years—this is the 27th year in which I have been privileged to work. The same number of years of my colleague—recognize the value of the authorization bill being passed prior to the enactment of the appropriations bill.

Given that situation, realities are such that we were not able to get it up. We are now faced with the need to exercise every option under the rules to get our bill considered. Although it is an extraordinary procedure and it has only been done once in 1988, I think we at this juncture, given the indefinite time in which our bill could be taken up, and the short period in which, presumably, the Congress is going to remain in session, have to seize this opportunity at this time to have our bill considered in conjunction with the appropriations bill.

For that purpose, I filed the amendment, amended it to take out section B which relates to the Department of Energy, and section C which relates to MILCON, leaving section A which is those provisions which dovetail and support many provisions of this appropriations bill which is pending here today.

I have heard the distinguished managers of the appropriations bill time and time again in previous years, as in this year, explain the desirability of having the authorization bill acted upon prior to the appropriations bill.

I readily acknowledge to the managers of the appropriations bill the essential requirement to get passed as quickly as possible—hopefully, before this recess—the requirements for the ongoing financial needs of the Department of Defense. They are critical.

I have not put this on to that bill as a dilatory measure. And to expedite consideration of the authorization bill, I carefully selected a series of amendments, originally numbered 110 amendments, and filed them at the desk in two managers' amendments, the purpose of which was to say to our colleagues they are your amendments. Senator LEVIN and I have reconciled such differences as existed such that we both now agree—the Senator from Michigan and the Senator from Virginia—that they are ready for enactment on our bill through the vehicle traditionally used of a managers' amendment requiring just one single vote, if necessary. We can perhaps incorporate them into the underlying bill—but one vote on these packages.

Given the changes in circumstances of germaneness, it was necessary for the Senator from Virginia to prepare a third amendment, which I will now file with the clerk. It is permissible under the unanimous consent, and I send to the desk about 100 amendments, which, in the judgment of myself and others, are germane to the bill. Therefore, I send that to the desk.

Mr. STEVENS. Mr. President, reserving the right to object, I am not sure that is in order. I would like to reserve the right to object to this when the Senator is finished.

Mr. WARNER. Mr. President, at this point in time, parliamentary inquiry: Does not the standing unanimous consent allow a Senator to file an amendment in the second degree?

The PRESIDING OFFICER. The amendments in the second degree may be filed. They are not subject to——

Mr. STEVENS. Parliamentary inquiry: I thought we had an understanding that there would be no amendments filed after a specific time. This is a second-degree amendment. We did not permit second-degree amendments at that time.

Mr. WARNER. Mr. President, I have to say in fairness that I have checked with the Parliamentarian each step of my procedure yesterday and today. I have checked, and it was the interpretation given to me, as frequently given to Members of this body by the Parliamentarians, that the unanimous consent did not prohibit, as the Chair just announced, the filing of second-degree amendments.

Mr. STEVENS. That was not my understanding.

The PRESIDING OFFICER. The Chair advises that the transcript will be reviewed, and the Chair also advises that he is not aware of a prohibition of filing second-degree amendments at this time.

Mr. WARNER. Could the Chair repeat that a little louder, please?

The PRESIDING OFFICER. The Chair advises the Senator from Virginia that the transcript will be reviewed, and the Chair, as of this moment, prior to reviewing that, is unaware of the prohibition on second-degree amendments.

Mr. WARNER. I thank the Presiding Officer.

The PRESIDING OFFICER. Against the filing of second-degree amendments.

Mr. WARNER. Yes. That is precisely what I asked the Presiding Officer to accept, and I think your ruling is consistent with the request of the Senator from Virginia.

We can proceed.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. LEVIN. In terms of the content of the package——

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. WARNER. Mr. President, I yield for a question.

Mr. LEVIN. Without losing his right to the floor, I want to see if I can clarify what I understand to be in the package which was sent to the desk. My understanding is on the underlying amendment which the Senator filed and which I cosponsored that the sections of our Defense authorization bill relating to energy and to military construction have been removed.

Mr. WARNER. That is correct.

Mr. LEVIN. And that the purpose of this package is to remove any amendments relating to those two subjects from the managers' package.

Mr. WARNER. The Senator is correct. I would add that it was for the purpose, at a subsequent time if the Senate enables this amendment of the Senator from Virginia and the Senator from Michigan jointly put up, which is our annual authorization bill, that we would then ask this amendment be brought up of 101 amendments by our colleagues and be attached to our authorization bill by having one vote, if necessary, on one amendment, which encompasses by management procedure 100 amendments by our colleagues.

The PRESIDING OFFICER. The Senator from Virginia is still recognized.

Mr. WARNER. I yield for a question.

Mr. STEVENS. There is still a unanimous consent request before the Senate.

Mr. WARNER. No. I have not made one, I say to the Presiding Officer.

The PRESIDING OFFICER. There is a unanimous consent request before the Senate. The Senator from Alaska is reserving the right to object, and that unanimous consent is asked for. Is there objection to the unanimous consent by the Senator from Virginia?

Mr. STEVENS. I still reserve the right to object because I don't understand what the Senator is doing. The Senator filed a portion of the Defense authorization bill as an amendment. He then filed a separate package of amendments—some 80 amendments—to that amendment. Now he has filed another set of amendments—as amendments to what?

In any event, we thought we had an understanding that there would be no second-degree amendments filed under this procedure.

Mr. WARNER. Mr. President, if I may try——

Mr. STEVENS. I would prefer the Chair rule.

Mr. WARNER. I say to the distinguished Senator from Alaska that the Chair has ruled that the——

Mr. STEVENS. Then I object. I just object.

Mr. WARNER. If I could clarify what I am trying to do——

Mr. STEVENS. Does the Chair understand that I object to the unanimous consent request?

The PRESIDING OFFICER. The Chair's understanding is that the Senator from Virginia has the right to file amendments for printing and that they be called up.

Mr. WARNER. The Chair is correct.

The PRESIDING OFFICER. He is not proposing those amendments at this time. Therefore, it does not require unanimous consent to have that done.

Mr. STEVENS. What the procedure is doing is making sure that an amendment is offered by every Senator in the place. The two Senators who are not managers of the present bill are offering their package as managers of their bill in order to get support of the Senate to attach this amendment in the first place. It is a procedure I have not seen in my 38 years here in the Senate, and I object to their procedure. But I may not be able to be heard on it. I believe this is a very odd procedure. Now the two Senators are saying they are the managers of the bill and they are going to accept 108 amendments to our bill. We haven't even read them. We don't know what they are. We don't know how many more amendments will likely come to these amendments.

I yield the floor.

Mr. LEVIN. Mr. President, will the Senator yield for an inquiry without losing his right to the floor?

Mr. WARNER. Yes. I yield for a question.

Mr. LEVIN. I wonder if I could inquire——

The PRESIDING OFFICER. The Senator from Virginia has a perfect right to submit amendments to be printed. They have not been called up. Therefore, they are not in order at this time to be offered, but they may be submitted for printing.

Mr. WARNER. Mr. President, that is the request of the Senator from Virginia. I thank the Presiding Officer.

Mr. LEVIN. If the Senator will yield for a question without losing his right to the floor, my understanding of the amendments which have just been printed is those are amendments to the Senator's amendment, not to the bill.

Mr. WARNER. I beg your pardon?

Mr. LEVIN. Is my understanding correct that the amendment which was just sent to the desk to be printed are amendments to Senator WARNER's amendment, not amendments to the bill itself?

Mr. WARNER. Mr. President, that is correct. In the event the Senate concurs in the position of both of us with regard to the forthcoming vote and the Senate agrees as to germaneness, it is my intention to call up my amendment, which is the 2006 armed services bill, and at that time to put on it a managers' amendment—jointly, the two of us—which is the third pending amendment at the desk. We will discard the other two amendments because this third amendment has been carefully drawn to have those amendments, as the Senator from Michigan said, those amendments relative to part A, which constitutes the amendment at the desk at this time. It will be the subject of a vote, and not parts B and C.

Mr. STEVENS. Parliamentary inquiry: Are not these amendments that the Senator struck from the amendment as he offered it—there is a section B and C now of the authorization bill, which was struck from the amendment? That was the understanding. They would not be offered.

The PRESIDING OFFICER. The Chair has no knowledge of the substance of the amendments.

Mr. WARNER. Fine.

This third amendment I have filed is simply a consolidation drawing from the first amendment of 80-some amendments, and the second, I think, was 18 to 20. Only those amendments in this third filing are ones relative to part A. All amendments relative in the earlier packages—the first and the second I filed—basically were part A, but there were some relevant to parts B and C, so I removed those. Because if there is a challenge at the time I bring it up—assuming the Senate in its vote sustains the judgment of the Senator from Virginia and others that there is germaneness in our underlying amendment—then I seek to amend that with this third package which constitutes only amendments related to part A, such as if there is another challenge on germaneness I will not be burdened down by sections B and C.

In no way does this third filing in any way try to restore parts B or C. To the contrary, it takes out all amendments which are related to B and C, so hopefully if I have a further challenge on germaneness, it can be sustained, that they are germane.

Mr. LEVIN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. LEVIN. To try to clarify this, what the Senator from Virginia calls part 3 is a skinned-down version of 1 and 2, eliminating from 1 and 2 those provisions which might violate the understanding which existed that there would not be any provisions in this package that related to the energy piece and to the MILCON piece. The effort being made by the Senator from Virginia, as I understand it, is not to add something into this part in violation of an understanding, but is to make sure that parts 1 and 2—that this modification complies with the understanding that the Senator from Alaska and the Senator from Virginia had; is that correct?

Mr. WARNER. Mr. President, the statement is correct.

I would not use the word "understanding."

Mr. LEVIN. I apologize for that statement.

Mr. WARNER. The Senator is exercising his rights in a very courteous way throughout.

Mr. LEVIN. But in terms of the representation of what was in the package, it did not contain in packages 1 and 2 anything relative to the Energy and MILCON bills. The effort of this printed package is to make sure the proposed amendments to your amendment comply with your representation.

Mr. WARNER. Mr. President, that is correct. The third filing consists of amendments only relative to part A in the hopes—if we have another challenge at the time we try to amend it. So now the Senate is faced with a tough call on this vote. I fully appreciate for my colleagues the difficulty of trying to evaluate how Members should vote.

In all fairness, this Nation is at war. The men and women of the Armed Forces are watching ever so carefully what the Congress is doing. I am fearful if we do not avail ourselves of this opportunity to put our bill on—which has been done once before—and hopefully add those amendments which are very important to many Senators, that this could be misconstrued not only at home, not only abroad by the men and women of the Armed Forces, but indeed there could be some puzzlement throughout the world as to where is the Congress in supporting the men and women of the Armed Forces.

This is a critical time. We must do it. I say to my good friend, it is not an effort in any way to undermine the Senator's efforts to get this appropriations bill through. By the incorporation of these 100 amendments, together with the 30-some amendments which have already been adopted by the Senate the previous time we had this bill on the floor, there will not be forthcoming a massive number of amendments which in the end could result in a further drawing out of the time needed to have this body exercise its judgment on the appropriations bill.

I plead with my colleagues to have an understanding of the imperative nature to act upon this bill promptly. It underlies much of what the Senator is trying to do in the appropriations bill. It is needed authorization language.

I see my colleague who has joined me in this, if the Senator wishes to go ahead. Does the Senator have a question?

Mr. LEVIN. I thought the unanimous consent request would be a colloquy.

Mr. WARNER. That is what we have, a colloquy.

Mr. STEVENS. How long will the colloquy go on? It has been going on 30 minutes—20 minutes, anyway.

The PRESIDING OFFICER. No time has been offered.

Mr. LEVIN. I assure the Senator from Alaska I will be brief. I simply join in the plea.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I join the Senator from Virginia in making a plea to our appropriators here, the managers on the bill, to understand the situation in which we find ourselves. That is, we had a bill in the Senate which the Republican leader decided for reasons which were very clear at the time that the bill would be pulled down. It was left in limbo. And the request is whether we will now have an opportunity to vote on a bill which does so much for the men and women in the military. We cannot think of any other way we can bring up the authorization except by offering it as an amendment to the appropriations bill, which is pending.

It has met the threshold of germaneness, we are assured. The Senate will decide whether it is germane. But the Parliamentarian has advised the Senator from Virginia that it meets the threshold.

So now with the provisions in this bill—the pay provisions, the special pay provisions, the bonuses, the death gratuity enhancement, the increased life insurance, the health care provisions, the TRICARE provisions—we could go on and on—there are critically important provisions in this bill to the men and women in the military.

We have men and women in the military with their lives at risk in Iraq and Afghanistan and now we have an additional responsibility in the gulf. We have so much at stake. Usually appropriators and the authorizers have been able to work together. I hope that will continue now. Somehow or other I hope we will be able to figure out a way——

Mr. STEVENS. Will the Senator yield?

Mr. LEVIN. If I can finish the sentence.

I hope we can find a way consistent with the wonderful relationship which has existed between appropriators and authorizers in the defense area, that we can find a way to get this authorization bill before the Senate. We have tried to get it freestanding, without success. This is an opportunity to bring this bill to the Senate.

As the Senator from Virginia said, we have over 100 items which have been cleared. That is not done for any sinister reason. That is done for a very simple way to expedite this bill so that the appropriators are not confronted with 100 amendments. The appropriators should not be confronted with an authorization bill where there are 150 amendments pending.

The Senator from Virginia and this Senator have tried very hard to accommodate Senators on both sides of the aisle so we could help the appropriators, so we could represent to the appropriators that we would not be confronted with 100 or 150 amendments, but that a managers' package would be able to resolve most of those amendments. That has been done. It has been done in good faith.

I hope that somehow or other the managers of this bill can find a way to help us bring this bill to the floor. There will not be more than perhaps a dozen amendments that would be offered to this bill, we think, because we believe we can work out most of the other amendments. That is my plea to the appropriators and to our good friends, the Senators from Alaska and Hawaii.

Mr. WARNER. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator from Michigan maintains the floor.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my colleague. We have worked these many years together and we have tried to work in the spirit of what is best, as our managers of the appropriations bill, for the men and women of the Armed Forces. I plead, give not just the managers a chance, but give the Senate, I say to our managers, the chance to show that they are not going to come up here with a whole lot of amendments to drag this appropriations bill down, trying to attach those amendments to our amendments.

We have worked hard for weeks to compile this list of 100 amendments. We do not know of any others out there—there are some, but not massive numbers—that are going to come in and literally capsize this appropriations bill. Give it a chance. After a day or so here, if the leadership finds factually that the Senate is taking steps, and is within their right to try and put second degrees on, and that is an impediment to finishing the bill by Friday, I am sure we can sit down with the two leaders and work out a solution.

I simply say, give us not just a chance but give the Senate as a body a chance to show responsibility to enact the annual authorization bill.

AMENDMENT NO. 1977

Mr. President, I endorse strongly the McCain amendment. I have been a cosponsor from the beginning. I have looked into this situation. At one time when I was privileged to be Secretary of the Navy when the war in Vietnam came to an end, I dealt extensively with the prisoner issue and their families in that tragic era of our history. I have had some insight into this situation which enables me to give the strongest possible endorsement to this amendment by the Senator from Arizona, a very respected member of this Senate and a man with an extraordinary record in the armed services of the United States.

The McCain amendment provides us with the opportunity to better ensure our Nation's military does not repeat the errors, faults and misdeeds we have seen occur at military detention facilities overseas as we fight this war on global terrorism.

As General Abizaid told us last week this will be a long war against terrorists and our Armed Forces must have clear and understandable standards.

The McCain amendment has two parts of equal vital importance, both critical. The first establishes clear rules for the conduct of our soldiers, sailors, airmen, and marines involved in interrogation operations. It does not add new approaches or techniques, it merely takes Army doctrine which is our clearest guidance on conduct of interrogations and makes it our military standard as set forth in the Army Manual.

Clearly the Constitution gives Congress a role to play in the creation of rules pertaining to the treatment of detainees. Article 1, section 8 provides that the Congress shall have power to make rules concerning captures on land and water, and also to make rules for the government and regulation of the land and naval forces. Rules for treatment and interrogation of detainees clearly falls within this authority given to Congress by the Constitution.

The second part of the McCain amendment speaks to American values. It tells our soldiers, sailors, airman, and marines, our allies, and the rest of the world that the cruel, inhuman, and degrading treatment or punishment are not part of the American character. Our standards against cruel, inhuman, and degrading treatment or punishment are deeply rooted in our Bill of Rights. Ultimately it is our uniquely American character that must be embedded in our American way or war.

Mr. LEVIN. I ask unanimous consent I be listed as a cosponsor of the McCain amendment relative to the treatment of detainees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I support the McCain amendment on interrogation standards because it protects our troops. Major General Fay, in his investigation into the role of military intelligence in the prisoner abuses at

Abu Ghraib, found that DoD's development of multiple policies on interrogation operations for use in different theaters or operations confused Army and civilian interrogators at Abu Ghraib." This confusion over what standards applied contributed to the horrific abuses of detainees. This confusion has put our troops at risk of being subjected to abusive treatment should they ever be captured.

Senator McCAIN's amendment would protect our troops by establishing a single, uniform standard for interrogations. This is consistent with the recommendations of Major General Fay. Senator McCAIN's amendment also requires that detainees in U.S. custody shall not be subjected to cruel, inhuman, and degrading treatment or punishment. This is consistent with the high standards to which our military is trained, with how we expect our soldiers to be treated if they fall into enemy custody, with our international obligations, and with our cherished values as Americans. I urge my colleagues to support the McCain amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. WARNER. If I could make certain I still remain a cosponsor of the McCain amendment that is now the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, the majority leader laid out a plan for the consideration of the Defense authorization bill. It was before the Senate for 4 days or a little bit longer. There were over 200 amendments offered to that bill and it was brought down.

The Senator from Virginia, the chairman of the Committee on Armed Services, came to me and asked if I would object if they put their bill on this bill with a time agreement, with specific amendments with time limits on each amendment. Senator INOUYE and I discussed that and we said we would have no objection.

We were then informed that was not possible. The Senator from Virginia said he would like to offer his amendment to this amendment for the purpose of putting pressure on the majority leader to make an arrangement to call up this bill.

I urged him not to do that, as a matter of fact. We met off the floor and he said he was going to do it. He indicated he was going to delete a portion of that bill as he offered it. He did not inform me that the reason for that deletion was because the Parliamentarian had advised him that the bill would be subject to a point of order on the basis of germaneness if he did it. So he eliminated the two provisions of the bill that might be subject to germaneness. The Parliamentarian has now advised that the Senator from Virginia has a right to raise the defense of germaneness and the Senate will vote on that at 7:30.

Beyond that, the concept now of bringing in 108 amendments to the bill when there are still amendments outside—I ask unanimous consent that we adopt the amendments offered by the Senator from Virginia and that no further amendments from the authorization bill be permitted to this bill.

Mr. LEVIN. I object.

Mr. STEVENS. That proves it. The Senators do not know how many of the other 200 amendments are going to come out here on this bill. I have stated time and time again this bill must be passed and sent to conference before we leave this week. We will not leave this week until we finish this bill. I have told the Senate time and time again the emergency supplemental is attached to this bill for Iraq and the war on terror and Afghanistan. Those items must be approved by the President no later than November 15.

We had a supplemental for the past fiscal year, 2005. This is the supplemental for 2006, and 2006 started October 1. We have a continuing resolution we are operating on for the basic operations of the Defense Department, but there is no continuing operation for the supplemental for Iraq and Afghanistan and the war on terror.

This must be passed. The Committee on Armed Services knows this. The Senator from Virginia. I must correct. Never before in history has a bill been offered to the appropriations bill and been subject to amendment.

We have taken the authorization bill twice during my time on the Appropriations Committee in full, already agreed to by the committee, and taken it to conference. We have never accepted a portion of a Defense authorization bill and left it open to amendment. Why? The Senate can see right now why. The managers have not reached an agreement on their bill. The committee has not reached an agreement on their bill.

The bill is subject to amendment, and there are over 200 amendments at the desk now that were filed against the armed services bill. They have picked out 108 of them, and they have approved them. They never consulted with us on what they did, but they have approved them and offered them now as an amendment. As they offer the amendment, there are other amendments that come in now because of the circumstance of how many they have picked out and the ones they have not picked out.

Does the Senator believe Senators who offered other amendments that you will not accept will not come here and ask us to accept them? No. They know that. And Senator LEVIN said there may be some out there, 10 or 12. Well, how long are 10 or 12 amendments going to take when you are on the authorization bill and we are not handling that bill; they are.

I think the Senate has to realize the procedure we are in now. If we start down this road, then every time there is a Defense appropriations bill someone who has not gotten a bill passed in terms of another 1 of the 12 subcommittees—there are 13 on appropriations—is going to come in and say: We want to put our bill on your bill, but, by the way, it will be subject to amendment. You can call up your bill. We can't call up our bill because it is not ready to be called up.

Now, an armed services bill, when it comes here, is a great bill. It takes a long time. We know how long it takes. Our bill usually takes—one year it took 3 hours. Most years it takes less than a day. Why? Because we are a bipartisan subcommittee. When this bill came out of the subcommittee, it came out unanimously. Not one Senator voted against it. When it came out of the full committee, it was unanimous. Not one Senator voted against it.

The two of us have run a bipartisan team now since 1981. This is the first year that this has been done. I hope the Senate says: We do not want to do it this way because this is opening the door to an entirely new process of using a bill that must be passed as a vehicle to take on a bill that cannot be passed. If they could pass their bill, they would have done it. They would have proved to the majority leader they had amendments, and they could have agreed to them.

That is not our problem. That should not be the appropriators' problem. We have a timeframe. We have 13 bills. We are supposed to get them all done once each year. We have had years when we did not even have an authorization bill, and we survived it. We have had many years where they passed their bill months after we passed the Defense appropriations bill, and we survived it.

But this year—this year—because we are at war, this is absolutely wrong, absolutely wrong. I hope the Senate listens to me. We have to pass this bill before we leave to go home for this recess for these holidays next week. If we do not, we do not have the ability, once we get back, to pass it and then get to conference and then get it to the President in time for the money to be available to use to support our people in the field.

Now, people say: Well, wait a minute, you can reprogram money. We are in a period of a continuing resolution. There is no money that can be reprogrammed. You cannot reprogram money now. We do not have 2006 money to reprogram. There is no emergency money to reprogram. The emergency money is in part of this bill that has to be passed.

Now, I am getting a little mad. I do not mean to be too mad, but I mean to be very angry and disturbed at the process. The Senator from Virginia and the Senator from Michigan know better than to do this. You know better than to do this. It is time for us to realize we have soldiers and sailors, marines, the Coast Guard in the field now. The money to support them is running out. The reason it has not run out is because we did reprogram some money before September 30 we had available then. There is no more money to reprogram to take care of this war.

Now, I do not know how I can express it any more bluntly than that. I hope the Senate will listen to us and vote against this concept that this bill is germane to this bill to start with. It is not germane. It is a whole authorization bill minus the MILCON and energy portions. But it is still the whole authorization bill, which is subject to amendment. As I said, there are over 100 amendments out there that Members have filed already against this bill.

Now, I will be pleased to take this, if there are no more amendments. That was the understanding to start with: We would take their bill if they had a time agreement, a time to vote for certain on it. I think we have gone too far.

My friend from Hawaii—I do the shouting; he does the thinking—may want to say something more. But I tell you, I am really basically deeply concerned about the future of our men and women in uniform if we treat their money portion of this process this way. This is the authorization process. This is policy. We went into that on another amendment today. I don't know much about all the precedents in terms of the Geneva Conventions and what is in the Army Field Manual. Those amendments—I respect the Senator from Arizona. The Armed Services Committee people do. We know what is in here for money.

The Senator's bill does not pertain to money. It does have some authorizations, but that is all right. They can be passed later after we pass our bill. No one is going to be harmed. But there is going to be a great deal of harm if we do not get this bill passed and sent to conference and get it to the President soon after we get back from this recess.

Now, I do not know how we can do anything more than just say, once again, the Senator from Virginia has embarked on a course that has never been done before. He said it had been done before. It has never been done. Never before has a part of an authorization bill been introduced to this bill, or any other bill for that matter, that was subject to amendment. We do not operate that way. I can remember taking a bill that stood off the floor that far because it had so many authorization bills in it that could not get through, but we took them because they were ready, complete. They were complete. They were ready to go, and they took them in an omnibus bill.

But this is not an omnibus bill. This is one bill. This is a bill for the appropriations for the Department of Defense for the fiscal year 2006, plus the emergency supplemental funding for the war in Iraq, Afghanistan, and the war on terror. Under those circumstances, I am appalled that the two Senators would proceed this way. And I tell the Senator from Virginia, our friendship is very close to the brink—very close to the brink—because I believe my job is to get this bill passed, and get it passed as a bill we know we can go to conference on, and get it done and be ready when we get back.

If we were to take this portion of this bill, the Defense bill, to conference, we could not finish the conference until they were finished. And that is definitely not proper.

I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, much as I would prefer to have amity and comity on this floor and be able to accommodate the concerns of my dear friend from Virginia, I must say that I fully agree with my chairman, Mr. STEVENS of Alaska. This procedure will set a terrible precedent, one that we will regret in the years to come.

If you look at it very carefully, it will take away some of the rights of people with minority views. So I would hope that another step be taken—I do not know what it is—where we can resolve this matter. I would hope the leadership of the Senate realizes the seriousness of what we are confronting at this moment. It affects the future of this land, and I am not being dramatic.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I say to my two very dear and old friends, I tender any apologies, but I have acted strictly in accordance with the rules, exercising the right that any Senator has. I feel it is imperative because we are a nation at war. We have diligently tried to get up our bill, and this is an option I felt under the rules was open to me, and I have followed it.

There was a time, as Senator STEVENS did correctly state—and he was correct in his statements—that we had hoped there would be an agreement between the two sides on what few remaining amendments to our bill, over and above the 100-plus that are in the amendment up here, could be acted upon expeditiously. I still feel there are but a few amendments out there and that we can—Senator LEVIN and I—resolve them.

I know parts B and C are essential to be enacted into law before this session concludes. I would assume at some point in time the leadership will enable us to bring up sections B and C, at which time such other amendments as colleagues may have can be brought forth and resolved at that point in time.

But I think it is imperative to act now on the core section of the armed services bill. I would hope our colleagues would see that we are giving the whole Senate a chance—not just the managers of the bill but the whole Senate a chance—to show the men and women of the Armed Forces, the people of this Nation, that we can, in these times of emergency, act in a bipartisan way to reconcile a problem such as this, and that if our amendment remains, after the vote at 7:30, and is brought up, that there will not be forthcoming a deluge of amendments which, in effect, would impair the ability of these two managers to get this essential piece of legislation acted upon prior to the commencement of the recess, and that there will be a future time with parts B and C, when they will be able to bring forth such additional amendments as they believe are necessary to be enacted in the 2006 armed services bill; that is, sections B and C would be the tree on which those amendments could be affixed.

So I say to my good friend, I have acted as I feel duty calls. You have stated very clearly the facts. And now I entrust the Senate to make the decision that is right for the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my last word on this, before we come on the 6 minutes before the vote at 7:30, will be this: There are two packages of amendments before the desk. Under any normal procedure, Senator INOUYE and I would review those amendments. We have not seen them. We have not even gotten a copy of them. Normally we would have had a copy of them, at least. But we do not know how many of those are in conflict with our own bill.

The two Senators have acted as managers of a part of our bill because they offered their bill as an amendment. What procedure is this? How can we assure the Senate what is in this bill? How can we even be prepared to go to conference on this bill when we do not know what is in those two packages? There are three portions here. We know what is in the part A, which was part of the authorization bill, but these amendments, we don't know what they are. We may have already accepted some of them. I do not know.

But I think it is really a strange procedure that anyone would suggest, by offering an amendment, that control over the bill go to members from other committees and, in doing so, they clear amendments that we will have to defend in conference, theoretically, as Members of the Senate, but we do not know what is in them. No one knows what is in them. Normally, a package like that, if they had their bill out here, the Defense authorization bill, they would have a bill in front of us, wouldn't they? As a matter of fact, I think the rules require it. But now there are amendments offered at the desk, and I do not think they have given anyone a copy of the amendments.

I think this procedure violates the rules of the Senate. I am not going to get into the problem of that yet because we are going to vote on germaneness. Germaneness does not eliminate the points of order we may have against those amendments later. But as a practical matter, this is a really odd procedure, and one that is bound to, as the Senator from Hawaii said, lead to processes in the future that will be totally unmanageable.

I urge the Senate to think about this as we approach the vote at 7:30 p.m.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Parliamentary inquiry: Did not the Senator from Virginia on Monday file an amendment in the nature of a managers' amendment with 60 amendments and they have been at the desk since that period of time?

The PRESIDING OFFICER. That would be a matter of public record. The Chair does not keep a record.

Mr. WARNER. A matter of public record. Then yesterday I filed a second amendment with about 18 in the nature of a managers' amendment, and they were in the public record.

I say to my good friends, the amendment I filed today, the third one, is nothing more than taking from each package only those amendments which have been at the desk, filed, and consolidating them in a third package.

I say to my friend, I am in no way trying to be devious at all. Those amendments have been a matter of public record Monday, Tuesday, and today's amendment simply is a consolidation of all of those that have been at the desk in that period of time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I know the Senator from Rhode Island is waiting, and I will be very brief. First, it is not a happy day for this body when we are in this kind of imbroglio where we are unable to accept as an amendment on an appropriations bill the authorization for the men and women who are fighting in our Nation's defense around the world. It seems to me the least we can do, however this is sorted out, is to have the distinguished leaders—Senators STEVENS, INOUYE, LEVIN, and WARNER—sit down and see if there is a way to work this out. It may require the participation of the respective leaders. But we should not be in a situation where the best option is to attach an entire authorization bill as an amendment to an appropriations bill. It is a sad commentary on the way we do business.

AMENDMENT NO. 1977

Mr. McCAIN. Mr. President, if I can ask the indulgence of my friend from Rhode Island for 1 minute, I would like to read a statement into the RECORD.

It reads:

GEN COLIN L. POWELL, USA (RETIRED),
Alexandria, VA, October 5, 2005.

Dear Senator McCAIN: I have read your proposed amendment to the Defense Appropriations Bill concerning the use of the Army Field Manual as the definitive guidance for the conduct of our troops with respect to detainees. I have also studied your impressive statement introducing the amendment.

I fully support this amendment. Further, I align myself with the letter written to you by General Shalikashivili and a distinguished group of senior officers in support of the amendment.

Our troops need to hear from the Congress, which has an obligation to speak to such matters under Article I, Section 8 of the Constitution. I also believe the world will note that America is making a clear statement with respect to the expected future behavior of our soldiers. Such a reaction will help deal with the terrible public diplomacy crisis created by Abu Ghraib.

Sincerely,

COLIN POWELL.

I hope my colleagues will pay very careful attention to our former Secretary of State and Chairman of the Joint Chiefs of Staff. I do not have to tell any of my colleagues of his outstanding and superb record of service to this Nation and the depth of his knowledge as it pertains to this and many other national security issues.

I am very grateful he has come forward with this statement, and I hope my colleagues will pay attention to it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WARNER. Mr. President, if the Senator will yield, I want to commend my long-time friend, Senator McCAIN, for the initiative he has taken. It has been a privilege for me and many others to join him in this effort. I think what he stated here should be taken into consideration by every Senator tonight as they cast his or her vote.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 2033

Mr. REED. Mr. President, rising energy prices could financially wipe out working-class families and seniors this winter. We are about to see an extraordinary runup in prices that imperil the ability of many families simply to keep their homes warm during this coming winter.

In New England, the average cost for a family using heating oil is projected to hit $1.666 during the upcoming winter. This represents an increase of $403 over last winter's prices and $714 over the winter heating season of 2003–2004. That is an extraordinary increase in the cost families have to spend to heat their homes.

For a family using natural gas in the Midwest, prices are projected to hit $1.568, representing an increase of $611 over last year's prices and $643 over the price of the 2003–2004 heating season.

The Mortgage Bankers Association, looking at this data, expects steep energy costs could increase the number of missed payments and lost homes this year. So we have observers who are fearful that this huge energy shock could cause families to, indeed, lose their homes.

In America, no family should be forced to choose between heating their home or putting food on the table for their children. No senior citizen should have to decide to either buy lifesaving pharmaceuticals or pay their electric bill. But, unfortunately, low-income working Americans are facing these decisions this winter.

In some respects, this is a tidal wave, not of rising water but of rising energy prices which is a consequence of Hurricanes Katrina and Rita.

For this reason, Senator KENNEDY, Senator KERRY, and I offered an amendment to the Defense Department appropriations bill to provide $3.1 billion in emergency funds for the Low-Income Home Energy Assistance Program, known as LIHEAP. This funding will provide our Nation's most vulnerable—low-income families, seniors, and disabled individuals—with affordable energy this winter. Again, we saw and were shocked as a nation to see rising waters imperil the most vulnerable in our society on the gulf coast. Well, these rising energy prices will do the same thing by threatening the most vulnerable people through the Northeast, through the Midwest, through every area of the country that anticipates cold weather this winter.

I urge my colleagues to join us to secure $3.1 billion in additional LIHEAP funding.

In September, I, along with over 20 of my colleagues, both Republicans and Democrats, sent a letter to the President urging that he include additional funding for LIHEAP in a supplemental appropriations bill for Hurricane Katrina. We sensed, as he sensed, that one of the consequences of Katrina was a severe shock to our energy sector with complementary increases in prices. So I believe it is appropriate to deal with this issue now. We are waiting not only for the supplemental for Katrina, but also dealing with it on this particular appropriations bill.

On Monday, I was dismayed to learn that President Bush currently does not have plans to request additional LIHEAP funds this year. States are bracing for a crisis caused by a lack of affordable energy, and this funding will ensure low-income families and seniors will have safe, warm homes this winter.

President Bush, I strongly urge that you reconsider. The warning has been issued. Will you once again ignore a looming crisis facing America?

In addition to LIHEAP funding, there are other steps that Congress and the administration need to take to address our Nation's high energy costs. First, we need to pass Senator CANTWELL's Energy Emergency Consumer Protection Act to ban price gouging at the gas pump in the wake of natural disasters such as Hurricane Katrina.

Second, we need to pass Senator DORGAN's Windfall Profits Rebate Act which imposes a temporary windfall profits tax on big oil companies and uses the revenues to provide a rebate to American consumers to help offset the higher cost of oil and gasoline products.

Total energy spending for the Nation this year will approach $1 trillion, 24 percent higher than in 2004. Energy will claim the biggest share of U.S. output since the end of the oil crisis 20 years ago. Oil and natural gas companies are making record profits, while energy prices are overcoming and overtaking workers' salary increases. This is wrong.

We also must fix those bankrupt energy policies that provide oil and gas companies with billions of dollars from the Federal Treasury for production. These tax breaks should be repealed to pay for LIHEAP and conservation programs that help American energy consumers, not big business.

The Federal Government must lead by example also. The President called on Americans to reduce their energy consumption and conserve oil. I know American families are up to this challenge and will respond. But Americans have the right to expect that their President and their Government will also make sacrifices.

The President should implement a Federal savings target to demonstrate a serious commitment to improving our Nation's energy security. He should set a 40-percent savings target for Federal agencies by 2020. Over the past few years, the Federal Government has reduced its petroleum consumption by less than 1 percent. We can and we must do better.

As a nation, we must step back and evaluate our priorities. Now is not the time to cut funding for social programs such as LIHEAP, Medicaid, and food stamps that support working families and seniors while the President and Members of the Senate continue to push for irresponsible tax breaks. We must prioritize, and the most vulnerable among us must be considered first.

Millions of Americans are struggling each day to make ends meet. They deserve our support. I hope the President and this Congress will heed this warning and help build an energy safety net for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1963

Mr. INOUYE. Mr. President, in behalf of the Senator from New Jersey, Mr. LAUTENBERG, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LAUTENBERG, proposes an amendment numbered 1963.

The amendment is as follows:

(Purpose: To require the Secretary of Defense to maintain a website listing information on Federal contractor misconduct, and to require reports on Federal no-bid contracts related to Iraq reconstruction)

On page 220, after line 25, add the following:

SEC. 8116. ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR MISCONDUCT.—The Secretary of Defense shall maintain a publicly-available website that provides information on instances of improper conduct by contractors entering into or carrying out Federal contracts, including instances in which contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct.

(b) REPORTS ON FEDERAL NO-BID CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORTS REQUIRED.—Not later than 7 days after entering into a no-bid contract to procure property or services in connection with Iraq reconstruction, the head of an executive agency shall submit to the Secretary of Defense a report on the contract.

(2) CONTENT.—Each report submitted under paragraph (1) shall include the following information:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amounts awarded and obligated under the contract.

(E) The scope of work under the contract.

(3) PUBLICATION.—The Secretary of Defense shall maintain a publicly-available website that lists the information provided in reports submitted under paragraph (1).

(4) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. INOUYE. I thank the Chair.

AMENDMENT NO. 2016

Mr. STEVENS. Mr. President, I have an amendment at the desk on behalf of Senator SHELBY.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SHELBY, proposes an amendment numbered 2016.

The amendment is as follows:

(Purpose: To prohibit the transfer from the Army of authority relating to the tactical unmanned aerial vehicles)

At the appropriate place insert the following:

SEC. ___. (a) PROHIBITION ON TRANSFER OF AUTHORITY ON TACTICAL UNMANNED AERIAL VEHICLES.—None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) EXTENDED RANGE MULTI-PURPOSE UNMANNED AERIAL VEHICLES.—The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

Mr. STEVENS. Mr. President, regarding the two amendments that were sent to the desk, I ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to amendments Nos. 1963 and 2016.

The amendments (Nos. 1963 and 2016) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. STEVENS. Has the Senator called up an amendment?

The PRESIDING OFFICER. The Senator is about to identify the amendment she wishes to call up.

Without objection, it is so ordered.

AMENDMENT NO. 1942

Ms. LANDRIEU. I call up amendment No. 1942.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 1942.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make available $10,000,000 for Operation and Maintenance, Air Force, and $20,000,000 for Other Procurement, Air Force, for the implementation of IMT-2000 3G Standards Based Communications Information Extension capability for the Gulf States and key entities within the Northern Command Area of Responsibility)

At the appropriate place, insert the following:

SEC. . (a) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, AIR FORCE", up to $10,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—Of the amount appropriated or otherwise made available by title III under the heading "OTHER PROCUREMENT, AIR FORCE", up to $20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

Ms. LANDRIEU. Mr. President, as we consider many important amendments to this underlying bill, I will take just a moment to speak about this amendment which I offer that will call the attention of my colleagues to the important investments that we should be making in interoperability and communications.

As my colleagues know, we have had a very recent disaster along the gulf coast that has made quite apparent the lack of a communications system that is adequate to handle natural disasters of this magnitude and even manmade disasters that we could contemplate. So this is quite serious. I know there are many committees of the Senate and the House that are working very hard on this issue right now.

Since Katrina and Rita and even before these terrible hurricanes and the subsequent flooding of this region, which has been devastating, we have known for some time that we have to get a better system of communication. Our military has some interesting and very promising initiatives underway that could truly help us at this time. That is basically what this $30 million amendment will do, is dedicate or allocate $30 million to U.S. Northern Command for the purposes of implementing IMT-2000 3G Communications Capabilities. The IMT-2000 3G Standards will be used for the Gulf States and key entities within the Northern Command Area of Responsibility, AOR.

We have many needs that have shown themselves out of this storm and out of the subsequent disaster. It would be hard even for the Senator from the State that was most directly hit to have to list them in an order of priority because they are overwhelming and they are so great: water, food, electricity, housing, direct help to our local governments. We will debate that as these days unfold, and we will debate that as these weeks and months unfold.

One thing I am positively sure of is that the communications system we had in this country did not work well in 9/11. It did not work well for the hurricanes that hit the Presiding Officer's State in such a devastating way only a year or two ago, and it did not work well for Louisiana, Mississippi, and Alabama, which experienced one of the worst natural disasters in the history of the country.

To address the devastating problems caused by the lack of communication, $30 million is a small investment. I offer this amendment and ask, as we move through the next few days of consideration of this Defense bill, if we would please take a very careful look at the importance of this amendment.

I submit the amendment for the Senate's consideration.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I have an amendment pending which I would like to speak to. I will not call up this amendment at this time.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. The unanimous consent agreement was to set aside the quorum call. I wanted to find out if the Senator is going to be offering it now. I wanted to get the floor if he is. If not, I will not object.

Mr. DURBIN. I thank the Senator from Oklahoma. I am only going to speak to my amendment and will offer it at a later time, and I will probably take in the range of 10 or 15 minutes.

Mr. INHOFE. I will not object.

Mr. DURBIN. Mr. President, military personnel are under tremendous pressure to be physically fit. The conditions under which they work and train are often harsh and demanding, making physical strength and endurance essential.

This pressure makes dietary supplements particularly attractive to members of our Armed Services, especially products marketed for weight loss and performance enhancement.

Finding these products on base is easy. A 2004 report on dietary supplements in the journal Military Medicine notes that a newly deployed U.S. Air Force base had eight different dietary supplements stocked on its shelves that were marketed for weightlifting and energy enhancement just 5 months after it opened. Six of these products contained the notorious supplement ephedra.

This article appeared in Exchange and Commissary News last month. It describes a store where the "supplement category is located on the main aisle at the front of the store, indicative of its importance to our customers."

Thermogenic's Extreme Thermo Rush is one of the most popular items. Extreme Thermo Rush contains 200 mg of caffeine. That is the equivalent caffeine in five cans of Coca-Cola. In addition, this drink contains 200 mg of Citrus Aurantium, which is an ephedra-substitute that was found by a group of University of California scientists to increase heart rate among healthy people. It is a stimulant. These scientists released a report in April saying that dietary supplements containing Citrus Aurantium could have some of the same adverse health effects associated with ephedra products.

Let's look at just how many service members are taking supplements.

As you can see from this chart, a 1999 study by the U.S. Army Research Institute for Environmental Medicine found that 85 percent of the 2,200 male soldiers surveyed reported use of dietary supplements.

A similar study conducted by the Department of the Navy found that 89 percent of Marines have used supplements. When broken down by category, the survey showed that 26 percent of Marines took supplements containing stimulants.

Most dietary supplements are safe and provide health benefits to those who take them.

I am not on the warpath against a daily vitamin tablet. I take my vitamins every day. I don't know if it helps to make me healthy, but it makes me feel better to take them and I do, and I think everyone should have the right to make that decision. But we are talking about a different category of dietary supplements. We are not talking about multivitamins or minerals, we are talking about stimulants.

Some of these supplements, these stimulants, can cause serious harm. Of greatest concern are those containing stimulants such as ephedra and citrus aurantium, which are often marketed for energy promotion, performance-enhancement, and weight loss. The Navy released a list of serious problems they had encountered among sailors and officers related to dietary supplements recently. The list includes health events such as death, rapid heart rate, shortness of breath, severe chest pain, and becoming increasingly delusional. These are over-the-counter products sold nominally to make you more energetic or to lose weight which when taken result in these conditions: shortness of breath, rapid heart rate, severe chest pain, and becoming delusional, and in one or two cases, probably more, actual death. Unfortunately, most of the time adverse events such as these are never known to the Food and Drug Administration or to the public because not only is there no premarket safety review of these products, there is not even a mandatory adverse-events reporting to the FDA.

Consider this: If you walk into a drugstore to fill a prescription the doctor has given you, the prescription is filled, you go home, you have a bad reaction to that drug, and you go back to the hospital or doctor because of that reaction. That is reported to the Food and Drug Administration. The FDA can then look across America and say: Wait a minute, we are finding people who have adverse reactions to this drug over and over again. We better take a closer look at it or take it off the shelf because it could be dangerous. So the prescription drugs you buy have an adverse-event report requirement. In other words, if you sell the product in America and somebody gets sick or dies, you have to tell somebody. You have to report it to the Government. So if, in fact, it is a dangerous product, it is removed from the shelf.

Then let's go back to the beginning. In order to put a product on the shelf like a prescription drug, they have to be tested in advance by the Food and Drug Administration for two things: safety and efficacy. In other words, if you take the normal dosage, would the normal person be safe in taking it? I think we want to know that. And second, is that drug which you just took for arthritis really helpful when it comes to the condition of arthritis? Efficacy.

But the dietary supplements we are talking about are never tested in advance. They are not tested as to whether they are safe. There is no FDA review of clinical data. There is no requirement manufacturers produce it. And when it comes to efficacy, we find time and again that these companies, many of them fly-by-night operations by people with limited resumes and limited talent selling so-called supplements with all sorts of health claims, turn out be not even close to effective for what they charge or what they say they can achieve. Here you have a whole category of dietary supplements without testing as to their safety, without testing to make sure they actually do what they say they are going to do, for sale. Where? All over America, in every drugstore you walk into, and some gas stations. If you go into a convenience store or gas station, don't be surprised to see dietary supplements on the counter. I bet you think as a consumer they couldn't sell those in America if they were not safe. Yes, they could. There is no requirement they be safe. There is no requirement they be tested.

So you think, I guess if somebody ever got sick, they would be reported to the Government, and the Government would take them off the shelf. There is no requirement in the law to report, even if a person drops dead from taking a dietary supplement. It is, in fact, the biggest gamble a consumer can take for many of these dietary supplements. There has been no testing. There are very few, if any, quality standards to certify what they say on the label happens to be what is inside the bottle. There is no testing to determine if it is effective. There is no report if it turns out it is harmful.

I referred several times in this statement to ephedra, supplements containing ephedra. The military across the United States took ephedra off its shelf at the end of 2002 because between 1997 and 2001 at least 30 Active-Duty personnel died after taking it. Ephedra is something most people are aware of. Ephedra was this dietary supplement, this naturally occurring substance similar to the drug ephedrine, which people took and which was a stimulant. Over the years, we found out it was dangerous to a lot of people. Thirty Active-Duty military personnel died. Many others did as well. It turns out that ephedra was then banned in Canada. You cannot buy it in Canada.

The American Medical Association suggested we ban it here in the United States, too, because it is too dangerous to be sold as a dietary supplement. But the industry that makes these products is extremely powerful. As I recount to you what happened with ephedrine, you will find out why.

After 7 years of effort, the FDA finally banned ephedra in 2004. At that time, 150 deaths were linked to that product. But one Federal court in Utah this past April called into question the FDA procedure, and marketers of these products have hit the street with advertising: Ephedra Is Back. Look at this. Natural Life Nutrition Center in Cincinnati, OH, days after this court decision in Utah: "Ephedra Is Back." You can buy your ephedra products again. They put up the sign to try to lure customers back. The court in Utah said the FDA had failed to justify its rule banning ephedra, particularly at lower doses, particularly 10 milligrams or less per day.

The FDA has said it will continue to enforce its ban except for doses 10 milligrams or lower, but less than 2 weeks after the ruling, just to show you how toothless the Food and Drug Administration is when it comes to dietary supplements, I had one of my staffers get on the Internet and see if we could buy some ephedra in larger doses. This staffer bought 30 pills containing 200 milligrams each from a company with a post office box in Boonville, MO.

The Federal Drug Administration, after this Utah court decision, said: OK, we will let you sell ephedra, but it can't be in doses in excess of 10 milligrams. It turns out that there is no enforcement whatsoever. You can continue to buy this ephedra over the Internet in 200-milligram doses, which could be very dangerous, if not lethal.

The FDA has announced it is appealing this ruling on ephedra, but clearly its hands are tied as it waits for a decision. That is why we need to step in. Congress needs to address this problem. We may not solve it with this bill, but we can do something to protect our men and women in uniform. We should be protecting everyone in America, but this bill addresses our men and women in uniform, and that is what my amendment addresses.

The intent of my amendment is to protect American soldiers from dietary supplements containing stimulants that have unknown adverse effects. This amendment will disallow funds from being used by military stores to sell dietary supplements containing stimulants in cases where it is made known to the Department of Defense that the manufacturer does not have a policy of reporting their serious adverse events to the FDA's Special Nutritional Adverse Event Monitoring System.

We know this happens. Manufacturers collect information, and we know it because of this infamous Metabolife case. You maybe remember the Metabolife brand. It was all over television, magazines, newspapers, selling Metabolife. It was something that was going to make you healthier and thinner and give you more energy.

About 5 years ago, Metabolife, a dietary supplement company specializing in diet products containing ephedra, told Congress it had received no reports of people taking their products who experienced serious injury or death. Guess what. They lied. After the company was sued, it was revealed that Metabolife had actually received over 16,500 adverse events of Metabolife with ephedra. Many reports were serious. They knew that more than 100 people had died from their product. They misled Congress. They told us they had not received any information of people taking their product and experiencing serious injury or death. Finally, when they were sued, the information came out.

The FDA collects that kind of information on prescription drugs and over-the-counter drugs. If they learned that something was being sold in America that killed 100 people or injured 16,000 people, they clearly would take action. But this industry is so powerful here in Washington that they conceal this information. They will not share it unless they are forced in a lawsuit.

You think to yourself, Why hasn't Congress risen to its responsibility of protecting consumers? Why don't we at a minimum require these companies to report it when these dietary supplements harm people seriously or kill them?

Frankly, this Congress is in the thrall of this industry, and it has shown for so many years. I went to the floor, this floor, last year to address the same issue. Some of my colleagues came to the floor and said: Oh, we can't wait to join you. This is a great idea, adverse-event reporting. Here we are again a year later and nothing has happened. The same Senators who said, "We can't wait to work with you" can't return phone calls when it comes to this issue.

My challenge to them is this: If you truly want to keep dangerous products off the market, if you happen to believe they are healthy products and don't hurt anybody, why are you afraid of adverse-event reporting? If it is good enough for the major pharmaceutical companies, why isn't it good for the nutritional supplement industry?

I hope my colleagues will come to the Chamber and understand that we are putting our men and women in uniform at risk by selling these dietary supplements which are being used by so many men and women in uniform and are dangerous. They are dangerous to their health.

The Institute of Medicine issued a report last year recommending that adverse-event reporting become mandatory for dietary supplement manufacturers—the Institute of Medicine. Here is what they said:

> [W]hile spontaneous adverse event reports have recognized limitations, they have considerable strength as potential warning signals of problems requiring attention, making monitoring by the FDA worthwhile.

The Institute of Medicine recommended that Congress amend the 1994 supplement act, DSHEA, to require manufacturers of supplements to report to the FDA in a timely manner any serious adverse event associated with the use of their products.

The supporters of the amendment which I offer include the American Dietetic Association, the American Osteopathic Association, Consumers Union, Center for Science in the Public Interest, the American Society for Clinical Pharmacology and Therapeutics, and the American Society of Pharmacology and Experimental Therapeutics.

It wasn't that long ago that a starting pitcher for the Baltimore Orioles dropped dead. He was a man trying to lose some weight taking the ephedra stimulant, and obviously it cost him his life.

The same thing happened in my part of the world in central Illinois, where a 16-year-old boy getting ready for a football game wanted to have performance enhancement and goes down to the local gas station and buys over the counter an ephedra product, takes it and washes it down with a Mountain Dew and ends up dying from a heart attack—a healthy 16-year-old boy.

Now we have our men and women in uniform all across the United States walking into these base exchanges wanting to make sure they are at peak physical condition to serve this country and buying these dietary supplements which claim to enhance performance and give them new energy or perhaps lose some weight not realizing they are risking their lives every time because the shoddy manufacturers who sell these products do not report to the Government when people get sick and die because of these dietary supplements.

How long is it going to take us? How many Americans have to die before we accept responsibility for the consumers of this country? They trust us. They expect the Food and Drug Administration to be there, when it is needed, to report on these dangerous supplements. But we have let them down for more than 10 years since it was passed. We should not let them down when it comes to this bill. Let us start by protecting our men and women in uniform. Let us start by not letting them be in danger by buying the products on the shelves in these PXs or commissaries that are not good for them. That is, I think, the least we can do, and then let us not stop there. Let us move across America to say we are going to stand behind consumers; that we are going to stand behind children and families so that when they buy something in a drugstore in America that is supposed to be good for their health, they know their Government has at least the interest and has taken the time to make sure it is safe.

This is not some wild, crazy idea I have. It is an idea backed up by the leading medical organizations in America, and it is one that reflects the reality of the danger of these products.

I invite my colleagues to support amendment No. 2035, which I have introduced, when it comes up for consideration at a latter point in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today with mixed feelings on what I heard because this was brought up under the Defense authorization bill. I talked to the Senator from Illinois, and we agreed that we would work on something—that would actually do something. We have been doing that, but with a slight interruption from Katrina. Now it is being offered again. And in the same way, I have mixed emotions because I probably ought to suggest to the Senator from Alaska to take this amendment because it will not achieve anything. We have an opportunity to do something and to achieve something. But this amendment will not do that.

Of course, it brings some attention to the fact that there may be some adverse reaction to dietary supplements. That is important. The discussion is important. If we had more time for discussion, we ought to have a lot of discussion on it, but we don't have a lot of time. I will try to keep my remarks brief on this.

This amendment would withhold funding from any store on a military installation or a commissary store—most of those are on military installations as well—that sells any dietary supplement containing a stimulant unless the manufacturers of the supplement submits reports on serious adverse events associated with the supplement. If they don't, we shut down the action on the base. But that is definitely not the only place you can buy dietary supplements. What we merely do is invite military people to go off base to get their dietary supplements—and they will.

It is important that we get reporting done so people will know if something is having an adverse effect on their health.

I recognize the Senator from Illinois has strong concerns about adverse reporting for dietary supplements, and so do several other Senators. Senator HATCH and Senator HARKIN have been working diligently on this. Both of them are on the Health, Education, Labor and Pensions Committee, and that is the committee of jurisdiction on this particular issue.

We have been working on it. I share his interest on the issue. It is important that we maintain the safety of dietary supplements that benefit so many Americans. I mention that this isn't the first time this has been offered.

I hope he will withdraw his amendment, and we may move on without having to go through the difficulty of a vote.

As I said, I question the effectiveness of achieving such reporting by withholding legal products only from men and women in uniform and their families while the same products are available to the civilian population. That is unfair to our soldiers and we should not support it. Punishing our soldiers is not the way to ensure the safety of dietary supplements. A piecemeal approach does nothing to protect the civilian population from products that are being withheld from the military population.

This amendment places the regulation of dietary supplements in the hands of the Secretary of Defense and cuts the Food and Drug Administration out of the loop.

I would like to point out that the FDA is already taking aggressive steps to regulate stimulants that are dietary supplements, including the banning of ephedra.

We should be sure that requiring additional reporting does not inadvertently derail those enforcement efforts.

Finally, the Appropriations Committee has included for fiscal year 2006 funding of approximately $5.5 million for the Center for Food Safety and Nutrition Adverse Events Reporting System. That includes approximately $1.7 million for dietary supplements. That is over $1 million more than the amount in the budget request. The Senate is already moving in the right direction on this issue.

I wish to point out that the Dietary Supplement Health and Education Act is squarely within the HELP Committee's jurisdiction.

I know that Senator DURBIN has worked with Senators HATCH and HARKIN and myself to develop a proposal on mandatory adverse events reporting for dietary supplements. I wish to work with the Senator from Illinois and my fellow committee members, especially Senators HATCH and HARKIN, to see how we might address the issue in my committee through regular order.

I respectfully ask the Senator from Illinois to withdraw his amendment and work with the HELP Committee on this issue. If not, I will have to oppose the amendment. I think it will take up unnecessary time when we can do it considerably more effectively and without punishing in a big way the servicemembers in uniform while we allow the civilian population to do whatever they want.

Mr. DURBIN. Mr. President, will the Senator yield for a question without losing his right to the floor?

Mr. ENZI. Yes.

Mr. DURBIN. Last year when I offered this amendment, Senator HATCH came to the floor. Senator HARKIN joined afterwards. They conceded that they thought it was not a bad idea, if you sell dietary supplements in America, and somebody is harmed, seriously injured or dies as a result, that the manufacturer of that dietary supplement should report that event to the FDA so that they can see if there is a pattern, if it is something that might lead to a decision to take something off the market.

I would like to ask the Senator from Wyoming: Does he agree with that? Does he think that is a reasonable standard to ask the dietary supplement manufacturers to report truly adverse events such as is required of the pharmaceutical companies today?

Mr. ENZI. I said before that I think it is very important for us to come up with a piece of legislation that does that on and off military bases, so there is a reporting of adverse events so that FDA can take action when it is affecting people, and have enough information to be able to tell whether they are acting properly or not. We do have an agency that is designed to do that. It is not the Department of Defense.

Mr. DURBIN. If the Senator will yield for another question, I agree with the Senator. This is not the way to address it. I thought it was the only way to bring the subject up before the Senate. I wish to ask the Senator from Wyoming, whom I respect and I have worked with and we have been able to work out some very serious difficulties in the past and I know he genuinely wants to reach solutions, can the Senator from Wyoming give me his assurance that he will try to schedule hearings in the consideration of this issue on a timely basis before his committee so that we can raise this issue in a thoughtful way and address it beyond the Department of Defense?

Mr. ENZI. I can give the Senator assurances that we will deal with this issue. If you check with members of my committee, you will find that because of Katrina and pensions and all of the health issues that we have now, and all of the education, higher education and Head Start we are trying to work our way through, that we have gone to a system of roundtables instead that allows us to bring in more people with more information so we can learn more from them in order to be able to deal with these issues in a knowledgeable way.

It has been working. I appreciate the cooperation of Senator KENNEDY, who is ranking member on my committee, for this approach of being able to gather information so that we can do effective legislation quicker. As the Senator probably noticed, we have a lot of bills which we are working on, and it is because we have gone through a mechanism where we are working in a very bipartisan way to gather information. This is a bill of some priority for us.

Mr. DURBIN. If the Senator will further yield for a question, I salute the Senator. What he says is true. He has done an excellent job in joining both sides of the aisle with bipartisanship in finding solutions and getting things done. I am sorry we can't say that for all of us in the Senate. We could probably learn a lot the way the Senator from Wyoming approaches it. I don't want to suggest that the Senator change his approach. If the Senator from Wyoming will give me his assurance that this is a priority, that he will try to bring it up before his committee in a timely way when appropriate, I understand he has other priorities, if he will give me that assurance, I will withdraw this amendment. I hope we can work together from this point forward.

Mr. ENZI. I assure the Senator that we can work together, and it will be put into the prioritization. It is already in the prioritization of the committee. We are handling the emergencies first.

I apologize for the 2-week delay we had while we are working on Katrina. Staff is working on this one, along with the staff of the Senator from Illinois. We will do it.

Mr. DURBIN. Mr. President, at this point, I ask unanimous consent to withdraw my amendment No. 2035.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Ms. STABENOW. Mr. President, before my colleague and friend from Illinois leaves the floor, I want to thank him for his leadership on this very important issue, in fact, for so many people in our country. I also wish to thank Senator ENZI for indicating his desire to make this a priority within his committee.

Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1937

Ms. STABENOW. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mr. JOHNSON, Mr. THUNE, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, Mr. CORZINE, Mr. BAUCUS, Ms. LANDRIEU, Mr. JEFFORDS, Mr. BAYH, and Mr. BINGAMAN, proposes an amendment numbered 1937.

Ms. STABENOW. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that future funding for health care for former members of the Armed Forces takes into account changes in population and inflation)

At the appropriate place, insert the following:

SEC. ___. (a) FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 320. Funding for veterans health care to address changes in population and inflation

"(a) By the enactment of this section, Congress and the President intend to ensure access to health care for all veterans. Upon the enactment of this section, funding for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) to accomplish this objective shall be provided through a combination of discretionary and mandatory funds. The discretionary amount should be equal to the fiscal year 2005 discretionary funding for such programs, functions, and activities, and should remain unchanged each fiscal year thereafter. The annual level of mandatory amount shall be adjusted according to the formula specified in subsection (c).

"(b) On the first day of each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (c) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (d). There is hereby appropriated, out of any sums in the Treasury not otherwise appropriated, amounts necessary to implement this section.

"(c)(1) The amount applicable to fiscal year 2006 under this subsection is the amount equal to—

"(A) 130 percent of the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (d), minus

"(B) the amount appropriated for those purposes for fiscal year 2005.

"(2) The amount applicable to any fiscal year after fiscal year 2006 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (d) for fiscal year 2005:

"(A) The sum of—

"(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

"(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

"(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

"(3)(A) For purposes of paragraph (2)(B), the term 'per capita baseline amount' means the amount equal to—

"(i) the amount obligated by the Department during fiscal year 2005 for the purposes specified in subsection (d), divided by

"(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2004.

"(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

"(i) the Consumer Price Index (all Urban Consumers, United States City Average, Hospital and related services, Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

"(d)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (b) shall be all programs, functions, and activities of the Veterans Health Administration.

"(2) Amounts made available pursuant to subsection (b) are not available for—

"(A) construction, acquisition, or alteration of medical facilities as provided in subchapter I of chapter 81 of this title (other than for such repairs as were provided for before the date of the enactment of this section through the Medical Care appropriation for the Department); or

"(B) grants under subchapter III of chapter 81 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"320. Funding for veterans health care to address changes in population and inflation.".

Ms. STABENOW. Mr. President, I ask unanimous consent that Senators MURRAY, KERRY, KENNEDY, DAYTON, and BIDEN be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I rise to thank both the chairman and ranking member, Senator INOUYE, for their leadership on this legislation. I am very supportive of the Defense appropriations bill. And I appreciate all of the hard work and leadership they have brought to this point in this important legislation.

I come to the floor this evening to fix a broken promise to our veterans, a promise our country made to the men and women who serve our country in the armed services. They put their lives on the line to protect us, as we know, and in exchange we have a sacred obligation to extend to them the honors and benefits and the health care benefits they have earned through their service.

I have met with men and women from Michigan and across the country who are recovering at Walter Reed Army Medical Center, as many of my colleagues have. Some have suffered minor injuries that will not have a dramatic impact on the rest of their lives. Others though, because of their injuries, will need years of rehabilitation and face considerable obstacles as they return to their civilian lives.

We owe these men and women our continued support so that they can recover from their injuries and lead productive lives.

Today's soldiers are tomorrow's veterans—and America has made a promise to these brave men and women to provide them the care they deserve. They deserve the respect and support of a grateful nation when they return home.

We also owe it to the men and women who have fought in America's prior conflicts to maintain a place for them in the VA system so they can receive the care they need, as well. We need to keep our promise to our veterans, young and old.

Together we can do better for our men and women who have served our country. We must consider the ongoing costs of medical care for America's veterans as part of the continuing cost of our national defense. The long-term legacy of the wars we fight today is the care of the men and women who have worn the uniform and are willing to pay the ultimate price for their nation.

Senator JOHNSON, Senator THUNE, and I are offering an amendment today to provide full funding for VA health care to ensure the VA has the resources necessary to provide quality health care in a timely manner to our Nation's disabled veterans. The Stabenow-Johnson-Thune amendment provides guaranteed funding for America's veterans from two sources.

First, the legislation provides an annual discretionary amount that will be locked in for future years at the 2005 funding level. Second, in the future, the VA receives a sum of mandatory funding that is adjusted year to year based on changes in demand from the VA health system and the rate of health care inflation.

This funding mechanism will ensure that the VA has the resources it needs to provide a steady and reliable stream of resources to care for America's veterans. It will also ensure that Congress will continue to be responsible for the oversight of the VA health system as it does with other Federal programs funded directly from the U.S. Treasury.

This amendment will bring funding for veterans health care into line with almost 90 percent of Federal health care spending which is mandatory rather than discretionary. One of our greatest accomplishments as a nation is that every American knows when they enter their golden years, when they reach 65 or if they are disabled, they receive the health care they need. Medicare is a universal and comprehensive system that benefits a person for their life's work. Our veterans deserve the same. We can do better for them by ensuring that their service is repaid with reliable health care benefits.

I thank the cosponsors of this amendment for their support: Senators JOHNSON, THUNE, AKAKA, DAYTON, NELSON, LAUTENBERG, SALAZAR, LINCOLN, CORZINE, BAUCUS, LANDRIEU, JEFFORDS, BAYH, BINGAMAN, MURRAY, KERRY, KENNEDY, and BIDEN.

In July, I offered this amendment to the 2006 Defense authorization bill. Unfortunately, the Defense authorization bill was pulled from the Senate at that time. While we are working out whether this will be included in this particular bill, it is important to offer my amendment again at this time. The amendment has been endorsed by the Partnership for Veterans Health Care Budget Reform, a group of major veterans service organizations that has been working to provide a reliable stream of health care for America's veterans over the last 2 years. It includes the American Legion, the AMVETS, the Blinded Veterans Association, Disabled American Veterans, Jewish War Veterans of the United States, Paralyzed Veterans of America, and the Veterans of Foreign Wars, all of them together asking us to get this right for our veterans.

The problem we face today is that resources for veterans health care are falling behind demand. We have more veterans being created, more men and women coming home from the wars. Yet the funding is falling behind. Shortly after coming into office, the President created the task force to improve health care delivery for our Nation's veterans. The task force found historically there has been a gap between the demand for VA care and the resources to meet the needs of our veterans. The task force also found that:

> The current mismatch is far greater . . . and its impact potentially far more detrimental both to the VA's ability to furnish high quality care and to the support that the system needs from those it serves.

The task force released its report in May of 2003, well before we understood the impact of the men and women fighting in Iraq and Afghanistan and the impact that would have on our VA system.

If the mismatch between demand and resources was bad in May of 2003, imagine what it is today. Over 360,000 brave soldiers have returned from Iraq and Afghanistan, and over 86,000 have sought health care from the VA. There are an additional 740,000 military personnel who served in Iraq and Afghanistan who are still in the service. This next generation of veterans will be eligible for VA health care and will place additional demands on a system that is already strained. These are promises we need to keep.

In addition, each reservist and National Guard member who has served in Iraq is eligible for 2 years of free health care at the VA. The administration has in its own way admitted they do not have sufficient resources to provide adequate care for our veterans. While they would not until recently admit there were shortfalls, they have for years attempted to ration care and cut services at the expense of our veterans. We can do better than that.

In 2003, the VA banned the enrollment of new priority 8 veterans. For the past 3 years, I fought attempts by the administration to charge middle-income veterans a $250 enrollment fee to join the VA health care system and a 100-percent increase in prescription drug copays. This year, the administration also proposed slashing Federal support for the State veterans homes from $140 million to $12 million. The head of the Grand Rapids Home for Veterans and the D.J. Jacobetti Home For Veterans in Marquette tells me these cuts would be devastating.

The fiscal year 2005 and 2006 VA health care budgets are a case study in why Congress should guarantee reliable and adequate resources through direct spending.

Last March, the President submitted an inadequate fiscal year 2005 budget request for VA health care to Congress that fell $3.2 billion short of the recommendation of the independent budget, an annual estimate of critical veterans health care needs by the coalition of leading veterans organizations.

In fact, in February 2004, Anthony Principi, then the Secretary of VA, testified before Congress that the request the President submitted to Congress fell $1.2 billion short of the amount he had recommended. It then fell to Congress to again increase the amount provided to the VA for health care. The final amount Congress provided to the VA for health care was $1.2 billion over the President's request, but it was still not enough to meet their immediate needs.

In April of this year I cosponsored an amendment with Senator MURRAY to the fiscal year 2005 supplemental appropriations bill for Iraq and Afghanistan to provide $1.9 billion for veterans medical care, especially for those soldiers returning from Iraq and Afghanistan. During the debate on the amendment we were again told that the President's budget was sufficient but, in fact, on April 5, Secretary of Veterans Affairs Jim Nicholson sent a letter to the Senate that said:

> I can assure you that the VA does not need supplemental funds for FY2005 to continue to provide timely, quality service that is always our goal.

I was proud to cosponsor an amendment in June, however, to provide an additional $1.5 billion for veterans health care because they finally admitted there was a gap in funding for this year. Finally, they admitted, in fact, the veterans health care system was not adequately funded this year. I was pleased we were able to add dollars under an emergency spending measure, to be able to fill the gap this year.

As it turned out, we received more bad news from the administration on July 14, when the administration requested another $300 million for this year and a whopping $1.7 billion for next year. The total shortfall for this year and next was nearly $3 billion. 3 billion short of where we should be in adequately funding health care for our veterans.

At the end of July, I was pleased to support the conference report for the Interior appropriations which included the $1.5 billion this year that the Senate has twice unanimously supported. Further, in September, I supported the Senate's Military Construction and Veterans Affairs appropriations bill which provided a total of $33 billion for veterans health care. This is $1.1 billion more than the administration requested and $2.5 billion more than the House version of the legislation for veterans health care.

I tell this to make two points: First, it is clear that the demand for veterans health care is increasing, and a good portion of this increase can be attributed to men and women seeking care after they are returning from Iraq and Afghanistan. The second is to show despite the best intentions of the VA and Congress, the VA does not have a reliable and dependable stream of funding to provide for veterans health care needs. We should not have to pass an emergency funding bill to give our veterans the health care they need and deserve.

In 1993, there were about 2.5 million Americans in the VA health care system. Today there are more than 7 million veterans enrolled in the system, over half of which receive care on a regular basis. Despite the increase in patients, the VA has received on average a 5-percent increase in appropriations over the last 8 years. My amendment will fix this problem and ensure that each year we provide the funding necessary to care for our veterans in a timely manner that is separate from the uncertainty and the ups and downs of the congressional calendar.

At last count, at least 86,000 men and women have returned from Iraq and have sought health care from the VA. We can safely assume that this number will reach hundreds of thousands. This bill provides the resources our troops need to prepare and defend our country in Iraq. We must not forget about them when they return home and put on a veteran's cap. We must ensure that we keep our promises to them when they come home as veterans. Let's stop this up-and-down roller coaster of emergency spending measures, of budgets that do not match with need year to year. We owe our veterans better than that. Together, we can do better than that.

I urge the support of my colleagues for this very important amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I regret to do this, but as we have examined this amendment of the Senator, we find this requires this spending to become a part of the mandatory process of expenditures. It requires funds to come out of the Treasury to implement this section, and in effect it becomes a matter that we believe is subject to a point of order under section 302(f) of the Congressional Budget Act that provides spending in excess of the subcommittee's 302(b) allocation under the fiscal year 2006 concurrent resolution of the budget. I make that point of order.

Ms. STABENOW. I move to waive the applicable sections of the Congressional Budget Act for the purpose of considering my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, we will have a request for votes to commence at 7:30, but first I offer a managers' package, as we call it, with modifications.

AMENDMENTS NOS. 1914; 1972; 1962; 1979, AS MODIFIED; 1976; AND 1945, EN BLOC

Mr. President, I send to the desk, for Senator NELSON of Florida, amendment No. 1914, for surface sonar dome windows; for Senator DODD, amendment No. 1972, for countermeasures to nerve agents; for Senator LIEBERMAN, amendment No. 1962, for defense manufacturing technology; for Senator CHAMBLISS, amendment No. 1979, as modified, for environmental cleanup; for Senator LOTT, amendment No. 1976, for lightweight ammunition; and for Senator ROBERTS, amendment No. 1945, for intelligence scholars. I send those amendments to the desk and ask that they be considered en bloc, with Senator CHAMBLISS's amendment modified according to my submission.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for other Senators, proposes en bloc amendments numbered 1914; 1972; 1962; 1979, as modified; 1976; and 1945.

The amendments are as follows:

AMENDMENT NO. 1914

At the appropriate place insert the following:

SEC. . Of the amount appropriated in title III under the heading "**OTHER PROCUREMENT, NAVY**", up to $2,000,000 may be made available for the Surface Sonar Dome Window Program.

AMENDMENT NO. 1972

(Purpose: To make available $700,000 from Research, Development, Test, and Evaluation, Army for Medical Countermeasures to Nerve Agents)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $700,000 may be used for Medical Countermeasures to Nerve Agents.

AMENDMENT NO. 1962

(Purpose: To make available $5,000,000 from Research, Development, Test, and Evaluation, Defense-Wide, for High Performance Defense Manufacturing Technology Research and Development)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE", up to $5,000,000 may be used for High Performance Defense Manufacturing Technology Research and Development.

AMENDMENT NO. 1979, AS MODIFIED

(Purpose: To provide that, of the amount made available under title II for Operation and Maintenance, Army, up to $600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY", up to $600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

AMENDMENT NO. 1976

(Purpose: To make available $4,000,000 from Research, Development Test, and Evaluation, Army, for the development of lightweight rigid-rod ammunition)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $4,000,000 may be used for the development of light-weight rigid-rod polyphenylene ammunition.

AMENDMENT NO. 1945

On page 220 after line 25, insert the following:

SEC. ____. Of the amounts appropriated by title VII under the heading "Intelligence Community Management Account", up to $2,000,000 may be used for the Pat Roberts Intelligence Scholars Program.

Mr. STEVENS. Mr. President, I urge adoption of the amendments.

The PRESIDING OFFICER. Is there further debate on the amendments en bloc? If not, the question is on agreeing to the amendments.

The amendments (Nos. 1914; 1972; 1962; 1979, as modified; 1976; and 1945) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1979

Mr. CHAMBLIS. Mr. President, I rise today in support of my amendment, No. 1979, as modified, to H.R. 2863.

Camp Wheeler, near Macon, GA, was a World War II Army facility which has a proud history of training American soldiers. Unfortunately, and like many formerly used defense sites in the United States, there is unexploded ordnance on the former Camp Wheeler site that, today, threatens the safety of people who live in the vicinity. This amendment would earmark $600,000 to clean up Camp Wheeler.

The unexploded ordnance at Camp Wheeler was found during an inspection sponsored by the Savannah District of the U.S. Army Corps of Engineers. The Corps has indicated that cleanup of Ordnance Operable Unit No. 1 at Camp Wheeler, which is in a neighborhood in Twiggs County, GA, is the No. 1 munitions cleanup program in the State of Georgia.

I have worked with the Corps over the past several months on this project, and my staff has received briefings and updates from the Corps on a regular basis.

Since filing my amendment, the Corps has announced that $1.5 million in fiscal year 2005 funds will be used to conduct cleanup at Camp Wheeler. Additionally, the Corps of Engineers has assured me that there are funds available in their budget to work toward completion of cleanup of Ordnance Operable Unit No. 1 at Camp Wheeler in the fiscal year 2006 budget.

This amendment will ensure that the necessary funds are spent on this project and that the Camp Wheeler cleanup is completed as the Corps of Engineers has promised.

I ask my colleagues to support the amendment.

Mr. STEVENS. Mr. President, it is my understanding that at 7:30 we will start with the vote on Senator WARNER's submission of the Defense authorization bill as an amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. We already have an agreement to have 3 minutes on each side on that amendment. Senator BAYH's amendment No. 1933, and Senator MCCAIN's amendment No. 1977, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. We are working on a modification to Senator REED's amendment. We then also have Senator MCCAIN's amendment, which is amendment No. 1978. And we have Senator GRAHAM's amendment, which is 2004.

I say to the Senator, are you prepared to accept that amendment now?

AMENDMENT NO. 2004

Mr. President, I ask unanimous consent that Senator GRAHAM's amendment No. 2004 be laid before the Senate so we might consider it.

The PRESIDING OFFICER. Without objection, it is so ordered. It is pending.

Mr. STEVENS. Mr. President, I withdraw that request.

AMENDMENT NO. 2033

Mr. President, is it in order for me, as manager of the bill, to move to table Senator KERRY's amendment No. 2033 at this time?

The PRESIDING OFFICER. The amendment is not presently pending. The Senator may ask for the regular order with respect to the amendment.

Mr. STEVENS. Mr. President, I ask for the regular order with respect to that amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. STEVENS. Mr. President, I move to table Senator KERRY's amendment which deals with LIHEAP and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that be put into the schedule to be developed by the leadership as to the time at which that vote will occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, as to the amendment offered by Ms. STABENOW, I have made the point of order. At what time would that vote occur?

The PRESIDING OFFICER. The time for the vote has not yet been scheduled.

Mr. STEVENS. Would it be all right with the Senator if we ask for it to be scheduled according to the leadership in this process this evening?

Ms. STABENOW. Yes. That is fine.

Mr. STEVENS. Mr. President, I ask unanimous consent that amendment be added to the list for a vote this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield the floor to the Senator from West Virginia.

I suggest the absence of a quorum first.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that following the votes already scheduled at 7:30 today, the Senate proceed to vote in relation to the following amendments, in the order listed, provided no second-degree amendments be in order to the amendments prior to the votes: first is Senator MCCAIN's amendment No. 1978; the next is Senator KERRY's amendment No. 2033, for which I made a motion to table, and next is Senator STABENOW's amendment No. 1937, which is a motion to waive my point of order; provided that there be 2 minutes equally divided prior to the debate on each of the above ordered votes. And I ask unanimous consent that for the votes that start at 7:30, the first vote be the regular number of minutes—20 minutes, I believe—and that following that—we have six in the order—the five remaining votes be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, my understanding is that Senator SESSIONS is going to speak for approximately 10 minutes. I ask unanimous consent to speak as soon as he is finished.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see the chairman. I suppose we are ready to go forward. Does the chairman have anything he needs to say at this time?

Mr. STEVENS. I say to the Senator, Mr. President, if I may respond to his question, we are waiting for Senator BYRD to make a statement. But he is not ready at this time, so the Senator may proceed. He should be ready in about 5 or 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair.

Mr. President, we in this country have the highest standards of conduct in our legal system, and our military has the highest standards of behavior as they deal with prisoners with whom they come in contact.

Have problems occurred? Yes, they have. Has that occurred in every war we have ever been involved in, that any nation has ever been involved in? Unfortunately so.

But I want to take a few minutes now to express my deep feeling that we do not have a program of systematic abuse of prisoners going on by our U.S. military; that they are maintaining the discipline of our troops; and that they are, day after day, subjecting themselves to personal risk—not firing randomly or rapidly but hesitating to make sure innocents are not injured, and have complied with the most extensive set of requirements dealing with prisoners that any nation and army has ever had in the history of the world. Our military has taken disciplinary action time and time and time again if anybody violates those standards.

We should all remember that event that made a good bit of news when a fine Army colonel was in a combat area taking fire and captured an enemy, and to save the lives of his troops, as his soldiers later testified, he fired a gun beside the head of a captured prisoner in order to frighten him and see if he would provide information that might be of value in saving the lives of the American soldiers he commanded. He was kicked out of the Army for it. The news media did not discover this occurrence. The military did and acted upon it.

We all heard about Abu Ghraib, and the sick and unacceptable behavior that went on in that prison. But I remember distinctly that within one day of the information being brought to the commanders of our soldiers in Iraq, an investigation was commenced. Within 3 days, they had made a public announcement to the world that there had been allegations of abuse in Abu Ghraib and that an investigation was ongoing. And it was months—2 or 3 months—later that these pictures came out.

Why do I say that? I say that because the military took the allegations seriously from the beginning. They were not reacting to the release of pictures that embarrassed them. Rather, they immediately initiated the investigation about what happened on this midnight shift by these soldiers who lost discipline in Abu Ghraib and abused prisoners in a way that is unacceptable to us.

Those guards, have all been tried and convicted. The Wall Street Journal, just a couple of days ago, published an op-ed entitled "The 'Torture Narrative' Unravels." It noted that the trial and conviction of PFC Lynndie England, who was sentenced as the "leash girl" for her activities there, "was relegated to the innards of newspapers." That did not make any big news—the Army's professional, proper response to a lack of discipline.

The op-ed goes on to note that "by one of the greatest leaps of logic ever seriously entertained in our national discourse, those memos"—that were written by the Department of Justice in analyzing what the President's proper powers were with regard to the detaining of enemy soldiers, who are not lawful combatants—that it was "one of the greatest leaps of logic ever seriously entertained in our national discourse" to say that memos as part of a discussion in the Department of Justice of the United States had anything to do with those soldiers in Iraq carrying out that abuse.

But that is what was alleged. It was during a campaign season, I understand, and it resulted in calls for the resignation of Secretary Rumsfeld and, I guess, to call for the removal of the President of the United States before the election.

We had one Senator, whose name is known all over the world, say: "Saddam's torture chambers reopened under new management, U.S. management."

I submit that was a slander on our troops and our soldiers who are in harm's way because we sent them there. We asked them to go there to defend the legitimate national interests of our country. We put them at risk, and when we say things about them that are not true, to suggest to the world that we have systemic abuse in our military. Those charges place them at greater risk. It makes it harder for us to negotiate peace treaties with people who are suspicious of us. They believe these things.

When we have Members of the House and the Senate and political leaders in our country making irresponsible and unfounded charges against the military, that they are systematically abusing prisoners, it is wrong. It ought to stop, and I feel strongly about that.

Oh, we remember those comments, when all the pictures of the abuses were leaked and were made available. They said higher-ups were involved, it went all the way to the Secretary of Defense, and that these people were using interrogation techniques according to some memo written somewhere, and that it was all part of poor leadership and mismanagement, and our military discipline was not being maintained.

Remember those comments? It could not be just the lower-ranking soldiers; "why don't you prosecute the higher ups?" We heard Senators saying that time and again.

It just was not so. This is what the Wall Street Journal article said. They quote the judge when PFC Lynndie England was before the court. The judge asked her this: "You feel that by doing these things you were setting conditions for interrogations?"

Remember that allegation, that the abuses of these prisoners were carried out to set them up, to prime them to be interrogated by the Army interrogators or other interrogators, and that this was part of a systemic plan to soften up the prisoners so they could be interrogated? So the judge asked her under oath—she could use this as a defense:

You feel that by doing these things you were setting conditions for interrogations?

Her answer:

No, sir.

So the judge responded:

So this was just a way to embarrass them?

Referring to the prisoners.

And she replied:

Yes, sir.

Or consider the testimony of SP Jeremy C. Sivits. He pled guilty, too, as I recall. This is what Sivits said about their behavior in that prison:

Our command would have slammed us. They believe in doing the right thing. If they saw what was going on, there would be hell to pay.

I will say right now, every one of these Senators who has been complaining that this misbehavior in the prison was a direct result of some sort of approved interrogation techniques by the Secretary of Defense or the President or the Department of Justice, and they were overruling JAG officers somewhere in doing these things, is not so.

I was a prosecutor for quite a long time. I am telling you, when you have somebody being prosecuted and you are accusing them of a crime—I know the chairman has been a prosecutor—and they have an excuse or defense, don't they say it? They say: It wasn't my fault; they told me to do it; I was following orders. These people did not say that. They took their medicine, they were tried and convicted or pled guilty, and many are serving a very long sentence in jail for that misbehavior.

It embarrassed the soldiers. I had soldiers tell me: This is an embarrassment to me. We worked our hearts out to make Iraq a better place, and this was an embarrassment to us. It undermined our ability to do our job.

They were angry with these people who misbehaved. They were glad to see them prosecuted. It galls me that we have people suggesting this was the policy of our Army. It is not correct.

We had the complaints about Guantanamo Bay, that there were systematic abuses going on down there. By the way, we have had over 25 hearings in this Senate and in the House dealing with prisoner abuse. We have had more hearings on this issue than we have had on how to win the war. In addition to that, there have been 10 major reviews, assessments, inspections, and investigations. I mean major reviews. We had those generals and admirals who conducted the reviews before our committees. We interviewed them, and we made them explain their reports. Mr. President, 16,000 pages of documents have been delivered to the Congress, and 1,700 different interviews were conducted. Detentions, operations, enhancement, oversight training—all those issues were brought up. There are 390 criminal investigations completed or ongoing.

People who are responsible for misbehavior are being held to account. If I thought our military was not responding well, I would be very concerned. I have seen law officers involved with a bad criminal, and that person runs and they chase him and have to wrestle him down. They are so pumped up sometimes they do more to that person they have apprehended than they should. Maybe they beat them. You have to contain the felon, but sometimes you go too far. I have seen abuse cases filed against them. It breaks your heart sometimes because you know the police officers lost control in tough conditions and went too far, but they have to be disciplined because we do not allow that in our country.

The same is true for our soldiers. It is easy for us to talk about what it is like being out in combat, having your life at risk. Some of us might lose some of our discipline, too. We don't excuse it. We understand it.

The activities at Guantanamo have been proven to involve only two or three incidents that have been indefensible, and action has been taken concerning those.

Also, we have had tremendous evidence of how good the conditions are there, how well they are being fed, their full rights to conduct their religious expression openly and freely, and the other things that have gone on.

Now we have a letter pop up from a Captain Fishback who has made allegations concerning the 82nd Airborne. I don't know the full details of it. I will quote a small portion. We heard all these complaints that say that he has submitted proof of systemic abuses in the prisons. This is a New York Times article, and the New York Times has made a full-time effort to try to root out and expose and publicize any misbehavior that has occurred there. They have gone too far, sometimes, in my opinion. But this is what the New York Times says:

Captain Fishback said he had seen at least one interrogation where prisoners were being abused.

I don't know what "abused" means. I am a former prosecutor. What does "abused" mean? Did they shake him? Did they respond to being spit on by prisoners, as many of our guards have been? Did they injure him in some way? I think if they were beaten, he would have said they were beaten. He didn't say that. He used a far more general term, that they were "abused."

Then he goes on to say that he was told about other ill-treatment of detainees by his sergeant. "Ill-treatment," what is that? He didn't say they were beaten, shot, killed, wounded, or tortured.

An investigation is being undertaken of these allegations. It is odd, though, when asked to name the sergeants and the people who conducted the activity so they could follow up and investigate and make sure people who did wrong were disciplined, Captain Fishback refused to disclose the names of the sergeants, one who left the Army and the other who has been reassigned because he did not want to reveal his identity.

It is hard for the Army to investigate if the guy making the complaint, telling Human Rights Watch and the New York Times all these points, will not tell the Army what actually occurred.

I am dubious, for complex technical reasons, of the amendment that has been offered today and which we will vote on later tonight because I am not sure it makes good legal sense to have a law that is a moving law, it seems to me, that complies with the Army regulations. Army regulation is going to change, and you have a law and the law is going to change while the regulation changes? A statute is supposed to be permanent. As a lawyer, I am troubled by that. I don't think this is a necessary action. I don't intend to vote for the amendment for that reason and a number of other complex reasons.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that we had a unanimous consent request that was agreed to that the Senator from Illinois would be recognized. Does the Senator from Alaska have a request other than the previous regular order?

Mr. STEVENS. I was not on the floor, apparently, when that occurred. We had previously indicated the Senator from West Virginia would be recognized. May I inquire from the Senator from Illinois how much time he would like?

Mr. OBAMA. Mr. President, I request 7 or 8 minutes, but as my esteemed colleague from West Virginia knows, I am happy to defer to him if we do not have enough time before the vote.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from Illinois be recognized for not to exceed 10 minutes and then the Senator from West Virginia be recognized for not to exceed 15 minutes, and then I be recognized following the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

(The remarks of Mr. OBAMA pertaining to the introdution of S. 1821 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. THUNE). The Senator from Arizona is recognized but should be aware of the unanimous consent agreement.

Mr. McCAIN. I understand. I rise in an attempt to modify the unanimous consent agreement, with the agreement of the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. McCAIN. Mr. President, I ask unanimous consent to be recognized for not longer than 4 minutes, to be immediately followed by the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I have had to come to this Chamber many times and have had the privilege of doing so since 1987 when I entered this body. I never thought I would have to come to the Senate floor to defend the integrity and the reputation of a brave young American who has put his life on the line for his country defending the freedom of Afghan and Iraqi people.

The remarks of the Senator from Alabama concerning his allegations of abuse and his disparagement of his word and his conduct is unacceptable. This young man, Captain Fishback, served in Afghanistan and Iraq, is a member of the 82nd Airborne, was highly decorated, and had the courage to come forward because of his deep-seated dedication to this Nation and his desire to see that we do the right thing in the treatment of prisoners of war.

He says very eloquently:

> . . . Do we sacrifice our ideals in order to preserve security? Terrorism inspires fear and suppresses ideals like freedom and individual rights. Overcoming the fear posed by terrorist threats is a tremendous test of our courage . . .

Captain Fishback is a noble, brave young American. He does not deserve to be disparaged on the Senate floor by any Senator, and the Senator from Alabama owes him an abject and deep apology.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 1955

Mr. BYRD. Mr. President, the Senate will vote within the next few minutes on a procedural motion relating to the amendment offered by Senator WARNER and Senator LEVIN. This amendment proposes to add much of the Defense authorization bill to the Defense appropriations bill. The Defense authorization bill is most complex legislation. The bill deals with a broad array of policy matters, ranging from providing for increased pay and benefits for our troops to changing laws relating to nuclear nonproliferation programs to authorizing military construction projects and so on.

The committee report that accompanies this bill is 494 pages in length. It is legislation that deserves close scrutiny, full and open debate, and an opportunity to freely amend. If this motion carries and the amendment is adopted, the Senate will only have a bobtailed debate of just a few hours on this very important bill.

I am a member of the Senate Armed Services Committee as well as the Appropriations Committee. I attended a portion of the markup of the Defense authorization bill which lasted several full days. Senator WARNER and Senator LEVIN conducted the markup in an exemplary bipartisan manner, and I commend them for their outstanding efforts. They are always fair and very considerate of others and always courteous to every other Senator.

The bill was reported from the committee on May 12 of this year, and it was brought to the floor on July 20. For reasons which have been widely discussed, the Defense authorization bill was pulled from the floor on July 27, after only five votes on amendments to the bill. The Senate could have finished consideration of the Defense authorization bill within a matter of 2 or 3 days or perhaps a week, if necessary, if the leadership had not pulled it from the floor.

This was a precipitous act, and because of this precipitous action most Senators have had no opportunity to offer amendments and no opportunity to receive votes on their amendments. That is not the way the Senate ought to operate. That is not the way the Senate used to operate. We used to have full and open debates on this floor, take a week perhaps or 2 weeks on a bill this size. As I have stated, here is the history of this important legislation.

The matter before the Senate is whether to allow the Defense authorization bill to be added to the Defense appropriations bill as an amendment. What a way for the Senate to operate. What a way to conduct this important business of the people. This is not the way the Senate is supposed to conduct its business. This is a forum for free, open, and unlimited debate. This is how the Senate is so different from other upper bodies throughout the world today. This is why the Senate is such an incredibly powerful and important forum of free debate, open debate, unlimited debate, the full airing of legislation, time to ask questions, time to answer questions, time to explain, explore, deliberate, and time to offer amendments. What a travesty.

The Senate is an institution sui generis, one of its kind in this country, a forum where there can be free, open, unlimited debate, freedom of debate, freedom of speech. So the Senate is an institution where freedom of speech, freedom of debate, and the freedom to amend reign.

Attaching such a massive bill, the Defense authorization bill, to another important bill, the Defense appropriations bill, will mean that the Senate will never have an opportunity to focus its undivided attention on the important matters of the Defense authorization bill. This is a travesty on freedom of debate. It is a travesty that strikes at the heart of the Senate: freedom of speech, freedom of debate, and freedom to amend.

Freedom of speech has its roots buried in antiquity. Henry the Fourth in 1407 said that the members of commons would have freedom of speech. They could say whatever was on their minds about the king, if necessary. Freedom of speech, there it was in the English Declaration of Rights, February 3, 1689. And there it was, in the English Bill of Rights, placed there on December 6, 1689: Freedom of speech. The freedom of commons to speak on any subject, not to be questioned elsewhere in the English House of Commons, and that freedom of speech is enshrined in the American Constitution.

Here we are putting a limitation and we are self-imposing it—on ourselves. I am a member of both the Armed Services Committee and the Appropriations Committee, and I believe there is a great importance to allowing the Senate to consider the authorization bill and the appropriations bills separately. Debate about funding our military should take place on the appropriations bill and debate about defense policy should take place particularly on the authorization bill. They are both important bills, and they should be considered separately.

The Defense authorization bill should be brought to the floor of the Senate for debate and amendment as a freestanding bill, not as a massive rider to another bill, the appropriations bill. There ought to be a debate about the important matters addressed by the Defense authorization bill. Let there be amendments and let there be votes about such important matters as health care benefits for National Guardsmen and about the war in Iraq.

The immediate question before the Senate is procedural in nature, but the heart of the matter is whether the Senate will allow parliamentary maneuvers to conduct an end run around how important legislation should be considered on the floor of the Senate.

If the Defense authorization bill is attached to the Defense Appropriations Committee bill, these important and controversial matters will not have a full hearing on the floor of the Senate. Instead, any changes that may be made to the Defense authorization bill will only occur behind closed doors in a large, unwieldy conference committee. That is not the right place for debate on these important issues. These issues should first be debated on the floor of the Senate as they were on the floor of the House many months ago, but even more so because this is the forum for free speech—freedom of debate. The Senate should not be cutting corners on the legislative process because what ends up being cut out is the freedom of speech, freedom of debate, and freedom to amend.

It is also worth noting that the amendment now pending does not encompass all of the provisions of the Defense authorization bill. The sections of the bill that relate to military construction projects and nuclear weapons issues have been left out. Those are very important matters, considering the base closure round that occurred this year and the multitude of important matters relating to the thousands of nuclear weapons that the United States still possesses.

What would happen to these provisions of the Defense authorization bill? Would they be left in limbo or would they be slipped into a conference report in the dark of night, never to receive any debate on the floor of the Senate? That is the wrong way to go.

I have very great affection for Senator WARNER and Senator LEVIN. I serve on their committee, the Committee on Armed Services. They are knowledgeable and able leaders of the Armed Services Committee. But I oppose this effort to attach the Defense authorization bill to the Defense Appropriations Committee bill. It is the wrong way to go, the wrong thing to do. It shortchanges debate. It shortchanges the American people, in that they will not be fully informed as to what is in each bill. Their representatives, their elected representatives in this Senate, will not have had an opportunity to fully debate, to answer questions, to ask questions, and to amend freely.

What is happening to the Senate? What is happening to the Senate, I ask? What is happening to freedom of debate in the Senate? What is happening to an orderly process, the legislative process by which the elected representatives of the people in the Senate have a full opportunity to debate, to ask questions?

Woodrow Wilson said the informing aspect was as important as the legislating aspect of the Senate, the informing aspect. And debate brings out information that the American people need and that they are entitled to.

So what is happening to this Senate? I think all Senators should stop and think about this question. Those of us who have been here many years have seen the Senate when it was somewhat different than it is today. There was time to debate. We just weren't in session 3 days a week and then gone; in 3 days a week, out 4 days a week, and the 3 days a week often begin with a vote, which is kind of a bed-check vote at 6 o'clock in the evening on Tuesday. So you have, really, nothing on Tuesday but a bed-check vote anymore, and then Wednesday and Thursday. What a shame.

What is happening to the Senate? What is happening to this forum, this forum of freedom of debate, freedom of speech, freedom to amend—what is happening to this Senate, and why?

I am sorry that the Senate is going in this direction. What is happening? This institution has built its distinguished reputation, its distinguished character on the principle of freedom to debate—freedom of debate, freedom of speech, freedom to amend.

Mr. President, I ask unanimous consent that I may proceed for another 5 minutes?

Mr. STEVENS. Mr. President, I would say to the Senator, we are scheduled to start at 7:30, and 6 minutes before that was equally divided between the Senator from Virginia and myself. So the Senator has probably about 3 minutes that he could proceed.

Mr. BYRD. Yes, if I could have 3 more minutes.

Mr. STEVENS. Three more minutes to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. But the Senate has begun to fall short on those important constitutional principles. We have just a handful of votes each week and then the rush is on to get out that door, out that door, out this door here—get out. The rush is on to wrap up business on an artificial timetable.

So what has happened to the Senate? The American people need to know. Why can't the Senate take the time for important debates on the important issues before our Nation. Our troops are at war in Iraq and Afghanistan. They are doing an outstanding service for our country. The Senate ought to give its undivided attention to each of the bills that relate to our troops. If the members of the National Guard are able to put their lives on hold to go fight for our country overseas, then the Senate ought to be able to surely spare whatever time it takes to debate the Defense appropriations bill and the Defense authorization bill as freestanding measures. America deserves that. Our troops deserve that.

The Defense authorization bill ought to be brought up as a freestanding measure so that the Senate may work its will on that legislation. It should be open to debate and amendment. That is why I oppose the motion on the defense of germaneness for the Warner-Levin amendment. The Senate should not cut corners on the legislative process.

Therefore, I shall vote no on the motion on the defense of germaneness, and I urge my colleagues to join me in voting no.

Let's stand up for freedom of speech in this Senate, freedom of debate, freedom to offer amendments. Let's do right by the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thought I had a unanimous consent to do a series of modifications in the managers' package. I ask unanimous consent I be able to proceed now for 10 minutes, to take care of this managers' package?

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, I ask if I might be given, as a matter of personal privilege, 2 minutes to respond to the statement of Senator McCAIN?

The PRESIDING OFFICER. Is there objection? Does the Senator from Alaska so modify his request?

Mr. STEVENS. With the understanding that the Senator has 2 minutes. I then have 10 minutes, and then the 6 minutes starts before the 7:30 vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the Senator from Arizona has asked that I apologize for disparaging Captain Fishback in my earlier remarks. I do not believe I did so in any way. The Captain has a distinguished record in the military. Nobody questions that.

I did note, however, that his allegations contained in the New York Times article said that he had:

> . . . seen at least one interrogation where prisoners were being abused and was told about other ill treatment of detainees by his sergeants.

In my statement I simply raised the question of what "abuse" meant precisely, and whether, by implication, if this was a basis for a charge, as the newspapers were making and others were, that there was systematic abuse of prisoners—which I do not believe to be the case.

I did note that, when asked to name the individual sergeants who admitted they had been misbehaving or that bad activities had occurred, he refused to give those names.

If something is in error about that—I simply quoted from the New York Times—I would be pleased to apologize. But I think those in this Senate who have accused the up-and-down members of the chain of command of the U.S. Army, the U.S. Marines, and Department of Defense of promoting policies to abuse prisoners, they ought to think about whether they should apologize. I believe that accusation is false.

I thank the chairman and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENTS NOS. 2002; 1986, AS MODIFIED; 2028; 1906, AS MODIFIED; 1899, AS MODIFIED; AND 2008, EN BLOC

Mr. STEVENS. Mr. President, I have managers' package No. 3 before the Senate. This includes a Grassley amendment No. 2002 for the multipurpose utility vehicle; a Voinovich amendment No. 1986 for the Millennium Gun System, as modified; a Graham amendment No. 2028 for moldable armor; a Feingold amendment No. 1906 for civilian linguists, which contains a modification; an Akaka amendment No. 1899, transition assistance programs, which contains a modification; and a Cantwell amendment No. 2008 for infrared countermeasures improvement.

I ask the Chair lay those amendments before the Senate for consideration en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the amendments en bloc.

Mr. STEVENS. I ask for their consideration, please.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Reserving the right to object, I will not object. I do not know if I have seen that amendment.

Mr. STEVENS. I thought the Senator had.

Mr. McCAIN. I do not object. I think we have already seen that. Thank you.

Mr. STEVENS. I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 2002

(Purpose: To make available $1,000,000 from Research, Development, Test, and Evaluation for the Army for the Multipurpose Utility Vehicle)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $1,000,000 may be used for Combat Vehicle and Automotive Technology (PE#0602601A) for the Multipurpose Utility Vehicle.

AMENDMENT NO. 1986, AS MODIFIED

(Purpose: Of the amounts provided for the Navy for research, development, test, and evaluation, up to $3,000,000 may be available for land attack technology for the Millennium Gun System)

At the appropriate place, insert the following:

Of the amount appropriated by this title under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to $3,000,000 may be available for land attack technology for the Millennium Gun System.

AMENDMENT NO. 2028

(Purpose: To make available $2,000,000 from Research, Development, Test, and Evaluation for the Army for Moldable Armor)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $2,000,000 may be used for Moldable Armor.

AMENDMENT NO. 1906, AS MODIFIED

(Purpose: To provide for the establishment of a pilot project to create a civilian language reserve corps in order to improve national security by increasing the availability of translation services and related duties)

At the appropriate place, insert the following:

SEC. . PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) IN GENERAL.—The Secretary of Defense, acting through the Chairman of the National Security Education Board, shall, during the 3-year period beginning on the date of enactment of this Act, carry out a pilot program to establish a civilian linguist reserve corps, comprised of United States citizens with advanced levels of proficiency in foreign languages, who would be available, upon request from the President, to perform translation and other services or duties with respect foreign languages for the Federal Government.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2393), shall—

(1) identify several foreign languages in which proficiency by United States citizens is critical for the national security interests of the United States and the relative importance of such proficiency in each such language;

(2) identify United States citizens with advanced levels of proficiency in each foreign language identified under paragraph (1) who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for securing the performance of the services and duties referred to in subsection (a) by the citizens identified under paragraph (2); and

(4) invite individuals identified under paragraph (2) to participate in the civilian linguist reserve corps.

(c) CONTRACT AUTHORITY.—In establishing the civilian linguist reserve corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot program established under this section, the Secretary shall conduct a study of the best practices to be utilized in establishing the civilian linguist reserve corps, including practices regarding—

(1) administrative structure;

(2) languages that will be available;

(3) the number of language specialists needed for each language;

(4) the Federal agencies that may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the next 2 years, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a civilian linguist reserve corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of a civilian linguist reserve corps.

(f) FUNDING.—Of the amount appropriated under the heading "Operation and Maintenance, Defense-Wide" in title II, up to $1,500,000 may be available to carry out the pilot program under this section.

AMENDMENT NO. 1899, AS MODIFIED

(Purpose: To make available up to $5,000,000 for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces)

At the appropriate place, insert the following:

SEC. . (a) FUNDING FOR PARTICIPATION OF VET CENTERS IN TRANSITION ASSISTANCE PROGRAMS.—Of the amounts appropriated or otherwise made available by this Act, up to $5,000,000 may be used for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces.

(b) VET CENTERS DEFINED.—In this section, the term "Vet centers" means centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

AMENDMENT NO. 2008

(Purpose: To make available, from funds appropriated for research, development, test and evaluation, Air Force, up to $2,500,000 for advanced technology for IRCM component improvement)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", up to $2,500,000 may be available for advanced technology for IRCM component improvement.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1989, AS MODIFIED; 1911, AS MODIFIED; 2027, AS MODIFIED; 2010; 1947, AS MODIFIED; 2030, AS MODIFIED, AND 2012, EN BLOC

Mr. STEVENS. I also have before the Senate a managers' package No. 4. Has the Senator from Arizona seen this? This contains Senator ALLEN's amendment, No. 1989, for operational gasification with a modification; Senator SNOWE's amendment, No. 1911, for New England manufacturing with a modification; Senator KERRY's amendment, No. 2027, for expeditionary fighting vehicle, with a modification; Senator REED of Rhode Island, No. 2010, for shipboard automated reconstruction; Senator CORNYN, No. 1947, for activated factor VII, as modified; Senator TALENT, No. 2030, on the C–17, as modified.

I ask unanimous consent that those amendments be considered en bloc as presented to the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider them en bloc.

Mr. STEVENS. Mr. President, I failed to mention Senator BOXER's amendment on mental health. It is amendment numbered 2012. I include that and repeat my unanimous consent request for consideration.

The PRESIDING OFFICER. The Senate will also consider the Boxer amendment.

Mr. STEVENS. I ask that the Senate consider and agree to the amendments.

The PRESIDING OFFICER. Is there further debate on the amendments?

If not, the question is on the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1989, AS MODIFIED

(Purpose: From funds appropriated for research, development, test and evaluation, Army, and available for demonstration and validation, up to $5,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit).

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY" and available for demonstration and validation, up to $5,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit.

AMENDMENT NO. 1911, AS MODIFIED

(Purpose: To provide that, of the amount authorized to be appropriated for the use of the Department of Defense for research, development, test, and evaluation for Defense-wide activities, up to $5,000,000 may be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative)

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", up to $5,000,000 may be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative to meet Department of Defense supply shortages and surge demands for parts and equipment.

AMENDMENT NO. 2027, AS MODIFIED

(Purpose: To provide that, of the amount made available under title IV for the Navy for research, development, test, and evaluation, up to $1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY", up to $1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle.

AMENDMENT NO. 2010

(Purpose: To make available $2,000,000 from Research, Development, Test, and Evaluation for the Navy for the Shipboard Automated Reconstruction Capability)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY, up to $2,000,000 may be used for Program Element #0603235N for the Shipboard Automated Reconstruction Capability.

AMENDMENT NO. 1947, AS MODIFIED

(Purpose: From amounts available in RDA in title IV, up to $1,000,000 may be available for Recombinant Activated Factor VII)

At the appropriate place, insert the following:

SEC. ___. (a) BLAST INJURY PREVENTION, MITIGATION, AND TREATMENT INITIATIVE OF THE ARMY.—Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $1,000,000 may be available for Program Element #63002A for far forward use of recombinant activated factor VII.

AMENDMENT NO. 2030, AS MODIFIED

(Purpose: To provide for the procurement of 42 additional C-17 aircraft)

On page 220, after line 25, insert the following:

SEC. 8116. Beginning with the fiscal year 2006 program year, the Secretary of the Air Force is strongly encouraged to exercise the option on the existing multiyear procurement contract for C-17 aircraft in order to enter into a multiyear contract for the procurement of 42 additional C–17 aircraft.

AMENDMENT NO. 2012

(Purpose: To provide for a Department of Defense task force on mental health)

At the appropriate place, insert the following:

SEC. ___. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) Administrative Matters.—

(1) Compensation.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) Oversight.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) Administrative support.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) Access to facilities.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) Report.—

(1) In general.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) Transmittal to congress.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) Termination.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1991, AS MODIFIED; 1964, AS MODIFIED; 1948; 2029, AS MODIFIED; 1927, AS MODIFIED, EN BLOC

Mr. STEVENS. Mr. President, I have a managers' package No. 5 before the Senate.

Senator KENNEDY's amendment, No. 1991, for basic research programs, as modified; Senator SALAZAR, colloquy on system controls; Senator MURRAY, No. 1964, for transition assistance programs, as modified; Senator COBURN, No. 1948, on placing directives in the bill; Senator ALEXANDER, No. 2029, for heat pumps, as modified; Senator WARNER, No. 1927, for electron source program, as modified.

I ask unanimous consent that these amendments be considered en bloc by the Senate, as modified.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of amendments en bloc.

Mr. STEVENS. Mr. President, I ask for consideration of the amendments.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1991 AS MODIFIED

(Purpose: To make available additional amounts for defense basic research programs)

At the appropriate place, insert the following:

Sec. ___. (a) Army Programs.—Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Army", up to an additional $10,000,000 may be used for Program Element 0601103A for University Research Initiatives.

(b) Navy Programs.—Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Navy", up to an additional $5,000,000 may be used for Program Element 0601103N for University Research Initiatives.

(c) Air Force Programs.—Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Air Force", up to an additional $10,000,000 may be used for Program Element 0601103F for University Research Initiatives.

(d) Defense-Wide Activities.—Of the amount appropriated by title IV under the heading "Research, Development, Test, and Evaluation, Defense-Wide"—

(A) up to an additional $10,000,000 may be used for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) up to an additional $5,000,000 may be used for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Cybersecurity.

(e) Sense of Senate.—It is the sense of the Senate that it should be a goal of the Department of Defense to allocate to basic research programs each fiscal year an amount equal to 15 percent of the funds available to the Department of Defense for science and technology in such fiscal year.

AMENDMENT NO. 1964 AS MODIFIED

(Purpose: To provide for studies of means of improving the transition assistance services of the Department of Defense and other benefits for members of the National Guard and the Reserves)

At the appropriate place, insert the following:

SEC. ___. REPORT ON REVIEW AND IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS ON TRANSITION ASSISTANCE FOR MEMBERS OF THE NATIONAL GUARD AND RESERVES.

(a) Report.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees report on the status of the review of, and actions taken to implement, the recommendations of the Comptroller General of the United States in the report of the Comptroller General entitled "Military and Veterans Benefits: Enhanced Services Could Improve Transition Assistance for Reserves and National Guard" (GAO 05-544).

(b) Particular Information.—If the Secretary has determined in the course of the review described in subsection (a) not to implement any recommendation of the Comptroller General described in that subsection, the report under that subsection shall include a justification of such determination.

AMENDMENT NO. 1948

(Purpose: To require that any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying this bill be included in the conference report or joint statement accompanying the bill in order to be considered as having been approved by both Houses of Congress)

At the appropriate place, insert the following:

Sec. ___. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2863 shall also be included in the conference report or joint statement accompanying H.R. 2863 in order to be considered as having been approved by both Houses of Congress.

AMENDMENT NO. 2029 AS MODIFIED

(Purpose: To require a report on the use of ground source heat pumps at Department of Defense facilities)

On page 220, after line 25, insert the following:

Sec. 8116. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

AMENDMENT NO. 1927 AS MODIFIED

(Purpose: To make available up to $1,500,000 for the Navy for research, development, test, and evaluation, to be available for research within the High-Brightness Electron Source program)

In the appropriate place, insert the following:

SEC. 8116. (a) Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" up to $1,500,000 may be available for research within the High-Brightness Electron Source program.

AMENDMENT NO. 1991

Mr. KENNEDY. Mr. President, our military is first in the world, because of the quality and training of our personnel and because of the technological sophistication of our equipment and weaponry. A large portion of the best civilian scientific minds in the Defense Department are nearing retirement age.

I rise to thank my colleagues for their support and adoption of the amendment Senator COLLINS and I offered to ensure that the Department maintains the workforce that it needs to stay globally competitive and invests in crucial research and development efforts.

Our amendment includes $10 million to double the committee's funding for the Department's current SMART Scholars program, which is essentially an ROTC program for the agency's civilian scientists. This represents a $17.8 million increase over the $2.5 million funding level provided last year—the program's first year in existence.

It increases by $30 million the Department's funding of basic research in science and technology, to ensure that its investment in this field is maintained and our military technology remains the best in the world.

Our amendment provides sufficient funding for the full cost of college scholarships and graduate fellowships for approximately 100 science, technology, engineering, and math students. It increases basic research in the Army, Navy, Air Force, DARPA and National Defense Education Program. It is supported by more than 60 of the most prestigious institutions of higher education in America.

Defense Department-sponsored research has resulted in stunningly sophisticated spy satellites, precision-guided munitions, stealth equipment, and advanced radar. The research has also generated new applications in the civilian economy. The best known example is the Internet, originally a DARPA project.

Advances in military technology often have their source in the work of civilian scientists in Department of Defense laboratories. Unfortunately, a large percentage of these scientists are nearing retirement. Today, nearly one in three DOD civilian science, technical, engineering, and mathematical employee is eligible to retire. In 7 years, 70 percent will be of retirement age.

Another distressing fact is that the number of new scientists being produced by our major universities at the doctoral level each year has declined by 4 percent over the last decade. Many of those who do graduate are ineligible to work on sensitive defense matters, since more than a third of all science and engineering doctorate degrees awarded at American universities go to foreign students.

It is unlikely that retiring DOD scientists will be replaced by current private industry employees. According to the National Defense Industrial Association, over 5,000 science and engineering positions are unfilled in private industry in defense-related fields.

The Nation confronts a major math and science challenge in elementary and secondary education and in higher education as well. We are tied with Latvia for 28th in the industrialized world today in math math education, and that is far from good enough. We have fallen from 3rd in the world to 15th in producing scientists and engineers. Clearly, we need a new National Defense Education Act of the size and scope passed nearly 50 years ago.

At the very least, however, the legislation before us needs to do more to maintain our military's technological advantage. Last year, over 100 "highly rated" SMART Scholar applications were turned down because of insufficient funding. Our amendment has sufficient funds to support every one of those talented young people who want to learn and serve.

It also increases the investment in basic research in science and technology. Investments by DOD in science and technology through the 1980s helped the United States win the cold war. But funding for basic research in the physical sciences, math and engineering has not kept pace with research in other areas. Federal funding for life sciences has risen fourfold since the 1980s. Over the same period, appropriations for the physical sciences, engineering, and mathematics have remained essentially flat. Funding for basic research fell from fiscal year 1993 to fiscal year 2004 by more than 10 percent in real terms.

The Defense Science Board has recommended that funding for Science and Technology reach 3 percent of total defense spending, and the administration and Congress have adopted this goal in the past. The board also recommended that 2 percent of that amount be dedicated to basic research. We must do better, and our amendment makes progress on this issue.

I thank my colleagues for recognizing the importance of this amendment and for their support in its adoption. I hope that we will continue to see similar increases in these programs in the future.

AMENDMENT NO. 1955

Mr. STEVENS. Mr. President, it is my understanding that we have 6 minutes equally divided before the Senate's consideration of the Warner amendment. Senator WARNER seeks a Senate vote on whether his amendment is germane to the bill. But before that occurs, it is my understanding the leaders may want to use some of their leadership time.

The PRESIDING OFFICER. There is now 6 minutes of debate divided on the germaneness of the Warner amendment.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I shall divide my time equally with my colleague Senator LEVIN, ranking member of the committee.

Mr. President, the question of germaneness has already been, in a sense, ruled on by the Parliamentarians who said in their judgment it is germane. The question is simply do we or do we not at this time, when our Nation is at war, bring up on the appropriations bill section A of the authorization bill?

I simply say to my colleagues, I trust you—I trust you to look at this extraordinary circumstance in which we are a nation at war, needing this bill to send a message. And I trust you that the amendment process will not be abused and that we can in a reasonable period of time accommodate those amendments that might be offered as second-degree amendments, and that your bill can go forward with the vitally needed appropriations funds.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the only way we are going to be able to consider the Defense authorization bill, apparently, this year is if we offer this as an amendment and then amend it. You heard from the Senator from Alaska earlier today that this would open up the bill, the appropriations bill, to amendments, that they would be unlimited. We heard the opposite argument from our dear friend from West Virginia that this would restrict amendments on the authorization. The only way we are going to be able to have debate on amendments on the authorization bill is if we consider the authorization bill now.

The leader, in his wisdom, pulled down the authorization bill when it was pending. As far as I know, there is not a decision on his part to bring that authorization bill back to the floor. How I dearly wish we could have a separate authorization bill. But we are not going to get it, except in this process.

It is amendable. I assure my friend from West Virginia that the only way we are going to debate the authorization bill on the floor of the Senate and offer amendments is if we follow this process. It is amendable. It is debatable. It is free speech at its utmost.

The alternative is the absence of debate on the authorization bill.

We have been able to clear about 100 amendments, plus. We do that in the ordinary process. We do that every year on the authorization bill. We try to accommodate our colleagues. We have gone through that process. There are another dozen or so amendments which we would have to consider that we know about.

Let us follow that process. There is so much in this bill that is needed. There is a health provision in this bill and a lot of other provisions.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, let me begin by saying, very succinctly, a vote against this issue of germaneness is not a vote against defense. This is the Defense appropriations bill. It is meant to carry the money to the Department of Defense and all of those involved in defense. It is not meant to carry the authorization. That is what rule XVI is all about. What we are looking at now is the Defense authorization bill being brought to this bill in part. This is not the whole bill. This is just part A; B and C were left out.

This is not going to finish debate on the authorization bill. It will only take up a part of it. There are a whole series of amendments that have been offered to the authorization bill, and, as a matter of fact, Senator WARNER has offered now two packages of amendments that have been approved by himself and Senator LEVIN. But they have not been considered, as far as we are concerned, as amendments to the appropriations bill. But that is what they want. They want us to accept their portion of the bill plus their amendments to the bill without any consideration for anybody. This is 108 amendments en bloc, not agreed to by the managers of this bill but agreed to by the would-be managers of the Defense authorization bill.

Offering the authorization bill to this bill without an agreement is an enormous precedent. I have been involved now 38 years, almost. It has never happened in my career, that a bill was brought to the appropriations bill and offered and then subject to amendment.

Often, we have taken whole bills at times and taken them to conference. Even that has been objected to by some. But normally we have taken omnibus bills. The authorizers are trying to make this an omnibus bill.

There are also other bills waiting in the wings that haven't been heard. What are we going to do with them if this process is to be followed?

But again, I want to note that a vote to find that this is germane—and I think I understand the question of what Senator WARNER said about what the Parliamentarians have done.

I make a parliamentary inquiry: Has the Parliamentarian ruled that this amendment is germane or just that it is subject to being found germane by the Senate?

The PRESIDING OFFICER. The Parliamentarian has advised that the Senator may raise a defense of germaneness.

Mr. STEVENS. Defense of germaneness is available to the Senator?

The PRESIDING OFFICER. The question is then submitted to the Senate.

Mr. STEVENS. A vote against this position of the Senator from Virginia would not be overturning the Chair, would it?

The PRESIDING OFFICER. It would not.

Mr. STEVENS. What we have here is a situation where it is critical that we finish this bill this week. Let me tell you why.

This bill is the supplemental appropriations bill for Defense for activities in Iraq and Afghanistan and the war on terror. We are in a continuing resolution period. There is no money in the continuing resolution for that part. I hope the Senate will understand that this authorization bill has no place in this bill as a bill to become amended by the processes of the Senate in the future.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask to speak on leader time.

We will in a very few minutes be coming to a vote on the question of germaneness on the Warner amendment. I want to take a few minutes to comment on two issues. One is what we have been talking about over the last 30 or 45 minutes; that is, the Defense authorization bill. And secondly, I want to make a quick comment on the germaneness issue.

We heard the distinguished Senator from West Virginia argue very strongly to have a freestanding Defense authorization bill come to the floor, and that is the most appropriate way to handle that bill. I agree to that. In fact, we have tried to do that in the past. We spent about 4 days on the floor, and at that time, because we had well over 100 amendments, took it off the floor to be addressed at some point in the future.

We heard from the Senator from Michigan saying the only way that we believe we can deal with this is by offering it as an amendment, which has been done to the appropriations bill. I want to make it very clear I disagree with that.

First, Defense appropriations: I think the appropriate way of dealing with this very important bill is to have it as a freestanding piece of legislation. As I mentioned, we have attempted to do that in the past, and I have been trying very hard to do that over the last couple of weeks. We had an offer on the floor that both the Democratic leader and the chairman and ranking member are well aware of, as most Members in our caucus are; that is, we would bring the Defense authorization bill to the floor as a freestanding bill, with 12 amendments to either side with second-degree amendments allowed under a time agreement.

Those amendments we have asked to be related or within the jurisdiction of that particular committee. That is what we have been working with. We have been waiting and working all day. We have for the last about 8 or 9 days been waiting for a response from the other side of the aisle. I understand the other side of the aisle cannot agree with that unanimous consent request. I do propound it, in large part, to let all of our colleagues know we have been working on it, and we feel strongly there is a way to bring this Defense authorization bill up freestanding with appropriate amendments.

With that, I will, at this point in time, propound that unanimous consent to make this clear. I ask consent, when the Senate resumes consideration of S. 1042, the Defense authorization bill, it be considered under the following limitations. All of the pending amendments be withdrawn and the bill be considered as follows: The only first-degree amendments in order be up to 12 amendments to be offered by the two leaders or their designees; provided further that the amendments be within the jurisdiction of the Committee on Armed Services and that these amendments be subject to second degrees, which are to be relevant to the amendment to which they have offered; provided further that the first-degree amendments be limited to 1 hour of debate equally divided in the usual form, with any second degrees limited to 30 minutes of debate equally divided.

I further ask that there then be 2 hours of general debate on the bill divided between the two managers; provided further that the amendments be offered on a rotating basis, and if an amendment is not available at the conclusion of the previous amendment, then the amendment no longer be in order.

Finally, I ask consent, at the expiration of that time and the disposition of the above amendments, the bill be read the third time and the Senate proceed to a vote on the passage of the bill as amended, if amended, with no intervening action or debate.

Mr. REID. Of course, I am going to object, but I want to use some of my leader time to talk about the travesty before the Senate at this time.

The Committee on Armed Services completed their work on this bill around the 1st of May, give or take a day or two. For 5 months, we have been trying to get this bill to the floor. For Members to cry crocodile tears that this might take an extra day or 2 or 3 or 4 or 5, we need only look at the history of the Senate.

I heard the remarks of the Senator from West Virginia. I agree with him. Can anyone imagine the Senate not having time to do the Defense authorization bill? We have men and women, as we speak, being shot at driving down roads and darkened streets in Iraq not knowing if they will make it home—because of a roadside bomb—home to their billet for that evening.

We have almost 2,000 men and women who have been killed in Iraq. We have had 15 to 20,000 wounded. Shouldn't we take a little time to talk about the work done by the duly constituted committee of the Senate, the Committee on Armed Services, take a look at what we need to do on a policy basis?

I am a proud member of the Committee on Appropriations. I have been on this committee since the day I got here. I am proud of it. It is the best committee in the Senate. But the Senate Committee on Appropriations does not run everything around here. Other committees work as hard as we do and have the right to have the matters they work on in committee heard.

We have devoted basically one day to this bill. It was pulled because of gun liability.

Now, in years past, we have worked our way through this. It has not been easy, but we have done it. The 10-year average: in the last 10 years, we have averaged 133 amendments, and we have averaged 14 rollcalls per bill. Why? Because we have had the same managers for a long time. They know how to work through these amendments. There is some give-and-take and some unhappy people, but we respect these two men. We work our way through it. That is the way it has been for 10 years.

The average for hours of debate on this bill is 47¼ hours. We have spent as much as 88 hours. When did we do that? Last year. We spent 88 hours on this bill last year. We had 196 amendments.

The point I make is that the real issue here—my two dear friends, the senior Senator from Virginia and the senior Senator from Michigan, think it is defense matters. It is not. It is Katrina. That is what it is about. We want to have a vote on an independent bipartisan commission to figure out what went wrong down in the gulf coast. We have not been allowed to have a vote on that. All we want is a vote. The only way we can do it is have a bill of substance, not one on an appropriations bill, so we can offer the amendment.

So this is a system that works just fine. The Senate was not set up to be convenient. It was not set up to have short periods of time to work. It was set up to do the business of this country. It has worked pretty well for more than 200 years.

One of the things we have traditionally done in time of war or peace is the Defense authorization bill.

So here it is. I have been to this floor I don't know how many times, but many, many times since last May, saying, Let's do a defense authorization bill. I can remember talking about one of my trips to the hospital and seeing the people in bed and how I felt I owed them something to come here and ask for time to hear their views. And they have views as to what is good and bad in Iraq. I have been here many times. I have added up weeks with the ranking member trying to get some way to the floor. And here at this time of night, as we are winding things down, we get a unanimous consent request that everyone knows is going to be objected to.

The Senator from West Virginia pretty well knows how to express himself. He may come from coal-mining families. He may have been an orphan. But he knows how to talk. He explained in very good detail why we cannot have the Senate run similar to the House of Representatives.

I want the record to reflect that the Defense authorization bill should have been debated a long time ago. We are ready to debate it any time. We are willing to enter into time agreements on amendments, but to come here tonight and say we are going to do 12 amendments, does anybody object—what I should have done is not object and have that side of the aisle watch them go to the ceiling. They would not like it either.

I am standing here and saying, I not only object, I object 1,000 times, until we get back to being Senators and doing things the way we have done.

The number of amendments, 196 last year. We spent 16 days on it; in 2003, 5 days, 75 amendments; back in 1997, 8 days, 120 amendments, 44 hours. Couldn't we spend a little bit of time on this bill?

The answer is, no, we are going to do the appropriations bill.

I know appropriations. As I have said, I have been on the committee for a long time. But as much as I love my committee assignment—it is the only committee I have anymore; I gave them all up with this job, but I love the Committee on Appropriations. I repeat, there are other committees that are as important as the Committee on Appropriations. The problem is, we have strict rules of how appropriations bills are handled, for obvious reasons.

I want the record to reflect I do my best, and sometimes that is not good enough, to be a partner with my friend, the majority leader. I don't want this statement I make to reflect on him personally. I am talking about the process that comes about as a result of him being a leader. I don't like the process. I think we could have done it better. I think we should have done this bill. I could be wrong, but I say to my chair and my distinguished friend, I think the only amendment we have had in this is one dealing with Boy Scouts—four others—and that was offered by the distinguished majority leader. I know it is well-intentioned, but I don't think it had much to do with the Defense authorization bill.

Let's let the record reflect I object. I object. I object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the objection we heard was to a unanimous consent.

Mr. REID. I have a unanimous consent request that I should have made, that we resume consideration of Defense authorization upon disposition of the Defense appropriations bill.

Mr. FRIST. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FRIST. Mr. President, the unanimous consent I propounded that was objected to by the other side is exactly what we have been working on the last couple of weeks. It did say we would have a freestanding bill to bring a very important bill to the floor. We have spent several days, I believe 4 days, on that bill in the past. I had 24 amendments, 12 to either side, plus second-degree amendments, of which there is no limit for. But it was objected to.

We will continue to work in that regard because I believe at some point we will be able to address that bill. What we will vote on, in hopefully a couple of minutes, is the germaneness of the Warner amendment, the authorization bill. The real challenge is if this bill is ruled germane, it will bog down what we are trying to do. There can be an endless number of amendments that are attached if it is germane; 130 have been filed. There would be unlimited second-degree amendments that could be applied toward the Warner amendment if that is found to be germane.

The appropriate way to deal with the Warner amendment is as a freestanding authorization bill. I agree with Senator WARNER. We need to do that, and we will work toward that in the future. I am disappointed the other side will not allow us to do it as a freestanding bill. Institutionally, if we start taking the huge authorization bills and start dumping them into the appropriations bill, the appropriations process, which is already difficult enough, is going do come to a grinding halt.

Therefore, I ask my colleagues to vote that the Warner amendment be not germane, joining the chairman and the ranking Member of the bill as well as Senator BYRD, that this is not germane, and if it is not germane, it will allow us to continue on with the Defense appropriations bill in a disciplined way to complete, hopefully, by the end of Friday.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. WARNER. I ask for the yeas and nays.

Mr. THUNE. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair, under Senate rule XVI, now submits to the Senate the question raised by the Senator from Virginia, Mr. WARNER: Namely, is his amendment No. 1955 germane or relevant to any legislative language already in the House-passed bill?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—49

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Chambliss
Clinton
Collins
Cornyn
Dayton
Dodd
Dole
Durbin
Ensign
Feingold
Graham
Hagel
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Lautenberg
Levin
Lieberman
Lincoln
Lugar
McCain
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Sessions
Snowe
Stabenow
Talent
Thune
Warner

NAYS—50

Alexander
Allard
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Coburn
Cochran
Coleman
Conrad
Craig
Crapo
DeMint
DeWine
Domenici
Dorgan
Enzi
Feinstein
Frist
Grassley
Gregg
Harkin
Hatch
Hutchison
Inouye
Isakson
Kohl
Kyl
Landrieu
Leahy
Lott
Martinez
McConnell
Mikulski
Murkowski
Murray
Roberts
Santorum
Shelby
Smith
Specter
Stevens
Sununu
Thomas
Vitter
Voinovich
Wyden

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 50. The Senate has voted the amendment not germane, and it falls for that reason.

Mr. FRIST. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1933

The PRESIDING OFFICER. There are now 6 minutes evenly divided on the vote with respect to the Bayh amendment. Who yields time?

Mr. STEVENS. What is the pending business?

The PRESIDING OFFICER. Amendment No. 1933 offered by the Senator from Indiana. There will be 6 minutes evenly divided.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation under the fiscal year 2006 concurrent resolution on the budget.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, under the previous order, this is a 10-minute vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Is all time yielded back?

The Senator from Indiana.

Mr. BAYH. Mr. President, I thank our colleague, Senator KENNEDY, for his steadfast support of this amendment. I thank our colleague, Senator STEVENS, both for his courtesy at this moment and also because while we may have a substantive disagreement about this amendment, I know his heart is in the right place.

This amendment ensures that our troops in Iraq and Afghanistan will have the equipment they need to accomplish their mission while keeping them out of harm's way. In deciding how to vote, I ask my colleagues to consider three things. First, the lesson of Katrina and regrettably the lesson of Iraq is that our Nation, when lives are at stake, must always plan for the worst, even as we hope for the best. Unfortunately, this has not happened in Iraq. On the contrary, our Armed Forces have consistently underestimated the need for armored vehicles in that theater of war. Nine times they have underestimated the need. They are no longer entitled to the benefit of the doubt. Regrettably, Walter Reed Army Hospital and other military hospitals are filled with the consequences of these errors. Let us not make that mistake again.

I ask my colleagues to recall the image of that brave soldier who stood up in a conversation with our Secretary of Defense, complaining about what he referred to as "hillbilly" armor, talking about our brave troops having to search through garbage dumps for the ability to defend themselves from hostile attack. We owe them better than that. Better than that is exactly what this amendment will provide. I ask for Senators' favorable consideration.

Mr. KENNEDY. Mr. President, I am delighted to join my colleague once again, Senator BAYH, in sponsoring this amendment, No. 1933, which increases funding for the procurement of armored Tactical Wheeled Vehicles for the Army.

Together, Senator BAYH and I have worked very hard together to make sure our soldiers have what they need. In April of this year, the Senate added $150 million for additional armored vehicles in the Iraq Supplemental.

Now we want to work together to keep our troops in the field properly equipped and also make sure they have the proper equipment on hand at home to train with prior to going overseas. The money in this amendment will make sure that the Army's pre-positioned stocks are re-constituted after over 2½ years at war.

There are also funds for the Joint Readiness Training Center at Fort Polk, LA. The Joint Readiness Training Center provides advance level joint training for the Army's Active and Reserve Component, Air Force and Navy forces. The training they receive simulates what they will face when deployed to Iraq and Afghanistan.

This issue has been divisive for far too long. All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives and carry out their missions.

It's scandalous that the administration has kept sending them into battle year after year in Iraq without adequate equipment. It's scandalous that desperate parents and wives here at home have had to resort to Wal-Mart to try to buy armor and mail it to their loved ones in Iraq to protect them on the front lines. Secretary Rumsfeld has rarely been more humiliated than on his visit to Iraq last December, when a soldier had the courage to ask him why the troops had to scavenge scrap metal on the streets to protect themselves. The cheer that roared out from troops when he asked question said it all.

More than 400 troops have already died in military vehicles vulnerable to roadside bombs, grenades, and other notorious improvised explosive devices.

Many of us have visited soldiers at Walter Reed and Bethesda and seen the tragic consequences of inadequate armor. We want to ensure that parents grieving at Arlington National Cemetery no longer ask, "Why weren't more armored humvees available?"

It's taken far too long to solve this problem. We have to make sure we solve it now, once and for all. We can't keep hoping the problem will somehow go away.

In a letter last October 20, General Abizaid said, "The FY 2004 Supplemental Request will permit the services to rapidly resolve many of the equipment issues you mentioned to include the procurement of . . . Humvees."

We have been told for months that the Army's shortage of Up-Armored Humvees was a thing of the past. The Army could have, and should have, moved much more quickly to correct the problem. As retired General Paul Kern, who headed the Army Materiel Command until last November, said, ". . . It took too long to materialize." He said, "In retrospect, if I had it to do all over, I would have just started building up-armored Humvees. The most efficient way would have been to build a single production line and feed everything into it."

In April, GAO released a report that clearly identifies the struggles the Pentagon has faced. In August 2003, only fifty-one Up-Armored Humvees were being produced a month. It took the industrial base a year and a half to work up to making 400 a month. Now the Army says they can now get delivery of 550 a month. The question is, why did it take so long? Why did we go to war without the proper equipment? Why didn't we fix it sooner, before so many troops have died?

According to GAO, there are two primary causes for the shortage of up-armored vehicles and add-on-armor kits.

First, a decision was made to ramp-up production gradually rather than use the maximum available capacity.

Second, funding allocations did not keep up with rapidly increasing requirements. Obviously, the Pentagon was still being influenced by its cakewalk mentality.

The GAO report specifically states that Pentagon decision-makers set the rate at which both up-armored Humvees and armor kits would be produced, and did not tell Congress about the total available production capacity. GAO was unable to determine what criteria were used to set the rate of production. In both cases, additional production capacity was available, particularly for the kits.

The delay was unconscionable. Without this amendment, the production rate of Up-armored humvees could drop off again later this year. We need to guarantee that we are doing everything possible to get the protection to our troops as soon as possible. We owe it to them, to their families here at home and to the American people.

We need to make sure our troops overseas have the best equipment available to protect them in combat. They also need to have the same equipment to train with at the Joint Readiness Center and the money in this amendment will ensure that happens.

The amendment contributes significantly to this goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, on a recent trip to Iraq, we saw the up-armoring taking place in country. They are doing it now in specially created circumstances there. But beyond that, we have funded the total capacity of the plants in the United States to produce up-armor. We have done everything we can. If we can find additional capacity, we have another supplemental coming in the spring, we will join the Senator in urging more money. But we have used every dollar we can for up-armoring in the plants and in facilities. You should see the Oshkosh plant over there. They are up-armoring trucks and all sorts of vehicles now in country.

I urge the Senate to understand this amendment is duplicative. We already provided the maximum amount before us that we can possibly spend with the existing capacity of the system now, $240 million for humvees, $150 million for the Army tactical wheeled vehicle. In addition to that, we are sending strikers now. We visited strikers in the Mosul area. They are enormous systems, and they are already armored. They don't have to be up-armored. We need more strikers, more armored vehicles, but we are doing the best we can. And we are using every bit of capacity the system has. This amendment will be duplicative of that funding.

I oppose the Senator's amendment despite my admiration for him and insistence that we do the maximum possible in armoring our vehicles.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment offered by Senator BAYH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank my colleague.

Mr. BAYH. I thank my colleague from West Virginia.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. I yield back my time.

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 1933.

Mr. STEVENS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—56

Akaka
Alexander
Allen
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Stabenow
Talent
Thune
Voinovich
Warner
Wyden

NAYS—43

Allard
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Kyl
Lott
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Thomas
Vitter

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. BAYH. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. What is now the pending business?

AMENDMENT NO. 1977

The PRESIDING OFFICER. There are now 6 minutes evenly divided before a vote with respect to the McCain amendment No. 1977.

Who yields time?

The Senator from Arizona.

Mr. McCAIN. Mr. President, war is an awful enterprise and I know that. I do not think I am naive about how severe are the wages of war and how terrible are the things that must be done to wage it successfully. It is a grim, dark business, and no matter how noble the cause for which it is fought, no matter how valued their service, many veterans spend much of their subsequent lives trying to forget not only what was done to them and their comrades but some of what had to be done by their hand to prevail.

I do not mourn the loss of any terrorist's life, nor do I care if in the course of serving their noble cause they suffered great harm. They have pledged their lives to the intentional destruction of innocent lives, and they have earned their terrible punishment in this life and the next.

What I do regret, what I do mourn, and what I do care very much about is what we lose, what we, the American service man and woman, and the great Nation they defend at the risk of their lives, when by official policy or by official negligence we allow, confuse, or encourage our soldiers to forget that the best sense of ourselves, that which is our greatest strength, that we are different and better than our enemies, that we fight for an idea, not a tribe, not a land, not a king, not a twisted interpretation of an ancient religion but for an idea that all men are created equal and endowed by their Creator with inalienable rights.

I have been asked before where did the brave men I was privileged to serve with in Vietnam draw the strength to resist to the best of their ability the cruelties inflicted on them by our enemies? Well, they drew strength from our faith in each other, from our faith in God, and from our faith in our country.

Our enemies did not adhere to the Geneva Convention. Many of my comrades were subjected to very cruel, very inhumane, and degrading treatment, a few of them even unto death. But every single one of us knew and took great strength from the belief that we were different from our enemies, that we were better than them, that if the roles were reversed, we would not disgrace ourselves by committing or countenancing such mistreatment of them. That faith was indispensable not only to our survival but to our attempts to return home with honor. Many of the men I served with would have preferred death to such dishonor.

The enemies we fight today hold such liberal notions in contempt as they hold in contempt the international conventions that enshrine them, such as the Geneva Conventions and the Treaty on Torture. I know that. But we are better than them, and we are stronger for our faith, and we will prevail.

I submit to my colleagues that it is indispensable to our success in this war that our service men and women know that in the discharge of their dangerous responsibilities to their country they are never expected to forget that they are Americans and the valiant defenders of a sacred idea of how nations should govern their own affairs and their relations with others, even our enemies.

Those who return to us and those who give their lives for us are entitled to that honor. Those of us who have given them this onerous duty are obliged by our history and by the sacrifices, the many terrible sacrifices, that they have made in our defense. We are obliged to make clear to them that they need not risk their honor or their country's honor to prevail; that through the violence, chaos, and heartache of war, through deprivation and cruelty and loss, they are always Americans, and different, better, and stronger than those who would destroy us. God bless them as He has blessed us with their service.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. FRIST. Mr. President, I rise to speak on leader time. I thank Senator McCAIN for his efforts on this very important issue that we have been debating, talking about, and focusing upon for a long period of time. It is an important matter that affects both our American reputation abroad and the conduct of our military personnel in this global war on terrorism.

It is important to state that the performance of American servicemembers in Iraq, Afghanistan, and elsewhere around the globe has been outstanding, has been inspiring, and truly representative of the best our Nation has to offer. This amendment strives to establish uniform standards for the interrogation of prisoners and detainees as a means for helping ensure our service men and women are well trained, well briefed, knowledgeable of their legal, professional, and moral duties and obligations. Therefore, I fully support the purpose and intent of this amendment, and although I understand it may require some fine-tuning to prevent any unintended consequences, I do intend to vote for it with that in mind.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Alaska.

Mr. STEVENS. I am compelled to speak in opposition to this amendment, although I wholeheartedly agree with what the Senator from Arizona has said. It was a marvelous statement made by a man who has every reason to say exactly what he said. I support what the majority leader has said, but there is a classified annex to the Army Field Manual that is not spelled out in this amendment, and there are people who are not in uniform who may not even be citizens of the United States who represent us in very strange and dangerous places, whose lives may be put in jeopardy by the process that is spelled out in part of this amendment. I speak for them.

I honor all service men and women, and I really believe they should absolutely follow the lifestyle of the Senator from Arizona, as well as his statement tonight. But as the leader has said, there are some changes that have to be made if we are to be faithful to those people who live in the classified world and will be covered by the classified annex that, if one reads the amendment, is not covered here.

I have to do my best to make sure that when we get to conference people understand that there is that problem. Therefore, I shall oppose the amendment and try to straighten it out in conference. I know it would pass.

I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered. The question is on agreeing to amendment No. 1977.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—90

Akaka
Alexander
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Collins
Conrad
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—9

Allard
Bond
Coburn
Cochran
Cornyn
Inhofe
Roberts
Sessions
Stevens

NOT VOTING—1

Corzine

The amendment (No. 1977) was agreed to.

AMENDMENT NO. 1978

The PRESIDING OFFICER. The time is evenly divided before a vote with respect to amendment No. 1978.

The Senator from Alaska.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The McCain amendment No. 1978.

Mr. STEVENS. Mr. President, if I could have a minute, I want to warn the Senate that we may be here all night. We may have to have our cloture vote after adjournment at about 11:55. We would vote about 12:55 or 1:05 on cloture. Because if we are to have 30 hours and still finish by the time some people want to leave on Friday, it has to start at that time or else we have to get unanimous consent to shorten the time. If we vote tomorrow morning at 10, we will be here until 6 o'clock or 7 o'clock Friday afternoon. Just a warning—not yet. We are still trying to work it out.

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Arizona controls the time and the Senator from Alaska controls the opposition.

Mr. McCAIN. Mr. President, this amendment would prohibit for 1 year the transfer.

The PRESIDING OFFICER. The Senator will suspend for a moment. The Senate will be in order.

The Senator from Arizona.

Mr. McCAIN. Mr. President, this amendment would prohibit, for 1 year, the transfer of $23 million in cash to the Government of Uzbekistan.

Just this year, the government of President Islam Karimov has taken a number of actions so alarming, that one would think this body would be considering sanctions, not how to transfer millions of taxpayer dollars to this government.

In May, the government massacred up to 1,000 people, mostly unarmed men, women, and children protesting the government's corruption, lack of opportunity, and continued oppression. The government has rejected all calls for an independent international inquiry and blamed a foreign conspiracy for the protest. It even placed blame on the United States for the events, saying that rebels received money from the U.S. embassy in Tashkent.

The Uzbek government launched a campaign of anti-American propaganda after its massacre, staging rallies to denounce the United States. President Karimov suggested that the U.S. was behind not just the event in Andijan but also served as the "scriptwriters and directors" of the "colored revolutions" in other countries.

In July, Karimov's government announced that the U.S. will no longer have access to the K2 base in Uzbekistan, and evicted all U.S. troops from the country. In addition, his government has terminated counterterrorism cooperation with the United States.

This week the EU announced that it will impose sanctions against Uzbekistan. But the Pentagon wants to send $23 million to pay past bills. Paying our bills is important. But more important is America standing up for itself; avoiding the misimpression that we overlook massacres; and avoiding cash transfers to the treasury of a dictator just months after he permanently evicts American soldiers from his country.

We should postpone the cash payment to the Government of Uzbekistan for 1 year, at which point the Congress can decide whether to renew the prohibition or make the payment. If it had not been authorization, I would have said until a complete and thorough investigation of the massacre was conducted.

Mr. STEVENS. May I ask the Senator from Arizona, would he allow us to adopt this by voice vote?

Mr. McCAIN. I would be pleased.

Mr. STEVENS. I ask the Senate proceed to consider this by voice vote.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 1978) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. What is the pending business.

AMENDMENT NO. 2033

The PRESIDING OFFICER. The question is on agreeing to the Kerry amendment No. 2033. A motion to table has been made. Who yields time?

Mr. STEVENS. Mr. President, if the Senator will permit me to do so, section 402 of the House Concurrent Resolution 95 of the 109th Congress, the fiscal year 2006 concurrent resolution budget, created a point of order against an emergency designation on nondefense spending.

The amendment contains nondefense spending with an emergency designation.

Pursuant to that section 402 of S. Con. Res. 95 of the 108th Congress, the fiscal year 2005 concurrent resolution on the budget, I make a point of order against the emergency designation contained in the amendment.

Mr. KERRY. Parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, wasn't there an order already in place for the motion?

The PRESIDING OFFICER. A motion to table has been made.

Mr. KERRY. Wasn't there an order already in place for the motion?

The PRESIDING OFFICER. That would take precedence over the point of order.

Mr. KERRY. I believe that is accurate. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Parliamentary inquiry: If the motion is not tabled, it is still subject to a point of order?

The PRESIDING OFFICER. The point of order can be made.

Mr. KERRY. Mr. President, first of all, I ask unanimous consent that Senators COLLINS, BYRD, OBAMA, and SALAZAR be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, this amendment is an emergency response to the natural gas shortage and crisis that has raised prices all across the country. In the South, there has been a 17-percent increase in electricity costs. In the Midwest, there has been a 69-percent natural gas increase. And in New England, the heating oil prices have gone up 29 percent. The industry tells us that there will be an average of a $600 increase per family. For people on fixed incomes, when you add that to the cost of tuition increases, gasoline increases, and health care increases, it is unaffordable.

The National Energy Assistance directorate has told us that 39 percent of those individuals in the country who are low income went without medical care in order to be able to pay those bills. Twenty percent didn't pay their rent or their mortgage.

I ask colleagues to approve this $3.1 billion emergency LIHEAP allocation.

Mr. KENNEDY. Mr. President, sadly, the gap between rich and poor has been widening in our society. The number of persons living in poverty in the Nation has increased from 31 million in 2000 to 37 million today, including 13 million children. Two main parts of the problem are that wages are stagnant, and the long-term unemployment rate is at historic levels. After Hurricane Katrina revealed the plight of minorities, the "silent slavery of poverty is not so silent any more."

For many, the American dream has turned into a nightmare. Families stay awake at night worrying how to make ends meet. Parents wonder how they will feed their children and pay their bills.

Significant numbers of Americans live year-round with the constant threat of power shut-offs because they can't pay their energy bills, and there is no relief in sight. According to the Energy Information Administration, energy prices are likely to continue to increase.

The outlook for the coming winter is bleak. Heating oil will probably cost a third more than the already high prices Americans paid last year. Families who use natural gas to heat their homes will also pay more. The average 2005 price for residential natural gas is estimated to be 21 percent higher than it was in 2004.

These are not just abstract numbers. They represent real burdens on real people. Minorities, the elderly, and the disabled, and many others are forced to make painful choices between heating their homes and paying for food, healthcare, and rent. The good news is that a highly successful Federal program is available to prevent the poorest of poor from making impossible tradeoffs. LIHEAP grants money to low-income families who can't afford the steep cost of energy. The number of American households receiving LIHEAP assistance has increased from over 4 million in 2002 to 5 million this year, the highest level in 10 years.

Ninety-four percent of LIHEAP recipients have at least one member who is elderly, disabled, a child under the age of 18, or is a single parent with a young child. Seventy-seven percent of LIHEAP recipients report an annual income at or below $20,000 and 61 percent of recipients have annual incomes at or below the Federal poverty line.

The bad news is that these fortunate recipients comprise only 18 percent of the eligible population. In Massachusetts, the participation rate is 22 percent, which is still unacceptably low.

Last year in Worcester, the city's Community Action Council provided fuel assistance to 9,660 households, but it processed applications for almost 11,000 households before the funds ran out. Many of the unserved households were made up of the working poor, the elderly, the disabled, and children.

In Franklin and Hampshire counties in Massachusetts, over 6,000 LIHEAP applications were processed. The Franklin Community Action Corporation reported that emergency applications and payment requests increased this past winter. They told me that this was by far their most stressful year.

Across the United States, families are suffering from high energy prices. There are far too many stories of families that were eligible to receive LIHEAP, but didn't because the money just wasn't there. Here are just a few examples.

A single father just lost his job on June 15 and has three children. His electric bill was $117.33, but he is unable to pay it because he isn't receiving unemployment compensation, or any other income. He is looking for work every day. Even if he is hired soon, his electricity may be turned off before he gets his first paycheck.

A grandmother taking care of three grandchildren, ages 14, 11, 5 had an electric bill for $195. Her monthly income is $904. The house is totally electric, so the bills will probably be going higher. The grandmother also has extra medical expenses, but she too was turned away.

It is wrong to let people like this suffer. So how does the Republican leadership in Congress respond? By cutting or freezing funds for essential low income programs.

Hurricanes Katrina and Rita upended the lives of millions of citizens in the Gulf region, and the administration was right to release emergency energy funds for the areas that were devastated. But, their response to the looming energy crisis is far less.

The administration and the House of Representatives closed their eyes to the needs of the poor. The House sent the Senate a continuing resolution which froze funding for the LIHEAP program. The current funding obviously isn't enough. Nineteen percent of current LIHEAP recipients say they keep their home at a temperature they feel is unsafe or unhealthy. Eight percent of recipients report that their electricity or gas was shut off in the past year for nonpayment.

The continuing resolution also cut the Community Services Block Grant by 50 percent. These funds are used by many community action agencies to administer the LIHEAP program.

According to ABCD, a community action agency in Massachusetts, since the outreach and application process for LIHEAP is handled through the ABCD neighborhood network, funding cuts will mean that access to this critical survival resource will shrink by more than 70 percent. Up to 10,500 households—out of a current total of 15,000 recipients—may not get their benefits.

Those in Congress who care about this issue sent an urgent request to the President to increase the funds, but our request has gone unanswered. In a news conference earlier this week, a reporter asked Energy Secretary Bodman if the administration plans to ask Congress for more funds for assistance for low-income families and seniors. Secretary Bodman replied, "At least at this point in time, that's not on the agenda."

The administration may not think the needs of the poor deserve to be on their agenda, but the States do. They are trying to do their part. In Massachusetts, State legislators want to add $20 million in State funds to LIHEAP, to supplement Federal funds.

Governors are stepping forward to acknowledge the problem. A bipartisan group of 28 Governors, led by Jennifer Granholm of Michigan, and Mitt Romney of Massachusetts, recently sent a letter to Congress urging additional emergency funds for LIHEAP. They know the importance of this issue first hand, and so should we.

Congress needs to stand up for the millions of Americans struggling to make ends meet. We have the ability to tell the elderly, and the disabled, and many others that we have heard them, and that we won't leave them shivering in the cold this winter. LIHEAP provides a critical service to desperate families who have nowhere else to turn for basic energy help, and LIHEAP is indispensable in filling that need. I strongly support this amendment to increase these emergency funds. We can't shortchange LIHEAP and all the people who need our help the most. I urge my colleagues to support this amendment.

Mr. STEVENS. Mr. President, because we had a time agreement that gave each side time before a vote, the point of order I made is subject to that time agreement, as I understand it. But now we will be faced with two votes. Does the Senator wish to have two votes on this amendment?

Mr. KERRY. Mr. President, I am happy to change the order to serve the purposes of the Senate.

Pursuant to section 402 of H. Con. Res. 95, which is the concurrent resolution on the budget, I move to waive section 402 for the purposes of the pending amendment, and I ask for the yeas and nays.

Mr. STEVENS. Mr. President, I ask unanimous consent that we vitiate the vote to table and that we proceed on the motion to waive the point of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 49, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—50

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Chafee
Clinton
Coleman
Collins
Conrad
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Snowe
Specter
Stabenow
Talent
Wyden

NAYS—49

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Coburn
Cochran
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Kyl
Lott
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Sessions
Shelby
Smith
Stevens
Sununu
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this question, the yeas are 50, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained.

Mr. STEVENS. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. I ask unanimous consent, notwithstanding rule XXII, the vote on the motion to invoke cloture occur following the last scheduled vote in this sequence, with the mandatory live quorum waived.

Mr. REID. Reserving the right to object, I want the record spread with my appreciation to the Senators from Louisiana for allowing the Senate to move forward. We were going to work through the night and early in the morning to come up with something that would help satisfy their tremendous needs. I appreciate their cooperation so we do not have to be here at 1 o'clock in the morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. For the information of our colleagues, what this means is we will vote on the Stabenow amendment next. Immediately following that, we will go to the cloture vote. Following that, there will be no more rollcall votes tonight.

Throughout tomorrow we will have plenty of opportunity for discussion, for debate. We will be voting throughout tomorrow, as well. There will be no more rollcall votes after the Stabenow vote and cloture vote tonight which will immediately follow the Stabenow vote.

Mr. STEVENS. I announce we will have a managers' package. We will consider amendments that might be taken by voice vote after this last scheduled vote.

I have already made the point of order against the Stabenow amendment. To be sure the record is clear, I make the point of order against the Kerry amendment and I ask it be agreed to.

The PRESIDING OFFICER. The emergency designation has been stricken from the amendment.

Mr. STEVENS. Is the record clear I made the point of order on the Stabenow amendment?

The PRESIDING OFFICER. The Chair would inform the Senator an emergency point of order has been stricken from—we are still on the Kerry amendment.

Mr. STEVENS. And I asked it be dropped, now.

The PRESIDING OFFICER. The point of order is sustained under the Budget Act.

AMENDMENT NO. 1937

Mr. STEVENS. Now, is the record clear about my making a point of order to the Stabenow amendment? If not, I renew the point of order under 302(f) of the Congressional Budget Act. The amendment requires spending in excess of the committee's 302(b) allocation for the fiscal year concurrent resolution of the Budget, and I ask for the yeas and nays.

Ms. STABENOW. Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Ms. STABENOW. Mr. President, I ask colleagues to support the Stabenow-Johnson-Thune amendment that guarantees funding for our veterans for health care. It takes it out of the annual appropriations process where every year we are wrestling with whether the funding is available. This year alone already we have had one emergency designation of $1.5 billion because the veterans health care budget was underfunded this year. We know there are concerns about next year.

This amendment would do two things. First, the legislation provides an annual discretionary amount that would be locked in for future years at the 2005 funding level. Then in the future, the VA would receive a sum of mandatory funding that would be adjusted year to year based on changes in demand from the VA health care system as well as rate of inflation.

This is incredibly important. We should not be arbitrarily picking numbers in terms of funding veterans health care. It should be based on the brave men and women who have served who come on home and put on a veteran's cap. We have more and more coming home from Afghanistan and Iraq every day. Each and every one of them has been promised health care. The way to guarantee we keep our promise is to pass this amendment.

I urge agreement.

Mr. CRAIG. Mr. President, our veterans deserve all a grateful nation can give them. Over the last 6 years we have increased the Veterans budget by over $3 billion a year. Although the Senator from Michigan is right about the dustup this year, we still did it because America is grateful for those who serve in harm's way.

While all veterans are entitled, should we start a new entitlement program, one that is now out of control, that we cannot monitor on a yearly basis as we do through the appropriating process and the authorizing process? The Senator is proposing a new entitlement program. But she is also saying something else. She is not saying those who served is the baseline of the formula. She is saying those who are entitled. And there is a very real difference between those who are entitled and eligible versus those who seek service because of need. We pay for those who seek service based on their eligibility. We do not create a new entitlement program.

Ask yourselves, do you want to create a new entitlement program or do you want to do what we are doing now, providing the necessary resources on an annual basis to meet the needs of America's veterans?

I ask Members to vote no. Do not waive the Budget Act. Do not create a new entitlement program and basically take it out of the hands of the Congress and put it in the hands of the VA. That is not what I think our veterans would want us to do.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Specter
Stabenow
Thune
Wyden

NAYS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Vitter
Voinovich
Warner

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained, and the amendment falls.

Mr. STEVENS. Mr. President, I did not hear the last ruling of the Chair.

The PRESIDING OFFICER. The amendment falls on the point of order.

Mr. STEVENS. Now, the next pending business is the cloture vote?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, it is my understanding we will convene about 9:30 in the morning. We will be prepared to stay tonight if any Senators wish to discuss amendments following the cloture vote.

Mr. LEVIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Could the Presiding Officer tell us how many amendments have been filed and how many of them would fall as nongermane? Could the Chair just give us some idea, some estimate?

The PRESIDING OFFICER. The Chair will note that the Parliamentarian does not have that information at this time.

Mr. LEVIN. Can we have an idea as to how many are filed? Can we get that information?

The PRESIDING OFFICER. There are approximately 140 amendments filed.

Mr. LEVIN. I thank the Chair.

I cannot vote for cloture on this bill because it would make it impossible to consider highly important amendments for our troops and their families and amendments to enhance our Nation's security.

One hundred twenty amendments are filled. The Parliamentarian can't tell us even how many are relevant but, because they are not technically germane, will not be permitted to come to a vote if cloture is invoked.

The stakes for our security in the middle of war are too great not to take an extra few days to consider important relevant amendments.

I vote to take those extra few days rather than to prematurely end debate. I will vote against cloture.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2863: the Department of Defense appropriations bill.

Bill Frist, Ted Stevens, Daniel Inouye, Mel Martinez, Mitch McConnell, Bob Bennett, George Allen, Chuck Hagel, Tom Coburn, Richard Burr, Lisa Murkowski, John Thune, Lamar Alexander, Richard Shelby, Jon Kyl, Jeff Sessions, Saxby Chambliss.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2863, the Department of Defense Appropriations Act of 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. Mr. President, I announce that the Senator from Pennsylvania (Mr. SANTORUM) is necessarily absent.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 94, nays 4, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Roberts
Rockefeller
Salazar
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—4

Bingaman
Boxer
Levin
Reid

NOT VOTING—2

Corzine
Santorum

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Alaska.

AMENDMENTS NOS. 1882, AS MODIFIED; 1923, 1942, AS MODIFIED; 1969, AS MODIFIED; 2001, 2004, AS MODIFIED; 2038, AS MODIFIED; AND 2042

Mr. STEVENS. Mr. President, we have a managers' package, which is No. 6, that I send to the desk. I ask unanimous consent that they be considered en bloc. I state for the record that this includes a Bingaman-Domenici colloquy on the F-117; for Senator HATCH and others, an amendment on the Air Force Depot Maintenance Program, as modified. This is amendment No. 2001; for Senator SCHUMER and Senator CLINTON, amendment No. 2038 on the arsenal program support, which is modified; for Senator HAGEL, a colloquy on supplemental security income; for Senator BOND, amendment No. 1923, for oral anthrax vaccine; for Senator SARBANES, amendment No. 1969, as modified, for the Naval Academy; for Senator MCCONNELL, amendment No. 2042, recognizing U.S. military personnel; for Senator LANDRIEU, amendment No. 1942, as modified, for Northern Command; for Senator GRAHAM, amendment No. 2004, as modified, on combatant status review tribunals; for Senator CONRAD, amendment No. 1882, as modified, on Predator aircraft.

The PRESIDING OFFICER. The Chair notes that amendment No. 2001 is not modified.

Mr. STEVENS. Air Force Depot Maintenance, is it not modified? I stand corrected. That is not a modified amendment.

I ask that these amendments be considered en bloc, and I ask for their further consideration.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, without objection, the amendments are agreed to en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1882, AS MODIFIED

(Purpose: To increase, with an offset, amounts available for the procurement of Predator unmanned aerial vehicles)

At the appropriate place in title IX, insert the following:

SEC. ____.(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount appropriated by this title under the heading "AIRCRAFT PROCUREMENT, AIR FORCE" is hereby increased by $130,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by this title under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", as increased by subsection (a), $130,000,000 shall be available for purposes as follows:

(1) Procurement of Predator air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator Ground Control Stations, spares, and signals intelligence packages.

(c) OFFSET.—(1) The amount appropriated by title II for Operation and Maintenance, Air Force is hereby reduced by $130,000,000.

AMENDMENT NO. 1923

(Purpose: To make available $4,000,000 from Research, Development, Test, and Evaluation, Defense-Wide, for Oral Anthrax/Plague Vaccine Development)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE", up to $4,000,000 may be used for Oral Anthrax/Plague Vaccine Development.

AMENDMENT NO. 1942, AS MODIFIED

(Purpose: To make available $10,000,000 for Operation and Maintenance, Air Force, and $20,000,000 for Other Procurement, Air Force, for the implementation of IMT-2000 3G Standards Based Communications Information Extension capability for the Gulf States and key entities within the Northern Command Area of Responsibility)

At the appropriate place, insert the following:

SEC. ____. (a) IMPLEMENTATION OF LONG-RANGE WIRELESS CAPABILITIES.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, AIR FORCE", up to $10,000,000 may be used by the United States Northern Command for the purposes of implementing Long-range wireless telecommunications capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF LONG-RANGE WIRELESS CAPABILITIES.—Of the amount appropriated or otherwise made available by title III under the heading "OTHER PROCUREMENT, AIR FORCE", up to $20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT-2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

AMENDMENT NO. 1969, AS MODIFIED

(Purpose: To authorize the Secretary of the Navy to donate the World War II-era marine railway located at the United States Naval Academy to the Richardson Maritime Heritage Center, Cambridge, Maryland, for non-commercial purposes)

On page 220, after line 25, insert the following:

SEC. 8116. (a) The Secretary of the Navy may, subject to the terms and conditions of the Secretary, donate the World War II-era marine railway located at the United States Naval Academy, Annapolis, Maryland, to the Richardson Maritime Heritage Center, Cambridge, Maryland.

(b) The marine railway donated under subsection (a) may not be used for commercial purposes.

AMENDMENT NO. 2001

(Purpose: To express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force)

In an appropriate place insert the following:

SEC. . SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service had made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) 1 of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in dramatically reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

AMENDMENT NO. 2004, AS MODIFIED

(Purpose: To require the President to submit the procedures for Status Review Tribunals and Administrative Review Boards to determine the status of detainees held at Guantanamo Bay, Cuba)

At the appropriate place, insert the following:

SEC. . (a) SUBMISSION OF PROCEDURES FOR COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARDS TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of enactment of this Act the President shall submit to the congressional defense committees and committees on Judiciary in the House and Senate the procedures for the Combatant Status Review Tribunals and noticed Administrative Review Boards, in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall ensure that—

(1) in making a determination of status under such procedures, the Combatant Status Review Tribunal and Annual Review Boards may not consider statements derived from persons that, as determined by the Tribunals or Boards, by the preponderance of the evidence, were obtained with undue coercion.

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(c) MODIFICATION OF PROCEDURES.—The President shall submit to Congress any modification to the procedures submitted under subsection (a) no less than 30 days before the date on which such modifications go into effect.

(Purpose: To make available $5,000,000 from Procurement of Weapons and Tracked Combat Vehicles for the Army for the Arsenal Support Program Initiative and to allocate such amounts)

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title III under the heading "PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY," up to $5,000,000 may be used for the Arsenal Support Program Initiative for Watervliet Arsenal, New York.

AMENDMENT NO. 2012

(Purpose: To recognize U.S. military personnel serving in Afghanistan and Iraq)

At the appropriate place, insert the following:

"SEC. ___. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations."

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROHIBITION ON RETIREMENT OF F–117 AIRCRAFT

Mr. DOMENICI. Mr. President, let me begin by complimenting my friend from Alaska, the chairman of the Senate Appropriations Subcommittee on Defense, for producing a terrific bill. H.R. 2863, the fiscal year 2006 Defense appropriations bill, is a strong piece of legislation that supports the men and women of the Armed Forces and strengthens our security. I would also like to recognize my colleague, the junior Senator from New Mexico, who joins us today.

I want to raise the issue of the F–117 Stealth Nighthawk aircraft. Report 109–69 to S. 1042, the National Defense Authorization Act for fiscal year 2006, recommends a provision prohibiting retirement of F–117 aircraft in fiscal year 2006. I know that my colleague from New Mexico is aware of this recommendation as well.

Mr. BINGAMAN. I am aware of this recommendation and note that it further describes the F–117 as the only stealthy tactical aircraft capable of delivering certain precision munitions currently in the inventory. Clearly, this is a very important capability for national security.

Mr. DOMENICI. I agree with my colleague's assessment about the strategic value of the F–117 and note that this recommendation is further validated by the House-passed H.R. 2863 which retains the President's budget request for F–117 upgrades and adds $11.1 million in operations and maintenance funding to retain the 10 aircraft scheduled for retirement. I would like to ask the distinguished chairman for his views concerning the Air Force's recommendation to retire 10 F–117s in fiscal year 2006.

Mr. STEVENS. I concur with the Senators from New Mexico that the F–117 is of critical importance to the Nation's precision strike capability. Furthermore, I agree with the Senate Armed Services Committee recommendation that it is premature to retire any F–117s at this time.

Mr. DOMENICI. I thank the distinguished chairman for his views on this important matter.

Mr. BINGAMAN. I thank the chairman as well, and look forward to working with him; the ranking member, Senator INOUYE and Senator DOMENICI on this issue in the future.

SSI ELIGIBILITY

Mr. HAGEL. Mr. President, currently there are service members in our

Armed Forces with disabled dependents who have lost or are in danger of losing Supplemental Security Income, SSI, eligibility or benefits. This issue not only affects our regular active duty service members, but our mobilized National Guard and Reserve service members as well.

Supplemental Security Income is a Federal income supplement program, funded by tax revenues, designed to provide cash to meet basic needs for food, clothing, and shelter for aged, blind, and disabled people.

Under current law, section 1612(a) of the Social Security Act, only military basic pay is counted as earned income for the purposes of determining SSI eligibility and benefit amount. Special pay and allowances are counted as unearned income. As a result, a disabled child or spouse of a service member can lose SSI eligibility or have a benefit reduction due to the way military compensation is presently counted.

Because a significant portion of a service member's compensation includes special pay and allowances, military compensation generally results in more countable income for SSI purposes than comparable wages earned by a civilian. Accordingly, a child or spouse of a service member could be ineligible for SSI while the child or spouse of a civilian worker could be eligible for SSI based on comparable gross wages.

The problem is particularly acute when a member of the National Guard or Reserves is called to active duty and begins to receive full military pay, including special pay and allowances. In some cases, the military pay alone is sufficient to cause a reduction of SSI benefits or a loss of eligibility for the disabled dependent. This means that at the critical point when the service member is called away from his or her family in the service of our country, SSI benefits may be reduced or stopped.

In consideration of the special hardships facing military families in a time of war and to provide more financial security for these families, I have offered an amendment that proposes a statutory exclusion for all types of special pay and allowances received by service members serving on active duty regardless of duty station. At a time when military service members and their families are making such a huge sacrifice for our country, it is vital that this step be taken to protect SSI eligibility for these families.

Under this proposed statutory change, only basic pay, earned income, would be used to determine SSI eligibility for a disabled child or spouse of the service member. All compensation provided by special pay and allowances, including the basic allowance for housing, BAH, would be excluded. Excluding all special pay and allowances would eliminate the disadvantageous income counting that results from treating a substantial portion of military compensation as unearned income.

Mr. STEVENS. I agree with the Senator from Nebraska. The provisions of the Social Security Act need to be addressed in order to ensure Supplemental Security Income eligibility and benefits are not inadvertently taken away from those in the armed services when they need them most.

Mr. STEVENS. Mr. President, for the information of Senators, we will resume consideration of this bill tomorrow following the opening of the Senate at 9:30 a.m. as soon as possible. It will be my intention to ask that any votes that are to be taken on this bill be stacked until approximately noon or 12:30 in order that the committees may meet in the morning. There has been a specific request for that to happen. It is my understanding that there will be a request later that the time consumed for cloture be consumed during the period of temporary recess this evening on into tomorrow morning; is that the understanding?

The PRESIDING OFFICER. That unanimous consent request has not yet been propounded or agreed to.

Mr. STEVENS. I am assured that will be the case.

NOTICE OF INTENT

Mrs. CLINTON. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill, H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes: amendment No. 2040.

(The amendment is printed in the RECORD of Tuesday, October 4, 2005 under "Text of Amendments.")

CROWS

Mr. SALAZAR. Mr. President, I wish to bring up an important subject involving our soldiers in harm's way. In my State of Colorado and across the country, our fighting men and women have suffered casualties while on patrol in armored vehicles. Typically, the gunner sitting on top of the vehicle is at more risk from being hit both because he or she is visible to the enemy and because he or she is not as protected as those troops inside the armored vehicle.

I recently received an e-mail from a Colorado soldier serving in Iraq. This brave young man wrote me concerning the combat death of his friend. His friend was riding in the gunner's seat when his Humvee was subjected to an improvised explosive device attack. He feels that his friend might still be alive if that Humvee had a Common Remotely Operated Weapons Station—CROWS—and he wanted me to know about it and see if anyone here in Washington could do something about it.

I think we can do something about it, and with the help of my colleagues from Hawaii and Alaska, we will do something about it.

The CROWS can be mounted on a variety of vehicles, including Humvees. It allows the operator to acquire and engage targets while protected inside the armored vehicle from enemy fire and IED attacks. It works with a variety of machine guns. The sensor suite allows both day and night time operation.

This appropriations bill, as it stands now, allocates $75 million out of the emergency supplemental for the military to purchase CROWS. The House Defense appropriations bill provides no funding for CROWS, which is disheartening. The DOD's program manager has advised me that the Pentagon supports spending $206 million for the CROWS system over the next year.

My goal is for the military to be able to purchase thousands of these systems, but at the moment our production capability is only on the order of 10 systems per month. We have to do better. I ask my colleagues, the chairman and ranking member of the Defense Subcommittee on Appropriations, for their leadership and assistance in sustaining the Senate's position when they get to conference on this matter with the House.

Mr. INOUYE. Mr. President, like all proud Americans, I share my colleague's concern for the safety and well being of our troops. IED attacks are a very real threat to our troops and it is our responsibility as Members of Congress to help protect our brave men and women fighting overseas. I will work in conference to ensure that we can maintain the Senate's funding level to purchase CROWS for our troops.

Mr. STEVENS. Mr. President, I thank my colleagues from Colorado and Hawaii for their work on this issue. They are right. We will continue to support these systems that provide our service members with the force protection they need.

Mr. SALAZAR. Mr. President, I thank the chairman and the ranking member for their leadership on this issue—and for their careers of service to and sacrifice for this country.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF SENATE FINANCIAL CLERK, TIM WINEMAN

Mr. BYRD. Mr. President, I have often spoken of the importance of the Senate staff and the Senate's various support services for the effective workings of this great institution. These are the people and the offices that are rarely mentioned in the newspapers or the history books but who are essential to the effective workings of this institution. They are the people and the offices who make the jobs of the 100 Members of this Chamber more pleasant and more productive.

I cannot even imagine how this institution could function without the Senate Disbursing Office. In addition to serving as the finance office of the Senate, this office maintains our retirement, health insurance, life insurance, and other human resource programs. For the past 7 years, this most important Senate office has been headed by the Senate's highly capable Financial Officer, Mr. Tim Wineman.

Unfortunately, Mr. Wineman will soon be leaving us. He is retiring on October 14. Therefore, I want to take a few minutes of the Senate's time to thank Mr. Wineman for his service, to express my appreciation for his outstanding work, and to say that we will miss him.

Mr. Wineman was born and raised in the Washington, DC, metropolitan area, graduating from Bethesda-Chevy Chase High School. On October 19, 1970, he started work as a payroll clerk in the Senate Disbursing Office; he remained in this office for the next 35 years. In September, 1976, Mr. Wineman was promoted to payroll supervisor. Four years later, in August, 1980, he was promoted to the position of assistant financial clerk. On May 1, 1998, he became the Financial Clerk of the U.S. Senate Disbursing Office, that is, the Senate's Financial Officer.

His has been an extraordinary career, during which he has earned the praise of those who work under and with him in the Disbursing Office, and the respect of other Senate staffers and Members of this Chamber. During his service in Senate financial leadership positions for the past two decades, Mr. Wineman has overseen the technological renovation of the Senate's financial affairs and has had a hand both in the Senate budget process and the Senate appropriation's process. And he proved himself to be an invaluable resource to Senate leadership on both sides of the aisle. He will be missed and will be very difficult to replace.

I want to congratulate and thank Mr. Wineman for his extraordinary dedication to the work and traditions of the Senate. And I want extend to him and Pat, his wife of 36 years, my fondest wishes, and ask the Lord's blessings as they embark upon this new phase of their lives.

I understand that after relaxing and enjoying a stress-free environment for the next 6 months, Tim plans to spend his retirement playing golf and traveling. I urge him to do it. He deserves it. He has earned it.

"IT MAKES NO DIFFERENCE"

It makes no difference who sang the song,
If only the song was sung;
It makes no difference who did the deed,
Be they old in years or young;

If the song was sweet and helped a soul,
What matters the singer's name?
The worth was in the song itself,
And not in the world's acclaim.

The song and the deed are one,
If each be done for love;
Love of the work, not love of self,
And the "score" is kept above.
It makes no difference who did the deed,
Be they old in years or young;

If the song was sweet and helped a soul,
What matters the singer's name?
The worth was in the song itself,
And not in the world's acclaim.

The song and the deed are one,
If each be done for love;
Love of the work, not love of self,
And the "score" is kept above.

—Author Unknown.

THE PASSING OF COLONEL CLARENCE LEE TURNIPSEED, JR.

Mr. BYRD. Mr. President, last month, COL Clarence Lee Turnipseed, Jr., passed away. He was the father of my good friend, and one of the Senate's best and most indispensable workers, Mrs. Dot Svendson, who works in the Office of the Secretary of the Senate. With the death of Colonel Turnipseed, the State of Alabama has lost an outstanding citizen and our Nation has lost a true patriot.

Born September 18, 1914, in Union Springs, AL, Clarence Turnipseed graduated from Auburn University in 1935. That same year he was commissioned as a second lieutenant in the U.S. Army and began a remarkable and important military career. During World War II, he served as a battery commander and battalion staff officer of the 42nd Field Artillery Battalion of the Fourth Infantry. On June 6, 1944, Captain Turnipseed participated in the momentous D-Day landing on Utah Beach in Normandy. A few months later, he participated in the Battle of the Bulge. He was eventually promoted to the rank of colonel, served as commander of the 87th Maneuver Area Detachment in Birmingham, AL, and was an instructor at the Command and General Staff College in Fort Leavenworth, KS.

A grateful Nation recognized Colonel Turnipseed's long and productive military career by presenting him with a number of awards and honors. Those included the Bronze Star, the Army Commendation Medal, the American Defense Service Medal, the American Campaign Medal, and the European-African-Middle Eastern Campaign Medal.

Colonel Turnipseed also had an important and productive civilian career in banking and business. He worked in a number of banks and financial institutions in Alabama. In 1968, he became president and chief executive officer of the First National Bank in Brewton. He eventually held a number of offices in the Alabama and American Bankers Associations, including president of the Alabama Bankers Association and vice president of the American Bankers Association. In 1973, he became director of the Birmingham Branch of the Federal Reserve Bank in Atlanta, and 3 years later was named Alabama's Small Business Advocate.

I extend Erma's and my most heartfelt condolences to Mrs. Svendson and to her brother, Clarence Lee, and to her sisters, Rebecca and Margaret.

FIRST CHRISTIAN CHURCH OF WEIRTON, WEST VIRGINIA

Mr. BYRD. Mr. President, on July 30 and 31, the First Christian Church of Weirton, WV celebrated its 175th anniversary. I wish to take a few minutes of the Senate's time to extend to this house of worship, which came into existence in 1830, 33 years before West Virginia was even a State, my belated but sincere and heartfelt congratulations.

For 175 years, the First Christian Church of Weirton has served our Lord and ministered to the needs of the region by providing comfort and support to those in need. It has provided aid and assistance to unemployed steel workers, to flood victims, and to those in need. It has provided a place of faith and hope for all.

I regret that I was not able to participate in what I am sure was a most glorious celebration, but I do want to recognize and thank the First Christian Church of Weirton for its wonderful service to our Lord, and to our beloved State.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On August 18, 2003, in Washington, DC, Elviv Augusto Perez Morales who lived and dressed as a woman, was allegedly killed. According to police, he was allegedly killed by Antonie Jacobs who had paid for sex under the impression he was dealing with a woman. Upon learning that the prostitute was really a man, the customer returned and allegedly shot the prostitute.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement

Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN ACT, S. 1197

Mr. LEAHY. Mr. President, I am pleased that the full Senate has finally taken up, considered and passed the reauthorization of the Violence Against Women Act, S. 1197, bipartisan legislation that will further our goal of ending domestic violence, dating violence, sexual assault, and stalking. The enactment of the Violence Against Women Act over a decade ago marked an important national commitment to survivors of domestic violence and sexual assault. I am proud to join Senators BIDEN, HATCH, SPECTER, and others as an original cosponsor of this important measure, which currently has 58 cosponsors in total. I want to especially recognize Senator BIDEN for his commitment to ending violence against women and children.

Earlier in my career as a prosecutor in Vermont, I witnessed the devastating effects of domestic violence. Violence and abuse affect people of all walks of life every day and regardless of gender, race, culture, age, class or sexuality. Such violence is a crime and it is always wrong, whether the abuser is a family member, someone the victim is dating, a current or past spouse, boyfriend, or girlfriend, an acquaintance or a stranger.

The National Crime Victimization Survey estimates there were 691,710 nonfatal, violent incidents committed against victims by current and former spouses, boyfriends or girlfriends—also known as intimate partners—during 2001. Of those incidents, 85 percent were against women. The rate of nonfatal intimate partner violence against women has fallen steadily since 1993, when the rate was 9.8 incidents per 1,000 people. In 2001, the number fell to 5.0 incidents per 1,000 people, nearly a 50-percent reduction but still unacceptably high. Tragically, however, the survey found that 1,600 women were killed in 1976 by a current or former spouse or boyfriend, while in 2000 some 1,247 women were killed by their intimate partners.

According to the annual Vermont Crime Report, the number of forcible rapes reported in Vermont increased in 2004 to the highest level in 7 years, while the amount of violent crime remained unchanged and overall crime fell by about 5 percent from 2003. Reported incidents of rape rose by 58 percent, from 117 in 2003 to 185 in 2004. The average age of the victim was 21, 47 percent of victims were younger than 18 years old, in 74 percent of the cases the perpetrator was an acquaintance of the victim, and in a quarter of the cases the defendant was a family member or intimate partner of the victim. In only 1 percent of the cases was the perpetrator a stranger. These figures cause me great concern because violent crime has declined nationwide during that same time period. Numbers like these are why reauthorizing VAWA is so vital.

Our Nation has made remarkable progress over the past 25 years in recognizing that domestic violence and sexual assault are crimes. We have responded with better laws, social support, and coordinated community responses. Millions of women, men, children and families, however, continue to be traumatized by abuse, leading to increased rates of crime, violence and suffering.

The Violence Against Women Act has provided aid to law enforcement officers and prosecutors, helped stem domestic violence and child abuse, established training programs for victim advocates and counselors, and trained probation and parole officers who work with released sex offenders. Now we on the Judiciary Committee and then the rest of our colleagues in Congress have the opportunity to reauthorize VAWA and make improvements to vital core programs, tighten criminal penalties against domestic abusers, and create new solutions to other crucial aspects of domestic violence and sexual assault. This is an opportunity to help treat children victims of violence, augment health care for rape victims, hold repeat offenders and Internet stalkers accountable, and help domestic violence victims keep their jobs.

Included in VAWA 2005 are reauthorizations of two programs that I initially sponsored that are vital to helping rural communities battle domestic violence in a setting in which isolation can make it more difficult for both victims and law enforcement. In a small, rural State such as Vermont, our county and local law enforcement agencies rely heavily on cooperative, interagency efforts to combat and solve significant problems. That is why I sought to include the rural domestic violence and child victimization enforcement grant program as part of the original VAWA. This program helps make services available to rural victims and children by encouraging community involvement in developing a coordinated response to combat domestic violence, dating violence and child abuse. Adequate resources combined with sustained commitment will bring about significant improvements in rural areas to the lives of those victimized by domestic and sexual violence.

The rural grants program section of VAWA 2005 reauthorizes and expands the existing education, training and services grant programs that address violence against women in rural areas. This provision renews the rural VAWA program, extends direct grants to State and local governments for services in rural areas and expands areas to include community collaboration projects in rural areas and the creation or expansion of additional victim services. This provision includes new language that expands the program coverage to sexual assault, child sexual assault and stalking. It also expands eligibility from rural States to rural communities, increasing access to rural sections of otherwise highly populated States. This section authorizes $55,000,000 annually for 2006 through 2010, which is an increase of $15 million per year.

The second grant program initiative on which I have focused is the transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault or stalking. This program, which became law as part of the PROTECT Act of 2003, authorizes grants for transitional housing and related services for people fleeing domestic violence, sexual assault or stalkers. At a time when the availability of affordable housing has sunk to record lows, transitional housing for victims is especially needed. Today more than 50 percent of homeless individuals are women and children fleeing domestic violence. We have a clear problem that is in dire need of a solution. This program is part of the solution.

Transitional housing allows women to bridge the gap between leaving violence in their homes and becoming self-sufficient. Our bill, VAWA 2005, amends the existing transitional housing program by expanding the current direct-assistance grants to include funds for operational, capital and renovation costs. Other changes include providing services to victims of dating violence, sexual assault and stalking; extending the length of time for receipt of benefits to match that used by Housing and Urban Development transitional housing programs; and updating the existing program to reflect the concerns of the service provision community. The provision would increase the authorized funding for the grant from $30,000,000 to $40,000,000.

Regrettably, this important bill was saddled in committee with an extraneous and ill-considered amendment, offered by Senator KYL, relating to the national DNA database. Current law permits States to collect DNA samples from arrested individuals and to include arrestee information in State DNA databases. In addition, States may use arrestee information to search the national DNA database for a possible "hit." The only thing that States may not do is upload arrestee information into the national database before a person has been formally charged with a crime.

Under the Kyl amendment, arrestee information can go into the national database immediately upon arrest, before formal charges are filed, and even if no charges are ever brought. This adds little or no value for law enforcement, while intruding on the privacy rights of people who are, in our system, presumed innocent. It could also provide an incentive for pretextual and race-based stops and arrests for the purpose of DNA sampling. Congress rejected this very proposal less than a year ago, after extended negotiations and consultation with the Department of Justice.

The Kyl amendment would also make it harder for innocent people to have their DNA expunged from a state database. Under current law, if a State chooses to enter a person's DNA profile into its database before the person is convicted of a crime, then the State must automatically expunge that information in the event that no conviction is obtained. Under the new language, even a person who is arrested in error and released without charge would need to obtain a court order before his DNA information could be removed from the database.

Databases are important tools to solving crime, but there are limits to what should be included in databases. The Kyl amendment raises serious privacy concerns that cannot be justified by any legitimate law enforcement need. I opposed it in committee, I continue to oppose it in its current form, and I will press for its exclusion in conference.

VAWA 2005 is an important part of our efforts to increase awareness of the problem of violence, to save the lives of battered women, rape victims, and children who grow up with violence and to continue progress against the devastating tragedy of domestic violence. I look forward to working with Senators SPECTER and BIDEN, Congressmen SENSENBRENNER and CONYERS and other members of the upcoming conference to reauthorize the Violence Against Women Act and thus strengthen the prevention of violence against women and children and its devastating costs and consequences.

Mr. BIDEN. Mr. President, last night, the Senate passed by unanimous consent the Biden-Hatch—Specter Violence Against Women Act of 2005, S. 1197. It is a testament to the underlying goals of this legislation that this legislation was unanimously passed and garnered 57 cosponsors from both sides of the aisle. I would like to thank Chairman SPECTER for his unyielding efforts to get this bill passed, and I would like to thank Senator HATCH for his longstanding support for this effort. The act expired on September 30. The House has passed its legislation, so it is imperative that we get the Violence Against Women Act of 2005 to conference and to the President's desk immediately.

The Violence Against Women Act of 2005 makes many critical improvements to the original act that we passed over 10 years ago. Many in this Chamber are well aware that I consider the Violence. Against Women Act the single most significant legislation that I have crafted during my 32-year tenure in the Senate. Indeed, the enactment of the Violence Against Women Act in 1994 was the beginning of a historic commitment to women and children victimized by domestic violence and sexual assault. Our Nation has been rewarded for this commitment. Since the act's passage in 1994, domestic violence has dropped by almost 50 percent, incidents of rape are down by 60 percent, and the number of wowen killed by an abusive husband or boyfriend is down by 22 percent. Today, more than half of all rape victims are stepping forward to report the crime. And since we passed the act in 1994 over a million women have found justice in our courtrooms and obtained domestic violence protective orders.

"This is a dramatic change from 10 years ago. Back then, violence in the household was treated as a "family matter" rather than a criminal justice issue. Because we took action, the criminal justice system is much better equipped to handle domestic violence, and it is treated for what it is, criminal. The goal of the legislation passed is to usher the Violence Against Women Act into the 21st century. With this legislation we attempt to look beyond the immediate crisis and takes steps to not only punish offenders, but to also do more to help victims get their lives back on track, and prevent domestic violence and sexual assault from occurring in the first place.

This bill is truly a cooperative effort. As Senator HATCH, Senator SPECTER and I drafted this bill, we listened closely to suggestions from both sides of the aisle, and we listened carefully to the input from those with wide ranging opinions on how to combat this problem. In particular, we listened to those who are on the front lines fighting to end violence, such as police officers, emergency room nurses, victim advocates, shelter directors, and prosecutors. Based upon these discussions, we made targeted improvements to existing grant programs and we tightened up the criminal laws.

The groups that assisted with drafting this bill included the National Coalition Against Domestic Violence, the National Network to End Domestic Violence, the Family Violence Prevention Fund, Legal Momentum, the National Alliance to End Sexual Violence, the National Center for Victims for Crime, the American Bar Association, the National District Attorneys Association, the National Council on Family and Juvenile Court Judges, the National Association of Chiefs of Police, the National Sheriffs' Association and many others. I would personally like to thank them for the work that they do each and every day to make our Nation a better, safer place for its citizens.

No doubt, the bill that we have passed today is ambitious. We have made tremendous strides in treating domestic violence and sexual assaults as public crimes over the past 10 years. We have helped ensure that offenders were held accountable, and we created coordinated community responses to help victims. The Violence Against Women Act of 2005 will help us look beyond the immediate crisis and provide long-term solutions for victims, and we will redouble our prevention efforts. This is why we included important efforts to ease the housing crisis for victims fleeing their homes, included efforts to engage boys and men to prevent domestic violence from occurring in the first place, enlisted the healthcare community in identifying and treating victims, and to help stop the cycle of abuse suffered by immigrant women and provided tough new regulations for international marriage brokers to ensure that they provide foreign brides with information related to the background of their potential husband and their rights if they are abused.

Despite all of the strong points of this legislation, it could be made better. In particular, I had hoped that provisions from Senator MURRAY's Security and Financial Empowerment Act, SAFE, would have remained in the bill. This amendment would provide some fundamental economic protections for victims of domestic violence and sexual assault. Just as the Family Medical Leave Act protects individuals caring for a sick loved one, the SAFE Act would allow domestic violence victims to take time off from work to appear in court cases and other judicial proceedings without jeopardizing their employment at a time they need it the most. The SAFE Act is important legislation, and I believe that there is bipartisan support for it. Unfortunately, we were not able to reach a consensus on this amendment and, as a result, it is not part of this final bill. It is my hope that the Senate will revisit this issue soon, and I look forward to working with Senator MURRAY in this effort.

One of the primary concerns expressed about the bill is that it simply costs too much. This is certainly understandable given our Nation's financial situation right now, but I have always said that the safety of the American people is the single most important responsibility for Federal, State, and local governments. And, while money doesn't solve every problem, there are very few, if any, efforts related to preventing violence and fighting crime that can be solved without money. As such, it is simply a fact that this effort will continue to cost money. I would argue that the results over the past 10 years show that this has been money well spent, and I hope that the Congress will continue to fund these efforts. In fact, there is evidence that we have received a net return on this investment. A 2002 university study found that money spent to reduce domestic violence saved nearly ten times the potential costs through the years of 1995 and 2000. During that time, the Federal Government spent $1.6 billion for the act's programs and, as a result, we avoided spending an estimated $14.8 billion on medical, legal and other victimization costs that arise from domestic violence. On an individual level, the bill costs roughly $15.50 per woman in the United States and saves an estimated $159 per woman. This evidence suggests that our success in ending family violence cannot be signal to reduce funding, rather, it is a call to continue to do more. We simply can't afford to lose the gains that we have made. We have found a winning combination, and we need to stick with it.

The Senate's action today demonstrates that eradicating violence against women is truly a shared goals, one that is held by Democrats and Republicans, one that is upheld by men and women, and one that is desired by both Government and by the private sector. I would like to thank my colleagues of the Senate for their support of this important legislation. In particular, I want to thank Senator HATCH, a long-standing champion on this issue. Since 1990, Senator HATCH and I have worked together to end family violence in this country, so it is no great surprise that once again he worked side-by-side with us to craft today's bill. I am also deeply indebted to Senator KENNEDY for his unwavering commitment to battered immigrant women and his work on the bill's immigration provisions. I also thank Senator LEAHY who has long-supported the Violence Against Women Act and, in particular, has worked on the rural programs and transitional housing provisions. Finally, I want to thank my very good friend from Pennsylvania for his commitment and leadership on this bill. It is a pleasure to work with Senator SPECTER, and I want to thank him for expeditiously moving this legislation through the Judiciary Committee and through today's action by the Senate. I look forward to working in the future with all of my colleagues to ensure that we continue to strive to the important goals of the Violence Against Women Act of 2005. This effort will require a bi-partisan commitment.

Again, I am thankful to Senators REID and FRIST for their work on seeing that bill is passed and to all of my colleagues who unanimously supported the Violence Against Women Act of 2005.

Mr. McCAIN. Mr. President, last evening, S. 1197, ;the Violence Against Women Act, was passed out of the Senate. I commend the Judiciary Committee for including Title 9, Safety for Indian Women, in its bill to reauthorize the act. Title 9 focuses on the needs of Indian tribes to enable them to reduce and treat incidents of domestic violence in Indian country. Among other things, it would authorize the creation of tribal criminal history databases to document domestic violence convictions and protection orders and it creates a new Federal criminal offense authorizing Federal prosecutors to charge repeat domestic violence offenders before they seriously injure or kill someone. S. 1197 also would authorize the Bureau of Indian Affairs police and certain tribal officers to make arrests for domestic violence assaults committed outside of their presence.

Since 1999, the Department of Justice has issued various studies showing that Indian women experience the highest rates of domestic violence compared to all other groups in the United States. These reports state that one out of every three Indian women are victims of sexual assault; that from 1979 to 1992, homicide was the third leading cause of death of Indian females between the ages of 15 to 34; and that 75 percent of those deaths were committed by a family member or acquaintance. What we don't know, however, is the impact of these violent acts on law enforcement, judicial, mental or medical services in Indian country. I am, therefore, pleased to see that this bill would authorize a comprehensive study of domestic violence in Indian Country to gauge the impact of these acts to Indian tribes and their resources. The findings of such a study will help the Congress and the administration to better focus resources to areas with the greatest need.

Earlier this Congress, Senator DORGAN and I introduced the Restoring Safety to Indian Women Act. We worked closely with the Senate Judiciary Committee to ensure that the provisions of this bill, some of which I mention here, were given due consideration. Throughout the more comprehensive S. 1197, Indian tribes would be eligible for various grants to enhance their victim services, judicial function, and law enforcement service capacity to the same extent as State and local governments are eligible.

Domestic violence is a national problem and not one that is unique to Indian country. Yet, due to the unique status of Indian tribes, there are obstacles faced by Indian tribal police, Federal investigators, tribal and Federal prosecutors and courts that impede their ability to respond to domestic violence in Indian country. Title 9 of this bill goes a long way toward removing these obstacles at all levels and to enhance the ability of each agency to respond to acts of domestic violence when they occur. These critical changes to the current law will greatly curb violence against Indian women, and perhaps even save lives.

Again, I thank the members of the Senate Judiciary Committee for their thoughtful consideration in drafting a bill that includes an often forgotten segment of our population, the Nation's Indian tribes.

ADDITIONAL STATEMENTS

CONGRATULATING ASHLEY JEFFERS

● Mr. BUNNING. Mr. President, today I wish to congratulate Ashley Jeffers of Alvaton, KY. Ashley was recently awarded a $15,000 college scholarship as part of the Girls Incorporated National Scholars Program.

Ashley experience at Girls Inc. of Bowling Green, KY is a testament to her impressive work ethic, initiative, and leadership skills. She joined Girls Inc. at the age of 14, and was hired shortly after to help teach classes. Eager to expand the center, Ashley learned about other Girls Inc. national programs and incorporated new classes into the existing program at Bowling Green. Inspired by her experience working with other young women at Girls Inc., Ashley has decided to pursue a career in social work following her studies at Western Kentucky University.

The Girls Inc. National Scholars Program was created in 1992 by a $6.1 million gift from Lucille Miller Wright, a volunteer pilot during World War II, who wanted to help young women overcome financial barriers to attending college. Since 1992, the National Scholars Program has awarded over $1.8 million to 304 girls.

By inspiring other young women to become strong, smart, and bold, Ashley Jeffers does justice to the legacy of Lucille Miller Wright. She is an example of how young Americans can have a positive influence on their communities by participating in mentorship activities such as Girls Inc.

I congratulate Ashley on this achievement. She is an inspiration to the citizens of Kentucky. I look forward to seeing all that she will accomplish in the future.●

TRIBUTE TO AUGUST WILSON

● Mr. COLEMAN. Mr. President, I want to pause in the Senate's business today to recognize the passing of a great American who we in Minnesota are proud to call our own: Pulitzer Prize winning poet and playwright August Wilson. He died yesterday at the age of 60.

August Wilson spent a good part of his adult life in Saint Paul, MN, which is my home. He worked for a time at the Science Museum of Minnesota, writing educational scripts. As his work became recognized and his fame spread, he continued to be seen around Saint Paul, working in coffee shops and other such places, sketching out ideas on the backs of napkins.

In his many plays, Mr. Wilson brought his audiences back time and again to the neighborhood where he grew up, in the Hill District of Pittsburgh, PA. Through a series of 10 plays, he traced the African-American experience through the ten decades of the 20th century. The first, "Jitney," about a city taxi station, was written in Saint Paul.

Decades ago, the poet T.S. Elliot wrote that, "Poetry is not an assertion of the truth, but making that truth more fully real to us." America struggles with deep divisions on matters of race. The tragic events in the gulf coast have brought that home to us. How desperately we need the kind of expression of the truth that August Wilson brought to a large audience.

Facts are important, but we have all experienced the frustration of not seeing our set of facts "carry the day." Psychologists have even determined that we use one part of our brain to process the ideas of political candidates we support and a different part of our brain when we are listening to the views of one we don't. Jerry Garcia of the Grateful Dead wrote a line I like: "People ain't gonna learn what they don't wanna know."

But we hold out the hope the art can find a way through our defenses and make truth fully real to us. When Abraham Lincoln met Harriet Beecher Stowe, author of "Uncle Tom's Cabin," legend has it that he said, "So this is the little woman who started this big war."

It is a special honor that August Wilson will have a theater on New York's Broadway named in his honor. The Minnesota connection in that is the theater has previously born the name of Virginia Binger, the late wife of Jim Binger, one of Minnesota's great citizens. The eight Wilson plays that made it to Broadway were nominated for more than 50 Tony awards.

Talking about the blues in a way that could just as well have been applied to his own writing, he said: "You don't sing to feel better. You sing 'cause that's a way of understanding life."

We recognize the history and forces which shaped the life of August Wilson and we honor his life long effort to make the truth real.●

A FRIEND TO IDAHO ARTS

● Mr. CRAPO. Mr. President, I would like to recognize an Idahoan, who through his lifelong love and support of the arts, has gained national recognition. Dan Harpole, executive director of the Idaho Commission on the Arts, ICA, since 2002, has recently been named board director of the National Assembly of States Arts Agencies, NASAA.

Dan's years of energetic and committed arts leadership in Idaho and the Northwest made his appointment to this position very fitting. He understands the intrinsic and overt value to society of a thriving arts community at all levels. In the course of Dan's leadership of the Idaho Commission on the Arts, the ICA has developed a new strategic plan for its mission and vision in Idaho. By reaching out to all parts of the community, including nonprofits, cultural organizations, schools, art professionals, and State and local government officials, the ICA under Dan's direction has created a plan that aims to successfully integrate art into communities across Idaho for the greater benefit of all. Dan's seminal vision was demonstrated to his colleagues in other States when Idaho hosted the NASAA National Convention this year.

I want to publicly recognize Dan for his continued efforts and accomplishments as well as the commissioners and staff for their support. His children, Hunter and Fiona, are his inspiration and joy and we are pleased that they chose to make Idaho their home. What Idaho has gained by Dan's expertise and enthusiasm will now be shared throughout other States as he takes the helm of NASAA.●

HONORING SOUTH DAKOTA'S BLUE RIBBON SCHOOLS

● Mr. JOHNSON. Mr. President, it is with great pleasure that I rise today to publicly honor and congratulate O'Gorman High School of Sioux Falls, Alcester-Hudson Elementary, and Corsica Elementary on achieving blue ribbon status under the Federal No Child Left Behind Act. All three schools earned the prestigious blue ribbon designation based on strong test scores and a myriad of other successes.

These three schools are among only 295 recognized nationwide this year, and O'Gorman is 1 of only 40 high schools to receive this distinction. In fact, O'Gorman is the only high school in the entire Denver region, which includes South Dakota, North Dakota, Wyoming, Montana, Colorado, and Utah, to earn this honor.

For public schools such as Alcester-Hudson Elementary and Corsica Elementary to qualify for blue ribbon status, they must meet State testing levels or have a student body comprised of a high percentage of economically disadvantaged students, yet demonstrate improvement. Achieving this goal is a wonderful accomplishment and Alcester-Hudson and Corsica elementary schools ought to be commended.

Although all South Dakota public schools are required to take part in Dakota STEP, the State's test for tracking progress under the No Child Left Behind Act, private schools, on the other hand, are under no such obligation. Nonetheless, O'Gorman administers the Dakota STEP exam to provide parents and supporters a comparison between O'Gorman students and those of other schools. Unlike the criteria used to rate public schools, the standards private schools are required to meet in order to achieve blue ribbon status are more rigorous, as students must place in the top 10 percent on both the State test and on the national level for reading and math. As noted by Kyle Groos, principal of O'Gorman High School, the junior class scored in the top 10 percent of schools on the State test, with more than 90 percent of students considered proficient or advanced in reading and math.

While test scores play a significant role in determining whether a school fits the blue ribbon standard, O'Gorman also submitted in its application a 24-page report detailing the school's various attributes. The statement highlighted students' high participation in the performing arts, the school's many sports championships, the 13,000 hours students devoted to volunteering and community service last year, as well as O'Gorman's emphasis on foreign language, math and theology studies.

Earning this distinction under No Child Left Behind is certainly an achievement for all these outstanding schools; however, O'Gorman was also a blue ribbon school under the Federal Government's former recognition program that began in 1982. Like the previous Blue Ribbon Schools Program, this distinction is one that never expires unless the program is replaced.

I am proud to have this opportunity to honor these three exceptional schools. It is a privilege for me to share with my colleagues the exemplary leadership and tireless commitment to education O'Gorman High School, Alcester-Hudson Elementary, and Corsica Elementary provide to their students. I strongly commend the hard work and dedication all the faculty, administrators, and staff devote to these three institutions, and I am very pleased that their dedication and the students' substantial efforts are being publicly honored and celebrated. On behalf of all South Dakotans, I would like to congratulate these three extraordinary schools and wish them all the best.●

HONORING FATHER BRIAN SHANLEY

● Mr. REED. Mr. President, on July 1, 2005, we welcomed home a son of Providence College to assume the presidency of that great institution. Father Brian Shanley is a man of great intellect, great enthusiasm, and a man of deep and abiding faith.

He is superbly prepared to continue the extraordinary progress of Providence College as a distinguished community of scholars serving to educate the talented young men and women who proudly claim PC as their own.

Generations of students and graduates of Providence College have enriched our Nation and our State not only with their knowledge but just as importantly with their character.

Father Shanley understands this great legacy of Providence College and, through his effort and his energy, he will sustain and enhance this extraordinary place.

St. Thomas Aquinas, a theologian who Father Shanley is acquainted with, wrote "If the highest aim of a captain were to preserve his ship, he would keep it in port forever."

Under Father Shanley, I do not think Providence College will get many "port calls." He will sail forward with determination, faith, and good humor to inspire faculty and students to think seriously, to face the challenges of our times, and to live a life of character and concern that has always been the hallmark of Providence College.

I wish him good luck and Godspeed.•

BLACK HILLS POW-WOW

• Mr. THUNE. Mr. President, it is my distinct pleasure to take this opportunity to inform my colleagues in the U.S. Senate about a special event taking place in the beautiful Black Hills of South Dakota. In Rapid City, on October 7 through October 9, the 19th Annual He Sapa Wacipi and Fine Art Show, otherwise known as the Black Hills Pow-Wow, will be held. Hundreds of dancers from throughout the Northern Plains and Canada will celebrate, compete, and engage in fellowship.

It is also a time of coming together and enjoying the fine art and authentic handmade crafts of many gifted artisans. There will also be contemporary indigenous music and handgame tournaments, which have become quite popular with the Native youth in our State. This year, for the first time, educators and officials with the National Aeronautics and Space Administration, NASA, will be in attendance with exhibits and presentations that will help foster the possibilities of careers in space and technology for South Dakota youth.

The Tribes of the Great Sioux Nation are a uniquely family-oriented culture that has always placed great emphasis and importance on relationships with family and friends. Worthy of note, is the Indian way of life that means when you walk into their home, you never leave hungry. Their hospitality is legendary. They are kind and generous and will give from the bottom of their hearts. They embrace their spirituality as a part of who they are and they respect and honor their Creator.

Their desire to continue their language and traditions is very dear to their hearts. For many years, the language of the Lakota, Dakota and Nakota was in danger of being lost. But in the last 30 to 40 years, it has begun to flourish and is being restored, thanks to those educators, elders and all who recognize its beauty and significance in our time. The coming generations will be a testimony of the importance of this legacy.

I would like to take this opportunity to give special recognition to the He Sapa Wacipi Pow-Wow Association and all the volunteers who selflessly give of their time and effort to bring this event together every year. It is a lot of work, but the end result is a spectacle of beauty and pageantry every year. They can be very proud of all their efforts and I officially acknowledge and honor them for their dedication.•

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-4107. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of the following officers to wear the insignia of the next highest grade in accordance with title 10, United States Code, section 777: David S. Gray, Irving L. Halter Jr., John C. Koziol, Richard Newton III, Allen G. Peck, Eric J. Roseborg, Mark K. Hertog and Frank J. Kisner; to the Committee on Armed Services.

EC-4108. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Major General Roger C. Schultz, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-4109. A communication from the Under Secretary of Defense for Acquisition, Technology and Logistics, transmitting, pursuant to law, a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2004; to the Committee on Armed Services.

EC-4110. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy case number 04-06; to the Committee on Appropriations.

EC-4111. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy case number 04-05; to the Committee on Appropriations.

EC-4112. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy case number 04-02; to the Committee on Appropriations.

EC-4113. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Civil Penalties" (RIN2127-AJ62) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4114. A communication from the Attorney-Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Maritime Security Program" (RIN2133-AB62) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4115. A communication from the Attorney-Advisor, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications" (RIN2137-AE08) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4116. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Make Inoperative Provisions; Vehicle Modifications to Accommodate People With Disabilities" (RIN2127-AJ07) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4117. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Motorcycle Controls and Displays" (RIN2127-AI67) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4118. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Occupant Protection in Interior Impact" (RIN2127-AJ60) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4119. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, California" (RIN1625-AA87) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4120. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operations (including 5 regulations): [CGD01-05-082], [CGD05-05-108], [CGD01-05-081], [CGD05-05-117], [CGD01-05-088]" (RIN1625-AA09) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4121. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; New York Super Boat Race, Hudson River, New York" (RIN1625-AA00) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4122. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 7 regulations): [CGD13-05-027], [COTP Lower Mississippi River-05-008], [CGD05-05-113], [CGD09-05-123], [CGD01-05-085], [CGD09-05-126], [USCG-2005-22429]" (RIN1625-AA00) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4123. A communication from the Chief, Regulations and Administrative Law, United

States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Event: Labor Day Fireworks Display, South Lake Tahoe, CA" (RIN1625-AA08) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4124. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events (including 4 regulations): [CGD05-05-005], [CGD05-05-076], [CGD05-05-075], [CGD05-05--097]" (RIN1625-AA08) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4125. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Washington, MO" ((RIN2120-AA66)(2005-0206)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4126. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Newton, KS" ((RIN2120-AA66)(2005-0210)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4127. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Abilene Municipal Airport, KS" ((RIN2120-AA66)(2005-0208)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4128. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Meade Municipal Airport, KS" ((RIN2120-AA66)(2005-0207)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4129. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; Eau Claire, WI" ((RIN2120-AA66)(2005-0205)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4130. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D and Class E Airspace; Salina Municipal Airport, KS" ((RIN2120-AA66)(2005-0211)) received on September 26 2005; to the Committee on Commerce, Science, and Transportation.

EC-4131. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airspace Designations; Incorporation by Reference" (RIN2120-ZZ76) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4132. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (7)" ((RIN2120-AA63)(2005-0006)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4133. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments (142)" ((RIN2120-AA65)(2005-0025)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4134. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to VOR Federal Airway V-536; MT" ((RIN2120-AA66)(2005-0209)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4135. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Second-in-Command Pilot Type Rating" ((RIN2120-AI38)(2005-0002)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4136. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-100, -200, -200C, and -300 Series Airplanes" ((RIN2120-AA64)(2005-0423)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4137. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL-600-2B19 Airplanes" ((RIN2120-AA64)(2005-0424)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4138. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Ltd. PC-6, PC-6H1, PC-6H2, PC-6/350, PC-6/350-H1, PC-6/350-H2, PC-6/A, PC-6/A-H1, PC-6/A-H2, PC-6/B-H2, PC-6/B1-H2, PC-6/B2-H2, PC-6/B2-H4, PC-6/C-H2, and PC-6/C1-H2 Airplanes" ((RIN2120-AA64)(2005-0422)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4139. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cirrus Design Corporation Models SR20 and SR22 Airplanes" ((RIN2120-AA64)(2005-0421)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4140. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: AvCraft Dornier Model 328-300 Airplanes" ((RIN2120-AA64)(2005-0420)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4141. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC-8-400 Series Airplanes" ((RIN2120-AA64)(2005-0428)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4142. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Goodrich De-icing and Specialty Systems 'FASTprop' Propeller De-icers" ((RIN2120-AA64)(2005-0429)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4143. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777 Airplanes" ((RIN2120-AA64)(2005-0427)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4144. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Airplanes" ((RIN2120-AA64)(2005-0426)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4145. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca Arrius 2F Turboshaft Engines" ((RIN2120-AA64)(2005-0425)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4146. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757-200 and -300 Series Airplanes and Model 767 Series Airplanes" ((RIN2120-AA64)(2005-0434)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4147. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL-215-1A10 (Water Bomber), CL-215-6B11 (CL215T Variant), and CL-215-6B11 (CL415 Variant) Airplanes" ((RIN2120-AA64)(2005-0435)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4148. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Avions Marcel Dassault-Breguet Model Falcon 10 Airplanes" ((RIN2120-AA64)(2005-0432)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4149. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller Inc. Propellers" ((RIN2120-AA64)(2005-0431)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4150. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F27 Mark 200, 400, 500, and 600 Airplanes" ((RIN2120–AA64)(2005–0430)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4151. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 2000EX Airplanes" ((RIN2120–AA64)(2005–0438)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4152. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Israel Aircraft Industries, Ltd., Model 1124 and 1124A Airplanes" ((RIN2120–AA64)(2005–0439)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4153. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A340-200 and A340-300 Series Airplanes" ((RIN2120–AA64)(2005–0437)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4154. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL-600-2B19 Airplanes" ((RIN2120–AA64)(2005–0436)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4155. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT8D-209, -217, -217A, -217C, and -219 Turbofan Engines" ((RIN2120–AA64)(2005–0441)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4156. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW2000 Series Turbofan Engines" ((RIN2120–AA64)(2005–0440)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4157. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, -17AR, -209, -217, -217A, -217C, and -219 Turbofan Engines" ((RIN2120–AA64)(2005–0442)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC-4158. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, and DC-8-43 Airplanes; DC-8-50 Series Airplanes; DC-8F-54 and DC-8F-55 Airplanes; DC-8-60 Series Airplanes; DC-8-60F Series Airplanes; DC-8-70 Series Airplanes; and DC-8-70F Series Airplanes" ((RIN2120–AA64)(2005–0443)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Thomas A. Shannon, Jr., of Virginia, to be an Assistant Secretary of State (Western Hemisphere Affairs).

*Jan E. Boyer, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank.

*Robert A. Mosbacher, of Texas, to be President of the Overseas Private Investment Corporation.

*John J. Danilovich, of California, to be Chief Executive Officer, Millennium Challenge Corporation.

*Josette Sheeran Shiner, of Virginia, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development.

*Kent R. Hill, of Virginia, to be an Assistant Administrator ofthe United States Agency for International Development.

*Jacqueline Ellen Schafer, of the District of Columbia, to be an Assistant Administrator of the United States Agency for International Development.

*John Hillen, of Virginia, to be an Assistant Secretary of State (Political-Military Affairs).

*Barry F. Lowenkron, of Virginia, to be Assistant Secretary of State for Democracy, Human Rights, and Labor.

*Jendayi Elizabeth Frazer, Assistant Secretary of State (African Affairs), to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 27, 2009.

*Francis Rooney, of Florida, to be Ambassador to the Holy See.

Nominee: Francis Rooney (Preferred); Laurence Francis Rooney, III; L.F. Rooney, III; L. Francis Rooney,.III.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self $500, 3/21/05, Republican Party of Florida; (this contribution was improperly considered a federal contribution and transfer to the state party is pending); $1,000, 3/16/05, Fitzpatrick for Congress; $1,000, 3/16/05, Northrup for Congress; $1,000, 3/16/05, Friends of Dave Reichert; $1,000, 3/16/05, Rick Renzi for Congress; $1,000, 3/16/05, Friends of Mike Sodrel; $500, 3/16/05, Norm Coleman for Senate; $2,000, 3/15/05, Connie Mack for Congress; $25,000, 2/21/05, RNC Regents; $500, 8/20/04, Republican Party of Florida; $32,500, 5/5/04, 2004 Jt. St. Victory Committee; $24,500, 3/22/04, Jt. Candidate Committee; $1,000, 3/22/04, Bill McCollum for Senate; $2,000, 3/22/04, Connie Mack for Congress; $1,000, 2/19/04, Bill McCollum for Senate; $1,000, 2/21/04, Klein for Congress; $25,000, 2/11/04, RNC Regents; $2,000, 12/19/03, Connie Mack for Congress; $2,000, 12/19/03, Dan Boren for Congress; $2,000, 11/12/03, Bush-Cheney '04, $2,000, 11/11/03, Kirk Humphreys for Senate; $1,500, 7/23/02, Scott Pruitt for Senate; ($1,000), 6/18/02, Refund—Jim Inhofe; $2,000, 4/12/02, Friends of Jim Inhofe; $2,000, 1/31/02, Peter Wareing for Congress; $1,000, 12/18/01, John Sullivan for Congress; ($1,000), 11/26/01, Refund -Keating for Congress; $1,000, 11/26/01, Cathy Keating for Congress; $1,000, 7/12/01, Senate; Campaign Committee; $1,000, 7/3/01, Presidents Dinner Committee; $1,000, 4/9/01, Cathy Keating for Congress; $1,000, 4/5/01, Cathy Keating for Congress; $2,000, 1/9/01, Bush-Cheney Transition.

2. Spouse: Kathleen Rooney, $2,000, 3/15/05, Connie Mack for Congress; $25,000, 2/21/05, RNC Regents; $32,500, 5/5/04, 2004 Jt. State Victory Committee; $4,000, 5/4/04, Jt. Candidate Committee; $25,500, 4/13/04, Joint Candidate Committee; $2,000, 3/29/04, Connie Mack for Congress; $2,000, 2/24/04, Connie Mack for Congress; $25,000, 2/13/04, RNC Regents; $2,000, 11/13/03, Humphreys for Senate; $2,000, 11/15/03, Bush Cheney 04; $1,000, 2/4/02, Peter Wareing for Congress; ($1,000), 11/23/01, Refund—Keating for Congress; $1,000, 11/23/01, Cathy Keating for Congress; $1,000, 4/18/01, Cathy Keating for Congress; $1,000, 4/10/01, Cathy Keating for Congress.

2. Children and Spouses: L.F. Rooney, IV (Larry), $2,000, 3/25/05, Connie Mack for Congress; $12,500, 4/8/04, Republican National Committee; $2,000, 12/3/03, Bush Cheney 04.

Michael Collins Rooney: $2,000, 3/15/05, Connie Mack for Congress; $12,500, 4/8/04, Republican National Committee; $2,000, 12/3/03, Bush Cheney 04.

Kathleen Daly Rooney: $2,000, 3/15/05, Connie Mack for Congress.

3. Parents: Laurence Francis Rooney, Jr. (Deceased)

Lucy Turner Rooney: $200, 9/30/04, John Sullivan for Congress; $500, 9/15/04, Coburn for Senate; $200, 7/15/04, Coburn for Senate; $200, 1/13/04, John Sullivan for Congress; $250, 6/4/99, Ewing for Congress; $200, 10/7/02, John Sullivan for Congress.

4. Grandparents: Laurence Francis Rooney (Deceased); Marguerite R. Rooney (Deceased).

5. Brothers and Spouses: Patrick T. Rooney: $500, 10/28/04, Boren for Congress; $1,000, 10/4/04, Coburn for Senate; ($2,000), 9/2/04, Refund--Humphreys for Senate; $250, 6/11/04, Boren for Congress; $2,000, 11/14/03, Humphreys for Senate; ($2,000), 11/14/03, Refund—Humphreys for Senate; $4,000, 10/30/03, Humphreys for Senate; $1,000, 9/30/03, Bush Cheney 04.

Marianne B. Rooney: $2,000, 9/2/04, Coburn for Senate; ($2,000), 9/2/04, Refund—Humphreys for Senate; $2,000, 2/18/04, Bush Cheney 04; $2,000, 11/14/03, Humphreys for Senate; ($2,000), 11/14/03, Refund—Humphreys for Senate; $4,000, 10/30/03, Humphreys for Senate; $1,000, 5/10/01, Cathy Keating for Congress.

Timothy P. Rooney: $1,000, 2/25/02, Ron Kirk for Senate.

Mary M. Rooney: None.

James H. Rooney: $12,500, 9/15/04, Republican National Committee; $2,000, 12/4/03, Bush Cheney 04

Jennifer Rooney: $12,500, 9/15/04, Republican National Committee.

Sisters and Spouses: Lucy Rooney Kapples: None.

John W. (Jack) Kapples: $500, 6/8/04, Raytheon Company PAC.

Rebecca Rooney: None.

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*Alfred Hoffman, of Florida, to be Ambassador to the Republic of Portugal.

Nominee: Alfred Hoffman, Jr.

Post: Ambassador to Portugal.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $75,000, 3/28/00, Republican National State Elections Committee; $1,850, 7/8/00, Republican National State Elections Committee; $1,500, 7/17/00, Republican National State Elections Committee; $1,750, 7/17/00, Republican National State Elections Committee; $1,000, 8/23/00, Lazio 2000; $25,000, 3/20/01, Republican National State Elections Committee; $125,000, 4/30/01, Republican National State Elections Committee; $(1,000), 10/1/01, Friends of Phil Gramm refund; $1,000, 2/18/02, Norm Coleman for U.S. Senate; $125,000, 5/14/02, Republican National State Elections Committee; $1,000, 7/16/02, Texans for Senator John Cornyn; $1,000, 8/12/02, The Wish List; $1,000, 10/11/02, Team Sununu; $1,000, 10/16/02, John Thune for South Dakota; $25,000, 3/19/03, Republican National Committee; $272, 6/30/03, Bush-Cheney '04 (Primary); $2,000, 11/7/03, Daniel Webster for U.S. Senate; $25,000, 4/8/04, Republican National Committee; $33,000, 5/27/04, 2004 Joint Candidate Committee; $7,500, 5/27/04, 2004 Joint State Victory Committee; $1,727, 6/30/04, Bush-Cheney '04 (Primary); $4,000, 8/31/04, Martinez for Senate; $(4,000), 9/12/04, 2004 Joint Candidate Committee refund; $2,000, 9/15/04, Martinez for Senate; $(2,000), 9/17/04, 2004 Joint Candidate Committee refund; $2,000, 9/24/04, Friends of Connie Mack; $2,000, 9/30/04, Congressman Bill Young Campaign Committee; $100,000, 12/2/04, Presidential Inaugural Committee.2. Spouse: Dawn Hoffman, $250, 12/4/00, Republican Party of Florida Federal Campaign Account; $25,000, 3/19/03, Republican National Committee; $2,000, 6/30/03, Bush-Cheney '04 (Primary); $2,000, 11/7/03, Daniel Webster for U.S. Senate; $500, 11/20/03, Carole Green for Congress; $25,000, 4/8/04, Republican National Committee; $33,501, 5/27/04, 2004 Joint Candidate Committee; $7,500, 5/27/04, 2004 Joint State Victory Committee; $4,000, 8/26/04, Martinez for Senate; $(4,000), 9/12/04, 2004 Joint Candidate Committee refund; $2,000, 9/16/04, Martinez for Senate; $(2,000), 9/17/04, 2004 Joint Candidate Committee refund; $$2,000, 9/24/04, Friends of Connie Mack.

3. Children and Spouses: Matthew Hoffman, $2,000, 7/3/03, Bush-Cheney '04 (Primary); $25,000, 6/24/04, Republican National Committee.

Kimberly Hoffman, $2,000, 7/3/03, Bush-Cheney '04 (Primary).

Melissa Hoffman, $200, 9/1/03, John Kerry for President.

Elisabeth Hoffman-Johnson: none.

Seth Johnson, none.

Sophie Hoffman, none.

Ava Hoffman, none.

4. Parents: Nettie Kelton—deceased.

Alfred Hoffman—deceased.

5. Grandparents: Jules Kelton—deceased.

Gerhardt Hoffman deceased.

6. Brothers and Spouses: none.

7. Sisters and Spouses: Beth Gray, none; Jack Gray, none; Joy K. Atwood, none: Newell Atwood, deceased, none; Emilie Anderson, none; Jerry Anderson, deceased, none; Mary Jane Rothermel, deceased, none; Ted Rothermel, deceased; Mitzie Ellis, deceased; Earl Ellis; Rose Shacklett, deceased, Chet Shucklett, deceased.

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*Charles A. Ford, of Virginia, to be Ambassador to the Republic of Honduras.

Nominee: Charles Ford.

Post: Honduras.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: Lillian Ford: none.

3. Children and Spouses: Monica, none; Michael, none.

4. Parents: Marvin Ford—deceased; Wanda Ford, none; Tirso Malave—deceased: Ana Malave—deceased.

5. Grandparents: Arthur Wahlman—deceased; Flora Wahlman—deceased.

6. Brothers and Spouses: Mark Ford, none.

7. Sisters and Spouses: none.

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*Mark Langdale, of Texas, to be Ambassador to the Republic of Costa Rica.

Nominee: Mark Langdale.

Post: Ambassador to Costa Rica.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self: $1,000, 10/2002, Bill Schuster; $1,000, 10/2002, Texas Victory; $1,000, 6/2003, Bill Schuster; $1,500, 6/2003, Bush/Cheney; $25,000, 12/2003, Republican National Committee.

2. Spouse: $2,000, 6/2003, Bush/Cheney.

3. Children and Spouses: None.

4. Parents: Bedelle Langdale: $2,000, 6/2003, Bush/Cheney.

5. Grandparents: None.

6. Brothers and Spouses: None.

7. Sisters and Spouses: John T. Brewer: $1,000, 6/2003, Bush/Cheney.

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*Brenda LaGrange Johnson, of New York, to be Ambassador to Jamaica.

Nominee: Branda LaGrange Johnson.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self: $1,565.00, 01/31/01, RNC Republican National State Elections Committee; $250.00, 02/16/01, The Wish List; $1,000.00, 12/07/01, Elizabeth Dole Committee, Inc.; $500.00, 02/21/02, Susan Collins (Collins for Senator); $1,000.00, 09/12/02, Gov. George Pataki event; $1,000.00, 12/06/02, Suzanne Haik Terrell (Terrell for Senate); $2,000.00, 06/17/03, Bush-Cheney; $1,000.00, 09/16/03, Arnold Schwarzenneger event; $500.00, 12/26/03, Arlen Specter (Citizens for Arlen Specter); $1,000.00, 08/13/04, Fed Political Action Committee (AKA FED PAC); $12,500.00, 10/12/04, 2004 Joint State VIC, Alexandria, VA; $500.00, 10/27/04, Friends of Howard Mills; $1,562.00, 11/05/04, Republican Federal Committee of Pennsylvania; $521.00, 10/24/04, Republican Party of Iowa; $1,000.00, 02/21/04, Driscoll for Congress; $1,000.00, 09/30/02, Collins for Senator; $3,000.00, 04/01/05, Republican National Committee; $297.00, 10/27/04, New Hampshire Republican State Committee; $250.00, 04/01/02, Wish List.

2. Spouse: J. Howard Johnson: $1,000.00, 06/10/03, George W. Bush (Bush for President, Inc.); $2,000.00, 10/03, Bush/Cheney kickoff event.

3. Children and Spouses: Frank La Grange Johnson: $2,000.00, 10/03, Bush/Cheney Kickoff event; $500.00, 02/23/04, William Manger (Bill Manger for Congress, Inc.): $1,500.00, 07/07/04, William Manger (Bill Manger for Congress, Inc.): $1,000.00, 10/30/04, John S. McCain (Friends of John McCain).

Susan Ely Johnson: $2,000.00, 10/03, Bush/Cheney kickoff event.

Brett Matthew Johnson: $2000.00, 07/03/03, George W. Bush (Bush-Cheney '04 Primary Inc.).

Grant Douglas Johnson: $2000.00, 07/03/03, George W. Bush (Bush-Cheney '04 Primary Inc.).

Heather Johnson-Sargent: $1000.00, 9/30/02, Susan M. Collins (Collins for Senator); $2000.00, 07/08/02, George W. Bush (Bush-Cheney '04 Primary, Inc.).

John Harrison Sargent: $250.00, 11/19/03, William Manger (Bill Manger for Congress, Inc.): $2000.00, 07/08/03, George W. Bush (Bush-Cheney '04 Primary, Inc.).

4. Parents: Frank Crawford La Grange—Deceased: Eileen Morgan La Grange—Deceased.

5. Grandparents: Amelia Webster La Grange—Deceased; Frank C. La Grange—Deceased.

6. Brothers and Spouses: Frank C. La Grange, Jr.—Deceased: Darlene La Grange: None; Charles Evans La Grange: None.

7. Sisters and Spouses: Mimi La Grange—Deceased; Louise La Grange Hitt—Deceased: Buman Hitt, None.

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*Alexander R. Vershbow, of the District of Columbia, to be Ambassador to the Republic of Korea.

Nominee: Vershbow, Alexander R.

Post: Seoul, Republic of Korea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Benjamin Vershbow; $100, 2004, John Kerry; $50, 2004, Wesley Clark; $25, 2003, Howard Dean.

Gregory Vershbow: $40, 2004, John Kerry.

4. Parents: Arthur: None.

5. Grandparents: N/A.

6. Brothers and Spouses: N/A.

7. Sisters and Spouses: Ann Vershbow: None; Charles Beitz: $200, 2004, John Kerry.

*Patricia Louise Herbold, of Washington, to be Ambassador to the Republic of Singapore.

Nominee: Patricia Louise Herbold.

Post: Ambassador to Singapore.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $1000, 08/09/2001, Friends of Jennifer Dunn; $250, 06/20/2001, Richard Keller for Congress; $250, 06/16/2001, Randy Forbes for Congress; $500, 01/29/2002, Jim Patterson for Congress; $500, 01/30/2002, Garrett for Congress

2002; $1000, 02/11/2002, Washington State Republican party; $250, 02/16/2002, John Thune for South Dakota: $500, 02/24/2002, Trent Matson for Congress; $250, 03/31/2002, Friends of Jennifer Dunn; $250, 04/01/2002, Scott Armey for Congress; $250, 06/28/2002, Sydney Hay for Congress; $250, 06/29/2002, Friends of Jeb Hensarling; $250, 08/23/2002, David Fisher for Congress; $1500, 10/17/2002, Club for Growth PAC; $750, 10/29/2002, Friends of Jennifer Dunn; $250, 11/01/2002, Norma Smith for Congress; $250, 04/16/2003, Carl Isett Campaign; $250, 06/30/2003, Pat Toomey for Congress; $500, 09/30/2003, Pat Toomey for Congress; $1000, 07/11/2003, Friends of Jennifer Dunn; $2000, 07/23/2003, Bush-Cheney '04 Primary; $2000, 12/15/2003, Nethercutt for Senate; $2000, 12/15/2003, Nethercutt for Senate; $250, 12/18/2003, Jane Hague for Congress; $500, 01/14/2004, Cathy McMorris for Congress; $250, 03/22/2004, Arlene Wohlgemuth for Congress; $250, 03/30/2004, John Swallow for Congress; $250, 03/31/2004, Pat Toomey for Congress; $500, 04/15/2004, Pat Toomey for Congress; $250, 08/16/2004, Tom Coburn for Senate; $5000, 07/27/2004, Club for Growth PAC; $250, 08/02/2004, Connie Mack for Congress; $4017, 09/28/2004, Republican Party of FL; $3125, 09/30/2004, Republican Federal Committee of PA; $1638, 10/01/2004, MO Republican State Committee; $1265, 10/01/2004, Republican Party of MN; $1042, 10/01/2004, OR Republican Party; $893, 10/04/2004, Republican Party of WA; $1487, 10/04/2004, Republican Party of WI; $745, 10/04/2004, WV Republican State Executive Committee; $2975, 10/04/2004, Republican Party of OH; $2530, 10/04/2004, AR Leadership Committee 2003 FCRC; $595, 10/06/2004, Republican Party of ME; $595, 10/06/2004, NH Republican State Committee; $595, 10/06/2004, NH Republican State Committee; $595, 10/06/2004, ME Republican Party; $745, 10/07/2004, Republican Central Committee of NV; $1000, 10/19/2004, Jim DeMint for Senate; $1000, 10/20/2004, Pete Coors for Senate; $2000, 10/25/2004, Friends of Dave Reichert; $1000, 10/25/2004, John Thune for Senate; $1000, 10/28/2004, Tom Coburn for Senate; $1000, 10/29/2004, Cathy McMorris for Congress; $1000, 03/26/2005, Friends of Dave Reichert.

2. Spouse: Robert J. Herbold: $7900, 01/30/2001, RNC Republican National State Elections Committee; $5000, 09/29/2001, TechNet Federal PAC; $5000, 08/28/2002, Microsoft PAC; $1000, 07/11/2003, Friends of Jennifer Dunn; $2000, 07/23/2003, Bush-Cheney 2004 Primary; $2000, 12/15/2003, Nethercutt for Senate; $2000, 12/15/2003, Nethercutt for Senate; $1000, 03/26/2005, Friends of Dave Reichert.

3. Children and Spouses: Donna M. Herbold, $0; James & Lisa Herbold: $25, 2004, John Kerry; Gregory & Alexa Herbold: $25, 2004, John Kerry.

4. Parents: William J. Kruse—(deceased); Mary Louise Kruse—(deceased).

5. Grandparents: Edward A. Winter—(deceased); Stella M. Winter—(deceased).

6. Brothers and Spouses: Bill & Mona Kruse: $0.

7. Sisters and Spouses: Clare & Dick Kulp, $0; Judith & Joseph Murray, $100, 7/2002, Harland Hale; $75, 6/2004, Pat McGrath; Jayne & Frank Simms, $0.

*William Paul McCormick, of Oregon, to be Ambassador to New Zealand, and serve concurrently and without additional compensation as Ambassador to Samoa.

Nominee: William P. McCormick.

Post: Ambassador to New Zealand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, donee, date, and amount:

1. Self: National Restaurant Assoc. PAC, 2001, $5000.00; Ed Tinsley for Congress, 2002, $1000.00; National Restaurant Assoc. PAC, 2002, $5000.00; Gordon Smith Victory Committee, 2002, $2000.00; Oregon Republican Party Federal Account (Gordon Smith Victory Committee), 2002, $5000.00; Oregon Republican Party Non-Federal (Gordon Smith Victory Committee), 2002, $13,000.00; Republican Eagles RNC, 2002, $15,000.000; The 2002 President's Dinner (RNC), 2002, $12,500.00; National Restaurant Assoc. PAC, 2003, $5000.00; Bush/Cheney 04, 2003, $2000.00; Greg Walden for Congress, 2003, $1560.01; Republican National Committee, 2003, $15,000.000; Gordon Smith U.S. Senate, 2003, $1029.06; Republican National Committee, 2004, $10,000.00; Rogers for Congress, 2004, $2000.00; GO PAC, 2004, $1000.00; Jim Feldkamp for Congress, 2004, $2000.00; Coleman for Senate, 2004, $1000.00; Herman Cain for US Senate, 2004, $1000.00; National Restaurant Assoc. PAC, 2004, $5000.00; Zupanzic for Congress, 2004, $2000.00; Bush/Cheney 04, 2004, 25.82.

2. Spouse: Gail McCormick: National Restaurant Association, 2002, $2500.00; Bush/Cheney 04, 2003, $2000.00; Oregon Republican Party, 2004, $10,000.00.

3. Children and Spouses: Megan Clingham & Gavin Clingham—None; Andrew C. McCormick & Merilee McCormick—None; Alexander McCormick—None; Sarah Marie McCormick—None; Mary Alice McCormick—None; Thomas Callaghan McCormick—None.

4. Parents: Mathew Murtaugh McCormick—Deceased; Mary Elizabeth Callaghan McCormick—Deceased.

5. Grandparents: Mathew James McCormick—Deceased; Anne McCormick—Deceased; Edward Callaghan—Deceased; Mary Maher Callaghan—Deceased.

6. Brothers and Spouses: Edward James McCormick—None; Mathew Murtaugh McCormick and Patricia McCormick—None.

7. Sisters and Spouses: Mary Jane Gervais and Andres Gervais—None.

Foreign Service nomination of Robert S. Connan.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1820. A bill to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, shall be known and designated as the "Dewey F. Bartlett Post Office"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID (for himself, Mr. OBAMA, Mr. BAYH, Mr. KENNEDY, Mr. HARKIN, Mr. DURBIN, Mr. REED, Mr. DODD, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. KOHL, and Mr. DAYTON):

S. 1821. A bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1822. A bill to amend titles XVIII and XIX of the Security Act to make improvements to the implementation of the medicare prescription drug benefit; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 1823. A bill to empower States and local governments to prosecute illegal aliens and to authorize the Secretary of Homeland Security to establish a pilot Volunteer Border Marshal Program; to the Committee on the Judiciary.

By Mr. KERRY (for himself and Mr. SCHUMER):

S. 1824. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

By Mr. SANTORUM (for himself and Ms. STABENOW):

S. 1825. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to revise the funding and deduction rules for multiemployer defined benefit plans, and for other purposes; to the Committee on Finance

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD:

S. Res. 265. A resolution recognizing 2005 as the year of the 50th Anniversary of the Crop Science Society of America; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. Res. 266. A resolution designating the month of October 2005, as "Family History Month"; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 267. A resolution to authorize testimony, document production, and legal representation in State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon; considered and agreed to.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 246

At the request of Mr. BUNNING, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 309

At the request of Mr. DEMINT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

S. 381

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 381, a bill to amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

S. 407

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 503

At the request of Mr. BOND, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 503, a bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes.

S. 513

At the request of Mr. GREGG, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 842

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 842, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 969

At the request of Mr. OBAMA, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 969, a bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1244

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1244, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term needs.

S. 1343

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1343, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1463

At the request of Mr. KERRY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1463, a bill to clarify that the Small Business Administration has authority to provide emergency assistance to non-farm-related small business concerns that have suffered substantial economic harm from drought.

S. 1523

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1523, a bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses.

S. 1578

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1578, a bill to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs.

S. 1699

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1699, a bill to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

S. 1737

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1737, a bill to prohibit entities that provide nuclear fuel assemblies to Iran from providing such assemblies to the United States, and for other purposes.

S. 1761

At the request of Mr. THUNE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1761, a bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. 1786

At the request of Mr. LOTT, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1786, a bill to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

S. 1817

At the request of Mr. DEMINT, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Idaho (Mr. CRAIG), the Senator from Florida (Mr. MARTINEZ) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1817, a bill to suspend the Davis-Bacon Wage rate requirements for Federal contracts in areas declared national disasters.

S.J. RES. 25

At the request of Mr. TALENT, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 56

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Con. Res. 56, a concurrent resolution expressing appreciation for the contribution of Chinese art and culture and recognizing the Festival of China at the Kennedy Center.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

S. RES. 253

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 253, a resolution designating October 7, 2005, as "National 'It's Academic' Television Quiz Show Day."

AMENDMENT NO. 1911

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of amendment No. 1911 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1933

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, supra.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, supra.

At the request of Mr. BYRD, his name was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, supra.

AMENDMENT NO. 1937

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 1937 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1970

At the request of Mr. DODD, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 1970 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1974

At the request of Mr. LOTT, the names of the Senator from Maine (Ms. SNOWE), the Senator from South Carolina (Mr. GRAHAM), the Senator from Maine (Ms. COLLINS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 1974 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1977

At the request of Mr. ALEXANDER, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. MCCAIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of amendment No. 1977 proposed to H.R. 2863, supra.

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, supra.

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, supra.

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, supra.

AMENDMENT NO. 1978

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of amendment No. 1978 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1991

At the request of Mr. KENNEDY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1991 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1992

At the request of Mr. BYRD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 1992 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2003

At the request of Mr. GRAHAM, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 2003 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2022

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 2022 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2023

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 2023 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2033

At the request of Mr. KERRY, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Minnesota (Mr. DAYTON), the Senator from Michigan (Ms. STABENOW), the Senator from Iowa (Mr. HARKIN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Maine (Ms. SNOWE), the Senator from Connecticut (Mr. DODD), the Senator from Michigan (Mr. LEVIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maine (Ms. COLLINS), the Senator from West Virginia (Mr. BYRD), the Senator from Illinois (Mr. OBAMA) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 2033 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2038

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 2038 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2043

At the request of Mr. LOTT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 2043 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1820. A bill to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the "Dewey F. Bartlett Post Office"; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today along with my colleague, TOM COBURN, to proudly introduce legislation to designate the facility of the

United States Postal Service located at 6110 East 51st Place in Tulsa, OK as the "Dewey F. Bartlett Post Office".

Dewey Follett Bartlett, former Governor and distinguished alumnus of this Senate body, emulated the Oklahoma spirit of innovative leadership, hard work, and public service. In his honor, I proudly seek to name a post office in his hometown of Tulsa, OK. We commemorate an outstanding public servant so that posterity will be challenged by his example, just as we have been.

Although he was not actually born in Oklahoma, Dewey Bartlett naturalized as fast as he could. While studying at Princeton University, he came home during summers to work in Oklahoma oil fields just as I did. He moved to my hometown, Tulsa, in 1945 to assume a managing role in his family's business after his military service during World War II.

Dewey Bartlett shared my dedication to a strong national defense. As a member of the Senate Armed Services Committee and a pilot myself, I appreciate Mr. Bartlett for his military service to our country. He was awarded the Air Medal for his distinguished efforts in the Pacific Theater during World War II. Not only did he serve in the U.S. Marine Corps as a combat dive-bomber pilot, he championed the military during his service in the Senate.

During his tenure in the Senate, Bartlett was more than once deemed the most conservative member of the Senate. It is an Oklahoma distinction that I have sought to uphold. Last year, the American Conservative Union ranked me as the most conservative member of the Senate. I share his vision of advocating common sense Oklahoma values including less government bureaucracy, less regulation, lower taxes and fiscal responsibility.

Dewey Bartlett's political philosophy was consistent with the Constitutional intention to not encumber Americans with layers of bureaucracy, but to promote individual liberty, freedom and justice. I am pleased that we can honor albeit in a small way, his service to our country by naming a post office in Tulsa, OK after him.

I encourage my colleagues to join me in support of this legislation as we commemorate an outstanding citizen so that future generations will be challenged by his example.

By Mr. REID (for himself, Mr. OBAMA, Mr. BAYH, Mr. KENNEDY, Mr. HARKIN, Mr. DURBIN, Mr. REED, Mr. DODD, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. KOHL, and Mr. DAYTON):

S. 1821. A bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, four years after 9/11, the government was supposed to be prepared for a crisis like Hurricane Katrina. Yet as we all saw, the government was not. We owe it to the American people to do better in the future.

Once again, the experts are warning us. This time, it's not about levees or terrorists. It's about another pandemic flu.

According to the experts, another pandemic flu is not a matter of if but a question of when. As Dr. Julie Gerberding of the Centers for Disease Control put it: ". . . many influenza experts, including those at CDC, consider the threat of a serious influenza pandemic to the United States to be high. Although the timing and impact of an influenza pandemic is unpredictable, the occurrence is inevitable and potentially devastating."

The devastation caused by Hurricane Katrina would pale in comparison to the potential consequences of a global pandemic. A respected U.S. health expert has concluded that 1.7 million Americans would die in the first year alone of an outbreak. A pandemic flu outbreak in the Untied States today could cost our economy hundreds of billions of dollars due to death, lost productivity and disruptions to commerce and society.

Perhaps the only thing more troubling than contemplating the possible consequences of an avian flu pandemic is recognizing that neither this Nation nor the world are prepared to deal with it.

Our National Pandemic Plan is still in draft stages. We lack the capacity to rapidly manufacture vaccines in mass quantities. We barely have enough antiviral medication for 2 percent of our population. Our health care infrastructure is not prepared to handle a pandemic. And the medical community, businesses, and general public need to be better prepared.

These are just a few ways we are not as prepared as we should be.

America can do better. An avian flu pandemic may be inevitable, but the devastating consequences are not. We need to heed the warnings and take action immediately.

Last week, the Senate unanimously approved an amendment offered by Senators HARKIN, OBAMA, KENNEDY, DURBIN and me that will begin to provide the resources necessary to protect Americans against this looming threat.

Today, I am proud to introduce, along with Senators OBAMA, BAYH, KENNEDY, HARKIN and DURBIN, the Pandemic Preparedness and Response Act of 2005. This legislation builds on our commitment to protecting Americans by preparing for the possibility of a pandemic.

Specifically, the Pandemic Preparedness and Response Act will ensure that we have a national plan to address a flu pandemic. Under our bill, a new Director of Pandemic Preparedness and Response within the Executive Office of the President will be responsible for finalizing and carrying out the National Pandemic Influenza Preparedness Plan. There should be no question about who is in charge of preparing our nation for this looming threat. This new position will also ensure that, in the event of a pandemic, we will have a single senior official whose primary responsibility is to coordinate the federal government's response and ensure coordination between local governments and the private sector. This is serious responsibility, and our bill will ensure that the new Director is held accountable for preparing and protecting Americans against the threat of a pandemic.

Our bill will improve surveillance and international partnerships so we may detect the emergence of a flu strain with pandemic potential immediately. Specifically, our bill establishes and implements a comprehensive diplomatic strategy targeted at nations most at risk for an epidemic of avian influenza. It also provides assistance for international surveillance and medical care, and creates an International Fund to support pre-pandemic influenza control and relief activities in countries affected by avian influenza.

Domestic surveillance efforts will also be bolstered by our legislation. Our bill improves state surveillance capacity, and expands efforts by the Department of Agriculture to prevent pandemic avian influenza.

The Pandemic Preparedness and Response Act will improve our capacity to develop, produce and distribute a vaccine that will be effective against a pandemic flu. It will expand research at the National Institutes of Health so we may develop more efficient methods of producing vaccines. Our bill would enhance our vaccine production capacity by creating a guaranteed market for seasonal flu vaccine through a federal buyback program for a portion of unsold doses. And among other provisions, our bill will improve access to vaccinations during a pandemic by enhancing annual flu vaccination coverage for uninsured and underinsured adults and children.

Our legislation will ensure that we have enough antivirals, vaccines and other essential medications and supplies in the Strategic National Stockpile. Specifically, our bill requires that we procure enough antiviral medication to cover a minimum of 50 percent of the population for the Strategic National Stockpile. This legislation will protect Americans from the price-gouging of medications during a pandemic, and establishes a mass tracking and distribution system for vaccines and antiviral medications so we can direct medications and vaccines to where they are needed the most.

The Pandemic Preparedness and Response Act will also improve our surge capacity so that the American people can be assured there will be an adequate supply of health care providers and institutions to care for them in the event of a pandemic. Our bill will also ensure that public education and awareness campaigns targeted to businesses, health care providers and the American public related to pandemic preparedness are conducted.

And finally, the Pandemic Preparedness and Response Act will ensure that adequate resources are available to address this looming threat.

I hope that my colleagues will join me in supporting this legislation so we may ensure that we do everything possible to prepare and protect Americans from the threat of a global flu pandemic.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pandemic Preparedness and Response Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Department of Health and Human Services reports that an influenza pandemic has a greater potential to cause rapid increases in death and illness than virtually any other natural health threat.

(2) Three pandemics occurred during the 20th century: the Spanish flu pandemic in 1918, the Asian flu pandemic in 1957, and the Hong Kong flu pandemic in 1968. The Spanish flu pandemic was the most severe, causing over 500,000 deaths in the United States and more than 20,000,000 deaths worldwide.

(3) The Centers for Disease Control and Prevention has estimated conservatively that up to 207,000 Americans would die, and up to 734,000 would be hospitalized, during the next pandemic. The costs of the pandemic, including the total direct costs associated with medical care and indirect costs of lost productivity and death, are estimated at between $71,000,000,000 and $166,500,000,000. These costs do not include the economic effects of pandemic on commerce and society.

(4) Recent studies suggest that avian influenza strains, which are endemic in wild birds and poultry populations in some countries, are becoming increasingly capable of causing severe disease in humans and are likely to cause the next pandemic flu.

(5) In 2004, 8 nations—Thailand, Vietnam, Indonesia, Japan, Laos, China, Cambodia, and the Republic of Korea—experienced outbreaks of avian flu (H5N1) among poultry flocks. Cases of human infections were confirmed in Thailand, Cambodia, Indonesia, and Vietnam (including a possible human-to-human infection in Thailand).

(6) As of September 29, 2005, 116 confirmed human cases of avian influenza (H5N1) have been reported, 60 of which resulted in death. Of these cases, 91 were in Vietnam, 17 in Thailand, 4 in Cambodia, and 4 in Indonesia.

(7) On February 21, 2005, Dr. Julie Gerberding, Director of the Centers for Disease Control and Prevention, stated that "this is a very ominous situation for the globe ... the most important threat we are facing right now.".

(8) On February 23, 2005, Dr. Shigeru Omi, Asia regional director of the World Health Organization (WHO), stated with respect to the avian flu, "We at WHO believe that the world is now in the gravest possible danger of a pandemic.".

(9) The best defense against influenza pandemics is a heightened global surveillance system. In many of the nations where avian flu (H5N1) has become endemic the early detection capabilities are severely lacking, as is the transparency in the health systems.

(10) In addition to surveillance, pandemic preparedness requires domestic and international coordination and cooperation to ensure an adequate medical response, including communication and information networks, public health measures to prevent spread, use of vaccination and antivirals, provision of health outpatient and inpatient services, and maintenance of core public functions.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) is amended by adding at the end the following:

"Subtitle 3—Pandemic Influenza Preparedness

"SEC. 2141. DEFINITION.

"For purposes of this subtitle, the term 'State' shall have the meaning given such term in section 2(f) and shall include Indian tribes and tribal organizations (as defined in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act).

"SEC. 2142. NATIONAL DIRECTOR OF PANDEMIC PREPAREDNESS AND RESPONSE.

"(a) APPOINTMENT.—The President shall appoint an individual to serve as the National Director of Pandemic Preparedness and Response (referred to in this section as the 'Director') within the Executive Office of the President.

"(b) RESPONSIBILITIES.—The Director shall—

"(1) serve as the chairperson of the Pandemic Influenza Preparedness Policy Coordinating Committee (as described in section 2143);

"(2) coordinate the Federal interagency preparation for a pandemic;

"(3) coordinate the Federal interagency response to a pandemic;

"(4) oversee approval of State pandemic plans to ensure nationwide preparedness standards and regional coordination as provided for under section 2144(b)(3);

"(5) ensure coordination between the governmental and non-governmental economic and finance infrastructure as it relates to pandemic preparedness and response;

"(6) as soon as practicable, finalize a National Pandemic Influenza Preparedness Plan that describes programs and activities to decrease the burden of disease, minimize social disruption, and reduce economic impact from an influenza pandemic;

"(7) implement the National Pandemic Influenza Preparedness Plan;

"(8) make the National Pandemic Influenza Preparedness Plan available to Congress, and the public as appropriate;

"(9) submit to Congress an annual budget request related to the National Pandemic Influenza Preparedness Plan;

"(10) report to Congress on a biannual basis progress regarding the implementation of the National Pandemic Influenza Preparedness Plan;

"(11) address any deficiencies in the National Pandemic Influenza Preparedness Plan as determined by the Government Accountability Office report under subsection (c);

"(12) coordinate the provision of technical assistance related to pandemic preparedness across Federal agencies, States, and local governments;

"(13) ensure outreach and education campaigns are conducted related to preparedness for businesses, health care providers, and the public;

"(14) address supply chain issues related to a pandemic;

"(15) ensure that the National Pandemic Influenza Preparedness Plan includes a specific focus on traditionally underserved populations, including low-income, racial and ethnic minorities, immigrants, and uninsured populations; and

"(16) hire staff, request information, assistance, or detailees from other Federal agencies, and carry out other activities related to staffing and administration.

"(c) GAO REPORT.—

"(1) IN GENERAL.—Not later than 60 days after the Director has finalized the National Pandemic Influenza Preparedness Plan under subsection (b)(5), the Government Accountability Office shall submit to the Director and Congress a report concerning the National Pandemic Influenza Preparedness Plan.

"(2) REQUIREMENTS.—At a minimum, the report under paragraph (1) shall evaluate the ability of the National Pandemic Influenza Preparedness Plan to—

"(A) address the organizational structure and chain of command, both in the Federal government and at the State level;

"(B) ensure adequate laboratory surveillance of influenza, including the ability to isolate and subtype influenza viruses year round;

"(C) improve vaccine research, development, and production;

"(D) procure adequate doses of antivirals for treatment.

"(E) develop systems for tracking and distributing antiviral medication and vaccines;

"(F) prioritize who would receive antivirals and vaccines based on limited supplies;

"(G) stockpile medical and safety equipment for health care workers and first responders;

"(H) assure surge capacity capabilities for health care providers and institutions;

"(I) secure a backup health care workforce in the event of a pandemic;

"(J) ensure the availability of food, water, and other essential items during a pandemic;

"(K) provide guidance on needed State and local authority to implement public health measures such as isolation or quarantine;

"(L) maintain core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services

"(M) establish networks that provide alerts and other information for health care providers;

"(N) communicate with the public with respect to prevention and obtaining care during a pandemic;

"(O) provide security for first responders and other medical personnel and volunteers, hospitals, treatment centers, isolation and quarantine areas, and transportation and delivery of resources

"SEC. 2143. POLICY COORDINATING COMMITTEE ON PANDEMIC INFLUENZA PREPAREDNESS.

"(a) IN GENERAL.—There is established the Pandemic Influenza Preparedness Policy Coordinating Committee (referred to in this section as the 'Committee').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Committee shall be composed of—

"(A) the Secretary;

"(B) the Secretary of Homeland Security;

"(C) the Secretary of Agriculture;

"(D) the Secretary of State;

"(E) the Secretary of Defense;

"(F) the Secretary of Commerce;

"(G) the Administrator of the Environmental Protection Agency;

"(H) the Secretary of Transportation;

"(I) the Secretary of Veterans Affairs; and

"(J) other representatives as determined appropriate by the Chair of the Committee.

"(2) CHAIR.—The Director of Pandemic Preparedness and Response shall serve as the Chair of the Committee.

"(3) TERM.—The members of the Committee shall serve for the life of the Committee.

"(c) MEETINGS.—

"(1) IN GENERAL.—The Committee shall meet not less often than 2 times per year at the call of the Chair or as determined necessary by the President.

"(2) REPRESENTATION.—A member of the Committee under subsection (b) may designate a representative to participate in Committee meetings, but such representative shall hold the position of at least an assistant secretary or equivalent position.

"(d) DUTIES OF THE COMMITTEE.—

"(1) PREPAREDNESS PLANS.—Each member of the Committee shall submit to the Committee a pandemic influenza preparedness plan for the agency involved that describes—

"(A) initiatives and proposals by such member to address pandemic influenza (including avian influenza) preparedness; and

"(B) any activities and coordination with international entities related to such initiatives and proposals.

"(2) INTERAGENCY PLAN AND RECOMMENDATIONS.—

"(A) IN GENERAL.—

"(i) PREPAREDNESS PLAN.—Based on the preparedness plans described under paragraph (1), and not later than 90 days after the date of enactment of this subtitle, the Committee shall develop an Interagency Preparedness Plan that integrates and coordinates such preparedness plans.

"(ii) CONTENT OF PLAN.—The Interagency Preparedness Plan under clause (i) shall include a description of—

"(I) departmental or agency responsibility and accountability for each component of such plan;

"(II) funding requirements and sources;

"(III) international collaboration and coordination efforts; and

"(IV) recommendations and a timeline for implementation of such plan.

"(B) REPORT.—

"(i) IN GENERAL.—The Committee shall submit to the President and Congress, and make available to the public as appropriate, a report that includes the Interagency Preparedness Plan.

"(ii) UPDATED REPORT.—The Committee shall submit to the President and Congress, and make available to the public as appropriate, on a biannual basis, an update of the report that includes a description of—

"(I) progress made toward plan implementation, as described under clause (i); and

"(II) progress of the domestic preparedness programs under section 2144 and of the international assistance programs under section 2145.

"(C) CONSULTATION WITH INTERNATIONAL ENTITIES.—In developing the preparedness plans described under subparagraph (A) and the report under subparagraph (B), the Committee should consult with representatives from the World Health Organization, the World Organization for Animal Health, and other international bodies, as appropriate.

"(e) APPLICATION OF FACA.—Notwithstanding the Federal Advisory Committee Act, non-government individuals and entities may participate in the activities of the Committee.

"SEC. 2144. DOMESTIC PANDEMIC INFLUENZA PREPAREDNESS ACTIVITIES.

"(a) PANDEMIC PREPAREDNESS ACTIVITIES.—The Director of Pandemic Preparedness and Response shall strengthen, expand, and coordinate domestic pandemic influenza preparedness activities.

"(b) STATE PREPAREDNESS PLAN.—

"(1) IN GENERAL.—As a condition of receiving funds from the Centers for Disease Control and Prevention or the Health Resources and Services Administration related to bioterrorism, a State shall—

"(A) designate an official or office as responsible for pandemic influenza preparedness;

"(B) submit to the Director of the Centers for Disease Control and Prevention a Pandemic Influenza Preparedness Plan described under paragraph (2); and

"(C) have such Preparedness Plan approved in accordance with this subsection.

"(2) PREPAREDNESS PLAN.—

"(A) IN GENERAL.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall address—

"(i) human and animal surveillance activities, including capacity for epidemiological analysis, isolation and subtyping of influenza viruses year-round, including for avian influenza among domestic poultry, and reporting of information across human and veterinary sectors;

"(ii) methods to ensure surge capacity in hospitals, laboratories, outpatient healthcare provider offices, medical suppliers, and communication networks;

"(iii) assisting the recruitment and coordination of national and State volunteer banks of healthcare professionals;

"(iv) distribution of vaccines, antivirals, and other treatments to priority groups, and monitor effectiveness and adverse events;

"(v) networks that provide alerts and other information for healthcare providers and organizations at the National, State, and regional level;

"(vi) communication with the public with respect to prevention and obtaining care during pandemic influenza;

"(vii) maintenance of core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services;

"(viii) provision of security for—

"(I) first responders and other medical personnel and volunteers;

"(II) hospitals, treatment centers, and isolation and quarantine areas;

"(III) transport and delivery of resources, including vaccines, medications and other supplies; and

"(IV) other persons or functions as determined appropriate by the Secretary;

"(ix) the acquisition of necessary legal authority for pandemic activities;

"(x) integration with existing national, State, and regional bioterrorism preparedness activities or infrastructure;

"(xi) coordination among public and private health sectors with respect to healthcare delivery, including mass vaccination and treatment systems, during pandemic influenza; and

"(xii) coordination with Federal pandemic influenza preparedness activities.

"(B) UNDERSERVED POPULATIONS.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall include a specific focus on surveillance, prevention, and medical care for traditionally underserved populations, including low-income, racial and ethnic minority, immigrant, and uninsured populations.

"(3) APPROVAL OF STATE PLAN.—

"(A) IN GENERAL.—The Director of Pandemic Preparedness and Response, in collaboration with the Pandemic Influenza Preparedness Policy Coordinating Committee, shall develop criteria to rate State Pandemic Influenza Preparedness Plans required under paragraph (1) and determine the minimum rating needed for approval.

"(B) TIMING OF APPROVAL.—Not later than 90 days after a State submits a State Pandemic Influenza Preparedness Plan as required under paragraph (1), the Director of Pandemic Preparedness and Response shall make a determination regarding approval of such Plan.

"(4) REPORTING OF STATE PLAN.—All Pandemic Influenza Preparedness Plans submitted and approved under this section shall be made available to Congress, State officials, and the public as determined appropriate by the Director.

"(5) ASSISTANCE TO STATES.—The Centers for Disease Control and Prevention and the Health Resources and Services Administration may provide assistance to States in carrying out this subsection, or implementing an approved State Pandemic Influenza Preparedness Plan, which may include the detail of an officer to approved domestic pandemic sites or the purchase of equipment and supplies.

"(6) WAIVER.—The Director of Pandemic Preparedness and Response may grant a temporary waiver of 1 or more of the requirements under this subsection.

"(c) DOMESTIC SURVEILLANCE.—

"(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall establish minimum thresholds for States with respect to adequate surveillance for pandemic influenza, including possible pandemic avian influenza.

"(2) ASSISTANCE TO STATES.—

"(A) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall provide assistance to States and regions to meet the minimum thresholds established under paragraph (1).

"(B) TYPES OF ASSISTANCE.—Assistance provided to States under subparagraph (A) may include—

"(i) the establishment or expansion of State surveillance and alert systems, including the Sentinel Physician Surveillance System and 122 Cities Mortalities Report System;

"(ii) the provision of equipment and supplies;

"(iii) support for epidemiological analysis and investigation of novel strains;

"(iv) the sharing of biological specimens and epidemiological and clinical data within and across States; and

"(v) other activities determined appropriate by the Secretary.

"(3) DETAIL OF OFFICERS.—The Secretary may detail officers to States for technical assistance as needed to carry out this subsection.

"(d) PRIVATE SECTOR INVOLVEMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Administrator of the Health Resources and Services Administration, and in coordination with private sector entities, shall integrate and coordinate public and private influenza surveillance activities, as appropriate.

"(2) GRANT PROGRAM.—

"(A) IN GENERAL.—In carrying out the activities under paragraph (1), the Secretary may establish a grant program, or expand existing grant programs, to provide funding to eligible entities to coordinate or integrate as appropriate, pandemic preparedness surveillance activities between States and private health sector entities, including hospitals, health plans, and other health systems.

"(B) ELIGIBILITY.—To be eligible to receive a grant under subparagraph (A), an entity shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

"(C) USE OF FUNDS.—Funds under a grant under subparagraph (A) may be used to—

"(i) develop and implement surveillance protocols for patients in outpatient and hospital settings;

"(ii) establish a communication alert plan for patients for reportable signs and symptoms that may suggest influenza;

"(iii) plan for the vaccination of populations and, if appropriate, dissemination of antiviral drugs;

"(iv) purchase necessary equipment and supplies;

"(v) increase laboratory testing and networking capacity;

"(vi) conduct epidemiological and other analyses; or

"(vii) report and disseminate data.

"(D) DETAIL OF OFFICERS.—The Secretary may detail officers to grantees under subparagraph (A) for technical assistance.

"(E) REQUIREMENT.—As a condition of receiving a grant under subparagraph (A), a State shall have a plan to meet minimum thresholds for State influenza surveillance established by the Director of the Centers for Disease Control and Prevention in coordination with the Secretary of Agriculture under subsection (b).

"(e) PROCUREMENT OF ANTIVIRALS FOR THE STRATEGIC NATIONAL STOCKPILE.—The Secretary shall take immediate action to procure for the Strategic National Stockpile described under section 319F-2 antivirals needed to prevent or treat infection during a pandemic influenza, including possible pandemic avian influenza, for at least 50 percent of the population.

"(f) PROCUREMENT OF VACCINES FOR THE STRATEGIC NATIONAL STOCKPILE.—Subject to development and testing of potential vaccines for pandemic influenza, including possible pandemic avian influenza, the Secretary shall determine the minimum number of doses of vaccines needed to prevent infection during at least the first wave of pandemic influenza for health professionals (including doctors, nurses, mental health professionals, pharmacists, laboratory personnel, epidemiologists, virologists, and public health practitioners), core public utility employees, and those persons expected to be at high risk for serious morbidity and mortality from pandemic influenza, and take immediate steps to procure this minimum number of doses for the Strategic National Stockpile described under section 319F-2.

"(g) PROCUREMENT OF ESSENTIAL MEDICATIONS.—The Secretary shall, as soon as is practicable, take action to procure for the Strategic National Stockpile essential medications and other supplies that may be needed in the event of a pandemic.

"(h) NATIONAL TRACKING AND DISTRIBUTION SYSTEM FOR VACCINES AND ANTIVIRALS.—

"(1) IN GENERAL.—The Secretary shall develop and implement a national system for the tracking and distribution of antiviral medications and vaccines in order to prepare and respond to pandemic influenza.

"(2) SYSTEM.—The system developed under paragraph (1) shall—

"(A) allow for the electronic tracking of all domestically available antiviral medication and vaccines for pandemic influenza;

"(B) anticipate shortages, and alert officials if shortages are expected in such medications and vaccines;

"(C) target distribution to high-risk groups, including health professionals and relief personnel and other individuals determined to be most susceptible to disease or death from pandemic flu;

"(D) ensure equitable distribution, particularly across low-income and other underserved groups; and

"(E) integrate with existing State and local systems as appropriate.

"(i) REIMBURSEMENTS.—The Secretary shall have the authority to reimburse State and local health departments for expenditures related to influenza vaccine purchase and administration during a public health emergency under section 319(a).

"SEC. 2145. PROPOSAL FOR INTERNATIONAL FUND TO SUPPORT PANDEMIC INFLUENZA CONTROL.

"(a) IN GENERAL.—The Director of Pandemic Preparedness and Response should submit to the Director of the World Health Organization a proposal to study the feasibility of establishing a fund, (referred to in this section as the 'Pandemic Fund') to support pre-pandemic influenza control, surveillance, and relief activities conducted in countries affected by avian influenza or other viruses likely to cause pandemic influenza.

"(b) CONTENT OF PROPOSAL.—The proposal submitted under subsection (a) shall describe, with respect to the Pandemic Fund—

"(1) funding sources;

"(2) administration;

"(3) application process by which a country may apply to receive assistance from such Fund;

"(4) factors used to make a determination regarding a submitted application, which may include—

"(A) the gross domestic product of the applicant country;

"(B) the burden of need, as determined by estimated human morbidity and mortality and economic impact related to pandemic influenza and the existing capacity and resources of the applicant country to control the spread of the disease; and

"(C) the willingness of the country to cooperate with other countries with respect to preventing and controlling the spread of the pandemic influenza; and

"(5) any other information the Secretary determines necessary.

"(c) USE OF FUNDS.—Funds from any Pandemic Fund established as provided for in this section shall be used to complement and augment ongoing bilateral programs and activities from the United States and other donor nations, or establish new programs as needed.

"SEC. 2146. INTERNATIONAL DIPLOMATIC AND DEVELOPMENT STRATEGY.

"(a) POLICY.—It is the policy of the United States to develop and implement a comprehensive diplomatic strategy targeted at (but not limited to) nations in Southeast and East Asia that are most at risk for an outbreak of the avian influenza, including Cambodia, China, Laos, Thailand, Indonesia, and Vietnam, in order to strengthen international public health structures to detect, prevent, and effectively respond to an outbreak of the avian flu.

"(b) STRATEGY.—The strategy developed and implemented under subsection (a) shall include—

"(1) supporting information sharing and strengthening surveillance, and rapid response capacities in key nations, including the development of pandemic preparedness and response plans;

"(2) issuing demarches to key nations in the region urging additional cooperation and coordination with the United States, regional governments, and international organizations;

"(3) provide for regular visits by cabinet-level officials of the United States Government, including the Secretary of State, Secretary of Health and Human Services, Secretary of Agriculture, Secretary of Homeland Security, and Secretary of Defense, to key nations in Southeast and East Asia in order to enhance cooperation;

"(4) expanding ongoing technical assistance programs, including training of personnel, procuring laboratory equipment, logistics support, bio-safety procedures, quality control, and case detection investigation techniques;

"(5) exchanges of scientists and medical personnel engaged in significant work on issues related to avian flu;

"(6) encouraging regional governments to implement viable compensation schemes to encourage reporting by poultry farmers of cases of avian influenza in commercial flocks;

"(7) forward deployment of additional United States Government science and medical personnel to embassies and consulates in the region;

"(8) public awareness campaigns in the region, including increased involvement of the Broadcasting Board of Governors and Voice of America, to ensure timely and accurate dissemination of information;

"(9) using the voice and vote of the United States at meeting of appropriate international organizations to support the aforementioned efforts; and

"(10) integrating the private sector, especially those entities with a strong presence in the region, into this effort.

"SEC. 2147. INTERNATIONAL PANDEMIC INFLUENZA ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall assist other countries in preparation for, and response to, pandemic influenza, including possible pandemic avian influenza.

"(b) INTERNATIONAL SURVEILLANCE.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in collaboration with the Secretary of Agriculture, in consultation with the World Health Organization and the World Organization for Animal Health, shall establish minimum standards for surveillance capacity for all countries with respect to viral strains with pandemic potential, including avian influenza.

"(2) ASSISTANCE.—The Secretary and the Secretary of Agriculture shall assist other countries to meet the standards established in paragraph (1) through—

"(A) the detail of officers to foreign countries for the provision of technical assistance or training;

"(B) laboratory testing, including testing of specimens for viral isolation or subtype analysis;

"(C) epidemiological analysis and investigation of novel strains;

"(D) provision of equipment or supplies;

"(E) coordination of surveillance activities within and among countries;

"(F) the establishment and maintenance of an Internet database that is accessible to health officials domestically and internationally, for the purpose of reporting new cases or clusters of influenza and other information that may help avert the pandemic spread of influenza; and

"(G) other activities as determined necessary by the Secretary.

"(c) INCREASED INTERNATIONAL MEDICAL CAPACITY DURING PANDEMIC INFLUENZA.—Notwithstanding any other provision of law, the Secretary, in consultation with the Secretary of State, may provide vaccines, antiviral medications, and supplies to foreign countries from the Strategic National Stockpile described under section 319F–2.

"(d) ASSISTANCE TO FOREIGN COUNTRIES.—The Centers for Disease Control and Prevention and the Health Resources and Services Administration may provide assistance to foreign countries in carrying out this section, which may include the detail of an officer to approved international pandemic sites or the purchase of equipment and supplies.

"SEC. 2148. PUBLIC EDUCATION AND AWARENESS CAMPAIGN.

"(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in consultation with the United States Agency for International Development, the World Health Organization, the World Organization for Animal Health, and foreign countries, shall develop an outreach campaign with respect to public education and awareness of influenza and influenza preparedness.

"(b) DETAILS OF CAMPAIGN.—The campaign established under subsection (a) shall—

"(1) be culturally and linguistically appropriate for domestic populations;

"(2) be adaptable for use in foreign countries;

"(3) target high-risk populations (those most likely to contract, transmit, and die from influenza);

"(4) promote personal influenza precautionary measures and knowledge, and the need for general vaccination, as appropriate; and

"(5) describe precautions at the State and local level that could be implemented during pandemic influenza, including quarantine and other measures.

"SEC. 2149. HEALTH PROFESSIONAL TRAINING.

"The Secretary, directly or through contract, and in consultation with professional health and medical societies, shall develop and disseminate pandemic influenza training curricula—

"(1) to educate and train health professionals, including physicians, nurses, public health practitioners, virologists and epidemiologists, veterinarians, mental health providers, allied health professionals, and paramedics and other first responders;

"(2) to educate and train volunteer, nonmedical personnel whose assistance may be required during a pandemic influenza outbreak; and

"(3) that address prevention, including use of quarantine and other isolation precautions, pandemic influenza diagnosis, medical guidelines for use of antivirals and vaccines, and professional requirements and responsibilities, as appropriate.

"SEC. 2150. RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

"The Director of the National Institutes of Health (referred to in this section as the 'Director of NIH'), in collaboration with the Director of the Centers for Disease Control and Prevention, and other relevant agencies, shall expand and intensify human and animal research, with respect to influenza, on—

"(1) vaccine development and manufacture, including strategies to increase immunological response;

"(2) effectiveness of inducing heterosubtypic immunity;

"(3) antigen-sparing studies;

"(4) antivirals, including minimal dose or course of treatment and timing to achieve prophylactic or therapeutic effect;

"(5) side effects and drug safety of vaccines and antivirals in subpopulations;

"(6) alternative routes of delivery of vaccines, antivirals, and other medications as appropriate;

"(7) more efficient methods for testing and determining virus subtype;

"(8) protective measures;

"(9) modes of influenza transmission;

"(10) effectiveness of masks, hand-washing, and other non-pharmaceutical measures in preventing transmission;

"(11) improved diagnostic tools for influenza; and

"(12) other areas determined appropriate by the Director of NIH.

"SEC. 2151. RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"The Director of the Centers for Disease Control and Prevention, in collaboration with other relevant agencies, shall expand and intensify research, with respect to influenza, on—

"(1) historical research on prior pandemics to better understand pandemic epidemiology, transmission, protective measures, high-risk groups, and other lessons that may be applicable to future pandemic;

"(2) communication strategies for the public during pandemic influenza, taking into consideration age, racial and ethnic background, health literacy, and risk status;

"(3) changing and influencing human behavior as it relates to vaccination;

"(4) development and implementation of a public, non-commercial and non-competitive broadcast system and person-to-person networks;

"(5) population-based surveillance methods to estimate influenza infection rates and rates of outpatient illness;

"(6) vaccine effectiveness;

"(7) systems to monitor vaccination coverage levels and adverse events from vaccination; and

"(8) other areas determined appropriate by the Director of the Centers for Disease Control and Prevention.

"SEC. 2152. INSTITUTE OF MEDICINE STUDY ON THE LEGAL, ETHICAL, AND SOCIAL IMPLICATIONS OF PANDEMIC INFLUENZA.

"(a) IN GENERAL.—The Secretary shall contract with the Institute of Medicine to—

"(1) study the legal, ethical, and social implications of, with respect to pandemic influenza—

"(A) animal/human interchange;

"(B) global surveillance;

"(C) case contact investigations;

"(D) vaccination and medical treatment;

"(E) community hygiene;

"(F) travel and border controls;

"(G) decreased social mixing and increased social distance;

"(H) civil confinement; and

"(I) other topics as determined appropriate by the Secretary.

"(2) not later than 1 year after the date of enactment of the Pandemic Preparedness and Response Act, submit to the Secretary a report that describes recommendations based on the study conducted under paragraph (1).

"(b) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 90 days after the submission of the report of under subsection (a)(2), the Secretary shall address the recommendations of the Institute of Medicine regarding the domestic and international allocation and distribution of pandemic influenza vaccine and antivirals.

"SEC. 2153. NATIONAL PANDEMIC INFLUENZA ECONOMICS ADVISORY COMMITTEE.

"(a) IN GENERAL.—There is established the National Pandemic Influenza Economics Advisory Committee (referred to in this section as the 'Committee').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The members of the Committee shall be appointed by the Comptroller General of the United States and shall include domestic and international experts on pandemic influenza, public health, veterinary science, commerce, economics, finance, and international diplomacy.

"(2) CHAIR.—The Comptroller General of the United States shall select a Chair from among the members of the Committee.

"(c) DUTIES.—The Committee shall study and make recommendations to Congress and the Secretary on the financial and economic impact of pandemic influenza and possible financial structures for domestic and international pandemic response, relating to—

"(1) the development, storage, and distribution of vaccines;

"(2) the development, storage, and distribution of antiviral and other medications and supplies;

"(3) increased surveillance activities;

"(4) provision of preventive and medical care during pandemic;

"(5) reimbursement for health providers and other core public function employees;

"(6) reasonable compensation for farmers and other workers that bear direct or disproportionate loss of revenue; and

"(7) other issues determined appropriate by the Chair.

"(d) COMPENSATION.—

"(1) IN GENERAL.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Committee.

"(e) STAFF.—

"(1) IN GENERAL.—The Chair of the Committee shall provide the Committee with such professional and clerical staff, such information, and the services of such consultants as may be necessary to assist the Committee in carrying out the functions under this section.

"(2) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

"(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Committee without reimbursement.

"(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

"(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair of the Committee may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 2154. PANDEMIC INFLUENZA AND ANIMAL HEALTH.

"(a) IN GENERAL.—The Secretary of Agriculture shall expand and intensify efforts to prevent pandemic influenza, including possible pandemic avian influenza.

"(b) REPORT.—Not later than 180 days after the date of enactment this Act, the Secretary of Agriculture shall submit to Congress a report that describes the anticipated impact of pandemic influenza on the United States.

"(c) ASSISTANCE.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, the World Health Organization, and the World Organization for Animal Health, shall provide domestic and international assistance with respect to pandemic influenza preparedness to—

"(1) support the eradication of infectious animal diseases and zoonosis;

"(2) increase transparency in animal disease states;

"(3) collect, analyze, and disseminate veterinary data;

"(4) strengthen international coordination and cooperation in the control of animal diseases; and

"(5) promote the safety of world trade in animals and animal products.

"(d) ELECTRONIC DATABASE.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall establish an electronic disease surveillance database in order to trace the incidence of avian influenza in both animals and humans in the United States.

"(e) IMPROVEMENTS IN THE NATIONAL ANIMAL HEALTH LABORATORY NETWORK.—The Secretary of Agriculture shall evaluate the National Animal Health Laboratory Network and make recommendations for improvements to participating laboratories and other State animal health laboratories to rapidly diagnose and research avian influenza outbreaks.

"(f) COMMUNICATIONS LIAISONS.—

"(1) IN GENERAL.—The Secretary of Agriculture jointly with the Secretary of Homeland Security shall designate a liaison in each State to facilitate and coordinate communications among and between States in the event of an agriculture emergency.

"(2) FUNCTIONS.—Each liaison designated under paragraph (1) shall—

"(A) be the central point of contact for animal health in communications with the Department of Agriculture and the Department of Homeland Security;

"(B) communicate Federal preparedness and response plans to State and local agriculture officials and veterinarians; and

"(C) communicate concerns from State and local agriculture officials and veterinarians to the Department of Agriculture and Department of Homeland Security and the Department of Health and Human Services.

"Subtitle 4—Strengthening Public Health Immunization Capacity and Supply

"SEC. 2161. FINDINGS.

"Congress finds that—

"(1) effective pandemic influenza preparedness and response is dependent upon the existence of solid public health infrastructure to combat seasonal flu;

"(2) the domestic surveillance and vaccine production and distribution capabilities needed in a time of crisis should be well established and active in a non-crisis capacity to enable a more efficient response to pandemic influenza; and

"(3) each State receiving Federal funds should have a State Immunization Program Coordinator, who should be responsible for coordinating and implementing activities related to influenza.

"SEC. 2162. VACCINE SUPPLY.

"(a) REQUESTS FOR MORE DOSES.—

"(1) IN GENERAL.—Not later than March 15 of each year, the Secretary shall enter into contracts with manufacturers to produce such additional doses of the influenza vaccine as determined necessary by the Secretary.

"(2) CONTENT OF CONTRACT.—A contract for additional doses shall provide that the manufacturer will be compensated by the Secretary at an equitable rate negotiated by the Secretary and the manufacturer for any doses that—

"(A) were not sold by the manufacturer through routine market mechanisms at the end of the influenza season for that year; and

"(B) were requested by the Secretary to be produced by such manufacturer.

"(3) WHEN SUCH VACCINE PURCHASES SHOULD TAKE PLACE.—The Secretary may purchase from the manufacturer the doses for which it has contracted at any time after which it is determined by the Secretary, in consultation with the manufacturer, that the doses will likely not be absorbed by the private market.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

"SEC. 2163. DISCONTINUANCE OF INFLUENZA VACCINE.

"(a) IN GENERAL.—

"(1) NOTICE TO SECRETARY.—A manufacturer of the influenza vaccine shall notify the Secretary of a discontinuance of the manufacture of the vaccine at least 12 months prior to the date of the discontinuance.

"(2) DIRECTOR OF CENTERS FOR DISEASE CONTROL AND PREVENTION.—Promptly after receiving a notice under paragraph (1), the Secretary shall inform the Director of the Centers for Disease Control and Prevention of the notice. Promptly after determining that a reduction under subsection (b) applies with respect to such a notice, the Secretary shall inform such Director of the reduction.

"(3) RELATIONSHIP TO SEPARATE NOTICE PROGRAM.—In the case of influenza vaccine that is approved by the Secretary and is a drug described in section 506C(a), this section applies to the vaccine in lieu of section 506C.

"(b) REDUCTION IN NOTIFICATION PERIOD.—The notification period required under subsection (a) for a manufacturer may be reduced if the manufacturer certifies to the Secretary that good cause exists for the reduction, such as a situation in which—

"(1) a public health problem may result from continuation of the manufacturing for the 12-month period;

"(2) a biomaterials shortage prevents the continuation of the manufacturing for the 12-month period;

"(3) continuation of the manufacturing for the 12-month period may cause substantial economic hardship for the manufacturer;

"(4) the manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code; or

"(5) the manufacturer can continue the distribution of the vaccine involved for 12 months.

"(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the manufacture of influenza vaccines to appropriate physician and patient organizations.

"SEC. 2164. SHORTAGE PREPAREDNESS AND RESPONSE.

"(a) EMERGENCY RESPONSE PLANS REGARDING SHORTAGES.—

"(1) NATIONAL EMERGENCY RESPONSE PLAN.—The Secretary shall develop and maintain a national plan for the response to potential shortages in supplies of influenza vaccines that would constitute public health emergencies. The plan shall include provisions with respect to communication among relevant entities, distribution of available supplies of the influenza vaccine involved, the designation of populations to be given priority for immunizations, interactions with State and local governments, the use of the National Stockpile, and special considerations for specific vaccines. The initial plan shall be completed not later than 12 months after the date of the enactment of this section.

"(2) STATE EMERGENCY RESPONSE PLAN.—Each State that receives funds under this Act shall, not later than 6 months after the date on which the National Plan is issued under paragraph (1), develop, through the State Immunization Coordinator, a State Emergency Response Plan that is modeled on the National Plan.

"SEC. 2165. PROVISIONS TO INCREASE VACCINE COVERAGE RATES.

"(a) IN GENERAL.—The Secretary shall develop a plan for the distribution of seasonal flu vaccines to ensure that uninsured and underinsured adults and children have access to annual influenza vaccines and vaccines for conditions potentially exacerbated by exposure to pandemic influenza. Immunizations should be available to such populations as well as children in the VFC program through a wide variety of providers including both Federally qualified health centers and State and local health departments.

"(b) REQUIREMENT.—The Secretary shall—

"(1) conduct an assessment to determine the number of adults in need of vaccinations and the barriers to vaccinating adults; and

"(2) develop and implement strategies to increase the rate of immunizations in populations in which a significant number of individuals have not received immunizations with the federally recommended vaccines (as defined in section 317A(g)) for the populations.

"(c) DEFINITION.—For purposes of this section, the term 'adult' means an individual who is not a child as defined in section 1928 of the Social Security Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

"SEC. 2166. OUTREACH, COMMUNICATION, EDUCATION.

"(a) EDUCATION PROGRAM REGARDING ADULT IMMUNIZATIONS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention (in this section referred to as the 'Director'), shall conduct a public awareness campaign and education and outreach efforts each year during the time period preceding the influenza season on each of the following:

"(1) The importance of receiving the influenza vaccine.

"(2) Which populations the Director recommends to receive the influenza vaccine to prevent health complications associated with influenza, including health care workers and their household contacts.

"(3) Professional medical education of physicians, nurses, pharmacists, and other health care providers and such providers' associated organizations.

"(4) Information that emphasizes the safety and benefit of recommended vaccines for the public good.

"(b) OUTREACH TO MEDICARE RECIPIENTS.—

"(1) PROGRAM.—

"(A) IN GENERAL.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall, at the earliest possible time in the influenza vaccine planning and production process, reach out to providers of medicare services, including managed care providers, nursing homes, hospitals, and physician offices to urge early and full preordering of the influenza vaccine so that production levels can accommodate the needs for the influenza vaccine.

"(B) RATES OF IMMUNIZATION AMONG MEDICARE RECIPIENTS.—The Director shall work with the Administrator of the Centers for Medicare & Medicaid Services to publish the rates of influenza immunization among individuals receiving assistance under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(2) STATE AND PUBLIC HEALTH ADULT IMMUNIZATION ACTIVITIES.—The Director shall support the development of State adult immunization programs that place emphasis on improving influenza vaccine delivery to high-risk populations and the general population, including the exploration of improving access to the influenza vaccine.

"(3) EXISTING MODES OF COMMUNICATION.—In carrying out the public awareness campaign and education and outreach efforts under paragraph (1) and (2), the Director may use existing websites or structures for communication.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.".

SEC. 4. UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO TREATMENTS FOR PANDEMIC INFLUENZA.

Section 319F-3 of the Public Health Service Act (as added by section and amended by section ___(a)) is further amended by adding at the end the following:

"(i) UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO TREATMENTS FOR PANDEMIC INFLUENZA.—

"(1) SALES TO CONSUMERS AT UNCONSCIONABLE PRICE.—

"(A) IN GENERAL.—During any public health emergency declared by the Secretary under section 319 related to pandemic influenza, it shall be unlawful for any person to sell any drug (including an anti-viral drug), device, or biologic for the prevention or treatment of influenza in, or for use in, the area to which that declaration applies at a price that—

"(i) is unconscionably excessive (as determined by the Secretary); or

"(ii) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

"(B) FACTORS TO BE CONSIDERED.—In determining whether a violation of paragraph (1) has occurred, a court shall take into account, among other factors, whether—

"(i) the amount charged represents a gross disparity between the price of a drug, device, or biologic for the prevention or treatment of influenza and the price at which the drug, device, or biologic was offered for sale in the usual course of the seller's business immediately prior to the public health emergency; or

"(ii) the amount charged grossly exceeds the price at which the same or similar drug, device, or biologic for the prevention or treatment of influenza was readily obtainable by other purchasers in the area in which the declaration applies.

"(C) MITIGATING FACTORS.—In determining whether a violation of subparagraph (A) has occurred, the court shall also take into account, among other factors, the price that would reasonably equate supply and demand in a competitive and freely functioning market and whether the price at which the drug, device, or biologic for the prevention or treatment of influenza was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

"(2) FALSE PRICING INFORMATION.—It shall be unlawful for any person to report information related to the wholesale price of any drug, device, or biologic for the prevention or treatment of influenza to the Secretary if—

"(A) that person knew, or reasonably should have known, the information to be false or misleading;

"(B) the information was required by law to be reported; and

"(C) the person intended the false or misleading data to affect data compiled by the department or agency involved for statistical or analytical purposes with respect to the market for drugs, devices, or biologics for the prevention or treatment of influenza.

"(3) MARKET MANIPULATION.—It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of drugs, devices, or biologics for the prevention or treatment of influenza at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Secretary may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act (and the amendments made by this Act) for each of the fiscal years 2006 through 2010.

Mr. OBAMA. Mr. President, I rise today to talk about a critical issue—the possibility of an avian influenza pandemic.

When I started talking about this 7 months ago, not too many folks paid attention. Perhaps because the shorthand for this looming crisis is the "bird flu," people assume it is just going to get birds and animals sick.

In reality, however, what is at stake here is the potential of a pandemic that we have not seen in the United States since 1918. As has already been stated, our top scientists and medical personnel, including the heads of the NIH, CDC, and the Department of Health and Human Services, all agree that it is almost inevitable that an avian flu pandemic will strike.

The key question is the extent of the damage, especially in terms of lives lost. The answer to this question will, in large measure, depend on our level of preparedness and the amount of resources we are willing to immediately commit to deal with this looming crisis.

After Katrina, I hope we all learned a lesson about the critical value of preparedness.

I rise today to introduce, along with Senators REID, BAYH, and KENNEDY, S. 1821, legislation that dramatically enhances the ability of the United States and international community to prevent and respond to an avian flu pandemic.

The bill we are introducing today—the Pandemic Preparedness and Response Act or PPRA—incorporates much of my AVIAN Act, and has a number of new and important provisions, that will protect Americans from pandemic flu.

The PPRA establishes leadership at the very top level by requiring the President to name a national director for Pandemic Preparedness and Response, who will sit in the executive office. This director will be in charge of all preparedness and response activities at the national level, including coordinating the activities and programs of each Federal agency.

It is not enough for the Department of Health and Human Services and Department of Homeland Security to be ready; we must have a commerce plan, a transportation plan, a diplomatic plan aimed at our foreign partners, and a plan for our military personnel and veterans.

We have asked this director to procure enough antivirals to cover 50 percent of the populations, and sufficient vaccines and other supplies we need for the Strategic National Stockpile. The director will also create a national tracking and distribution system to ensure the fair and equitable allocation of drugs and vaccines when the pandemic strikes.

On the State level, we have asked the Director of the CDC and HRSA to work with States and give them the help they need to make sure they are ready to respond as well. Our success at preventing or containing an outbreak of avian flu will depend on the preparedness of our State and local partners.

Understanding that international collaboration and cooperation is key to surveillance and quick response, we have created an international pandemic fund, and requested the Secretary of State develop and implement a diplomatic policy aimed at the Southeast and East Asian countries. Senator LUGAR and I have been hard at work on this last point for months.

Finally, we recognize that this Nation will never have enough vaccines, or the ability to produce sufficient vaccines, if we don't create the incentives for more drug manufacturers to get into the vaccine business. We just have three domestic flu vaccine manufacturers, and that is unacceptable. This bill authorizes the Secretary to enhance vaccine production capacity by creating a guaranteed market for seasonal flu vaccine through a Federal buyback program for unsold doses of seasonal flu vaccine. It also increases public education and outreach activities for Americans, to stimulate demand for the seasonal flu vaccine.

An outbreak of the avian flu could occur in a year, 5 years, 10 years, or if we were incredibly lucky not happen at all. But the one good thing about investing in measures to deal with this looming crisis is—and I will end on this point—if we spend the money now, it will pay dividends, even if this particular strain of the avian flu outbreak does not occur.

Why is this the case?

This is not—no pun intended—a case of Chicken Little.

The risk of some sort of pandemic, and the mutations of flus for which we have no immunity, is almost inevitable. The H5N1 strain may not be the strain that leads to a full blown pandemic. But, another strain could easily come along and cause serious damage in the future.

My point is this: undertaking these measures is going to be a wise investment that will help protect the lives of millions of people here in the United States and across the globe. This legislation gets at the heart of this issue.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1822. A bill to amend titles XVIII and XIX of the Security Act to make improvements to the implementation of the medicare prescription drug benefit; to the Committee on Finance.

Mrs. MURRAY. Mr. President, today I am introducing legislation to protect low-income Medicare beneficiaries from being penalized under the new Medicare Modernization Act. My legislation also gives all seniors and the disabled more time to make the right choice in selecting a drug plan.

My bill is called the Medicare HEALS Act, which stands for Help for Every beneficiary and Low Income Seniors. I am pleased to be joined today by Senator CANTWELL in introducing this new bill.

My goal is to protect very low-income seniors who today are covered by both Medicare and Medicaid. The new drug law will impose new co-payments and premiums on these vulnerable patients, while—at the same time—covering fewer prescription drugs.

Worst of all, the law prohibits States from providing additional coverage, known as wrap-around coverage, to seniors, the disabled and low-income beneficiaries. I believe seniors deserve better. I believe low income working families deserve better, and that's why I've written this bill.

The new drug law will force painful changes on low income patients, and my bill will help protect our most vulnerable from the negative impacts of the drug law.

Let's start by looking at how low-income beneficiaries are covered today versus how they will be covered under the new law. Today, very low income seniors are eligible for coverage under both state Medicaid programs and the Federal Medicare program, so they are often referred to as "dual eligibles."

Today, their prescription drugs are covered by State Medicaid programs, and they are a good deal. For many seniors and the disabled, State Medicaid drug coverage involves limited co-payments, no premiums, and coverage for a broad range of medically-necessary drugs.

Once the new Medicare drug program is implemented, these vulnerable patients will lose their State Medicaid coverage. They will be shifted into the Federal Medicare program, which will impose higher co-payments, new premiums and fewer covered drugs. It's a bad deal for low-income seniors and to make matters worse, it's incredibly complicated to figure out which private drug plan meets their needs.

I am concerned that these individuals will be unable to afford co-payments or tiered co-payments that will be part of many MMA plans.

I am concerned that these individuals will also be denied the most medically-appropriate treatments due to restrictions imposed by the plans or additional financial burdens that plans will use to drive down drug utilization costs.

In addition, I am not convinced that we have done enough to fully educate and prepare beneficiaries to the choices and implications of these choices that they face today.

Another problem with the Medicare drug law is that it will penalize anyone on Medicare who needs extra time to make a decision about which plan to choose or whether or not to join the program. For a new system that is as complex as this new drug law, it's unfair to force people to make a decision quickly and to penalize those who need extra time to make the right choice.

To solve these problems and to protect our most vulnerable, my legislation would repeal the prohibition included in MMA on the use of Medicaid funds to provide wrap around coverage for dually eligible.

While I still believe that additional delay is warranted in switching this population to private plans under Medicare, I do believe we need to ensure that States facing a huge backlash from this population can respond accordingly.

I have joined in support of legislation aimed at providing a 6-month transition period for dual eligibles to give these patients time to phase into these new plans, but I also think we must ensure that States have the ability to respond to lapses in coverage or financial barriers that will deny access to necessary and life saving drugs.

States would have the option of providing wrap-around coverage using both Federal and State Medicaid funds, as they do today.

My legislation would also deduct any State funds used to provide wrap-around coverage from the so-called clawback amount. As we know, the MMA legislation takes back much of the savings States will see by transferring these patients to Medicare. I do not think it is fair to penalize States for trying to do the right thing.

Finally, my legislation would delay the late penalty enrollment from May 15, 2006 until January 1, 2008, for all beneficiaries. This will give all Medicare beneficiaries the time to fully evaluate the plans. The extension will provide beneficiaries with one full benefit year and the open enrollment period to determine if these plans offer them a good value or provide the kind of security we all expect from Medicare.

This extension is of particular importance to those seniors who may be eligible for assistance but have not yet applied. We know that full dual eligibles will be automatically enrolled in a plan if they fail to select one. However, those with incomes from 135 percent to 150 percent of the Federal poverty level could also qualify for assistance but will not be automatically enrolled.

Early estimates from the Social Security Administration and the Centers for Medicare and Medicaid Services (CMS) indicate that a number of seniors have failed to even apply for eligibility determination. I have been told from CMS that 18 to 19 million beneficiaries were mailed information and an application this summer to begin the eligibility determination. So far, only 3 million have even applied.

A recent USA Today/Gallup Poll shows that only 37 percent of beneficiaries understand the program somewhat, but 61 percent do not. Fifty-four percent of beneficiaries do not even plan on joining the program. Many seniors have simply chosen not to even try and navigate the process. For some, there are more than 20 different plans with premiums nationwide, ranging from $1.87 to $100 and deductibles from

$0 to $250. This does not even get into restricted formularies or other restrictions that may be imposed.

It is clear that all beneficiaries need more time. Extending the late penalty enrollment deadline of May 15, 2006 is the simplest step we can take to give seniors time to evaluate these plans and this new benefit. The late enrollment penalty of 1 percent each month is a huge financial hit that punishes those who may need the help the most.

In Washington State, we could see thousands of frail, vulnerable beneficiaries paying significantly more for life saving drugs or simply going without. There are an estimated 86,167 full dual eligibles and an additional 22,869 who receive some assistance from Medicaid. The intent of MMA and this new benefit was to expand access to affordable drug coverage; however, the unintended consequence could be the disruption of care for millions of low income beneficiaries nationwide.

It is my understanding that dual eligibles in Washington State will be automatically enrolled into 1 of 12 plans. There are 31 plans participating as Medicare Advantage or Prescription Drug Plans (PDPs). Within these plans, there are often several different benefit packages. Premiums range from $0 to $120; deductibles can range from $0 to $2500; and many will have tiered copayment structures. None of these plans will cover all top 100 drugs used by seniors. Some plans provide only 77 of the top 100 drugs.

While these plans may offer far better benefits than many receive today, it will be difficult to make this determination. The range of choices; the restrictions; the variations in out-of-pocket and the belief by many that this is not a good benefit overall, will lead many seniors to simply walk away.

But, even if seniors decide to sit down and do the calculation and evaluate each plan or option, they face challenges in the reliability of the information.

CMS has partnered with a number of outstanding groups in Washington State who are working hard to get information and help to seniors so they can make informed choices. But the task is made much more difficult when CMS announces that materials already mailed to beneficiaries are incorrect.

My office received notice this week from CMS that the area specific 2006 version of the "Medicare and You Handbook" already mailed to beneficiaries contains a rather large error. The error occurs in the comparison charts listing the Medicare Prescription Drug Plans (PDPs). In the last column of the comparison table, entitled "If I qualify for Extra Help, will my full premium be covered?"

For each plan listed, the column should say yes if the plan's premium is at or below the regional benchmark, and a beneficiary who qualifies for the low income subsidy would pay no premium for this plan.

The column should show no if the plan's premium is above the regional benchmark and a beneficiary who qualifies for the low income subsidy would pay the difference between the regional benchmark and the plan's premium.

Due to an error, this column lists yes for every plan. Even if one could figure out what the regional benchmark is and the difference in the premium, they are still getting bad information.

How can anyone determine the value of a plan or benefit when the initial information is wrong?

There are other examples of information being provided by CMS that is incorrect or inconsistent. I think this has happened in part because this administration is in a race against time to enroll, enroll, enroll. This kind of pressure will only lead to more and more confusion and distrust.

As we saw with the temporary discount drug card, seniors simply refused to participate. Even those who would have qualified for $600 did not bother to enroll. The largest enrollment was done by States and private plans for those who qualified for the subsidy, but far more simply did not bother. The choices were too complex, there were too many rules or restrictions, and there was no way for beneficiaries to measure the value of these cards.

My legislation does not address every problem and every coverage gap, but it is a small step to protect the most vulnerable. I urge my colleagues to join me in making these small but necessary corrections today before beneficiaries lose their coverage and lose access to affordable life saving drugs.

I know that this administration has resisted any efforts at fixing this program and has said the President would veto any legislation that delays implementation or changes the structure of the benefit. But, I am convinced we will be back making changes to this program over the next 2 years because seniors will demand action.

Maybe before all confidence in this program is gone and seniors are calling for repeal, the administration would look at small, humane fixes today, and that is the Medicare HEALS Act offers.

By Mrs. HUTCHISON:

S. 1823. A bill to empower States and local governments to prosecute illegal aliens and to authorize the Secretary of Homeland Security to establish a pilot Volunteer Border Marshal Program; to the Committee on the Judiciary.

Mrs. HUTCHISON. Mr. President, I rise today to address a serious threat facing our Nation—illegal immigration. Despite successful efforts by me and other Members to increase border patrol forces, add new detention facilities, and improve border monitoring, the problem of individuals entering our country illegally continues to impact communities across the country. Just last year, the number of immigrants entering our country illegally outnumbered those entering through legal means. While legal immigration contributes to the diversity and uniqueness of our society, illegal immigration undermines the system and weakens the legitimate process by which people can enter our country. With the Census Bureau estimating that 10 to 11 million people reside in our country illegally, clearly our strategy in confronting this issue must change.

Immigration and naturalization are constitutionally defined powers granted to the Federal Government. As such, many view the issue of immigration as strictly a Federal burden, to be addressed by Federal legislation, policies, and payment. While immigration policy is certainly initiated at the Federal level, one cannot ignore the inherent truth that the impact of illegal immigration is predominantly manifested in our State and local communities, often in the form of overwhelmed emergency rooms, overburdened school systems, and overcrowded prisons. Our local communities often find themselves with little recourse or ability to address the pervasive and crippling effects of a broken immigration system. These effects, of course, are not confined to our southern border regions, but rather they reverberate across the country.

The country's immigration system is long overdue for a comprehensive overhaul, and I commend the efforts being made by a number of my colleagues to generate attention to the need for comprehensive immigration reform. Ideas are being proposed to improve avenues for legal immigration, enhance enforcement capabilities, and address the growing presence of illegal immigrants with nationalities other than Mexican. While I applaud these proposals and eagerly await our opportunity to discuss them, I believe it is essential that we recognize the role our State and local communities can have in addressing illegal immigration, particularly when it comes to the area of enforcement. As such, I am introducing legislation today to solidify the right and opportunity of our State and local governments to enforce the law—immigration law.

Historically, the authority for State and local law enforcement officials to enforce immigration law has been limited to the criminal provisions of the Immigration and Nationality Act; these include acts such as physically crossing the border illegally. By contrast, the enforcement of the act's civil provisions, which include apprehension and removal of deportable aliens already in the country, has been strictly a Federal responsibility, with States playing an incidental supporting role. This view was recently reinforced when a community in New Hampshire attempted to prosecute illegal immigrants for criminal trespass but was thwarted when a judge ruled it was constitutionally impermissible, stating that Congress has exclusive jurisdiction on civil immigration issues.

Enforcing the laws of our country should not be confined to Federal authorities when the illegal behavior specifically impacts the State and local communities. Just as State and local officials can arrest. detain, and prosecute for illicit drug violations, so they should be able to for illegal immigration violations. The legislation I propose today would enable State and local officials to arrest, detain, and prosecute illegal immigrants for all Federal immigration violations, both civil and criminal, and would authorize States to create immigration enforcement provisions in accordance with Federal immigration law. My proposal preserves the Federal Government's constitutionally delegated authority to determine immigration status. a determination to which the States would defer. Allowing communities to take enforcement actions based on their own needs, while working within limits set under Federal law. is sound. appropriate policy.

Further, in order to strengthen border security and reduce the strain on local and Federal border officials, my bill allows the Secretary of Homeland Security to create a Volunteer Border Marshal Program The program will assist the Department in securing our borders by using trained, State-licensed peace officers in a volunteer capacity. These volunteers would be assigned to the Border Patrol on temporary missions to identify and control illegal immigration, as well as human and drug trafficking.

In order to properly tackle the problem of illegal immigration, Federal. State, and local authorities must work as partners. Our communities must have the tools necessary to fight it effectively. My legislation will empower States and communities with a new weapon to combat illegal immigration and thereby reinforce our legal naturalization process. I encourage my colleagues to support this sensible approach to addressing this serious problem. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection. the bill was ordered to be printed in the RECORD, as follows:

S. 1823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illegal Immigration Enforcement and Empowerment Act".

SEC. 2. STATE ENFORCEMENT AND EMPOWERMENT.

(a) IN GENERAL.—A State or unit of local government may investigate, identify, apprehend. arrest, detain, prosecute, and impose criminal or civil penalties upon any individual who violates—

(1) a Federal immigration law; or

(2) a State law that is based, in part, upon the violation of Federal immigration law.

(b) LIMITATION.—Criminal penalties imposed under subsection (a) may not exceed the penalties authorized under section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)).

(c) FEDERAL DETERMINATION OF IMMIGRATION STATUS.—No penalty may be imposed upon an individual under this section unless the individual has been identified by the Federal Government as having violated a Federal immigration law.

SEC. 3. VOLUNTEER BORDER MARSHAL PROGRAM.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security may establish a pilot Volunteer Border Marshal Program (referred to in this section as the "Program").

(b) PURPOSE.—The purpose of the Program is to assist the Department of Homeland Security in securing the borders of the United States in a safe and orderly manner by using volunteer, State-licensed peace officers who are already well trained.

(c) ASSIGNMENTS.—Upon deployment, the volunteer peace officers shall be sworn in as Special United States Border Marshals and shall be assigned to the Office of Border Patrol, which shall be act as the lead agency of the Program.

(d) ROTATIONS.—The volunteer peace officers shall rotate on temporary missions along the international borders of the United States to assist the Office of Border Patrol in identifying and controlling illegal immigration and human and drug trafficking.

(e) DEFINITION.—In this section, the term "peace officer" means any law enforcement agent, whether currently employed or retired, who is licensed by a State authority to enforce State or local penal offenses.

By Mr. KERRY (for himself and Mr. SCHUMER):

S. 1824. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

Mr. KERRY. Mr. President. today I am introducing the Strengthen the Earned Income Tax Credit Act of 2005. Since 1975. the EITC has been an innovative tax credit which helps low-income working families. President Reagan referred to the EITC as "the best antipoverty, the best pro-family, the best job creation measure to come out of Congress." According to the Center on Budget and Policy Priorities, the EITC lifts more children out of poverty than any other government program.

It is time for us to reexamine the EITC and determine where we can strengthen it. Census data released in August and the events of Hurricane Katrina reiterated the fact that there is a group of Americans that are not benefiting from the economic recovery. The Census data shows the number of people who work. but live in poverty increased by 563,000. Four million more people were poor in 2004 than in 2001. when the economy hit bottom. The poverty rate in 2004 remains higher than the rate in 2001. the year of the recession.

Hurricane Katrina affected many individuals who were already faced with difficult economic situations. Mississippi, Louisiana. and Alabama are the first. second. and eighth poorest States in the Nation. The income of the typical household in these three States is well below the national average. In the hardest hit counties. 18.6 percent of the population is poor and the national average is 12.4 percent.

Time after time. the Republican controlled Congress has passed tax cuts which are skewed towards those with the most. The Urban Institute-Brookings Institution Tax Policy Center reports that households with incomes of more than $1 million a year—the richest two-tenths of the population—receive tax cuts of an average of $103,000 a year. These individuals do not have to worry about how they will have to pay for a roof over their heads or enough gas to fill the tank. We should not be focused on tax cuts which help those who do not have to worry about living pay check to pay check.

We need to help the low-income workers who struggle day after day trying to make ends meet. They have been left behind in the economic policies of the last 4 years. We need to begin a discussion on how to help those that have been left behind. The Earned Income Tax Credit is the perfect place to start.

The Strengthen the Earned Income Tax Credit Act of 2005 strengthens the EITC by making the following four changes: Reduce marriage penalty: increase the credit for families with three or more children; slow down the phase-out for individuals with no children; and permanently extend the provision which allows members of the armed forces to include combat pay as income for EITC computations. By making these changes, more individuals and families would benefit from the EITC.

First, the legislation increases marriage penalty relief and makes it permanent. In the way that the EITC is currently structured, many single individuals that marry find themselves faced with a reduction in their EITC once they are married. The tax code should not penalize individuals who marry.

Second, the legislation increases the credit for families with three or more children. This proposal would make the credit more generous for families with 3 or more children. Increasing the credit rate results in an increase in the phase-out range. More families would be able to benefit from the EITC. The poverty level for an adult living with three children is $19,233. Under current law, an adult living with three children and eligible for the maximum EITC with income equivalent to the phase-out income level would still have income below the poverty level. This provision would lift this family above the poverty level. Some 36 percent of all children live in families with at least three children and more than half of poor children live in such families.

Third, the legislation would slow down the phase-out rate for individuals without children. It would result in more individuals without children eligible for the credit. For 2005, an individual with earnings above $11,750 would not be eligible for the EITC. Under the proposal, an individual with earnings above $16,950 would not be eligible for the EITC. The EITC for individuals with no children only offsets a portion of federal taxes. Giving more individuals the EITC would help provide an incentive to work.

Fourth, the Working Families Tax Relief Act of 2004 included a provision which would treat combat pay as earned income for purposes of computing the child credit. This provision expires at the end of the year. This legislation makes this provision permanent. There is no reason why a member of the armed services should lose their EITC when they are mobilized and serving their country.

This legislation will help those who most need our help. It will put more money in their pay check. We need to invest in our families and help individuals who want to make a living by working. We are all aware of our fiscal situation and we should legislate in a responsible manner. It is a time for shared sacrifice. We do not need to extend tax cuts or allow tax cuts to go forward that only benefit those earning over $200,000. We cannot keep adding to the deficit.

Thank you for your consideration.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 265—RECOGNIZING 2005 AS THE YEAR OF THE 50TH ANNIVERSARY OF THE CROP SCIENCE SOCIETY OF AMERICA

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 265

Whereas the Crop Science Society of America was founded in 1955, with Gerald O. Mott as its first President;

Whereas the Crop Science Society of America is one of the premier scientific societies in the world, as shown by its world-class journals, international and regional meetings, and development of a broad range of educational opportunities;

Whereas the science and scholarship of the Crop Science Society of America are mission-directed, with the goal of addressing agricultural challenges facing humanity;

Whereas the Crop Science Society of America significantly contributes to the scientific and technical knowledge necessary to protect and sustain natural resources in the United States;

Whereas the Crop Science Society plays a key role internationally in developing sustainable agricultural management and biodiversity conservation for the protection and sound management of the crop resources of the world;

Whereas the mission of the Crop Science Society of America continues to expand, from the development of sustainable production of food and forage, to the production of renewable energy and novel industrial products;

Whereas, in industry, extension, and basic research, the Crop Science Society of America has fostered a dedicated professional and scientific community that, in 2005, includes more than 3,000 members; and

Whereas the American Society of Agronomy was the parent society that led to the formation of both the Crop Science Society of America and the Soil Science Society of America and fostered the development of the common overall management of the 3 sister societies: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 2005 as the 50th Anniversary year of the Crop Science Society of America;

(2) commends the Crop Science Society of America for 50 years of dedicated service to advance the science and practice of crop science; and

(3) acknowledges the promise of the Crop Science Society of America to continue to enrich the lives of all citizens, by improving stewardship of the environment, combating world hunger, and enhancing the quality of life for the next 50 years and beyond.

SENATE RESOLUTION 266—DESIGNATING THE MONTH OF OCTOBER 2005, AS "FAMILY HISTORY MONTH"

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 266

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number of people in our Nation, and in other nations, are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation, and across the world, continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor the memory of their ancestors by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of national, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2005, as "Family History Month"; and

(2) calls upon the people of the United States to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 267—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF NEW HAMPSHIRE v. ANNE MILLER, MARY LEE SARGENT, JESSICA ELLIS, LYNN CHONG, DONALD BOOTH, EILEEN REARDON

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

Whereas, in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, pending in Concord District Court, New Hampshire, testimony and documents have been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Carol Carpenter and other employees of Senator Gregg's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter and other employees of Senator Gregg's office in connection with the testimony and document production authorized in section one of this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2046. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 2047. Mr. NELSON of Florida (for himself, Mr. CORZINE, Mr. MARTINEZ, Mr. NELSON of Nebraska, Mr. THUNE, Mrs. BOXER, Ms. LANDRIEU, Mr. BINGAMAN, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KERRY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2048. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2049. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2050. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2051. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. HARKIN, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 2052. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2046. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 31___. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) (as amended by section 630 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594)) is amended—

(1) in subsection a., by striking "Except as provided in subsection b., the Commission" and inserting "The Commission";

(2) by striking subsection b.; and

(3) by redesignating subsection c. as subsection b.

SA 2047. Mr. NELSON of Florida (for himself, Mr. CORZINE, Mr. MARTINEZ, Mr. NELSON of Nebraska, Mr. THUNE, Mrs. BOXER, Ms. LANDRIEU, Mr. BINGAMAN, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KERRY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI of division A, as added by Senate amendment No. 1955, add the following:

SEC. 642. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after "to whom section 1448 of this title applies" the following: "(except in the case of a death as described in subsection (d) or (f) of such section)"; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: "The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 643. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking "October 1, 2008" and inserting "October 1, 2005".

SA 2048. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX of division A, as added by Senate amendment No. 1955, add the following:

SEC. 903. AMERICAN FORCES NETWORK.

(a) MISSION.—The American Forces Network (AFN) shall provide members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed outside the continental United States and at sea with the same type and quality of American radio and television news, information, sports, and entertainment as is available in the continental United States.

(b) POLITICAL PROGRAMMING.—

(1) FAIRNESS AND BALANCE.—All political programming of the American Forces Network shall be characterized by its fairness and balance.

(2) FREE FLOW OF PROGRAMMING.—The American Forces Network shall provide in its programming a free flow of political programming from United States commercial and public radio and television stations.

(c) OMBUDSMAN OF THE AMERICAN FORCES NETWORK.—

(1) ESTABLISHMENT.—There is hereby established the Office of the Ombudsman of the American Forces Network.

(2) HEAD OF OFFICE.—

(A) OMBUDSMAN.—The head of the Office of the Ombudsman of the American Forces Network shall be the Ombudsman of the American Forces Network (in this subsection referred to as the "Ombudsman"), who shall be appointed by the Secretary of Defense.

(B) QUALIFICATIONS.—Any individual nominated for appointment to the position of Ombudsman shall have recognized expertise in the field of mass communications, print media, or broadcast media.

(C) PART-TIME STATUS.—The position of Ombudsman shall be a part-time position.

(D) TERM.—The term of office of the Ombudsman shall be five years.

(E) REMOVAL.—The Ombudsman may be removed from office by the Secretary only for malfeasance.

(3) DUTIES.—

(A) IN GENERAL.—The Ombudsman shall ensure that the American Forces Network adheres to the standards and practices of the Network in its programming.

(B) PARTICULAR DUTIES.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman shall—

(i) initiate and conduct, with such frequency as the Ombudsman considers appropriate, reviews of the integrity, fairness, and balance of the programming of the American Forces Network;

(ii) initiate and conduct, upon the request of Congress or members of the audience of the American Forces Network, reviews of the programming of the Network;

(iii) identify, pursuant to reviews under clause (i) or (ii) or otherwise, circumstances in which the American Forces Network has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance; and

(iv) make recommendations to the American Forces Network on means of correcting the lack of adherence identified pursuant to clause (iii).

(C) LIMITATION.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman may not engage in any pre-broadcast censorship or pre-broadcast review of the programming of the American Forces Network.

(4) RESOURCES.—The Secretary of Defense shall provide the Office of the Ombudsman of the American Forces Network such personnel and other resources as the Secretary and the Ombudsman jointly determine appropriate to permit the Ombudsman to carry out the duties of the Ombudsman under paragraph (3).

(5) INDEPENDENCE.—The Secretary shall take appropriate actions to ensure the complete independence of the Ombudsman and the Office of the Ombudsman of the American Forces Network within the Department of Defense.

(6) ANNUAL REPORTS.—

(A) IN GENERAL.—The Ombudsman shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the Office of the Ombudsman of the American Forces Network during the preceding year.

(B) AVAILABILITY TO PUBLIC.—The Ombudsman shall make available to the public each report submitted under subparagraph (A) through the Internet website of the Office of the Ombudsman of the American Forces Network and by such other means as the Ombudsman considers appropriate.

SA 2049. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 1955 by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making approppropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 16, strike "$3,008,982,000" and insert "$3,108,982,000".

At the end of subtitle A of title IX, add the following:

SEC. 903. REDESIGNATION OF THE NAVAL RESERVE AS THE NAVY RESERVE.

(a) REDESIGNATION OF RESERVE COMPONENT.—The reserve component of the Armed Forces known as the Naval Reserve is redesignated as the Navy Reserve.

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 10, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(A) Section 513(a).
(B) Section 516.
(C) Section 526(b)(2)(C)(i).
(D) Section 971(a).
(D) Section 5001(a)(1).
(F) Section 5143.
(G) Section 5596(c).
(H) Section 6323(f).
(I) Section 6327.
(J) Section 6330(b).
(K) Section 6331(a)(2).
(L) Section 6336.
(M) Section 6389.
(N) Section 6911(c)(1).
(O) Section 6913(a).
(P) Section 6915.
(Q) Section 6954(b)(3).
(R) Section 6956(a)(2).
(S) Section 6959(a).
(T) Section 7225.
(U) Section 7226.
(V) Section 7605(1).
(W) Section 7852.
(X) Section 7853.
(Y) Section 7854.
(Z) Section 10101(3).
(AA) Section 10108.
(BB) Section 10172.
(CC) Section 10301(a)(7).
(DD) Section 10303.
(EE) Section 12004(e)(2).
(FF) Section 12005.
(GG) Section 12010.
(HH) Section 12011(a)(2).
(II) Section 12012(a).
(JJ) Section 12103.
(KK) Section 12205.
(LL) Section 12207(b)(2).
(MM) Section 12732.
(NN) Section 12774(b) (other than the first place it appears).
(OO) Section 14002(b).
(PP) Section 14101(a)(1).
(QQ) Section 14107(d).
(RR) Section 14302(a)(1)(A).
(SS) Section 14313(b).
(TT) Section 14501(a).
(UU) Section 14512(b).
(VV) Section 14705(a).
(WW) Section 16201(d)(1)(B)(ii).

(2) CAPTION AMENDMENTS.—Such title is further amended by striking "NAVAL RESERVE" each place it appears in a provision as follows and inserting "NAVY RESERVE":

(A) Section 971(a).
(B) Section 5143(a).

(3) SECTION HEADING AMENDMENTS.—(A) The heading of section 5143 of such title is amended to read as follows:

"§ 5143. Office of Navy Reserve: appointment of Chief".

(B) The heading of section 6327 of such title is amended to read as follows:

"§ 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay".

(C) The heading of section 6389 of such title is amended to read as follows:

"§ 6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service".

(D) The heading of section 7225 of such title is amended to read as follows:

"§ 7225. Navy Reserve flag".

(E) The heading of section 7226 of such title is amended to read as follows:

"§ 7226. Navy Reserve yacht pennant".

(F) The heading of section 10108 of such title is amended to read as follows:

"§ 10108. Navy Reserve: administration".

(G) The heading of section 10172 of such title is amended to read as follows:

"§ 10172. Navy Reserve Force".

(H) The heading of section 10303 of such title is amended to read as follows:

"§ 10303. Navy Reserve Policy Board".

(I) The heading of section 12010 of such title is amended to read as follows:

"§ 12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result".

(J) The heading of section 14306 of such title is amended to read as follows:

"§ 14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system".

(4) TABLES OF CONTENTS AMENDMENTS.—(A) The table of sections at the beginning of chapter 513 of such title is amended by striking the item relating to section 5143 and inserting the following new item:

"5143. Office of Navy Reserve: appointment of Chief.".

(B) The table of sections at the beginning of chapter 571 of such title is amended by striking the item relating to section 6327 and inserting the following new item:

"6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.".

(C) The table of sections at the beginning of chapter 573 of such title is amended by striking the item relating to section 6389 and inserting the following new item:

"6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status: computation of total commissioned service.".

(D) The table of sections at the beginning of chapter 631 of such title is amended by striking the items relating to sections 7225 and 7226 and inserting the following new items:

"7225. Navy Reserve flag.
"7226. Navy Reserve yacht pennant.".

(E) The table of sections at the beginning of chapter 1003 of such title is amended by striking the item relating to section 10108 and inserting the following new item:

"10108. Navy Reserve: administration.".

(F) The table of sections at the beginning of chapter 1006 of such title is amended by striking the item relating to section 10172 and inserting the following new item:

"10172. Navy Reserve Force.".

(G) The table of sections at the beginning of chapter 1009 of such title is amended by striking the item relating to section 10303 and inserting the following new item:

"10303. Navy Reserve Policy Board.".

(H) The table of sections at the beginning of chapter 1201 of such title is amended by striking the item relating to section 12010 and inserting the following new item:

"12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result.".

(I) The table of sections at the beginning of chapter 1405 of such title is amended by striking the item relating to section 14306 and inserting the following new item:

"14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system.".

(c) CONFORMING AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 705 of title 14, United States Code, is amended by striking "Naval Reserve" each place it appears and inserting "Navy Reserve".

(d) CONFORMING AMENDMENTS TO TITLE 37, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 37, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(A) Section 101(24)(C).

(B) Section 201(d).

(C) Section 205(a)(2)(I).

(D) Section 301c(d).

(E) Section 319(a).

(F) Section 905.

(2) CAPTION AMENDMENT.—Section 301c(d) of such title is further amended by striking "NAVAL RESERVE" and inserting "NAVY RESERVE".

(e) CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(1) Section 101(27)(B).

(2) Section 3002(6)(C).

(3) Section 3202(1)(C)(iii).

(4) Section 3452(a)(3)(C).

(f) CONFORMING AMENDMENTS TO OTHER CODIFIED TITLES.—

(1) TITLE 5, UNITED STATES CODE.—Section 2108(1)(B) of title 5, United States Code, is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(2) TITLE 18, UNITED STATES CODE.—Section 2387(b) of title 18, United States Code, is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(3) TITLE 46, UNITED STATES CODE.—(A) Title 46, United States Code, is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(i) Section 8103(g).

(ii) Section 8302(g).

(B) The heading of section 8103 of such title is amended to read as follows:

"§8103. Citizenship and Navy Reserve requirements".

(C) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8103 and inserting the following new item:

"8103. Citizenship and Navy Reserve requirements.".

(g) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) Section 2301(4)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(4)(C)) is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(2)(A) The Merchant Marine Act, 1936 is amended by striking "Naval Reserve" each place it appears in a provision as follows and inserting "Navy Reserve":

(i) Section 301(b) (46 U.S.C. App. 1131(b)).

(ii) Section 1303 (46 U.S.C. App. 1295b).

(iii) Section 1304 (46 U.S.C. App., 1295c).

(B) Such Act is further amended by striking "NAVAL RESERVE" each place it appears in a provision as follows and inserting "NAVY RESERVE":

(i) Section 1303(c).

(ii) 1304(h).

(3)(A) Section 6(a)(1) of the Military Selective Service Act (50 U.S.C. App. 456(a)(1)) is amended by striking "United States Naval Reserves" and inserting "members of the United States Navy Reserve".

(B) Section 16(i) of such Act (50 U.S.C. App. 446(i)) is amended by striking "Naval Reserve" and inserting "Navy Reserve".

(h) OTHER REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Naval Reserve, other than a reference to the Naval Reserve regarding the United States Naval Reserve Retired List, shall be considered to be a reference to the Navy Reserve.

On page 117, line 11, insert "through a computer accessible Internet website and other means and" before "at no cost'.

At the end of subtitle C of title IX, add the following:

SEC. 924. AUTHORITY FOR UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

Section 9314 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

"(2) For purposes of this subsection, a qualifying research grant is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

"(3) An entity referred to in this paragraph is a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(4) The Secretary shall establish an account for the administration of funds received as qualifying research grants under this subsection. Funds in the account with respect to a grant shall be used in accordance with the terms and condition of the grant and subject to applicable provisions of the regulations prescribed under paragraph (6).

"(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the United States Air Force Institute of Technology may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

"(6) The Secretary of the Air Force shall prescribe regulations for purposes of the administration of this subsection.".

At the end of subtitle C of title III, add the following:

SEC. 330. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) APPLICABILITY OF SUNSET.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting September 30, 2009.".

(b) CREDITING OF PROCEEDS OF SALE OF ARTICLES AND SERVICES.—Such section is further amended—

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)";

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—The proceeds of sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service."; and

(4) in subsection (g), as redesignated by paragraph (2) of this subsection, by striking "subsection (e)" and inserting "subsection (f)".

At the end of subtitle E of title VIII, add the following:

SEC. 846. REPORTS OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

(a) EXTENSION OF FINAL REPORT.—Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108-136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking "one year" and inserting "two years".

(b) REQUIREMENT FOR INTERIM REPORT.—That section is further amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) Not later than one year after the date of the establishment of the panel, the panel shall submit to the official and committees referred to in paragraph (1) an interim report on the matters set forth in that paragraph.".

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. DESIGNATION OF WILLIAM B. BRYANT ANNEX.

(a) DESIGNATION.—The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in subsection (a) shall be deemed to be a reference to the "William B. Bryant Annex".

At the end of subtitle B of title VII, add the following:

SEC. 718. REPORT ON THE DEPARTMENT OF DEFENSE COMPOSITE HEALTH CARE SYSTEM II.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense Composite Health Care System II (CHCS II).

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the Composite Health Care System II.

(3) A statement of the amounts obligated and expended as of the date of the report on the development of a system for the two-way exchange of data between the Department of Defense and the Department of Veterans Affairs, including the Composite Health Care System II.

(4) An estimate of the amounts that will be required for the completion of the Composite Health Care System II.

(5) A description of the software and hardware being considered as of the date of the

report for use in the Composite Health Care System II.

(6) A description of the management structure used in the development of the Composite Health Care System II.

(7) A description of the accountability measures utilized during the development of the Composite Health Care System II in order to evaluate progress made in the development of that System.

(8) The schedule for the remaining development of the Composite Health Care System II.

(c) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Health, Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Energy and Commerce of the House of Representatives.

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) Findings.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

On page 296, after line 19, add the following:

SEC. 1205. SENSE OF CONGRESS ON SUPPORT FOR NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (the "Nuclear Non-Proliferation Treaty");

(2) expresses its support for all appropriate measures to strengthen the Nuclear Non-Proliferation Treaty and to attain its objectives; and

(3) calls on all parties to the Nuclear Non-Proliferation Treaty—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their obligations under the Treaty;

(B) to agree to establish more effective controls on enrichment and reprocessing technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with safeguard agreements and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and irreversible disarmament of North Korea's nuclear weapons programs and to use all appropriate diplomatic means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) Report Required.—Not later than March 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) Contents.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) For each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plan to take to address concerns raised by the Task Force.

(c) Consultation.—To the extent practicable, the Secretary may consult with other departments and agencies of the Federal Government, institutions of higher education and other academic organizations, and industry in the development of the report required by subsection (a).

On page 378, between lines 10 and 11, insert the following:

SEC. 31 ___. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

At the end of subtitle C of title III, add the following:

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) In General.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called "special category resident".

(b) Prohibition on Construction of Facilities.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) Construction of Prior Use of Funds.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

At the end of subtitle E of title VI, add the following:

SEC. 653. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) Outreach to Members of the Armed Forces.—

(1) In general.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers

and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial orientation training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial orientation training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

On page 357, strike line 20, and insert the following:

SEC. 509. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

"§528. Exclusion: officers serving in certain intelligence positions

"(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in such position, shall be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

"(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(c) ASSOCIATE DIRECTOR OF CIA FOR MILITARY SUPPORT.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

"(d) OFFICERS SERVING IN OFFICE OF DNI.—Up to 5 general and flag offices of the armed forces assigned to positions in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence shall be excluded from the limitations in sections 525 and 526 of this title while serving in such positions.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528 and inserting the following new item:

"528. Exclusion: officers serving in certain intelligence positions.".

On page 178, strike lines 20 through 24 and insert the following:

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicare plus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE System;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR RESEARCH AND TECHNOLOGY TRANSITION FOR HIGH-BRIGHTNESS ELECTRON SOURCE PROGRAM.

(a) INCREASE IN FUNDS AVAILABLE TO NAVY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $1,500,000.

(b) REDUCTION IN FUNDS AVAILABLE TO AIR FORCE FOR PROCUREMENT, AMMUNITION.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,500,000.

On page 359, between lines 3 and 4, insert the following:

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) INCREASE IN FUNDS AVAILABLE TO ARMY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000, with the amount of such increase to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer.

(b) REDUCTION IN FUNDS AVAILABLE.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,000,000.

On page 372, line 3, insert after "$1,637,239,000" the following: ", of which amount $338,565,000 shall be available for project 99-D-143, the Mixed Oxide Fuel Fabrication Facility, Savannah River Site, Aiken, South Carolina, and $24,000,000 shall be available for project 99-D-141, the Pit Disassembly and Conversion Facility, Savannah River Site, Aiken, South Carolina".

Strike section 1008.

At the end of subtitle E of title II, add the following:

SEC. 244. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2490) is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

At the end of subtitle C of title V, add the following:

SEC. 538. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) STUDY REQUIRED.—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and mission capability of deployments of members of the National Guard and the Reserves in the course

of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) Report.—Not later than May 1, 2006, the Defense Science Board shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTERCONTINENTAL BALLISTIC MISSILE FORCE.

(a) Findings.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) Statement of United States Policy.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) Moscow Treaty Defined.—In this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) In General.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees on report on the feasability and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) Report Elements.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

At the end of subtitle C of title I, add the following:

SEC. 125. JOINT PRIMARY AIRCRAFT TRAINERS.

(a) Additional Amount for Aircraft Procurement for the Navy.—The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy is hereby increased by $10,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy, as increased by subsection (a), $10,000,000 may be available for the procurement of Joint Primary Aircraft Trainers (JPAT) for the Navy.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $10,000,000.

At the end of subtitle C of title I, add the following:

SEC. 124. RAPID INTRAVENOUS INFUSION PUMP.

(a) Additional Amount for Procurement for the Marine Corps.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by $1,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), $1,000,000 may be available for General Property for Field Medical Equipment for the Rapid Intravenous (IV) Infusion Pump.

(c) Offset.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $1,000,000.

At the end of subtitle B of title II, add the following:

SEC. 213. AGING MILITARY AIRCRAFT FLEET SUPPORT.

(a) Additional Amount for Research, Development, Test, and Evaluation for the Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $4,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $4,000,000 may be available for Program Element #63112F for Aging Military Aircraft Fleet Support.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $4,000,000.

At the end of subtitle A of title I, add the following:

SEC. 114. UH-60 BLACK HAWK HELICOPTER PROCUREMENT IN RESPONSE TO ATTRITION.

(a) Increase in Amount.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for the procurement of UH-60 Black Hawk helicopters in response to attrition is hereby increased to $40,600,000, with the amount to be used to increase the number of UH-60 Black Hawk helicopters to be procured in response to attrition from 2 helicopters to 4 helicopters.

(b) Offset.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for UH-60 Black Hawk helicopter medevac kits is hereby reduced to $29,700,000, with the amount to be derived in a reduction in the number of such kits from 10 kits to 6 kits.

At the end of subtitle C of title V, add the following:

SEC. 537. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) In General.—Section 2107(b)(1)(A) of title 10, United States Code, is amended by inserting "or national" after "citizen".

(b) Army Reserve Officers Training Programs.—Section 2107a(b)(1)(A) of such title is amended by inserting "or national" after "citizen".

(c) Eligibility for Appointment as Commissioned Officers.—Section 532(f) of such title is amended by inserting ", or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title." after "for permanent residence"..

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COOPERATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) Areas Covered.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include, but not be limited to, areas relating to the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations.

At the end of subtitle B of title II, add the following:

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) Additional Amount for Research, Development, Test, and Evaluation for the Army.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force activities is hereby reduced by $1,000,000.

At the end of subtitle B of title II, add the following:

SEC. 213. JOINT SERVICE SMALL ARMS PROGRAM.

(a) Increased Amount for Research, Development, Test, and Evaluation, Army.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $5,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $5,000,000 may be available for the Joint Service Small Arms Program.

(c) Offset.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $5,000,000.

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) Establishment.—There is established the National Foreign Language Coordination Council (in this section referred to as the "Council"), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) Membership.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The heads of such other Federal agencies as the Council considers appropriate.

(c) Responsibilities.—

(1) In general.—The Council shall be charged with—

(A) developing a national foreign language strategy, within 18 months of the date of enactment of this section, in consultation with—

(i) State and local government agencies;

(ii) academic sector institutions;

(iii) foreign language related interest groups;

(iv) business associations;

(v) industry; and

(vi) heritage associations;

(B) conducting a survey of Federal agency needs for foreign language area expertise; and

(C) overseeing the implementation of such strategy through—

(i) execution of subsequent law; and

(ii) the promulgation and enforcement of rules and regulations.

(2) Strategy content.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) recommendations on coordination;

(ii) program enhancements; and

(iii) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;

(ii) students;

(iii) parents;

(iv) elementary, secondary, and postsecondary educational institutions; and

(v) potential employers;

(E) incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) assistance for—

(i) the development of foreign language achievement standards; and

(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) development of —

(i) language skill-level certification standards;

(ii) an ideal course of pre-service and professional development study for those who teach foreign language;

(iii) suggested graduation criteria for foreign language studies and appropriate nonlanguage studies, such as—

(I) international business;

(II) national security;

(III) public administration;

(IV) health care;

(V) engineering;

(VI) law;

(VII) journalism; and

(VIII) sciences; and

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.

(d) Meetings.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(e) Staff.—

(1) In general.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.

(2) Details from other agencies.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.

(3) Experts and consultants.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) Powers.—

(1) Delegation.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.

(2) Information.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) Donations.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) Mail.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(g) Conferences, Newsletter, and Website.—In carrying out this section, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(h) Reports.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.

(i) Establishment of a National Language Director.—

(1) In general.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(2) Responsibilities.—The National Language Director shall—

(A) develop and oversee the implementation of a national foreign language strategy across all sectors;

(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(3) COMPENSATION.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(j) ENCOURAGEMENT OF STATE INVOLVEMENT.—

(1) STATE CONTACT PERSONS.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(2) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

At the end of subtitle C of title III, add the following:

SEC. 330. POINT OF MAINTENANCE/ARSENAL/DEPOT AIT INITIATIVE.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $10,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $16,000,000 may be available for the Point of Maintenance/Arsenal/Depot AIT (AD–AIT) Initiative.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000 to be derived from amounts authorized to be appropriated by that section for the Air Force.

At the end of subtitle C of title III, add the following:

SEC. 330. LONG ARM HIGH-INTENSITY ARC METAL HALIDE HANDHELD SEARCHLIGHT.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $4,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $4,500,000 may be available for the Long Arm High-Intensity Arc Metal Halide Handheld Searchlight.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $4,500,000, with the amount of the reduction to be derived from amounts authorized to be appropriated by that section for the Air Force.

At the end of subtitle A of title VIII, add the following:

SEC. 807. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS.—Section 2401 of title 10, United States Code, is amended—

(1) by striking "vessel or aircraft" each place it appears and inserting "vessel, aircraft, or combat vehicle";

(2) in subsection (c), by striking "aircraft or naval vessel" each place it appears and inserting "aircraft, naval vessel, or combat vehicle";

(3) in subsection (e), by striking "aircraft or naval vessels" each place it appears and inserting "aircraft, naval vessels, or combat vehicle"; and

(4) in subsection (f)—

(A) by striking "aircraft and naval vessels" and inserting "aircraft, naval vessels, and combat vehicle"; and

(B) by striking "such aircraft and vessels" and inserting "such aircraft, vessels, and combat vehicle".

(b) ADDITIONAL INFORMATION FOR CONGRESS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the Secretary has certified to those committees—

"(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

"(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations."; and

(2) by adding at the end the following new paragraphs:

"(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

"(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).".

(c) APPLICABILITY OF ACQUISITION REGULATIONS.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

"(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

"(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

"(2) In this subsection, the terms 'capital lease' and 'lease-purchase' have the meanings given those terms in Appendix B to Office of Management and Budget Circular A–11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

"§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

"Sec. 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.".

SEC. 808. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2431 the following new section:

"§ 2431a. Major defense acquisition programs: requirement for analysis of alternatives

"(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

"(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the first phase of the acquisition process applicable to the program.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2431 the following new item:

"2431a. Major defense acquisition programs: requirement for analysis of alternatives.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 809. REPORT ON USE OF LEAD SYSTEM INTEGRATORS IN THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of lead system integrators for the acquisition by the Department of Defense of major systems.

(b) CONTENTS.—The report required by subsection (a) shall include a detailed description of the actions taken, or to be taken (including a specific timetable), and the current regulations and guidelines regarding—

(1) the definition of the respective rights of the Department of Defense, lead system integrators, and other contractors that participate in the development or production of any individual element of the major weapon system (including subcontractors under lead system integrators) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(A) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(B) lead system integrators obtain access to technical data developed by the other participating contractors only to the extent necessary to execute their contractual obligations as lead systems integrators;

(2) the prevention or mitigation of organizational conflicts of interest on the part of lead system integrators;

(3) the prevention of the performance by lead system integrators of functions closely associated with inherently governmental functions;

(4) the appropriate use of competitive procedures in the award of subcontracts by lead system integrators with system responsibility;

(5) the prevention of organizational conflicts of interest arising out of any financial interest of lead system integrators without system responsibility in the development or production of individual elements of a major weapon system; and

(6) the prevention of pass-through charges by lead system integrators with system responsibility on systems or subsystems developed or produced under subcontracts where such lead system integrators do not provide significant value added with regard to such systems or subsystems.

(c) Definitions.—In this section:

(1) The term "lead system integrator" includes lead system integrators with system responsibility and lead system integrators without system responsibility.

(2) The term "lead system integrator with system responsibility" means a prime contractor for the development or production of a major system if the prime contractor is not expected at the time of award, as determined by the Secretary of Defense for purposes of this section, to perform a substantial portion of the work on the system and the major subsystems.

(3) The term "lead system integrator without system responsibility" means a contractor under a contract for the procurement of services whose primary purpose is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term "major system" has the meaning given such term in section 2302d of title 10, United States Code.

(5) The term "pass-through charge" means a charge for overhead or profit on work performed by a lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs) that does not, as determined by the Secretary for purposes of this section, promote significant value added with regard to such work.

(6) The term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

At the end of subtitle C of title VIII, add the following:

SEC. 824. REPORTS ON CERTAIN DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) Quarterly Reports.—

(1) In general.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report that lists and describes each task or delivery order contract or other contract related to security and reconstruction activities in Iraq and Afghanistan in which an audit conducted by an investigative or audit component of the Department of Defense during the 90-day period ending on the date of such report resulted in a finding described in subsection (b).

(2) Coverage of subcontracts.—For purposes of this section, any reference to a contract shall be treated as a reference to such contract and to any subcontracts under such contract.

(b) Covered Finding.—A finding described in this subsection with respect to a task or delivery order contract or other contract described in subsection (a) is a finding by an investigative or audit component of the Department of Defense that the contract includes costs that are unsupported, questioned, or both.

(c) Report Information.—Each report under subsection (a) shall include, with respect to each task or delivery order contract or other contract covered by such report—

(1) a description of the costs determined to be unsupported, questioned, or both; and

(2) a statement of the amount of such unsupported or questioned costs and the percentage of the total value of such task or delivery order that such costs represent.

(d) Withholding of Payments.—In the event that any costs under a task or delivery order contract or other contract described in subsection (a) are determined by an investigative or audit component of the Department of Defense to be unsupported, questioned, or both, the appropriate Federal procurement personnel may withhold from amounts otherwise payable to the contractor under such contract a sum of up to 100 percent of the total amount of such costs.

(e) Release of Withheld Payments.—Upon a subsequent determination by the appropriate Federal procurement personnel, or investigative or audit component of the Department of Defense, that any unsupported or questioned costs for which an amount payable was withheld under subsection (d) has been determined to be allowable, or upon a settlement negotiated by the appropriate Federal procurement personnel, the appropriate Federal procurement personnel may release such amount for payment to the contractor concerned.

(f) Inclusion of Information on Withholding and Release in Quarterly Reports.—Each report under subsection (a) after the initial report under that subsection shall include the following:

(1) A description of each action taken under subsection (d) or (e) during the period covered by such report.

(2) A justification of each determination or negotiated settlement under subsection (d) or (e) that appropriately explains the determination of the applicable Federal procurement personnel in terms of reasonableness, allocability, or other factors affecting the acceptability of the costs concerned.

(g) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Appropriations, Armed Services, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Government Reform of the House of Representatives.

(2) The term "investigative or audit component of the Department of Defense" means any of the following:

(A) The Office of the Inspector General of the Department of Defense.

(B) The Defense Contract Audit Agency.

(C) The Defense Contract Management Agency.

(D) The Army Audit Agency.

(E) The Naval Audit Service.

(F) The Air Force Audit Agency.

(3) The term "questioned", with respect to a cost, means an unreasonable, unallocable, or unallowable cost.

At the end of subtitle A of title VIII, add the following:

SEC. 807. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Initial Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (c).

(b) Information.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(c) Major Defense Acquisition Program Defined.—In this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

At the end of subtitle D of title VIII, add the following

SEC. 834. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) Training During Fiscal Year 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the "Berry Amendment");, and the regulations implementing that section.

(b) Inclusion of Information in New Training Programs.—The Secretary shall ensure that any training program for the defense acquisition workforce development or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in subsection (a).

On page 92, after line 25, add the following:

SEC. 538. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS.

(a) In General.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other "strategic languages", as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

(b) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the actions taken to carry out this section.

At the end of subtitle C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(5) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

At the end of subtitle B of title II, add the following:

SEC. 213. FIELD PROGRAMMABLE GATE ARRAY.

(a) Additional Amount for Research, Development, Test, and Evaluation, Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $3,000,000 may be available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and radiation hardening, and outreach to industry and localities to develop core competencies.

(c) Offset.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $3,000,000.

At the end of subtitle B of title II, add the following:

SEC. 213. LONG WAVELENGTH ARRAY LOW FREQUENCY RADIO ASTRONOMY INSTRUMENTS.

(a) Additional Amount for Research, Development, Test, and Evaluation, Navy.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $6,000,000.

(b) Availability of Amount.—

(1) In general.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $6,000,000 may be available for research and development on Long Wavelength Array low frequency radio astronomy instruments.

(2) Construction with other amounts.—The amount available under paragraph (1) for the purpose set forth in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $6,000,000.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. TEMPORARY INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF ITEMS USED TO PRODUCE FORCE PROTECTION EQUIPMENT.

(a) In General.—Section 2533a(a) of title 10, United States Code, shall not apply to the procurement, during the 2-year period beginning on the date of the enactment of this Act, of items if such items are used to produce force protection equipment needed to prevent combat fatalities in Iraq or Afghanistan.

(b) Treatment of Procurements Within Period.—For the purposes of subsection (a), a procurement shall be treated as being made during the 2-year period described in that subsection to the extent that funds are obligated by the Department of Defense for that procurement during that period.

At the end of subtitle E of title II, add the following:

SEC. 244. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) Delayed Effective Date.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578), as amended by section 218(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1952; 10 U.S.C. 2281 note), is further amended by striking "2005" and inserting "2007".

(b) Ratification of Actions.—Any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified.

At the end of subtitle B of title II, add the following:

SEC. 213. DEFENSE BASIC RESEARCH PROGRAMS.

(a) Army Programs.—(1) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) Navy Programs.—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $5,000,000.

(2) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by paragraph (1), $5,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) Air Force Programs.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) Defense-Wide Activities.—(1) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities is hereby increased by $15,000,000.

(2) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, as increased by paragraph (1)—

(A) $10,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) $5,000,000 may be available for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Computer Science and Cybersecurity.

(e) Offsets.—(1) The amount authorized to be appropriated by section 301(4) is hereby reduced by $40,000,000.

At the end of subtitle G of title X, add the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking "Funds" and inserting "(a) Funds"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.".

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (69 Stat. 66, chapter 105; 42 U.S.C. 1856(b)) is amended by striking "and fire fighting" and inserting ", fire fighting, and emergency services, including basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions".

At the end of subtitle A of title VIII, add the following:

SEC. 807. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) Requirement for Spend Analysis.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the past and current acquisitions by the Department of commercial satellite communication services.

(b) Report on Acquisition Strategy.—

(1) In general.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) Elements.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which strategy shall—

(i) be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

In the section heading of section 582, insert "or decreases" after "increases".

In section 582(a), insert "or decrease" after "overall increase".

In the matter preceding subparagraph (A) of section 582(b)(2), insert "or decrease" after "overall increase".

In section 582(b)(2)(B), strike "; or" and insert a semicolon.

In section 582(b)(2)(C), strike the period at the end and insert "; or".

In section 528(b)(2), add at the end the following:

(D) a change in the number of housing units on a military installation.

In section 582(d)(1), insert "or decrease" after "overall increase".

At the end of subtitle F of title V, add the following:

SEC. 573. UNIFORM POLICY ON PARENTAL LEAVE AND SIMILAR LEAVE.

(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe in regulations a uniform policy for the taking by members of the Armed Forces of parental leave to cover leave to be used in connection with births or adoptions, as the Secretary shall designate under the policy.

(b) UNIFORMITY ACROSS ARMED FORCES.—The policy prescribed under subsection (a) shall apply uniformly across the Armed Forces.

On page 96, strike lines 19 and 20 and insert the following:

"(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

"(3) In this subsection, the term 'military legal assistance' includes—

At the end of subtitle C of title V, add the following:

SEC. 538. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to assess the feasability and advisability of utilizing a coalition of military and civilian community personnel at military installations in order to enhance the quality of life for members of the Army Reserve who serve at such installations and their families.

(2) LOCATIONS.—The Secretary shall carry out the pilot program at a military installation selected by the Secretary for purposes of the pilot program in two States.

(b) PARTICIPATING PERSONNEL.—A coalition of personnel under the pilot program shall consist of—

(1) such command personnel at the installation concerned as the commander of such installation considers appropriate;

(2) such other military personnel at such installation as the commander of such installation considers appropriate; and

(3) appropriate members of the civilian community of installation, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) OBJECTIVES.—

(1) PRINCIPLE OBJECTIVE.—The principle objective of the pilot program shall be to enhance the quality of life for members of the Army Reserve and their families in order to enhance the mission readiness of such members, to facilitate the transition of such members to and from deployment, and to enhance the retention of such members.

(2) OBJECTIVES RELATING TO DEPLOYMENT.—In seeking to achieve the principle objective under paragraph (1) with respect to the deployment of members of the Army Reserve, each coalition under the pilot program shall seek to assist members of the Army Reserve and their families in—

(A) successfully coping with the absence of such members from their families during deployment; and

(B) successfully addressing other difficulties associated with extended deployments, including difficulties of members on deployment and difficulties of family members at home.

(3) METHODS TO ACHIEVE OBJECTIVES.—The methods selected by each coalition under the pilot program to achieve the objectives specified in this subsection shall include methods as follows:

(A) Methods that promote a balance of work and family responsibilities through a principle-centered approach to such matters.

(B) Methods that promote the establishment of appropriate priorities for family matters, such as the allocation of time and attention to finances, within the context of meeting military responsibilities.

(C) Methods that promote the development of meaningful family relationships.

(D) Methods that promote the development of parenting skills intended to raise emotionally healthy and empowered children.

(d) REPORT.—Not later than April 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot program carried out under this section. The report shall include—

(1) a description of the pilot program;

(2) an assessment of the benefits of utilizing a coalition of military and civilian community personnel on military installations in order to enhance the quality of life for members of the Army Reserve and their families; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(e) FUNDING.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $160,000, with the amount of the increase to be available to carry out the pilot program required by this section.

(2) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Ship Self Defense (Detect and Control) (PE #0604755N) is hereby reduced by $160,000, with the amount of the reduction to be allocated to amounts for Autonomous Unmanned Surface Vessel.

At the end of subtitle B of title VII, add the following:

SEC. 718. RESPONSE TO MEDICAL NEEDS ARISING FROM MANDATORY MILITARY VACCINATIONS.

(a) IN GENERAL.—The Secretary of Defense shall maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—The joint military medical center of excellence under subsection (a) shall consist of the following:

(1) The Vaccine Health Care Centers of the Department of Defense, which shall be the principle elements of the center.

(2) Any other elements that the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In acting as the principle elements of the joint military medical center under subsection (a), the Vaccine Health Care Centers referred to in subsection (b)(1) may carry out the following:

(1) Medical assistance and care to individuals receiving mandatory military vaccines and their dependents, including long-term case management for adverse events where necessary.

(2) Evaluations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy; Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the

Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.

(a) IN GENERAL.—For purposes of eligibility for incentive special pay payable under section 302(b) of title 37, United States Code, oral and maxillofacial surgeons shall be treated as medical officers of the Armed Forces who may be paid variable special pay under section 302(a)(2) of such title.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on October 1, 2005, and shall apply with respect to incentive special pay payable under section 302(b) of title 37, United States Code, on or after that date.

On page 296, after line 19, add the following:

SEC. 1205. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) REVIEW.—Not later than six months after date of enactment, the Secretary of Defense shall, in consultation with the Secretary of State, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, submit a joint report on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined to be in the United States national security interest.

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include an unclassified annex.

In subtitle B of title VII of the bill, add the following at the end:

SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) REPORT.—The Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. The Secretary shall address the following, with respect to military and civilian personnel—

(1) the procurement of vaccines, antivirals and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported;

(2) protocols for the allocation and distribution of vaccines and medicines among high priority populations;

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;

(6) the availability and delivery of food and basic supplies and services;

(7) surveillance efforts domestically and internationally, including those utilizing the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems;

(8) the integration of pandemic and response planning with those of other Federal departments, including the Department of Health and Human Services, Department of the Veterans Affairs, Department of State, and USAID; and

(9) collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall submit the report to the Committees on Armed

Services of the Senate and the House of Representatives.

At the end of subtitle F of title V, add the following:

SEC. 573. MENTAL HEALTH SCREENINGS OF MEMBERS OF THE ARMED FORCES FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) Mental Health Screenings.—

(1) In general.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(b) Nature of Screenings.—The first mental health screening of a member under this section shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this section shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(c) Time of Screenings.—A member shall receive a mental health screening under this section at times as follows:

(1) Prior to deployment in a combat operation or to a combat zone.

(2) Not later than 30 days after the date of the member's return from such deployment.

(3) Not later than 120 days after the date of the members return from such deployment.

(4) Whenever the member receives any other medical examination through the Department of Defense.

In lieu of the matter proposed to be inserted, insert the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) In General.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(17) Services of mental health counselors, except that—

"(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

"(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as 'medically underserved areas' where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

"(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.".

(b) Authority to Enter Into Personal Services Contracts.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

(a) Authority to Continue Allowance.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) Codification of Reporting Requirement.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection:

'(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii), of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.'.

(c) Conforming Amendment.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking 'under section 1967(c)(1)(A) of title 38'.

(d) Funding.—Funding shall be provided out of existing funds.

At the end of subtitle G of title X, add the following:

SEC. 1073. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65, 113 Stat. 763; 10 U.S.C. 2572 note) is amended by inserting ", and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on September 30, 2010.

At the end of subtitle G of title X, add the following:

SEC. 1073. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) Grant of Charter.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Tax-exempt status required as condition of charter.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.
"120112. Definition.

"§ 120101. Organization

"(a) Federal Charter.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

"(b) Expiration of Charter.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

"The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

"(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

"(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

"(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

"(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

"(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

"§ 120103. Membership

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

"(a) Board of Directors.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

"(b) Officers.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

"§ 120105. Powers

"The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

"(a) Stock and Dividends.—The corporation may not issue stock or declare or pay a dividend.

"(b) Political Activities.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) Loan.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) Claim of Governmental Approval or Authority.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"(e) Corporate Status.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§ 120107. Tax-exempt status required as condition of charter

"If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

"§ 120108. Records and inspection

"(a) Records.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

"The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§ 120112. Definition

"For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"1201. Korean War Veterans Association, Incorporated .... 120101".

At the end of subtitle H of title V, add the following:

SEC. 596. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 992. Consumer education: financial services

"(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

"(A) financial services that are available under law to members;

"(B) financial services that are routinely offered by private sector sources to members;

"(C) practices relating to the marketing of private sector financial services to members;

"(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

"(E) such other financial practices as the Secretary considers appropriate.

"(2) Training under this subsection shall be provided to members as—

"(A) a component of members' initial entry orientation training; and

"(B) a component of periodically recurring required training that is provided for the members at military installations.

"(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

"(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

"(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

"(i) shall provide counseling on financial services under this subsection at such installation through a full-time financial services counselor at such installation; and

"(ii) may provide such counseling at such installation by any means elected by the Secretary concerned from among the following:

"(I) Through members of the armed forces in grade E–7 or above, or civilians, who provide such counseling as a part of the other duties for the Armed Forces or the Department of Defense.

"(II) By contract, including contract for services by telephone and by the Internet.

"(III) Through qualified representatives of nonprofit organizations and agencies under formal agreement with the Department of Defense to provide such counseling.

"(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

"(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

"(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

"(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

"(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, a financial services counselor referred to in subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

"(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until seven days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

"(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

"(D) In this paragraph, the term 'covered member of the armed forces' means an active duty member of the armed forces in grades E–1 through E–4.

"(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

"(1) Life insurance, casualty insurance, and other insurance.

"(2) Investments in securities or financial instruments.

"(3) Banking, credit, loans, deferred payment plans, and mortgages.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"992. Consumer education: financial services.".

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Paragraph (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

At the end of subtitle A of title VI, add the following:

SEC. 605. PERMANENT EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 251), of the amendments made by subsection (a) of such section, section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

At the end of subtitle A of title VI, add the following:

SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR RESERVE MEMBERS.

(a) EQUAL TREATMENT OF RESERVE MEMBERS.—Subsection (g) of section 403 of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

"(A) A member who is called or ordered to active duty for a period of more than 30 days.

"(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation."; and

(3) in paragraph (4), as so redesignated, by striking "less than 140 days" and inserting "30 days or less".

(b) CONFORMING AMENDMENT REGARDING MEMBERS WITHOUT DEPENDENTS.—Paragraph (1) of such subsection is amended by inserting "or for a period of more than 30 days" after "in support of a contingency operation" both places it appears.

At the end of subtitle E of title VI, add the following:

SEC. 653. EDUCATION LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) IN GENERAL.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 16303. Education loan repayment program: chaplains serving in the Selected Reserve

"(a) AUTHORITY TO REPAY EDUCATION LOANS.—Under regulations prescribed by the Secretary of Defense and subject to the provisions of this section, the Secretary concerned may, for purposes of maintaining adequate numbers of chaplains in the Selected Reserve, repay a loan that—

"(1) was used by a person described in subsection (b) to finance education resulting in a Masters of Divinity degree; and

"(2) was obtained from an accredited theological seminary as listed in the Association of Theological Schools (ATS) handbook.

"(b) ELIGIBLE PERSONS.—(1) Except as provided in paragraph (2), a person described in this subsection is a person who—

"(A) satisfies the requirements specified in subsection (c);

"(B) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

"(C) signs a written agreement to serve not less than three years in the Selected Reserve.

"(2) A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of loans under subsection (a).

"(c) ACADEMIC AND PROFESSIONAL REQUIREMENTS.—The requirements specified in this subsection are such requirements for accessioning and commissioning of chaplains as are prescribed by the Secretary concerned in regulations.

"(d) LOAN REPAYMENT.—(1) Subject to paragraph (2), the repayment of a loan under this section may consist of payment of the principal, interest, and related expenses of such loan.

"(2) The amount of any repayment of a loan made under this section on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (b)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to such agreement. The balance of such amount shall be payable at such time or times as are prescribed by the Secretary concerned in regulations.

"(e) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on behalf of whom repayment of a loan is made under this section who fails, during the period of obligated service the person agrees to serve in an agreement described in subsection (b)(3), to serve satisfactorily in the Selected Reserve may, at the election of the Secretary concerned, be required to pay the United States an amount equal to any amount of repayments made on behalf of the person in connection with the agreement.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

"16303. Education loan repayment program: chaplains serving in the Selected Reserve.".

At the end of subtitle F of title V, add the following:

SEC. 573. NATIONAL CALL TO SERVICE PROGRAM.

(a) LIMITATION TO DOMESTIC NATIONAL SERVICE PROGRAMS.—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking "in the Peace Corps, Americorps, or another national service program" and inserting "in Americorps or another domestic national service program".

(b) ADMINISTRATION OF EDUCATION INCENTIVES BY SECRETARY OF VETERANS AFFAIRS.—Paragraph (2) of subsection (h) of such section is amended to read as follows:

"(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

"(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran' and the term 'person', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).".

At the end of subtitle B of title V, add the following:

SEC. 522. RECRUITMENT AND ENLISTMENT OF HOME SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) POLICY ON RECRUITMENT AND ENLISTMENT.—

(1) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home schooled students in the Armed Forces.

(2) UNIFORMITY ACROSS THE ARMED FORCES.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) ELEMENTS.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) Provision for the treatment of graduates of home schooling with no practical limit with regard to enlistment eligibility.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) HOME SCHOOL GRADUATES.—In prescribing the policy, the Secretary of Defense shall prescribe a single set of criteria to be utilized by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.

At the end of subtitle H of title V, add the following:

SEC. 595. PAY OF MEMBERS OF THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) IN GENERAL.—Subsection (e)(1) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 1880) is amended by striking "except that" and all that follows through the end and inserting "except that—

"(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, 'may' shall be substituted for 'shall'; and

"(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, 'level IV of the Executive Schedule' shall be substituted for 'level V of the Executive Schedule'.".

(b) TECHNICAL AMENDMENT.—Subsection (c)(2)(C) of such section is amended by striking "section 404(a)(4)" and inserting "section 416(a)(4)".

On page 305, strike line 2 and all that follows through line 6, and insert the following:

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $323,200,000.

(2) For other procurement, $51,900,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—Of the amounts authorized to be appropriated by subsection (a)(1), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ-1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ-1 Ground Control Stations, spares, and signals intelligence packages.

SEC. 1405A. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $218,500,000.

At the end of division A, add the following:

TITLE XV—RECRUITMENT AND RETENTION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Military Recruiting Initiatives Act of 2005".

SEC. 1502. INCREASE IN MAXIMUM ENLISTMENT BONUS.

(a) ENLISTMENT BONUS FOR SELECTED RESERVE MEMBERS.—Section 308c(b) of title 37, United States Code, is amended by striking "$10,000" and inserting "$20,000".

(b) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(a) of title 37, United States Code, is amended by striking "$20,000" and inserting "$40,000".

SEC. 1503. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) Authority To Pay Bonus.—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) Referral.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) Certain Referrals Ineligible.—

(1) Referral of immediate family.—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) Members in recruiting roles.—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) Amount of Bonus.—The amount of the bonus paid for a referral under subsection (a) may not exceed $1,000. The bonus shall be paid in a lump sum.

(e) Time of Payment.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) Relation To Prohibition on Bounties.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) Limitation on Initial Use of Authority.—During the first year in which bonuses are offered under this section, the Secretary of the Army may not pay more than 1,000 referral bonuses per component of the Army.

(h) Duration of Authority.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

SEC. 1504. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking "thirty-five years of age" and inserting "forty-two years of age".

SEC. 1505. REPEAL OF PROHIBITION ON PRIOR SERVICE ENLISTMENT BONUS FOR RECEIPT OF OTHER ENLISTMENT OR REENLISTMENT BONUS FOR SERVICE IN THE SELECTED RESERVE.

Section 308i(a)(2) of title 37, United States Code, is amended by striking subparagraph (D).

SEC. 1506. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) Repeal of Prohibition on Eligibility for Prior Reserve Service.—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Increase in Maximum Amount.—Subsection (d) of such section is amended by striking "$6,000" and inserting "$10,000".

SEC. 1507. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) Additional Loans Eligible for Repayment.—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any loan incurred for educational purposes made by a lender that is—

"(i) an agency or instrumentality of a State;

"(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

"(iii) a pension fund approved by the Secretary for purposes of this section; or

"(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.".

(b) Eligibility of Officers.—Paragraph (2) of such section is amended by striking "an enlisted member in a military specialty" and inserting "a member in an officer program or military specialty".

SEC. 1508. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) Study.—The Secretary of Defense shall conduct a study of the Reserve Dental Insurance program.

(b) Elements.—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve Dental Insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve Dental Insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve Dental Insurance program.

(c) Report.—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study and such recommendations for legislative or administrative action regarding the Reserve Dental Insurance program as the Secretary considers appropriate in light of the study.

(d) Reserve Dental Insurance Program Defined.—In this section, the term "Reserve Dental Insurance program" includes—

(1) the dental insurance plan required under paragraph (1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

On page 48, line 21, strike "$18,584,469,000" and insert "$18,581,369,000".

At the appropriate place, insert the following:

SEC. ___. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) Establishment.—The Secretary of Defense (referred to in this section as the "Secretary"), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced levels of proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the Federal Government as the President may require.

(b) Implementation.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2393), shall—

(1) identify several foreign languages that are critical for the national security of the United States and the relative priority of each such language;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for calling for the performance of the services and duties referred to in subsection (a); and

(4) implement a call for the performance of such services and duties.

(c) Contract Authority.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) Feasibility Study.—During the course of the pilot project, the Secretary shall conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—

(1) administrative structure;

(2) languages to be offered;

(3) number of language specialists needed for each language;

(4) Federal agencies who may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) Reports.—

(1) Evaluation reports.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) Contents.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(2) Final report.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

(f) Authorization of Appropriations.—There are authorized to be appropriated

$3,100,000 for fiscal year 2006 to carry out the pilot project under this section.

(g) OFFSET.—The amounts authorized to be appropriated by section 301(4) are hereby reduced by $3,100,000 from operation and maintenance, Air Force.

At the end of subtitle B of title II, add the following:

SEC. 213. PROJECT SHERIFF.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate is hereby increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000.

At the end of subtitle C of title III, add the following:

SEC. 330. REPORT ON AIRCRAFT TO PERFORM HIGH-ALTITUDE AVIATION TRAINING SITE.

Not later than December 15, 2005, the Secretary of the Army shall submit to the congressional defense committee a report containing the following:

(1) An evaluation of the type of aircraft available in the inventory of the Army that is most suitable to perform the High-altitude Aviation Training Site (HAATS) Mission.

(2) A determination of when such aircraft may be available for assignment to the HAATS.

At the end of subtitle B of title II, add the following:

SEC. 213. MEDIUM TACTICAL VEHICLE MODIFICATIONS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, is hereby increased by $5,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, as increased by subsection (a), $5,000,000 may be available for Medium Tactical Vehicle Modifications.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance for the Air Force is hereby reduced by $5,000,000.

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain uninterrupted preeminence in human spaceflight.

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a)—

(1) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(2) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(A) up to $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks-5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) up to $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ANNUAL REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) REQUIREMENT FOR ANNUAL REPORT.—The Secretary of Defense and the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives an annual report that sets forth all direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions undertaken by the Department of Defense. Each such report shall include an aggregate of all such Department of Defense costs by operation or mission, the percentage of the United States contribution by operation or mission, and the total cost of each operation or mission.

(b) COSTS FOR ASSISTING FOREIGN TROOPS.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all direct and indirect costs (including incremental costs) incurred in training, equipping, and otherwise assisting, preparing, resourcing, and transporting foreign troops for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(d) FORM OF REPORT.—Each annual report required by this section shall be submitted in unclassified form, but may include a classified annex.

On page 237, after line 17, insert the following:

SEC. 846. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

"(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

"(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

"(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

"(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

"(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

"(C) QUALIFIED AREAS.—In this paragraph, the term 'qualified area' means—

"(i) Iraq,

"(ii) Afghanistan, and

"(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.".

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) Small Business Contracting in Overseas Procurements.—

"(A) Statement of Congressional Policy.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection, regardless of the geographic area in which the contracts will be performed.

"(B) Authorization to Use Contracting Mechanisms.—Federal agencies are authorized to use any of the contracting mechanisms authorized in this Act for the purpose of complying with the Congressional policy set forth in subparagraph (A).

"(C) Report to Congressional Committees.—Not later than 1 year after the date of enactment of this paragraph, the Administrator and the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship of the Senate and Committee on Small Business of the House of Representatives a report on the activities undertaken by Federal agencies, offices, and departments to carry out this paragraph.".

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) Fair Access to Multiple-Award Contracts.—

"(A) Statement of Congressional Policy.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection with regard to orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts.

"(B) Authorization for Limited Competition.—The head of a contracting agency may include in any contract entered under section 2304a(d)(1)(B) or 2304b(e) of title 10, United States Code, a clause setting aside a specific share of awards under such contract pursuant to a competition that is limited to small business concerns, if the head of the contracting agency determines that such limitation is necessary to comply with the congressional policy stated in subparagraph (A).

"(C) Report Requirement.—

"(i) In general.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(ii) Contents.—The report required by clause (i) shall include, for the most recent 2-year period for which data are available—

"(I) the total number of multiple-award contracts;

"(II) the total number of small business concerns that received multiple-award contracts;

"(III) the total number of orders under multiple-award contracts;

"(IV) the total value of orders under multiple-award contracts;

"(V) the number of orders received by small business concerns under multiple-award contracts;

"(VI) the value of orders received by small business concerns under multiple-award contracts;

"(VII) the number of small business concerns that received orders under multiple-award contracts; and

"(VIII) such other information as may be relevant.".

On page 218, strike line 1 and all that follows through page 220, line 5, and insert the following:

SEC. 814. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) In General.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(x) Research and Development Focus.—

"(1) Revision and Update of Criteria and Procedures of Identification.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

"(2) Utilization of Plans.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

"(A) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

"(B) The Defense Technology Area Plan of the Department of Defense.

"(C) The Basic Research Plan of the Department of Defense.

"(3) Input in Identification of Areas of Effort.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

"(y) Commercialization Pilot Program.—

"(1) In general.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a 'Commercialization Pilot Program' to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

"(2) Identification of Research Programs for Accelerated Transition to Acquisition Process.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

"(3) Limitation.—No research program may be identified under paragraph (2), unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

"(4) Funding.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

"(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

"(B) shall not be used to make Phase III awards.

"(5) Evaluative Report.—At the end of each fiscal year, the Secretary of Defense and each Secretary of a military department shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

"(A) an accounting of the funds used in the Commercialization Pilot Program;

"(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and by prime contractors; and

"(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and a number of inventions commercialized.

"(6) Sunset.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.".

(b) Implementation of Executive Order 13329.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) to provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).";

(2) in subsection (g)—

(A) in paragraph (9), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing)."; and

(3) in subsection (o)—

(A) in paragraph (14), by striking "and" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(16) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).".

(c) Testing and Evaluation Authority.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.".

On page 237, after line 17, insert the following:

SEC. 846. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) Drought Disaster Authority.—

(1) Definition of disaster.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following:

"(2) For purposes of section 7(b)(2), the term 'disaster' includes—

"(A) drought; and

"(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.".

(2) Drought disaster relief authority.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting "(including drought), with respect to both farm-related and nonfarm-related small business concerns," before "if the Administration"; and

(B) in subparagraph (B), by striking "the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)" and inserting the following: "section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph".

(b) Limitation on Loans.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) Prompt Response to Disaster Requests.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking "Upon receipt of such certification, the Administration may" and inserting "Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may".

(d) Rulemaking.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

On page 237, after line 17, insert the following:

SEC. 846. RADIO FREQUENCY IDENTIFIER TECHNOLOGY.

(a) Small Business Strategy.—As part of implementing its requirement that contractors use radio frequency identifier technology, the Secretary of Defense shall develop and implement a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) Reporting.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship and the Committee on Armed Services of the Senate and the Committee on Small Business and the Committee on Armed Services of the House of Representatives detailing the status of the efforts by the Secretary of Defense to establish requirements for radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology.

(C) the status of the efforts of the Secretary of Defense to develop and implement a strategy to educate the small business community, as required by subsection (a)(2).

At the end of subtitle E of title VI, add the following:

SEC. 653. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) In General.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) No Effect on Other Laws.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) Disclosure Form.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) Effective Date.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

At the end of subtitle B of title I, add the following:

SEC. 114. SECOND SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) Requirement.—The Secretary of the Army shall conduct a study of the feasibility and costs and benefits for the participation of a second source for the production and supply of tires for the Stryker combat vehicle to be procured by the Army with funds authorized to be appropriated in this Act.

(b) Report.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the study under subsection (a). The report shall include—

(1) an analysis of the capacity of the industrial base in the United States to meet requirements for a second source for the production and supply of tires for the Stryker combat vehicle; and

(2) to the extent that the capacity of the industrial base in the United States is not adequate to meet such requirements, recommendations on means, over the short-term and the long-term, to address that inadequacy.

At the appropriate place in title VIII, insert the following:

SEC. . ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) Publication of Information on Federal Contractor Penalties and Violations.—(1) The Secretary of Defense shall maintain a publicly-available website that provides information on instances in which major contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct. The website shall be updated not less than once a year.

(2) For the purpose of this subsection, a major contractor is a contractor that receives at least $100,000,000 in Federal contracts in the most recent fiscal year for which data are available.

(b) Report on Federal Sole Source Contracts Related to Iraq Reconstruction.—

(1) Report required.—Not later than 120 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress a report on all sole source contracts in excess of $2,000,000 entered into by executive agencies in connection with Iraq reconstruction from January 1, 2003, through the date of the enactment of this Act.

(2) Content.—The report submitted under paragraph (1) shall include the following information with respect to each such contract:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amount awarded.

(E) A brief description of the work to be performed under the contract.

(3) Executive agency defined.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

At the end of subtitle A of title VIII, add the following:

SEC. 807. GUIDANCE ON USE OF TIERED EVALUATION OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) Guidance Required.—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers or proposals of offerors for contracts and for task orders under contracts.

(b) Elements.—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer or proposal of an offeror for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation why such contracting officer was unable to make such determination.

On page 52, between lines 5 and 6, insert the following:

SEC. 304. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 may be available for civilian manpower and personnel for a human resources benefit call center.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

(a) REPORT REQUIRED.—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(b) CONTENT.—Each notification submitted under subsection (a) with respect to the proposed cancellation or change shall include—

(1) the specific justification for the proposed change;

(2) a description of the impact of the proposed change on the Department's ability to achieve the objectives of the program that has been cancelled or changed;

(3) a description of the steps that the Department plans to take to achieve such objectives; and

(4) other information relevant to the change in acquisition strategy.

(c) DEFINITIONS.—In this section:

(1) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.

(2) The term "approved to be fielded" means having received Milestone C approval.

At the end of subtitle C of title III, add the following:

SEC. 330. PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c) by adding at the end the following new paragraphs:

"(4) A sporting event sanctions by the United States Olympic Committee through the Paralympic Military Program.

"(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4)) which is—

"(A) held in the United States or any of its territories or commonwealths;

"(B) governed by the International Paralympic Committee;

"(C) sanctioned by the United States Olympic Committee; and

"(D) for which participation exceeds 100 amateur athletes."; and

(2) in subsection (d)—

(A) by inserting "(1)" before "The Secretary"; and

(B) by adding at the end the following new paragraph:

"(2) Not more than $1,000,000 may be expended in any fiscal year to provide support for events specified under paragraph (5) of subsection (c).".

On page 292, between lines 15 and 16, insert the following:

SEC. 1106. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

"(2) The term 'interested party'—

"(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

"(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, includes—

"(i) any official who submitted the agency tender in such competition; and

"(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.".

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

"§ 3557. Expedited action in protests for Public-Private competitions

"For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.".

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

"3557. Expedited action in protests for public-private competitions.".

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.".

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A-76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A-76 on or after the date of the enactment of this Act.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A-76, as implemented on May 29, 2003; and

"(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees.

"(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A-76.

"(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A-76.

"(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

"(ii) the written waiver is accompanied by a detailed determination that national security interests preclude compliance with the requirement for a public-private competition; and

"(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.".

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(c) REPEAL OF SUPERSEDED LAW.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 2461 note) is repealed.

SEC. 808. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall

provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A–76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term "National Security Personnel System" means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term "inherently governmental function" has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

At the end of subtitle A of title VIII, add the following:

SEC. 807. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

(a) MODIFICATION OF LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108–287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting ", payment that could be used in lieu of such a plan, health savings account, or medical savings account" after "health insurance plan"; and

(2) in subparagraph (B), by striking "that requires" and all that follows through the end and inserting "that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.".

At the appropriate place in title V, insert the following:

SEC. ___. PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN THE PARALYMPIC GAMES.

Section 717(a)(1) of title 10, United States Code, is amended by striking "and Olympic Games" and inserting ", Olympic Games, and Paralympic Games,".

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. REPORT ON USE OF GROUND SOURCE HEAT PUMPS AT DEPARTMENT OF DEFENSE FACILITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 2050. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXXI of division C, insert the following:

SEC. 31 . MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) (as amended by section 630 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594)) is amended—

(1) in subsection a., by striking "Except as provided in subsection b., the Commission" and inserting "The Commission";

(2) by striking subsection b.; and

(3) by redesignating subsection c. as subsection b.

SA 2051. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. HARKIN, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —KATRINA COMMISSION

SEC. 01. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this title referred to as the "Commission").

SEC. ___02. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 03. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf

Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

SEC. 04. FUNCTIONS OF COMMISSION.

(a) In General.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 05. POWERS OF COMMISSION.

(a) In General.—

(1) Hearings and evidence.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) Subpoenas.—

(A) Issuance.—

(i) In general.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) Signature.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) Enforcement.—

(i) In general.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) Additional enforcement.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) Information From Federal Agencies.—

(1) In general.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) Receipt, handling, storage, and dissemination.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) Assistance From Federal Agencies.—

(1) General services administration.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) Other departments and agencies.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. ___06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) In General.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) Public Meetings and Release of Public Versions of Reports.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section ___10.

(c) Public Hearings.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 07. STAFF OF COMMISSION.

(a) In General.—

(1) Appointment and compensation.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. ___08. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. ___09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 10. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this title, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. ___11. FUNDING.

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2052. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII of division A, as added by Senate amendment No. 1955, add the following:

SEC. ___. BUILDING THE PARTNERSHIP SECURITY CAPACITY OF FOREIGN MILITARY AND SECURITY FORCES.

(a) AUTHORITY.—The President may authorize building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.—The partnership security capacity building authorized under subsection (a) may include the provision of equipment, supplies, services, training, and funding.

(c) AVAILABILITY OF FUNDS.—The Secretary of Defense may, at the request of the Secretary of State, support partnership security capacity building as authorized under subsection (a) including by transferring funds available to the Department of Defense to the Department of State, or to any other Federal agency. Any funds so transferred shall remain available until expended. The amount of such partnership security capacity building provided by the Department of Defense under this section may not exceed $750,000,000 in any fiscal year.

(d) CONGRESSIONAL NOTIFICATION.—Before building partnership security capacity under this section, the Secretaries of State and Defense shall submit to their congressional oversight committees a notification of the nations designated by the President with which partnership security capacity will be built under this section and the nature and amounts of security capacity building to occur. Any such notification shall be submitted not less than 7 days before the provision of such partnership security capacity building.

(e) COMPLEMENTARY AUTHORITY.—The authority to build partnership security capacity under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

(f) MILITARY AND SECURITY FORCES DEFINED.—In this section, the term "military and security forces" includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

SEC. ___. SECURITY AND STABILIZATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon a request from the Secretary of State and upon a determination by the Secretary of Defense that an unforeseen emergency exists that requires immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country, and that the provision of such assistance is in the national security interests of the United States, the Secretary of Defense may authorize the use or transfer of defense articles, services, training or other support, including support acquired by contract or otherwise, to provide such assistance.

(b) AVAILABILITY OF FUNDS.—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State, or to any other Federal agency, to carry out the purposes of this section, and funds so transferred shall remain available until expended.

(c) LIMITATION.—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed $200,000,000.

(d) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(e) EXPIRATION.—The authority in this section shall expire on September 30, 2006.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, October 18, 2005, at 3 p.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider our national capacity for producing innovation in energy technologies and the importance of this innovation to our global economic competitiveness. The Committee will also hear testimony describing the results of a forthcoming National Academy of Sciences report on this same topic.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Dr. Kathryn Clay (202) 224-6224 or Steve Waskiewicz at (202) 228-6195.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on October 5, 2005, at 2:30 p.m. to conduct a hearing on the Kyoto Protocol: assessing the status of efforts to reduce greenhouse gases.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 5, 2005, at 2:15 p.m. to hold a Business Meeting on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 5, 2005, at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President. I ask unanimous consent that the Special Committee on Aging be authorized to meet today, October 5, 2005, from 10:30 a.m.–12:30 p.m. in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on October 5, 2005, at 2:30 p.m., on Spyware.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jason Matthews and Kathleen Strottman during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS-CONSENT REQUEST—S. 1716

Ms. LANDRIEU. Mr. President, I understand we are now in morning business. I ask unanimous consent that immediately upon the disposition of the Defense appropriations bill, on which we just voted cloture, that immediately following the vote on that bill that the Senate return to consideration of S. 1716, which is a bill by Senator GRASSLEY and Senator BAUCUS to provide emergency health care relief to the many victims of Hurricanes Katrina and Rita throughout the gulf coast and the needs of States throughout the Nation. I ask unanimous consent that the bill be brought up for consideration right after the final vote on the Defense appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will object shortly. As the distinguished Senator from Louisiana knows, the issue we are talking about is one that is very close to me, one on which she and I have had many conversations because it goes right to the heart of health care for hundreds of thousands of people. It is an issue we have to address. I personally have spent about an hour and a half today on this issue with the chairman and many others. We are not there yet. I pledge to keep working on this issue. I understand the time urgency of it.

As the distinguished Senator from Louisiana knows, there are several objections on our side, and on behalf of those colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Ms. LANDRIEU. Mr. President, may I ask the majority leader a question?

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Through the Chair, first of all, I appreciate the work that he has been doing behind the scenes with the leadership in the Senate to press forward on this very important issue. But I would like to ask him what he thinks about the possibility of us going home on break for over a week before something can be determined definitively as to whether people who are without a home, without a job, without a church, without a neighborhood, without their family—does the Senator think we should possibly make some decisions at least about their emergency health care needs before we leave?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the issue of health care and health care delivery among peoples who have lost their homes, who have lost shelters, security, family members, is something we need to address quickly, expeditiously, and we are going to continue to work on it.

At the same time, I wish to say to the American people who are listening to me—and the Senator from Louisiana and I have had the opportunity to travel together over the region she is about to discuss, and I observed firsthand. Those people now are getting health care, and health care is not being denied anybody. It cannot be denied, and it will not be denied. The real issue is to make sure that compensation for that health care does flow and does flow in a timely fashion to where the patient is displaced or to the State of Louisiana or it might be Alabama or Mississippi. How that is done most appropriately and fairly where the funds can follow the individual and follow the patient, the family, is what is being addressed.

The issue is not as to whether or not health care is being provided. Health care is being provided. It is available to those people who need it.

Mr. President, I would like to proceed with a couple of items of business, and then I know that the Senator from Louisiana has the floor and has a number of very important things to address.

I should also say that Senator LANDRIEU and I have been in discussion over the course of today on a number of issues that she provided in a letter to me which addresses health care issues, small business issues, education issues, and community disaster loans. I continue to aggressively address all four of those issues with my colleagues as well.

APPOINTMENT

The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–398, as amended by Public Law 108–7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106–398, and upon the recommendation of the Democratic leader, in consultation with the chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, reappoints the following individuals to the United States-China Economic Security and Review Commission: C. Richard D'Amato of Maryland for a term beginning January 1, 2006 and expiring December 31, 2007 and William A. Reinsch of Maryland for a term beginning January 1, 2006 and expiring December 31, 2007.

FAMILY HISTORY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 266, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

> A resolution (S. Res. 266) designating the month of October 2005, as "Family History Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 266) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 266

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number of people in our Nation, and in other nations, are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation, and across the world, continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor the memory of their ancestors by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of national, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2005, as "Family History Month"; and

(2) calls upon the people of the United States to observe the month with appropriate ceremonies and activities.

AUTHORIZATION OF TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 267, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 267) to authorize testimony, document production, and legal representation in State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, documents, and representation in related criminal trespass actions in Concord District Court in the State of New Hampshire. In these actions, 6 defendants have been charged with criminally trespassing on the premises of Senator JUDD GREGG's Concord, NH, office on June 2, 2005, for refusing repeated requests to leave Senator GREGG's office at the end of the business day in order to allow the office to close. Trials on the charge of trespass are scheduled to commence or about October 18, 2005. The State has subpoenaed a member of the Senator's staff who witnessed the defendants' conduct. The enclosed resolution would authorize that staff member, and any other employees of Senator GREGG's office from whom evidence may be required, to testify and produce documents in connection with these actions.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 267) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 267

Whereas, in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, pending in Concord District Court, New Hampshire, testimony and documents have been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(A)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Carol Carpenter and other employees of Senator Gregg's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter and other employees of Senator Gregg's office in connection with the testimony and document production authorized in section one of this resolution.

ORDERS FOR THURSDAY, OCTOBER 6, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, October 6. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 2683, the Defense appropriations bill. I further ask unanimous consent that notwithstanding the adjournment of the Senate, all time overnight be counted against the 30 hours postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. The Senate has made tremendous progress on the bill today. It has been a very long day. The chairman and ranking member have done a superb job working with other chairmen and other ranking members throughout the course of the day to bring us to this point. I do want to congratulate Senator STEVENS and Senator INOUYE for their great work. We will finish this bill before we leave on Friday, as we set out to do now about 7 or 8 days ago. We will have a very long session tomorrow. We have a lot of work to do. We are in this postcloture period. There are a lot of amendments to be processed and to be voted upon.

We are still working toward an agreement on the pensions bill. I hope to have progress to report on that front tomorrow. Aggressively, people have been working to bring resolution to that bill, and I am confident we will be able to do that but do not yet know the timing on that.

ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator LANDRIEU.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISASTER RELIEF

Mr. DURBIN. Mr. President, I rise to say a few words about the issue that the Senator from Louisiana is going to talk about, but I do not want to take any of her time away from her. I know it is late in the evening but if I could, I will say a few words before leaving the floor. I hope that my Senate colleagues who are following this debate and conversation, as well as those who are viewing these proceedings, understand what my colleague from Louisiana, Senator MARY LANDRIEU, and her colleague, Senator VITTER have been through.

They have faced a disaster virtually unprecedented in modern American history. Having been through a few minor disasters and floods in my area, I cannot imagine the stress that they have been under to serve the public, which is their responsibility in the Senate. Though I do not know Senator VITTER as well, nor have I known him as long, I can certainly attest to his concern for the people of Louisiana. I can speak personally about the concern of Senator LANDRIEU.

From the moment I got her on the telephone—and it was not an easy task—while she was still fighting flood waters in her hometown of New Orleans, until this moment today, she has been consumed with one focused objective, what she can do to spare the suffering of the people she represents and to rebuild and recover from this terrible disaster.

I visited New Orleans a few weeks ago with a bipartisan delegation, met with her as well as Commander Allen, who is heading up the FEMA effort now, as well as Governor Blanco and Mayor Nagin, many of them local officials. It is clear now that they have faced challenges that most public servants do not dream of. The reason we are here tonight is because she is reaching the end of her patience. I have talked to her during the course of this day, and I know what is boiling up inside of her.

The thought that we would leave Washington, the capital of our Nation, for a week or 10 days and be back in our home States is a real concern to her because she knows while we are gone, people in Louisiana will continue to suffer because of our inaction and our unwillingness to respond to the basics. Look at what has happened so far. The administration announces initially no-bid contracts to some of the most recognizable big hitters in Washington, corporations that always seem to win when others are facing misfortune.

The administration says it is going to cut the wages for construction workers who are going back to work to rebuild in Louisiana, Mississippi, and Alabama, exactly the opposite of what these families need to get back on their feet.

The administration has refused to come forward with the emergency housing that is needed for so many of these people who are literally at their wits' end, trying to keep their families together, living in the most extreme circumstances.

This Senator from Louisiana has been on the floor repeatedly, appealing to both sides of the aisle, but particularly to the majority, for help with health care for the people who have been displaced. Someone lucky enough to have health insurance when Hurricane Katrina hit may have lost not only their home but also their job and their health insurance, and now they are adrift. Senator LANDRIEU has been working with Senator GRASSLEY, a Republican, and Senator BAUCUS, a Democrat, to make certain they have health care coverage. It is not enough to say if they show up in an emergency room, somebody will probably take care of them. Is that what you would like your medical future to be for you and your family? That is not what Senator LANDRIEU wants and that is what she is fighting to change.

We have also seen the suggestion we cut back on cash payments to people who have no job, may not even have access to the unemployment checks or whatever they are entitled to at this moment.

I think one of the worst and crowning blows is this notion that somehow every penny we put into rebuilding America, rebuilding the Gulf Coast States—New Orleans, Louisiana, Mississippi, and Alabama—has to be paid for by cutting other programs that may help poor people. Today the Agriculture Committee is considering cuts in food stamps, $500 million or $600 million in cuts in food stamps so we can provide help to Hurricane Katrina victims. So we will literally take food from the mouths of babies and mothers and families across America to give them to the babies and mothers and families of Hurricane Katrina? Is that what it has come to in America?

The suggestion we would cut Medicaid, the health insurance for the poor and elderly and disabled in America, so we can provide that same Medicaid, that same health insurance for the poor and elderly and disabled and dislocated in Hurricane Katrina, is that what it has come to in America?

I think what troubles me the most is the situation here where there is an insistence by some of my colleagues that every penny we spend investing in rebuilding the Gulf Coast States has to be met by a cut in spending for the most vulnerable people in America. None of these people who are insisting on this match of cut for spending said that when we were talking about rebuilding Iraq—$18 billion, without a single dollar of it set off against any cut in spending. Not one of them brought up this idea of cutting spending to give tax breaks to the wealthiest people in America. But when it comes to the most vulnerable, those helpless victims of this hurricane in those States, they are demanding this setoff that, frankly, will make life more painful and difficult for vulnerable people all across America.

This is a real test of who we are and what we stand for. If we are truly in this together, if we are going to be unified as a nation and react as a community and as a family, we can do better. America can do better. I salute the Senator from Louisiana. I will turn the floor over to her, thank her for her leadership, and say this Senator and many others will fight with you to the bitter end to make sure the people you represent understand that they do not stand alone.

I yield the floor.

Ms. LANDRIEU. Mr. President, I thank the Senator from Illinois, who has been such a champion for people in need, for people who need their Government to step up and to be with them in times of difficulty. That is what governments are all about.

We appreciate the self-sufficiency of people. We appreciate the value of upward mobility. We appreciate the values of family that Illinois and Louisiana treasure, about moving forward. But we also understand when life throws you a curve ball, when you are hit by a monster storm, when the home you have worked for all your life and might in fact have been paid for is literally washed away before your eyes; when the business that your father or your mother handed down to you and you built up to be something to be proud of, to turn over to your children, is gone in the flickering of an eye; when your child is in an accident and it was unexpected and the health insurance doesn't pay for it and you have a child now who is in great need—you would think we would have a government that would not question whether we should be there to help.

We would say: Of course. This is America. This is what we do. We help each other through difficult times. That is the way the country used to be. That is the country I grew up in. But I am standing here now on the floor at a quarter to 11 on Wednesday night. We are getting ready to pass a very important bill. We, the other Senator from Louisiana, Senator VITTER, and I, have been patient—persistent but patient over the 31 days since this first hurricane hit Louisiana and devastated our largest city and rocked the whole southern part of our State back on its heels. We have been to countless meetings, countless conferences, countless telephone conversations, countless visits back to our State and region, visiting from shelters to briefing rooms. We have outlined what we need. I have to stand here now at a quarter to 11 on a Wednesday night with the idea that Congress is basically prepared to go home and do nothing other than what we have done, which is give $62 billion to an agency that does not work.

That is where we are. Thirty-one days after the worst natural disaster in the history of the country, the subsequent breaking of a levee system that is primarily the fault of the Federal Government—not only but primarily the fault of the Federal Government from decades of neglect and disinvestment, disengagement, and disinterest—and I have to go tell my constituents that people in Congress needed a break and we had to go home, and the only thing we could do is give $62 billion to the agency about which the only thing we all seem to agree, Republican and Democrat, House and Senate, is that it doesn't work.

I sent a letter—I have sent many, but this is another letter—to the leadership, to say:

> Although a month has passed since Hurricane Katrina destroyed the lives and livelihoods of hundreds of thousands of Americans, survivors of this disaster and Hurricane Rita [throughout Louisiana, Texas, Mississippi and Alabama] still await direct federal assistance.

They are not getting much direct Federal assistance because the assistance has gone to FEMA. FEMA is not resourced, organized or prepared to handle it, so people are not getting the money.

So, instead of doing something before we leave to actually get the money to people it could help, we may do nothing.

In order to provide immediate relief to millions of Americans, I am suggesting that part of the FEMA money be reallocated. There is $43 billion tonight—we checked today—of the $61 billion or so we have appropriated. There is about $43 billion sitting there, $43 billion the taxpayers have already appropriated, we have already voted for, sitting there.

Some of us are suggesting that we take a few billion of that $43 billion that is sitting there doing nothing and do something important with it, such as send signals to Mississippi, Louisiana, and Alabama that they could be reimbursed for their hospital and health care expenses for the 2 million people who have been displaced from their homes, from their neighborhoods, from their church communities, so there would be no question that they could get that reimbursement and States could begin planning how to provide critical health needs.

The Senator from Tennessee said that everyone will be getting health benefits. If you are a middle-income family and had private health insurance with your employer, and your employer went out of business, you don't continue with that health care unless we pass all or part of the Baucus-Grassley bill that provides a way for that health care to be continued.

The Senator says you can get health care. Yes, you could go stand in line in an emergency room and wait for a day, 2 or 3 days. The lines were long before Katrina, and after Katrina and Rita, I had a mother tell me she waited 2 days with her child with cerebral palsy in her arms—for 2 days trying to get health care.

Unfortunately, many people go to the emergency room to get health care. But in this case, we have many people who don't usually get their health care from emergency rooms that need the Grassley-Baucus bill to be able to extend their private coverage at a reasonable and affordable rate until we can figure out a better way to keep them with health insurance, get them back in their jobs, get them back into homes, and decide how to do that.

That is why I sent a letter today saying I think we should act on the Emergency Health Care Relief Act—not 2 weeks from now, not a month from now, but right now. Take a few billion dollars and instead of letting it sit there doing nothing under the FEMA headline, take this money and use it for health care.

In addition, we have had 71,000 small businesses at a minimum—it could be more—71,000 small businesses, from restaurants to small manufacturing shops to high-tech businesses to agricultural-related businesses to art stores. I could go on and on and on. These are people who worked their whole lives to create a business for themselves and their children. They may employ three or four people. But it was a successful business. They were proud of their business. The business is gone.

Instead of Congress acting to help small business through the Small Business Administration, we have decided we want to give all the money to FEMA. If FEMA gives it to small businesses, fine; if they do not, OK with us. We are going home for 2 weeks.

So I sent the letter saying, Could we take some of that FEMA money—they have $43 billion—just $720 million of the FEMA money and give it to the Small Business Hurricane Relief and Reconstruction Act, sponsored not by Democrats but by the Republicans, by the chairman of the committee, the very able Senator from Maine, Senator SNOWE, who 2 weeks ago moved a bill out of her committee at the request of the Small Business Administration, and because of the need of small businesses in the gulf coast, moved a tight, comprehensive, direct package. But, no, we can't do that. We have to go home without helping our small businesses.

When I was on the committee the Small Business Administration testified. This was a week ago. They said 25,000 businesses had put in applications for aid and they had approved seven. That was last week.

I think that we should do anything we can do to give some money to the Small Business Administration, through already approved law—nothing new on the books—that they asked for, that the Republican chairman of the Senate committee said absolutely this is what we should do, with the ranking member, the Senator from Massachusetts, Senator KERRY, agreeing. It passed unanimously out of our committee. We have very liberal members of our committee, and very conservative members of our committee who passed this unanimously, but for some reason we can't do this before we leave because the House leadership and the administration don't think that this help for small business is an emergency.

I might want them to call some of the 71,000 small businesses that don't have their business any longer and ask them if they could wait another few weeks for no reason, just because we can't manage to get a bill that passed unanimously over here, for the White House or someone in the administration to say, you know, that would be a good idea. FEMA is not working so well. While we try to work on getting FEMA to work better, it would make sense to us to take $720 million of the $43 billion that FEMA has and get it to the small businesses to help.

Another part of this letter is $3.3 billion for immediate funding for elementary, secondary, and postsecondary relief for children. We go to school early in the South. Up here around Washington people do not go to school until after September. But down South, we all go back to school around the middle of August. In Louisiana and Mississippi and Alabama, kids that just finished with their new backpacks, got in their little uniforms, parents are excited, kids are excited, they had just started school the week before the hurricane.

Then, on August 29th, Katrina, a category 4 or 5 hurricane, with 165-mile-an-hour winds, slammed into the gulf coast and destroyed hundreds of schools—public, private, parochial.

The superintendents, in their self-reliant way, started making phone calls and saying 250,000 children need to go to school. So they start making all kinds of arrangements, principals and teachers, mothers and fathers without much money, having lost their home and in some cases their business, scrambling to find schools to put their kids in. Why? Because a smart, good educator from Louisiana, the superintendent, who is universally admired in our State, said to people 12 days after the storm, You might have lost everything, but if you still have your children, do me a favor. Get them in school because it will bring normalcy to them. It will calm them from this tragedy, and it will provide some order for your family.

Wealthy people had many options. Middle-income people had fewer options, but they kind of made it work. The poor have struggled with this issue.

Our States have said it has been a month. We know there are 250,000 children, just elementary and school-age kids, that are enrolled in other schools, strange schools. Children have been doing beautifully though, showing up to a brand new school, sometimes without any of their friends with them.

I have been through the shelters. I have seen the children leave. I have seen them come back. They are doing a great job.

The only people not doing very well are the Members of Congress on the House side and the administration that can't seem to find $3 billion to let the States know that those children's tuition will be paid for. Maybe public schools can survive this. Maybe public schools just know: I am a public school and I know I am going to get our money. But what about the parochial schools?

Let me also remind you that these schools are employers. They employ teachers and support staff. Maybe they can wait until January, but since the administration has said we want to give help—$4,000 a child or up to $7,500 per child to make sure the States of Mississippi, Louisiana, Alabama, and Texas are whole—we should allow the schools that have taken in these children to be compensated at some great expense to the schools that were already full.

Let's take the State of Arkansas. They took 75,000 people; maybe they have 25,000 children or maybe only 20,000 children. Those children have gone to schools in Arkansas. They have taken them in. Those schools have not received one penny for those children and are not quite sure if they will. They have taken them in anyway, though. The parents do not know if their children are going to be paid for or if they will have to pick up a second tuition. Some of them have already paid tuition for the school they were in before the hurricane hit.

I am wondering, why is this complicated? The administration has said they are for it. LAMAR ALEXANDER, Senator KENNEDY, two Republicans, and a Democrat have pretty much agreed on how to do this. It only costs $3 billion. Again, we would just as soon take it from FEMA since they are not doing very well with the money we have given them. It wouldn't cost us anything and we would get that done for our States, something positive and concrete. But, no, we have to go home.

The fourth thing in the letter we sent today was to see if we could get some direct funding, $1.5 billion we say here, for just 3 months, it would just cover about 3 months of basic payroll for sheriff departments, for police, for fire fighters in the cities and counties and parishes that were the hardest hit.

Today, in the city of New Orleans—and this is a picture of one neighborhood—the headline in our hometown newspaper is that the city is to lay off 3,000 city employees. When a city has been destroyed, as this picture indicates, and people in your city look like this picture, which can be seen all over south Louisiana—this is what most homes in the southern part of Mississippi and throughout south Louisiana look like. Whatever town, county, or city she lives in, you can obviously tell she will not be paying any sales tax. If you could see a broader picture, there are no stores standing where, if she could get up and walk, she could buy something and pay sales tax. Obviously, she will not be paying any ad valorem tax on this house.

Counties and parishes all over south Louisiana made their payrolls in August. They made their first payroll in September. They made their second payroll the end of September. They have no revenues coming in. They come here and ask for $1.5 billion and are told: Why don't you go back and tighten your numbers a little bit. Why don't you go back and just see if there is any way this lady could pay a little tax. I have never seen or heard anything like this in my life.

FEMA has $43 billion unallocated. Throughout the entire region, they have no sales tax to operate, no property tax to operate, and are getting ready to declare bankruptcy. And Congress says, they have to tighten their numbers. If we give them the money in New Orleans, if we give the money to them under current law, we have to pay it back.

How is New Orleans or Waveland or anyplace that looks like this, how are they going to pay any money back? If we do not get this law changed before we leave, the only money New Orleans could get under the current law, which is why we keep saying FEMA is not working—under the current law a city or county can get a maximum of $5 million by loan, which they have to pay back.

Do you know how much the annual operating monthly payroll is for the city of New Orleans? It is $40 million. How would the $5 million help the city of New Orleans to stay in business when in 1 month they spend $40 million just on operating expenses for the city that looks like this? I come and ask for $40 million for 1 month and get told it is too much to ask for? Don't ask for too much, Senator.

OK, well, we will ask for just 3 months of operating expenses for some of these communities. I suggest if you are giving tax credits to get people to come back, you might need a city they can come back to, or a county they can come back to that is actually operating. I don't know too many businesses that want to operate in a place with no police protection, no fire protection, no sewer, no water, and limited utility maintenance for electricity because the city is shut down. Maybe there is a community like that somewhere in the world or in America, but I don't know of one. Even people who live in rural areas—and I have been out to Montana, Idaho, and beautiful places in the West where you never see anyone—have a beautiful ranch in the middle of nowhere, and there is a fire department that would come if their ranch caught on fire.

We have cities and communities on the gulf coast that are letting their police and their firemen go, and we are sitting around passing tax credits.

I am sure this woman could use some of the tax credits we have passed. I have not figured out exactly which one, but I will work on that tomorrow, something she might particularly benefit from.

I have sheriff's departments, cities, counties, and parishes that do not know how they will make payroll. FEMA has $43 billion, and I cannot get $1.5 billion to help them stay in business. Anything we might do in December could actually work.

I don't know how to express any more the tragedy and the magnitude of this disaster. I hope perhaps some people listening would pick up the special edition of National Geographic, "Why It Became a Man-made Disaster. Where It Could Happen Next." The pictures are hard to look at. The text is even more difficult to read—not because the words are large but because it makes you so sick when you read it because it was avoidable.

This was all avoidable, but there were many failures along the way at the national level, at the State level, at the local level. I hope we can learn from what we did so people do not think: Well, the Senator from Louisiana is just talking about the people from Louisiana.

Let me read you the last page, which is why I am spending time on the floor, why I am going to stay on this floor, why I am going to push this issue, so we get something for the people of Louisiana and the gulf coast before we leave, something for their health care or something for their education or something for their small business or something for their police and fire departments, something for their operating budgets, so we can have something to work with when we get back.

But the reason I am also pressing it is because I know, as sure as I am standing here, there is going to be another disaster. If we do not fix FEMA, if we do not fix some of these systems and set a precedent—not a precedent because it is already in the law; but actually act on what the law already says, which is all we are asking, not anything new; but we are setting a precedent by acting on what the Federal Government already has—it is going to happen to someone else. And I am likely to tell you now who that someone else is going to be.

The next Katrina? According to NOAA—which is the National Oceanic and Atmospheric Administration—meteorologist Joe Golden, the five places in the United States at greatest risk for a calamitous hurricane are Tampa Bay, FL—heads up, Senators from Florida—Mobile, AL—heads up, delegation from Alabama—Houston, TX—heads up to the Texas delegation—New York City and Long Island, NY, and Miami, FL.

This is a picture of the likely areas of threat in the dark color on this map in the National Geographic article. So not only do we have to get this right for the gulf coast, which has been hit hard and knocked down—but not knocked out—we have to fix this so it does not happen again, and if it does, the people of Florida do not have to suffer the way the people of Louisiana and Mississippi have had to suffer; so the people of New York would not have to go through what we went through.

But I do not know if I have hope about that because also in National Geographic they remind us of something that I knew of as a kid. Everybody in Louisiana knows about it. It was Hurricane Betsy—the largest natural disaster in the history of the country. There is a hurricane that all the oldtimers know about that hit in 1965. Hurricane Betsy. It flooded a great area of the metropolitan area, Plaquemines Parish, Saint Bernard Parish, and the Lower Nine, which was also terribly affected by Katrina.

As a result of Betsy, the Federal Government did the same thing. President Lyndon Johnson came down at the request actually of Senator Russell Long from Louisiana who said: Please come, see what has happened, and help us.

President Johnson, I am proud to say, came down and seemed to do more than we are doing now. I have a memo I am going to submit for the RECORD that he himself wrote—that I got from the Lyndon Baines Johnson Library today—upon his return, as he indicated to Congress what needed to be done. Maybe this would inspire us to do more.

Anyway, that hurricane occurred. We set out to build a levee system, a bold, aggressive plan for a levee system. But somewhere along the way that plan fell by the wayside. Congress got distracted. Other priorities came up. Even though our delegation, decade after decade, Republican and Democrat, pleaded, begged, and used our own political chits to add money to the executive budget every year for levees and flood protection and important dredging projects, it was never a promise that was fulfilled.

So we find ourselves, 40 years after Betsy, having basically a collapse of a levee system. I would like to be optimistic, but I am not sure I can be, because in 1927 the great flood before Betsy did the same thing. The picture I have in the Chamber is eerily the same, except there is no overpass. This first picture was taken in 1927. This other one was taken in 2005. You would think that a sophisticated country such as ours—sophisticated governments such as ours—would understand that every now and then you have to make smart investments and smart decisions about levee protection and about growth.

So I am hoping, since we had this once in 1927, we flooded again in the 1960s, and now in 2005, we could learn some lessons about how to prevent this because it is preventable. We are not the only people in the world who live below sea level. There are examples all over the Earth of people who have to live close to the water for trade and commerce purposes who have managed to discipline themselves, restrain themselves, wisely spend their money, and invest it in the protections that their homeowners and their businesses and their people need to have a long and prosperous and safe existence.

But we did not learn it in 1927 sufficiently. We did not learn it in 1965. And I am hoping today we can learn it in 2005.

Before we build the levee system, though, we have to face the immediate issues, which is why we sent this letter to the leadership, why I have said: Let's not go home until we take some money from FEMA, which has $43 billion and is not spending it very well. And everyone agrees with that. There is not a person in Congress now who is defending the way FEMA is distributing this money. It is not because they do not have some good people at FEMA. I have met many of them. They are caring and compassionate individuals.

But FEMA is not organized to manage this crisis, and they are the agency that should be coordinating it. They are not resourced. They are not staffed. They are not organized because they were put in the Department of Homeland Security, stripped of much of their independence. Their budget was slashed. Most of the people who knew how to run disasters either left or were asked to leave. So they have a group of people who are not as experienced, not as well organized, and not prepared.

As a result, our people in Louisiana, Mississippi, and Alabama are suffering. So instead of complaining more about it, which we have done ad nauseam almost for 31 days, we said: OK, let's move on here. Let's take some of the money that is not being used and direct it immediately to things that would really make a difference in people's lives and, most importantly, would send a positive signal that help is on the way.

So I do not know why we are not able to do this, which is why I have called up this bill, the Grassley-Baucus bill, why I am going to push and insist and use all the power I have as a Senator from this State of Louisiana, with anyone else, Republican or Democrat, who will help to try to get this message to the White House, to the House leadership: Please do not abandon the people of Louisiana again, and the people of Mississippi again, and the people of Alabama again by leaving before we do something to help them in a direct and concrete manner.

Now, there have been a lot of press releases issued. I will submit those for the RECORD. There are lots of messages that people give out, that people are asked to say—things like: The President has called on all Americans to help those in need; the President has asked for this; So and so has asked for this; please tell people they are not alone.

We have programs such as the opportunity zones, urban homesteading. I think there is some merit in some of this that has been proposed. I am not opposed to exploring options for anything to encourage home ownership. But right now our State, the city of New Orleans, cannot keep people on the payroll. If we do not do something immediately to give money to our local governments, to sheriffs, to first responders, for firefighters, I do not know how anything else we do is going to matter because there will not be a city to do it in, or there will not be a county that is functioning when the schools manage to get rebuilt, when any businesses decide to take advantage of the tax credits we have given them to open, there will not be a city to move into.

We are trying to get some of our neighborhoods back in New Orleans, and the mayor and Federal officials and the Governor and the council have been working through a complicated plan that is not universally supported. But I can understand why we have to go neighborhood by neighborhood, because some neighborhoods are totally uninhabitable. You want to bring some life to the city, but what is the use of moving people back into Algiers, which is where we want to move them on the west bank, or back into the CBD, if the mayor has to let 3,000 people off this week and 3,000 people off next week? Who would the people in the central business district call when they need a permit?

I don't think this is too complicated. It is time for us to act. We have passed some tax credits in a bipartisan fashion, $6 billion in tax credits to help people with casualty loss, to let people take some money out of their IRA tax free, to tell the IRS, don't collect any taxes for people. If anybody owes you money or if people are late or don't expect any quarterly reports, that has all been helpful. We have given a $2,400 credit to employers. One thing we can do in this Congress is pass tax cuts. We have become very good at passing tax cuts. We are appreciative of these tax cuts, $6 billion. But I can tell you that our State needs $9 billion. Maybe we could live with $6 billion if we eliminate some things that we need. Perhaps we could wait for a couple of months to get this emergency health care relief act.

We need the $720 million for small business relief already passed in a bipartisan way. We need money for our elementary and secondary schools. And most importantly, we need money for our community disaster loans and for several hospitals in the region. When the whole community was collapsing, when certain hospitals had to evacuate, these three hospitals in the metropolitan area—West Jefferson, East Jefferson, and Oschner, two public hospitals and one private hospital—stayed open the whole time, never closed their doors, even with water rising and windows out and all sorts of disaster and difficulty. Because of their sheer determination to do so, they stayed open. As a result, Oschner can't qualify for insurance because they never closed their doors. But if we don't give them some immediate help, this well-respected institution may not be able to keep their doors open. They are one of the largest employers, most respected institutions. What are we going to do, say, sorry, come back in a month? They may not be here in a month.

We don't even have on this list our universities. The University of New Orleans, Southern University, Dillard University, Xavier University, Tulane University, Loyola University, and our largest community college, Delgado, which had five feet of water around it. These are not only the brainpower that is going to help us rebuild a city greater and better, higher and stronger and smarter, these are employers who employ thousands of the professionals who make up the heart of our region. We don't even have them on the list. They were on the front page of the New York Times, on CNN last night, saying: Does anybody know we are out here? We are not able to make payroll.

Why wouldn't they be able to make payroll? They have no students in their university. So what does the president of the university tell his faculty: Go to Atlanta and come back in 2 years? And if Xavier is not functioning, and Dillard is not functioning, and the University of New Orleans is not up and operating, and Tulane can't get completely back up, and Loyola, who do the small businesses we are trying to give tax credits to, who do they sell their products to if there are no large businesses that have survived?

Let me talk about one other employer, the Catholic Church. There are people in this Congress who have this idea that in a storm such as this or in a hurricane or disaster, let's have faith-based initiatives. Churches do beautiful work. The synagogues do beautiful work. People of faith have done so many things that I want to say thank you to everyone who has helped in every way. But in my city, as a Catholic city predominantly, the Catholic Church not only runs schools and senior centers and feeding centers and homeless shelters, they don't think of themselves as a business. They think of themselves as a ministry. They, in fact, are one of the largest employers in our region and have been since before the Government actually existed in the way we know it today. In other words, the Ursuline nuns, the nuns of the Holy Sisters, the Sisters of the Poor, the Jesuits came to the city before we even had an American Government and helped to stand the city up. That is how long they have been there. They have helped decade after decade, through the Revolutionary War, the Battle of New Orleans, the Civil War, through every tragedy, the nuns, the priests, the teachers have been there.

Now their schools are ruined. Their hospitals are ruined. They come to ask the Government for some help. We act like, go ask a faith-based institution. They are a faith-based institution. Whom should they go ask? They have to let off maybe 1,500 people. Why would we want our largest employer to let go people so these people who are trained in the ministry, who deliver services, who are the social workers of the city, the psychologists of the city, the counsellors of the city, the teachers of the city could go to Atlanta or Houston or Michigan or Dallas and come back in a couple years? We need them to stay there and help us build the city and community.

I am sure that is true in Waveland. I am sure it is true in Pass Christian. I am sure it is true throughout the gulf coast of Mississippi. Instead we get: Go ask a faith-based institution for help. Go ask a church. They are the church. They can't even save their own employees so how are they going to help everyone else? I don't know what has happened to us as a country. It makes me frightened to think about how far we have come as a nation that we don't understand the role of the Federal Government at a time such as this, that we are so focused on tax cuts, on other priorities, that when hard-working Americans, hard-working American citizens, who have done nothing but work hard all their lives to build some equity, to get to a place not of luxury but of peace and comfort, lose everything in the blink of an eye, we have to come up here to the Federal Government and beg on their behalf, instead of the Federal Government saying: This is why we are here. That is what being part of a nation is all about. If one State is hurting, the other 49 can lift them up. Or if two States are hurting, the other 48 can lift them up.

Instead, we have to listen to editorial after editorial saying: Why can't Louisiana be more self-reliant? The State needs to demonstrate self-reliance.

The Budget Director of Louisiana reported to our legislature that their revenues will be short $1 billion out of a budget of approximately $14 billion. But the State needs to be self-reliant; the people in Louisiana are not self-reliant.

I want to show a picture of a woman who I think is self-reliant. She is not on a wagon train out West, but this is what I think about self-reliance. She has her baby in her arms. She is doing the best she can in a very tough situation. I want to show some other pictures of self-reliance.

This is a woman for whom no one came. She probably has no car, but she has the two babies that she can carry, and I am sure if she had a third, she would have managed to put a third one in her arms and wade through 5 feet of water to try to get these children to safety. This is what Senator LANDRIEU thinks is being self-reliant.

There is another picture in this magazine of some people in a boat. There is a picture in this magazine of about 10 people in a boat. The boat does not have the Coast Guard emblem—and let me thank the Coast Guard. They saved 32,000 people in the course of 3 and 4 days; 32,000 the Coast Guard alone saved out of houses, off porches, off roofs. That is not counting the thousands of people who were saved by Wildlife and Fisheries.

But there is a picture in this magazine of a boat that looks like it is sort of a blown-up boat with about 12 people in it. There are no paddles. So the people in the boat found some wood floating in the water and picked up the wood and started paddling.

This is the picture. I hope the cameras can see it. They are going to have to really blow it up, but here it is. It is not very large. But this is what the Senator from Louisiana thinks is being self-reliant. People found something that floated, put themselves and their children in it, found some old wood, and started paddling to safety. And I have to listen to news people saying that our people are not self-reliant?

I will not apologize for asking for help on behalf of the 4.5 million people who live in my State—Black and White, Hispanic and Asian—who have been devastated by this storm, 2 million of whom have lost their homes and their neighborhoods. Most of them have never asked the Government for one thing, have never been on one program, and they come here to ask for a little bit of help and they are told: You need to be more self-reliant. How much more self-reliant can people be other than to raise their children, send them to school, balance their budget, pay for their house, pay their bills on time, and serve in the military? How much more self-reliant can they be?

I thought and I think they thought they lived in a nation that when something such as this happened that was unexpected and not their fault, somebody would be there to help them. All we have is photo ops, message boards, and press releases. But when it comes down to actually passing some legislation with some money attached to it that could actually help someone, we cannot seem to find the will to do it, despite the fact that what we are asking for we can take from the FEMA money and not add anytning. Republicans and Democrats have come together almost unanimously in support of these, but yet we are going to go home without doing anything.

Mr. President, I hope I have made my point. I will be back in the morning to talk about some other aspects of this recovery. Again, to be perfectly clear, FEMA has been given $51 billion. There is $43 billion, as of yesterday, that is unallocated. Everyone agrees that FEMA is not what it used to be, that it is not working very well. For whatever reason and for whose ever fault that might be, we cannot fix that overnight. So I am asking to take a few billion of that money that is just sitting there and allocate it to programs already established, that are already working, that are desperately needed, that have been agreed to by Republicans and Democrats alike before we leave so we can give hope to people.

I am going to stand here on this floor all day tomorrow and use every pressure point I can to see that some agreement can be reached to do something before we leave and when we come back, to agree to up-or-down votes on some critical bills on which we need action now. We don't get action on them, anything we do in January or February or March or April, in large measure, will be for nought because the counties, cities, parishes, police departments, and fire departments that we are trying to help may not make it that long. Without them, it is very hard, if not impossible, to build our communities and build our cities.

In conclusion, people want to come home. Some people may not be able to. But as a Senator from Louisiana, I want people to know from our State that everyone is welcome home. All people are welcome, and we want everyone back. We are doing the very best we can to try to provide and prioritize what we need to do first, second, and third in order to get people back and get our communities started again.

Not only is New Orleans a great city, but the region is pretty spectacular and special. The whole gulf coast is a place that when you grow up in New Orleans, you know about Waveland, Pass Christian, places that are very special to people along that gulf coast. Generation after generation of families have vacationed together and lived together and worshipped together and gone to school together, and it is gone.

We would like the help of this Nation to build it back higher, stronger, and better. We don't want to waste a penny, but we need this help now.

Let us act when we come back early in the morning to get some of this done and to work with our colleagues to see that we can get help to the people who are desperately in need of help.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 11:33 p.m., adjourned until Thursday, October 6, 2005, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 6, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 7

9:30 a.m.
Joint Economic Committee
To hold hearings to examine the employment situation for September.
1334 LHOB

10 a.m.
Homeland Security and Governmental Affairs
Business meeting to consider the nomination of Julie L. Myers, of Kansas, to be an Assistant Secretary of Homeland Security, and an original bill to repeal the increased micro-purchase threshold.
SD–342

OCTOBER 18

9:30 a.m.
Judiciary
To hold hearings to examine comprehensive immigration reform II.
SD–226

9:50 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

2:30 p.m.
Judiciary
To hold hearings to examine pending judicial nominations.
SD–226

3 p.m.
Energy and Natural Resources
To hold hearings to examine national capacity for producing innovation in energy technologies and the importance of this innovation to our global economic competitiveness, including the results of a related forthcoming National Academy of Sciences report.
SD–366

OCTOBER 19

9:30 a.m.
Indian Affairs
Business meeting to consider S. 1057, to amend the Indian Health Care Improvement Act to revise and extend that Act.
SR–485

Judiciary
To hold hearings to examine issues and implications regarding reporters' privilege legislation.
SD–226

10 a.m.
Health, Education, Labor, and Pensions
Bioterrorism and Public Health Preparedness Subcommittee
To hold hearings to examine biosurveillance.
SD–430

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2 p.m.
Health, Education, Labor, and Pensions
Employment and Workplace Safety Subcommittee
To hold hearings to examine national guard and employers.
SD–430

OCTOBER 20

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Federal employment programs for persons with disabilities.
SD–430

Indian Affairs
To hold hearings to examine Indian water rights settlement policy effects on the Duck Valley Reservation proposed settlement agreement.
SR–485

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine USDA Farm Service Agency Office consolidation plan known as FSA Tomorrow.
SR–328A

OCTOBER 26

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine In Re Tribal Lobbying Matters, Et Al.
Room to be announced

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES—*Thursday, October 6, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PENCE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 6, 2005.

I hereby appoint the Honorable MIKE PENCE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend David Kassos, Pastor, First United Methodist Church, Prescott, Arkansas, offered the following prayer:

Heavenly Creator, we thank thee for the grace You provide us this day.

Give us Your wisdom so our minds will reflect Your thoughts.

Give us Your righteousness so our motivations will reflect Your heart.

Empower us so our actions will reflect Your will on Earth.

Give a special blessing to our families whose love and support strengthen us to faithfully represent our people. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. POE) come forward and lead the House in the Pledge of Allegiance.

Mr. POE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 392. An act to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 1197. An act to reauthorize the Violence Against Women Act of 1994.

The message also announced that pursuant to Public Law 106–398, as amended by Public Law 108–7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106–398, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Democratic Leader, in consultation with the chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, reappoints the following individuals to the United States-China Economic Security and Review Commission:

C. Richard D'Amato of Maryland for a term beginning January 1, 2006 and expiring December 31, 2007.

William A. Reinsch of Maryland for a term beginning January 1, 2006 and expiring December 31, 2007.

WELCOMING THE REVEREND DAVID KASSOS

(Mr. ROSS asked and was given permission to address the House for 1 minute.)

Mr. ROSS. Mr. Speaker, it is with great pride that I welcome my hometown pastor from the First United Methodist Church in Prescott, Arkansas to the United States House of Representatives, the Reverend David Kassos, and his wife, Donna.

Each and every week I travel to our Nation's capital to represent the people of Arkansas's Fourth Congressional District and this great country. Each and every weekend I travel home to Prescott, a small town of about 3,600 people, and worship with my family at the Methodist church I have called home for much of my life.

It is this church, where my father grew up and where my children are being raised, that keeps me grounded and instills in me the small town values I was raised on and still believe in. It is the lessons that I learn from this church that help guide me in the decisions I make in the United States Congress. My faith is profoundly important to me, and Reverend Kassos is not only my spiritual advisor, he is my friend and he is my fishing buddy. It is a tremendous honor to have him serve as our chaplain today in the United States House of Representatives.

BORDER CRIME

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, in the Mexican border town of Nuevo Laredo, across the border from Laredo, Texas, crime has skyrocketed as disciplined drug cartels have turned up their battle for total territory control over this chief entry point into the U.S. Our open border policy encourages drug dealers to lead organized efforts to infiltrate the United States in their fighting over this territory.

So far this year more than 135 people have died, seven police officers have been killed and 44 American citizens have been kidnapped in this treacherous town. Mr. Speaker, I have a recent newspaper article from Nuevo Laredo that shows a police officer, a policewoman, that was set on fire in the streets of Nuevo Laredo trying to enforce the law. The reason that there is chaos, Mr. Speaker, is because these drug cartels are trying to come into the United States. They are fighting over territory. Because the United States basically has no policy in protecting our borders, there is chaos on the border.

Mr. Speaker, the border is a perilous place. How many more people have to die? How many more Americans have to be kidnapped in this border town before we protect our borders?

HURRICANE KATRINA FUNDING

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, why is Hurricane Katrina funding being treated differently than all other emergency funding? And why is this body proposing that the poor, elderly and children be made to pay for it while the corporations rake in the money and the wealthy in this country continue to get tax cuts?

And why is it that the temporary expansion of Medicaid, unemployment and Temporary Assistance to Needy Families—the very kinds of programs that need to be provided in this emergency—are being blocked?

There is something very wrong with this picture and we need to change it. There are no offsets for rebuilding Afghanistan and Iraq. There should be none for our fellow Americans.

My colleagues, Congress needs to pass the Grassley-Bacchus bill to provide the lifeline to those who Katrina left devastated and homeless. We must stop the madness of proposed cuts to entitlement programs. We cannot continue to talk about Medicaid cuts in the next 2 years.

And it is time that the rich share some of this country's burden for a change. The tax cuts cannot be made permanent.

My colleagues, the world is watching. More importantly, God is watching. Let us do the right thing for the people of the gulf region, for all Americans, and for our country.

MATT SMITH

(Mr. NEY asked and was given permission to address the House for 1 minute.)

Mr. NEY. Mr. Speaker, I rise today to commemorate the services of a great American, Matt Smith.

Matt Smith was enlisted in the Special Forces out of Fort Campbell, Kentucky and served in Iraq in February of 2003. While there, Matt Smith was struck by six bullets which left the left side of his body paralyzed. Remarkably, he suffered no cognitive damage and is beginning the process of his physical recovery.

Matt Smith has since been awarded a Purple Heart, a Meritorious Service Award, Global War on Terrorism Medal, a National Defense Service Medal, and an Army Achievement Medal, to name a few.

Mr. Speaker, Matt Smith represents some of the best that Ohio and America have to offer. I want to honor him for his upstanding citizenship and for the love he has for his township and his home of Morgan County, Ohio.

EQUIPPING OUR TROOPS

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of New York. Mr. Speaker, "payback" has more than one meaning for our troops. For dozens, perhaps hundreds, of their families, it referred to a glaring oversight by the Pentagon that led to grave disappointment, dismay and continuing frustration.

Until the Pentagon finally issued regulations yesterday, 1 year after Congress imposed its deadlines, many troops and their families were not reimbursed for their body armor, combat helmets and protective gear. We ask our troops to risk life and limb to defend us, and yet, unconscionably, we made their families pick up the tab.

With their lives on the line, our troops cannot afford to focus on the mission with distractions and worries about family debts incurred to help America's war effort. We have spent over $200 billion in taxpayer funds to carry out the war in Iraq.

The first priority for this money should be supplying our troops with protective gear they need to survive combat. I commend the Senate for voting last night to shift control of this money directly to unit commanders in the field.

Mr. Speaker, I urge my colleagues to measure up to the valor and sacrifices of our troops by expanding these rules to also cover rifle scopes, additional radios and more armor for Humvees before we approve another dime in yet another supplemental funding bill.

FEDERAL RESOURCES OUGHT TO BE FOCUSED ON THOSE THAT NEED IT MOST

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, as Congress considers how to provide Federal assistance to these victims of these hurricanes, it is critical that we make sure resources are focused on helping the poor and the needy rather than subsidizing certain self-sustaining industries like the gambling industry.

The vast majority of the casinos on the gulf coast are owned and operated by entertainment companies that have been and are likely to continue record profits. Most gambling conglomerates have been named to the Fortune list of 100 fastest-growing companies for the fifth consecutive year. These conglomerates have vowed to rebuild bigger and better along the coast.

With budget deficits growing to historic levels, we need to make sure that tax dollars for hurricane relief are going to those who truly need the government's help and not the gambling industry. The truth of the matter is, as Congress struggles to rein in the growth of mandatory spending, it just does not make any sense to give tax breaks to casinos.

Mr. Speaker, I hope and trust that Congress will do the right thing and make sure our Federal resources go to the poor, the needy, the vulnerable and not the big gambling interests to rebuild the casinos.

VOTE AGAINST THE GAS BILL

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, Republicans in Congress lost no time in turning the tragedy of Hurricane Katrina into an opportunity to enrich their friends in the oil industry at the expense of the American people. The Gasoline for America's Security Act of 2005 should be called the Second Energy Special Interest Act of 2005.

Energy companies got $12.8 billion in subsidies and tax breaks just 2 months ago. Now, Republicans are giving them a bill filled with the measures that were too objectionable to go in the first time around. This bill is a polluter-friendly giveaway that has nothing to do with helping hurricane victims or securing America's energy needs.

Not only does this bill do nothing for Americans facing soaring gas or home heating prices, it guts clean air protections and undermines the Environmental Protection Agency. Only the profit-soaked oil and gas companies win with this bill. Everyone else is stuck paying higher energy prices in the short run and the incalculable long-term costs that will result from compromising our environment and failing to achieve energy independence.

CELEBRATING THE SERVICE OF GENERAL RICHARD MYERS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, throughout the past 4 years General Richard Myers has served our Nation with distinction and honor. While serving as the 15th Chairman of the Joint Chiefs of Staff, he has overseen some of the most challenging times in our Nation's history. After leading our troops to conquer terrorists in Afghanistan and to liberate the nation of Iraq, his tenure has been marked with great accomplishments in the global war on terrorism. American families are safer because of his service.

Last week, President Bush described General Myers as a kind and humble man who believes in serving a cause greater than himself. As a member of the National Guard during his term and a father of three sons currently serving in the military, I have had the unique opportunity to personally witness General Myers' commitment to promoting freedom. I am very grateful for his service and his sincere dedication to our troops and the American people. As he begins the next phase of his life, I am honored to congratulate him for a job well done.

In conclusion, God bless our troops and we will never forget September 11.

RESTORING NEW ORLEANS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, the tragedy that was Hurricane Katrina is also an unprecedented opportunity for us to help those damaged areas in a thoughtful, comprehensive fashion. A small example is the St. Charles street car. The oldest street car line in America, located in New Orleans, dates back to 1834, when it was a horse-drawn street car. It is not just a historic landmark championed by former Representative Lindy Boggs, but this is something that could be the center of a revitalized New Orleans. For a relatively modest amount of money, it could quickly guide and inspire new investments throughout New Orleans in a way that would be an example of a cost-effective, well-planned vision for the future.

I urge my colleagues to join in an effort to support a vision of New Orleans that deals with its history, thoughtful planning, and careful economic development: Restore and expand the historic St. Charles Street street cars.

RECOGNIZING HAROLD CHAPPELL

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, this Saturday marks the beginning of the National Fallen Firefighters Memorial Weekend, a time dedicated to honoring those who paid the ultimate sacrifice while in the line of duty.

☐ 1015

Over the weekend, thousands of Americans will gather to remember America's bravest heroes and support their families. On this occasion, I rise to honor the life of one such hero, Volunteer Firefighter Harold Dean Chappell of Jonesville, North Carolina.

As a member of Arlington Fire and Rescue, Firefighter Chappell centered his life around serving his community and was always willing to help neighbors, friends and strangers. Tragically, in July 2004, Jonesville lost one of its finest citizens as Firefighter Chappell passed away from complications he sustained after responding to a motor vehicle fire.

Firefighter Chappell was a wonderful man. He was a public servant his entire life. He was also a loving father and husband. According to his son Larry, "If you needed something, you could call him, and he would be right there to help you. He will be thought of forever as a well-known family man and one who was known by many. May he rest in peace and watch over us all."

Mr. Speaker, may we all honor Firefighter Chappell and his family and the hundreds of first responders who watch over us every day.

PRAISE FOR PRESIDENT'S CALL FOR BUDGET CUTS

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, on Tuesday, President Bush laid out a bold vision for answering the aftermath of Hurricane Katrina with generosity and fiscal discipline, saying as he did in the Rose Garden, "We here in Washington have got a vital role to play in the recovery and reconstruction efforts on the gulf coast." The President said, "I've made that clear." He went on to say, "I've also made it clear we must do it in a fiscally responsible way. Congress needs to pay for as much of the hurricane relief as possible by cutting spending." The President added, "I'll work with Members of Congress to identify offsets to free up money for the reconstruction efforts," and closed with the statement, "The heart of America is big enough to be generous and responsible at the same time."

Mr. Speaker, I agree. Let us heed the President's call for fiscal discipline and generosity. It is accurate to state that the President's call for reducing spending and finding offsets is of incalculable value to those of us fighting to respond to the needs of this disaster without raising taxes or adding to the national debt. Let us heed the President's call. Let us make the tough choices. Let us pay for the cost of Katrina by reducing the size and scope of government.

MEDICARE PRESCRIPTION DRUG REFORM

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, over our recent break, I visited with various groups of seniors in my district, and we provided information and education about the biggest change to Medicare in the 40-year history of the program.

Beginning this January, for the first time, prescription drugs will be covered under Medicare, and over 40 million senior Americans will have the opportunity to receive their needed medications through a new program designed to assist them with payment. This is an exciting and hopeful time for these citizens.

As a physician, I understand the importance of providing appropriate medications and the imperative of preserving the physician-patient relationship and being certain that decisions about which medications are needed be made by patients and their doctors, not decisions made by Washington bureaucrats.

This new program holds great promise but also has potential difficulties. I urge my colleagues to assist in educating all seniors about the upcoming Medicare reforms. Their familiarity and knowledge about these changes are imperative if we are to have a successful program, one that follows the medical model of first doing no harm.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. ADERHOLT) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 4, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on October 4, 2005, at 3:40 p.m. and said to contain a message from the President whereby he submits a report consistent with section 7422(c)(2) of title 10, United States Code on the continued production of the Naval Petroleum Reserves beyond April 5, 2006.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

CONTINUED PRODUCTION OF NAVAL PETROLEUM RESERVES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–59)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

Consistent with section 7422(c)(2) of title 10, United States Code, I am informing you of my decision to extend the period of production of the Naval Petroleum Reserves for a period of 3 years from April 5, 2006, the expiration date of the currently authorized period of production.

Attached is a copy of the report prepared by my Administration investigating the necessity of continued production of the reserves consistent with section 7422(c)(2)(B) of title 10. In light of the findings contained in the report, I certify that continued production from the Naval Petroleum Reserves is in the national interest.

GEORGE W. BUSH.
THE WHITE HOUSE, *October 4, 2005.*

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO UNITED STATES MILITARY ACADEMY

The Speaker pro tempore. Pursuant to 10 U.S.C. 4355(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Military Academy:

Mr. HINCHEY, New York
Mrs. TAUSCHER, California

APPOINTMENT OF MEMBERS TO UNITED STATES HOLOCAUST MEMORIAL COUNCIL

The SPEAKER pro tempore. Pursuant to 36 U.S.C. 2301, and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the United States Holocaust Memorial Council:

Mr. LANTOS, California
Mr. WAXMAN, California

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 22 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1401

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 2 o'clock and 1 minute p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

COLIN L. POWELL RESIDENTIAL PLAZA

Mr. MICA. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1413) to redesignate the Crowne Plaza in Kingston, Jamaica as the Colin L. Powell Residential Plaza.

The Clerk read as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF COLIN L. POWELL RESIDENTIAL PLAZA.

(a) DESIGNATION.—The Federal building in Kingston, Jamaica, formerly known as the Crowne Plaza and now a staff housing facility for the United States mission in Jamaica, shall be known and designated as the "Colin L. Powell Residential Plaza".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the Colin L. Powell Residential Plaza.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1413.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, S. 1413 was introduced by Senator LUGAR of Indiana and also Senator BIDEN of Delaware, and it designates the Federal building in Kingston, Jamaica, formerly known as the Crowne Plaza, which is now a staff housing facility, and it renames that facility for the United States mission in Jamaica as the Colin L. Powell Residential Plaza.

Colin Powell was born in New York City in 1937 to his parents, Luther and Maud Powell, who immigrated to the United States from Jamaica. He was educated in New York City public schools. He went on to graduate from the City College of New York with a degree in geology. He was also commissioned as an Army second lieutenant in 1958. He continued his education, gaining a master's of business administration from George Washington University.

Since that time, Colin Powell has served our great Nation as a professional soldier for some 35 years, during which time he was the recipient of numerous United States and foreign military awards and decorations and soon rose to the rank of a four-star general.

He went on to serve as the 12th Chairman of the Joint Chiefs of Staff, which is the highest military position in the Department of Defense. In his time as Chairman of the Joint Chiefs of Staff, he oversaw some 28 crises, including Operation Desert Storm and the victorious 1991 Persian Gulf war. His distinguished career was topped off when he was sworn in as the 65th Secretary of State of the United States in January of 2001.

There are other things to note about this distinguished American leader. Colin Powell is also a man dedicated to his family and to the youth of America. He is married to the former Alma Vivian Johnson of Birmingham, Alabama, and has three children as well as two grandchildren. Prior to his confirmation as Secretary of State, Colin Powell served as the chairman of America's Promise, which is The Alliance for Youth, a national nonprofit organization dedicated to building the character and also the competence of our young people.

It is my honor to bring this bill to the floor for myself, for the Transportation and Infrastructure Subcommittee, for the subcommittee chair, Mr. SHUSTER. This bill honors a dedicated American who spent his entire career serving the people of this great Nation.

I support this legislation, and I encourage my colleagues to do the same.

Madam Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Madam Speaker, I yield myself as much time as I may consume.

I stand in strong support of this legislation. It is certainly suitable that a Federal facility in Jamaica, where Colin Powell's parents were born, should be named after him. I would hope that this will be followed by, perhaps, something within the United States itself that commemorates his service to our Nation, which spanned decades, extraordinary service in the military and great service to this administration as Secretary of State during the first term of the Bush Presidency.

I would urge my colleagues to vote in favor of this legislation.

S. 1413 is a bill to designate a staff housing facility located in Kingston, Jamaica currently used by the State Department for state department employees as the Colin L. Powell Residential Plaza.

Colin Luther Powell was born in Harlem in 1937. His parents were Jamaican immigrants who stressed the importance of education and personal achievement. He grew up in the Bronx, and attended City College of New York to study geology. While at City College he joined the Reserve Officers Training Corps (ROTC). When he graduated in 1958 he was at the top of his ROTC class, with the rank of cadet colonel, the highest rank in the corps.

In 1962 he was sent to Vietnam for the first of his two tours of duty. In 1963 he was wounded and awarded the Purple Heart and the Bronze Star. During his second tour in Vietnam he was injured in a helicopter crash but managed to rescue his comrades for which he was awarded the Soldier's Medal. In all he has received 11 decorations including the Legion of Merit.

In 1986 Powell left Washington to serve as military commander in Frankfurt Germany. He was recalled to Washington by Frank Carlucci to serve as his deputy national security adviser. In 1991 as Chairman of the Joint Chiefs of Staff Powell became a national figure during the successful Desert Shield and Desert Storm operations.

In 2001 President Bush appointed Powell as Secretary of State, the first African American to hold this office.

Since his retirement in 2004 Colin Powell has written a best selling autobiography, My American Journey. He has pursued a career as a public speaker and has remained involved in his work with the Alliance for Youth.

By any measure Colin Powell is an extraordinary public servant. He is America's premier Soldier-Statesman. This designation is but a small gesture to honor his devotion to public service and his lifetime of dedication to the American public.

I support this bill and urge its passage.

Madam Speaker, I yield back the balance of my time.

Mr. MICA. Madam Speaker, I yield myself the balance of my time.

Today it is my honor and privilege to bring this legislation, which will recognize the leadership of an outstanding

American patriot, someone who serves as a role model for all Americans. I am very proud of Colin Powell and again of his service to our Nation. I urge the support of this bill.

Mr. OBERSTAR. Madam Speaker, I rise in strong support of S. 1413, a bill to designate a staff housing facility located in Kingston, Jamaica as the Colin L. Powell Residential Plaza. The facility currently houses Department of State employees.

Colin Luther Powell was born on April 5, 1937, in Harlem, New York. His parents, Jamaican immigrants to the United States, infused in their son a high work ethic and stressed the importance of education. He attended local public schools in the Bronx, and attended the City College of New York and studied geology. While at City College, Secretary Powell joined the Reserve Officers Training Corps (ROTC) and, by his own account, claimed he had found his calling. When he graduated in 1958 he was at the top of his ROTC class, with the rank of cadet colonel, the highest rank in the Corps.

Colin Powell served two tours of duty in Vietnam. During his first tour in 1963 he was wounded and awarded the Purple Heart and the Bronze Star. During his second tour in Vietnam between 1968 and 1969 he was injured in a helicopter crash but managed to rescue his comrades for which he was awarded the Soldier's Medal. In all, he has received 11 decorations including the Legion of Merit.

After the war, Secretary Powell attended George Washington University here in the District of Columbia earning an MBA. He was awarded a White House fellowship and was assigned to the Office of Management and Budget, where he worked for both Department of Defense Secretaries Caspar Weinberger and Frank Carlucci. Following his term as a White House fellow, Powell served in Korea. In 1976, he joined the Carter Administration as assistant to the Deputy Secretary of Defense. At the end of the Carter Administration, he assisted Secretary Carlucci during the transition to the Reagan Administration.

In 1986, Secretary Powell left Washington to serve as military commander in Frankfurt Germany. He was recalled to Washington by Frank Carlucci to serve as his deputy national security adviser. In 1991, as Chairman of the Joint Chiefs of Staff, Powell became a national figure during the successful Desert Shield and Desert Storm operations.

In 2001, President Bush appointed Powell as Secretary of State, the first African American to hold this office. As Secretary of State, he took a leading role in rallying America's allies and the United Nations in the war against terrorism.

Since his retirement in 2004, Colin Powell has written a best selling autobiography, My American Journey. He has pursued a career as a public speaker and has remained involved in his work with the Alliance for Youth.

Colin Powell is a true American success story. He is an incomparable public servant, a born leader, able administrator, and exceptional diplomat. He is America's premier Soldier-Statesman. It is fitting and proper that we honor the outstanding contributions of Colin Powell with this designation.

I support this bill and urge its passage.

Mr. MICA. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the Senate bill, S. 1413.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR EVENT TO COMMEMORATE 10TH ANNIVERSARY OF MILLION MAN MARCH

Mr. MICA. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 161) authorizing the use of the Capitol Grounds for an event to commemorate the 10th Anniversary of the Million Man March.

The Clerk read as follows:

H. CON. RES. 161

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR EVENT TO COMMEMORATE 10TH ANNIVERSARY OF MILLION MAN MARCH.

(a) IN GENERAL.—Million Man March, Inc. (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event on the Capitol Grounds to commemorate the 10th Anniversary of the Million Man March (in this resolution referred to as the "event").

(b) DATE OF EVENT.—The event shall be held on October 15, 2005, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

Subject to the approval of the Architect of the Capitol, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event.

SEC. 5. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 161.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Madam Speaker, I yield myself such time as I may consume.

This concurrent resolution takes care of a little bit of a housekeeping chore for our committee and also for the House. House Concurrent Resolution 161 is sponsored by the gentleman from Illinois (Mr. DAVIS) and it authorizes the use of the Capitol grounds for the 10th anniversary commemoration event of the Million Man March. It is required under our rules that we pass such a resolution for use of the Capitol grounds.

The Million Man March, Inc., is the sponsor wishing to commemorate the march of 10 years ago and to highlight the Millions More Movement.

The current movement is intended to reenergize the efforts and missions of the Million Man March, which was first held in 1995. This event is scheduled for 9 a.m. on Saturday, October 15, 2005; and it will include leaders of the African American community. It is free of charge and also open to the public.

I also find it important to note that the sponsor assumes full responsibility for all expenses and liability incident to all activities associated with the event, and House Concurrent Resolution 161 does not authorize any expenditures.

Madam Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Madam Speaker, I yield myself as much time as I may consume.

H. Con. Res. 161 authorizes the use of the Capitol grounds for the Millions More March scheduled for October 15, 2005. It will be on the 10th anniversary of the original Million Man March held here in Washington on the Mall in October of 1995. This event was one of the largest ever to be held on the Mall.

Similar to the original march, the themes and programs of this event will focus on unity, spiritual values, education and economic development. It is going to be extraordinarily timely this year in the wake of Hurricane Katrina and some of the conditions we saw in New Orleans.

It will be very relevant to this march, and hopefully the administration and others will be paying attention to the issues and themes raised at this event. The organizers will work with the office of the Architect of the Capitol, the Capitol Police; and the event will be free and open to the public.

I support the resolution and urge its passage.

Madam Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Speaker, I thank the gentleman for yielding.

I would take this moment to express appreciation to Speaker HASTERT, Chairman YOUNG, Ranking Member OBERSTAR, and Mr. MICA and Mr. DEFAZIO for bringing this legislation to the floor and for having an opportunity for it to be heard and to be passed.

I rise in support of it. As a matter of fact, it commemorates the 10th-year anniversary of the Million Man March which took place some 10 years ago when more than a million, primarily African American, men came to Washington D.C. for a big national town hall meeting. That is what I really think of this as being, a national town hall meeting where people from all across the country will gather on the Mall and have a day of discussions talking about problems, needs, hopes, and aspirations. It is an opportunity for those who will gather to be heard to experience fellowship and camaraderie and also to project for the Nation to see and feel an understanding of their perception of need.

I want to thank all of those who helped to make this event possible. I appreciate the sensitivity and concern displayed.

Mr. DEFAZIO. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Madam Speaker, I yield myself the balance of my time.

Again, I want to commend the gentleman from Illinois for bringing this legislative initiative before the House. On behalf of Chairman YOUNG of the full T&I committee and subcommittee chair Mr. SHUSTER, the gentleman from Pennsylvania, who chairs the Economic Development and Public Buildings and Emergency Management Subcommittee, I am pleased to present this legislation, and ask at this time for the House's consideration and adoption of the resolution.

Mr. OBERSTAR. Madam Speaker, H. Con. Res. 161 authorizes use of the Capitol Grounds for an event to commemorate the 10th anniversary of the Million Man March which took place on October 16, 1995. The first Million Man March was one of the largest events to be held on the mall. The 1995 event themes were unity, atonement, and brotherhood.

The anniversary event will rededicate participants to the goals and ideals of the original event. A few of the themes of this year's event include unity, spiritual values, education, and economic development.

Like all events that use the Capitol Grounds, this event is free and open to the public. The event sponsors will work with the Architect of the Capitol to resolve all issues of event preparation. This far reaching national program will include a march on October 15th and religious services on Sunday, October 16.

I support the resolution and urge its passage.

Mr. MICA. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 161.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1415

AUTHORIZING SECRETARY OF TRANSPORTATION TO MAKE EMERGENCY AIRPORT IMPROVEMENT PROJECT GRANTS-IN-AID FOR REPAIRS AND COSTS RELATED TO DAMAGE FROM HURRICANES KATRINA AND RITA

Mr. MICA. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1786) to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

The Clerk read as follows:

S. 1786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMERGENCY USE OF GRANTS-IN-AID FOR AIRPORT IMPROVEMENTS FOR FISCAL YEARS 2005 AND 2006.

(a) IN GENERAL.—The Secretary of Transportation may make project grants under part B, subtitle VII, of title 49, United States Code, from amounts that remain unobligated after the date of enactment of this Act for fiscal years 2005 and 2006—

(1) from apportioned funds under section 47114 of that title apportioned to an airport described in subsection (b)(1) or to a State in which such airport is located; or

(2) from funds available for discretionary grants to such an airport under section 47115 of such title.

(b) ELIGIBLE AIRPORTS AND USES.—The Secretary may make grants under subsection (a) for—

(1) emergency capital costs incurred by a public use airport in Louisiana, Mississippi, Alabama, or Texas that is listed in the Federal Aviation Administration's National Plan of Integrated Airport Systems of repairing or replacing public use facilities that have been damaged as a result of Hurricane Katrina or Hurricane Rita; and

(2) emergency operating costs incurred by an airport described in paragraph (1) as a result of Hurricane Katrina or Hurricane Rita.

(c) PRIORITIES.—In making grants authorized by subsection (a), the Secretary shall give priority to—

(1) airport development within the meaning of section 47102 of title 49, United States Code;

(2) terminal development within the meaning of section 47110 of that title;

(3) repair or replacement of other public use airport facilities; and

(4) emergency operating costs incurred at public use airports in Louisiana, Mississippi, Alabama, and Texas.

(d) MODIFICATION OF CERTAIN OTHERWISE APPLICABLE REQUIREMENTS.—For purposes of any grant authorized by subsection (a)—

(1) the Secretary may waive any otherwise applicable limitation on, or requirement for, grants under section 47102, 47107(a)(17), 47110, or 47119 of title 49, United States Code, if the Secretary determines that the waiver is necessary to respond, in as timely and efficient a manner as possible, to the urgent needs of the region damaged by Hurricane Katrina or Hurricane Rita;

(2) the United States Government's share of allowable project costs shall be 100 percent, notwithstanding the provisions of section 47109 of that title;

(3) any project funded by such a grant shall be deemed to be an airport development project (within the meaning of section 47102 of that title), except for the purpose of establishing priorities under subsection (c) of this section among projects to be funded by such grants; and

(4) no project funded by such a grant may be considered, for the purpose of any other provision of law, to be a major Federal action significantly affecting the quality of the human environment.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

GENERAL LEAVE

Mr. MICA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1786.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MICA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to rise in strong support of Senate bill S. 1786. This legislation authorizes emergency grants to airports to repair damage caused by both Hurricanes Katrina and Rita.

Specifically, this legislation authorizes the Secretary of Transportation to make grants under the existing Airport Improvement Program, also referred to as AIP, funds in fiscal year 2006 for hurricane-related costs incurred by public-use airports in the States of Louisiana, Mississippi, Alabama and Texas.

Under this bill, affected airports may receive grants for emergency capital costs. Some of those costs include repairs to terminal buildings, to hangars, runways, airfield signage, lighting, fencing, navigation aids and fuel systems.

In addition, emergency operating costs resulting from the hurricane will also be eligible for grants. This would cover items such as the cost of putting fences back up, renting generators and hiring extra security personnel. This bill would also waive the local cost-share requirement that traditionally applies to grants made under the AIP program, the Airport Improvement Program.

Many of these airports, particularly the small airports that have been shut down for an extended period of time, lack the ability to pay even the traditional 10 percent local match that would otherwise be required of them under the Airport Improvement Program.

Over 40 airports were damaged by Hurricanes Katrina and Rita and are in very serious and desperate need in some instances of the provisions of this bill. The Federal Aviation Administration estimates that these airports, in total, will have sustained damages of some $160 million or more.

Of this total, some $47 million has already been funded by using fiscal year, the current year that we are in, 2005, or just left, I should say, 2005 Airport Improvement Program funds. This was critical to getting some of the airports reopened quickly after the storms, and it also provided much-needed transportation links to the disaster areas.

However, at least $113 million in damages still remains to be funded in fiscal year 2006. These repairs are essential to restoring our system of airports to pre-hurricane conditions and also to the high standards that we require.

It is important to note that this bill does not increase Federal spending. Rather, it would temporarily broaden the eligible uses of existing Airport Improvement Program funds, AIP funds, so that the full spectrum of hurricane repair costs can be met.

After the hurricanes that damaged several Florida airports last year, I am particularly aware of the devastation that can be caused by these storms and the need to repair critical aviation facilities and infrastructure as quickly as possible. I, therefore, am pleased to join wholeheartedly with the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), ranking member of the full Committee on Transportation and Infrastructure, and the gentleman from Illinois (Mr. COSTELLO), Aviation Subcommittee ranking member, in urging the immediate passage of this much-needed legislation.

Madam Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Madam Speaker, I yield myself such time as I may consume.

The chairman has made an excellent case for this legislation. It is not to set any precedent for the future use of AIP funds, since those funds we know are not going to be adequate in the future to meet the total needs of the system. But this is a recognition of an extraordinary circumstance of the disasters of Katrina and Rita and what it has done to the aviation infrastructure in addition to other elements of the infrastructure in those regions. And it is only, I think, appropriate that the Federal Government use discretion and flexibility in helping those airports to recover and to become fully operational. They obviously suffered not only physical damage but tremendous economic losses due to the storms and, in some cases, face perhaps an uncertain economic future because of the damage in the City of New Orleans and questions about how soon or when full aviation schedules will be reinstated to serve that airport.

So I think this legislation is timely. It is appropriate, and I appreciate the chairman of the committee for bringing it forward in such an expedited way.

Madam Speaker, I reserve the balance of my time.

Mr. MICA. Madam Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LATOURETTE) and also Chair of the Railroads Subcommittee of the Committee on Transportation and Infrastructure.

Mr. LATOURETTE. Madam Speaker, I thank the gentleman from Florida for not only yielding me this time but also for his leadership in bringing S. 1786 to the floor and also the gentleman from Oregon and the gentleman from Illinois (Mr. COSTELLO) on the Aviation Subcommittee.

I asked for time today to indicate that S. 1786 is exactly the kind of legislation that we should be crafting in both the House and the Senate and sending to the President of the United States in response to the devastation of Hurricanes Rita and Katrina. And primarily what motivated me to come speak today is that there was mischief afoot in the other body as this bill was being crafted relative to the issue of prevailing wages. And there is some thought that while we should extend grants through the AIP program to help ailing airports, perhaps we could do it on the cheap and suspend what are known as Davis-Bacon wages.

And I want to alert the House and my fellow Members that this is something that will come to a head in a couple of weeks. It is disturbing to a number of us. Davis and Bacon happened to be Republican legislators who, after the Great Depression, became concerned with the issue of bands of roving laborers going from market to market and undercutting the local labor market and not living in the community, not receiving a decent wage, not paying taxes that supported the infrastructure, the schools and other things that go on. And unlike S. 1786, other legislation that we have already crafted in the House and an executive order by the President of the United States has suspended, we hope temporarily, Davis-Bacon wages for the reconstruction of the gulf coast. And I have heard a lot of different stories as to why that was done. Some in my party say it is all going to go to the labor unions and we do not want to help the labor unions.

I will tell them, not only was the history of Davis-Bacon of Republican origin, the sad and really the truth of the matter is that if we look at what the combined wage rates are in the gulf coast for the laborer, the carpenter, the operating engineer, it is certainly not some sop to the labor unions.

For example, in Alabama, Madam Speaker, a laborer makes $5.15 an hour. Tell me, where we are going to find somebody to clear away the horrible debris in the gulf coast for less than $5.15 an hour, first of all, and why would we, as a Federal policy, even think that that was a good idea?

The other unintended consequence of the suspension of Davis-Bacon is that we repeal things known as the Copeland Anti-Kickback provisions. And what that says is, if people are complying with the Federal Labor Standards Act, they have to, if they are a contractor, submit every week a certified payroll with the employee's name, what their wage rate was, what their Social Security number is, and what they did. They cannot come waltzing in as a contractor and say, I hired 50 guys with chainsaws last week and here is my bill. It makes sure that we do not permit profiteering in the gulf coast. It makes sure that our Federal dollars are spent as we intend them, and it makes sure that some unscrupulous contractors do not come in and make a boatload of money on the backs of the misery in the gulf coast.

So while I think S. 1786 is a wonderful piece of legislation, we are doing it the right way, I do sort of serve notice to the House that there are some of us on this side of the aisle that do not intend to let this situation with reconstruction and the situation with Davis-Bacon stand much longer.

Mr. DEFAZIO. Madam Speaker, I yield myself such time as I may consume.

I would like to support the remarks of my colleague from Ohio. He mentioned what a laborer would earn under Davis-Bacon. I have become aware of the fact that a skilled pipe fitter under Davis-Bacon wages in the Southeast would earn $10.22 an hour. That hardly seems to me to be an excessive wage. And with the extraordinary poverty that was brought to the Nation's attention in New Orleans, one would think that we would want to have people working in jobs that pay a living wage, a decent wage, so that they can support themselves and their families. And it is just extraordinary to me.

We had a meeting with the IG and the GAO regarding the FEMA contracts under Homeland Security, and we asked if they could document, particularly with Hurricane Andrew last year and some other times when Davis-Bacon has been suspended, that, in fact, the taxpayers came out ahead. And they said, well, they really could not. So I said, they mean we might just be lowering wages and increasing the profit margin? And they said, they had a lot of concerns about a lot of these contracts and the no-bid nature of the contracts and whether or not taxpayers were getting full value for their money. And it is particularly distressing when we do not know that we are getting full value for our money and we might, in fact, be only increasing profits while depriving people of a living wage.

So I support the gentleman's remarks, and I do hope that we are allowed to bring legislation to the floor in the near future to overturn the President's misguided efforts in this area.

Madam Speaker, I urge Members to support the legislation.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Madam Speaker, I yield myself such time as I may consume.

Again, I urge my colleagues to pass S. 1786. This is a needed piece of legislation and an immediately needed bill. It will provide some relief to some of the Gulf States that were hit by two of our most recent and very tragic hurricanes.

Airports do provide a link between communities and a gateway to the Nation and the world. It is one of our most important economic generators in this country, and it is a Federal responsibility to move forward in the repair and the replacement of the infrastructure and facilities at these transportation hubs.

I might repeat that this does not require any additional funding, but it does allow flexibility. It does allow additional payments to these areas for their traditional Federal requirement share and local requirement share.

Also, in closing, we hear a lot of criticism about Federal agencies, but I am pleased to stand here and commend those of the FAA for their quick response to all of the States that were hit by the hurricane disasters we have seen this year.

I also want to thank them for last year. My area in Central Florida was hit by three very serious hurricanes, and as the Members know, we had a fourth, a tremendous storm that hit the gulf coast.

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In each instance, the Federal Aviation Administration, starting with Marion Blakey, the administrator, and also with Woodie Woodward, who is our national airports administrator, they were ready in advance. They assisted us then and they are assisting now in an admirable fashion. So I am pleased to also commend their work.

Madam Speaker, I ask for passage of S. 1786, which will provide our airports much-needed relief in these hard-hit areas.

Mr. OBERSTAR. Madam Speaker, I rise in support of S. 1786, which authorizes the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, for repairs and costs related to damage from Hurricanes Katrina and Rita.

Madam Speaker, S. 1786 permits the Secretary of Transportation to make project grants from the Federal Aviation Administration's, FAA, Airport Improvement Program, AIP, fiscal year 2006 funds for capital costs to repair or replace public use facilities damaged as a result of Hurricanes Katrina and Rita, which were incurred by a public use airport in Alabama, Louisiana, Mississippi, and Texas that is listed in the FAA's National Plan of Integrated Airport Systems. The bill also permits AIP grant funding to cover emergency operating costs incurred by these airports as a result of the Hurricanes.

According to the FAA, airports located in Alabama, Louisiana, Mississippi, and Texas sustained structural damage costing over $162 million. Importantly, S. 1786 provides FAA with the flexibility to fund repairs to airport structures, such as terminals and hangars, which would otherwise not be eligible for grants under the AIP program. The bill also requires the Federal Government to cover 100 percent of the allowable project costs, thereby waiving State and local government match requirements.

Earlier this week, I joined several of my Committee on Transportation colleagues on a trip to the gulf coast to see the devastation of Hurricane Katrina first hand. Flying over New Orleans, Bay St. Louis, Biloxi, and Mobile, we witnessed destruction unlike anything we had ever seen.

We also had the opportunity to meet with airport officials at the Louis Armstrong Airport in New Orleans. The bill addresses the direct emergency capital and operating costs to address the structural damage to the New Orleans and other affected airports as a result of Hurricane Katrina.

In addition, the New Orleans and other affected airports face long-term revenue challenges. Although the New Orleans airport has reopened, it is operating at a significantly diminished capacity, which is directly affecting airport revenues. The airport, which served as a major origin-and-destination airport with almost 10 million passengers per year prior to Hurricane Katrina, expects it to take several years to recover from this disaster. Passenger traffic in the coming year is expected to equal only 10–15 percent of pre-disaster levels and equal only 70 percent within 3 years. As a result of this lost revenue, the airport faces a potential deficit of approximately $90 million by the end of 2007.

This legislation will enable the FAA to provide additional emergency capital and operating grants for the structural damage of the New Orleans and other affected airports in the region.

I strongly support the bill and urge my colleagues to join me in support of this legislation.

Mr. COSTELLO. Madam Speaker, I rise today in strong support of S. 1786, legislation to authorize emergency grants for airports damaged by Hurricanes Katrina and Rita. This important legislation gives the Secretary of Transportation authority to use millions of dollars in existing federal grant funds to make emergency repairs at airports in the Gulf Coast region damaged by the hurricanes. The bill also permits grant funding to cover emergency operating costs incurred as a result of the devastating hurricanes by these airports.

To get the local economy and jobs improving and moving again, fully functional airports are needed. S. 1786 will restore these airports by making the necessary funds available to immediately begin repairing and refurbishing the airport infrastructure to help restore passenger and commercial air traffic throughout the Gulf region.

I recently visited the Gulf Coast region and saw the devastation and destruction Hurricanes Katrina and Rita left in their wake firsthand. I listened to state and local officials describe their immediate infrastructure needs and this legislation would provide some resources to address their airport needs. Those affected by these hurricanes should be commended as they continue to display tremendous courage and persistence.

Madam Speaker, this legislation is an important step toward economic recovery of the entire Gulf Coast region and towards restoring these airports to their full operational capacity as soon as possible. I ask my colleagues to join me in support of this legislation.

Mr. MICA. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the Senate bill, S. 1786.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DEFAZIO. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL CAMPUS SAFETY AWARENESS MONTH

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 15) supporting the goals and ideals of National Campus Safety Awareness Month, as amended.

The Clerk read as follows:

H. RES. 15

Whereas college and university campuses are subject to criminal threats both from within and outside their borders;

Whereas under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act a total of 86 homicides, 7,648 sex offenses, 9,649 aggravated assaults, and 3,590 arsons were reported on-campus from 2000 to 2002;

Whereas between one fifth and one quarter of female students become the victim of a completed or attempted rape, usually by someone they know, during their college careers;

Whereas each year more than 70,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assault;

Whereas each year more than 600,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking;

Whereas 1,400 college students between the ages of 18 and 24 die each year from alcohol-related unintentional injuries, including motor vehicle crashes;

Whereas each year there is approximately $2.8 million worth of property damage from fires on-campus;

Whereas Security On Campus, Inc., a national group dedicated to promoting safety and security on college and university campuses, has designated September as National Campus Safety Awareness Month; and

Whereas the designation of National Campus Safety Awareness Month provides an opportunity for colleges and universities to inform students about existing campus crime trends, campus security policies, crime prevention techniques, fire safety, and alcohol and other drug education, prevention, and treatment programs: Now, therefore, be it

Resolved, That the House of Representatives supports the goals and ideals of National Campus Safety Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 15, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

House Resolution 15 expresses the sense of the House of Representatives that it support the goals and ideals of a National Campus Safety Awareness Month.

Each fall, thousands of freshmen begin their college careers without taking the adequate precautions to protect themselves from real-world threats to their safety. Students often do not think about dangers like theft, date rape, assault, or even other more serious invasions of privacy and more serious crimes.

According to the nonprofit organization Security on Campus, between one-fifth and one-quarter of female students become the victims of an attempted rape during their college careers. Often it is by someone they know. In addition, each year more than 600,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking; and 1,400 students die from alcohol-related injuries, including motor vehicle crashes.

Some may remember the story of Jeanne Ann Clery. On April 5, 1986, Jeanne was tortured, raped and murdered at her dormitory room at Lehigh University. Her killer was a Lehigh student whom Jeanne had never met. He was also an abuser of drugs and alcohol. Her killer was able to enter her room because three doors which should have been locked were propped open.

Shortly after her death, it was revealed that America's colleges and universities reported only 4 percent of crime statistics. Because of this, Congress passed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, which requires colleges and universities to fully report the number of crimes that occur on their campuses each year so that parents and students can know what the safety situation is and the crime situation is on particular college campuses.

Before that act was passed, many colleges and universities tried to cover up what was a truly serious situation, and almost every college that has had a serious problem has attempted to do more and better in this area in enforcing the laws on campuses since that act was passed.

The statistics reported since then have been very unsettling, however. As proof, a total of 86 homicides, 7,648 sex offenses, 9,649 aggravated assaults, and 3,590 arsons were reported on campuses from 2000 to 2002. These incidents occur on campuses of all sizes all over the country.

In August of 1988, Tommy Baer, a student at the University of Tennessee's Knoxville campus in my district, was fatally stabbed in the doorway of his fraternity house. His death was senseless. The person who stabbed Tommy was belligerently drunk and had been harassing people inside the house for most of the night. Even as we speak, most people have heard about the tragic case of Taylor Behl, who may be the latest young person living on a campus victimized by someone.

This resolution's support of September as National Campus Safety Awareness month will help make incoming college freshmen aware that these types of dangers are out there. Adoption of this resolution also provides an opportunity for colleges to inform students about existing campus crime trends, campus security policies, crime prevention techniques, fire safety and alcohol and other drug education, prevention, and treatment programs.

Madam Speaker, by adopting H. Res. 15, the House of Representatives could send the message that it takes the issue of campus crime very seriously and supports greater student awareness.

I would like to thank the Student Government Association of the University of Wisconsin at Green Bay and the nonprofit organization Security on Campus, especially, for their efforts on behalf of this legislation.

Finally, Madam Speaker, I would also like to thank the gentleman from Wisconsin (Mr. GREEN) for his support and assistance with H. Res. 15. I urge its adoption.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to join in support of H. Res. 15, supporting the goals and ideals of National Campus Safety Awareness Month.

The first weeks of college are an amazing time for young people in America. As a matter of fact, I was jokingly thinking to myself of a few years ago when I first entered. College represents the culmination of years of hard work by both students and their families.

For most, going to college is a student's first time away from home. Unfortunately, a time that should be full of joy and eager anticipation for college students is also a very dangerous time. This time has been dubbed the "red zone" by some because of the risk of becoming a victim of campus crime being so high.

Each year, over 600,000 students between the ages of 18 and 24 are victims of crimes and accidents on college campuses. In addition, the cost of public and private property damage that results from campus crime is in the millions.

Sexual and physical assaults are particularly rampant on college campuses, placing females at greater risk. Nearly one-quarter of all female college students are victims of either attempted rape or rape during their college years. The majority of these assaults are committed by people those women know. Students are more likely to become victims of crimes or have accidents when alcohol is involved.

Security on Campus, Incorporated, is a national nonprofit organization that works to eliminate campus crime. The organization provides legal advice to victims of campus crime, works to secure campus improvements that reduce safety and security risks, and provides programs that help reduce the abuse of drugs and alcohol.

Fueled by a desire to help secure our Nation's college campuses and by the knowledge that the public is unaware of the scope of safety issues that exist on campuses, Security on Campus, Incorporated, declared September to be

National Campus Safety Awareness Month. I support this action as a concerned citizen and as a parent. The need for safer environments in our Nation's colleges and universities is critical to the success of our youth.

Madam Speaker, I support H. Res. 15 because I feel that the issue of campus safety is of national importance. I want to thank the gentleman from Tennessee for his introduction of this resolution and for his thoughtfulness in making us aware of this issue and raising the awareness around campus safety.

Madam Speaker, I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I urge all Members to support the adoption of H. Res. 15, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 15, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF PANCREATIC CANCER AWARENESS MONTH

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 276) supporting the goals and ideals of Pancreatic Cancer Awareness Month.

The Clerk read as follows:

H. RES. 276

Whereas over 31,860 people will be diagnosed with pancreatic cancer this year in the United States;

Whereas the mortality rate for pancreatic cancer is 99 percent, the highest of any cancer;

Whereas pancreatic cancer is the 4th most common cause of cancer death in the United States;

Whereas there are no early detection methods and minimal treatment options for pancreatic cancer;

Whereas when symptoms of pancreatic cancer generally present themselves, it is too late for an optimistic prognosis, and the average survival rate of those diagnosed with metastasis disease is only three to six months;

Whereas pancreatic cancer does not discriminate by age, gender, or race, and only four percent of patients survive beyond five years;

Whereas the Pancreatic Cancer Action Network (PanCAN), the first national patient advocacy organization serving the pancreatic cancer community, focuses its efforts on public policy, research funding, patient services, and public awareness and education related to developing effective treatments and a cure for pancreatic cancer; and

Whereas the Pancreatic Cancer Action Network has requested that the Congress designate November as Pancreatic Cancer Awareness Month in order to educate communities across the Nation about pancreatic cancer and the need for research funding, early detection methods, effective treatments, and prevention programs: Now, therefore, be it

Resolved, That the House of Representatives supports the goals and ideals of Pancreatic Cancer Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 276.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 276, offered by the distinguished gentleman from Pennsylvania (Mr. PLATTS), would increase awareness about a horrible disease, pancreatic cancer.

This year, over 31,000 people will be diagnosed with pancreatic cancer. Because of the lack of early detection methods, 99 percent of those diagnosed will lose their lives, the highest mortality rate of any form of cancer. By the time the symptoms present themselves, it is almost always too late for a positive prognosis. Diagnosed patients have an average life expectancy of only 3 to 6 months.

Although pancreatic cancer is the fourth most common cancer, many Americans are not aware of the devastating statistics associated with the disease. Currently, the Pancreatic Cancer Action Network, known as Pan CAN, is the only national advocacy organization available for pancreatic cancer patients as well as their families and friends. This outstanding organization exists to create awareness, patient support, professional education and advocacy for pancreatic cancer funding.

Pan CAN regards each November as Pancreatic Cancer Awareness Month. With the adoption of House Resolution 276, Congress would be further increasing awareness of pancreatic cancer. As a Nation, we desperately need to improve detection and treatment approaches and avenues. This is a cancer that has touched many people, including the only brother of one of my brothers-in-law, a young boy who passed away at the age of 13 with this very devastating disease.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the cancer of the pancreas stands out as a highly lethal disease, with its victims facing the poorest likelihood of survival of all those who survive major malignancies. It accounts for only 2 percent of all newly diagnosed cancers in the United States each year, but 5 percent of all cancer deaths. It is the fourth leading cause of cancer-related deaths.

Only 4 percent of patients survive beyond 5 years. Men have higher incidences and mortality rates of pancreatic cancer than women in each racial or ethnic group. Black men and women have incidences and mortality rates that are 50 percent higher than the rates of whites. Rates for Hispanics and the Asian American groups are generally lower than that of whites. Cigarette smoking has been identified consistently as an important part of the cause.

Most pancreatic cancers arise from the ductal cells of the pancreas. The pancreas, an organ situated deep in the abdominal cavity, serves several critical functions. It produces enzymes that are delivered to the small intestines to aid in the digestion of food, and it controls sugar levels in the body.

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The disease is often far advanced by the time symptoms occur and a diagnosis made.

The Pancreatic Cancer Action Network is dedicated to focusing national attention on the need to find a cure for pancreatic cancer. I support this resolution and Pan CAN's efforts to designate November as Pancreatic Cancer Awareness Month.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman for his leadership and for yielding me this time, and I thank the sponsors of this legislation. I rise to support this resolution, which is H. Res. 276, which is supporting the goals and ideals of Pancreatic Cancer Awareness Month.

We know that cancer can be deadly, but early detection is crucial. We also know how devastating the diagnosis of pancreatic cancer can be because of its rapid decline in the individual that has this particular disease. I know firsthand from a prominent citizen in my community, someone who was vibrant and contributing, who suffered through the disease of pancreatic cancer, having good days and bad days, having recoveries and then relapses.

So I believe it is extremely important that we make the Nation aware of the deadliness of this particular form of cancer and the ability to continue to provide the instrument of early detection. I rise in support of this legislation, and as I do so, might I say and make a few comments about a number of resolutions that I would like to add a voice of support.

Let me rise in support as well for S. 1413, the Colin L. Powell Residential Plaza Redesignation Act, that redesignates the plaza in Jamaica, West Indies, in honor of General Colin L. Powell, the former Secretary of State. We appreciate his leadership, his dedication to service and, as well, the statement that his family made coming here to the United States from Jamaica, West Indies, being immigrants and then, of course, being contributing members of this Nation and, of course, to the United States armed services.

Likewise, I would like to join my friend and colleague, the gentleman from Illinois (Mr. DAVIS), in his resolution authorizing the use of the Capitol grounds for an event to commemorate the tenth anniversary of the Million Man March, and let me salute the concept of the Nation of Islam and Prime Minister Farrakhan for understanding it is a million more, for inviting communities from all over America, diverse ethnic and religious groups and racial groups to come simply to say that the poor have not been forgotten. I hope that as we commemorate, we will set a legislative agenda to turn around and to change America for the better.

I add my support for H.R. 15, which deals with the supporting of the goals and ideals of the National Campus Safety Awareness Month. I do that for a general reason, but also, Madam Speaker, for a personal reason. I have two young people in my family, my daughter and my son, who are on college campuses today. I can assure you that, as a parent, you send your child off with the best intentions, but it is also very important to remind them nationally, if you will, even from the podium of the United States Congress, that all young people should be aware of the dangers of overdosing on drugs, of alcohol abuse, of hazing, of the dangers of altercations between students. Just this past couple of months, we buried a very bright young man in our community that we still mourn, and we do so because, unfortunately, he lost his life in an altercation and brawl on his campus, through no fault of his own, a bright, energetic and talented young man. His family still mourns, and his mother is seeking to be engaged in campus safety, and I look forward to working with her, so that we can find ways to touch students and touch their hearts.

This legislation is so very important, because at least it makes a public and national statement that young people should be safe, but they should also be their brothers' and sisters' keeper. When you see something going on, tell someone in order to save a life. Campus safety also means campus involvement and campus recognition that we are in fact our brothers' and sisters' keeper.

I would ask my colleagues to support the underlying bill which deals specifically with the idea of supporting the goals and ideals of Pancreatic Cancer Awareness Month, and, of course, I thank my colleagues for allowing me to submit statements on behalf of the above-mentioned resolutions.

Mr. DAVIS of Illinois. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I have no additional requests for time, I urge all Members to support the adoption of H. Res. 276, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 276.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DAVIS of Illinois. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING THE CONTRIBUTIONS OF AFRICAN-AMERICAN BASKETBALL TEAMS AND PLAYERS FOR THEIR ACHIEVEMENTS, DEDICATION, AND CONTRIBUTIONS TO THE SPORT OF BASKETBALL AND TO THE NATION

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 59) recognizing the contributions of African-American basketball teams and players for their achievements, dedication, and contributions to the sport of basketball and to the Nation.

The Clerk read as follows:

H. CON. RES. 59

Whereas, even though African-Americans were excluded from playing in organized white-only leagues, the desire of African-Americans to play basketball could not be repressed;

Whereas, unlike baseball, which had Negro leagues, basketball had no organized black leagues, thus forcing blacks to take to the road out of necessity;

Whereas among the most well-known black barnstorming teams who found their beginnings in the 1920s were the New York Renaissance (or Rens), the Harlem Globetrotters, the New York Enforcers, the Harlem Clowns, the Harlem Road Kings, the Harlem Stars, the Harlem Ambassadors, and the Philadelphia Tribunes;

Whereas, despite the racism they faced, Negro basketball teams overcame great obstacles to play the game before black players were allowed to play in the National Basketball Association in the early 1950s;

Whereas the New York Rens became one of the first great basketball dynasties in the history of the game, compiling a 2,588–539 record in its 27-year existence, winning 88 straight games in the 1932–33 season, and winning the 1939 World Professional Championship;

Whereas the Harlem Globetrotters proved that they were capable of beating professional teams like the World Champions Minneapolis Lakers led by basketball great George Mikan in 1948;

Whereas the barnstorming African-American basketball teams included exceptionally talented players and shaped modern-day basketball by introducing a new style of play predicated on speed, short crisp passing techniques, and vigorous defensive play;

Whereas among the pioneers who played on black barnstorming teams included players such as Tarzan Cooper, Pop Gates, John Isaacs, Willie Smith, Sweetwater Clifton, Ermer Robinson, Bob Douglas, Pappy Ricks, Runt Pullins, Goose Tatum, Marques Haynes, Bobby Hall, Babe Pressley, Bernie Price, Ted Strong, Inman Jackson, Duke Cumberland, Fat Jenkins, Eddie Younger, Lou Badger, Zachary Clayton, Jim Usry, Sonny Boswell, and Puggy Bell;

Whereas the struggles of these players and others paved the way for current African American professional players, who are playing in the National Basketball Association today;

Whereas the style of black basketball was more conducive to a wide open, fast-paced spectator sport;

Whereas, by achieving success on the basketball court, African-American basketball players helped break down the color barrier and integrate African-Americans into all aspects of society in the United States;

Whereas, during the era of sexism and gender barriers, barnstorming African-American basketball was not limited to men's teams, but included women's teams as well, such as the Chicago Romas and the Philadelphia Tribunes;

Whereas only in recent years has the history of African-Americans in team sports begun receiving the recognition it deserves;

Whereas basketball is a uniquely modern and uniquely American sport;

Whereas the Black Legends of Professional Basketball Foundation, founded by former Harlem Globetrotter Dr. John Kline, of Detroit, Michigan, honors and highlights the significant contributions of these pioneers and their impact on professional basketball today; and

Whereas the hard work and efforts of the foundation have been instrumental in bringing African-American inductees into the Naismith Memorial Basketball Hall of Fame in Springfield, Massachusetts: Now therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress recognizes the teams and players of the barnstorming African-American basketball teams for their achievement, dedication, sacrifices, and contribution to basketball and to the Nation prior to the integration of the white professional leagues;

(2) current National Basketball Association players should pay a debt of gratitude to those great pioneers of the game of basketball and recognize them at every possible opportunity; and

(3) a copy of this resolution be transmitted to the Black Legends of Professional Basketball Foundation, which has recognized and commemorated the achievements of African-American basketball teams, the National Basketball Association, and the Naismith Basketball Hall of Fame.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 59.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H. Con. Res. 59 introduced by the distinguished gentlewoman from Michigan (Ms. KILPATRICK). This resolution would recognize the dedication of African-American basketball players who played on the barnstorming teams of the early 1920s through the 1950s. The motivation of these teams to organize despite being excluded from playing in the white-only structured teams and leagues was truly a story of perseverance and honor.

The history is very similar to the Negro baseball leagues which have received such honor and distinction in recent years. One of the first basketball dynasties, the New York Renaissance, was founded in 1923. The team's namesake came from their home court, the Harlem Renaissance Ballroom, in which they played 27 seasons. The Renaissance organized games each day of the week and twice on Sundays. Because the racial climate of the 1930s was often harsh and unforgiving, while away from their home court, the Rens were often refused food and board. Other barnstorming teams included the Harlem Globetrotters, the New York Enforcers and the Philadelphia Tribunes.

Not only did these players bring organized basketball to all those who may not have had the opportunity to play, but they also helped influence the way basketball is played today. The fast pace of the game and the short, concise passing techniques originated with the talented players that dominated the barnstorming teams. More importantly, on April 25, 1950, the first African-American player was drafted into the National Basketball Association.

By demanding respect on the basketball court, these brave players did their part to facilitate racial integration in all aspects of American life. They were an inspiration to many.

Therefore, I encourage my colleagues to support this resolution, and I congratulate the gentlewoman from Michigan on her efforts.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield such time as she may consume to the sponsor of this resolution, the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Madam Speaker, I thank the gentleman from Illinois for yielding me this time, and I thank the gentleman from Tennessee for controlling the time and allowing us to present this to the American people.

I first want to thank Dr. John Kline, a psychologist in my district who has been on this for many years. He is a former Harlem Globetrotter and now a psychologist in the City of Detroit who has been working tirelessly with me to see that we honor the men, particularly the men, and now the women who play in the WNBA, for their talent and for their commitment to the sport of basketball. Dr. Kline has been working on this for some time, and he established in 1996 the Black Legends of Professional Basketball Foundation where he works himself to see that the players reach the Hall of Fame in the basketball world. I want to thank Dr. Kline for his tenacity, and my staff thanks him, and we look forward to working with him.

Basketball has been a dream come true for many young people in America and around the world. They are able because of the pioneers who have gone before them to present themselves in the discipline and the competition that the sport requires. I want to first say before there was a Bill Russell and a Cazzie Russell, as well as a Michael Jordan and Dr. J. in 1920, as was mentioned by my colleague, other gentlemen came forth and began to play organized basketball that began and created a competition that endured in men the skill, the tenacity, the commitment and the competition to move forward.

As was mentioned, in 1922, the first team, the New York Renaissance was established, and in the 27 years that followed, they played every year. After them, in 1930, the Harlem Globetrotters were organized to play basketball, and even though they could not play in the NBA, they continued to play.

It is important that as we move into this new season of the NBA, which will be starting in the next month, that we not forget those who set the pace, both African-Americans as well as European-Americans and others who played the sport of basketball and brought it to our country and now around the world.

The Basketball Legends Professional Foundation is here to recognize and to assist, under Dr. John Kline's leadership, that men be inducted into the Michigan Sports Hall of Fame as Dr. Kline has done. It is important that we continue the sport of basketball. Not only is it a character-building, competition-raising, beautiful sport, it also offers cities around the country the opportunity to participate. I would like to at this time send a shout out to the Detroit Pistons, world champions in 2003 and also in the semifinals in 2004.

So as we pay homage to Earl Lloyd, a former 1950's basketball player from my district, as well as some of the others that came before him, let us remember that the NBA was started many years after the African-American basketball players played their sport. Together it has evolved into a wonderful sport. I urge my colleagues to adopt this resolution. It is called the resolution recognizing the contributions of African American basketball teams that started in the 1920s.

Madam Speaker, I thank the gentleman from Tennessee as well as the gentleman from Illinois, and let us continue to remember that through competition and sports, we too can build a strong America and a strong family.

Madam Speaker, in less than a month the 2005–2006 professional basketball season will begin, and I am proud that the resolution being considered today pays tribute to the founding African-American basketball teams and players who made the game what it is today.

In the past, Congress has recognized the contributions of the Harlem Globetrotters, one of the first barnstorming teams that roamed the United States before professional leagues were integrated, and the professional Negro Baseball Leagues. But no one until now, has recognized the contributions of the early African-American basketball teams and their players.

Before the New York Knicks of the newly formed National Basketball Association signed Nathaniel "Sweetwater" Clifton in 1950, an African-American, organized professional basketball was a whites-only sport. Accompanying Clifton to the NBA were Earl Lloyd, and Chuck Cooper. Cooper, Lloyd, and Clifton may not be household names, but their place in the NBA's history will be secure forever.

The First white pro-basketball team was founded in 1914.

The first African-American team came into being in 1922 with the organization of the New York Renaissance. They were known as the New York Rens. The New York Rens became one of the first great basketball dynasties in the history of the game, compiling a 2,588–539 record in its 27-year span as an organized basketball team.

The New York Globetrotters—the forerunner of the Harlem Globetrotters—were organized in 1930. Other teams that came into being include the New York Enforcers, the Harlem Clowns, the Harlem Road Kings, the Harlem Stars, the Harlem Ambassadors, and the Philadelphia Tribunes.

African-American basketball teams had a different style of play from their white, professional counterparts. They played for the "fast break", shot with one-hand, made short, crisp passes, and emphasized a vigorous style of defense. Their style stood in marked contrast with the waltz-paced game played by the two-hand set shooters of the all-white basketball teams. These African-American barnstorming teams introduced a style of play that makes the world sport of basketball the wide-open, fast paced game it is today.

Before Bill Russell, Wilt Chamberlain, Kareem Abdul Jabar, Julius Erving and Michael Jordan, we celebrated basketball notables such as Tarzan Cooper, Pop Gates, John Isaacs, and Goose Tatum just to name a few.

Their love for the game allowed them to conquer many hardships on their barnstorming tours. They traveled from town to town, often sleeping in their cars because they were refused lodging. They were denied service at restaurants and suffered all the indignities of Jim Crow laws.

The barnstorming African-American basketball teams were exceptionally talented, and they had the chance to prove it, when in 1948 the Harlem Globetrotters beat the world champion Minneapolis Lakers led by pro-basketball's first big man, George Mikan, the game's first superstar.

Special thanks go to Dr. John Kline, a former Globetrotter, who resides in Detroit, Michigan, which I am privileged to represent. Dr. Kline has made it his personal mission that the great players who made this game what it is today are not forgotten and that their legends continue to be noted in the annals of basketball history.

Dr. Kline founded in 1996 the Black Legends of Professional Basketball Foundation to honor black pros who played prior to 1960. Dr. Kline was recently inducted into the Michigan Sports Hall of Fame. The Foundation which he heads lobbies for African-American players to be considered for induction into the National Basketball Hall of Fame to make sure these men finally get their due—in much the same way that Negro League baseball players have finally begun to get recognition for their talents and sacrifices.

We are proud of his work and a copy of this resolution will be presented to the foundation, the Naismith Basketball Hall of Fame, and the National Basketball Association.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, basketball was invented in December 1891 by James Naismith at the YMCA's School for Christian Workers, now Springfield College in Springfield, Massachusetts. Also, I guess it is also home to the Basketball Museum Hall of Fame and just a great place.

Within months, the game spread across the country through a network of YMCAs. Unfortunately, blacks were excluded from professional sports at that time, when leagues were established in the United States during the late 19th and early 20th centuries.

Unlike baseball, which had the Negro Leagues, basketball had no organized black leagues. Black players responded by participating in barnstorming teams. Barnstorming clubs crossed the country to play wherever a club, black or white, amateur or professional, could be found. Three of the most well-known black barnstorming teams of the 1930s were the New York Renaissance, the Harlem Globetrotters and the Philadelphia Tribunes.

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Founded in 1923 by Bob Douglas, a British West Indies native, the New York Renaissance became one of the first dynasties in basketball. Named after the Harlem Renaissance Ballroom which served as the team's home court, the Rens played for 27 seasons and compiled a 2,588–539 record by playing each day of the week and twice on Sundays.

Due to the racial climate during the 1930s, the Rens faced discrimination away from home. While on the road, the Rens often were refused lodging and food. The team ate cold sandwiches and often slept on buses when excluded from hotels. In the Midwest, the team would use Chicago or Indianapolis as its base. The team would drive as far as 200 miles to play a game, drive back to Chicago or Indianapolis to sleep and do it all over again the next day.

Barnstorming was not limited to men's teams. There were two women's black teams, the Chicago Romas and the Philadelphia Tribunes.

Whether it was the Rens, the Chicago Romas or the famed Harlem Globetrotters, they were competitive and dedicated to the sport despite the discrimination they faced.

I also would urge my colleagues to support this resolution, and I, too, would join the gentlewoman from Detroit in acknowledging the prowess of the Detroit Pistons in terms of winning their championship and being the runner-up. But of course, they have never really been a match for the Chicago Bulls, who reside in my district, the Seventh District of Illinois.

But not only are the Bulls there, but the Reinsdorfs, who own the Bulls, are great civic and community leaders, being involved in activities that stretch from education to community development to providing atmosphere and environment. My district has also been a prolific developer of NBA stars, people like Mark Aguirre, Isaiah Thomas, Doc Rivers, Randy Brown, who my wife taught in high school at the George W. Collins High School, Michael Findley, Mickey Johnson, Kevin Garnett, who came from the Farragut high school where I used to teach, Tim Hardaway, Terry Cummings, Dwayne Wade, just to name a few.

And so, basketball has indeed been a godsend for many young athletes, allowing them to not only get a good education as a result of their athletic prowess, but also to become mainstays in a professional environment where they could earn a livelihood.

Madam Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, let me thank the distinguished gentleman from Illinois (Mr. DAVIS) for his kindness in yielding and to the gentleman from Tennessee (Mr. DUNCAN), my Republican colleague, who is leading the debate on this issue, and might I add my deep appreciation to the gentlewoman from Michigan (Ms. KILPATRICK), the distinguished Congresswoman, for the vision and wisdom in working with the scholars who understood that, for its history to be complete, we must not overlook the beginnings of a sport that everyone thinks they can play. It is a wonder, as you look at how basketball has exploded over the last decades, and you will see teams throughout the community; you will see the young teams, the middle school teams, high school teams, the college teams, you will see the community teams. Everyone loves basketball. But it is important for our history to be remembered and to be honored.

So I rise today in support of this particular resolution that deals with the honoring of the very beginnings of basketball amongst African-Americans. I support H. Con. Res. 59, recognizing the contributions of African-American basketball teams and players for their achievement, dedication and contributions.

Madam Speaker, I would like to make these points as I recognize the work of my colleague. It is, of course, to be able to say that, as we look at America's history, we will find that many aspects of African-American history have been missed. And it is never too late for us to come back and correct that absence. In this instance, it is interesting to note that these basketball teams of African-Americans, and as noted by my colleague from Illinois, men and women started as early as the 1920s.

Might I remind my colleagues that it was not too long into the 1920s or before the 1920s that America was strangled by Jim Crow laws, which defined separatism by blacks and whites, terror in the deep south. And so for these teams to spring up, call themselves barnstorming and go about creating joy but also competition is a tribute that should be acknowledged. The fact that they played for 27 years without recognition and in discriminatory times should be acknowledged. The fact that they were not in organized leagues should be acknowledged. The fact that they were men and women should be acknowledged. And might I say that I hope that, as they may be installed into the Michigan Hall of Fame, that they might find their way into the National Basketball Hall of Fame as well. This legislation is long overdue, and the leadership of my colleague should be applauded.

Might I also say to my colleagues that this speaks very loudly to the inappropriate statement that was made just last week by Dr. Bill Bennett who noted that the reduction of crime could be done by aborting every black baby. And I think we should not forget that, as we look to honor those who are forgotten in history. For anyone to blatantly make such a statement in 21st century America means that they have forgotten the long years of prejudice and discrimination that faced many African-Americans in many disciplines, including sports and education and the sciences and medicine; that they would offer to suggest that the likes of those who have been called on this floor, the likes of Colin Powell, the likes of former Mayor Lee Brown, the likes of Mark Morial, the likes of Sojourner Truth, the likes of Mae Jemison, the first black woman astronaut, all who started out as black babies, would have contributed only if they were aborted and would have helped to reduce crime. I frankly believe that he should be suspended off the air, and I frankly believe that these words, if he was in Congress, should be taken down.

But as we celebrate, I hope that we are reminded that every person, every person's life who has the ability to contribute should be cherished, and we should remind ourselves of their great history. And so this legislation has a very important place in history and a very important place for our colleagues to celebrate the history of those early African-American sports persons and basketball players.

I could not end my remarks without trying to compete, though I am obviously working hard to compete, by noting the history of the Houston Rockets and to give a shout out to my home team and to mention the early basketball players. Probably there were some earlier than this, but I might mention John Lucas, who now has a son playing and will be entering a second generation of pro basketball players; and Calvin Murphy, who not only, along with John, played basketball but were fixtures in our community, contributed to the lives of young people and turned their lives around and were role models for them; Olajuwon and the famous dream team that we had; and Clyde Drexler, who is a businessman and contributor in our community; Steve Francis, who supports the programs of young people; Kenny Smith and many, many others who played for the Houston Rockets.

Might I say that we are still striving, but I know that our day will come when we will be national basketball champs. We look forward to celebrating the All-Stars in Houston this coming year, and we want to thank all of our NBA players for the contributions they have made over the years to improving the quality of life of all of our citizens across America, and particularly the work they have done in helping us with Hurricane Katrina and Hurricane Rita.

I ask my colleagues to support this legislation. Again, I support enthusiastically and congratulate the gentlewoman from Michigan (Ms. KILPATRICK) for her leadership on H. Con. Res. 59 and ask my colleagues to support it.

Mr. DAVIS of Illinois. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I urge all Members to support the adoption of H. Con. Res. 59.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 59.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AVA GARDNER POST OFFICE

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3439) to designate the facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, as the "Ava Gardner Post Office".

The Clerk read as follows:

H.R. 3439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVA GARDNER POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 201 North 3rd Street in Smithfield, North Carolina, shall be known and designated as the "Ava Gardner Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Ava Gardner Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3439.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself as much time as I may consume. I rise in support of H.R. 3439, authored by the distinguished gentleman from North Carolina (Mr. ETHERIDGE).

This bill would designate the Post Office in Smithfield, North Carolina, as the "Ava Gardner Post Office Building." All Members of the North Carolina delegation have cosponsored this legislation.

The life of Ava Gardner is a true rags-to-riches story that started on a tobacco farm in the rural south. Born and raised in Johnston County, North Carolina, Ava Gardner had planned on becoming a secretary in her adult life. However, at the age of 18, a scout from MGM Studios offered her a 7-year contract from seeing a photo of her in the window of her brother-in-law's New York photograph shop. Having no acting an experience at all, Ava had to settle for scripts containing little better than one-line bits.

In 1946, she landed her first starring role in the B-grade movie, Whistle Stop. Later that year, on loan from MGM, Universal Studios cast her in her breakout hit, The Killers. Her career as a leading lady then took off in such films as Magambo opposite Clark Gable, The Barefoot Contessa and Night of the Iguana, all between the years of 1953 and 1964.

Ava Gardner, the earthy girl from North Carolina, had beaten the odds to become one of Hollywood's most famous icons. Today, anyone can view the personal effects and career artifacts of Ava's extraordinary life at the Ava Gardner Museum in Smithfield, North Carolina. The museum enables both young and old to experience the history of classic cinema. I urge all Members to join me in saluting her dedication and perseverance towards her unlikely but spectacularly successful career.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as a member of the House Government Reform Committee, I am pleased to join my colleague in consideration of H.R. 3439, legislation naming a postal facility in Smithfield, North Carolina, after Ava Gardner, an illustrious actress often remembered as the most beautiful in Hollywood history. This measure, which was introduced by the gentleman from North Carolina (Mr. ETHERIDGE) on July 26, 2005, and unanimously reported by our committee on September 15, 2005, enjoys the support and cosponsorship of the entire North Carolina delegation.

Ava Lavinia Gardner was born in the small town of Grabtown, North Carolina, as the youngest of seven children. Ava Gardner's film career began at the age of 18 when an MGM agent saw her photograph in the window of her brother-in-law's New York City photograph studio. Her prolific film career includes roles in Mogambo (1953), for which she was nominated for an Academy Award for Best Actress; The Barefoot Contessa (1954); The Sun Also Rises (1957); On the Beach, (1959); The Night of the Iguana (1964), for which she was nominated for an Academy Award for Best Supporting Actress; and Regina Roma (1982).

Ava Gardner was married to three legendary Hollywood actors, including Mickey Rooney, Artie Shaw and Frank Sinatra. She died in London on January 25, 1990, of pneumonia at the age of 67 and was buried in Smithfield, North Carolina, in the Gardner family plot near the Ava Gardner Museum.

Madam Speaker, I commend my colleague for speaking to honor Ava Gardner, who rose from humble roots to become one of the most famous actresses in film history.

Madam Speaker, I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker. I would just like to thank my colleague from Illinois for his help on all of these resolutions. He is always such a gentleman, so dignified. I have sometimes said that east Tennessee, where I am from, is the only part the whole country where the people speak with absolutely no accent whatsoever, but I do have to admit that the gentleman from Illinois has a beautiful voice, and it is always a pleasure to work with him.

Madam Speaker, with that, I urge all Members to support the passage of H.R. 3439.

Mr. ETHERIDGE. Madam Speaker, I rise today to urge my colleagues to support H.R. 3439, legislation to name the main post office in Smithfield, North Carolina, in honor of Ava Gardner.

I am proud to be sponsor of this legislation not only because Ava Gardner is a native of our great State, but because growing up in Johnston County I was always aware of her accomplishments and of the lives she touched around the world.

Ava Gardner lived the American Dream but never forgot her humble beginnings in Johnston County, her high school days at Rock Ridge or her days at Atlantic Christian College. Ava Gardner's career spanned five decades, and she was America's sweetheart during Hollywood's Golden Age.

This small town girl was a big time celebrity. In fact, she was the first woman from North Carolina to grace the cover of Time Magazine. She was also a patriot who performed for our servicemen and a tireless leader in the fight against cancer.

Ava represents the can-do attitude and patriotism embodied by the people of Smithfield and Johnston County. At the request of the Mayor and Town Council of Smithfield, I was pleased to introduce this legislation in July and work for its passage.

I urge my colleagues to support H.R. 3439 and honor a famous North Carolinian.

Mr. DUNCAN. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 3439.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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HURRICANE KATRINA EMERGENCY HOUSING ACT OF 2005

Mr. BAKER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3894) to provide for waivers under certain housing assistance programs of the Department of Housing and Urban Development to assist victims of Hurricane Katrina in obtaining housing, as amended.

The Clerk read as follows:

H.R. 3894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hurricane Katrina Emergency Housing Act of 2005".

SEC. 2. WAIVERS FOR SECTION 8 VOUCHER PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may, for all or any part of the period specified under subsection (c), waive any of the requirements described in subsection (b) in the connection with the provision of assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) on behalf of an individual or family if—

(1) the individual or family—

(A) resides or resided, on August 25, 2005, in any area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina; or

(B) resides or resided, on September 24, 2005, in any area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Rita;

(2) the residence of the individual or family became uninhabitable or inaccessible as result of such major disaster or emergency; and

(3) as of the date referred to in paragraph (1), as applicable, rental assistance under such section 8(o) was provided on behalf of such individual or family.

(b) WAIVER OF ELIGIBILITY REQUIREMENTS.—The requirements described in this subsection are the requirements under—

(1) paragraph (2) of section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(2)), relating to tenant contributions towards rent, except that any such waiver shall expire on an individual's return to work;

(2) paragraph (4) of such section 8(o), relating to the eligibility of individuals to receive assistance;

(3) subsection (k) of such section 8 and paragraph (5) of such section 8(o), relating to verification of income;

(4) paragraph (7)(A) of such section 8(o), relating to the requirement that leases shall be for a term of 1 year;

(5) paragraph (8) of such section 8(o), relating to initial inspection of housing units by a public housing agency;

(6) subsection (r)(1)(B) of such section 8, relating to restrictions on portability;

(7) any regulation, notice, or order requiring prior approval by the Secretary with respect to any addendum to the model lease that permits lease terminations in the event that a tenant—

(A) was not eligible for assistance at the time of lease approval;

(B) would not have been eligible for assistance if a criminal background check had been completed prior to lease approval; or

(C) would not have met that landlord's screening criteria with respect to rent or credit history if a full a screening had been completed prior to lease approval; and

(8) any regulation or Executive Order providing for access to Federally funded programs by eligible persons having limited English proficiency.

(c) TERMINATION OF AUTHORITY.—The period specified under this subsection is the 12-month period beginning on the date of the enactment of this Act., unless before the expiration of the 6-month period beginning on such date of enactment the Secretary makes a determination that waivers under this section are no longer needed, in which case the period specified under this subsection is the 6-month period beginning on such date of enactment.

SEC. 3. AUTHORITY OF THE SECRETARY TO DIRECTLY ADMINISTER VOUCHERS WHEN PHAS ARE UNABLE TO DO SO.

If the Secretary of Housing and Urban Development determines that a public housing agency is unable to implement the provisions of subsection (o) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) or section 2 of this Act due to the effects of Hurricane Katrina or Hurricane Rita, the Secretary may—

(1) directly administer any voucher program described in such subsection or in section 2 of this Act; and

(2) perform the functions assigned to a public housing agency by such subsection or section 2 of this Act.

SEC. 4. WAIVERS FOR PROJECT-BASED SECTION 8 TO FACILITATE HOUSING OF AFFECTED FAMILIES.

(a) IN GENERAL.—For all or part of the period specified under subsection (c), the Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may waive the applicability of any of the requirements described subsection (b) with respect to any housing provided project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for any individual or family that meets the requirements of paragraphs (1) and (2) of section 2(a) of this Act.

(b) PROVISIONS WAIVED.—The requirements described in this subsection are—

(1) section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)), relating to tenant contributions towards rent, except that any such waiver shall expire on an individual's return to work;

(2) section 8(k) of such Act, relating to verification of income;

(3) section 8(d)(1)(B)(i) of such Act, relating to the requirement that leases shall be for a term of 1 year;

(4) any requirement relating to initial inspection of housing units by a public housing agency;

(5) any regulation, notice, or order requiring prior approval by the Secretary with respect to any addendum to the model lease that permits lease terminations in the event that a tenant—

(A) was not eligible for assistance at the time of lease approval;

(B) would not have been eligible for assistance if a criminal background check had been completed prior to lease approval; or

(C) would not have met that landlord's screening criteria with respect to rent or credit history if a full a screening had been completed prior to lease approval; and

(6) any regulation or Executive Order providing for access to Federally funded programs by eligible persons having limited English proficiency.

(c) TERMINATION.—The period specified under this subsection is the 12-month period beginning on the date of the enactment of this Act., unless before the expiration of the 6-month period beginning on such date of enactment the Secretary makes a determination that waivers under this section are no longer needed, in which case the period specified under this subsection is the 6-month period beginning on such date of enactment.

SEC. 5. PRESERVATION OF PROJECT-BASED SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACTS FOR DAMAGED OR DESTROYED HOUSING UNITS.

Notwithstanding any other provision of law, a project-based housing assistance payments contract entered into pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) covering a project damaged or destroyed by Hurricane Katrina or Hurricane Rita shall not expire or be terminated because of the damage or destruction of dwelling units in the project. The expiration date of the contract shall be deemed to be the later of the date specified in the contract or a date ending three months after the units are first made habitable.

SEC. 6. REPORT ON INVENTORY OF AVAILABILITY OF FACILITIES AND PROPERTIES FOR HOUSING USE.

(a) COMPILING OF INVENTORY.—Not later than 20 days after the date of the enactment of this Act—

(1) the Secretary of Housing and Urban Development, the Secretary of Defense, the Administrator of the General Services Administration, the Secretary of Agriculture, the Secretary of Veterans Affairs, and such other agency heads as the Secretary of Housing and Urban Development determines appropriate, and the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, shall compile an inventory of Federal civilian and defense facilities (or, in the case of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, properties held by such entities) that—

(A) identifies such facilities and properties that can be used—

(i) to provide emergency housing;

(ii) as locations for the construction or deployment of temporary housing units; or

(iii) to provide permanent housing; and

(B) for each such facility and property included, identifies the appropriate use or uses under clauses (i) through (iii) of subparagraph (A); and

(2) each such agency head and entity shall submit the inventory compiled pursuant to paragraph (1) to the Secretary of Housing and Urban Development.

(b) REPORT TO CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall compile and submit to the Congress an aggregate inventory comprised of the inventory compiled by the Secretary pursuant to subsection (a) and all the inventories submitted to the Secretary pursuant to such subsection.

SEC. 7. GAO REPORT ON STATE EMERGENCY HOUSING PLANS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress—

(1) identifying any States that have developed emergency housing contingency plans for use in the event of a disaster;

(2) describing such plans; and

(3) assessing the effectiveness of such plans.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from Louisiana (Mr. BAKER) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of H.R. 3894, Hurricane Katrina Emergency Housing Act of 2005. The legislation authorizes the Secretary of the Department of Housing and Urban Development to waive several limitations on the rental voucher programs. These waivers will allow us to help families who have been displaced by the hurricanes to move quickly to secure shelter they so desperately need.

Having a roof over your head is one of the most basic human needs. In the aftermath of the storms, Federal and local governments now face the monumental task of coordinating the relocation of thousands upon thousands of individuals across the entire Nation.

This legislation will assist those displaced individuals and families who are already receiving assistance under section 8 to quickly find housing, and I wish to reiterate the point: this assistance being modified is for those currently qualified to receive section 8 assistance. Under the bill, HUD is given the statutory authority to waive the section 8 voucher eligibility requirements for a period not to exceed 1 year. Specifically, HUD is given the authority to waive tenant contributions toward rent eligibility of individuals to receive assistance, income verification, 1-year lease term, initial inspections of housing units, portability restrictions, model leasing, and English proficiency regulations.

This bill provides similar waivers for the project-based section 8 program with the exception of eligibility of individuals to receive assistance.

In addition, H.R. 3894 includes a provision to preserve existing project-based section 8 housing assistance payments contracts for those who were either damaged or destroyed due to hurricanes Katrina and Rita.

In an effort to better address the needs of individuals and families displaced by the storms, DOD, HUD, Veterans Affairs, and government-sponsored enterprises are instructed to compile a list of Federal, civilian, and defense facilities that can be used as temporary housing, as locations to construct or deploy temporary housing or provide permanent housing. This information is to be coordinated by HUD within 30 days of enactment of the bill, and the Secretary of HUD is required to report to the Congress accordingly. GAO is also instructed to conduct a study of State emergency plans to assess their effectiveness.

I would also want to speak to the role of the gentleman from Louisiana (Mr. ALEXANDER), who has worked tirelessly on this important legislation, is the principal author of the measure, and with his assistance brings it to the floor for consideration of the bill.

I would urge my colleagues to support final passage.

Madam Speaker, I reserve the balance of my time.

Ms. WATERS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, a little over a month ago, the gulf coast region was struck with one of the worst natural disasters ever to fall upon this country, Hurricane Katrina followed by Hurricane Rita.

In its wake, Katrina left hundreds of thousands of homes destroyed, over 1 million citizens displaced, and countless families separated.

Madam Speaker, after the hurricane, hundreds of thousands of people were forced into churches, armories, hotels, community centers, Red Cross-managed shelters, the Cajun Dome, the Superdome, the Astrodome and on and on and on. Almost 5 weeks after Katrina, more than 100,000 people are still living in shelters, over 442,000 more in hotels, 4,600 on cruise ships, and untold others are camping out.

Now, certainly shelters are a short-term solution. None of us can be satisfied with what we have accomplished to date. We are failing to manage a credible program to house these hurricane victims. We can do better than that.

We in the Congress of the United States as public policy-makers have a responsibility to these victims to provide swift and targeted resources in order to assist in the reconstruction of homes, communities, and cities.

Today, we have three Katrina-related housing bills on the suspension calendar. None of them are adequate to do what needs to be done to get people out of shelters, to get people into viable temporary housing, or to rebuild the housing that has been lost in the gulf region.

H.R. 3894 provides temporary waivers for several bureaucratic provisions within the section 8 housing program, but it does nothing in the way of adding new vouchers or addressing the immediate need for housing construction in the affected areas; nor does this bill attempt to address the existing affordable housing crisis in other parts of the country, especially those cities providing shelter for the evacuees.

Madam Speaker, instead of providing additional resources to programs which we know work and which we know have the infrastructure to provide immediate relief and assistance to those most in need, we have again left the door open for another blank check to be written by FEMA.

This bill is a bill that would allow for an expedited process within the section 8 housing program. It will waive several requirements for what have been described as cumbersome roadblocks to housing section 8 voucher holders, such as income verification, tenant contributions, and initial inspections.

These things are helping, and of course, I am going to support the bill; but what I am really concerned about is all of those persons who were on the waiting list for vouchers, who are already eligible, even if they are given some temporary assistance from FEMA, even if they got it for 18 months, what happens then. They still need housing. They still are, what, on the waiting list?

It is all right to waive some of these bureaucratic rules, but this is the time that we should be thinking about what we can do about homelessness. That is not even addressed here. This simply says, if you had a section 8 voucher, we will replace it and we will make it a little bit easier for you. It does not talk about the homeless people who were not even in the system, nor does it talk about those who are on the waiting list.

There is an article that I would like to just read verbatim because I think it describes the mess that we are in; and while I do this, I am not placing blame on my friends on the opposite side of the aisle. Even though I am very concerned that we were so slow in getting to the floor with even this legislation that does not do a lot, I am really concerned that we did not take this as an opportunity to really deal with the housing crisis in the gulf as it is a housing crisis all over the country.

This is an article that I am just going to read because I think it sums it up very well: "Housing Promises to Evacuees Have Fallen Short." It is a Washington Post article that was written just a few days ago, 10/2/2005, By Spencer S. Hsu and Elizabeth Williamson:

"Red Cross to Halt Hotel Stipends in 2 weeks, and Hundreds of Shelters Have Closed." Well, what is important about this is the President of the United States said he wanted everybody out of the shelters by October 15. That deadline is not going to be met.

"Two weeks before President Bush's mid-October goal for moving Hurricane Katrina victims out of shelters, more than 100,000 people still reside in such makeshift housing, and 400,000 more are in hotel rooms costing up to $100 a night. Housing options promised by the Federal Government a month ago have largely failed to materialize. Cruise ships and trailer parks have so far proved in large part to be unworkable, while an American Red Cross program, paid for by the Federal Government that allows storm victims to stay in motels or hotels is scheduled to expire October 15.

"It is projected to cost the Federal Emergency Management Agency as much as $168 million. Federal officials are struggling to launch an alternative interim housing program that would give families whose homes are destroyed or uninhabitable a lump sum of $2,358 in rental assistance, or $786 a month for 3 months, with the possibility of a 15-month extension.

"So far, 330,000 families have signed up for the housing assistance. But if evacuees have to use those stipends to pay for hotel rooms when FEMA stops covering such lodging, the funds will not last long. Last week, the number of evacuees in hotels increased from 220,000 to more than 400,000 people in 140,000 rooms. Many have no idea what they will do when the program ends in 2 weeks." No idea.

And they talk about this one man, whose case I am just going to read from this article: "Ronnie Ashworth, a truck driver from Chalmette, Louisiana, east of New Orleans, currently lives at the Baton Rouge Marriott. If no other housing is forthcoming after October 15, 'I'll be sleeping in the back of my truck,' Ashworth, 60, said. 'I have no funds right now.'

"Red Cross spokeswoman Carrie Martin said, 'We're administering the hotel program with the expectation that it ends on October 15. After that, we'll still have shelters open, but we definitely don't want to move backwards.' Meanwhile, more than 100,000 people remain in about 1,000 shelters operated by the Red Cross, smaller charities and churches, scattered across two dozen States as far flung as New York and Washington."

I am going to discontinue reading this article because I think my colleagues get the picture, and I think we are all desirous of doing something substantial. But how long has it taken us to get to the floor with this minimal response to the housing problems of the victims of Hurricane Katrina and now Rita?

Madam Speaker, I think we can do better than this, and we should be on this floor today not only talking about vouchers simply for those who held vouchers before; but we should be talking about those people who were waiting for vouchers. We should be talking about how we are going to build permanent low- and moderate-income housing. Right now we are failing.

Madam Speaker, I reserve the balance of my time.

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume.

I would just like to state that I agree with much of what the gentlewoman had to offer to the House in her comments with regard to long-term and permanent assistance for those dislocated by the storms.

I certainly believe that people should be given the ability to make the best choices for their families, take vouchers, and move wherever it suits their family's need close to employment, close to job training, whatever suits their circumstance best.

Unfortunately, we in Louisiana who feel that way have had a different path outlined by our Governor. I read her most recent comment: "The path I have outlined, moving our people from shelters or the homes of in-laws or friends or into hotels and transitional trailer communities here in Louisiana, gives our people hope. It gives them a clear path that they can see, a path that will help them get their lives together and get them home to Louisiana."

I do not necessarily share that perspective. I think we should be doing the highest and best job with the limited resources that are available to us, and I agree with the gentlewoman that we should be doing something on a grander scale. The bills before the House today are merely modest steps. They are significant progress, but we need to do better.

Madam Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. ALEXANDER), the principal sponsor of the bill.

Mr. ALEXANDER. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, to begin with I want to thank the gentleman from Louisiana (Mr. BAKER) for his leadership and his contribution to the State of Louisiana, both with the Committee on Financial Services and within our delegation.

Because of the hurricanes in Louisiana, Mississippi and Alabama, over 1 million households have been affected. Between 40 and 50 percent of those households, whether rented or owned, will need to be completely replaced. These are high numbers and do not even include Katrina's damage in Florida. In fact, FEMA estimates that 300,000 families are homeless and 200,000 will require government housing.

This is a housing crisis unlike anything we have seen in this country due to a natural disaster. Here in the United States, a country that gives more in aid to countries around the world than any other, we have largely been unable to provide the basic need of housing for our citizens.

Today is the 36th day since Hurricane Katrina made landfall, and there are still thousands of Louisianans in shelters across this country and the State of Louisiana.

□ 1530

These numbers do not even reflect the number of people living in private homes, in churches and motels.

For 36 days now, these people have slept on cots. They have eaten at community tables and showered in communal facilities. These people, the citizens of our country, want their privacy. They want to use the phone at will. They want to sleep in their own beds. They want to have the freedom to walk around without carrying their belongings, and they want to tuck their children into bed at night in peace and not have strangers watching them. In this country of great prosperity and resources, people should not be forced to live like this for over a month.

This act will give the Secretary of HUD the authority to waive specific requirements under section 8 and project-based assistance programs for victims of Hurricanes Katrina and Rita in order to expedite emergency housing assistance to those families that need it the most. This waiver authority will last for a period of 6 months, with a 6-month extension beyond that if the Secretary deems it necessary.

By waiving the requirements of verification of income and initial inspection of units, we are enabling displaced persons who have lost documentation due to the hurricanes to obtain vouchers and ensuring occupancy immediately by waiving the initial inspections.

By removing the 1-year rental contract requirement that the vouchers be confined to a specific area, we are making sure that people have the flexibility to determine where and how they will live. While many people are deciding what to do on a permanent basis, they still need temporary but independent living arrangements. This bill does just that.

This bill authorizes the Secretary to directly administer section 8 vouchers if the appropriate housing agency is unable to do so because of damage or displaced employees due to the hurricanes. This will ensure that those persons traditionally served will continue to be served by HUD's programs.

This bill requires the Secretary to report to Congress within 30 days of the enactment of this legislation on Federal, civilian and Defense facilities that can be used to provide emergency housing or as locations for construction or deployment of temporary housing units.

Lastly, it requires the Comptroller General to submit a report to Congress identifying and describing States that have developed emergency housing contingency plans for use in the event of a disaster to help us be better prepared the next time.

While I recognize that this is not all that is needed to address the housing crisis, this is a step in the right direction and part of the overall plan to get people into more permanent living arrangements. We cannot solely rely on the trailer plan to house displaced persons. These vouchers offer choice to people, use existing housing and do not necessitate the need to build additional public housing.

I am concerned for the people of my State. I am concerned for the people of the gulf coast region. It is time for us to take action to get these people out of the shelters and into apartments, into homes or into a place where they can begin to start their lives over. These are Americans. They are our citizens. I urge my colleagues to help pass H.R. 3894. It is time that we act to get our citizens out of these shelters and into homes.

Ms. WATERS. Madam Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, I appreciate the gentlewoman from California (Ms. WATERS) for yielding me this time. She is the ranking Democrat on the Subcommittee on Housing and Community Opportunity and has been playing a very leading role, not just now but for years, on housing issues, and I fully subscribe to her really very forceful and eloquent description of where we are.

Let me take up where she left off. I am going to vote for this bill. It is later than we would like. It is less, in some ways, than we like, but everything it does do, it seems to me, is useful. And I want to express my appreciation to the Members on the other side who had, I believe, a role in making sure of this.

There was some original fear that the housing vouchers or the equivalence of vouchers which will be funded out of FEMA would somehow be competing with the existing voucher program. Several of my colleagues told me that they had heard from housing authorities in their areas, in other parts of the country that they were being told, Okay, here come these FEMA people, they go to the head of the list, and they would in effect take a voucher away where there are waiting lists.

Let us be clear that that is not happening. These are additives. These are additional. So it is very important to note that, because as the gentlewoman from California noted, we have waiting lists. We have an ongoing problem, and this does not make it any worse, but it does not make it any better. But let us be clear, it does not make it worse. So anyone who was under that misimpression, we had a briefing, and I appreciate the majority facilitating this, and staff from both sides and Members were there, and FEMA and HUD both made it very explicit to us that these are additional to the voucher program. So no one should feel they are going to be competing with someone already there.

The next question, though, is, what do we do next? Yes, it is important to get people the vouchers, but they are a short-term solution by definition: 6 months and 6 months. We hope people will be able to find some alternatives. But what do we do? That is the point I want to address, because this underlines the need for us to get back in the business of helping construct on a permanent basis new affordable housing.

We made great mistakes as a society decades ago by building for low-income people Columbia Point or Pruitt Igoe or Cabrini Green, large sterile warehouses for far too many people with far too few services, and they did not work well, and not because of any character defect in the people that lived there but because of the inherent flaw in the way they were planned. We have learned since then how to use public money to build housing that is desirable; how, in particular, to use public money in conjunction with private developers, profit-making and nonprofit, to provide decent homes.

There has been a lot of concern here about making sure that faith-based organizations are allowed to participate in government programs. Well, in the housing area, there is nothing new about that. Faith-based organizations for years have been the leaders in using Federal programs to provide affordable housing. In my own State of Massachusetts, the Boston Archdiocese and Office of Urban Planning has been a superb provider of affordable housing. So has the Jewish Community Housing for the Elderly. If you talk to the Association of Homes for the Aging, religious entities are very much involved.

I would note that none of them ever told me that they had to discriminate in hiring to provide that housing. But what we should be doing is taking advantage of that experience and broadening it, because we have got to the point where the only housing that has been built has been for older people. And that is important, building housing for the elderly and the disabled, but as we now see, we also need some family housing.

Here is the problem: If all we do is what we are doing today, and what we are doing today is important and I am for it, but if this is all we do, a year from now, where will these people live? Because there is not this great excess of affordable residential units all over the country. There are pockets where there are.

We also have the question about what happens in New Orleans and other areas. Now, I was very distressed to hear the Secretary of HUD say: not surprised. I must add but distressed, that when New Orleans is rebuilt, there will be fewer African-Americans there. Shame on us if that is the result because, where are these people supposed to go? This was their home. This was a community. And we should be providing temporary help, but we should also be determined to allow this community to rebuild itself.

That does not mean building inadequate housing in the middle of a floodplain. It does not mean having people be vulnerable to floods. It means we should use our wit and our resources to provide replacement housing for people that is better and safer and protected. We know how to do that.

So as I support this bill today, I want to reaffirm, and I know the gentlewoman from California has been a leader on this, and I want to acknowledge that the gentleman from Louisiana, who is managing this bill, he and I and others on our committee are working on one piece of legislation that might be a vehicle for this, that there are many ways to do it. But I want to stress the importance of, after the vouchers, then what?

If we want to allow people to move back not just to New Orleans but to the Mississippi gulf and other communities, then we, in part, should be building housing. There are other things we need to today, and our committee is working on that and working with the financial community.

And in this context, I really have to express my great disappointment here in the President's approach. When the President gave his major speech not for the interim but for the longer-term situation, the only housing situation he addressed was the homeownership through an urban homesteading plan. Now, homesteading has a great history in the United States. And in the 19th century, people were given a piece of land out in the unsettled parts of the country, and they could chop down trees, and they could build their houses. I do not think that model translates all that well to an urban area.

I do not think, when the people in New Orleans are given a piece of land, which is what the President's program says, I will give you the land but nothing else, even if there were any trees left after the flood, I do not think the average returning resident of New Orleans will be able to chop them down and build a house. The urban homesteading plan is wholly inadequate. By definition, the President's urban homesteading plan helps a very small percentage of those who need the help. He is having a lottery.

Since when for a program to meet basic human needs do you have a lottery, which by definition means a very small percentage of the people get in there? Just look at the inadequacy of that program. It says the Federal Government will try to find property it owns. It will not be based on suitability about where to build. It will be on what the Federal Government owns and has no use for and then will be made available to a small percentage of people. And then they are on their own and have to find somehow some money to build on it or to rehabilitate it. That just does not make sense.

What we need to do, following on from this, is a sensible housing production program working with the local officials in New Orleans and in the gulf and elsewhere, the gulf of Mississippi and elsewhere. Let sensible planning go forward at the local level, building not large sterile public housing units but mixed housing, because people with various incomes will need help, and various forms of help will be necessary.

For some people, because we want to promote home ownership, various forms of mortgage assistance will make sense, so working with the financial institutions. For others, we will need to build some housing. We also, I think, have an obligation to rebuild the public housing units that were destroyed, not exactly as they were. We have had some experience, and our committee has in general voted often to reauthorize the HOPE 6 program, which is a way to take public housing and improve it.

So, yes, I vote for this bill. I also welcome the fact it does not take away from the existing voucher program. It does, of course, emphasize the importance of the voucher program, but it also will leave us, and I hope we will address this in this Congress later this year or early next year, a program for the reconstruction of housing in New Orleans for people of various incomes, some of whom will not be able to return to their homes without the construction, with Federal help, of affordable housing.

We know how to do that. We have very good examples of it. And it is very important that we go forward.

Ms. WATERS. Madam Speaker, I, too, join with my colleague and the ranking member of our Financial Services Committee in commending those on the opposite side of the aisle who really do have the providing of housing for low- and moderate-income persons on the top of their priorities.

And while I commend them because they have always shown an interest in doing this, I think we are all to be criticized for how slow this process is in dealing with the victims of Katrina and Rita. We have just got to be able to move faster than we are moving.

And while, again, today what we do in replacing those vouchers is a good thing, I am still worried about the fact that there are so many people who needed housing even before Katrina and who are going to be left out there to receive whatever resources are available from FEMA, but they will be back in the same situation they were in before, still without adequate housing, still, I suppose, on some kind of a waiting list and still among those in the United States of America without decent and adequate housing for themselves and their families.

□ 1545

Let me just say, as I raise the question about us being slow and not doing enough, one may ask what could have been done in this period of time. Well, by now we should have an assessment of all of those buildings, all of those apartment buildings, all of those homes, many of which are considered dilapidated, sitting everywhere from Baton Rouge to Alexandria to New Iberia, on into Texas and other places where we could have created a program by which to provide resources to bring these houses and units up to code in order to create more housing. There are a lot of such homes, a lot of such units.

Do not forget, many of the areas that we are dealing with were in deep housing crisis before Hurricane Katrina. While I am very respectful of the fact that FEMA moved people to Utah, California and New Jersey, what I am hearing is people do not want to be in New Jersey and in California and other places. They want to be near their homes; they want to be near their home cities and their home towns.

I think that we could by now have done an assessment of all of those properties that could be rehabilitated, some of which are owned by individuals, others owned by corporations, and put together a program for rehabbing and rehabilitation and bringing them back online in order to make them available.

We should also be about the business of converting warehouses into lofts and moderate-income housing. And even in some of the factory areas that are closed down, dilapidated, boarded up throughout the South, there are opportunities for the creation of housing. And there are many nonprofit, low-income and moderate-income developers who are waiting for an opportunity to be of help. I think we could have done more.

While I am going to vote for this bill, I do not pat myself on the back, nor do I pat the Members from the other side of the aisle on the back. I know they may be confronted with an administration that says it does not want to spend any money, but I must say that our citizens do not want to hear that the President or this administration does not want to spend money to deal with this housing crisis created by a natural disaster at a time when we are dumping billions of dollars into war, into Iraq, into Afghanistan. Our citizens are disappointed that we are not doing better than we are doing.

Madam Speaker, I include for the RECORD the complete article that I read a portion of titled, "Housing Promises Made to Evacuees Have Fallen Short."

[From the Washington Post, Oct. 2, 2005]

HOUSING PROMISES MADE TO EVACUEES HAVE FALLEN SHORT

(By Spencer S. Hsu and Elizabeth Williamson)

RED CROSS TO HALT HOTEL STIPENDS IN 2 WEEKS, AND HUNDREDS OF SHELTERS HAVE CLOSED

Two weeks before President Bush's mid-October goal for moving Hurricane Katrina victims out of shelters, more than 100,000 people still reside in such makeshift housing, and 400,000 more are in hotel rooms costing up to $100 a night. Housing options promised by the federal government a month ago have largely failed to materialize. Cruise ships and trailer parks have so far proved in large part to be unworkable, while an American Red Cross program—paid for by the federal government—that allows storm victims to stay in motels or hotels is scheduled to expire Oct. 15. It is projected to cost the Federal Emergency Management Agency as much as $168 million. Federal officials are struggling to launch an alternative interim housing program that would give families whose homes are destroyed or uninhabitable a lump sum of $2,358 in rental assistance, or $786 a month for three months, with the possibility of a 15-month extension. So far, 330,000 families have signed up for the housing assistance. But if evacuees have to use those stipends to pay for hotel rooms when FEMA stops covering such lodging, the funds will not last long. Last week, the number of evacuees in hotels increased from 220,000 to more than 400,000 people, in 140,000 rooms. Many have no idea what they—will do when the program ends in two weeks.

Ronnie Ashworth, a truck driver from Chalmette, La., east of New Orleans, currently lives at the Baton Rouge Marriott. If no other housing is forthcoming after Oct. 15, "I'll be sleeping in the back of my truck," Ashworth, 60, said. "I have no funds right now." Red Cross spokeswoman Carrie Martin said, "We're administering the hotel program with the expectation that it ends on October 15th. . . . After that, we'll still have shelters open, but we definitely don't want to move backwards." Meanwhile, more than 100,000 people remain in about 1,000 shelters operated by the Red Cross, smaller charities and churches, scattered across two dozen states as far-flung as New York and Washington.

The Red Cross has said it will keep its shelters open for as long as necessary, but many are in churches and public buildings that are needed for their primary functions. Hundreds of shelters have closed over the past two weeks, and many of their occupants, the Red Cross said, appear to be moving into hotels, in hopes of benefiting from the hotel program in its final days. In search of temporary housing immediately after the hurricane, FEMA officials went on a $1.5 billion spending spree, buying out entire dealerships of recreational vehicles and signing contracts for more than $500 million with one manufacturer of mobile homes. But the plan to create "cities" of 500 to 600 RVs across the South has run into major logistical and political problems. In FEMA lots in Alabama, Louisiana, Mississippi and Texas, several thousand trailers stand empty, waiting for the agency to navigate land leases, zoning laws, local opposition and policy questions. "We have 12,000 mobile homes with no place to put them," said Rosemarie Hunter, a FEMA spokeswoman in Baton Rouge. To date, only 1,396 trailers in Louisiana house displaced people. About 1,100 are occupied by workers engaged in New Orleans's recovery effort, and 173 house families left homeless by the storm. Policymakers say that warehousing tens of thousands of people in trailer park communities until New Orleans and other cities are rebuilt could lead to the creation of dysfunctional "FEMAvilles," as residents of past encampments have called them.

Democrats go further, warning that they may become known as "Bushvilles," just as Depression-era shantytowns were called "Hoovervilles." Refugee Council USA, which includes nine U.S. resettlement agencies that have integrated 2.5 million global refugees into the United States since 1975, said storm victims would be better off getting on with their lives—finding housing, jobs and counseling services in new communities rather than waiting indefinitely for homes to be rebuilt. FEMA officials agree. Evacuees, said FEMA spokesman Eugene Kinerney, "need to consider long-term housing in areas where there is available rental stock and prospects for employment to take care of other needs, such as food." But some civic and political leaders worry that the alternative—resettling storm victims—will lead many to stay permanently in their host communities, fundamentally changing the nature and politics of Louisiana and possibly beyond.

FEMA initially estimated that the homes of 300,000 families were destroyed by Katrina and that 200,000 of them will need government help with housing but said only time would reveal the true scope of need. The lack of an effective strategy to manage the largest displaced population of Americans in at least 60 years has touched off a furious policy debate. "The big picture is . . . everyone who has some scheme for how people should live is now living vicariously through the opportunity New Orleans offers" of a blank slate, said Ronald D. Utt, senior researcher at the Heritage Foundation. "All this push and pull is happening, and all of which can be lumped in with some notion of social engineering." Policy think tanks from the Brookings Institution on the left to Heritage on the right have criticized FEMA for relying on trailers as it traditionally does for hurricane victims, saying Katrina's scale overwhelms that solution. By contrast, they say vouchers provide more choices to individuals, reduce the need for building public housing and take advantage of existing housing stock.

In a joint statement last week, Senate Minority Leader Harry M. Reid (D-Nev.) and House Minority Leader Nancy Pelosi (D-Calif.) criticized how long it took the Bush administration to implement its voucher program. "It wasn't until nearly one month after the disaster struck that the Bush Administration finally announced it would begin to provide rent payments to families displaced by the storm," as Democrats urged, they said. Under the FEMA housing assistance plan, families that remain eligible can get as much as 18 months of cash assistance for a maximum of $14,148, but the money would count against a cap of $26,200 per family that Congress has set for FEMA to give in cash, rental assistance and home repairs.

Even before FEMA announced the program, Sen. Paul S. Sarbanes (D-Md.) pushed a plan through the Senate last month to provide $3.5 billion in housing vouchers to 350,000 Katrina-displaced families. On Friday, Sarbanes called on Bush to transfer control of housing assistance from FEMA to the Department of Housing and Urban Development. "The scope of this disaster calls for changes in how we think about disaster assistance," Sarbanes wrote the White House. "Hundreds of thousands of people may need housing assistance for 18 months or even longer. We cannot rely on FEMA, an emergency response agency, to provide on-going housing assistance to this large number of families," he said, citing HUD's "experience, staff and infrastructure."

Ms. WATERS. Madam Speaker, I yield back the balance of my time.

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to respond to the concerns raised by the gentlewoman from California (Ms. WATERS) with regard to the forward-looking picture of housing needs in not only the disaster-stricken area but across the Nation, but particularly in the Hurricane Katrina area which I was fortunate to be adjacent to and not a part of.

It is certainly clear that a new housing vision is required. Much attention has been given to the city of New Orleans where damage was significant. Much attention, however, has not been given to areas north and south of the city, whether it is St. Bernard Parish or St. Tammany. In St. Tammany, the wind damage was extensive. Acres upon acres of large trees were blown down across streets, across houses. The damage was difficult to believe.

In St. Bernard Parish where the flooding left 9 to 14 feet of water in houses for periods up to 2 weeks, it is tragic to think what people will discover when they are finally able to revisit their neighborhoods. Certainly normal government strategies will not work in the face of such tragedy.

At the direction of the gentleman from Ohio (Mr. OXLEY) and working with the administration, the President, Secretary Snow and Secretary Jackson, we will have a plan to consider in the House of Representatives that will be different and unique. We have the capability to address this problem that we have never addressed before with a response that has never been proposed before. We hope to have such legislation before the break next week; but if not, immediately upon our return.

I look forward to working with the Members on the other side of the aisle and all Members from the affected areas. We understand that the needs are great, and the needs will not be met in one year or two. This is going to be a decades-long remedy requiring the patience of the Congress and the continuing generosity of all Americans.

None of us could foresee the scope of devastation. None of us would wish this on any place in the world; but it has happened and there are people who are living in shelters without resources, without futures, not knowing what tomorrow will bring. We have a high obligation to respond, and the Members of the Louisiana delegation fully intend to do their best in meeting this need.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 3894, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. WATERS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BAKER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3894.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

RURAL HOUSING HURRICANE RELIEF ACT OF 2005

Mr. BAKER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3895) to amend title V of the Housing Act of 1949 to provide rural housing assistance to families affected by Hurricane Katrina, as amended.

The Clerk read as follows:

H.R. 3895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Housing Hurricane Relief Act of 2005".

SEC. 2. DISASTER AUTHORITY.

Section 541 of the Housing Act of 1949 (42 U.S.C. 1490q) is amended to read as follows:

"SEC. 541. DISASTER ASSISTANCE.

"(a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may exercise any authority described in subsection (b) with respect to the counties designated as disaster areas pursuant to the declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina or Hurricane Rita, and the counties contiguous to such counties, and for any individuals who resided in such counties at the time of the disaster.

"(b) SPECIAL AUTHORITIES.—The authorities described in this subsection are as follows:

"(1) CONVERSION OF RENTAL ASSISTANCE.—The Secretary may convert rental assistance under section 521 allocated for a property that is not inhabitable because of the disaster into

"(A) housing voucher assistance authorized under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)); or

"(B) rural housing vouchers authorized under this title.

Any conversion and use of rental assistance pursuant to this paragraph shall apply only for the period described in subsection (c) or a portion thereof, as determined by the Secretary.

"(2) WAIVER OF RURAL AREA REQUIREMENTS.—The Secretary may, for the period described in subsection (c) or any portion thereof, waive the application of the provisions of section 520 with respect to assistance provided under this section, as the Secretary considers appropriate.

"(c) DURATION OF AUTHORITY.—The period described in this subsection is the 6-month period that begins upon the date of the enactment of this Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available to carry out this section, there are authorized to be appropriated such sums as may be necessary to carry out, during the period described in subsection (c), this section or any other activity authorized under this title.".

SEC. 3. RURAL HOUSING VOUCHER AUTHORITY.

During the 6-month period beginning on the date of the enactment of this Act, the Secretary of Agriculture may exercise the authority under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r), except that in carrying out this section—

(1) notwithstanding the first sentence of subsection (a) of such section 542, the Secretary may assist low-income families and persons, but only if—

(A) such family or person—

(i) resides or resided, on August 25, 2005, in any area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina; or

(ii) resides or resided, on September 24, 2005, in any area that is subject to a declaration by the President of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Rita; and

(B) the residence of such family or person became uninhabitable or inaccessible as result of a major disaster or emergency referred to in subparagraph (A) of this paragraph; and

(2) subsection (b) of such section 542 shall not apply.

SEC. 4. GUARANTEED LOANS FOR SINGLE FAMILY HOUSING.

Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (4), by striking "or construct" and inserting ", construct, repair, or rehabilitate"; and

(2) in paragraph (14)(A), by striking "made under this section or guaranteed under this subsection" and inserting "used to acquire or construct a single-family residence that meets the requirements of subparagraphs (A), (B), and (C) of paragraph (4)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BAKER) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3895 is important legislation to again provide flexibility to the Rural Housing Authority relative to converting available funds to vouchers to provide additional options for those displaced by Hurricane Katrina and Hurricane Rita. It also provides additional loan flexibility with regard to repairs and remodeling pursuant to storm damage for existing loans now provided by the agency.

I wish to acknowledge the work of the chairman of the subcommittee, the gentleman from Ohio (Mr. NEY), and the gentleman from Ohio (Mr. OXLEY), chairman of the Committee on Financial Services, who have been extraordinary in their desire and willingness to help those of us in the gulf coast area with remedies to the identified problems.

This legislation, the second of three to be considered by the House today, is an important step. Not in and of itself a significant remedy, but it does provide significant new flexibility to a historically proven and valuable program. For these reasons, I believe it is highly important for the House to adopt this matter as well as the legislation to follow. In cooperation, all three bills will provide significant and meaningful assistance to those who find themselves without a place to call home.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I intend to vote for this bill, as I believe all of us plan to. It is a very reasonable approach. It makes some changes in the rural housing program which are limited both geographically and chronologically, which is the way to do this short-term approach.

There were some other issues raised, and the majority has agreed with us there are other changes that could be made in this program; and I believe we will be taking them up later to do a more permanent situation.

There is one permanent change here involving the program known as the 502 program which gives some flexibility in financing and I think all who are interested in this favor.

I will take a minute or two to note, this is about rural housing. This is housing built with Federal help, generally public-private cooperation, federally subsidized, assisted housing in rural areas; and I stress that because too often when we talk about Federal housing programs, people think only about the big cities. Here we are not talking just about New Orleans, but the adjacent parishes. As the gentleman from Mississippi (Mr. TAYLOR) pointed out, we are talking about small communities along the Mississippi coast.

There is a need for housing assistance in various places, and we should stress again this is very important housing that helps people of low- and moderate income in rural areas, sparsely settled areas, to have decent places to live. So it is a reminder that housing programs are not simply big-city programs, but appropriately done are programs that meet needs in various places.

What this does is to give the flexibility during the next 6 months so the rural housing programs and the housing built there in the affected areas, people can respond to that with some flexibility. Money will not be lost; money will be reprogrammed. It is a product of a great deal of thoughtful collaboration on both sides of the aisle, and I intend to vote for this bill.

Madam Speaker, I reserve the balance of my time.

Mr. BAKER. Madam Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY), chairman of the Committee on Financial Services, who has been extraordinarily cooperative and is exhibiting great leadership in helping the people of the gulf coast deal with these catastrophes.

Mr. OXLEY. Madam Speaker, I rise in support of this legislation and commend the sponsor of the legislation, the gentleman from Louisiana (Mr. BAKER), for his tireless work and dedication for providing housing relief for the victims of Hurricane Katrina and Hurricane Rita.

Residents of the rural gulf region have been especially affected by the devastating impact of Hurricanes Katrina and Rita. While media attention in the aftermath of these catastrophes has been focused on the urban disaster, particularly New Orleans, rural communities in the region, and individuals and families who are assisted by rural housing service programs, face a challenging road.

Rural areas are often plagued by poverty, high numbers of substandard homes, affordable housing shortages, costly development, and inadequate access to mortgage loans. RHS, through its programs, provides direct loans, guaranteed loans and grants to help families obtain and maintain affordable housing in those rural areas. Because so many rural families in the gulf region have left their communities, either because their housing is now in ruins or because they have settled in another community, it is extremely important that RHS has the flexibility to provide assistance to these families who have been displaced from rural gulf communities.

The legislation we are considering today will enable RHS to continue to meet the needs of rural families who have been displaced by the hurricanes. This legislation will temporarily give RHS the necessary funding options it needs to keep families in the program in the wake of this disaster. In short, this important revision will give RHS the ability to convert to vouchers funds tied to a rural housing project that is no longer habitable due to the effects of Hurricane Katrina and Hurricane Rita. RHS will have the authority to reprogram funds in either HUD section 8 vouchers or RHS vouchers authorized under title V of the Housing Act of 1949.

This legislation is designed to provide temporary housing relief for families affected by the hurricanes and upon enactment will be effective for 6 months.

Next, H.R. 3895 will expand the flexibility of RHS by temporarily eliminating the current limitations regarding the number of vouchers that can be issued and where they can be used. Again, this is a temporary suspension, to be in effect for 6 months upon enactment, which reflects the need for timeliness and efficiency in securing housing for rural families under RHS programs.

Finally, this legislation amends the single family housing guaranteed loan program by expanding refinancing to include loans for housing repair and rehabilitation. Currently, repair and rehabilitation costs cannot be financed from refinanced guaranteed loans. This legislation will also allow refinancing of loans from borrowers who are not currently in the USDA single family housing program.

□ 1600

While these authority changes to the single-family housing program are not limited to disaster situations, they will be very helpful in assisting families affected by Hurricanes Katrina and Rita.

H.R. 3895 will help ensure that housing assistance continues to be available to those of the neediest individuals and families in the rural gulf region, who have already suffered greatly in the aftermath of the hurricanes.

I urge my colleagues to support this legislation, and, Madam Speaker, point out that the committee, once again, has worked effectively through these issues, these three suspension calendar votes, in anticipation, as the gentleman from Louisiana pointed out, and my friend from Massachusetts mentioned, with a goal of looking at a long-term solution to this problem that is one that will not go away and will be over a period of years, as the gentleman from Louisiana pointed out.

I want to say to the members of the committee and to the House that this committee stands ready to do what is necessary to bring relief to those regions in a fiscally responsible manner. I have every reason to think we will do exactly that.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LEE), a member of the committee.

Ms. LEE. Madam Speaker, let me thank our ranking member for yielding. Also I want to thank the ranking member on the Housing Subcommittee for her leadership and for really trying to make sure that these bills before us today have bipartisan support and have become better bills as they move through this process.

People displaced by this horrible disaster deserve clean, safe and decent housing. They should be provided with the opportunity to return home as quickly and as safely as possible. Yet, I do not believe these bills accomplish this goal.

HUD has not received, first of all, nearly enough authority or funding to do what is necessary to provide for the Katrina survivors. First, nowhere do we acknowledge the inadequate response to date of the administration or the Department of Housing and Urban Development to the housing crisis in the gulf.

Secondly, there is no additional funding in any of these bills for the CDBG or emergency housing vouchers for families affected by Hurricane Katrina. There is not enough money at HUD, and we should not redirect funding that is already inadequate in one account, to move it to another account. Indeed, we need more resources to accomplish what we need to accomplish. The bottom line is, there needs to be new money for housing, and we need it now.

Finally, there is not enough thought given to prohibiting the use of substandard housing for Katrina survivors or for the creation of affordable housing construction programs for new, safe and affordable housing. Although these bills waive the pre-inspection process for about 6 months for Katrina survivors in terms of their housing needs. I really worry that people will find themselves living in substandard and dilapidated housing if we do not monitor this very closely.

What I find also very striking about these bills is that there are no measures to ensure that Katrina survivors can return to the gulf region without fear of housing discrimination from landlords or lenders. There are some serious housing policy issues at stake in these bills. There should be more opportunity for debate and thoughtful legislation.

Madam Speaker, the reality is, these bills do very little for the people who are relying on us to help. Having traveled to Houston and having talked to Katrina survivors; I went to the shelters, like many, and I have heard firsthand the needs and seen firsthand their pain. I know very well that housing, providing affordable decent safe housing, is very central to their recovery.

When I think about how much Katrina survivors have lost, compared to what this administration is willing to sacrifice in their misguided budget priorities, it falls way short, I am sorry to say, of what we should be doing. We need to provide housing bills that create new funding for emergency, flexible, section 8 vouchers. We need to increase the funding and authority of HUD to truly help Katrina survivors and also to take steps to eradicate poverty. Effective housing strategies with full funding would help to begin to address these underlying systemic issues which surface during this tragedy.

I would like to thank our housing leaders again, Congressman BARNEY FRANK and Congresswoman MAXINE WATERS, for attempting to make these bills better. I welcome the opportunity to continue to work with my colleagues to authorize and to fund significant Katrina housing legislation in the near future.

Mr. FRANK of Massachusetts. Madam Speaker, I yield back the balance of my time.

Mr. BAKER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 3895, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. FRANK of Massachusetts. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BAKER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3895.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

HURRICANE KATRINA EMERGENCY RELIEF CDBG FLEXIBILITY ACT OF 2005

Mr. BAKER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3896) to temporarily suspend, for communities affected by Hurricane Katrina, certain requirements under the community development block grant program, as amended.

The Clerk read as follows:

H.R. 3896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hurricane Katrina Emergency Relief CDBG Flexibility Act of 2005".

SEC. 2. SUSPENSION OF PUBLIC SERVICES CAP.

(a) UNITS OF GENERAL LOCAL GOVERNMENT AND INDIAN TRIBES.—

(1) SUSPENSION FOR DIRECTLY AFFECTED COMMUNITIES.—The percentage limitations under paragraph (8) of section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) on the amount of assistance under title I of such Act that may be used for the provision of public services by a unit of general local government or Indian tribe that is, or is within, a directly affected community (as such term is defined in section 4 of this Act) shall not apply with respect to any of fiscal years 2005 through 2008 for such unit of general local government or Indian tribe.

(2) AUTHORITY TO SUSPEND FOR INDIRECTLY AFFECTED COMMUNITIES.—For any indirectly affected community (as such term is defined in section 4 of this Act), the Secretary may waive the applicability, for such period during the fiscal years referred to in paragraph (1) as the Secretary considers appropriate, of the percentage limitations under paragraph (8) of section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) on the amount of assistance under title I of such Act that may be used for the provision of public services by a unit of general local government or Indian tribe that is, or is within, such indirectly affected community. In determining the period for which to waive such limitations, the Secretary shall take into consideration the specific economic circumstances of each such indirectly affected community.

(b) NONENTITLEMENT COMMUNITIES.—Assistance provided under title I of the Housing and Community Development Act of 1974 may be used for the provision of public services in any directly affected community (as such term is defined in section 4 of this Act) without regard to the percentage limitations under paragraph (8) of section 105(a) of such Act (42 U.S.C. 5305(a)(8)) on the amount of assistance that may be used statewide in nonentitlement communities for such activities and any such amounts so used in any directly affected community shall not be considered for purposes of such statewide limitations.

SEC. 3. SUSPENSION OF PUBLIC HEARING REQUIREMENT.

(a) IN GENERAL.—The Secretary shall, with respect to a grant under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) for fiscal year 2006 for any unit of general local government or Indian tribe that is, or is located in, a directly affected community, waive or specify alternative requirements for the public hearing requirements specified under subsection (b).

(b) PUBLIC HEARING REQUIREMENTS.—The public hearing requirements specified under this subsection are—

(1) the requirement under section 104(a)(2)(C) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(2)(C)) to hold public hearings;

(2) the requirements under subparagraphs (D) and (F) of section 104(a)(3) of such Act to make certifications in the detailed citizenship participation plan regarding public hearings; and

(3) any requirement pursuant to section 106(d)(7)(C) of such Act (42 U.S.C. 5306(d)(7)(C)) to hold public hearings.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) DIRECTLY AFFECTED COMMUNITY.—The term "directly affected community" means a unit of general local government or area for which the President has declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina or Hurricane Rita.

(2) INDIRECTLY AFFECTED COMMUNITY.—The term "indirectly affected community" means a unit of general local government or area that—

(A) is a metropolitan city, urban county, or Indian tribe (as such terms are defined in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a));

(B) is not, and is not within, a directly affected community; and

(C) is determined by the Secretary of Housing and Urban Development to have been significantly affected economically by the occurrence of Hurricane Katrina or Hurricane Rita (including economic effects from the presence of persons evacuated from an area for which the President has declared a major disaster in connection with Hurricane Katrina or Hurricane Rita).

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BAKER) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, today I rise in support of H.R. 3896, the Hurricane Katrina Emergency Relief CDBG Flexibility Act of 2005. Many local officials are quite familiar with the provisions of the CDBG block grant program, which enables local communities to meet needs at their discretion. Within the body of the existing rules that govern the applicability of these funds, however, there is a provision that restrains the utilization of money for certain purposes to no more than 15 percent of the total funds made available.

For example, the prohibited areas are limited areas and are known as public services, would include activities such as crime prevention. If a community wished to spend more than 15 percent of its block grant on crime-related services, it would be prohibited from doing so now under the current rule.

Further defined under the definition of public services are homebuyer down payment assistance, fair housing counseling, health services and child care. So in the affected area of the Katrina disaster, if a community wished to help individuals get access to homeownership with a homebuyer down payment assistance program, they would be limited in the scope of those funds to only 15 percent being made available for that activity.

This bill merely lifts temporarily that 15 percent limitation on CDBG block grants.

I think it is a very good way to provide needed resources within local communities to meet the needs as they best see them. Of course, the grant is still subject to all the normal review and processes, so there is accountability for utilization, but it simply creates more flexibility within local governments to meet the needs of the communities as a result of these dire circumstances.

Madam Speaker, I reserve the balance of my time.

Ms. WATERS. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, today we stand here in the aftermath of Hurricane Katrina, considering uses for the community development block grant to address the housing and infrastructure crisis wrought upon us by Hurricane Katrina and Hurricane Rita. Madam Speaker, it is ironic because it was not more than a few months ago that I stood with my colleagues, opposed to the administration's attempt to block grant CDBG to the States and to move CDBG and 17 other programs to the Commerce Department. I am so pleased that did not happen.

Today, based upon the proven merits of this program, based on the effectiveness and consistency of a statutory mission, based on the need to quickly and effectively provide relief, the administration is now looking to CDBG, and I support that. H.R. 3896 attempts to make two major temporary changes to the community development block grant. H.R. 3896 seeks to weigh the public services cap, which is currently set at 15 percent, and which I support, that is, with a caveat, and H.R. 3896 seeks to waive the requirement for public hearings concerning the use of CDBG funds, and I am concerned about that.

Madam Speaker, at the core of CDBG is its original statutory goal to develop viable urban communities by providing decent housing and suitable living environments and the expansion of economic opportunities, principally for persons of low and moderate income.

When I traveled to Baton Rouge and New Orleans, I toured the devastation, the homelessness and the desperation that had been created by this disaster. This hurricane certainly exacerbated the poverty and lack of education, lack of economic opportunity that has plagued New Orleans and surrounding areas throughout the gulf, specifically the African-American population.

This hurricane has shown a virtual spotlight on problems that are emblematic of inner cities all across this country. I spoke to people about their needs and their hopes for their immediate future. The one thing that was consistent, the one thing that was unchanging, was the determination of people to return home.

Madam Speaker, community development block grant is a proven program that provides critical infrastructure resources, and it is a program that can help Katrina victims in their stated goal of returning home. CDBG is one of the best mechanisms that we can employ to help in the reconstruction of the gulf region, because it puts money in the hands of the community and the city government, and they know what to do with it. Furthermore, it is directed to rebuild critical infrastructure, which is a step or step one in reestablishing community. But, again, that amounts at best to flexibility and at worse a little more than a legislative process, exercise.

H.R. 3896 provides no additional resources to the directly affected areas. Rather, this bill simply creates programmatic waivers which will allow flexibility but not expansion.

Let me just say this: We all agree at this critical moment that CDBG is a great program. Many of us have thought to expand CDBG, because it is such a great program. This program helps large cities, small towns, communities, not only to repair its infrastructure but to provide services that cannot be provided in any other way because there are no other resources to provide these services.

My colleague from Louisiana just identified a number of those services, helping people with down payment, helping with child care, helping with other programs. I would have hoped that we could have expanded this program. We could deal with the identified needs, not only of New Orleans but the other parishes and the surrounding communities and with Mississippi, Gulfport, and Alabama, but because CDBG is proven to be able to help move whole cities and communities from communities and cities where they have disproportionate poverty that they have no resources to deal with.

I am pleased that we have it here today so that we can lift the cap, and they will have a little bit more flexibility. Ladies and gentlemen, I want this to be a lesson for us, a lesson for us all, that we should not only fight to maintain CDBG in HUD and not transfer it out to Department of Commerce, where we would get people who do not know what to do with it, do not know how to administer it and would only mess it up; but that we would expand it so that we would have the resources to deal with housing crises, because this is a great program to deal with housing needs in every city and every town across this country that is eligible for it.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), our ranking member, to further support CDBG.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, once again, this is a bill that is broadly, probably unanimously, supported, or overwhelmingly; and it reflects a good deal of conversation. We appreciate the willingness of the Members on the majority side to come together. Obviously, there continue to be some differences between us on some policy issues; but in terms of responding to this emergency, those are not things that should get in the way. I think both sides showed a spirit of cooperation. The majority was very helpful, and we have legislation that can be widely supported.

But, once again, the problem is what it does is good, but what it does not do is not so good. In particular in this case we ought to be substantially increasing the CDBG funding. Now, we are not the Committee on Appropriations. We do have an authorizing power.

Giving the people the ability to spend on more things but not more money is better than nothing, but not nearly good enough. CDBG needs the kinds of things that CDBG does, both for the larger communities of 50,000 or more, called "entitlement cities," but also what we should be doing here is providing to the Governors of the affected States funding which they could use in their CDBG programming, because they get one-third of it, for those communities that are in areas of less than 50,000 population, that is, they are the Small Communities Program, and we should be increasing the funding there. I hope at an appropriate time we will do that, because these communities are going to need a great deal of help.

The CDBG program is one of the logical ways to do it. We know how to spend here. It is a program which has had virtually no scandal, to my knowledge. It is a program which works well, and simply expanding this existing funding mechanism would be one very good way to get money to people very quickly in ways they know how to spend.

But I also should note, as the gentlewoman from California noted, I guess in some ways those of us who have been advocates of an active government role in the housing and community development areas can feel somewhat more supported today than we often are on this floor, because we have now had three bills in a row which take advantage of the existence of federally funded programs which have a lot of critics around here.

We have had proposals from the administration this year, from HUD, to dismantle in their existing form both the voucher program and the CDBG program. There was a proposal to block grant the voucher program. Block granting, by the way is what people do to programs they do not like. I have been here a long time. Nobody in my memory has ever proposed block granting a Federal program which he or she supported.

What we had basically was an effort to cut back on the voucher program. What we are doing now is taking the concept of the voucher program and greatly expanding it, through FEMA funding; but, yes, it is a voucher program that has not only proven its worth but is a lifeline at a time when we need one. It would have been a bad thing if we would have had to invent such a program right now because of all the startup problems you would have.

Similarly, as the gentlewoman from California pointed out, this administration proposed the most hair-brained reorganization of the Community Development Block Grant program imaginable. They took the Community Development Block Grant, which aids communities, they took the Community Services Block Grant, which deals with poverty, they took the Community Development Financial Institutions, which deals with economic development in cities, and decided to put them all in the Commerce Department.

CDBG and CSBG have a particular impact on poverty. I think what happened was they had a contest over there in the administration, maybe one of those lotteries they have when they try to help 1 percent of the people that need housing, and they decided to find the Federal Department that had the least orientation towards helping poor people, so they could take these programs that help poor people and give it to that Department.

So we took it out of HUD, and we took it out of the Health and Human Services Department, and they took programs out of Labor, and they sent them to the Department of Commerce, I think on the grounds that the Department of Commerce really did not know enough about poverty, and this is a way for them to learn. I am all for educating people, but not by giving them Federal programs as their blocks.

So what we have today is an affirmation in this bill of the importance of the Community Development Block Grant program as a proven mechanism for getting aid out.

Again, I want to say, and I suppose this will cause a little friction, maybe some people will have to disassociate themselves, but I do appreciate the difference between the members of our committee on the majority side in their approach to these things and the administration. Unlike the administration, which had as its intention dismantling these things, and we, I think were not going to act on that, we are here trying to build on them.

Of course, there is always room for improvement. We have been having some conversations about how to improve the voucher program, how to streamline it, how to make it more efficient. But substantially diminishing it would have been a mistake. So I am very pleased.

Of course, that was also the case with rural housing, because one of the things I hope we will do in the near future, in the next few months, this year or next year, is to go to the rural housing program and take some steps that will preserve that as a source of affordable housing.

There are trends and various complications that we do not need to go into here now, which, if not confronted, we could lose that housing. So we have a recognition today of the importance of the concept of the voucher program. We have a recognition of the importance of the Community Development Block Grant mechanism in delivering services with Federal funding. We have a recognition of the importance of preserving and using that rural housing stock. I hope all of those will go forward.

Finally, Mr. Speaker, I do want to repeat again, these steps are useful. They leave us with a lot to do. The problem is that the Bush administration at this point has zero proposals that will respond to the longer-term needs of these affected communities. I am told these proposals are coming, and I do not doubt some of my colleagues will be coming forward with them.

But we did have a speech from the President of the United States in which he outlined his plans; and the one I looked at very closely was his housing plan, his housing plan consisting of an effort to find existing Federal properties that the Federal Government does not want or need and have a lottery, so a very small percentage, 1 or 2 percent of the people in need, can get Federal property and zero dollars from any source that we control to help make them into housing. And that, let us be clear, that is the sum total of the President's proposal for the longer term. It is wholly inadequate.

We have made a step here today. I look forward to our being back on this floor in coming months to talk about a broader set of proposals for community development, for housing and for other things; and I hope at the time we will keep in mind the importance of building on and improving these existing programs and continue to reject the kind of radical dismantling that the administration has proposed, and instead to try and have their return to the 19th century with the concept of homesteading, which is inappropriate, inadequate, and ill thought out.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to make a brief comment, but a heartfelt comment, about my appreciation to the gentleman from Ohio (Mr. OXLEY), the gentleman from Ohio (Mr. NEY), the gentleman from Massachusetts (Mr. FRANK), and the gentlewoman from California (Ms. WATERS) as to the true bipartisan manner in which these matters have been debated, considered, and supported.

I also want to make known that the administration has exhibited great concern, the President visiting the affected areas now many times, the various agency Secretaries, an innumerable number of Federal employees, occupying one of the former largest department stores in our community in an operations center that we have never seen anything like before. Although inefficient at times, never meeting anyone's expectations appropriately, many people, volunteers as well as paid employees, have spent now countless hours on the ground in all of the communities that are affected.

It is indeed a disaster beyond one's comprehension, and the remedies offered will take considerable time. There is no magic wand in any Department of the government, State, Federal or local, one can wave and make the hurt go away. This is going to take a decade, if not longer. Restoration of the levees to a category 5 integrity, environmental remediation to remove the siltation that was deposited, restoration of bridges and structures to provide people merely access to the communities in which they once resided, restoration of employer opportunities so people can have jobs, and schools need to be built so kids can get an education, fire stations and police stations must be built to provide for civil order, this is no small task.

So I say to my colleagues in the United States House, I am deeply appreciative of your kind expressions of concern and offers of assistance. In fact, one of the barriers to speeding up assistance, I wanted, along with Chairman NEY, to create a House Intranet, just for House Members. I had Members who went to FEMA with resources they wanted to volunteer to give to us in our communities, and they could not get through the regulatory processes to do it in any reasonable time.

I am now told if I were to propose, which I intend to do, the establishment of a Web page on the official services of the House on which Members could voluntarily list assets which they would make available to communities to be used freely for restoration of services in small towns across the gulf coast, that would be a violation of House ethics, using official resources for a charitable solicitation.

I am asking Members to join on to a letter asking that the rules be waived or, if necessary, an act be passed on this House floor, to allow those Members who have come up to me and said, I would like to offer this, to be able to offer that to the mayors, police systems and those affected across the stricken region.

My point is there is great empathy here in this body when disaster strikes this country. I am very appreciative of that. I merely ask going forward that we continue to work in a bipartisan manner as we propose remedies coming from those in the affected communities that we believe appropriate and responsible.

I do not wish to leave this day without expressing the view held by all members of the Louisiana House delegation: we understand this is United States taxpayers' money. We understand there are people in jobs across this country working to pay their bills; and we are asking, through you, to take their money and give it to us. Certainly we have need, but we also understand there should be accountability. It should be transparent, and any abusive practice should be held accountable; and people who take advantage of this circumstance should be held to the measure of conduct that is appropriate.

So I say to my Members of the House, continue to work with us. We understand your obligation to protect the public trust, but we have to balance that with the needs of people who are now the victims of the greatest natural disaster in our Nation's history. I assure you, we will do our part. We will introduce a bill to provide for permanent resolution of our housing disaster, and I hope you will give it the care and concern you have demonstrated today.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say to my colleague on the opposite side of the aisle, the gentleman from Louisiana (Mr. BAKER), that I agree with him that there should be a mechanism by which people who have goods and services to donate to these small towns and these parishes, there should be a way by which they should be able to do that; and I would support such an effort. Because as I traveled throughout my community, in the churches where we talked about this disaster, I had many of the parishioners say to me that they owned land in Louisiana or in Texas and they would like to donate their land for the siting of manufactured housing or even for RVs or something of that nature. They were not sure, but they knew they wanted to put the land to use for the victims of the hurricane. So I think we should find a way by which to do that.

In addition, CDBG is such a good program that I could not help but wonder as I sat here whether or not some of the money that may not be well spent in FEMA should be transferred in some way over to CDBG. Because, again, I wonder about those persons who lost their homes and all of their furnishings and they have no flood insurance. They will receive FEMA assistance of $26,000, some of which will go toward rent, and then it will run out, but the house is still left there, to be rehabilitated if it can be, or to be rebuilt and furnishings need to be purchased, et cetera, et cetera. It seems to me that CDBG would be a wonderful way by which to do rehabbing of housing and reestablishing of housing and homes.

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I am just wondering aloud and hopeful that we will all give it some very, very deep thought, about how we can truly be of assistance to these victims long after the FEMA assistance is no longer operative or the Red Cross assistance is no longer operative.

Mr. OXLEY. Mr. Speaker, today I rise in support of H.R. 3896, the Hurricane Katrina Emergency Relief CDBG Flexibility Act of 2005. This legislation would temporarily remove the public services cap on a locality's Community Development Block Grant, CDBG, funds and would waive the program's public hearing requirement for Hurricanes Katrina and Rita affected areas.

In the aftermath of Hurricanes Katrina and Rita, the Federal and local governments now face the Herculean task of coordinating the relocation of thousands upon thousands of individuals and families whose lives have been torn apart by devastation and rising flood waters.

This bill would allow communities affected by Hurricanes Katrina and Rita to receive grants under the CDBG program in an expedited fashion. First, temporarily removing the public services cap would give affected communities flexibility in applying grant funds to hurricane affected areas. Second, although the community participation provision is an important part of the CDBG program, it is not currently feasible for affected localities to hold a public hearing. In the interest of time, temporarily removing the public hearing requirement would allow funding to be dispersed more efficiently so that affected communities may begin the rebuilding process.

In times like these, it is more important than ever for Americans to stand united in helping our fellow citizens. The House of Representatives will continue to stand with the people of the gulf coast throughout this effort, and we encourage Americans who want to help to contact charitable organizations in their area. America has overcome challenges in the past. As members of the House and specifically the Financial Services Committee, we are prepared to roll up our sleeves and do the hard work to overcome this tragedy. Giving communities easier access to their CDBG dollars is just one step in the process of helping those who have been affected by Katrina and Rita's waters.

I would like to thank Housing Subcommittee Chairman BOB NEY for his expeditious work in sending this bill to the floor. I would also like to thank Chairman RICHARD BAKER, Congressman BARNEY FRANK, and Congresswoman MAXINE WATERS for their bipartisan support in moving this bill.

I urge my colleagues to support this piece of legislation.

Ms. WATERS. Mr. Speaker, I yield back the balance of my time.

Mr. BAKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 3896, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. WATERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BAKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

HONORING THE LIFE AND WORK OF SIMON WIESENTHAL

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 248) honoring the life and work of Simon Wiesenthal and reaffirming the commitment of Congress to the fight against anti-Semitism and intolerance in all forms, in all forums, and in all nations, as amended.

The Clerk read as follows:

H. CON. RES. 248

Whereas Simon Wiesenthal, who was known as the "conscience of the Holocaust", was born on December 31, 1908, in Buczacz, Austria-Hungary, and died in Vienna, Austria, on September 20, 2005, and he dedicated the last 60 years of his life to the pursuit of justice for the victims of the Holocaust;

Whereas, during World War II, Simon Wiesenthal worked with the Polish underground and was interned in 12 different concentration camps until his liberation by the United States Army in 1945 from the Mauthausen camp;

Whereas, after the war, Simon Wiesenthal worked for the War Crimes Section of the United States Army gathering documentation to be used in prosecuting the Nuremberg trials;

Whereas Simon Wiesenthal's investigative work and expansive research was instrumental in the capture and conviction of more than 1,000 Nazi war criminals, including Adolf Eichmann, the architect of the Nazi plan to annihilate European Jewry, and Karl Silberbauer, the Gestapo officer responsible for the arrest and deportation of Anne Frank;

Whereas numerous honors and awards were bestowed upon Simon Wiesenthal, including the Congressional Gold Medal, honorary British Knighthood, the Dutch Freedom Medal, the French Legion of Honor, the World Tolerance Award, and the Jerusalem Medal;

Whereas the Simon Wiesenthal Center was founded in 1977 in Los Angeles and named in honor of Simon Wiesenthal to promote awareness of anti-Semitism, monitor neo-Nazi and other extremist groups, and help bring surviving Nazi war criminals to justice;

Whereas, in 1978, inspired in part by the work of Simon Wiesenthal, the Congress enacted a law to deny citizenship and Federal benefits to former Nazis, and the Office of Special Investigations of the Department of Justice has since conducted more than 1,500 investigations, won 101 cases, and blocked the immigration of 170 individuals, and the work of the Office continues;

Whereas, in keeping with the efforts of Simon Wiesenthal, many governments have responded to the growing tide of anti-Semitism worldwide, elected leaders have spoken out against anti-Semitism, and law enforcement officials and prosecutors have aggressively pursed the perpetrators of anti-Semitic acts; and

Whereas Simon Wiesenthal's legacy teaches that the perpetrators of genocide cannot and will not be allowed to hide from their crimes: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the life and work of Simon Wiesenthal to memorialize the victims of the Holocaust and to bring the perpetrators of crimes against humanity to justice;

(2) reaffirms its commitment to the fight against anti-Semitism and intolerance in all forms, in all forums, and in all nations; and

(3) urges all members of the international community to facilitate the investigation and prosecution of surviving Nazi war criminals and to continue documenting and collecting information on Nazi war crimes for archival and historical purposes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of H. Con. Res. 248, I am very pleased to bring this timely resolution before the House today. I thank the sponsor of the resolution, the gentleman from California (Mr. WAXMAN) and the leadership of the gentleman from Illinois (Chairman HYDE) of the Committee on International Relations, as well as the gentleman from California (Mr. LANTOS), a Holocaust survivor himself, for crafting this measure in honor of an extraordinary man who has passed from our midst, Simon Wiesenthal.

Known as the "Conscience of the Holocaust," Mr. Wiesenthal deserves recognition and the deepest respect by the Congress of the United States.

Simon Wiesenthal died at the age of 97 in Vienna, Austria on September 20, 2005. A Ukrainian architect and civil engineer by training, he survived five Nazi death camps during World War II. Yet, he lost a staggering 89 relatives in the Holocaust.

Mr. Wiesenthal lived by his own words. "There is no freedom without justice," he would say. Living in Europe, almost literally among the ashes of the 6 million victims of the Holocaust, he began the tedious work of tracing and tracking war criminals who had been overlooked by the first waves of prosecutions by the allies and the new European governments. He worked meticulously and judiciously, sticking to the evidence at hand and avoiding any sensationalism. This occasionally brought him in conflict with others, but that was his way.

The killers who managed Hitler's factories of death could never rest. Simon Wiesenthal was tireless in his pursuit of them. His dedication and dogged determination was instrumental in the capture and conviction of Adolf Eichmann, the architect of the Nazi plan to annihilate European Jewry, as well as Karl Silberbauer, the Gestapo officer who committed many heinous crimes including the arrest of Anne Frank.

While many Nazis eluded immediate justice at the end of World War II, many did not escape it forever, thanks to Simon Wiesenthal. Today, as we fight anti-Semitism across the OSCE region, Europe and the Middle East and in Asia, we remember his legacy and act on the lessons of the Holocaust. His noble work was fueled by a passion for justice that has and will inspire others.

In the United States, his example and inspiration led to the establishment of the Office of Special Investigations which allowed war criminals who found their way to our shores to be brought to justice.

As noted in the resolution, Mr. Speaker, the Simon Wiesenthal Center, which has offices in L.A., Paris, New York, Toronto, Miami, Jerusalem and Buenos Aires, which has become a leading institution in advocating both remembrance and tolerance so as to help prevent future genocides, was named in his honor. The Simon Wiesenthal Center in Paris, I would point out to my colleagues, testified at two Helsinki hearings that I chaired, and we inducted Shimon Samuels, who provided expert testimony on the deterioration of respect for Jews in Europe, the United States and Canada. Also, I would point out to my colleagues that the dean of the Simon Wiesenthal Center participated this past June in the U.S. delegation to the Cordoba OSCE Conference on Anti-Semitism and Other Forms of Intolerance.

Mr. Speaker, Congress honored Simon Wiesenthal with a Gold Medal, and he won countless other forms of recognition from grateful individuals in governments from around the world.

Simon Wiesenthal confronted humanity with the truth about those who masterminded and carried out the Holocaust. As a testament to the memory of the millions of victims, he gave meaning to the words "never again" by helping us to learn from the lessons of the past. Now that he has passed away, we must resolve to continue his work, as is urged upon us in this resolution, and I urge all of my colleagues to support this very important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I rise in strong support of H. Con. Res. 248, a resolution honoring the life and courageous work of my friend, Simon Wiesenthal, and I yield myself such time as I may consume.

Mr. Speaker, I want to commend my colleague from California (Mr. WAXMAN) for introducing this resolution, the gentleman from Illinois (Mr. HYDE) for his support in bringing it to the floor so quickly, and I want to express a special thanks to my good friend from New Jersey (Mr. SMITH) who has been an indefatigable fighter for all the causes that Simon Wiesenthal fought for and fighting against the monstrous hatred to which Simon Wiesenthal dedicated his life against.

Mr. Speaker, when Simon Wiesenthal died on September 20, the world lost one of its great heroes of the last century. He was the conscience of the Holocaust who labored heroically for decades to make certain that history will not forget that nightmare, nor let its perpetrators escape justice. He did this, as he said, not just for the Holocaust victims like himself, but for his grandchildren, because if one generation's criminals go unpunished, their descendents will conclude that they too can literally get away with murder.

Simon was a personal friend of mine who inspired my wife Annette who, like me, is also a Holocaust survivor, in her efforts on behalf of another giant of righteousness and decency, Raoul Wallenberg, the Swedish diplomat who saved the lives of tens of thousands of Hungarian Jews during the Nazi era.

Wallenberg disappeared after the Soviet Army seized Hungary in 1945. Over 30 years later, it was Simon Wiesenthal who announced at a press conference in 1977 that Wallenberg was alive and imprisoned in Siberia. That announcement reenergized my wife Annette to intensify her search for Wallenberg and to obtain his release.

Mr. Speaker, Simon Wiesenthal was a survivor who lived through numerous cruel, forced marches and imprisonment in many concentration camps. As all who experienced that unimaginable nightmare, he was deeply changed by the experience of the Holocaust.

When American forces liberated this emaciated young man from the Mauthausen concentration camp in Austria, he weighed a little over 90 pounds.

Rather than continue with his prewar profession of architecture, Wiesenthal made it his life's work to pursue justice for victims who could not do this for themselves. Through his untiring efforts, some 1,100 Nazi war criminals were tracked down and brought to justice. Some of these represented the holocaust's most egregious and monstrous perpetrators. They include Karl Silberbauer, the Gestapo officer who arrested and sent to her death young Anne Frank of Amsterdam; Franz Stangl, the vicious and brutal commandant of the Sobibor and Treblinka death camps; and perhaps the most notorious of all, Adolf Eichmann, the Nazi SS commander who was the person primarily responsible for formulating and carrying out Hitler's "final solution" for the Jewish people. It was Eichmann who arrived in Budapest in July of 1944 to eliminate the Jewish population of Hungary, and he succeeded in large measure.

Wiesenthal's tireless work as a Nazi hunter was undertaken to demonstrate that those who commit crimes against humanity will face justice. He preached vigilance so that never again would the world witness the tragedy of the Holocaust and be complicit through inaction.

Wiesenthal helped in the establishment of two important institutions. First, in 1947, he founded the Jewish Documentation Center in Linz, Austria, from which he conducted his own relentless search for perpetrators of Nazi crimes against humanity; and then in 1977, he gave inspiration to the Simon Wiesenthal Center, a Holocaust memorial foundation that established the Museum of Tolerance in Los Angeles. That museum focuses its work on the prosecution of Nazi war criminals, the commemoration of the events of the Holocaust, teaching tolerance of all mankind and fighting against bigotry and anti-Semitism.

Mr. Speaker, my wife Annette and I will miss our visits with Simon Wiesenthal, but he has left us with a proud legacy through his vigilance, through his bravery, through his determination and through his passionate commitment to justice.

Mr. Speaker, I urge all of my colleagues to join me in supporting this legislation today and in honoring this titan of justice who reminded us that mass murder must never go unpunished. We remember a great man who taught us that solemn commemoration is what true remembrance means.

Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from California (Mr. WAXMAN), the author of this resolution.

Mr. WAXMAN. Mr. Speaker, I rise to pay tribute to Simon Wiesenthal, a tireless champion of justice for the victims of the Holocaust and for all humanity.

As a survivor of the Holocaust, Simon Wiesenthal called his life a miracle. One often wondered whether it was by strength, providence or simple luck that he survived 12 gruesome concentration camps, but when he emerged from Mauthausen, liberated by American troops, he pledged to dedicate his survival to the fight for justice for Nazi victims.

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He began with painstaking detective work in the War Crimes Section of the U.S. Army, gathering documentation to be used in the prosecution of the Nuremberg trials. His meticulous archival research became a key building block for the Yad Vashem archive in Jerusalem.

And when the Iron Curtain fell and the allied powers tired of tracking Nazi war criminals, Simon Wiesenthal pressed on. He helped locate Adolf Eichmann, the architect of the Final Solution, who was put on trial and hanged in Israel.

His efforts also led to the capture of Nazi war criminals living here in the United States. His success inspired the creation of the Office of Special Investigations at the Justice Department to seek their denaturalization and deportation.

For Mr. Wiesenthal, the pursuit of war criminals and hate groups was an integral part of Holocaust remembrance. The genocide of millions could not be mourned properly while the murderers walked free. The cry of "never again" could not be fulfilled if the world did not act against neo-Nazis and other extremists who continue to foment hatred and violence.

I am especially proud that my district in Los Angeles is home to the Simon Wiesenthal Center, a leading voice in Holocaust education and the fight against anti-Semitism, racism, and extremism.

With offices around the world, the Wiesenthal Center has actively worked with UNESCO and the OSCE individual nations and regional institutions to fight increasing anti-Semitism in Europe and expose hate groups on the Internet.

The center's Museum of Tolerance opened in 1993 and has welcomed over 4 million visitors to its permanent collection on the Holocaust and contemporary exhibits on Rwanda, Sudan, and the former Yugoslavia.

These programs are all part of Simon Wiesenthal's legacy as a hero to the victims of the Holocaust, the survivors, and future generations.

As we mourn his passing, let us reaffirm our commitment to honor his courage and conviction and continue his life's work.

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His efforts also led to the capture of Nazi war criminals living here in the United States. His success inspired the creation of the Office of Special Investigations at the Justice Department to seek their denaturalization and deportation.

To date, OSI has won 101 cases. Its most recent victory came in August when a U.S. District Court in Chicago revoked the citizenship of a member of a Nazi-sponsored Ukrainian unit that decimated the Jewish community of Lvov.

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The Center's Museum of Tolerance, opened in 1993, has welcomed over 4 million visitors to its permanent collection on the Holocaust and contemporary exhibits on Rwanda, Sudan, and the former Yugoslavia.

Thousands of students, teachers, and law enforcement officers have participated in the Museum's "Tools for Tolerance" program to combat hate crimes, prejudice, and bias in our own communities.

These programs are all part of Simon Wiesenthal's legacy as a hero to the victims of the Holocaust, the survivors, and future generations.

As we mourn his passing, let us reaffirm our commitment to honor his courage and conviction and continue his life's work.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 3 minutes to the distinguished gentleman from Maryland (Mr. CARDIN) who has been an indefatigable fighter against discrimination of all types during his entire congressional career.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from California (Mr. LANTOS) for being the leader in this body for us never to forget the

Holocaust and the lessons of the Holocaust.

Let me thank the gentleman from New Jersey (Mr. SMITH) for his leadership on the Helsinki Commission and on the International Relations Committee and speaking up about intolerance and fighting all forms of discrimination.

I thank the gentleman from California (Mr. WAXMAN) for his leadership in bringing forward this resolution so that we can spend a few moments to commemorate the life of Simon Wiesenthal.

As has been pointed out, Simon Wiesenthal was a survivor from the Holocaust. He lost 89 relatives to the Holocaust and then decided to devote his life to bringing those responsible for the Holocaust to justice. As a result of his work, many people were brought to trial and held accountable for their roles in the Holocaust. It established a legacy that we will never allow people who are responsible for crimes against humanity to go unpunished.

Today, we have permanent centers for tolerance that Simon Wiesenthal was responsible for establishing. I have the honor of being the ranking Democrat on the Helsinki Commission. The gentleman from New Jersey (Mr. SMITH) is our chairman. We are inspired by Mr. Wiesenthal's work in our fight to end all forms of intolerance and discrimination, including anti-Semitism; and we worked with Simon Wiesenthal in mind to establish international priorities to fight anti-Semitism. Our conference in Berlin in 2004 and the OSCE's 2005 conference in Cordoba, Spain in which the Simon Wiesenthal Center was a leading participant, all this helps develop the legacy of Simon Wiesenthal.

Civilized nations must pursue all those who promote or carry out acts of anti-Semitism, intolerance, or crimes against humanity. Politicians, teachers, and community leaders have an obligation to speak out against promoters of hate. Only through our continued vigilance can we ensure justice, deter future war crimes, and send the message that political and military leaders that promote or condone acts of genocide will face prosecution to the fullest extent of the law. This is how we should remember and honor Simon Wiesenthal's legacy.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. WAXMAN) and particularly the gentleman from California (Mr. LANTOS).

Mr. Wiesenthal's living spirit must have soared to hear the gentleman from California (Mr. LANTOS) speak on this resolution.

Simon Wiesenthal spent most of his adult life in pursuit of justice, the justice that is achieved through accountability. And while many of us would like to believe that all people are at heart decent and God-fearing, the reality is that evil does exist among us. And it is that threat of justice being served, of people's deeds and people themselves being held accountable that in fact does deter evil, and thus is an instrument that we can use to reduce suffering and to save lives. And that is what Simon Wiesenthal's life's work was designed to do.

I would like to just use some of his own words because I think they are fitting in the context of this resolution. He said: "I am someone who seeks justice, not revenge." He said: "When history looks back, I want people to know the Nazis were not able to kill millions of people and get away with it. This is a warning for the murderers of tomorrow that they will never rest. When we cannot through some action warn the murderers of tomorrow, then millions of people will die for nothing. And when we come to the other world and meet the millions of Jews who died in the camps and they ask us what have you done, there will be many answers but I will be able to say 'I did not forget you.' "

And just one last thing. On the Austrian policeman who was arrested for the murder of Anne Frank because of Mr. Wiesenthal's dogged determination, he said: "My most hard work, and I am very proud of this case, was to find the man who arrested Anne Frank. The Family Frank was like 10,000 other families, but Anne Frank became a symbol of the million murdered children. And I tell it to the father of Anne Frank, the diary of his daughter had a bigger impact than the entire Nuremberg trial. Why? Because people identified with the child. This was the impact of the Holocaust. This was a family like my family, like your family and so you could understand this."

Simon Wiesenthal was a mere mortal human being. But his legacy and his lessons should be immortal for all our sakes.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just to conclude, I would especially like to thank the gentleman from California (Mr. LANTOS), as I said earlier, a Holocaust survivor himself, for his very clear and unambiguous statement in support of human rights globally, but especially as it relates to a very disturbing trend with regards to anti-Semitism, and for his eulogy today, on the floor, to his dear friend, Simon Wiesenthal.

Mr. UDALL of Colorado. Mr. Speaker, I rise today in support of House Concurrent Resolution 248, honoring the life and achievements of Mr. Simon Wiesenthal, the world's most successful Nazi-hunter and advocate for religious tolerance.

In the history of mankind, few events are as deplorable, unconscionable, and unrepeatable as the Holocaust. During this period, Nazi Germany imprisoned, enslaved, tortured, and eventually murdered 11 million Jews, Gypsies, homosexuals, political dissidents, and others. Mr. Simon Wiesenthal, a Polish Jew, was one of those individuals imprisoned by the Nazis. After being taken from his home and his wife Cyla, Wiesenthal successfully escaped one concentration camp, only to be recaptured. Suspecting his wife was dead, and thousands of people dying beside him, Wiesenthal courageously survived.

After the United States and our allies defeated the Axis Powers in World War II, many thousands of Nazis fled Germany, knowing full well that they would face justice for their unthinkable crimes if they remained. Many Nazis established new identities and lived their lives with a secret so hideous they told no one.

Upon liberation by the Allies, Wiesenthal reunited with Cyla and regained his health, and immediately dedicated his efforts to bringing Nazi war-criminals to justice. He was instrumental in aiding the U.S. Army's prosecution of many prominent Nazi criminals at the International Military Tribunal in Nuremberg, Germany. To prosecute the countless Nazis who had evaded the law, Wiesenthal, along with several other Holocaust survivors, founded the Jewish Documentation Center in Austria to collect and prepare evidence for future trials. Over the years, Wiesenthal honed his expertise in researching, tracking, and ultimately capturing Nazi criminals scattered throughout the world so they could face trial.

Though the world community had collaborated to protect against future genocides, Wiesenthal personally strived to meet this goal. As one of the foremost speakers on the subject, he educated people around the world about the Holocaust and the prevention of genocide and intolerance. In 1977, the Simon Wiesenthal Center was established to further pursue the prosecution of hiding Nazi criminals, monitor anti-Semitism, and promote religious and racial tolerance.

On September 20, 2005, Simon Wiesenthal passed away of natural causes. He had led an extraordinary life as a Holocaust survivor, educator, political activist, and humanitarian. By the time he retired in 2003, he and his colleagues had brought over one thousand hiding Nazi war criminals to justice. For decades, these Nazis thought they were above the law and would avoid trial. Wiesenthal and others proved that no crime so horrific goes unpunished, and there is no escaping their responsibility. Wiesenthal also succeeded in keeping the memories of the Holocaust alive and teaching others to embrace diversity, so future genocides may be prevented.

Mr. Speaker, I believe that Simon Wiesenthal embodies the ideals that are so important to the United States: a commitment to justice, a common good based on tolerance, and ensuring a secure future by educating our youth. For his achievements, the United States has already awarded Wiesenthal the Presidential Medal of Freedom, the Congressional Gold Medal of Honor, and many other honors. This resolution reinforces the United States' utmost respect and admiration for Simon Wiesenthal, who bravely endured through history's darkest hour to give justice to those who perished in the Holocaust. Though Simon Wiesenthal has passed on, the United States must continue to pursue the noble endeavors he championed, and give hope to victims of injustice of the past, present, and future.

I would like to thank Representative HENRY WAXMAN for introducing this resolution. I urge my colleagues to support H. Con. Res. 248 and always remember and honor Simon Wiesenthal.

Mr. DREIER. Mr. Speaker, I rise today in strong support of H. Con. Res. 248, honoring the life of Simon Wiesenthal, and thank my good friend, the gentleman from California, Mr. WAXMAN, for authoring this important resolution. We were all saddened to hear recently that Mr. Wiesenthal passed away at the age of 96.

Mr. Wiesenthal overcame great trials to become one of the few fortunate enough to survive the slaughter of 6 million people during the Holocaust. He did not escape unscathed as, tragically, 89 members of his family perished at the hands of the Nazis.

Almost immediately upon being liberated by an American military unit on May 5, 1945, Mr. Wiesenthal dedicated his life to tracking down and bringing to justice Nazi war criminals. Initially working for the Army's Office of Strategic Services and Counter-Intelligence Corps, and later operating the Jewish Historical Documentation Center in Vienna, Mr. Wiesenthal is credited with obtaining the information necessary to apprehend more than 1,100 war criminals. As Rabbi Marvin Hier, Dean of the Simon Wiesenthal Center, described him, "Simon Wiesenthal was the conscience of the Holocaust."

Among the most egregious mass murderers that he helped apprehend was Adolf Eichman, who, as a member of the Gestapo, supervised the execution of the Jewish "Final Solution." Mr. Wiesenthal also was responsible for aiding in the captures of Karl Silberbauer, the Gestapo officer who arrested Anne Frank; Franz Stangl, the commandant of the Treblinka and Sobibor concentration camps in Poland; and Hermine Braunsteiner, who supervised the killings of hundreds of children and who had found refuge in the United States.

Mr. Speaker, while Mr. Wiesenthal devoted the majority of his life to bringing Nazi criminals to justice, he did so not out of the need for revenge, but the need for atonement. Mr. Wiesenthal's goal was to bring these genocidal crimes out of the shadows. He felt a duty to those who had died to ensure that the memory of what had transpired would not be forgotten. He also felt a duty to teach future generations the lessons of the past so that they would not be repeated. Simon Wiesenthal Centers span the globe, and are valuable venues to teach America's youth about tolerance and understanding, as well as this important lesson: evil men can perpetuate ghastly crimes when the world chooses to permit it.

Mr. Speaker, only one who had witnessed such atrocities could shoulder the burden and carry the respect necessary to continue this quest for justice over so many decades. While Mr. Wiesenthal's friends and family sacrificed their lives in the death camps of the Nazis, Mr. Wiesenthal sacrificed his life to ensuring their memories would live forever.

In his memoirs, Mr. Wiesenthal quotes what one Nazi officer told him late in World War II, "You would tell the truth [about the concentration camps] to the people in America. And you know what would happen, Wiesenthal? They wouldn't believe you. They'd say you were mad. Might even put you into an asylum. How can anyone believe this terrible business—unless he has lived through it?"

Mr. Speaker, Simon Wiesenthal lived through it. He made us believe it. And we will never forget it. That will be his eternal legacy.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Con. Res. 248, a resolution honoring the memory and legacy of Simon Wiesenthal, a man known as the "conscience of the Holocaust." Wiesenthal was relentless in the pursuit of justice for victims of the Holocaust and the eradication of anti-Semitism around the globe.

Born on New Year's Eve in 1908, Simon Wiesenthal spent the bulk of his life fighting for those who, like him, had suffered unspeakable wrongs at the hands of the Nazis and their collaborators across Europe. He was interned at the Janwska concentration camp in 1941 and survived twelve different camps until his liberation from the Mauthausen camp in 1945. From that moment until his passing on September 20, 2005, Simon Wiesenthal dedicated his life to fighting for those who perished in the Holocaust.

He was a man of indomitable spirit and courage, and even greater was his resolve after the war. Almost immediately after leaving Mauthausen, Simon Wiesenthal set out to collect and prepare evidence for the War Crimes Section of the United States Army for use in the Nuremberg trials, thus beginning his lifelong work as a Nazi hunter.

Over the past 60 years, Wiesenthal's research and investigative work led to the capture and conviction of more than 1,000 Nazi war criminals, including the infamous Adolf Eichmann. Simon Wiesenthal was the recipient of countless awards, including honorary British Knighthood, the Dutch Freedom Medal, the French Legion of Honor, the World Tolerance Award, and the Congressional Gold Medal.

When some of Wiesenthal's fellow survivors asked him why he decided to become a Nazi hunter, he looked down at the flames of the Sabbath candles from that particular Friday evening and said, "My dear friends, do you know what I see in the glow of the candles? I see the souls of our six million brothers and sisters. And one day when our lives are over, they will come to all of us and they will ask us, what have you done? You, my dear friend, will tell them that you went into construction to build homes. And you will say you went into the jewelry business. And you became a manufacturer of clothes. But I will have the privilege of saying to them, 'I have never forgotten you.' "

Mr. Speaker, we will never forget Simon Wiesenthal and his many years in pursuit of justice for victims of the Holocaust. I thank the gentleman from California for introducing this resolution, and I urge my colleagues to support it.

Mr. HOLT. Mr. Speaker, today we honor the life of Simon Wiesenthal, a man who dedicated his life to the search of fugitive Nazi war criminals. The ideals of truth and justice guided his effort to fight anti-Semitism and as we mourn, we are reminded of our commitment to these ideals as part of our duty to humanity. I am proud to be a cosponsor of H. Con. Res. 248, which we are considering on the floor today.

Simon Wiesenthal was born on December 31, 1908 in Buczacz, Galicia, then part of the Austro-Hungarian Empire and now part of Ukraine. He received a degree in architectural engineering in 1932 from the Technical University of Prague, and in 1936 he began working at an architectural office in Lvov; he did not, however, continue his career in architecture. Three years later, with the partition of Poland and the flood of the Red Army in Lvov, Simon Wiesenthal began losing family members to German brutality. After escaping several near-death situations himself, in 1945 Simon Wiesenthal was liberated by American forces from the concentration camp of Mauthausen in Austria.

After almost giving up, Simon Wiesenthal regained his strength and redefined his life's task as a quest for justice. He did not vow to fight for vengeance. Instead, the goal of his noble cause was to create a historical memory that would prevent any repetition of the horrible atrocities committed during the Holocaust.

He was instrumental in tracking down fugitive Nazis, and a significant component of his mission was to pressure governments around the world to continue their pursuit and persecution of war criminals. The Simon Wiesenthal Center, an international Jewish human rights organization dedicated to preserving the memory of the Holocaust carries on his legacy.

Simon Wiesenthal was committed to the remembrance of those who he feared would be forgotten, and today we become committed to remembering him. While in Vienna in 1993, Simon Wiesenthal said, "To young people here, I am the last. I'm the one who can still speak. After me, it's history." To continue his mission, we must not forget this history. We must continue to fight for the same principles that defined Simon Wiesenthal's objective. It is troubling that even today one of the most notorious sentiments of the Second World War—anti-Semitism—has yet to be eradicated. It is our duty to combat anti-Semitism and all religious bigotry whenever and wherever it arises.

When asked why he chose to search for Nazi war criminals instead of continuing a career in architecture, Simon Wiesenthal responded: "You're a religious man. You believe in God and life after death. I also believe. When we come to the other world and meet the millions of Jews who died in the camps and they ask us, 'What have you done?' there will be many answers. You will say, 'I became a jeweler.' Another will say, 'I smuggled coffee and American cigarettes.' Still another will say, 'I built houses,' but I will say, 'I didn't forget you.' "

And today, we must unite to say that we will not forget Simon Wiesenthal and we, as strong and responsible human beings, will carry forth his mission.

Mr. SHAYS. Mr. Speaker, I strongly support H. Con. Res. 248, which honors the life of

Simon Wiesenthal, and appreciate the gentleman from California, Mr. WAXMAN, for bringing this resolution to the floor.

Mr. Wiesenthal lived through one of the darkest eras of world history. Yet out of the suffering he and millions of other Jews experienced, he found purpose by dedicating the last 60 years of his life to the pursuit of justice for the victims of the Holocaust.

Simon Wiesenthal was determined to ensure that those who exacted horrific crimes on their fellow man be held accountable. If a former Nazi war criminal was not caught and brought to justice, Mr. Wiesenthal's dogged work ensured they would live their life in fear of being caught. The bottom line is war criminals should not be allowed to live out their lives with impunity and Mr. Wiesenthal worked to see this would not happen.

Simon Wiesenthal's legacy sends a message that continues to be heard around the world—perpetrators of genocide cannot and will not be allowed to hide from their crimes. His memory is forever preserved in the work of The Simon Wiesenthal Center, which was founded in 1977 to promote awareness of anti-Semitism, monitor neo-Nazi and other extremist groups, and help bring surviving Nazi war criminals to justice. The Center has done tremendous work in his name, including opening the Museum of Tolerance in Los Angeles in 1993, which has received over two million visitors, and making major contributions to the June 2005 Organization for Security and Cooperation in Europe Conference on Anti-Semitism and on Other Forms of Intolerance.

I join with all of colleagues in recognizing Simon Wiesenthal's compassionate commitment to justice and urge passage of this resolution.

Mrs. MALONEY. Mr. Speaker, I rise today to join my colleagues and the world community in honoring the life and work of Simon Wiesenthal. Especially during the High Holidays, it is important and appropriate to recognize the extraordinary achievements of a man who devoted the last 60 years of his life to the pursuit of justice for the victims of the Holocaust. Hitler's Nazi regime was responsible for the murders of nearly six million Jewish men, women, and children and more than 11 million people overall.

Today, the relentless efforts of Simon Wiesenthal have led to the conviction of more than 1,000 of these Nazi war criminals. He was instrumental in the captures of Adolf Eichmann, the architect of the Nazi plan to annihilate the European Jewish population, and Karl Silberbauer, the Gestapo officer responsible for the arrest and deportation of Anne Frank.

Although Simon Wiesenthal has passed away, his memory will live on forever. One way to ensure this is through the work of the Simon Wiesenthal Center. The organization actively promotes awareness of anti-Semitism while continuing to bring to justice surviving Nazi war criminals. Although its headquarters are located in Los Angeles, I am proud that my district is home to the Simon Wiesenthal New York Tolerance Center.

I urge the House today to reaffirm our commitment to the fight against anti-Semitism and all forms of prejudice. Simon Wiesenthal's legacy teaches us that the perpetrators of genocide cannot be allowed to continue their path of persecution. It is crucial for Congress to continue to support Holocaust organizations like the Simon Wiesenthal Center so that history does not repeat itself. Simon Wiesenthal once said; "When we come to the other world [after death] and meet the millions of Jews who died in the camps and they ask us, 'What have you done?'. . . I will say, 'I didn't forget you'." It is important that we take another step to remember the man who would never consider the atrocities of the Holocaust a part of the past.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, I rise today in strong support of H. Con. Res. 248, a resolution to honor the life and work of Simon Wiesenthal and reaffirm the commitment of Congress to fight against anti-Semitism and intolerance in all forms, in all forums, and in all nations.

On September 20, 2005, the world lost a true hero—a voice for those souls who could not speak and a witness against those criminals who sought to go unnoticed.

After surviving the Holocaust himself, Simon Wiesenthal devoted his life to seeking justice for the six million Jews who were systematically murdered at the hands of the Nazis, including 89 members of his family.

Through sheer perseverance and determination, he hunted those who committed the most heinous acts—helping capture and ultimately convict more than 1,000 war criminals, including Adolf Eichman. He found the killers who ruined his youth, exterminated his people and displayed their evils before the eyes of the world.

Simon Wiesenthal did not ask that the world never forget the Holocaust; he demanded it. And we, as leaders of the most powerful and just nation in the world, have an obligation to carry out Simon Wiesenthal's legacy.

We must continue to investigate and bring to justice perpetrators of the Holocaust, as well as those who have engaged in acts of genocide in Rwanda, the former Yugoslavia and the Sudan, to show the world that those guilty cannot hide in the shadows.

We must work to end anti-Semitism and intolerance in the United States to prevent the spread of hatred that has led to so much undue evil.

And we must educate our children about the Holocaust to ensure that future generations understand the evils that can befall humanity and appreciate the righteous figures who can emerge from it, like Simon Wiesenthal.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Con. Res. 248, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 248.

The SPEAKER pro tempore (Mr. SIMMONS). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SOCIAL SERVICES EMERGENCY RELIEF AND RECOVERY ACT OF 2005

Mr. McCRERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3971) to provide assistance to individuals and States affected by Hurricane Katrina.

The Clerk read as follows:

H.R. 3971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Services Emergency Relief and Recovery Act of 2005".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—ASSISTANCE RELATING TO UNEMPLOYMENT

Sec. 101. Special transfer in fiscal year 2006.
Sec. 102. Flexibility in unemployment compensation administration to address Hurricane Katrina.
Sec. 103. Regulations.

TITLE II—HEALTH PROVISIONS

Sec. 201. Elimination of medicare coverage of drugs used for treatment of sexual or erectile dysfunction.
Sec. 202. Elimination of medicaid coverage of drugs used for treatment of sexual or erectile dysfunction.
Sec. 203. Extension of sunset for transitional medical assistance (TMA).
Sec. 204. Extension of abstinence education program.
Sec. 205. Extension of Qualified Individual (QI) program.

TITLE III—TANF

Sec. 301. Additional funding for certain States affected by Hurricane Katrina providing emergency short term benefits to assist families evacuated within the State.

TITLE I—ASSISTANCE RELATING TO UNEMPLOYMENT

SEC. 101. SPECIAL TRANSFER IN FISCAL YEAR 2006.

Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

"Special Transfer in Fiscal Year 2006

"(e) Not later than 10 days after the date of the enactment of this subsection, the Secretary of the Treasury shall transfer from the Federal unemployment account—

"(1) $15,000,000 to the account of Alabama in the Unemployment Trust Fund;

"(2) $400,000,000 to the account of Louisiana in the Unemployment Trust Fund; and

"(3) $85,000,000 to the account of Mississippi in the Unemployment Trust Fund.".

SEC. 102. FLEXIBILITY IN UNEMPLOYMENT COMPENSATION ADMINISTRATION TO ADDRESS HURRICANE KATRINA.

Notwithstanding any provision of section 302(a) or 303(a)(8) of the Social Security Act, any State may, on or after August 28, 2005, use any amounts received by such State pursuant to title III of the Social Security Act to assist in the administration of claims for compensation on behalf of any other State if a major disaster was declared with respect to such other State or any area within such other State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

SEC. 103. REGULATIONS.

The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this title and any amendment made by this title.

TITLE II—HEALTH PROVISIONS

SEC. 201. ELIMINATION OF MEDICARE COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1860D-2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w-102(e)(2)(A)) is amended—

(1) by striking the period at the end and inserting ", as such sections were in effect on the date of the enactment of this part."; and

(2) by adding at the end the following: "Such term also does not include a drug when used for the treatment of sexual or erectile dysfunction, unless such drug were used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the Food and Drug Administration.".

(b) CONSTRUCTION.—Nothing in this section shall be construed as preventing a prescription drug plan or an MA-PD plan from providing coverage of drugs for the treatment of sexual or erectile dysfunction as supplemental prescription drug coverage under section 1860D-2(a)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395w-102(a)(2)(A)(ii)).

(c) EFFECTIVE DATES.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) and the amendment made by subsection (a)(2) shall apply to coverage for drugs dispensed on or after January 1, 2007.

SEC. 202. ELIMINATION OF MEDICAID COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-8(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.".

(b) ELIMINATION OF FEDERAL PAYMENT UNDER MEDICAID PROGRAM.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; or"; and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) with respect to amounts expended for covered outpatient drugs described in section 1927(d)(2)(K) (relating to drugs when used for treatment of sexual or erectile dysfunction).".

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of such Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting ", including drugs described in subparagraph (K) of section 1927(d)(2)" after "1860D-2(e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after January 1, 2006.

SEC. 203. EXTENSION OF SUNSET FOR TRANSITIONAL MEDICAL ASSISTANCE (TMA).

(a) IN GENERAL.—Section 1925(f) of the Social Security Act (42 U.S.C. 1396r-6(f)) is amended by striking "September 30, 2003" and inserting "December 31, 2005".

(b) CONFORMING AMENDMENT.—Section 1902(e)(1)(B) of such Act (42 U.S.C. 1396a(e)(1)(B)) is amended by striking "September 30, 2003" and inserting "the last date (if any) on which section 1925 applies under subsection (f) of that section".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of September 30, 2005.

SEC. 204. EXTENSION OF ABSTINENCE EDUCATION PROGRAM.

Activities authorized by section 510 of the Social Security Act shall continue through December 31, 2005, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

SEC. 205. EXTENSION OF QUALIFIED INDIVIDUAL (QI) PROGRAM.

(a) THROUGH END OF 2005.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking "September 2005" and inserting "September 2006".

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.— Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)) is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is $100,000,000; and

"(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is $300,000,000."; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by inserting "or (D)" after "subparagraph (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of September 30, 2005.

TITLE III—TANF

SEC. 301. ADDITIONAL FUNDING FOR CERTAIN STATES AFFECTED BY HURRICANE KATRINA PROVIDING EMERGENCY SHORT TERM BENEFITS TO ASSIST FAMILIES EVACUATED WITHIN THE STATE.

(a) ELIGIBILITY FOR PAYMENTS FROM THE CONTINGENCY FUND.—Beginning with the date of the enactment of this Act and ending with August 31, 2006, any of the States of Louisiana, Mississippi, or Alabama shall be considered a needy State for purposes of section 403(b) of the Social Security Act if—

(1) the State includes an area for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Katrina;

(2) a family that resided in such an area of the State before the onset of the hurricane evacuated from their place of residence (not necessarily directly) to another part of the State as a result of the hurricane;

(3) while the family was in such other part of the State as a result of the hurricane, a cash benefit under the State program funded under part A of title IV of the Social Security Act was provided to the family on a short-term, nonrecurring basis; and

(4) while the cash benefit was so provided, the State determined that the family—

(A) was not receiving a cash benefit from any program funded under such part (other than the cash benefit described in paragraph (3)); and

(B) had not received a cash benefit of any kind from any such program in the 3-month period ending with the date the cash benefit was first so provided.

(b) LIMITATION ON FUNDING.—Subject to section 403(b)(3)(C)(i) of the Social Security Act, the total amount paid under section 403(b)(3)(A) of such Act to a State which is a needy State for purposes of section 403(b) of such Act by reason of subsection (a) of this section shall not exceed the total amount of cash benefits provided as described in subsection (a)(3) of this section, to the extent that the conditions described in subsection (a)(4) of this section have been met with respect to the families involved.

(c) NO STATE MATCH REQUIRED.—Sections 403(b)(6) and 409(a)(10) of the Social Security Act shall not apply with respect to a payment made to a State by reason of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. MCCRERY) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of the Social Services Emergency Relief and Recovery Act of 2005. In part, this bill will serve as an extension to several important health care programs that already exist to assist low-income families. You will hear more about these programs from later speakers. I want to take this opportunity, though, to talk to you about another part of the bill that will offer immediate assistance to the workers that have lost their jobs due to Hurricane Katrina.

Since Hurricane Katrina roared through my home State and Mississippi and Alabama, more than 150,000 people just in Louisiana alone have filed for unemployment assistance. The infrastructure in New Orleans and surrounding areas has been severely compromised. It is not known when these workers will be able to return to work or if they will have jobs to return to.

The circumstances are a little different in Mississippi and Alabama, but assistance is greatly needed in those States as well.

The Social Services Emergency Relief and Recovery Act will help provide assistance by immediately disbursing $500 million from the Unemployment Trust Funds to help these States pay regular unemployment benefits. The funds will be divided among States according to their share of expected increased unemployment benefit payments attributable to Hurricane Katrina.

Additionally, Louisiana and Mississippi may soon trigger the extended benefits program which will give workers in those States an additional 13 weeks of unemployment assistance. The money in this bill may be used by the States to help pay their half of these additional UI benefits. H.R. 3971 also includes the provision to give States flexibility in using their existing Federal unemployment administrative dollars for the purpose of helping displaced workers apply for their unemployment benefits.

Finally, we have included a provision to clarify earlier legislation that gave States flexibility with their TANF dollars. This change will ensure that disaster States may be reimbursed from the current TANF contingency fund or emergency assistance they pay to intrastate evacuees from Hurricane Katrina, just like all States may be reimbursed under the prior legislation for emergency assistance provided to interstate evacuees.

Many of my colleagues will also appreciate that this bill is fully offset and reduces, actually reduces, the deficit by about $100 million over 5 years and $1 billion over 10 years.

Mr. Speaker, the circumstances in Louisiana and Mississippi and Alabama necessitate immediate action on H.R. 3971 by the House. We need to pass this bill this afternoon so that these States and, more importantly, these workers can get relief.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our hearts go out to the people in the Southeast. The magnitude of the destruction and distress and the dislocation of the gulf coast cries out for a national response that only the Federal Government can meet.

Instead, we continue to see missteps, mismanagement, misinformation, sort of reminiscent of the continuation of the Brown Factor.

Hurricane Katrina left hundreds of thousands of people wet, homeless, and destitute. And the Federal response is leaving thousands more high and dry.

□ 1700

We have not provided adequate housing for the homeless, health care coverage for the sick, protection for vulnerable children, and unemployment benefits for the jobless.

This bill, in my view, is like throwing a 100-pound sandbag on a ruptured New Orleans levee. There is some relief, but it is totally inadequate.

While suggesting otherwise, this legislation provides almost no real relief to jobless disaster victims, and I must say at this point I feel for the gentleman from Louisiana (Mr. McCRERY). I think he would like to do better, but the portions on his side are such that this is what we have.

Those who survived the natural disaster in the gulf now face a man-made disaster in the House of Representatives. There are three major problems we are ignoring.

First, over 6,000 people have already exhausted unemployment benefits in Alabama, Louisiana, and Mississippi. Another 20,000 jobless workers in these States are projected to run out of benefits by Christmas. These workers need a federally funded extension of their benefits while they put their lives back together and search for unemployment.

Secondly, Mississippi, Alabama, and Louisiana have the three lowest levels of average weekly unemployment benefits in the entire country. In all three States, the average benefit is less than $200 a week. That is $800 a month. That is about half the poverty level for a family of four. Such small amounts are difficult to defend during any period of job loss, but these paltry sums we have to remember are unconscionable when a family has lost not only their job but their home, their car, their belongings, the very fabric of their lives; and we give them 40 percent poverty and stand out here as though we are doing something.

The third is that the disaster-affected States are seeing an enormous surge in unemployment claims and bankruptcy claims. In Louisiana alone, new claims for unemployment benefits have surged 10 times above their normal levels, and State officials expect Katrina-related unemployment benefits to exceed $800 million. Now, the money is supposed to come from a State economy that has been devastated by the loss or dislocation of 70,000 businesses, many of which, they estimate less than half of those, are going to go back into business.

Under Louisiana law, once their unemployment trust fund slips below a certain level, benefits are automatically cut for jobless workers and tax increases for employers are triggered into effect. That means that people who get the unemployment benefits in Louisiana can see their benefits being slashed by as much as $37 a week. Remember, they are getting $170 a week. That is the generosity we have already given them, and it started in January. It could easily be cut another $37. That is like Rita hitting after Katrina except that we can control that. We can make it different.

We owe the people of Mississippi, Louisiana, and Alabama a full measure of national compassion.

Instead, in response to these enormous problems, the bill before us simply sends a lump sum of money that forces these hard-hit States to bear another burden. The mayor of New Orleans yesterday laid off 3,000 people. Tell me how that economy is going to come out of it.

What we are sending covers less than half the cost of regular unemployment claims caused by a disaster. There is no money at all for extending expiring benefits or to supplement the meager benefits currently available. Does anybody on this floor really believe this is the best we can do? I know the chairman does not believe that.

Ask the people in the shelters, with no place to call home. Ask Americans on any street corner in any American city. They would be embarrassed all over again if this got on the television.

Perhaps part of the reason this legislation is limited in scope is the sudden demand by the Republican majority to cut spending regardless of the need or consequences.

Fiscal offsets did not concern Republicans when they gave every millionaire a $100,000 tax break or kept charging $215 billion for the Iraq war to future generations. Nobody's talking about offsets there, but we have got to have offsets here. We cannot spend too much on these unemployed people.

But now that it comes time to meet the needs of unemployed Americans, Republicans require that an American get hurt for another American to get help.

Mr. Speaker, President Bush promised that we would do whatever it takes. It takes more than what the President's party has offered today.

People in Louisiana, Alabama, and Mississippi are waiting for the President to make good on his promise. People across the country are watching and hoping the President will say something other than, "Brownie, you're doing a heck of a job."

It was not so then, and it is not so now in this legislation. We can and should do better.

Mr. Speaker, I reserve the balance of my time.

Mr. McCRERY. Mr. Speaker, I yield myself such time as I may consume.

First, I want to thank the gentleman from Washington (Mr. McDERMOTT) for working with me and others on not only this bill on unemployment compensation but on others that affect the disaster-stricken States. He has been very constructive with the suggestions and his comments, and I want to tell him how much I appreciate his cooperation.

I do not disagree with him entirely that this package does not meet the full needs probably of the States with respect to unemployment compensation needs and other related needs; but it is a very, very positive first step.

We can always come back later, Mr. Speaker, if we find that the needs of the States are indeed much greater than anticipated by this legislation; but what this bill does today, and I would beg the gentleman from Washington (Mr. McDERMOTT) and my colleagues in the House not to let the perfect be the enemy of the good, this is a good bill.

This gives the States of Louisiana and Mississippi, particularly, the certainty that there are going to be Federal dollars transferred to them to help them with what they would otherwise have to pay out of their own State funds. So, essentially, we are going to be saving the States $500 million that they would have to pay out of their own State funds. That is a big deal. That is a huge help to my State of Louisiana to know that they are going to have that money from the Federal Government, and therefore, they do not have to find it from their own coffers.

If the States that are involved wanted to use that infusion of Federal money to increase their benefits temporarily, they could do that. That is within their rights. They can pass a law to change those benefits on a temporary basis if they wanted to, or a permanent basis, and use this money that is going to be sent to them from the Federal Government for that purpose.

So, again, I appreciate the constructive comments from my colleague on the Committee on Ways and Means and want to encourage him to continue to work with me and others from these affected States to help folks who were disadvantaged tremendously by the effects of the storm.

Mr. Speaker, I yield the balance of my time to the gentleman from Georgia (Mr. DEAL), a member of the Committee on Energy and Commerce, which has jurisdiction over part of this legislation; and I ask unanimous consent that he control the remainder of my time.

The SPEAKER pro tempore (Mr. SIMMONS). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I was an early and fervent supporter of providing health benefits to families on welfare as they made the difficult transition to work, often to entry-level jobs not providing basic care for their children.

So I appreciate the need for this bill for welfare recipients and for premium subsidies for our elderly and disabled citizens on very low incomes, but I do strongly object to the way these benefits are paid for in this bill. I regret that offsets I suggested were not adopted instead of this flat ban on ED drugs.

Getting Congress involved in medical treatment decisions by limiting the availability of any category of prescription drugs sets a terrible precedent.

Congress has repeatedly recognized that we should not be in the business of developing or defining formularies. Congress tasked the United States Pharmacopoeia with developing the categories and classes of drugs to be covered by the new prescription drug plans, and we specifically tasked the P&T committees in every Medicare drug plan offered to our seniors and disabled citizens with the responsibility of assuring that the formularies were medically correct and not politically correct.

Furthermore, Medicare and Medicaid prescription drug plans have a number of tools at their disposal to ensure that ED drugs are not abused and could be covered only when prescribed for medically appropriate care.

Further, since they are not sold over the counter and must be prescribed by a physician, control is not difficult. Medicare covers many benefits in some situations and not others, and ED drugs would only be another such benefit. As for sex offenders, cross-checking with publicly available lists of these offenders is not difficult and could prohibit ED drugs from going to sex offenders at taxpayers' expense while preserving access to these drugs when medically necessary for all disabled and senior men who are not sex offenders.

Mr. Speaker, ED drugs are covered for Federal employees and Members of Congress. They are covered by the VA, and they are very useful in treating post-traumatic stress disorder. Why would we treat our seniors and people with disabilities worse than we treat all Federal employees and veterans? If my colleagues oppose full access, surely Medicare and Medicaid beneficiaries should at least have access to all medically necessary medications.

Medicare covers breast reconstructive surgery after a mastectomy or accidental injury. Medicare understands "the importance of post-surgical psychological adjustment" as women rehabilitate after a damaging cancer treatment or devastating injury.

Are men not entitled to such wholeness after prostate cancer treatment?

ED drugs help men who have lost sexual function as a result of medical conditions like prostate cancer, diabetes, multiple sclerosis, Parkinson's, or spinal cord injuries. Men need these medications not to enhance their lifestyle but to return them to normal, just like women need reconstructive surgery to return as close as possible to normal.

In fact, wholeness is so important that according to a University of Chicago study, 68 percent of men were willing to forego treatments that were more effective in eradicating prostate cancer in order to maintain sexual function. Why would we force men to choose between the most effective medical treatment and wholeness?

I could not agree more that we should ban ED drugs for sex offenders; but a flat ban on ED drugs for all seniors, low-income Americans, people with disabilities who have ED-related diseases or conditions is just plain discriminatory and wrong.

So, Mr. Speaker, while I respect the concerns of those who support a total ban on ED drugs, I hate to see Congress go down this path of political correctness. We must offer our seniors, our poor, and our people with disabilities medically correct health care plans.

The real answer to controlling the cost of Medicare and Medicaid is not micromanaging the programs, but driving forward the adoption of technology that will enable us to manage chronic illnesses proactively, reducing both the cost and suffering of hospitalizations and emergency department visits for our seniors and those disabled amongst us.

That much said, and with the hope that we will allow doctors to determine treatment protocols, I acknowledge our public responsibility to extend access to Medicaid benefits for welfare-dependent families and for premium subsidies for our very lowest-income seniors and people with disabilities and to provide unemployment compensation funding these States so desperately need.

Mr. McDERMOTT. Mr. Speaker, I yield 3½ minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, let me just, if I might, illustrate the problem that is faced by unemployed workers in these three States, so that everybody understands that while this bill helps the States, it is unlikely to help any of the unemployed; and that is too bad.

About 400,000 people became unemployed after Katrina, 6,000 already have exhausted their benefits in these three States since Katrina; and about 20,000 more are likely to exhaust their benefits.

Next, the amounts that are paid in these three States would leave a family of four way below the poverty level, way below the poverty level. So what we Democrats suggested was to provide moneys to the States so that they could cover all of the additional costs. This bill only will provide perhaps half. There should be an extension of unemployment compensation benefits for those people and also we should elevate the amount of money going to people. These are people without fault, who lose unemployment through no fault of their own, a hurricane.

□ 1715

It befuddles me why we have to settle on this floor for such an inadequate response to Katrina. And it is not the fault of the gentleman from Louisiana who spoke. I am sure of that because I think he wanted more. But as I understand it, talks broke down, and the hopes for a bipartisan bill that would indeed meet the needs of the unemployed, those hopes were essentially shelved.

Why? Partly because of this terrible budget crunch that the majority really has brought into operation. I would also guess because they have always opposed in recent times the extension of benefits, and they do not want to do anything to elevate the benefit structure even though it is way below the normal. I say, in a word, we are adding something tragic to tragedy, and we should not be doing that.

The gentleman from Louisiana said it is a first step. When would the second step be? I think there is no plan for a second step. So, essentially, in real terms, we are saying to the unemployed, it is a half a loaf, and it is hard to feed a family on a half a loaf.

Mr. DEAL of Georgia. Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise to express concern about the legislation we are considering.

I heard the gentleman from Louisiana (Mr. McCRERY) talk about the fact that we would like to do better. But let me just point out that we have $25 billion in a Federal unemployment trust account today. Those funds should be used for emergency circumstances. If there was ever an emergency, what happened to the workers of those three States as a result of Katrina is clearly an emergency. This is the time that we should be releasing unemployment moneys so that we can extend benefits beyond the statutory period that is currently in law.

Through no fault of their own, the victims of Katrina are unable to find employment, and we should be able to provide extended benefits. And the funds are there in the Federal unemployment trust account. So quite frankly, I do not understand what the delay is. The people are hurting. We should be doing everything we can to help, and I would expect that we would have had a stronger bill come out that would protect the workers who cannot find employment.

So, Mr. Speaker, I am disappointed that we have a bill before us that obviously is an important bill to move forward because it provides relief by extension of several programs that are important to the people that are affected by this, but I really do believe that we should be looking at a comprehensive approach to deal with people who have been victimized. Unfortunately, this bill does not really do it for those people who are unemployed, have exhausted their benefits and are looking to the Federal Government for help.

Mr. DEAL of Georgia. Mr. Speaker, I continue to reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Cleveland, Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, the Qualified Individual, or QI, program pays the monthly Medicare part B premium for low-income beneficiaries. On September 30, 2005, the authorization for QI–1 expired. If it is not reauthorized within days, over 160,000 low-income seniors and those with disabilities will lose this crucial assistance on which they rely to cover their health care costs. That means that some people who make less than $1,092 a month will lose almost 10 percent of their income.

This is simply unnecessary, since QI's extension has strong and broad support. It is supported by 35 separate health advocacy organizations. In addition, the gentleman from Ohio (Mr. LATOURETTE) and I have a bill to extend the benefit that has bipartisan cosponsorship. In fact, a similar extension passed the House last year by a voice vote.

This bill before us today will make sure our seniors do not lose their income by extending the benefit for 1 year. In doing so, it builds on a consistent history of temporary extensions in recent years. If this bill becomes law, I urge Congress to turn its attention to a more permanent solution. Every year the benefit has strong support, and more often than not we find ourselves rushing at the last minute to keep it alive. My hope is that before it expires again next year, Congress will pass a permanent reauthorization.

Mr. McDERMOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. BROWN), and I ask unanimous consent that he be allowed to distribute the time.

The SPEAKER pro tempore (Mr. SIMMONS). Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes, and I thank the gentleman from Washington for yielding the balance of his time.

I rise in support of this legislation, which reauthorizes the QI program. This program helps low-income Medicare beneficiaries cover the cost of the Medicare premium. Without this, many elderly Americans would sink below poverty as they attempt to pay for doctor visits out of pocket. That not only places individuals at risk, it is inefficient from a fiscal perspective.

For low-income beneficiaries who cannot afford the Medicare premium, Medicaid becomes the insurer of last resort. Absent the QI program, more elderly Americans and individuals with disabilities would need Federal and State assistance through Medicaid in addition to their Medicare coverage. Investing in premium assistance now saves both Federal and State dollars in the future.

And there is untapped potential in the program. Uncertainty surrounding funding for this program has had a dampening effect on enrollment. States are hesitant to reach out to eligible individuals, resulting in artificially low enrollment figures. It is in the public interest to address this problem in the future, but extending QI–1 is a necessary first step, and I am pleased the bill takes that step.

This legislation also extends the transitional Medicaid program, or TMA, and provides health insurance to families as they move from welfare to the workforce. It is a public health initiative and a jobs initiative which I strongly support.

It is my strong preference to make these two programs permanent rather than having Congress repeatedly reauthorize them sometimes multiple times in a year. I hope we can work with the gentleman from Georgia (Mr. DEAL) and others on a bipartisan basis to secure a permanent authorization. In the meantime, I am pleased the House is taking up this legislation, and I urge my colleagues to support it.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE), a member of the Committee on Commerce and very knowledgeable about health care issues.

Mr. INSLEE. Mr. Speaker, I want to address the offset of this legislation. I obviously applaud the extension of transitional medical assistance, which provides health insurance for people leaving welfare and going back to work. This is obviously a great thing to do. I believe, however, it is dangerous to allow 435 Members of Congress, most of whom lack medical training, to pick and choose among which illnesses and which treatments should be deemed acceptable under those provisions.

There are thousands of physicians across this country that have recognized, for instance, the need for ED medicine, not as a recreational activity but as part of living a normal adult life. We also set up a potentially dangerous precedent by allowing Members to pick and choose individual treatments that they feel do not serve sufficient medicinal purposes.

Today, it is a medicine for ED, but should we choose to go down this road, next year we could be having the same debate about mental health treatments or biologics deemed too expensive. This is not the place for these decisions.

This is a conversation for doctors to be having with their patients.

I find it worrisome we are on the verge of using the doctor's office as a setting for interjecting our preferred social policies where they do not belong. Doctors today prescribe ED medicine because it treats a serious medical disease that can lead to divorce and depression. ED is a common side effect of prostate cancer surgery and diabetes, and it affects millions of men nationwide which, in turn, can affect their families. There is not just an issue of men; it is a family issue.

This is an attempt to interject a political viewpoint into a personal decision that should be made by a doctor and a patient, and I hope we respect that personal decision more in the future.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Let me go back and sort of summarize what this bill does and does not do. It has been a little confusing, because it is a bill that does basically two things: One is it cuts Federal spending, and then it uses part of the savings from that cut in four different areas and then applies the balance left over from those four areas to reduce the Federal deficit by about $150 million over the next 5 years.

First of all, where does the cut come from? What it does, in order to achieve the savings of some $690 million over 5 years, is to eliminate from Medicare and Medicaid payments for erectile dysfunction drugs. We have heard a couple of speakers who have addressed their dislike of the elimination from Federal taxpayer spending the payment for these drugs.

Well, my people back in North Georgia tell me, and without any hesitation whatsoever, that they do not think their tax dollars ought to be paying for erectile dysfunction drugs for either individuals under Medicare or Medicaid, and they believe that these are not drugs that should be available to convicted sex offenders.

Now, some would say, oh, you mean it is possible a convicted sex offender could get an erectile dysfunction drug that is paid for by taxpayers? Very definitely that is the case. There is no way for a pharmacist who is presented with a Medicare or Medicaid card to have access to the NCIC records to determine if that individual is a pedophile or some other kind of sex offender. That would be the height of embarrassment to this Congress, to discover we are allowing for those kinds of situations to exist.

Now, it is not just a personal opinion of mine. This House has already expressed its opinion on this issue earlier this year. In the consideration of the Labor-HHS appropriation bill, the gentleman from Iowa (Mr. KING) had an amendment to that bill that would have eliminated the payment for ED drugs. That amendment received overwhelming support, some 285 to 121 who voted for it. There were many others, like me, who supported the concept but, because we did not think we should cede jurisdiction on legislating on the issue to the Committee on Appropriations, voted against the amendment. In principle, we supported the concept. This is the forum in which we have legislatively addressed it by an authorizing committee to address this question.

Now, that does not mean that individuals who are under Medicare part D cannot obtain these drugs if they choose to do so. The plans are free to offer them. They simply cannot use Federal taxpayer subsidies to pay for them.

All right, that is where the savings come from, is the elimination of ED drugs from Medicare and Medicaid, some $690 million over 5 years. Now, what are we spending the savings on? Part of it is spent, as we have heard from some speakers, to extend the Medicare Qualified Individual 1, the QI-1 program, for another year. That applies to 150,000 low-income Medicare beneficiaries, to give them assistance in paying their Medicare part B premiums.

□ 1730

A second part goes to transitional medical assistance, TMA. Most Members recall that was an essential ingredient in welfare reform. It provides individuals who are transitioning from welfare to work additional coverage and medical assistance to them during that transitional period.

A third category is it applies and uses money for abstinence education to fund those block grant programs for 3 months. These are programs that States have launched to try to sustain the abstinence approach and it has been a successful program and would fund it for and additional 3 months.

The fourth category, the one we heard a lot of talk about at the beginning of this debate, was that it does provide $500 million to the three States most severely affected by Hurricane Katrina, that is, Louisiana, Alabama and Mississippi, for assistance in paying unemployment compensation. It provides $400 million to Louisiana, $85 million to Mississippi, and $15 million to Alabama. I think that is an appropriate way to spend part of the resources, and we then apply the remaining $150 million to reducing the Federal deficit.

Now, I would remind my colleagues that if they did not like the provisions or did not think the provisions for the unemployment compensation were adequate, our counterpart across the way passed by unanimous consent a bill that addressed these other areas, but had no provisions for unemployment compensation at all in their legislation. We are hopeful they will accept our version of it.

In conclusion, I remind Members who forget, we have appropriated over $60 billion in emergency assistance for hurricane victims, the largest single appropriation for emergency disaster relief that this Congress has ever voted for. Some of the speakers seem to forget we have done that. What we are doing here for unemployment compensation is only a small part of a very, very large package; but it is an essential part of it. We hope that this body, the House as a whole, would do as we have seen the Senate do: they approved their version by unanimous consent. I would urge my colleagues to overwhelmingly support this bill.

Mr. DINGELL. Mr. Speaker, I rise in support of this legislation to reauthorize the Qualified Individual program, or QI. This program helps low-income Medicare beneficiaries who are almost, but not quite, eligible for Medicaid assistance, and are still struggling with living and healthcare costs. It pays the cost of the Medicare Part B premium for seniors with incomes of approximately $11,484 to $12,920 a year. This is a good program that helps thousands of low-income seniors each year.

The initial program was a block grant enacted in 1997 and set to expire in 2002. Congress has re-authorized this program a number of times since then. The uncertainty surrounding funding for this program, however, has had a dampening effect on enrollment. States are hesitant to reach out to eligible individuals, resulting in artificially low enrollment figures. I hope my colleagues across the aisle will join me in fixing this problem in the future—but for now, I am pleased that we are passing this stopgap measure.

In addition, I support the extension of the transitional Medicaid program, or TMA. This program is critical for families moving from welfare to the workforce and provides health insurance during this time. TMA provides peace of mind for millions of working Americans so that they can maintain health insurance coverage as they begin working again.

I would note that it is my strong preference to make these two programs permanent, rather than having Congress continually reauthorize them, sometimes multiple times in a year. I thank Senators GRASSLEY and BAUCUS for their work in the Senate, and Chairman BARTON for his work with me, and am pleased that the House is taking up this legislation to extend funding for these programs for the immediate future.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Louisiana (Mr. MCCRERY) that the House suspend the rules and pass the bill, H.R. 3971.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT CENTERS FOR MEDICARE & MEDICAID SERVICES BE COMMENDED FOR IMPLEMENTING MEDICARE DEMONSTRATION PROJECT

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 261) expressing the sense of the House of Representatives that the Centers for Medicare & Medicaid Services should be commended for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and should extend the project, at least through 2006, subject to any appropriate modifications, as amended.

The Clerk read as follows:

H. RES. 261

Whereas chemotherapy for cancer patients is primarily furnished in physician offices and is therefore subject to the revised method for determining payment amounts;

Whereas in 2005 the Medicare program instituted a demonstration project to assess the quality of care for patients undergoing chemotherapy by collecting data on the impact of chemotherapy on cancer patients' quality of life;

Whereas the demonstration project is a strong effort to improve the quality of cancer treatment by assessing pain, nausea and vomiting, and fatigue;

Whereas the demonstration project reflects a foundation to evaluate important patient services moving forward;

Whereas payment amounts under the demonstration project have mitigated the significant reductions in Medicare support for chemotherapy services that would otherwise have gone into effect;

Whereas reports by the Department of Health and Human Services and the Medicare Payment Advisory Commission regarding any adverse effects from the changes in the reimbursement method for chemotherapy services are not due until late 2005 and January 1, 2006;

Whereas the demonstration project achieves the concurrent objectives of collecting data to improve the quality of cancer care and maintaining financial support for cancer chemotherapy pending the completion and review of studies on the recent reimbursement changes;

Whereas it may be possible to modify the demonstration project to collect additional or different data elements that would make it even more useful in enhancing the quality of cancer care; and

Whereas it is essential that the access of Medicare cancer patients to chemotherapy treatment be maintained and in the strong interest of patients that the quality of their care be assessed and improved: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the Centers for Medicare & Medicaid Services should extend through 2006 the Medicare demonstration project to assess the quality of care for patients undergoing chemotherapy, and then thoroughly review the merits of the demonstration project;

(2) the Centers for Medicare & Medicaid Services should use the results of this demonstration project to develop a system to pay for chemotherapy services under Medicare based on the quality of care delivered and the resources used to deliver that care, including physician performance;

(3) the demonstration project should be modified to accumulate even more useful data relating to the quality of care furnished to Medicare patients with cancer, such as the clinical context in which chemotherapy is administered, and patient outcomes; and

(4) payments to physicians for participation in the demonstration project should facilitate continued access of Medicare patients with cancer to chemotherapy treatments of the highest quality.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 261, a resolution sponsored by the gentleman from Texas (Mr. HALL). This resolution commends the Centers for Medicare and Medicaid Services for implementing the Medicare oncology demonstration project, and requests that it extend this successful program. I am pleased to report that due to this important demonstration project, the Centers for Medicare and Medicaid Services has received valuable data that will serve to better treat patients suffering from cancer.

Cancer is one of the leading causes of death to Americans, and almost every American has had their life touched in some way by this horrible disease. Simply put, cancer kills. Cancer does not discriminate. It takes many forms and effects young and old alike.

I commend the CMS for their leadership in addressing this effective treatment for cancer patients. Specifically, I commend CMS for approaching cancer care from a totally different perspective. Providing quality cancer care is not just about administering drugs to patients, albeit performing this task safely and efficiently is important. Providing cancer care includes managing pain, minimizing nausea, and limiting fatigue. It means arming clinicians with information and evidence-based practice guidelines to obtain the best possible clinical outcomes.

That is what the chemotherapy demonstration has begun to provide towards the advancement of cancer care in this country. The demonstration initiated last fall by CMS reflects our commitment to quality and the use of clinical data to pave the way for enhanced quality care, including good clinical outcomes and reduced cost to Medicare and Medicaid beneficiaries.

These are principles which I stand behind, and I commend CMS for their work to ensure that cancer patients receive the best possible care. This resolution was approved by voice vote by the Committee on Energy and Commerce, and I encourage my colleagues in the House to do the same this afternoon.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, there may not be a Member of this body who cannot share a personal story about cancer. Cancer is a health risk for all of us. It has taken friends, family, and others from each of us.

With the help of a very real Federal commitment to research, through coverage and access, through development of new standards and innovative treatment, American medicine is fighting cancer on every front.

I am a proud supporter of the National Cancer Institute's 2015 goal to eliminate suffering and death due to cancer within the decade. While we work to eliminate the cancer threat, the Federal Government is also working to make sure that treatment for cancer, specifically chemotherapy, is administered in the best possible manner for patients.

Earlier this year, Medicare implemented a demonstration project to collect data and study the quality of care being provided to patients undergoing chemotherapy. This project is a vital tool for policymakers to use as we work to determine the most appropriate reimbursement strategies for this complicated treatment regimen. It is important that the administration extend this demonstration through 2006 so we can ensure that Medicare beneficiaries and every American has access to high-quality treatment.

Mr. Speaker, I thank the gentleman from Texas (Mr. HALL), the gentleman from Texas (Mr. GENE GREEN), the gentleman from New York (Mr. TOWNS) and others for their work on this resolution. Extending this demonstration will maintain an important tool in our country's fight against cancer.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. HALL), the author of the legislation.

Mr. HALL. Mr. Speaker, I rise today in support of H. Res. 261. This bipartisan resolution commends the Center for Medicare and Medicaid Services for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy; and it calls on CMS, as the chairman has said, to extend this project through the year 2006. I am pleased that Members from both sides of the aisle join me as cosponsors of this very important resolution.

Delivering cancer treatment involves more than simply providing chemotherapy drugs. Oncologists need to plan drug regimens, educate caregivers, and monitor patient symptoms; and they are responsible for managing pain, minimizing nausea, and limiting fatigue.

The demonstration project was critically important to improving quality cancer care in 2005. It provided resources to assess a patient experiencing chemotherapy side effects, including pain, nausea and fatigue.

The project has achieved three important objectives: collecting data to improve the quality of cancer care, maintaining stability in the cancer care delivery system, and focusing limited resources in the aspect of cancer treatment most difficult for patients.

Oncologists in America are the lifeline to so many individuals facing the greatest challenge of their lives. Hearing the diagnosis of cancer is a frightening and lonely experience, and the men and women who devote their careers to fighting this disease are the healers these patients look to for help. As a Nation, we need to do all we can to support these oncologists.

I would like to thank the American Society of Clinical Oncology for working so closely with me and all of us on this resolution. I would certainly like to commend the gentleman from Georgia (Mr. DEAL), the gentleman from Texas (Mr. BARTON) and the staff of the Committee on Energy and Commerce for working with my office to bring this resolution to the floor today.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I congratulate the gentleman from Georgia (Mr. DEAL) and his subcommittee for bringing forward this resolution, and the gentleman from Texas (Mr. HALL) for introducing it, because it is extremely important to recognize the very thoughtful work of this administration in making the most complex and difficult change in payment systems that we have frankly ever legislated in any sector of Medicare payment policy.

They had to change both the way the government paid for the drugs and the way they paid for the physicians, and changing each system required the development of whole new information systems; and then they had to coordinate these in such a way that they actually came to the oncologists in the right amount at the right time. To ensure that, they developed the demonstration project that both will improve quality and also ensure that these payments together would maintain the access to oncology care that American seniors enjoy and Americans across the country enjoy.

We enjoy greater access to cancer treatment than the people of any other country. In making this much-needed, but complex, change in how we pay for that cancer care, this administration showed great medical understanding, great patient sensitivity, and great dedication to ensuring that access to cancer care would in no way be compromised while we reformed the way we paid for that care.

Mr. Speaker, I thank the gentleman from Georgia (Mr. DEAL) for a solid resolution and congratulate Members on a very difficult job. Very well done. I thank publicly Dr. McClellan and all his staff for their energy and dedication to this and for the staff of both committees who worked very hard to ensure that in different aspects of our jurisdiction we brought all of the knowledge we had developed in the course of developing these payment changes to the table to work with the administration. I thank the committee staff, as well as my own staff.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H. Res. 261. This resolution expresses the sense of the House of Representatives that the Centers for Medicare & Medicaid Services should be commended for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and should extend the project, at least through 2006, subject to any appropriate modifications. Further, it commends CMS for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and calls on CMS to extend the project, subject to any appropriate modifications, at least through 2006.

In brief, this resolution is important because it:

Encourages CMS to extend the oncology demonstration project, which helped preserve patient access to cancer therapies in 2005 by maintaining critical resources in the cancer care delivery system.

The demonstration, currently set to expire at the end of 2005, asks about quality of care information such as pain, nausea/vomiting and fatigue. This was an important step in measuring outcomes for quality cancer care.

The demonstration helped focus limited resources on symptom management and treatment, an aspect of cancer treatment most difficult for patients. The Resolution encourages CMS to make refinements, as appropriate, to make the data collection even more meaningful for patient care.

As you know, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) significantly reformed the way Medicare pays for chemotherapy administered in doctors' offices. These reforms resulted in considerable reductions in Medicare payments to cancer care.

The Centers for Medicare & Medicaid Services (CMS) following efforts by many Members of Congress, the American Society of Clinical Oncology (ASCO), patient advocacy groups, and others in the cancer community, implemented a one-year demonstration project that provided resources to assess the patient experience with chemotherapy side effects. These include pain, nausea and vomiting, and fatigue. This demonstration project has achieved three important objectives: (1) collecting data to improve the quality of cancer care, (2) maintaining stability in the cancer care delivery system, and (3) focusing limited resources in an aspect of cancer treatment most difficult for patients.

The demonstration project was critically important to protecting quality cancer care in 2005. I encourage Members to support this resolution.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of the resolution offered by my friend and fellow Texan, Mr. HALL.

I am proud to be a co-sponsor of this resolution, which would encourage CMS to extend a Medicare demonstration project that has maintained cancer patients' access to chemotherapy.

Approximately 9.6 million men, women, and children in the United States are currently living with a diagnosis of cancer.

Despite the tremendous strides made in cancer research and cancer care, the disease unfortunately still ranks as the number two killer in the United States, exceeded only by heart disease.

According to the American Cancer Society, more than 1.3 million new cancer cases will be diagnosed this year alone.

These individuals face a tough road ahead and difficult decisions about the path they will take in fighting this disease.

This year, the Medicare program implemented a demonstration project to look at chemotherapy patients and the quality of care they receive.

A good deal of cancer patients receive life-saving chemotherapy in physicians' offices.

However, the Medicare bill Congress passed in 2003 reduced payments to physicians who administer chemotherapy in their offices.

This demonstration project has temporarily alleviated some of the financial strains oncologists were to receive under the Medicare bill—

And the result is continued patient access to chemotherapy administered in the familiar and more-convenient office setting.

Ultimately, the goal of the demonstration is to improve cancer treatment through a better understanding of the patient experience under chemotherapy.

But we don't want to cut off patients' access to chemotherapy before we determine how their cancer care could be improved.

While chemotherapy has literally been a life-saver for countless cancer patients, it is not an easy process to endure.

Patients often experience pain, nausea, vomiting and fatigue while undergoing chemotherapy.

We know a great deal about chemotherapy and its effect on patients, but our knowledge base is not complete.

Unfortunately, the cancer care demonstration project is scheduled to end on December 31, 2005.

This resolution would encourage the Centers for Medicare and Medicaid Services to extend the cancer care demonstration project at least through next year.

By extending this project, CMS would continue to support chemotherapy services offered in physician offices.

At the same time, CMS would continue to build on the information already gleaned from the project to improve the quality of care for Americans suffering from cancer.

Mr. Speaker, I thank Mr. HALL for his leadership on this issue and encourage my colleagues to join me in supporting this important resolution.

Mr. FERGUSON. Mr. Speaker, I rise today in support of H. Res. 261, expressing the sense of the House of Representatives that the Centers for Medicare & Medicaid Services should be commended for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and should extend the project, at least through next year.

In 2005, CMS implemented a Quality of Life demonstration project to assess quality care for cancer patients receiving chemotherapy services in an office-based practice. The demonstration project was designed to gather data on the effects of chemotherapy on Medicare patients. Practitioners participating in the project must provide data and document services related to pain control management, minimization of nausea and vomiting, and the reduction of fatigue. This program is now underway and I strongly support its continuation.

I would note, however, as the program is currently designed, it only applies to patients receiving IV infusion and push chemotherapy, not to patients receiving oral chemotherapy. As was originally intended when Congress created this demonstration program, it is critical that all patients, regardless of the method of chemotherapy treatment, are included in the assessment of these key quality of life factors impacting their treatment for cancer. As it stands today, the data collected under the QOL is incomplete—patients receiving oral therapies are not assessed in the same way, and their side effects cannot be compared to the side effects of infused chemotherapy. As I stated, I strongly support the continuation of this demonstration program but I believe CMS should act to ensure that data is collected from patients receiving oral drugs as well as injectable drugs.

Oral chemotherapy treatment can improve the quality of life for cancer patients by allowing patients to have chemotherapy at home or work without daily visits to the doctor's office or to a cancer infusion center. These treatments can also be cost effective as they require fewer physician visits and fewer invasive procedures. While these treatments are relatively new, more are being developed each year and they can provide unprecedented freedom for Americans battling cancer. If we are going to collect data and learn how to improve the quality of life for those fighting cancer it is my belief that we should focus on collecting data on all treatment options—including the very promising use of oral drugs.

Mr. BARTON of Texas. Mr. Speaker, the Chairman of the Ways and Means Committee, Chairman THOMAS, requested that the attached exchange of letters be submitted during the floor debate on H. Res. 261.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, Oct. 17, 2005.

The Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your letter in regards to H. Res. 261, a resolution "[e]xpressing the sense of the House of Representatives that the Centers for Medicare and Medicaid Services should be commended for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and should extend the project, at least through 2006, subject to any appropriate modifications."

As the Committee on Ways and Means was named as an additional Committee of jurisdiction upon the resolution's introduction, I acknowledge and appreciate your willingness to not exercise your full referral on the resolution. In doing so, I agree that your decision to forgo further action on the resolution will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this legislation or similar legislation.

I look forward to working with you on this resolution.

Sincerely,

JOE BARTON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, Oct. 11, 2005.

The Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR CHAIRMAN BARTON: I am writing concerning H. Res. 261, a resolution "[e]xpressing the sense of the House of Representatives that the Centers for Medicare and Medicaid Services should be commended for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and should extend the project, at least through 2006, subject to any appropriate modifications," which was ordered reported by the Committee on Energy and Commerce on Wednesday, July 20, 2005.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning Medicare. This resolution calls for the extension of the Medicare demonstration project to assess the quality of care for patients undergoing chemotherapy, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this resolution. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H. Res. 261, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the resolution, H. Res. 261, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution expressing the sense of the House of Representatives that the Centers for Medicare & Medicaid Services should be commended for implementing the Medicare demonstration project to assess the quality of care of cancer patients undergoing chemotherapy, and should extend the project through 2006, subject to any appropriate modifications.".

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 474 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 474

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the rule before us today is the standard rule for the consideration of a conference report. It waives all points of order against the conference report and against its consideration and provides that the conference report shall be considered as read.

Mr. Speaker, I rise in support of this rule and the underlying legislation. This rule, brought to the floor today by the gentleman from Kentucky (Mr. ROGERS), the chairman of the Appropriations Subcommittee on Homeland Security, funds our most important Federal programs aimed at securing this Nation against terrorist attacks.

It provides $30.8 billion for the operations and activities of the Department of Homeland Security in fiscal year 2006, an increase of $1.4 billion above fiscal year 2005 and $1.3 billion above the President's request. The conference report agreement reflects the DHS organizational structure recommended by the Secretary on July 13, 2005, and does not create any new aviation security fees.

This legislation secures our homeland first and foremost by protecting our borders and revitalizing immigration enforcement. It provides nearly two-thirds of the overall budget for the Department, $19.1 billion for border protection, immigration enforcement and related activities.

□ 1745

This represents an increase of $1.2 billion over funding in 2005 and $490 million over the President's request. These funds are used to support cutting-edge technologies for high-risk cargo screening, to expand cargo inspection at foreign ports, and to support a robust revitalization of immigration enforcement along our borders and around our Nation.

Among other security enhancing measures, this funding includes $1.8 billion for border security and control, funding an additional 1,000 Border Patrol agents. When combined with this year's supplemental appropriations, 1,500 new agents will be hired in 2006. It provides for $3.4 billion for Immigration and Customs Enforcement, funding an additional 250 criminal investigators and 100 Immigration Enforcement agents. When combined with this year's supplemental, 568 new ICE agents and officers will be hired for year 2006.

It provides $41 million for border security technology, including surveillance and unmanned aerial vehicles; $562 million for Air and Marine Operations to maintain the integrity of our borders and aerospace security, as well as drug interdiction; $94 million for the Institutional Removal Program, including an additional 100 agents; $40 million for implementation of the READ ID Act; $5 million to train State and local officials and officers to enforce immigration laws; $1 billion for immigration detention custody operations; and $135 million for transportation and removal of illegal immigrants.

This conference report also recognizes the active role that the Department of Homeland Security must play in disaster mitigation and relief efforts. It prioritizes spending on Federal response capacities as well as increased planning and coordination with the States.

To accomplish this, it includes $1.77 billion for the Disaster Relief Fund; $20 million for Urban Search and Rescue Teams; $20 million for FEMA catastrophic planning; $22 million for the National Incident Management System; $200 million for the Flood Map Modernization Program; a requirement that DHS develop guidelines for mass evacuation plans; and a requirement that DHS reports on the status of catastrophic planning in each of our 50 States.

This conference report also provides $3.3 billion for first responders, in the form of performance grants to high-threat areas, firefighters and emergency management. Since September 11, 2001, $32.1 billion has been provided to first responders, including funds for terrorism prevention and preparedness, general law enforcement, firefighter assistance, airport security, seaport security and public health preparation.

This conference report includes funding of over $1 billion for high-density urban areas, including $765 million for urban area grants, $150 million for rail security, $175 million for port security and $65 million for other infrastructure protection, $655 million for firefighter grants, $400 million for State and local enforcement terrorism prevention grants and $185 million for Emergency Management Performance Grants.

Finally, this conference report provides $1.5 billion for the research and development of leading-edge technologies and $625 million to protect our critical infrastructure and key assets. These funds will be used to test and transition these technologies for use by Federal, State and local officials. It will also support ongoing efforts to develop secure communication systems with Federal, State and local entities and continue efforts with the private sector to implement protective measures around this important infrastructure.

To accomplish this, the bill includes $538 million to develop radiological, nuclear, chemical, biological and high explosives countermeasures; $110 million for the research and development and testing of antimissile devices for commercial aircraft; $318 million to start up the new Domestic Nuclear Detection Office to help coordinate global nuclear detection and tracking; $14 million to identify and characterize potential biological terrorist attacks; and $93.3 million for cyber-security technology.

Mr. Speaker, I could spend a lot of time listing the many strengths of this bill and the thoughtful and threat-based way that it funds the programs that keep American families safe. Instead, I want to take time to strongly support this legislation with an open rule.

I commend my colleagues on the Committee on Appropriations for their hard work.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Mr. Speaker, this Homeland Security conference report will be the third and one of the most important appropriations conference reports considered by Congress this session. In the wake of a wholly inadequate Federal response to Hurricane Katrina, it is this Congress's responsibility to provide the Department of Homeland Security with appropriate funding and resources. That funding must also come with proper direction and full oversight.

Unfortunately, this conference report falls far short of that standard. Hurricane Katrina revealed several institutional problems with the Department of Homeland Security, in particular with the structure of the Federal Emergency Management Agency. Over the past decade, FEMA has been stripped of its duties; folded into a disorganized department; and, most disturbingly, staffed by inexperienced people.

With this bill, Congress had a golden opportunity to address the institutional disarray that has tarnished FEMA. Instead of doing the right thing, this conference report provides absolutely no guidance on how to spend billions of taxpayer dollars or how to properly restructure the agency. Furthermore, Secretary Chertoff has insisted on restructuring the Department again, for the sixth time, without any congressional oversight and hearings. He has proposed to place FEMA in the Preparedness Directorate, further splintering the agency's ability to respond quickly to disasters.

Disaster preparedness and response are intrinsically linked. FEMA must be responsible for both. Separating these duties will only hinder the Federal Government's responsiveness potential. This systematic dismantling of FEMA's authority was the primary cause of the botched Federal response to Hurricane Katrina.

Secretary Chertoff's proposal to restructure FEMA will not solve the institutional deficiencies of the agency. While FEMA was not perfect before it merged into the Department of Homeland Security, at least there existed a level of expertise and skill and FEMA's director had immediate and direct access to the President of the United States.

Experience and professionalism have been missing from FEMA under the Bush administration. Michael Brown, a product of political cronyism, is the perfect example of what happens to government without thorough oversight. Instead of having somebody with disaster experience, President Bush ended up with an Arabian horse specialist.

A year ago, when the State of Florida was ravaged by multiple hurricanes, State and Federal officials complained about the lack of preparedness and inadequate response from FEMA. Counties that were hit the hardest were overlooked while other counties that storms avoided received millions of dollars in funding. Florida lawmakers this past March urged two House committees with FEMA jurisdiction to hold hearings on what went wrong.

Even after Hurricanes Katrina and Rita hit 6 months later, the Republican leadership has continued to block the Florida delegation's oversight request. And now we are all paying the price for neglecting oversight of FEMA, most notably the thousands who paid with their lives and their livelihoods.

The House Republican leadership has consistently ignored proper oversight of this administration. It is clear that they do not want to ask tough questions or demand straight answers. This Congress has become a rubber stamp, and the results have been disastrous.

Mr. Speaker, Brownie did not do a "heckuva" job and neither has this Congress. Unfortunately, when given the opportunity to do the right thing, the Republican leadership has once again acted against the best interests of the American people. Their response to these disasters and to these deficiencies at FEMA is to install a partisan committee that will simply gloss over the most important issues surrounding the failures of FEMA. Mr. Speaker, that is not oversight. That is a whitewash.

A more effective FEMA can only be created when independent, experienced disaster specialists analyze the problems that Katrina exposed and then identify solutions. Restructuring FEMA without independent input and oversight is premature and will further plague its prevention and response capabilities.

And not only is the oversight missing, Mr. Speaker, but so is the money. While my Republican friends will highlight the $1.3 billion increase over fiscal year 2005, let us be clear that this increase is only barely above the current rate of inflation. In reality, there are several funding cuts in this conference report that significantly and adversely affect the Department of Homeland Security and FEMA programs.

This conference report cuts State and local preparedness funding by $585 million, a 19 percent cut from last year. Fire grants are funded at $60 million below the fiscal year 2005 level. Disaster relief funding is cut by $370 million, and pre-disaster mitigation funding is cut in half. Let me repeat that: Cut in half.

How can we justify cutting disaster relief and mitigation funding by $420 million? Did Katrina not demonstrate how severely unprepared and ill-equipped FEMA really is? What kind of rationale is this?

Thankfully, there are some programs in this conference report where funding levels are justifiable. For instance, the Coast Guard's "Deepwater" program is fully funded at $933 million, due mostly in part to the Guard's extraordinary rescue efforts after Katrina.

Mr. Speaker, I do not understand what the majority is thinking. Every single disaster, pre-disaster, preparedness and response program should be fully funded. Hurricanes Katrina and Rita should have taught us that. And along with full funding, there needs to be proper oversight. Neither the two enacted relief packages totaling over $60 billion nor this conference report provide any meaningful oversight. None. No check on the flow of the money. No way to ensure the proper awarding of contracts through competitive bidding. No accountability.

Thankfully, the gentleman from Wisconsin (Mr. OBEY), ranking member of the Committee on Appropriations, offered an amendment in conference requiring the Department of Homeland Security to provide detailed information on how Katrina disaster relief funding is being spent. The specific requirements laid out in this provision force the Department of Homeland Security to send Congress weekly reports that detail any and every kind of disaster relief spending, and I applaud the gentleman from Wisconsin (Mr. OBEY) for offering this important amendment. It is an important step in the right direction, a step toward accountability.

I am also grateful to the efforts of the gentleman from Minnesota (Mr. SABO), the ranking member of the Homeland Security Subcommittee of the Committee on Appropriations, who fought hard last week to instruct the conferees not to accept Secretary Chertoff's reorganization program.

Mr. Speaker, I suspect that this conference report will pass by a comfortable margin, but it will not have my vote. We can do so much better than this. We need to do so much better than this, and I hope in the coming weeks and months, both the majority and the Democratic side will work together to achieve a product that we all can be proud of and that will truly ensure the homeland security of the people of our country.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Massachusetts was very kind to enunciate and talk about the contributions that have been made on both sides of the aisle, Republicans and Democrats working together in an effort to make sure that Katrina is taken care of. I also take him at face value that he will not vote for this because there is not enough spending in the bill. There is not enough money that is being spent, and he outlined that money that he wants to spend.

The majority party does need to make sure that the bill that comes forth is balanced and one that maintains the priorities of this country. So we on this side are standing up in strong support of this not only well-balanced bill but really will allow equal distribution as we see the needs of this country and the spending and to control that which we do.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

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Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and I appreciate his hard work on this and his very strong commitment to our Nation's homeland security. In the last Congress he served very ably as a member of the authorizing committee on homeland security.

I also want to join in expressing my appreciation, Mr. Speaker, to the gentleman from California (Mr. LEWIS) and the gentleman from Kentucky (Mr. ROGERS) who worked very hard on this, and for the bipartisan spirit of consideration of this measure. As the gentleman from Massachusetts correctly said, this is going to enjoy strong bipartisan support.

Why? Because we all know that there must be a focus on our Nation's homeland security. It is part of our national security; and, frankly, Mr. Speaker, a very important part of our national security happens to be border security. One of the things included in this measure, of which I am particularly proud, is a measure that in the last Congress, I worked with our former colleague, Mr. Ose of Sacramento on, and my colleagues from California, Mr. HUNTER, Mr. CUNNINGHAM and others have spent a great deal of time working on this, that is, we provide $35 million for completion of the 3½-mile gap in the border fence.

Earlier this week, I had the opportunity to be right on the border near that gap. It is an area known as Smugglers' Gulch. It is an area where people have illegally entered this country, and they have pummeled the environment. The notion of completing that 3½-mile gap is going to go a long way towards dealing with our border security concern, number one, and, number two, our environmental concerns in the area.

I also have to say, having spent a great deal of time with our border patrol agents on the border just a few days ago, I am particularly proud of the hard work they put in their job. They want to have the ability to do their job. Right now they spend most of their time and energy coming to this country simply seeking an opportunity to feed their families. We need to ensure that they have the ability to focus on criminals and potential terrorists. That is exactly what we want to do.

That is one of the other reasons that we, in this bill, have increased by 1,000, adding to the 500 already provided in the earlier supplemental appropriations bill. 1,000 additional border patrol agents. I hope that will help us turn the corner. I am convinced that it will.

The overall commitment to homeland security is one which has, I believe. been very adequately addressed in this important measure. I urge my colleagues to provide strong bipartisan support for this effort.

Mr. McGOVERN. Mr. Speaker, let me just respond to the gentleman from Texas. One of my problems is the fact that this bill cuts some very important programs that I think do not deserve to be cut. It cuts first responder grants, which I think is a mistake. It underfunds communications equipment for first responders.

Just like the 9/11 terrorist attacks, Hurricane Katrina highlighted the problem of first responders having incompatible communications equipment. When Hurricane Katrina hit, emergency personnel were on at least five different channels and were hampered in communicating with one another. Yet this conference report continues to underfund interoperable communications systems. It cuts the disaster relief account. It cuts predisaster mitigation. It underfunds port security. It underfunds rail and transit security. It fails to include dedicated funding for chemical plant security. I could go on and on and on.

Homeland security is not for free. If we are not funding these agencies, and we are not funding the necessary personnel to be able to protect our country, then we are not doing a very good job at homeland security. One other thing I will say to the gentleman from Texas. I believe that we have an obligation when we spend the taxpayers' money that there is thoughtful and effective oversight. We have allocated billions and billions of dollars already in response to this hurricane with no oversight. I do not want taxpayers' money wasted, and I am uncomfortable with the fact the bill provides no oversight. The gentleman may not be, but I am.

Mr. Speaker, I yield 3½ minutes to the gentleman from Mississippi (Mr. THOMPSON), ranking Democrat on the Homeland Security Committee.

Mr. THOMPSON of Mississippi. Mr. Speaker, later today the House will consider a measure that provides $30.8 billion in funding for the Department of Homeland Security. It also makes significant structural and policy changes to the Department. I am pleased that the conferees adopted many of the policy changes for which the Democrats on the Homeland Security Committee advocated during the Department's authorization process.

For example. I am pleased that the Department is directed to undertake a quadrennial review. examine and justify multiyear procurement projects and develop a long-term strategy to ensure optimal development of explosive detection systems. I have to say, it is a sad state of affairs, Mr. Speaker, when Congress has to tell the Department to do planning.

In the short history of the Department, it has earned a reputation for lacking focus and being crisis-driven. It took the London bombing to remind the Department that it is the lead Federal agency for protecting rail and transit. It took Hurricane Katrina to remind the Department that it is the lead Federal agency for all disasters, not just terrorism. We do not have the luxury of time to wait until the Department gets another wake-up call. In July, the Secretary of Homeland Security proposed a number of structural changes. Since that time, Katrina revealed dysfunction at the highest levels of the Department.

I cannot understand why the conference report adopts many of the Secretary's proposed changes wholesale as if Katrina never happened. The establishment of a preparedness directorate would not make us any more prepared if FEMA is not fixed. The Department's changes are outdated. If we grant them to Mr. Chertoff, we will find ourselves revisiting this issue again after the next catastrophe. We need to fix the Department properly, not with duct tape and wires, what this conference report does by giving Secretary Chertoff carte blanche on the agency's structure.

In response to this error, 13 members of the Homeland Security Committee have introduced the Department of Homeland Security Reform Act of 2005. This bill recognizes Katrina happened, and among other things, creates a statutory requirement that the head of FEMA have disaster and emergency preparedness experience. Current law requires the head of the National Park Service to have substantial experience in land management. The least we can do is require the director of FEMA to have prior experience in disasters. We do not need any more Brownies.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I thank the gentleman from Texas for yielding.

Mr. Speaker, I rise today in support of the rule and the homeland security appropriations bill. This legislation improves our homeland security in three key ways.

First, it helps us crack down on illegal immigration and protects our borders by providing funding to hire 1,000 additional border patrol agents.

Second, the bill provides $3.3 billion for first responders, including grants that go directly to high-risk urban areas and firefighters. Significantly, for the first time, the majority of the funding for first responders is appropriately allocated based on the actual risk of terrorism to these areas.

Third, this legislation provides key funding for critical explosive detection devices, which are used to screen high-risk cargo coming into the United States through our seaports and airports.

I am proud that one of the top manufacturers in the world of these explosive detection devices is CyTerra, a company headquartered in my district of Orlando, Florida. On August 15 of this year, Senator MEL MARTINEZ and I toured CyTerra's facilities and met with their employees. These hardworking folks are proud of their role in making our country safer, and they should be. Their bomb detection devices have already saved many lives in Afghanistan and Iraq.

I urge my colleagues to vote "yes" on the rule and "yes" on the underlying homeland security appropriations bill.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey (Mr. PASCRELL), a leader on a number of homeland security issues.

Mr. PASCRELL. Mr. Speaker, we all know that the current system for distributing grants is fundamentally broken. I applaud the fact that this bipartisan conference report gives the Secretary of Homeland Security the flexibility to distribute more money based on risk rather than population.

While I would like to see a much greater percentage of funds allotted exclusively on risk, at least this conference report finally addresses an issue on which many of us have spent years on both sides of the aisle working to remedy. I find it inexplicable that just as we improve the methods of monetary distribution, just as we improve the way first responders can get what they need, we limit the availability, the pool of needed resources. In fact, if it were not for both folks on each side of the aisle, we would have accepted the administration's plan, which would have been 4 percent less than what we have and no increase whatsoever.

Mr. Speaker, I think you should know today that the New York subway system is under high alert. We need to understand what the ramifications of that are. The FBI is working in concert with the New York City Police. This is the first time they have had very specific place, very specific time ramifications. Yet the coordinated and timed bombings in London and Madrid, the latest example of the fact between 1998 and 2003, there were approximately 181 terrorist attacks on rail and transit targets.

Since 9/11, despite the fact that passenger rail systems in the United States carry five times as many passengers each day as do the airlines, only $250 million of the estimated $6 billion needed has been invested in improving rail and transit security.

Congress continues to provide woefully inadequate appropriations. Only

$150 million was appropriated for rail and transit authority.

Mr. Speaker, I think we should all be aware of this. It took a bipartisan effort to get us this far. We need to understand what is going on in New York City today, and I know this is not going to change the dollar figure, the dollar amount of this legislation.

I would simply ask my brothers and sisters on both sides of the aisle to take note that this is serious business. We need to continue this hard work. The FIRE Act, for instance, was cut $60 million, which has been extremely, extremely crucial to the 32,000 fire departments throughout the United States of America. We cannot do everything. We realize that, Mr. Speaker, but there are things that we can do and we should do.

Mr. SESSIONS. Mr. Speaker, serving as a member of the conference, when you go and you look at an appropriations and tear apart where all the money goes and what the priorities are and what the needs are and work with the Senate, one of the most important attributes of getting a good bill is listening to both sides, Republicans and Democrats, and to understand those priorities as they relate not only to, in this case, homeland security, but really the needs of the entire country.

The next gentleman, who is a leader in this Congress, did exactly that. He took time with HAL ROGERS and JOHN CARTER to understand the needs as expressed by this administration, as expressed by the Senate, and by the House.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the gentleman from Texas for his outstanding work and the work of the Rules Committee in bringing this rule to the floor. I rise in support of the rule and the conference report. We worked for months across the aisle to come to this point.

I want to reemphasize, though, how much this rule does strengthen our work at the borders. One of the best employees I have ever had, Trish Mullins, the best caseworker, probably, in any congressional office in Tennessee, her son Scott Mullins is a border patrol agent on the Mexican border. We hear weekly of the trials and tribulations they face. They need the cavalry. With these 1,000 new border patrol agents, it brings the total in this fiscal year to 1,500, and hundreds of new investigators, criminal investigators through Immigrations and Customs Enforcement. This really does strengthen our borders. We have got to continue to take further steps.

I also want to say that one of the things that Chairman ROGERS and I have worked on for months now is to try to get the science and tech directorate to invest in new technologies. This bill creates the domestic nuclear detection office, which will really leverage all the laboratories and all the scientific assets in the country for better protection detection and get the equipment out there so that we continue to further protect our country.

I also want to slow down and thank the staff, the professional staff, 22 agencies, nearly 200,000 employees. This has been very complicated for 2½ years: Michelle Mrdeza, our staff director; Stephanie Gupta; Jeff Ashford; Tad Gallion; Tom McLemore; Ben Nicholson; Kelly Wade on the majority side; Beverly Pheto and the entire minority staff. They have worked countless hours to bring us to this point. They are excellent and professional.

I believe we will meet not only to do what is right and pass this bill, but I think we are going to meet to actually continue this homeland security challenge that we face. There is a lot of money in the pipeline. I want to say to any of our people who have raised concerns about the firefighter and first responder grants, there is a lot of money in the pipeline.

We had a hearing earlier in the day about how much money is yet to be allocated that is in the system. This Congress has funded these needs. This is the bread and butter. This is not the response to Katrina. This was under way prior to Katrina. The select committee, the supplementals will address Katrina. We are doing that daily. Clearly, we have got to do better.

We will meet to make sure the Federal Government's response continues to improve. I encourage adoption of the rule and support for this most important homeland security conference report.

□ 1815

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, how quickly we forget. We are essentially flying blind with this bill. We were supposed to have a comprehensive report from the Department of Homeland Security which was long overdue, and then, when finally produced, which was supposed to be comprehensive on all the transportation sectors, was a regurgitation of open-source material and news articles. They had an early, more specific version, but it was pulled by the administration because it was measurable. It had goals, objectives and technology. It would have shown how short the funding is in this bill and how little progress we have made: $150 million for all of the ports in the United States of America over the next year. Whew.

Mr. Speaker, we could be buying radiation detection equipment for those ports, but that money is not available. It is not in the budget.

Aviation security, arbitrary cap on screeners. Okay, you can cut back on labor if you give them adequate technology. But guess what? There is not enough money in this bill to buy the new technology, the new explosives detection equipment that should be at every passenger checkpoint, that should be under every airport, that should be used for cargo security, but they do not want to put up measurable goals, because they are not getting there, and the American people would be pretty darn mad about it if they knew.

Then, first responder money, come on. Interoperable communications. First lesson: 9/11. We could not communicate with the fire and police and other first responders in the buildings, and many of them died, because they were out of touch as the buildings were collapsing, and they had no notice.

Katrina, first lesson: no interoperable communications. Well, the President provided for zero dollars, and this is up to $76 million nationwide. Wow, that is enough to do three counties in my State out of 36, and that is the money for the entire Nation of the United States of America for interoperable communications, the most basic tool that our first responders need to protect American lives and to rescue people and to better and more effectively deal with emergencies, whether they are terrorist-generated or natural disaster-generated, and we can come up with $76 million nationwide, not even a real tax break for some of the rich people around here.

So to say somehow that this is adequate is absurd. If you set goals and the goals are, every first responder in America has interoperable communications, we are falling way short. If you say we are going to begin to protect ourselves against radiological attack, against bombs coming in in shipping containers, we are doing virtually nothing. If you are going to improve aviation security, nothing.

Then, finally, they want to push us back to the good old days of private aviation security, but it is not happening, because people know what we have now is better. But in order to facilitate that push, they cap the liability of the private companies who are so good and, now, they have to extend complete liability exemption to the airports to try and induce them to bring in private security, because everybody knows it failed us on 9/11, and it will fail us again, but it will make money for a few special interests.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CARTER), who is a speaker who also had an opportunity to serve on this appropriations conference in a detailed fashion and made sure that he looked at those priorities which were necessary for spending for this very important bill.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the State of Texas has demonstrated to the world that they opened their arms to the evacuees of the 2 hurricanes that struck our Nation and brought disaster to a great area of the Gulf Coast. Texas has always opened their arms to their neighbors and said, come to Texas, you are welcome.

But, Mr. Speaker, we have a problem on the Texas border. I was down in Laredo, Mexico, and Del Rio, Texas, recently where 42 American citizens have been kidnapped. I have a photograph of a woman who was burned alive, an American citizen, by these criminals who cross freely across our borders of Texas. We say, welcome, in Texas, but when you come here, do not break the law to get here. It is time for border security in this bill.

I rise in support of this rule and this homeland security appropriation bill because we start down the road to providing safe borders for the entire southern border and northern border of the United States. We add 1,000 Border Patrol men, which will be of great assistance in shutting down this criminal activity and all of this illegal behavior of people coming illegally into our Nation.

Mr. Speaker, 68,000 OTMs, Other Than Mexicans, have crossed within the last 8 months. That is a crisis. We have to do something about the borders, and this bill does that.

We have new agents for the Border Patrol. We have new criminal investigators, we have new investigators for immigration and for ICE. We have provided a great start on a secure border. We will continue to work hard to secure the borders of this country so that this illegal behavior will be caught and punished and these people will be turned back, because, Mr. Speaker, our Nation's security depends upon it.

So I am very supportive of this bill, and I ask for a "yes" vote on the rule and a "yes" vote on this bill, because it is a vote for a secure border for America.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today I rise in support of H.R. 2360 which will equip our Nation to better prepare and respond to future natural disasters and terrorist attacks. This bill includes needed funding for priorities such as 1,000 additional Border Patrol agents, port and transit security improvements, the Coast Guard's Deepwater program and a pilot program to improve air cargo screening.

However, H.R. 2360 is not perfect. Mr. Speaker, I am deeply concerned that this legislation implements structural changes proposed by Secretary Chertoff's second-stage review without full congressional scrutiny. While some changes may be warranted, today we will be voting to shift the TSA, eliminate the Under Secretary for Border and Transportation Security and weaken FEMA at a time when we need the agency to be strengthened, all without the benefit of significant oversight.

That is why several members of the Committee on Homeland Security, myself included, have introduced the DHS Reform Act, which would improve the proposed reorganization plan by strengthening FEMA, detailing duties of the new chief intelligence officer and chief medical officer and establishing assistant secretaries for physical infrastructure security and for cyber security and telecommunications.

Finally, it would require a quadrennial Homeland Security review, unlike H.R. 2360, which simply encourages such a review.

Mr. Speaker, I hope we will have an opportunity to consider the DHS Reform Act before it is too late to alter some of the significant changes proposed by the second-stage review and included in this appropriations bill. Nonetheless, while the conference report is not perfect, it is indeed an important and significant step towards strengthening our Nation's preparedness, and I will support H.R. 2360.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. KOLBE) who, once again, is a gentleman who served on the conference report, who is a person, who is a veteran of the Committee on Appropriations, a person who sits directly on the border of the United States and Mexico; he is a person who has been involved for many years in making sure that tough questions were asked and that we made sure that a balance for delivery of money was given to agencies with an expectation of performance.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments and for yielding me this time, and I rise today to urge my colleagues to support both the rule and the underlying conference report on H.R. 2360, the appropriations for the Department of Homeland Security.

As a member of the Subcommittee on Homeland Security of the Committee on Appropriations, I am especially pleased that this bill provides the resources needed to help secure our border. There are a lot of proposals in Congress that deal with the problem of illegal immigration, and they vary tremendously, but they all have one common theme to them, one common thread, and that is, they all recognize the need to secure our border, and this bill helps to provide the resources that are necessary to accomplish that goal.

The bill ensures that Customs and Border Patrol will have ample funds to protect our borders and enforce our immigration laws. We have to secure the border, and this appropriation bill provides the Department of Homeland Security with the resources it needs to get the job done.

From additional agents, detention space, airplanes, helicopters, unmanned aerial vehicles, to better technology for securing and facilitating travel into the United States by land, air and sea, this bill has nearly everything that is needed to protect our homeland.

The district I represent includes a large portion of the Border Patrol's Tucson sector, through which almost half, that is right, half of all of the Nation's illegal immigrants enter into this country. The negative impact that this has on communities in my area is staggering. The impact of environmental degradation, the cost to hospitals, police and sheriff's departments and other public agencies, not to mention the tragic loss of life in Arizona in the desert, as many people who seek to come to the United States for better opportunities perish in the heat of the summer.

I am pleased that this conference report provides necessary resources to protect our border, not only an additional $56 million for the Tucson sector for expanding Border Patrol stations, fencing, vehicles, lighting, border roads and sensors, but across our entire border. I urge my colleagues to vote in favor of this rule and the underlying bill.

Mr. McGOVERN. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I rise today to discuss the Department of Homeland Security and the Transportation Security Administration's Registered Traveler program.

Like many of my colleagues, I was shocked to learn last month that the TSA has discontinued the Registered Traveler pilot program operating at five commercial airports. While TSA claims they need time to evaluate the pilot program before expanding, I contend they have been slow to act and, as a result, are depriving the traveling public, particularly frequent travelers, a more efficient, effective and safer manner of proceeding through airport security.

TSA has been running the pilot programs since the summer of 2004. Each one was advertised to be 90 days in duration, at which point decisions about further deployment would be made. However, we find ourselves now over a year since these pilot programs began with TSA still saying they need additional time to evaluate it. I do not buy it.

This is a classic example of the Federal Government being slow in making critical decisions about a program which we know to be a success and a program that we know also makes us safer.

Now, the TSA is continuing to operate a sixth pilot program at Orlando International Airport that they launched this past June. The Orlando pilot is different from the five pilots that have been shut down in that it is a public-private partnership that is run in conjunction with the airport, its vendor and TSA. I believe this public-private partnership is the way to go, as it will allow the private sector to add additional strengths to the programs, such as offering greater flexibility in meeting the needs and customer expectations, making rapid decisions on capital investment, and customizing programs based on intimate knowledge of the local market.

The Registered Traveler program has promise, and I believe in it. However, due to the manner in which the pilot programs were structured and the lack of decision-making at TSA, this program is in jeopardy of not getting off the ground at the national level. First and foremost, there are too few measurable benefits at the security checkpoint for individuals enrolled in the Registered Traveler program. Why does TSA collect a list of personal data on an individual and then subject him or her to a security threat assessment and provide so few measurable benefits?

I contend that if the Federal Government knows who you are by running your information against terrorist watch lists and other government databases, then they should provide more meaningful benefits at the security checkpoint such as not having you take off your shoes or not having you take off your coat or perhaps allowing nonticketed individuals back to the gates, as we did prior to 9/11, where they have our fingerprints and our eye retinas to make sure that we are safe going through. These are common sense benefits that can and should have been granted to individuals who sign up for this program. With not providing real benefits such as these, TSA is running the risk of killing this program before it is even started.

□ 1830

I am also extremely concerned with this language contained in the DHS conference report that provides a monopoly in my view to one organization to be the central collector and aggregator for biometric data necessary for the background vetting of the Registered Traveler program like other programs. This is not the approach we should be headed in in the United States Congress. We should be promoting competition, growth and an even playing field. And with a public-private partnership like the public-private partnership taking place in Orlando, the American people will win, and the options and competitive environment will be what we need to make us safer.

Mr. SESSIONS. Mr. Speaker, the gentleman from New York is exactly correct. We do need more competition engaged in not only homeland security but all across our government. The last session of Congress, I had an opportunity to serve on the Select Committee on Homeland Security and had an opportunity to work very closely with the gentleman from New York (Mr. SWEENEY). As part of this appropriations conference, he very clearly and carefully brought forward thoughts and ideas, just exactly what our colleague from New York (Mr. MEEKS) stated about the ability to create better competition but also to expect results. Several years ago the gentleman from New York (Mr. SWEENEY) was the first Member of Congress to bring forward a threat-based funding analysis plan. That was that we would aim our funding at the most likely threats that our Nation would be facing. And it is this kind of leadership that has allowed us, and I know we all do not agree on this. I know that there are a lot of people that think you ought to divide up the pie and every State or every city get so much money and every first responder gets so much money. But that is not what this administration and not what this Congress believes is the right way to do that.

I am pleased right now to have as our next speaker the gentleman from New York (Mr. SWEENEY) and I would yield him 3 minutes.

Mr. SWEENEY. Mr. Speaker, I thank the gentleman from Texas for the kind introduction and thank him for his great work at getting this rule out and onto the floor and for his friendship and his hard work on behalf of this Nation.

Mr. Speaker, I have been on this committee for a number of years since its inception. And every one of these bills comes to the floor, and we have common interests in the bill that we can agree on and common things that we can disagree on. But it is an accumulation of work representative of the process here, a bipartisan, bicameral bill that is not perfect by any means, but gets us significantly closer to the places we all want to be. And I think this is probably the one conference report that does that more than any other that I have been fortunate enough to work on, and it is because, as the gentleman from Texas pointed out, it does do something that is important and that has been voted on by this body a number of times, and that is to distribute first responder grants appropriately, threat-based, risk-based, first before we go to minimum standards.

Now, we had negotiated, and we had a compromise with our friends in the other body who still have not gotten to the place where they understand that the most efficient way we are going to fund and protect this Nation is to make sure that the funds and the resources are directed to where threats most exist. And they insisted on still a minimum level of funding for every State in this Nation that I think exceeds common sense. But nevertheless, this is the first time we have been able to codify in legislation and will enact in legislation the idea that homeland security is going to be done threat-based, and that is critically important. And it is why this is an important bill. It is the most significant of the homeland security approps bills because it enacts into law what this body has said now for 2 straight years that we ought to be doing.

It does a number of other really important things, too. And despite the critics, who we have heard from today, saying that it does not do enough, it does more to improve border security than any other single piece of legislation we have had before us since September the 11th. It does important things on restructuring our capabilities in science and technology, and every year, we have this debate that we are not spending enough money, whether it is for screening devices in airports or ports or other kinds of places or interoperability of communications. The fact of the matter is structurally this bill does more to get us to the place where we actually can have the technology put to use in the field that will ensure that we are able to provide that kind of support for our citizens and our first responders.

Finally, Mr. Speaker, I would point out that, after a very arduous negotiation, the Coast Guard Deepwater program, which is critically important to maintaining our security throughout, is really strengthened here in this bill. Now, we have got a lot of work left to do. There were billions, literally billions of dollars in the pipeline for first-responder grants. And the most important thing that we can do in this body, I think, is provide the proper oversight to make sure that those billions of dollars get to where they need to go and they are spent in a reasonable and responsible manner. This bill does that.

I want to salute Chairman ROGERS for taking the prudent steps that he has taken here and for really leading us. I support this bill and urge my colleagues to do so as well.

Mr. McGOVERN. Mr. Speaker, I think one of the things that is missing in this bill is the lack of oversight. That is why some of us have great concerns about it.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, this bill fails us on chemical plant security. According to data from the Environmental Protection Agency, there are 23 States, including my home State of New Jersey, which has seven such plants where a worst-case release of chemicals could threaten more than a million people per incident. And a part of my district, in northern New Jersey, is home to the area commonly referred to as the most dangerous 2 miles in America, an area between Newark Liberty Airport and Port Elizabeth that is home to a number of chemical plants.

The New York Times recently reported that one plant in this area that possesses chlorine gas "poses a potentially lethal threat to 12 million people who live within a 14-mile radius."

Now, the attacks of September 11th made each of us realize that terrorism had entered a whole new realm, one in which our Nation's assets, infrastructure and people could be used against us. That is why the Menendez amendment to the House homeland security appropriations bill, which passed with the support of 224 of my colleagues, sought to improve the security of that area of chemical plants across the country by providing $50 million to State and local governments to enhance the security of those plants and the communities that surround them. This money could have been used to equip and train first responders, provide assistance and guidance to chemical plant officials to implement best management practices to improve security or to increase law enforcement presence and patrols around chemical plants.

As a matter of fact, just this past week, there was a chlorine incident in a pool plant that strangulated traffic in the New York-New Jersey metro area. Unfortunately, the Republican controlled conference committee chose to delete the amendment from the entire conference report.

Hurricane Katrina should have taught us the importance of addressing the problems we know we face before disaster strikes. The chemical plants that dot northern New Jersey are the Lake Ponchartrain of our region, and this Congress just decided to cut funding for the equivalent of levees that would protect our people.

And not only did the conference committee on homeland security delete that amendment increasing funding for chemical security, it also cut State and local preparedness grants by $585 million, a full 19 percent lower than the level in the last fiscal year.

This Congress had a chance to address a looming problem before it was too late. The decision to cut funding for chemical security is an astonishing abdication of Congress's responsibility to keep our families safe.

And just while New York City at this very moment has heightened transit security because of a critical threat of bombing on the subway system, this bill woefully underfunds transit security.

While my colleagues focus on undocumented immigration in this homeland security bill, they allow the Nation to be unprotected from attacks on our chemical plants, transit systems, ports and the ability of our first responders to respond. That is a Federal Government that is failing to secure its people.

Mr. McGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate that this bill finally fully funds the mitigation programs authorized last year by the Flood Insurance Reform Act, which I was pleased to coauthor with our former colleague, Doug Bereuter, which reauthorized and reformed the National Flood Insurance program assisting property owners who live in repetitively flooded areas. The programs in this bill are not funded by taxpayer dollars but by a transfer from the National Flood Insurance paid by premium dollars which authorized mitigation assistance to communities to elevate properties or move people out of harm's way.

Hurricane Katrina highlighted the importance of preparing for and mitigating against these natural disasters. While I am pleased that we have partial funding, I am disappointed that the administration has not requested funding for these programs earlier, an approach that could have, if fully funded and aggressively implemented, saved lives and property.

Unfortunately, the conference committee report cuts critical funding for other important mitigation programs. It provides only $50 million for pre-disaster mitigation, which is 67 percent below the House passed level and the President's request and 50 percent below the level for last year. This is what helps keep people out of harm's way.

But my deepest concern in the report, I must say, is a local concern, dealing with what it does to Portland's airport screeners with a reduction of over 2,000 from last year and the President's request. These have led directly to cuts in screener levels at over 200 airports across the country.

The airport that serves the Portland metropolitan area is hit the hardest in the country, losing over a third of our screeners despite an increase in our air traffic. These cuts will impact not just my community but those across the country and undermine our air transportation system.

The cuts will lead to longer lines and lost luggage. These proposed cuts will leave Portland less protected than it was before 9/11. We have introduced a resolution of inquiry to find out why in the world TSA wants to do that.

Unless we in Congress understand how TSA is doing the job of cutting funding for these screeners, they will come back to haunt our local communities and our already ailing airlines. I think our constituents deserve better.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

First of all, let me begin by saying something nice to the majority. I would like to point out for the record that this is the first conference report in this Congress that has lain over for 3 days as required under the rules of the House, so I want to thank the Speaker and the majority leader and the members of the Rules Committee for following the rules of the House for a change. I hope we can do this more often.

Now, Mr. Speaker, let me address the substance of this conference report. This conference report cuts first-responder grants. We have heard that over and over and over again. And let me just say to my colleagues on the other side who say that somehow there is money in the pipeline, well, there shouldn't be any money in the pipeline. The need is that great.

The first responders in this country, our fire fighters and our police officers, they do not want resolutions of support. They do not want your eloquent speeches. They do not want your meaningless proclamations. What they want, what they need are the resources to be able to do their job, to protect their communities.

And yet, under this conference report, three of the four major grants programs for first responders in the Department of Homeland Security are cut below fiscal year 2005 levels. It underfunds communications equipment for first responders. We have been talking about that over and over throughout this debate.

But what is particularly astonishing to me is that, despite what we saw in Katrina, where people could not communicate with each other, similar to what happened during 9/11, the conference report actually provides $15 million or 36 percent less than the amount the House provided for this equipment in the original bill back in May before Katrina ever struck.

Now we have heard a lot on the other side about budget priorities and limited moneys and funding shortfalls. But we have to get this right. This is about protecting our homeland security. This is government's first responsibility, to protect the people of this country.

You never talk about budget priorities. You never talk about money shortfalls when it comes to tax cuts that benefit mostly the richest people in this country. But yet when it comes to protecting people, providing the equipment that our first responders need, providing the equipment our communities need to protect themselves against a terrorist attack or a natural disaster, somehow we do not have the money.

I would urge my colleagues to vote "no" on the conference report.

Mr. Speaker, I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

□ 1845

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I am pleased and proud today to have the gentleman from Kentucky (Mr. ROGERS) to lead us today as we have an opportunity to debate, discuss, and vote on this important appropriations bill for homeland security.

Mr. Speaker, I will admit to my colleagues we worked hard on this bill. It is a bipartisan effort. It was one that employed a lot of people with a lot of thoughts and ideas. We worked with the Senate, we worked with the administration, a lot of work, but what we have done is produce a package that is threat-based. It is based on those experts who see the threat that is aimed against the United States, and they are numerous. They are numerous. They are not in our largest cities, but along our border, but, Mr. Speaker, we have worked together to make sure that in a bipartisan fashion this was addressed, and I am pleased and proud today to say that this is a threat-based bill, based upon what the experts tell us is facing the United States today.

Mr. Speaker, I would also like to highlight the retirement of a very important person in the administration. He is a former commissioner of U.S. Customs; and under Homeland Security, he has been commissioner of U.S. Customs and Border Protection, Judge Robert Bonner from Los Angeles, California, who has served this great Nation for a number of years as a Federal judge and once again in the U.S. Customs and Border Protection. Judge Bonner will be leaving in just about a month from his service to the administration; and Judge Bonner has been a man of not only substance and vision but a person who has offered Members of Congress his best advice on how best to deal with the threats against this Nation.

So I would like to highlight not only the service to this country that the Members of Congress have done in this appropriations bill but also working with the administration, with such fine people as Judge Bonner.

Mr. Speaker, I will confess to my colleagues that this bill that we have here today is aimed at averting and stopping the next terrorist attack that comes aimed at this country. I hope that we have put the best minds to this and that we are prepared.

I am prepared to tell my colleagues right now I support this rule and the underlying legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I will ultimately support the underlying legislation under the Conference Report, but I recognize that it has many shortfalls that will affect this nation's ability to respond to a new and substantial set of circumstances—namely the aftermath of Katrina and Rita. I speak not only from the standpoint of a Representative of an area that experienced compound effects of both Katrina and Rita, but I speak as mother, wife, and a person who understands the pains of economic hardship.

A restrictive rule in a situation such as this will only limit the effectiveness of this legislation. Hurricane Katrina has been a natural disaster of unprecedented proportions. The effects of Katrina, now compounded with the effects of hurricane Rita, have been difficult to predict and even more difficult to prevent. Thousands of people are displaced, hungry, and without hope. Authorities at every level of government are virtually writing the book on how to respond to a disaster of this proportion and scope. In my district alone, there are 15,000 displaced children who need homes, schooling, food, jobs, and subsistence items. New information is coming in by the hour on damage that was done to our infrastructure, the numbers of displaced people, and the paltry resources available.

I applaud the Conferees for giving agencies such as ICE an appropriation of $3.175 billion—which was a $216 million increase over the FY05 level of $2.95 billion. Furthermore, of the $4.6 billion allocated to TSA, $2.54 billion is allocated to cover passenger and baggage screener workforce. The number of TSA screeners is capped at 45,000—which will constrain our efforts to compensate for the effects of the two hurricanes. Within this account, privatized screening operations are funded at $140 million. The conferees also extended liability protection to airports with private and TSA screeners for "any act of negligence, gross negligence, or intentional wrongdoing" committed by a Federal or private screener—which will be a good element.

Unfortunately, the underlying bill is not exactly on-point or up-to-date vis-a-vis Hurricane Rita. Many of the problems that we face are new, late breaking, and developing in front of our eyes. We need as unrestrictive a rule as possible in order to best address the issues contained with this legislation. In fact we have still not given full attention to the value of growing and promoting citizen Corps—established neighborhood groups that were established in the original homeland security legislation that would help train neighborhoods in securing their communities.

This measure is of critical importance for the constituents of my district. We can do better.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

S. 1786, by the yeas and nays;

H. Res. 276, by the yeas and nays;

H.R. 3894, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining votes in this series will be 5-minute votes.

AUTHORIZING SECRETARY OF TRANSPORTATION TO MAKE EMERGENCY AIRPORT IMPROVEMENT PROJECT GRANTS-IN-AID FOR REPAIRS AND COSTS RELATED TO DAMAGE FROM HURRICANES KATRINA AND RITA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1786.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and pass the Senate bill, S. 1786, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 509]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly

Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Boswell
Crowley
Delahunt
Hastings (FL)
Linder
Olver
Payne
Poe
Rothman
Royce
Schwarz (MI)
Watson
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1909

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF PANCREATIC CANCER AWARENESS MONTH

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 276.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 276, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 510]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt

Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—18

Boswell
Crowley
Delahunt
Hastings (FL)
Johnson, Sam
Lewis (CA)
Linder
LoBiondo
Nunes
Olver
Payne
Poe
Rothman
Royce
Schwarz (MI)
Sullivan
Watson
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1917

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LOBIONDO. Mr. Speaker, my vote on rollcall No. 510 was not recorded. I would like the RECORD to reflect that I would have voted "yea" on rollcall No. 510.

HURRICANE KATRINA EMERGENCY HOUSING ACT OF 2005

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The pending business is the question of suspending the rules and passing the bill, H.R. 3894, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 3894, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 15, as follows:

[Roll No. 511]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Boswell
Crowley
Delahunt
Gillmor
Hastings (FL)
Kirk
Linder
Olver
Payne
Poe
Rothman
Royce
Schwarz (MI)
Watson
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1926

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for waivers under certain housing assistance programs of the Department of Housing and Urban Development to assist victims of Hurricane Katrina and Hurricane Rita in obtaining housing".

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. ROGERS of Kentucky. Mr. Speaker, pursuant to House Resolution 474, I call up the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 474, the conference report is considered read.

(For conference report and statement, see proceedings of the House of September 29, 2005, at page 21852.)

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. ROGERS).

GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report to accompany the bill, H.R. 2360, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are pleased today to present for consideration the conference agreement on the funding for the Department of Homeland Security. Five weeks ago this Nation experienced perhaps the worst natural disaster in our history.

☐ 1930

Ninety thousand square miles were declared a disaster area. Ninety thousand square miles, an area twice the size of my home State of Kentucky. I believe Hurricane Katrina was a wake-up call. It showed us we are not indestructible. Vulnerabilities clearly exist. We were reminded that there are many threats to the homeland security beyond terrorism.

There are obviously many lingering and important questions about Hurricane Katrina, all of which need to be and will be addressed in the upcoming months. We witnessed firsthand in Katrina the immediate response was inadequate. We also saw how responses varied across State lines and at different levels of government.

But while the response to Katrina was plagued by problems, the preparation response to Hurricane Rita was not. We observed a substantially more organized preparation and response, demonstrating how the Department of Homeland Security can and does work as an effective organization. The fact is for many within the Department, the response to these disasters has been nothing short of remarkable.

For instance, in the week immediately following Katrina, the Coast Guard saved more than 33,000 lives, more than the Coast Guard saved over the past 5 years. Over 4,000 Coast Guard, 12,000 FEMA, 2,500 Federal law enforcement personnel have been sent to support Hurricane Katrina and Rita relief operations, and their work continues even as we speak.

The bill before us supports these efforts and more. It provides the funds the Department needs to prevent, prepare and respond to disasters, both natural and man-made. It provides a balance among Homeland Security programs and ensures the Department has the resources it needs to carry out its missions. This bill maintains a steady course towards keeping our communities safe and making our Nation more secure.

In total, the 2006 conference agreement provides $30.8 billion, $1.4 billion above the current year and $1.3 billion above what the President asked of us. This includes more than $19.1 billion for border protection and immigration enforcement; $3.3 billion for our Nation's first responders; $6.33 billion for transportation security; $1.5 billion for research, development and deployment of innovative technologies; and $625 million for protecting our national critical infrastructure and key assets.

In the interest of time, Mr. Speaker, I would like to highlight just a few of these items that I know are of interest to all the Members.

There is $3.3 billion for our first responders. This agreement strikes a balance between funding high-risk communities and providing support for States and localities to achieve and maintain minimum levels of preparedness. The bill includes $950 million for basic formula and law enforcement terrorism prevention grants and $1.2 billion for security in our urban and most populated areas, including $390 million for transportation and infrastructure security grants. Some people say the amount of money for first responders is below the current level, and it is true. It is. The reason for that is they have got $6.6 billion in the pipeline, not yet allocated; so why add to the reservoir when the river is running full?

The bill provides $19.1 billion for border protection, immigration enforcement and related activities, which is $1.2 billion over the current year and almost a half billion over what the President asked of us. That includes $1.8 billion for border security and control; $3.4 billion for Immigration and Customs Enforcement; $340 million for the US-VISIT program; $2.9 billion for Coast Guard operations; fully funding Deepwater at $933.1 million; and $40 million for the implementation of the REAL ID Act.

So I think the agreement, Mr. Speaker, will go a long way towards improving the integrity of our borders. When we combine what we have in this bill with the 2005 supplemental, we will have 1,500 new Border Patrol agents and 568 Immigration and Customs Enforcement agents across the land to be hired in fiscal year 2006. The bill also supports a total of 20,300 detention beds for housing people who are locked up, having come across the border.

The conference agreement supports security for all modes of transportation, including $6.3 billion for the Transportation Security Administration and the Federal Air Marshals and $150 million in rail security grants.

There is $85 million for air cargo security, which will support the hiring of 100 new air cargo inspectors, the development of new cargo screening technology and the expansion of canine enforcement teams. The bill also continues to provide strong oversight of TSA's progress towards inspecting all cargo that is transported on passenger aircraft.

There is $1.5 billion for science and technology, including $318 million for the Domestic Nuclear Detection Office that will coordinate our Nation's efforts against the smuggling of nuclear materials into our country. This is a brand new agency, and this is brand new funding. We also continue to fully fund research and development for antimissile devices that might be used against commercial aircraft.

Mr. Speaker, the important work of the Department of Homeland Security cannot be emphasized enough. As we continue to watch the recovery efforts in the Gulf States and our hearts go out with our money to those regions, it is clear that the assets we have given the Department over the past 3 years are being put to good use. I believe this conference agreement builds on the Department's progress and substantially furthers the protection of our homeland, and I urge all of my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

When the House passed the 2006 Homeland Security appropriations bill, I said that the bill represented a substantial improvement over the President's budget request. The conference report does as well. I said that the bill included better funding for border enforcement, separate programs for transit and port security. This conference report does those same things.

I said that the House bill toughened up air cargo screening, privacy safeguards and the designation of security-sensitive information. This conference report includes these initiatives.

However, I also said that I had reservations about some parts of the House bill, and I continue to have those concerns. I have more reservations because of changes made to the bill in conference.

I am a strong minority who has strong reservations about the shift in distributing State and local grant funds from being based on population to being based on the Department of Homeland Security's assessment of risk and threat. These are funds that flow to State governments to be reallocated, at least 80 percent to local government. Last year, less than 40 percent of these grant funds went out by threat. This year 78 percent of the funding will go out by this threat measurement. I wonder how the DHS risk model and threat model will assess and treat Michigan, a border State, as compared to North Carolina, a hurricane-prone State.

Only two of the Department's 15 threat scenarios are based on natural disasters. As a result, I worry that our Nation may be less prepared for the disasters that we know will occur. My observation of the Department over the last several years leave me with little confidence that they are going to make fair judgments or correct judgments in making their allocation.

I am disappointed that this agreement does not do more to strengthen chemical plant security. In the conference, I offered an amendment, a simple amendment, to give the Homeland Security Secretary the authority he needs to issue requirements for security standards and plans for facilities he determines to present the greatest security risk. We should demand the Department get serious about hardening these chemical facilities. However, my amendment failed on a party-line vote.

I also have reservations about Secretary Chertoff's reorganization proposal, which is rubber stamped by this conference report. This reorganization plan was submitted to Congress barely 3 months ago, and we have not taken the time to evaluate it carefully. This reorganization was developed before the Department's poor Hurricane Katrina performance. It further weakens FEMA by severing its relationship to preparedness programs. I strongly believe that this is a mistake.

So, Mr. Speaker, as in so many bills, there are good things and bad things in this conference report. Members must make their own judgment. On balance, I will vote "yes."

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LEWIS), chairman of the Committee on Appropriations, who has been enormously helpful in this bill all the way through.

Mr. LEWIS of California. Mr. Speaker, I want to express my deep appreciation to both my chairman from Kentucky and the gentleman from Minnesota for the work they have done on this conference report.

At the beginning, as we brought Homeland Security together, we brought some 22 different agencies together under one maze. A very difficult process. Much of the original bureaucracies remaining in place and yet struggling to figure out how and where and why they effectively work within the Federal Government. The chairman and ranking member have worked very hard to provide the kind of oversight that is necessary to lead them down this pathway, dealing with very tough issues that relate to America's national security.

Having said that, I want to congratulate the gentlemen for their work and at the same time suggest rather directly that none of us can do anything with that which an act of nature brings upon us. Katrina and Rita were natural disasters. We have not experienced such in my lifetime in public affairs. But, indeed, Americans are attempting as best they can to help the region of this country that is so important not only in terms of our natural resources but to our economy as well.

I very much appreciate the work particularly that was done by the gentlemen in overseeing that work which is the responsibility of the Coast Guard, for, indeed, they have gotten their attention. It is very apparent they are not just responding to the committee but in this very horrid crises did a great bit of response on behalf of America.

So I congratulate both of them for their work. I appreciate very much the job they have done.

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Mr. SABO. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, first let me say that there are a number of useful things in this conference report. For 3 years, many of us have been trying to strengthen support for border enforcement and control, and this bill is $675 million above the President's request. That is good. It also provides some additional funding to beef up transit security and port security, and that is good. It provides $655 million for fire grants, 30 percent more than the Bush request, and that is good. It provides $30 million for three pilot projects to increase the screening of cargo, which is a major terrorism vulnerability that remains unaddressed by the Bush administration recommendations. This bill, therefore, helps to take care of a rather important problem.

But, in my view, there are three big problems that remain which will require me to vote "no." First of all, because of the need to add $675 million more for border programs, the conferees cut funding for other programs substantially below the President's own request. Example: Pre-disaster mitigation programs, $100 million below the Bush request, $50 million below last year. Grants to States and localities to help them prepare for terrorism and other events are cut by over $800 million, or 20 percent from last year; and this occurs on the very day when we have been briefed by the administration warning us about the total incapacity of State and local governments to respond to local problems, such as a pandemic. Aviation security screening is cut by $83 million from the Bush request under this bill.

My second problem with the bill is that it approves a thoughtless reorganization proposal made by Secretary Chertoff. Just 2 weeks ago, members of the majority party told us it was premature to return FEMA to its previously independent status; and yet this legislation embraces a reorganization plan proposed by Secretary Chertoff, the sixth reorganization this agency has had, and that reorganization goes in the wrong direction.

My third objection is that FEMA is not reformed, but it is in fact further deformed by this proposal. We all understand that the response of the Homeland Security agency to the disaster of Katrina was, well, for want of a better word, disastrous; and yet nothing is done in this legislation to provide for a return to independent status for FEMA. It remains buried in the bowels of a dysfunctional bureaucratically layered agency; and, in fact, this bill moves us further in the wrong direction. The fire academy and other training programs are specifically taken away from FEMA.

So there are two ways, I suppose, that Members can deal with this bill. We can squawk about it, if we do not like parts of it, and hold our noses and vote for it because it does have some substantial improvements, and I congratulate the gentleman from Minnesota and the gentleman from Kentucky for those.

But the fact is that there is another choice if we believe that this bill still is not sufficient to meet the national interests, and that is to vote against the bill as a protest; and that is what I feel compelled to do tonight.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LATHAM), one of the hard-working members of our subcommittee whose work helped make this bill happen.

Mr. LATHAM. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise in support of this conference agreement and urge my colleagues to all do the same. I want to commend the gentleman from Kentucky (Mr. ROGERS), the gentleman from Minnesota (Mr. SABO), and the great subcommittee staff for their hard work in putting this bill together.

The process of structuring an appropriations bill addressing the operational needs of 22 agencies under the Homeland Security Department has, once again, been very difficult, difficult in part because we are funding a mission that has many dimensions and for which there are few absolutes.

As I participated in this process, I have come to the conclusion that our approach to funding homeland security has been measured and judicious. We have had to make difficult choices. Most importantly, we continue to benefit from the ideas and knowledge of State and local officials from our districts all around the country. That collective wisdom serves us well.

Because of this cooperation, we are beginning to see some of the improvement in the funding processes for first responders. In Iowa, we are working to protect the agriculture community through planning and training, and in fact thousands of people have been trained in our community colleges through federally funded assistance. Iowa and other Midwestern States are doing what is necessary to protect our communities from man-made and natural disasters.

Of course, obstacles remain for our security systems. We have demanded much from our States, and the Federal Government must remain a working partner by providing appropriate funding. We must continue to work closely with local and State officials because they are the people we will look to when disaster occurs.

I am especially pleased in this bill that we have increased the number of border patrol agents by 2,000 and provide more beds to house the people who are coming across the border illegally until we can send them back to their country.

Again, I commend the chairman and the ranking member and urge all Members to support this bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the ranking member, my good friend and leader from Minnesota for many years.

Mr. Speaker, I am disappointed that the conferees included a provision that would protect from liability airports that choose to opt out of the Federal screening program, as well as protection from negligent acts committed by private security screeners.

The Aviation and Transportation Security Act, which was the fundamental law, allows airports to opt out of the Federal program and replace Federal employee screeners with screeners employed by a private company under contract with TSA; but the language of that provision was written very carefully to ensure that we would have one level of security for all airports.

A small number of airport operators believe that they will have greater control over security if they opt out of the Federal program, but the Aviation Security Law requires that private screening companies contract directly with TSA and be supervised by TSA to ensure that our Nation's security remains one level and a Federal Government function. The liability provisions of this conference report should not be interpreted to change the reality that the Federal Government has direct responsibility for airport security.

Furthermore, in my reading of the language, this provision does not relieve an airport operator of liability in a case involving a breach of security for any act or failure to act by the airport operator or its employees which constitutes negligence, gross negligence, or intentional wrongdoing. In a situation where the airport or airport employees knew that a screening company was not doing an adequate job, but failed to take action to notify TSA, or if an airport employee were part of a scheme to commit a terrorist act, then my interpretation of the language in this conference report is that the airport, nonetheless, would be liable.

Since the terrorist attacks on September 11, 2001, the Federal Government has spent billions on aviation security, and little on transit and rail security, even though five times as many people take trains as planes every day.

Over 9.6 billion transit trips are taken annually on all modes of transit service, with people using public transportation vehicles over 32 million times each weekday.

Since September 11th, the transit industry has invested more than $2 billion of its own funds for enhanced security measures. Railroads have also strengthened security. Amtrak has added police and dog units and removed large fixtures from their platforms, but the railroads and the transit industry can't do it alone.

Even with the investments made by transit agencies, the documented transit security needs total more than $6 billion, far more than the $150 million provided in the conference report for rail and transit security grants (the same amount provided in FY2005).

Amtrak alone has requested $100 million in security upgrades and nearly $600 million for fire and life-safety improvements to tunnels on the Northeast Corridor in New York, Maryland, and Washington, D.C.

Transit agencies have requested $2 billion from Congress, yet the conference report provides only $10 million for intercity bus security grants.

Securing our Nation's transit and rail facilities is a formidable task, but Congress must get it done.

The London bombings and the terrorist train bombing in Madrid, Spain in 2004, which killed 191 people and wounded more than 1,800 others, show that there is a clear need—more than ever before—to strengthen transit and rail security.

The London and Madrid bombings were just the latest in a series of attacks on trains worldwide. Between 1998 and 2003, there were 181 attacks worldwide on trains and rail-related targets such as depots, ticket stations, and rail bridges, resulting in an estimated 431 deaths and several thousand injuries.

It is clear that Federal leadership and Federal resources are required to address the needs of a reliable, safe, secure, mass transit network, just as has been used in establishing a secure Federal aviation network. But despite recent attacks, Congress is again short-changing our transit and rail industries.

One hundred and fifty million dollars for such a vast network isn't enough. It's not enough to protect passengers. It's not enough to secure our most vulnerable infrastructure. The American people deserve better.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CARTER), another hard-working member of our subcommittee whom I rely upon very much.

Mr. CARTER. Mr. Speaker, I thank the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for their hard work on this conference report.

Mr. Speaker, I rise in support of this, because I view the world from the State of Texas. I look at the largest single foreign border in the United States in Texas. I look at a port that the Coast Guard told me carries the largest amount of dangerous cargo in the United States, and possibly the largest amount of dangerous cargo on Earth, the port of Houston.

I look at the big spaces we have to cover as we try to secure just the State of Texas. I look at the 68,000 other-than-Mexican immigrants that we have actually caught in the last 8 months crossing the Texas border. These are people from places other than Mexico: Central and South America, Eastern Europe, Russia, the Middle East, Syrians, Iranians, Iraqis, Chinese and Far Easterners, crossing our border across the Rio Grande River.

I view that world, and it is a world that requires a secure homeland.

Mr. Speaker, there has been a lot of hard work done on this bill, and I think this bill goes a long way to start securing the Texas border and the rest of the border between the United States and Mexico and the United States and Canada. We are adding 1,000 border patrol agents by this bill; we are putting on investigators; we are beefing up ICE. We are doing everything we can to say to the world, We are not anti-immigrant; we are anti-people who break the law to enter our country or who are coming in illegally.

Mr. Speaker, this bill will help, so I stand in support of this bill, because it does the right thing for America.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi (Mr. THOMPSON), the ranking member of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the ranking member for yielding me time and for allowing me the opportunity to speak.

Mr. Speaker, I rise in reluctant support for the conference report on H.R. 2360. It has some good provisions. For example, I am pleased that the conference report funds transit and rail security grants at $150 million. However, I am concerned that less than 1 percent of the TSA's budget is dedicated to addressing the vulnerabilities in surface transportation. At this rate, maybe we should stop calling it the Transportation Security Administration and call it an "aviation security administration."

I am also troubled that the conference report gives blanket airport liability protection to airports that opt out of the Federal screeners program. One of the first things that Congress did after the 9/11 attacks to signal to the American people that it was safe to fly again was to federalize security.

I am pleased that the conferees adopted many of the changes which the

Democrats on the Committee on Homeland Security advocated during the Department's authorization process. I commend the conferees for creating the Chief Medical Officer and the Chief Intelligence Officer. We have been calling for such changes to give the Department focus on bio-preparedness and intelligence.

We have also been advocating a quadrennial Department of Homeland Security review and long-term policy planning at the highest levels of the Department. I am pleased that this legislation would also require the Department to do so.

At the same time, I am concerned that the conferees adopted many of the organizational changes that Secretary Chertoff proposed in July, as if Hurricane Katrina never happened. The establishment of a preparedness directorate will not make us any more prepared if we do not have competent people in place.

In response, Mr. Speaker, 13 members of the Committee on Homeland Security introduced legislation today to create a coherent organizational picture for the Department. The Department of Homeland Security Reform Act of 2005 would authorize many of the new offices the administration plans to create and this conference report funds. The logical step for Congress is to consider this bill as it provides direction for some of the new positions the administration planned to create on its own.

Much more needs to be done to make DHS the Federal agency that America deserves. I strongly urge my colleagues in the House to support the Homeland Security Reform Act, legislation that builds upon the conference report.

Mr. ROGERS of Kentucky. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the chairman for yielding me this time and for his hard work in this Herculean task of trying to make this agency better.

Thankfully, homeland security has worked. Our Nation is safer. My gripe, though, is FEMA. Four storms hit Florida, and FEMA was ill equipped. In my opinion, it is ill equipped because it resides in an agency that should be focused solely on terrorism and homeland security.

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FEMA should be able to respond to the needs of a natural disaster that we have experienced.

Immigration has been mentioned repeatedly. Immigration is out of control. We recently read in the paper that employees of the U.S. Citizenship and Immigration Service are facing misconduct charges ranging from bribery to exchanging green cards for immigration in return for sexual favors. It is not enough that we have illegal immigrants running around unfettered, we also have them committing serious crimes.

Daniel Rodriguez Mendoza, a 21-year-old illegal alien from Mexico, was recently responsible for killing the mother of two children in a traffic accident in West Palm Beach, Florida. He did not have a driver's license. He had no papers, and four times he had been previously ticketed for driving without a license. Each time, he was let back into the community, even after immigration officials were notified of him, but failed to do anything.

Then there is the 20-year-old young man in my district who was hit by a truck while riding his motorcycle in a small town on Father's Day. He is now hospitalized, paralyzed from the chest down. The illegal alien who paralyzed him was caught, charged with the accident and then, regrettably, released, and now he has disappeared and has not shown up for his trial.

Mr. Speaker, we are debating today money for the Federal department now responsible not only for protecting us from terrorism but also from illegal immigration and for helping in disasters. We need to make sure this money works.

We should not have to be dealing with inept disaster programs and dysfunctional immigration enforcement. And I think most of my colleagues here would agree.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise today to engage the gentleman from Minnesota in a colloquy and seek support to include language in a future supplemental bill to provide individual assistance to residents in Broward and Miami-Dade Counties, Florida, who suffered damage because of Hurricane Katrina.

Hurricane Katrina struck Broward and Miami-Dade counties as a Category One storm on August 25. The Federal Emergency Management Agency's initial assessment revealed that over 170 homes were destroyed or severely damaged in Broward and Miami-Dade counties because of Katrina's fury. Following the initial assessment, local and State authorities documented that there were at least 219 homes in Broward and 189 homes in Miami-Dade severely damaged or destroyed.

FEMA denied assistance to individuals in Broward and Miami-Dade Counties on August 31, 2005. On September 6, 2005, Florida appealed FEMA's decision and provided specific information to support its original request, including the disproportionate number of low-income residents impacted and the fact that the State does not have disaster relief funds. This appeal was also denied, leaving hundreds of south Floridians with little hope of Federal individual assistance.

Mr. SABO. Mr. Speaker, will the gentlewoman yield?

Ms. WASSERMAN SCHULTZ. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, the Stafford Disaster Relief and Emergency Assistance Act suggests that a number of factors are considered to measure the severity, magnitude and impact of a disaster and authorizes FEMA to provide individual assistance. I would be happy to work with the gentlewoman from Florida to get this corrected within current FEMA statutory authorities and provide equitable assistance to all victims of Hurricane Katrina.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman for his leadership, commitment, and support.

Mr. FOLEY. Mr. Speaker, will the gentlewoman yield?

Ms. WASSERMAN SCHULTZ. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Speaker, I want to support the gentlewoman's efforts and those of the gentleman from Florida (Mr. MARIO DIAZ-BALART). We all in south Florida are working. I thank the gentlewoman for highlighting this. Katrina did start in Florida. People have been impacted. They have been hurt, and they deserve the same consideration as our colleagues and neighbors in Louisiana, Alabama and Mississippi.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Florida and the gentleman from Minnesota, and I look forward to working with them to correct this inequity.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for yielding me this time.

It is not so much what is in this bill; it is what is not in this bill. What we have here is a bill which does not, in fact, deal with all of the threats which are posed by al Qaeda.

Right now, across our country, it is harder to get into some night clubs in New York City than it is to get into chemical facilities across our country. There are 23 States that have over 100 facilities that could cause injuries or deaths to 1 million people. This bill still does not mandate armed guards at chemical facilities.

The nuclear power industry still does not have a permanent upgrade of the protections which are needed against an al Qaeda attack, even though we know that al Qaeda has nuclear power plants at the top of their terrorist target list.

Public transit. While $18 billion has been spent on airlines, only a small fraction of that has been spent on mass transit to protect against al Qaeda attacks, even though we have been warned in Madrid, warned in London, and even today, New York is in fear that there could be an attack on that city.

LNG: What the Republicans have done this year is they have told mayors they have no say over where LNG facilities would go. Governors have no say. And the Coast Guard has no say. Only the Federal Energy Regulatory Commission, dealing with the wish lists of the oil and gas industry, can decide where they go, but in the City of Boston and in dozens of cities across our country, they are going to have a homeland security nightmare trying to protect if al Qaeda attacked an LNG facility.

When it comes to hazardous material shipments, this majority Republican Party still refuses to have a mandate that there is a rerouting of those dangerous chemicals, the chlorines and the others that, if they were attacked, would cause catastrophic injuries in our country.

And in aviation, still only a small fraction of all of the cargo that goes on passenger planes in our country is inspected. So the people in our country must take off their shoes, put their computer through, their bags go through, all of it is screened, and they are sitting in the passenger section of the plane, and then underneath their feet will come all of this cargo that has not been screened.

This bill has only a very slight increase in its budget, but the budget itself does not determine whether or not we have good homeland security. This Republican majority still refuses to tell the chemical, the nuclear, the LNG, the hazardous material industry, the aviation industry that there is a regulatory black hole through which al Qaeda can come to attack the very list of targets that they put at the top of their terrorist target list. Not enough money and no mandates on the industry.

Mr. Speaker, catastrophe is bred by complacency, and that is what this bill is.

Mr. Speaker, the conference report we are considering today on the House Floor fails to close dangerous homeland security loopholes that continue to put Americans at risk more than 4 years after the 9/11 attacks.

Despite the urgent need to increase protections against terrorists determined to strike our country, serious vulnerabilities persist in a range of major areas:

Chemical plant security: More than 100 facilities in 23 States could threaten 1 million or more people if terrorists attacked the facility. There are no federal security requirements for chemical plants—the industry secures itself if it decides, on its own, to do so. "60 Minutes" did a segment where they literally walked right through an open front gate into a chemical plant outside downtown Pittsburgh. At one facility, the reporter climbed up onto a tank containing toxic material and shouted "hello, I'm on your tank." There were no guards and no one tried to stop him. There are nightclubs in New York City that are harder to get into than some of our chemical plants.

Leaks of toxic chemicals can be devastating. In India in 1984, a leak at a chemical plant in Bhopal killed at least 4,000 people and injured hundreds of thousands more.

Transportation of extremely hazardous materials: Shipments of extremely hazardous materials such as chlorine routinely travel through densely populated areas of our country. These shipments are mobile chemical weapons that often share the same track as urban passenger rail systems and could kill or injure 100,000 people within half an hour.

In a report released by the Teamsters Rail Conference last week that surveyed rail employees, 63 percent of those surveyed indicated that their train or equipment was delayed or left unattended for an extended period of time that day, and of those, 55 percent indicated that there were hazardous materials aboard that train.

LNG Security: One of Millennium Bomb plotters planning to attack Los Angeles International Airport was smuggled into the country on an LNG tanker docking in Everett, MA in my Congressional District. Terrorists may target LNG tankers and terminals, resulting in catastrophic consequences for surrounding communities. In 1979, my bill to require such remote siting was signed into law. But the Bush Administration is trying to undermine it, opening up the possibility an LNG plant would be placed, like a sitting duck, in the middle of an urban area, where an attack or accident would cause incredible devastation. Energy Bill signed into law in August 2005 froze out local officials from site decision-making process, so now convenience for energy companies, rather than security safeguards for surrounding community, will determine where facilities are built. Last month, I offered an amendment to the Coast Guard reauthorization bill to require the involvement of the Coast Guard, which is part of the Homeland Security Department, in siting decisions. My amendment was defeated on the House Floor.

Republicans claim to support local control and the right of states to fend off federal encroachments. But when it comes to LNG siting, Republicans cut out mayors and governors and state homeland security officials from carrying out one of their most important responsibilities—protecting the public.

Aviation: Approximately 22 percent of all cargo transported by air in the United States is carried on passenger planes. This cargo consumes about half of the space in the cargo bay on a typical flight, and almost none of it is ever inspected! In the past, this cargo loophole has been exploited with deadly results, such as when Pan Am Flight 103 was blown up over Lockerbie, Scotland by a bomb hidden in unscreened baggage. I asked Secretary Chertoff if he would support a requirement that 100 percent of the cargo carried on passenger planes be inspected, just as all checked bags, carry-on bags and passengers are currently inspected before boarding? He said "No."

Why should the booties of babies be scrutinized for bombs, but no one checks the cargo bound for the belly of a Boeing? The Bush administration says we should trust the shipper. But we must apply the Reagan Doctrine to cargo security—Trust, but verify.

Public transit: The attacks in London and Madrid clearly demonstrated our vulnerability to similar strikes against our transit systems here in the United States. Despite these wake-up calls, this conference report provides only slightly more funding than what is being provided today. Ranking Members OBEY and SABO offered amendments during the conference to increase funding for public transit security, but these amendments were defeated by the unanimous opposition from Republicans on the conference committee.

The American Public Transportation Association has identified $6 billion in transit security needs for U.S. public transportation systems, approximately the same amount of money we're spending each month in Iraq. Since September 11, the Federal Government has spent $18 billion on passenger air security, but only $250 million on transit security. Yet, Americans take public transportation 32 million times a day—16 times more than they fly.

Biological Weapons: Four years after the unsolved anthrax attacks on the Capitol that killed innocent workers, DHS has only completed material threat assessments on four of the biological, chemical and radiological agents that it is required to assess under Project Bioshield. I asked Secretary Chertoff if he would commit to completing the rest of these threat assessments within 60 days. He said "no."

Today's conference report does not adequately address these issues. This bill does not:

Require chemical plants to be protected by armed guards trained to prevent attacks by sophisticated, suicidal terrorists or require chemical companies to substitute safer technologies and chemicals in their processes whenever possible, so if terrorists penetrate a plant, damage they could cause would be dramatically reduced.

Require re-routing of extremely hazardous materials whenever possible to reduce the threat of an attack on a chemical shipment in a densely populated area.

Mandate that LNG facilities should be built in remote locations far away from population centers or ensure that security officials, including State and local government representatives are involved in siting process.

Require that all the commercial cargo carried on passenger planes be inspected for bombs, just as all passengers and their luggage are.

Direct the Department of Homeland Security to complete all of the 60 material threat assessments and purchase all of the vaccine doses required under Project Bioshield.

Republicans continue to nickel and dime homeland security while writing a blank check for the war in Iraq. Specifically, the discretionary funding provided in this bill is $1.3 billion, only 4.5 percent more than last year, which is just slightly more than the rate of inflation. When Ranking Members OBEY and SABO attempted to add $1.7 billion for FEMA disaster mitigation programs, emergency management grants, chemical, transit and port security, and other critical security programs such as aviation security and Coast Guard operations, they were defeated by Republicans on a party-line vote.

Hurricane Katrina and Hurricane Rita washed away the illusion that the Federal

Government is better prepared to respond to a natural disaster or terrorist attack than it was on 9/11. Not only are we not prepared for a natural or man-made disaster, we are not taking the preventive measures to reduce the risk of these devastating events. This conference report does not provide for qualified, experienced leadership at FEMA, nor does it return FEMA to the staffing levels of the 1990s.

Mr. Speaker, I cannot support this conference report, which fails to address pressing, well-known homeland security weaknesses. I urge a "no" vote.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me first of all acknowledge the very hard work of the Chairman and the Ranking Member of the Subcommittee on Homeland Security, and I recognize that this is a difficult challenge.

As a member of the Select Committee on Homeland Security and now the authorizing committee for two terms, I believe that those of us who have studied the details of the structure of homeland security can speak with a degree of information, if you will, of both the assets of this appropriation but also some elements that are obviously missing.

Spending a lot of time walking through the cots and amongst those who were survivors of Hurricane Katrina, having now in our community almost 125,000, I know the fear and the devastation of the lack of preparedness of this government. So it is to my dismay that the acceptance of Secretary Chertoff's reorganization plan was not put on hold so that we could truly find out what were the funding needs.

I join my colleagues in wanting more dollars for rail security. I have joined my colleagues in offering new legislation today that was articulated by the gentleman from Mississippi (Mr. THOMPSON). I join my colleagues in the concerns of the limited regulation of chemical plants. But, most of all, I speak to issues that I think would save additional lives.

There are 1,100 persons dead and still counting in the Hurricane Katrina backdrop of Mississippi, Alabama and in New Orleans. We have yet to mourn those who have lost their lives. But certainly the director for preparedness and response is not the answer. FEMA needs to be independent, self-sufficient, well-funded and a separate component to Homeland Security, even to the extent of being its own cabinet.

I realize that Michael Brown has been singled out, and I am delighted that Director Paulson is the Acting Director, but I can assure my colleagues, having been to Beaumont and Port Arthur after Hurricane Katrina, we did not have our act together then. We did not have our time and our organization together, even then. FEMA was not there timely. Generators that were needed were not there. Ice and water was not there. The National Guard did not have orders, and no one knew who was in charge. So, frankly, I believe there is much work to be done.

In the backdrop of the potential epidemic of bird flu, I believe there needs to be more resources and efforts than a chief medical officer. We need to boost up under Homeland Security the public health system. The sense of Congress that Immigration and Customs and border protection should be merged, I do not know if that is a well-thought-out plan. In fact, we need to investigate some of the failings of these entities before we begin to merge one entity into another.

I am grateful that we have provided dollars for transportation security, but it is not enough. Whistleblower protection is good, but there is not enough funding, if you will, to establish an independent, strong FEMA. That is what we need to be focusing on, and the reorganization plan should not be accepted in the backdrop and the failures of Hurricane Katrina.

Mr. SABO. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me this time and for his critical leadership on this issue.

As one who represents New York City, the site of the 9/11 attack, nothing is more important to New York and, I would say, our country than homeland security. Just this evening the mayor has been working with the FBI and the appropriate agencies with another serious terrorist threat against New York City's mass transit system. This is critical. I am deeply concerned about funding formulas, the lack of attention for the cargo, for the mass transit and many other areas.

Mr. SABO. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS of Kentucky. Mr. Speaker, before I yield back, I think it is important that the gentleman from Minnesota and I express our thanks to staff. They make us look good, because they are the ones who produce these products, the staff that is seated here with me and the staff on the minority side. These people have done yeoman's work day and night for the last year on this bill. I want to thank them for all of the great work that they have done.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, I rise in total agreement.

Mrs. MALONEY. Mr. Speaker, it is unbelievable to me that we can slash funding for first responders, do nothing about making sure funding is distributed based on risk and sit here slapping each other on the back.

What are we commending ourselves about?

Is it the $550 million dollar cut to State Homeland Security Grants?

Is it the $120 million dollar cut to the high threat cities?

Is it the fact that we did nothing to require funding to be distributed based on risk?

Is it the overall cut for first responders of $645 million?

Is it the further weakening of FEMA or the cutting of their budget?

Is it the $50 million cut to pre-disaster mitigation loans that could save communities from future disasters?

Is it that we are paving the way to return private screeners at airports and picking up the tab for their liability insurance?

Or is it the fact that we are funding 1,000 fewer border patrol agents, 450 fewer immigration investigators and 6,200 fewer detention beds than we called for when we passed the Intelligence Reform Bill last year?

This bill does not reflect our homeland security needs.

It is good that we, once again, give the Department of Homeland Security complete control over how more than 60 percent state homeland funding will be distributed.

Will this actually be the year they use their authority to distribute it based on risk?

Why do we refuse to listen to the 9/11 Commission and mandate it is distributed based on risk?

What ever happened to the Cox Bill that passed this house 409–10 and would distribute funding based on risk?

Where is the threat reduction that go with these cuts?

We are told to remain vigilant.

The President went on national TV this morning reminding us just how long it will be to defeat terrorism and protect our Nation.

Back home in New York City we are still in a code orange. This is not code orange funding. This is code green funding.

We need to get our priorities straight.

We need to make sure we give our first responders the funding they need. We need to make sure homeland funding is distributed based on risk.

We need to do better than this.

Mr. HOLT. Mr. Speaker, today the House is considering the conference agreement on H.R. 2360, the Homeland Security Appropriations Bill for FY 2006. I am pleased by some of the provisions in this conference report, but I am also troubled by a number of other provisions.

We had several days to prepare before Hurricane Katrina ravaged the gulf coast—much longer than we will have before a potential terrorist attack. But the administration's incompetence meant that extra time was almost wasted and lives were lost. In April, we had a successful terrorism response exercise in New Jersey called TOPOFF 3, bringing together Federal, State and local authorities to respond to simulated terrorist attacks. What we need are more exercises like these, not fewer; more and better planning, not less. But this conference report cuts pre-disaster mitigation by $50 million over last year and by $100 million from even the administration's request. If we had spent money ahead of time—if we had pre-positioned assets in the gulf coast region before Katrina struck—we could have saved lives and billions of dollars. As our Nation faces a variety of threats, both manmade and natural, we need to think seriously about these cuts.

After watching the Federal Emergency Management Agency seriously mishandle their response to Hurricane Katrina there is a clear need to restructure the Agency. However, we will not be doing that today. This legislation does nothing to reform FEMA—it doesn't improve the leadership, it doesn't return staffing levels to the highs of the 1990s, it doesn't even require that FEMA report directly to the president. FEMA is the Federal Government's first line of defense and response to disasters, and it needs to be reformed. And this bill doesn't provide the money either. This conference report even cuts funding for FEMA by 12 percent from last year's funding level.

It also slashes funding for state and local preparedness grants by $585 million below FY 2005 levels. We know that New Jersey is a target for terrorists. In a bioterrorism attack just after September 11, 2001, postal workers in Hamilton were sickened with anthrax. Last year, the Prudential Plaza building in Newark was named as a target after an Al Qaeda laptop computer containing information on the building was found in Pakistan. And, of course, four of the 9/11 hijackers passed through Newark Liberty International Airport and 700 residents of the State were killed on that terrible day. Funds for State and local preparedness are crucial to keep New Jersey and our Nation safe. The police officers who notice something suspicious, the community leaders who develop evacuation plans, the first responders on the scene immediately after an attack—these people are local authorities, and we need to give them the tools they need to do their jobs.

There have been two major terrorist attacks in the West since September 11, and both have been aimed at mass transit—the March 11, 2004 Madrid bombings, and the July 2005 London bombings. But the President did not request any specific funds for mass transit. Fortunately, the conference agreement adds $150 million dollars for transit security. New Jersey Transit, the Nation's third largest transit authority, with 220 million riders a year, 40 percent inbound to New York City, runs several trains and buses through my district. Princeton Junction, located in my district, is the fourth busiest station in New Jersey Transit's system. We need more funding for mass transit, and this is a start.

This conference report also begins to address one of our greatest vulnerabilities to terrorism, one that the Bush administration continues to ignore. It allocates $30 million for initial programs for better screening of passenger stowed luggage on commercial flights. The conference report also provides for adequate independent oversight of Secure Flight, the next generation of the air passenger prescreening program. This will allow us to balance security and privacy.

It also provides $655 million for fire grants, $155 million more than President Bush requested. As we all know, our local fire departments are the backbone of our first responder network. Fire fighters are some of the first to arrive at disasters, be they natural or manmade. I am glad that the conference report provides much needed funds for fire grants.

New Jersey is home to what terrorism experts call the "most dangerous two miles" in America—the chemical plants, highways, and railroads that lie between Newark Liberty International Airport and the Port of Elizabeth. And in a 14-mile radius around the site, there are 12 million people living and working. The House earlier this year voted to increase funding to help secure these sites. But the conference report does not include this desperately needed funding increase. Rather, it contains only $95 million for the necessary chemical countermeasures that would help secure industrial materials, and provide safety and peace of mind to millions of New Jerseyans.

Mr. Speaker, this bill leaves too much undone. Cutting funding for local preparedness and first responders is more than enough justification for New Jerseyans to oppose this bill. We can do better in planning for disasters, reforming FEMA, and assisting state and local governments. And though the conference report does more for transit and air cargo screening, these efforts are just down-payments on what will be a long-term project.

Mr. SMITH of Texas. Mr. Speaker, today we are considering appropriations for The Department of Homeland Security, which was created with one mission in mind—to help protect the country. Unfortunately, it seems that not all of the agencies within the Department take that mission as seriously as they should.

The Bureau of Citizenship and Immigration Services, CIS, is responsible for processing petitions for immigration benefits. This includes petitions for green cards, visa issuance, asylum status, and marriage benefits. The adjudication process must be thorough and secure to ensure that those who want to harm America are not allowed to enter the country.

Monday's Washington Times included a disturbing article about a Congressional briefing by an internal CIS investigator that highlighted alleged corruption and dysfunctional practices at the Agency. If true, these practices would comprise a threat to national security.

According to the article, the allegations include CIS employees exchanging immigration benefits for sex, being influenced by foreign governments to provide benefits, and not having access to the appropriate systems to do background checks on those applying for benefits.

When an agency receives Federal funding it is obligated to do everything in its power to complete its job. The Department of Homeland Security needs to better protect our country from those who would do us harm.

Mr. MORAN of Virginia. Mr. Speaker, I rise in reluctant support of this appropriations bill.

As State and local governments await critical homeland security funding, I do not want to stand in the way of the bill's passage, particularly as we proceed further into the fiscal year with so few spending bills already law.

I do, however, feel the need to register my concerns with a number of this bill's shortcomings and identify pressing needs that are not being adequately addressed by today's actions.

First, let me start with the obvious; the amount spent to protect our homeland is too little in too many areas.

There are few Americans that would suggest the threats of terrorism or natural disasters have diminished over the past year, yet this agreement cuts funding for several of our most vulnerable weaknesses. Reductions include:

State and local domestic preparedness grants are cut by $585 million (19 percent) below FY 2005;

Firefighter Assistance Grants cut by $60 million (8 percent) below FY 2005;

Pre-disaster mitigation, perhaps our best weapon of preemption, is cut by $50 million below last year; and

Aviation security is reduced by $83 million below the President's request, resulting in 2,000 fewer screeners.

These cuts irresponsibly penetrate the core of our Nation's ability to prepare and respond to national emergencies.

Second, I am concerned about what Congress isn't focused on.

On an average weekday, 32 million people make trips on public transportation, but funding for transit security makes up less than one-half of one percent of the DHS's budget.

The conference agreement includes $4.6 billion for private aviation security, but only $150 million for State grants to improve mass transit security. Transit industry experts estimate we need more than forty times this amount. Put another way we spend $30 on planes for every $1 on transit which carries tens of millions more people.

Furthermore, only $8 million will be available for rail security and $4 million to track hazardous truck traffic even though tons of hazardous material capable of becoming weapons of mass destruction travel our highway and rail lines every day.

While we have made obvious adjustments in our airline security, I ask that we be as proactive in preventing other commercial carriers from being used as weapons against us.

If the concern is that there isn't a sound transit plan or that regional coordination is proving inadequate, we should impel DHS to find solutions that make transit more secure.

It would be a national travesty of tragic proportions if we had to wait until another attack similar to Madrid to occur in the United States in order to commit the resources necessary to properly secure our rail and transit systems.

Third, we haven't exercised sufficient oversight to determine whether the money we've appropriated has been spent appropriately or accomplished its intended objectives.

I am aware of the large unexpended balance the Metropolitan Washington Region may be sitting on.

Admittedly, this unaccounted-for balance is troubling. But what is more disturbing is that we have no consistent explanations: It's red tape and unnecessary Federal bureaucratic procedures, or it's the delay in reaching regional consensus on how it should be spent, or it's a snafu in procurement.

I suspect that this region's experience is not unique. Remaining silent or stubbornly oblivious of these problems abdicates our responsibility to use tax dollars wisely, and we should demand accountability of our spending commitments.

Mr. Speaker, I worry that we may be living on borrowed time.

If there's one thing Katrina showed us it's that emergency response plans that are not rigorously tested and retested won't work in a crisis.

Even worse, public skepticism is growing over whether the Federal Government is now capable of responding effectively to another catastrophic event.

A natural disaster is one thing, but terrorists can strike anytime, anywhere and use our own resources against us.

I urge my colleagues to consider fully funding the needs of securing our homeland, and I challenge us as a body to meet the vital challenge of protecting our Nation.

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of the FY 2006 Homeland Security Appropriations conference report. This bill does not fully address our homeland security needs. Still, it provides vital funds to make our country safer, and so I will support it today.

Total funding in the bill is increased from this year's levels. Specifically, the bill increases funding over the requested levels for immigration and for customs and border protection. The agreement also provides $1.5 billion, 35 percent more than current funding, for science and technology programs.

I am pleased that the conferees adopted an important amendment offered by Representative DAVID OBEY that requires the Department of Homeland Security, DHS, to provide details on how money appropriated for responding to Hurricanes Katrina and Rita is spent. I am a cosponsor of H.R. 3737, a bill that would create a Special Inspector General for Hurricane Katrina Recovery who would have oversight over all Federal Hurricane Katrina emergency funding. While the Obey amendment doesn't go as far this legislation, it is a significant step forward.

I am also pleased that the conference report includes funding to help States comply with the REAL ID Act. Estimates are that complying with the Act will cost the States between $100 million and $500 million over the next 4 years. Since the majority saw fit to push the REAL ID provisions through Congress, it is important that Congress also provides funding to do the job.

Still, I'm concerned about shortfalls in the bill. It cuts fire grants by $60 million (8 percent) below FY 2005, even as a recent survey found that fire departments all over the country aren't prepared to respond to a haz-mat incident and lack equipment. The bill also cuts State and local domestic preparedness grants by $585 million, 19 percent, and Urban Area Security Initiative grants by $270 million, 26 percent, below FY 2005 levels. Funding for communications equipment for first responders is cut from the levels in the bill the House passed in May, before Katrina struck—from $27 million to $15 million. The bill does provide additional funding for border patrol, but the number of agents still falls 1,000 short of the 2,000 called for in the Intelligence Reform bill. Since September 11th, just 965 additional border patrol agents have been hired—less than a 10 percent increase in 4 years.

The conference report fails to provide much more than basic funding for the security of rail and public transportation systems because DHS has not yet spent funds it was allocated last year. Despite the fact that passenger rail in the U.S. carries about five times as many passengers each day as do airlines, this bill only includes $36 million for ground transportation security and $150 million for State grants to protect mass transit systems, as compared to $4.6 billion for aviation security. I'm very concerned that crucial security upgrades to our rail and public transportation systems—especially in light of the bombings in Madrid and London—can't move forward more quickly. The bill also underfunds port security and does not include $50 million for chemical plant security that was included in the House-passed bill.

I'm also concerned that this bill includes DHS Secretary Chertoff's proposal to create a new Preparedness Directory and take that responsibility away from FEMA, making FEMA a stand-alone office focused on response and recovery only. Secretary Chertoff's proposal was made in July—before Hurricane Katrina hit—and this bill would move it forward. This administration crippled FEMA by making it just one of many organizational boxes under the Homeland Security Department. Splitting preparedness and response and recovery tasks now would weaken FEMA even further, at a time when we should be focusing on how to learn from the lessons of Katrina.

Instead of making these changes in FEMA, we should remove it from DHS and make it an independent agency under qualified leadership, as would happen under the bill (H.R. 3816) I introduced last month.

Mr. Speaker, much remains to be done to improve our defenses against terrorism. I do not believe this bill sets the right priorities or provides sufficient resources, but it does fund programs that are critical to our homeland security. The conference report is an important step, and I will vote for it.

Mr. HOYER. Mr. Speaker, there are many good provisions in this conference report, and I intend to support it.

I am pleased, for example, with the $110 million appropriated for the SAFER Program—and was proud to have worked with Congressmen WELDON and SABO on an amendment to provide additional SAFER funding.

The President's budget zeroed out this program of hiring grants, which help achieve adequate staffing levels and improve the safety of our firefighters and communities.

I also am pleased that the conference agreement contains $545 million for the Fire Grant Program—representing an increase of $45 million over the President's request.

Nonetheless, even this funding level is $100 million below last year's level.

The Fire Grant Program is authorized at $1 billion, and we must work to increase—not decrease—funding that ensures that firefighters have modern equipment and advanced training.

However, none of us should delude ourselves.

This Republican Congress is simply not doing enough to address our unmet homeland security needs.

The inept Federal response to Hurricane Katrina—almost 4 years to the day after the terrorist attacks of 9/11—has only heightened concern about this Nation's ability to respond to another catastrophe.

Democrats would meet our first responder needs. Yet, this conference report cuts three of the four first responder grant programs.

Democrats would meet our needs for port security. Yet, with this conference report, we have funded only 12 percent of the amount needed for ports to comply with the Maritime Transportation Security Act.

Democrats would meet our needs for rail and transit security. Yet, while an estimated $6 billion is needed to improve rail and transit security, this conference report provides only $150 million for fiscal 2006.

Mr. Speaker, this Republican Congress—despite its proclamations otherwise—simply is not addressing our Homeland Security priorities.

I intend to support this conference report. But its flaws ought to give all of us pause.

Mr. ETHERIDGE. Mr. Speaker, I rise to comment on the fiscal year 2006 Department of Homeland Security appropriations bill. I supported this bill when it passed the House in May, and I will vote in favor of the conference report, but I want to state for the record the serious deficiencies in this legislation.

My home State of North Carolina has been the victim of a number of devastating natural disasters including Hurricanes Floyd and Fran, as well as floods, tornadoes and ice storms. In many cases these natural disasters overwhelmed local and state resources, and the Governor asked for help from the Federal Government which, in most cases, responded appropriately.

The U.S. Congress established the Department of Homeland Security to address all hazards faced by our Nation—both natural and man-made. However, since the creation of the Department, we have seen the focus and funds shift from preparing for and responding to all hazards to a narrow, short-sighted focus on terrorism.

Again and again the administration and Republican leadership have pushed through cuts in pre-disaster mitigation efforts, emergency management performance grants, and even annual funding for the Federal Emergency Management Agency.

Unfortunately, Hurricane Katrina exposed the erosion of our Nation's response capabilities and its horrendous results.

And now, Congress has the responsibility and opportunity to address some of these weaknesses through the appropriations process, but the Republican leadership has produced a piece of legislation that is almost in complete disregard of the Department's weaknesses.

This bill cuts pre-disaster mitigation funds by 67 percent; it cuts state and local domestic preparedness funds by more than a half billion dollars, and it cuts disaster relief funding by $370 million.

Furthermore, this legislation strips the preparedness function from FEMA, further weakening this beleaguered agency. Experienced emergency managers on every level will tell you, as they have told the members of the Homeland Security Committee, that their duties include prevention, protection, response and recovery. You cannot take away one of these four roles and expect the agency to function. Preparation, whether it be to prepare updated flood maps or train personnel to respond to a dirty bomb attack, are all vital to the creation of an effective, sustainable, and practical approach to domestic security.

Mr. Speaker, I will vote for this bill with great reluctance and strong reservations, but it is my fervent hope that my colleagues in the U.S. House will join me in restoring FEMA to its former effectiveness and preparing our nation for all eventualities.

Mr. SERRANO. Mr. Speaker, I rise in support of the conference agreement on H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006. This is not a perfect bill; I believe that we are acquiescing too readily to yet another restructuring plan, allowing the Department to yet again reshuffle boxes on its organizational chart without adequately establishing in hearings that the proposals will actually make this country safer. No amount of structural reform, which inherently muddles missions and produces chaos among employees, can substitute for professionalism, expertise, and strong leadership.

I am also concerned that, given our woefully inadequate 302(b) allocation, we have had to shore up funding for the Department's essential activities at the expense of our support for state and local law enforcement agencies and first responders. State and local governments continue to be on the front lines of any effort to respond to natural disasters and acts of terrorism, and yet we have funded them significantly below both last year's level and the Administration's request. At a time when the Administration is trying to shift blame to state and local governments for the chaotic overall response to Hurricane Katrina, we have not provided them with adequate resources to get the job done.

That said, I believe that this bill does a reasonably good job of addressing our most pressing homeland security needs. I especially want to highlight a provision that directs the Department to allocate the bulk of first responder grants on the basis of threat and risk. While I do not believe that our task in this Congress will be finished until 100 percent of the Department's grant funds are allocated on the basis of risk, this conference report is a noteworthy step in the right direction.

In addition, I am pleased that the conference report includes measures to ensure accountability in the way that the Department spends these appropriations, especially with respect to emergency supplemental funding for Hurricane Katrina. The Department's initial reports to Congress, required by law, have lacked detailed specifics on how the Department has been spending the $60 billion that this Congress has provided since the hurricane first hit. While the American people fully support our commitment to providing relief to the victims of Katrina and Rita, they also expect this Congress to make sure that the Department spends their tax dollars effectively and responsibly.

In closing, I would like to thank subcommittee Chairman ROGERS and Ranking Member SABO for their hard work on this critical bill. We all knew that the creation of the department would create a considerable management challenge, and today, as we pass the third appropriations bill funding the department, I would like to applaud their leadership on this subcommittee for making sure that many of these concerns have been addressed.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in reluctant support of the conference report on H.R. 2360, the Homeland Security Appropriations Act for Fiscal Year 2006.

My support is based on the fact that it is the only vehicle available at this time to fund critical homeland security efforts.

While this bill makes some progress over last year's funding levels, we are far from where we need to be to adequately respond to a terrorist attack or natural disaster. I am disappointed and concerned that the bill before us falls short of addressing the weakness and lessons learned from September 11, Hurricane Katrina and the terrorist attacks in Madrid and London.

H.R. 2360 unfortunately is a status quo homeland security appropriations bill with only modest improvements over the previous year's bill.

My first concern is that the Republican leadership would not accept a Democratic motion to delay Homeland Security Secretary Michael Chertoffs proposal to reorganize the Homeland Security Department until a thorough investigation of the Federal Emergency Management Agency, FEMA, could be undertaken.

Such an investigation would provide us with the necessary information to determine how best to organize FEMA including the advisability of consolidating FEMA's existing preparedness functions under a new Preparedness Directorate and limiting FEMA's functions solely to recovery and response.

Second, I was disappointed that Republican conferees did not accept the Obey-Sabo-Byrd amendment that would have provided an additional $1.7 billion in investments in emergency disaster planning, grants to first responders, transit, port and chemical security, and additional border security. These are critical programs that help communities prepare for a disaster and help bring relief following a catastrophe.

Third, I am concerned that the conference report actually cuts funding for several programs that are of particular concern to urban areas such as my Los Angeles district. For example two programs that provide essential funding for first responders, the State Homeland Security Grant Program and the State and Local Grant Program are cut below their current year funding by 50 percent and 20 percent respectively. I am also alarmed that grants for high-threat, highly-populated urban areas will suffer a 15 percent cut and that grants for firefighters to buy needed safety equipment are cut by 8 percent. Lastly, I am troubled that funding for FEMA to perform its limited functions has been reduced by 11.5 percent.

In closing, Mr. Speaker, I will support this bill to provide critical resources to help make our country safer. However, fully addressing our critical national security concerns in light of recent events requires resources that the Administration simply did not support and which the Republican majority did not provide in this bill. While this bill is an improvement over the Administration's request, unfortunately critical homeland security needs will still go unmet despite the probability of disasters lurking in the not so distant future.

Mr. MARKEY. Mr. Speaker, the conference report we are considering today on the House Floor fails to close dangerous homeland security loopholes that continue to put Americans at risk more than four years after the 9/11 attacks.

Despite the urgent need to increase protections against terrorists determined to strike our country, serious vulnerabilities persist in a range of major areas:

Nuclear terrorism: Non-proliferation expert Graham Allison has said that "more likely than not" there will be an act of nuclear terrorist attack in our country. Al Qaeda views obtaining nuclear weapons as a religious duty. There are tens of thousands of nuclear weapons-worth of highly enriched uranium in the former Soviet Union, but we do not have the technology that can reliably detect it at our ports of entry.

Chemical plant security: More than 100 facilities in 23 States could threaten 1 million or more people if terrorists attacked the facility. There are no federal security requirements for chemical plants—the industry secures itself if it decides, on its own, to do so. "60 Minutes" did a segment where they literally walked right through an open front gate into a chemical plant outside downtown Pittsburgh. At one facility, the reporter climbed up onto a tank containing toxic material and shouted "hello, I'm on your tank." There were no guards and no one tried to stop him. There are nightclubs in New York City that are harder to get into than some of our chemical plants.

Leaks of toxic chemicals can be devastating. In India in 1984, a leak at a chemical plant in Bhopal killed at least 4,000 people and injured hundreds of thousands more.

Transportation of extremely hazardous materials: Shipments of extremely hazardous materials such as chlorine routinely travel through densely populated areas of our country. These shipments are mobile chemical weapons that often share the same track as urban passenger rail systems and could kill or injure 100,000 people within half an hour. In a report released by the Teamsters Rail Conference last week that surveyed rail employees, 63 percent of those surveyed indicated that their train or equipment was delayed or left unattended for an extended period of time that day, and of those, 55 percent indicated that there were hazardous materials aboard the train.

LNG Security: One of Millenium Bomb plotters planning to attack Los Angeles International Airport was smuggled into the country on an LNG tanker docking in Everett, MA in my Congressional District. Terrorists may target LNG tankers and terminals, resulting in catastrophic consequences for surrounding communities. In 1979, my bill to require such remote sitting was signed into law. But the Bush Administration is trying to undermine it, opening up the possibility an LNG plant would be placed, like a sitting duck, in the middle of an urban area, where an attack or accident would cause incredible devastation. Energy Bill signed into law in August 2005 froze out local officials from site decision-making process, so now convenience for energy companies, rather than security safeguards for surrounding community, will determine where facilities are built. Last month, I offered an amendment to the Coast Guard reauthorization bill to require the involvement of the Coast Guard, which is part of the Homeland Security Department, in siting decisions. My amendment was defeated on the House Floor.

Republicans claim to support local control and the right of states to fend off federal encroachments. But when it comes to LNG siting, Republicans cut out mayors and governors and state homeland security officials from carrying out one of their most important responsibilities—protecting the public.

Aviation: Approximately 22 percent of all cargo transported by air in the United States is carried on passenger planes. This cargo consumes about half of the space in the cargo bay on a typical flight, and almost none of it is ever inspected! In the past, this cargo loophole has been exploited with deadly results, such as when Pam Am Flight 103 was blown up over Lockerbie, Scotland by a bomb hidden in unscreened baggage. I asked Secretary Chertoff if he would support a requirement that 100 percent of the cargo carried on passenger planes be inspected, just as all checked bags, carry-on bags and passengers are currently inspected before boarding? He said "No."

Why should the booties of babies be scrutinized for bombs, but no one checks the cargo bound for the belly of a Boeing? The Bush Administration says we should trust the shipper. But we must apply the Reagan Doctrine to cargo security—Trust, but verify.

Public transit: The attacks in London and Madrid clearly demonstrated our vulnerability to similar strikes against our transit systems here in the United States. Despite these wake-up calls, this conference report provides only slightly more funding than what is being provided today. Ranking Members OBEY and SABO offered amendments during the conference to increase funding for public transit security, but these amendments were defeated by the unanimous opposition from Republicans on the conference committee.

The American Public Transportation Association has identified $6 billion in transit security needs for U.S. public transportation systems, approximately the same amount of money we're spending each month in Iraq. Since September 11, the federal government has spent $18 billion on passenger air security, but only $250 million on transit security. Yet, Americans take public transportation 32 million times a day—16 times more than they fly.

Biological Weapons: Four years after the unsolved anthrax attacks on the Capitol that killed innocent workers, DHS has only completed material threat assessments on FOUR of the biological, chemical and radiological agents that it is required to assess under Project Bioshield. I asked Secretary Chertoff if he would commit to completing the rest of these threat assessments within 60 days. He said "No."

Today's conference report does not adequately address these issues. This bill does not:

Require chemical plants to be protected by armed guards trained to prevent attacks by sophisticated, suicidal terrorists or require chemical companies to substitute safer technologies and chemicals in their processes whenever possible, so if terrorists penetrate a plant, damage they could cause would be dramatically reduced.

Requiring re-routing of extremely hazardous materials whenever possible to reduce the threat of an attack on a chemical shipment in a densely populated area.

Mandate that LNG facilities should be built in remote locations far away from population centers or ensure that security officials, including state and local government representatives are involved in siting process.

Require that all the commercial cargo carried on passenger planes be inspected for bombs, just as all passengers and their luggage are.

Direct the Department of Homeland Security to complete all of the 60 material threat assessments and purchase all of the vaccine doses required under Project Bioshield.

Republicans continue to nickel and dime homeland security while writing a blank check for the war in Iraq. Specifically, the discretionary funding provided in this bill is $1.3 billion, only 4.5 percent more than last year, which is just slightly more than the rate of inflation. When Ranking Members OBEY and SABO attempted to add $1.7 billion for FEMA disaster mitigation programs, emergency management grants, chemical, transit and port security, and other critical security programs such as aviation security and Coast Guard operations, they were defeated by Republicans on a party-line vote.

Hurricane Katrina and Hurricane Rita washed away the illusion that the Federal government is better prepared to respond to a natural disaster or terrorist attack than it was on 9/11. Not only are we not prepared for a natural or man-made disaster such as a dirty bomb, we are not taking the preventive measures to reduce the risk of these devastating events. This conference report does not provide for qualified, experienced leadership at FEMA, nor does it return FEMA to the staffing levels of the 1990s.

Mr. Speaker, I cannot support this conference report, which fails to address pressing, well-known homeland security weaknesses. I urge a "no" vote.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in opposition to the Conference report on H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006 because I am concerned about some of the areas where it falls short, but moreso because I believe it is the wrong vehicle to make the structural changes to the Department of Homeland Security that Secretary Chertoff laid out in his Second Stage Review without the appropriate congressional scrutiny.

As a member of the Homeland Security Committee, I am very disappointed that the Conference Report, even though it provides more funding that the President's original request, makes a number of significant cuts in very important First Responder and Disaster Preparation programs at a time when we can ill afford to. I also see no sign that the deficient public health system on which every and any response will depend received the funding it needs to be brought up to a basic standard in every community in this country.

This Conference Report fails to make Homeland Security the priority it ought to be.

The rob from Peter to pay Paul that we are seeing in the Congress' Katrina/Ophelia/Rita response, continues, and badly needed increases for border security come at the expense of money for such items as first responders, disaster relief and port security. The result is that America will be far less safe than it needs to be.

Mr. Speaker, as someone who represents an area which as seen more than its share of devastating hurricanes, and is home to some sites of critical national infrastructure, I am particularly concerned about some of the proposals set forth in Secretary Chertoff's reorganization which would split FEMA's preparedness and response functions and leave FEMA solely as a disaster response agency reporting to the Secretary. It is because of this concern and others why I joined Homeland Security Committee Ranking Member BENNIE THOMPSON and other members of the Committee in introducing the Department of Homeland security Reform Act of 2005 to offer solutions where the administration's reorganization plan creates more problems. I also have grave concerns that what this reorganization does is continue to concentrate power in the White House. We see that in every Department, even at the NIH, and it is a dangerous trend that we as a co-equal branch of government should not let happen.

Our bill would strengthen FEMA creating a strong Directorate of Preparedness and Response that includes an intact, strengthened FEMA with a Director and Deputy Director who must have an extensive background in emergency or disaster-related management.

It will also include a new Assistant Secretary for Preparedness who will head a consolidated version of the Office of State and Local Government Coordination and Preparedness, which is presently an isolated entity located in the Secretary's office. We also establish a military liaison within the Directorate who will assist with the coordination of DOD and DHS preparedness and response efforts.

Mr. Speaker we have seen what can happen to a community which has been impacted by a disaster, as we did with Alabama. Mississippi and Louisiana in the wake of Hurricane Katrina, when there is weakened and ineffective FEMA, and where the Department does not provide leadership or clear lines of authority. This Conference Report does nothing to fix the deficiencies of FEMA that came to light as a result of the Gulf Coast disasters which is the last thing we should be doing.

We could accept this report because it is late in the year, and there are some good parts to it, but the security of each and everyone in this country is at stake, and this is not good enough. I urge my colleagues to oppose this conference report and send it back.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this appropriations measure because this Nation desperately needs all the resources it can get. According to the Department of Defense, over 15,000 of our troops have been injured in Iraq and Afghanistan. We have about 18,000 American troops deployed in Afghanistan and about 149,000 in Iraq for the current war effort. During the August recess, 85 American troops were killed in Iraq, and nearly 2,000 have been killed since September. To further exacerbate matters, the price tag for the war has already exceeded $196 billion, broken down to about $5 billion per month. These monies and bodies have been and are being expended on an effort that is not bringing the relief that is currently needed right here on American soil.

With these motions in mind, Mr. Speaker, I will ultimately support the underlying legislation under the Conference Report, but I recognize that it has many shortfalls that will affect this Nation's ability to respond to a new and substantial set of circumstances—namely the aftermath of Katrina and Rita. I speak not only from the standpoint of a Representative of an area that experienced compound effects of both Katrina and Rita, but I speak as a mother, wife, and a person who understands the pains of economic hardship.

I applaud the Conferees for giving agencies such as ICE an appropriation of $3.175 billion—which was a $216 million increase over the FY05 level of $2.95 billion. Furthermore, of the $4.6 billion allocated to TSA, $2.54 billion is allocated to cover the passenger and baggage screener workforce. The number of TSA screeners is capped at 45,000—which will constrain our efforts to compensate for the effects of the two hurricanes. Within this account, privatized screening operations are funded at $140 million. The conferees also extended liability protection to airports with private and TSA screeners for "any act of negligence, gross negligence, or intentional wrongdoing" committed by a Federal or private screener—which will be a good element.

While I support many of the allocations set forth in this measure, it is my feeling that, overall, the initiative to implement the departmental facelift called for in the Secretary's Second Stage Review is the wrong focus at this time. Katrina and Rita have created more pressing issues that could be addressed with this bill.

To compound the severe need for resources and administrative services caused by the hurricanes, there are major departmental changes that have been made that could weaken our ability to address those needs. The proposed transfer of all state and local grants and associated activities to the new Preparedness Directorate must be given oversight analysis before it is implemented. After having seen firsthand the cries for ice, potable water, food, and other subsistence items in Baton Rouge, LA and in my own backyard of Port Arthur, I know that this bill does not do all that it can to make us more prepared for incidents similar to Katrina and Rita.

Unfortunately, the underlying bill is not exactly on-point or up-to-date vis-a-vis Hurricane Rita. Many of the problems that we face are new, late breaking, and developing in front of our eyes.

In emergency situations such as occurred in the Gulf States, communications capabilities are essential. Emergency responders must have the equipment that will allow essential communications efforts to continue in case of the major damage to infrastructure we have seen in New Orleans.

Clearly, the Federal Emergency Management Agency needs to change—from the bottom to the top. We need to look at whether the tasks charged to FEMA are too large to be included with 21 other agencies under the Department. Before some of the very substantial changes set forth in H.R. 2360 are passed into law, we need to seriously consider separating FEMA so that from top to bottom—especially given the recent resignation of former Director, Michael Brown, whose credentials as an emergency manager had been widely questioned.

Funds that we appropriate to FEMA must be prioritized for disaster preparedness, and we need substantial oversight in order to prevent catastrophic aftermaths.

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of the FY 2006 Homeland Security Appropriations conference report. This bill does not fully address our homeland security needs. Still, it provides vital funds to make our country safer, and so I will support it today.

Total funding in the bill is increased from this year's levels. Specifically, the bill increases funding over the requested levels for immigration and for customs and border protection. The agreement also provides $1.5 billion, 35 percent more than current funding, for science and technology programs.

I am pleased that the conferees adopted an important amendment offered by Rep. DAVID OBEY that requires the Department of Homeland Security (DHS) to provide details on how money appropriated for responding to Hurricanes Katrina and Rita is spent. I am a cosponsor of H.R. 3737, a bill that would create a Special Inspector General for Hurricane Katrina Recovery who would have oversight over all federal Hurricane Katrina emergency funding. While the Obey amendment doesn't go as far as this legislation, it is a significant step forward.

I am also pleased that the conference report includes funding to help states comply with the REAL ID Act. Estimates are that complying with the Act will cost the states between $100 million and $500 million over the next 4 years. Since the majority saw fit to push the REAL ID provisions through Congress, it is important that Congress also provides funding to do the job.

Still, I'm concerned about shortfalls in the bill. It cuts fire grants by $60 million (8 percent) below FY 2005, even as a recent survey found that fire departments all over the country aren't prepared to respond to a haz-mat incident and lack equipment. The bill also cuts State and local domestic preparedness grants by $585 million (19 percent) and Urban Area Security Initiative grants by $270 million (26 percent) below FY 2005 levels. Funding for communications equipment for first responders is cut from the levels in the bill the House passed in May, before Katrina struck—from $27 million to $15 million. The bill does provide additional funding for border patrol, but the number of agents still falls 1,000 short of the 2,000 called for in the Intelligence Reform bill. Since September 11th, just 965 additional border patrol agents have been hired—less than a 10 percent increase in 4 years.

The conference report fails to provide much more than basic funding for the security of rail and public transportation systems because DHS has not yet spent funds it was allocated last year. Despite the fact that passenger rail in the U.S. carries about five times as many passengers each day as do airlines, this bill only includes $36 million for ground transportation security and $150 million for State grants to protect mass transit systems, as compared to $4.6 billion for aviation security. I'm very concerned that crucial security upgrades to our rail and public transportation systems—especially in light of the bombings in Madrid and London—can't move forward more quickly. The bill also underfunds port security and does not include $50 million for chemical plant security that was included in the House-passed bill.

I'm also concerned that this bill includes DHS Secretary Chertoff's proposal to create a new Preparedness Directory and take that responsibility away from FEMA, making FEMA a standalone office focused on response and recovery only. Secretary Chertoff's proposal was made in July—before Hurricane Katrina hit—and this bill would move it forward. This Administration crippled FEMA by making it just one of many organizational boxes under the Homeland Security Department. Splitting preparedness and response and recovery tasks now would weaken FEMA even further, at a time when we should be focusing on how to learn from the lessons of Katrina.

Instead of making these changes in FEMA, we should remove it from DHS and make it an independent agency under qualified leadership, as would happen under the bill (H.R. 3816) I introduced last month.

Mr. Speaker, much remains to be done to improve our defenses against terrorism. I do not believe this bill sets the right priorities or provides sufficient resources, but it does fund programs that are critical to our homeland security. The conference report is an important step, and I will vote for it.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, the 2006 homeland security spending plan is something we must enact to sustain our ongoing efforts to protect the American people from harm. For that reason, I will support it. However, I have strong reservations with the bill.

First, the Republican majority has attached a plan to fundamentally reorganize the Department of Homeland Security to this must-pass bill—effectively forfeiting the oversight responsibility of the Congress. They are willingly making these sweeping changes, despite the fact that no meaningful hearings, discussions, or analyses have taken place on this proposal.

My colleagues, there are many lessons to be learned from Hurricane Katrina that ought to be incorporated into any restructuring plan of our Department of Homeland Security. Yet, the Republican majority has not only failed to undertake a full investigation of what went wrong in the Gulf Region, but it is now denying Congress the opportunity to appropriately study or amend Secretary Chertoffs proposed changes—which were submitted one month prior to the hurricane. This is wrong, and denies us the opportunity to learn from the mistakes of the last few months so that we might do better in the future.

Moreover, Mr. Speaker, while this bill represents an attempt to make up for some of the funding shortfalls in the President's fiscal year 2006 homeland security budget—allocating $1.3 billion more for homeland security efforts this year than proposed by the Administration—it still does not adequately fund essential security initiatives that are needed to protect our citizens.

Specifically, the measure cuts by $60 million funding for Firefighter Grants. It also fails to provide the level of funding needed to fully protect our Nation's ports which, according to the Coast Guard, will cost $4.8 billion.

Our constituents are depending on us to keep them safe from harm and the nation free from terror. This bill fails to live up to our promise—and this Administration's promise—to provide real leadership in the face of real threats.

Mr. Speaker, I will reluctantly vote for this measure because it would be irresponsible to cut off funding for our homeland security efforts altogether. But, from my seat on the Budget Committee, I will continue to work to ensure that Congress lives up to its responsibility to provide strong leadership and to meet the Nation's security needs.

Mr. ROGERS of Kentucky. Mr. Speaker, I urge adoption of the conference report, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of the conference report will be followed by 5-minute votes on the motion to suspend the rules on H.R. 3895 and on the motion to suspend the rules on H.R. 3896.

Proceedings will resume on H. Con. Res. 248 tomorrow.

The vote was taken by electronic device, and there were—yeas 347, nays 70, not voting 16, as follows:

[Roll No. 512]

YEAS—347

Ackerman
Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)

NAYS—70

Abercrombie
Allen
Andrews
Baca
Baldwin
Becerra
Berry
Blumenauer
Brady (PA)
Brown, Corrine
Capps
Capuano
Clay
Conyers
Cooper
Costello
Davis (IL)
DeGette
DeLauro
Doyle
Fattah
Filner
Flake
Ford
Frank (MA)
Grijalva
Gutierrez
Hinchey
Holt
Honda
Jackson (IL)
Jones (OH)
Kind
Kucinich
Larson (CT)
Lee
Lewis (GA)
Lynch
Maloney
Markey
McCollum (MN)
McDermott
McGovern
McKinney
Meehan
Menendez
Michaud
Miller, George
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Owens
Pallone
Pastor
Paul
Rush
Sanders
Schakowsky
Slaughter
Tierney
Velázquez
Wasserman Schultz
Waters
Watt
Waxman
Wexler
Woolsey
Wu

NOT VOTING—16

Boswell
Crowley
Delahunt
Evans
Hastings (FL)
Inglis (SC)
Olver
Payne
Poe
Rothman
Royce
Schwarz (MI)
Stark
Strickland
Watson
Young (AK)

☐ 2043

Mr. OWENS, Mr. BERRY, Ms. DEGETTE and Mr. WATT changed their vote from "yea" to "nay."

Mr. PETERSON of Pennsylvania changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RURAL HOUSING HURRICANE RELIEF ACT OF 2005

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The pending business is the question of suspending the rules and passing the bill, H.R. 3895, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 3895, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 335, nays 81, not voting 17, as follows:

[Roll No. 513]

YEAS—335

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)

Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Emanuel
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murphy
Musgrave
Nadler
Napolitano
Ney
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Radanovich
Rahall
Ramstad
Rangel
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn

NAYS—81

Bartlett (MD)
Bilirakis
Blackburn
Bonilla
Boozman
Brown (SC)
Brown-Waite, Ginny
Calvert
Cannon
Cantor
Carter
Chabot
Coble
Crenshaw
Cubin
Davis, Jo Ann
Doolittle
Ehlers
Emerson
English (PA)
Forbes
Franks (AZ)
Frelinghuysen
Gohmert
Goode
Goodlatte
Granger
Grijalva
Gutknecht
Herger
Hobson
Hoekstra
Hunter
Jenkins
Johnson, Sam
Jones (NC)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Marchant
McHenry
McHugh
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murtha
Myrick
Neugebauer
Northup
Obey
Otter
Peterson (MN)
Peterson (PA)
Petri
Putnam
Regula
Rehberg
Rogers (KY)
Rohrabacher
Ryan (WI)
Saxton
Schmidt
Sensenbrenner
Sherwood
Stearns
Sweeney
Taylor (NC)
Thornberry
Tiahrt
Upton
Wamp
Whitfield
Young (FL)

NOT VOTING—17

Boswell
Crowley
Delahunt
Evans
Hastings (FL)
Inglis (SC)
Neal (MA)
Olver
Payne
Poe
Rothman
Royce
Schwarz (MI)
Stark
Strickland
Watson
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon) (during the vote). There are 2 minutes remaining in this vote.

□ 2053

Mr. FORBES, Ms. GRANGER, Mr. McHENRY, Mr. REGULA, Mrs. NORTHUP, Mrs. CUBIN, and Mrs. JO ANN DAVIS of Virginia changed their vote from "yea" to "nay."

Mr. BOEHLERT changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title V of the Housing Act of 1949 to provide rural housing assistance to families affected by Hurricane Katrina or Hurricane Rita.".

A motion to reconsider was laid on the table.

HURRICANE KATRINA EMERGENCY RELIEF CDBG FLEXIBILITY ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3896, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 3896, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 18, as follows:

[Roll No. 514]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy

Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—18

Boswell
Crowley
Delahunt
Evans
Hastings (FL)
Inglis (SC)
Neal (MA)
Olver
Payne
Poe
Rothman
Royce
Schwarz (MI)
Stark
Strickland
Watson
Wilson (SC)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 2101

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to temporarily suspend, for communities affected by Hurricane Katrina or Hurricane Rita, certain requirements under the community development block grant program".

A motion to reconsider was laid on the table.

REMEMBERING THE HONORABLE HENRY HOWARD

(Mr. BARROW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARROW. Mr. Speaker, I rise today to honor one of Augusta, Georgia's finest community leaders. Georgia State Representative Henry Howard passed away Monday morning. A dedicated public servant and a believer in the power of gospel music, Henry Howard always served his hometown with dignity, compassion, and an endless supply of love and goodwill.

Mr. Howard was a beloved son of Georgia's Garden City. An entrepreneur with a sound business sense, he helped build up many small businesses across the city. Later he would enter public service, serving on the Richmond County Commission. Soon after that he was elected to the State legislature, where he established himself as one of Augusta's most accomplished and hard-working State representatives. He was reelected seven times in a row.

Just before his last reelection, the local paper praised Representative Howard, saying simply: "His goal is the same of every Augustan, the betterment of our city."

When Henry Howard passed away Monday morning, we lost a public servant who led by example, a leader who shared the beliefs and hopes of his hometown.

The Bible says a good name is rather to be chosen than great riches, and loving favor rather than silver or gold. Mr. Speaker, Henry Howard made a good name for himself, his family; and he enjoyed the loving favor of all who knew him.

REDUCING CONGRESSIONAL SPENDING

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, the publications on Capitol Hill today have been filled with information about a topic: How do we go about reducing spending. What a nice deliberation for us to have in this body. How would we choose to reduce spending: across-the-board cuts or looking at specific programs.

Last week I came to the floor and I talked about three bills I had introduced. Each of these bills would call for across-the-board cuts, whether 1, 2, or 5 percent reductions. I want to thank the Speaker and the gentleman from Missouri (Mr. BLUNT) for listening to the proposal. I want to thank the gentleman from Virginia (Mr. CANTOR) for signing, and the gentleman from Iowa (Mr. NUSSLE) for his leadership as we work to find a way to fund the Hurricane Katrina disaster and as we look at a way to prioritize spending and address fiscal responsibility in this body.

FUNDING CHOICES

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is certainly important for this body to be fiscally responsible, but let me share with Members that in the aftermath of Hurricane Katrina, there are cities and towns in rural areas that cannot pay their bills. It is a matter of choices. We have to look at a new way to deal with the Iraq war and Afghanistan and stop the spiraling spending of $480 billion.

The reason I say that is because some of the unsung heroes of Hurricane Katrina, although they do not want applause, deserve so. Even though I voted for the Department of Homeland Security appropriations, I know we are not funding homeland security enough. The Coast Guard has saved over 23,000 individuals, fire fighters and police, those who did not walk away from their jobs. Citizen Corps has been found out to be one of the best means of homeland security where we train neighborhoods to secure themselves. All of that needs enhanced homeland security funding.

Yes, Mr. Speaker, we have to make choices, but we should not be cutting the budget now.

GETTING FINANCIAL HOUSE IN ORDER

(Mr. MCHENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCHENRY. Mr. Speaker, tonight I want to commend our Republican leadership in the House for taking a bold move to actually look at ways to get our financial house in order. It is time that we move forward, that we move forward as a government and look at these programs that we have been spending more and more and more on every year.

As a result of Hurricane Katrina and Hurricane Rita, we have had to spend a lot of money in the gulf coast region; but we have to do as a government what families do across America, and that is looking at the family budget and saying where should I spend and not spend. That is what we are going to do as Republicans in the House. I am so proud we have Republican leadership that is willing to take on this courageous fight to cut spending and keep returning every taxpayer's dollar back to them as much as possible.

Mr. Speaker, I am happy about the leadership we have in the House, and I am glad we have bold leadership.

MEETING AMERICA'S ENERGY NEEDS

(Mr. GOHMERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOHMERT. Mr. Speaker, somebody once said when talking about government, no matter how cynical you get, it is never enough to catch up.

Mr. Speaker, we have been hearing for so long the Republicans should do something about bringing down gas prices. Well, we have an energy bill, and we are going to have another one. I have heard a lot of talk now that we are actually going to talk about the ability to have additional refineries, gee, we do not need them now it turns out.

Yes, we do need them. We have not built one in 30 years. Even though some have pushed their capacity up a little bit, it is time to allow for a new refinery in the United States. We are becoming far too reliant on foreign gasoline, and that continues to grow. It is time to do something, and we are going to have a chance to do that. It is time to put up or shut up.

Mr. Speaker, tomorrow we will find out who really wants to help Americans pay less for gasoline, and we will find out who wants to keep sticking them with higher prices.

TRIBUTE TO JON PICINI, JR.

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I rise today with a very heavy heart. This past Sunday, good friends of mine, the Picini family from Las Vegas, Nevada, lost their son, 19-year-old John Picini, Jr., in his sleep.

My prayers and my thoughts go to the Picini family for the loss of a loved one which is hard to imagine, as a father myself. I know how difficult a time it is, and I will provide for the RECORD words of his Aunt Terry Murphy, also one of my best friends, regarding her heartfelt thoughts at the loss of John Picini, Jr.

The words of Ms. Terry Murphy, referred to above, are as follows:

John Joseph Picini Jr.

Man. Boy. Brother. Son. Cousin. Friend. Dude. Musician. Angel. Amazing. Loving. Giving. Kind. Adorable. Sweet. Sad. Happy. Fun to be with. Inventive. Creative. Peaceful. Beautiful. Sensitive.

These are all the words to describe John Picini Jr. Two days before his birth, John nearly didn't make it into this world. Upon arrival, we all learned about the Duffy Factor, a blood disorder which made his entry into the world a bit more difficult than most. As we all watched John grow, we never ceased to he amazed at who he was becoming. At who he did become.

When he made music, he was transported to a different plane and he took along with him all who watched and listened. He carried us away. Only a very evolved soul can so profoundly move people with his own creations and John's were beyond amazing.

John was graced with an unusual sensitivity. Webster's dictionary defines sensitivity as the capacity of being easily hurt, and the awareness of the needs and emotions of others. This sensitivity was the foundation of his creative abilities. It was also the foundation of what made us all love him to the core.

When John suffered the accident that damaged his knees, he turned his pain into comfort for others. His first act after receiving compensation for his injuries was to give his mother a gift of $2,000.00 to be used for a research program which was designed to, and did help people. He then set up a big Texas Hold-em game. Upon learning that a friend of his mother had no money to pay her rent, he took the money from the game, gave it to his mom and told her to pay the rent, but not to tell the woman where the money came from. Giving selflessly and without expectation of gratitude. That was John. He took great joy in giving. And in his life he gave us more than he ever knew.

John took his own pain and turned it into good fortune for others. This is truly a lesson to all of us in what living is about. A statue of St. Francis of Assisi stood in John's house. From St. Francis, John learned that it is in giving that we receive, in comforting that we find comfort, in giving faith that we find it, and in loving that we are loved.

So much did John enjoy giving that he went to a party at the Oasis Center for Children at Christmas time and gave each child a card, a hug, and twenty dollars. He did this again on Valentines Day. These actions represent the very essence of John Joseph Picini Jr.

If we can define a man by the music he loves, we can define John as a peacemaker and a poet. His heroes—John Lennon, Jimi Hendrix, Harry Chapin, Bob Dylan. All peacemakers and poets. All but Dylan, taken from this planet long before their time.

John will be watching and loving us from his new home with the angels. He was, after all, an angel flying too close to the ground as Willie Nelson would say.

We who are left behind have been forever changed for knowing John. And we will be forever changed for having lost him. He is, without a doubt, surrounded with warmth and love and light in the arms of God the father, his son Jesus Christ and the Blessed Mother. They're holding him and keeping him safe. He will live forever in our hearts and he'll have no tears in heaven.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

FUEL PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, as I travel my district in Nebraska, the number one concern is high fuel prices, and I would assume that is true for a great many Members in this Chamber. The reasons are somewhat obvious. Worldwide demand for petroleum has increased. China and India are using more oil than ever before. We are nearly 60 percent dependent on foreign oil at the present time. OPEC can, to some degree, set oil prices because of that. And of course more recently the hurricanes have shut down some of our refineries.

So we took a good first step last July in passing the energy bill. The renewable fuel standards require 7.5 billion gallons of ethanol or biodiesel by 2012, which nearly doubles the amount of renewable fuels. Also the energy bill expedites access to 2 trillion barrels of oil in U.S. oil shale deposits. And also it promotes an initiative for the production of hydrogen fuel cells, which I think in 15 to 20 years can pretty much remove demand for petroleum fuel products.

However, we do need some immediate relief, something quicker than the energy bill passed in July can provide. We have had no new refineries built since 1976. It is almost impossible to get a building permit for a new refinery, and so as a result our refineries are operating at roughly 95 percent of full capacity, whereas most in the industry operate somewhere around 75 percent to 80 percent of capacity. So any slight disruption in the process can put us right over the edge, as happened with the hurricanes.

Many Americans are currently spending 10 percent of their income on gasoline, particularly low-income Americans. The agriculture profits have been eaten up by high fuel costs, so many farmers in my area are losing money because of the high fuel costs.

The Gasoline for Americas Security Act of 2005 will be introduced tomorrow, and we will vote on it. I think there are some tremendous aspects of this bill. Number one, it encourages increased refinery capacity by removing regulatory and permitting roadblocks. We have not been able to build one because of all of the environmental concerns.

Number two, it reduces the boutique fuels from somewhere in the neighborhood of 40 to six. Every time you switch from one type of fuel to another, you shut down the refinery, clean out all of the pipes, very time-consuming and very expensive; and this reduces that process to about six types of fuel. It also removes red tape from pipeline construction.

Above all, one of the most important things, it removes the loan guarantees on the Alaska pipeline unless that pipeline is started within the next 2 years. So far we need that pipeline badly because we need the gas that comes from Canada and Alaska, and that pipeline would provide a very valuable source.

Fourth, it promotes carpooling through education and incentives which will save petroleum.

And last, it prevents price gouging and requires the Federal Trade Commission to draft a standard definition of price gouging, because right now everybody has their own definition, and it will provide some enforcement guidelines.

Mr. Speaker, I think it is a good bill. I am looking forward to it. I think it can provide some immediate relief in this country in an area where we can stand some help.

☐ 2115

URGING A "NO" VOTE ON GASOLINE FOR AMERICA'S SECURITY ACT OF 2005

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, there is no doubt that one of the biggest concerns that we hear from our constituents is the unjustified increase in the price of fuels. Just in Ohio today, gasoline is over $3 a gallon. People cannot afford to take their families for weekend drives or vacations because the cost of gasoline prohibits it. Farmers and other small businessmen face higher fuel costs that are making it nearly impossible for them to make a profit. Individuals are concerned about the cost of home heating this year as heating oil and natural gas prices go up faster than windchill blowing across the Great Lakes, and programs like heating assistance for those that cannot afford to pay their bills, like senior citizens, are facing flatlining by the Republican majority in this House when it is eminently clear that the need will be greater this year than ever in the past. We always seem to be able to find money to send to other countries, but we cannot take care of the people right here at home. What a shame.

So what does this Congress do about all of this? Tomorrow we are supposed to be debating the Gasoline for America's Security Act of 2005, H.R. 2360. The wordsmiths have been busy little elves with this one because not only does it have the right words to make the public believe that this body is really doing something about the problem, but it really is not. They have tucked away goodies for their friends in the oil industry who thought that the energy bill that some people voted here a few weeks ago was not enough for them. In the words of former President Reagan, "There they go again."

They give new regulatory subsidies to the refining industry when those industries' profits are at breaking records. If we look, just in this past year of 2004, the five major U.S. oil companies, Exxon, British Petroleum, Shell, Chevron and Conoco, have almost tripled their profits, taking in more than $50 billion, $50 billion, more than they did just 2 years before. How much more do they want when so many in our society are living right at the edge?

In 2005, after months of suspected price gouging, these five major oil companies are on target to pocket over $100 billion more, nearly $40 billion more than Congress has appropriated so far to rebuild the entirety of our devastated gulf coast, think about that, which has taken generations to build. That is how much money just those companies are taking in.

The bill rolls back authority currently given to our Federal Trade Commission to deal with price gouging. It seems to target smaller retailers while limiting the areas that can be investigated for price gouging. According to a September 1 Wall Street Journal article, after Hurricane Katrina, unleaded gas prices surged 36 percent in just 3 days, pushing the wholesale price average up 132 percent above a year ago. And this massive increase occurred despite the fact that in the same 3-day period, the price of crude oil went up just 4.25 percent. Over the past year, crude oil prices have gone up 64 percent, so that means that the wholesale price of gasoline jumped nine times as fast as the price of crude in 3 days and is running more than double the increase of crude over the past year. And these companies are just swimming in the windfall benefits.

So instead of renewing our vows to imported oil, we need to be developing new renewable energy sources here at home: wind power, solar, biofuels, fuel cells, hydrogen, clean coal. We consume 25 percent of the world's oil production, spending tens of billions of dollars to import oil from some of the most unstable and undemocratic regions of the world. At the same time, we have only 3 percent of known reserves.

According to a study done for the National Resources Defense Council, if we were to follow an aggressive plan to develop cellulosic biofuels over the next 10 years, we could produce the equivalent of nearly 7.9 million barrels of oil per day. That is equal to more than 50 percent of our current oil use for transportation and more than three times what we import from the Persian Gulf alone. We have more than 5 million vehicles on the road right now that will run on 85 percent ethanol and a growing number that run on biodiesel blends of 5 percent or higher. The people who drive these cars in many cases do not even know it, and if they do, they cannot find the fuel in their home communities because we have not done enough to make these renewable and less costly fuels available to our own constituents. What a shame.

Some want us to keep drilling. They do not care where. It could be in a critical water area like the Great Lakes. Perish the thought.

In my view, we do not need to drill any more holes in our own heads. What we really need is an energy plan that develops self-sufficiency from renewable sources and a plan that not only calls for renewable fuel standards but provides support for the infrastructure and public education campaign to get there. A country that could land a man on the moon can do this as well. We need resolve right here in this Congress.

I urge this Congress to take a giant dose of Beano and cast a resounding "no" vote on the Gas Act of 2005 that will come up tomorrow. We can and surely must do better for our children.

ORDER OF BUSINESS

Mr. KUHL of New York. Madam Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore (Mrs. SCHMIDT). Is there objection to the request of the gentleman from New York?

There was no objection.

RECOGNIZING ELMIRA COLLEGE'S 150TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KUHL) is recognized for 5 minutes.

Mr. KUHL of New York. Madam Speaker, I rise to recognize the sesquicentennial of one of the greatest educational institutions in my district of upstate New York, Elmira College. Elmira College turned 150 years old on October 2, just a couple of days ago this year.

Elmira College was the first college for women with a course of study and degree requirements equal to those of the Nation's finest colleges.

On October 23, 1853, the Regents of the University of the State of New York granted a charter to the college, and the cornerstone of the building that would later come to be known as Cowles Hall was laid in June of 1854.

In October of 1855, Elmira College opened its doors to its first students, and the great, historical Cowles Hall still stands as a monument to women's college education in Elmira and the United States.

Elmira College is sometimes known as "the mother of women's colleges." The official college colors, purple and gold, were taken from the colors adorning the banners of the women's suffrage movement and from the college flower, the iris, which is also the name of the college yearbook published each year since 1896.

Its location in Elmira, the commercial and cultural center of the Finger

Lakes region, was through the efforts of Simeon Benjamin, the college's earliest benefactor, often referred to as "The Founder." Benjamin was instrumental in the selection of the college's first president, Dr. Augustus Cowles, after whom the college's original building was subsequently named.

Another of the college's founding trustees was Jervis Langdon, whose daughter Olivia, an alumna of the college, later married Samuel Clemens, to most of us also recognized as Mark Twain. To this day, Elmira college has been closely associated with Mark Twain, who wrote many of his best known novels in Elmira, in a structure, the Mark Twain Study, which was relocated to the Elmira College campus in 1952.

Elmira college became coeducational in all of its programs in 1969 and quickly achieved an even gender balance. Entering its 15th decade, Elmira College continues its commitment to provide a sound liberal arts education while strengthening its professional programs. Its standards of academic excellence resulted in the award of a chapter of Phi Beta Kappa in 1940.

College traditions are cherished. The Sibyl, one of the oldest student-literary magazines in the country, has been published continuously since 1876. Mountain Day, faculty and administration "Patron Saints," the Midnight Breakfast, and the Holiday Banquet are among the many traditional activities which enrich college life.

While academics are a priority at Elmira College, school spirit emanates from its students through athletics. Elmira College offers 26 varsity and junior varsity teams and intramural sports as well. Elmira College strives for excellence both in the classroom and on the field by embracing the student athlete. Fifty-six percent of the students maintain a grade point average of 3.0 or better. National rankings and post-season tournament play have also been annual traditions for the Soaring Eagles. Most recently, the women's ice hockey team has made four consecutive NCAA tournament appearances, including winning the National Title and sporting an undefeated season in its inaugural season.

On the one hand, Elmira College is securely rooted in the local community by a tradition of excellence, "town-gown" relations and reciprocal sharing of resources. A good example of this is the public lectures presented by the internationally known Mark Twain scholars who are bought to Elmira by the college's Center for Mark Twain Studies. Another example is the college's community service program, which has been commended by the President of the United States.

At the same time, the college expands its worldwide view with opportunities such as its various innovative projects offered in an intensive 6-week spring term made possible by the distinctive academic calendar. While proud of its history and traditions, Elmira College looks ahead to the future.

ORDER OF BUSINESS

Ms. WOOLSEY. Madam Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

TRIP TO IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Madam Speaker, here is a quote: "Victory means exit strategy, and it's important for the President to explain to us what the exit strategy is."

Those words were not spoken by a Member of Congress, not by a prominent opponent of the Iraq War. They were not even spoken about this President or this war. Those words were spoken in April, 1999, about President Clinton's military campaign in Kosovo, and they were spoken by a Republican Governor named George W. Bush.

What a difference 6½ years makes because it is precisely an exit strategy that is missing from our Iraq policy. With 2,000 of their fellow citizens dead and 1 billion of their tax dollars being sent to Iraq every week, the American people have a right to some honest answers to some important questions like: What exactly defines victory? What are the benchmarks of success? What is the long-term plan? What does the end game look like?

We are paying for this war in blood and money. My home district lost a 23-year-old soldier on Saturday. Why will the President not repay us with some honesty and transparency? Why does he insult us with empty platitudes about "staying the course" and "staying in Iraq as long as it takes"?

Madam Speaker, I had the privilege of traveling to Iraq last week with a few of my House colleagues. We were briefed by the commanders on the ground. We saw the military facilities, which I am happy to report are state of the art. The quality of our soldiers' medical care in particular is excellent as far as I could see. Good equipment and the best docs that one could have.

The most rewarding and enlightening part of the trip was simply having meals and talking with the enlisted men and women, mostly those from California and particularly from my district north of the Golden Gate Bridge.

Madam Speaker, these young people are the very best America has to offer. They are brave. They are intelligent. They are loyal, loyal to their country, to their mission and to each other. They are profoundly committed to this mission, even those who told me privately they do not support the policy that underlies it.

These are genuine heroes whose courage and resolve are greater than our accolades can convey. We truly have the most capable military the world has ever known. So what is the problem?

The problem is that we do not have leaders in Washington that are worthy of these fine soldiers. Our troops have not failed. They have been failed by their civilian superiors, those who sent them to Iraq on false pretenses, on a poorly defined mission without all the tools they needed and without a plan to get them out of there.

This morning's speech from the President was the same old shopworn rhetoric: Terrorism bad, freedom good. We know that and we agree, but that alone does not justify an open-ended military commitment. What comes next? Do not tell us. Show us. Show us that there is some kind of long-term strategy to return Iraq to the Iraqi people and the troops to their families back home.

If the President will not lead, then we will. Last month, I assembled a group of Middle East experts and military strategists to explore viable and compassionate exit strategies.

☐ 2130

I do not have all the answers, and I am not prepared to endorse a single approach, but I have felt for many months now that it was about time we started this conversation about troop withdrawal and started throwing ideas out and on the table.

Madam Speaker, our troops have endured enough sacrifice. We need to plan to bring them home.

At the same time, we must give Iraq back to the Iraqi people through a range of economic, political, and humanitarian partnerships. The American people deserve better than the poor planning that has characterized every phase of this war, and the extraordinary men and women whom I met in Iraq most certainly deserve better. They deserve leaders as courageous and honorable as they are. In return for their unfailing loyalty, they deserve basic competence and integrity.

COORDINATED STRATEGY OF CHARACTER ASSASSINATION

The SPEAKER pro tempore (Mrs. SCHMIDT). Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

Mr. MCHENRY. Madam Speaker, tonight I think we need to speak about the partisanship that is not just encountered here in Washington, D.C., not from the people just here in this body, but the partisanship we have seen from a prosecutor down in Austin, Texas. It is part of a coordinated strategy that those on the other side in this House have. It is a coordinated strategy of character assassination.

A couple of months ago I spoke before the House, and I outlined a few simple things. I said the Democrat leadership has led their party on a campaign against Republicans, against the Republican majority of this House, through a conspiracy of character assassination and misleading attacks.

The U.S. News and World Report wrote back in April: "Democratic strategists, confident that voters are increasingly fed up with the Republican establishment, are planning an all-out attack on what they call 'the abuse of power' by the Republicans."

I said at the time the liberal magazine, the New Republic, published an article entitled: "How Democrats can Overthrow the House," this House, Madam Speaker, and I quote from that article: "Democrats should consider fighting back by extra-parliamentary means, going beyond the standard parameters of legislative debate, and attacking Republicans not on issues, but on ethics, character. In other words, it may be time for Democrats to burn down the House in order to save it."

Those are not my words, Madam Speaker. Those are the words of the liberal New Republic outlining the Democrat strategy to take the majority in this House. "Burn down the House in order to save it," they say.

Well, at the time, a lot of people thought that what I was outlining was something that was far off; that maybe it would not happen; that maybe we would have some high-minded individuals on the other side that would say enough is enough. This is not the right strategy for America; it is not the right type of political discourse we should have in this country. But, no, no, no, we saw this just a week ago with a partisan prosecutor in Austin Texas named Ronnie Earle.

After impaneling seven grand juries, he was able to come up with one charge, conspiracy; conspiracy against our majority leader, our Republican leader in the House. Well, as it turns out, those charges, not only were they false but they also were based on a statute that was not in effect at the time that they claim these events happened.

What we saw was a partisan prosecutor that was so focused on scoring political points that it did not matter what the law said; and so on Monday, he came up with a new charge based on new evidence, he claims. After going through seven grand juries, Madam Speaker, after going through 2 years of investigating our Republican leader, intent on taking him down, they said in 2 days they came up with new information and came up with a new charge.

It is an amazing thing that has happened. The American people have heard it before by watching the TV. They know the details of this.

But I want to outline what a former U.S. Attorney from the Southern District of New York, Andrew McCarthy, outlined. He said, "Ronnie Earle, district attorney of Travis County, Texas, has no business wielding the enormous power of prosecution. A matter of national gravity is being pursued with shocking ethical bankruptcy by the district attorney, by Ronnie Earle. If Congressman DELAY did something illegal, he, like anyone else, should be called into account. But he, like anyone else, is entitled to procedural fairness, including a prosecutor who not only is, but also appears to be, fair and impartial."

Those are the words of a former U.S. Attorney. Madam Speaker, I will enter this into the RECORD.

Madam Speaker, also McCarthy adds, "Ronnie Earle is a disgrace to his profession and has done grievous disservice to thousands of Federal, State and local government attorneys, prosecutors of all persuasions whose common bond is a good-faith commitment to the rules, but who will now bear the burden of suspicions fostered by Earle's excesses."

Madam Speaker, you may say that is just a columnist talking. But what does the liberal Austin American Statesman say? It says: "Ronnie Earle has created a circus-like investigation alleging Republican campaign funding illegalities, but he has not proven it."

Madam Speaker, we see the Democrats' agenda is to burn down this House by attacking our leaders on baseless accusations, and they will stop at nothing until they bring down our majority.

Madam Speaker, I include for the RECORD the article by Andrew C. McCarthy:

RONNIE EARLE SHOULD NOT BE A PROSECUTOR

(By Andrew C. McCarthy)

If there is one thing liberals and conservatives ought to be able to agree on, it is this: Ronnie Earle, district attorney of Travis County, Texas, has no business wielding the enormous powers of prosecution.

I don't know Congressman TOM DELAY, the House Majority Leader. I certainly don't know if he's done anything illegal, let alone something so illegal as to warrant indictment. It doesn't look like it—and at least one grand jury has already refused to indict him (a fact Earle appears to have tried to conceal from the public as he scrambled to find a new grand jury that would). Yet experience shows it is foolhardy for those who don't know all the facts to hazard a judgment about such things.

One thing is sure, though, and it ought to make anyone who cares about basic fairness angry. The investigation of DELAY, a matter of national gravity is being pursued with shocking ethical bankruptcy by the district attorney—by Ronnie Earle.

For nearly 20 years, I had the privilege of being a prosecutor in the best law-enforcement office in the United States, the U.S. Attorney's Office for the Southern District of New York. Being a prosecutor is the world's greatest job because it is honest work for the highest cause—service to one's own community. And it is work that has precious little to do with politics.

In their private lives, many of my fellow government lawyers were political independents, either by design (i.e., out of a conscious rectitude holding that law enforcement should be above politics) or because they were just apolitical. Most, as one would expect in New York, were Democrats. A large percentage, as, again, one would expect from a group of mostly young people educated in top schools, was proudly liberal. Over coffee or lunch, or dinner, they and we few, hardy conservatives would have spirited debates over all manner of issues.

In the four corners of a case, however, none of that mattered a wit. Within those four corners, there were rules and responsibilities. There was recognition that prosecutors have breathtaking power over the lives of those they investigate. Power inarguably vital to the rule of law. But power which, if used recklessly or maliciously, can leave lives in tatters. The lives not only of the innocent and the guilty, but of the justice system itself.

This was especially so in investigations of political corruption. We prosecuted Republicans and Democrats, in about equal measure. The cases were hard, but checking your politics at the door was never hard, for at least two reasons.

First, there tends to be nothing ideological about the crimes committed by politicians. They are a stew of pettiness, greed and above-it-all arrogance over which neither party has a monopoly, and the offensiveness of which cuts across philosophical divides.

Second, some wrongs are simply not intended to be crimes. Among them are political wrongs: sleazy abuses of power, cronyism, most acts of nepotism, half-truths or outright lies in campaigns, etc. In a free society, these get sorted out in our bumptious political system. Usually, absent shades of financial fraud, bribery, and extortion, prosecutors should stay their hands. There are too many real crimes to waste resources on that sort of thing. More significantly, the risk of criminalizing politics would only discourage honest citizens from participating in matters of public concern.

The code prosecutors live by is not a liberal or conservative one. It is a code of ethics—of nonpartisan, non-ideological honor. Of course many prosecutors are ambitious. Of course prosecutors want to win. But even the ambitious ones who care a bit too much about winning quickly learn that success is intimately tied to doing things the right way. And not least because that is the norm their colleagues follow—as well as the standard by which the defense bar and the judiciary (populated by no small percentage of former prosecutors) scrutinize them. It is, moreover, the standard the public demands they meet.

People want to see the guilty convicted, but they also want to feel good about the way it is done. The prosecutor is the public's lawyer, and his duty is not merely to get the job done but to get it done right. The second part is just as crucial as the first. They are equal parts of doing justice. No one expects perfection, which is unattainable in any human endeavor. But if the outcomes of the justice system are to be regarded as legitimate, as befitting a decent society, people have to be confident that if they stood accused, the prosecutor would enforce their rights and make sure they got a fair fight.

So there are certain things that are just flat-out verboten. Most basic are these: to resist public comment about non-public, investigative information; to abjure any personal stake in the litigation that could suggest decisions regarding the public interest are being made to suit the prosecutor's private interests; and—if all that is not Sesame Street simple enough—to remain above any financial or political entanglement that could render one's objectivity and judgment suspect.

In the profession, these things come under the hoary rubric of "avoiding the appearance of impropriety." In layman's terms, they are about having an I.Q. high enough that you know to put your socks on before your shoes. This is bedrock stuff. It is central to the presumption of innocence, due process, and equal protection under the law that prosecutors owe even the most despicable offenders. It is foundational to the integrity of the system on which rest our security, our economy, and our freedoms.

And Ronnie Earle has flouted it in embarrassing, mind-numbingly brazen ways.

As Byron York has been reporting on NRO (see here, here, and here), Earle has partnered up with producers making a movie, called The Big Buy, about his Ahab's pursuit of DELAY. A movie about a real investigation? Giving filmmakers access to investigative information while a secret grand-jury probe is underway? Allowing them to know who is being investigated and why? To view proposed indictments even before the grand jury does? Allowing them into the sanctuary of the grand jury room, and actually to film grand jurors themselves? Creating a powerful incentive—in conflict with the duty of evenhandedness—to bring charges on flimsy evidence? For a prosecutor, these aren't just major lapses. They are firing offenses. For prosecutors such as those I worked with over the years, from across the political spectrum, I daresay they'd be thought firing-squad offenses.

Attending partisan fundraisers in order to speak openly about an ongoing grand jury investigation against an uncharged public official. As a moneymaking vehicle.

Penning a nakedly partisan op-ed (in the New York Times on November 23, 2004) about the political fallout of his grand-jury investigation of DELAY, then uncharged.

Settling cases by squeezing businesses to make hefty financial contributions to pet personal causes in exchange for exercising the public's power to dismiss charges.

Secretly shopping for new grand juries when, despite the incalculable advantages the prosecution has in that forum, the earlier grand jurors have found the case too weak to indict.

Ignoring the commission by members of his own party of the same conduct that he seeks to brand felonious when engaged in by members of the other party.

Such actions and tactics are reprehensible. They constitute inexcusably dishonorable behavior on the part of a public servant, regardless of whether the persons and entities investigated were in the wrong. They warrant universal censure.

If Congressman DELAY did something illegal, he, like anyone else, should be called to account. But he, like anyone else, is entitled to procedural fairness, including a prosecutor who not only is, but also appears to be, fair and impartial.

Ronnie Earle is not that prosecutor. He has disgraced his profession, and done grievous disservice to thousands of Federal, State, and local government attorneys. Prosecutors of all persuasions whose common bond is a good faith commitment to the rules—but who will now bear the burden of suspicions fostered by Earle's excesses.

The burden, but not the cost. That will be borne by the public.

LATINOS AND HIV/AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Madam Speaker, today I rise to bring attention to the devastating impact the epidemic of HIV/AIDS continues to have on the Latino community nationwide. According to the latest data and statistics from the Centers for Disease Control and Prevention, although Latinos make up only 14 percent of the population of the U.S. and Puerto Rico, they account for 20 percent; that is about 164,000 of the more than 930,000 AIDS cases diagnosed since the beginning of the epidemic.

This epidemic has also affected women and young people in the Latino community. Latinas, unfortunately, represent a high 18 percent of new AIDS cases among women. Our teenagers accounted for 20 percent of the new AIDS cases among teens in the year 2002. In my own home State of California, an estimated 15,387 Latinos are living with AIDS, representing the second highest State in terms of the number of Latinos infected with AIDS nationwide.

Unfortunately, while Latinos suffer disproportionately from HIV and AIDS, many are uninsured and are unable to gain access to adequate care services due to language and cultural barriers, lack of transportation, and fear of stigmatization. I want to highlight these concerns and also bring together our Nation and community towards the commitment of creating new alliances, adopting culturally specific and appropriate interventions, and advocating for new funding and resources targeted to those communities most adversely affected by this horrible epidemic.

I have also introduced legislation supporting the third annual National Latino AIDS Awareness Day, which takes place on Saturday, October 15, 2005. This is a national day of awareness and prevention against HIV and AIDS in the Latino community.

National Latino AIDS Awareness Day salutes the more than 76,000 Latino AIDS survivors in the U.S. and the efforts of people living with HIV and AIDS, their volunteers, professionals, and their family members. It also recognizes and applauds the national and community organizations for their work in promoting awareness about AIDS, providing information and offering treatment to those who suffer from this deadly disease.

The purpose of the resolution is straightforward and simple: the Nation can no longer afford to close its eyes and avoid the impact of this devastating disease. In fact, the theme of the National Latino AIDS Awareness Day is "abre los ojos," or "open your eyes."

While 40,000 new cases of HIV are reported each year, Congress has slashed funding for essential programs critical to providing comprehensive response to stopping the spread of this disease. Our communities have been asked for years to do more and more with less and less, and this Nation must open its eyes to work towards preventing the spread of the disease.

I ask my colleagues to support this important resolution, and I look forward to the day when the House of Representatives adopts this approach and brings about an opportunity for more awareness and prevention of the HIV and AIDS epidemic in the Latino community.

I also want to speak towards the importance of additional funding, supportive services, and capacity-building initiatives for those infected with the disease. A core component of the Nation's response to HIV and AIDS is the Ryan White Comprehensive Aids Resource Emergency Act, known as the CARE Act. I ask that Congress immediately reauthorize this important piece of legislation.

Signed into law back in 1990 and reauthorized twice since then, the CARE Act is named after a young man, Ryan White, who was infected by HIV through treatment for his hemophilia, who taught the Nation strength in a time when no one knew much about this disease. Authorization for the CARE Act expired last week on September 30, 2005.

It is important that Congress pass a new stronger and fully funded Ryan White CARE Act as soon as possible. After Medicaid, the Ryan White CARE Act is the largest payer of care and treatment services for AIDS patients in the U.S. Commonly referred to as "the payer of last resort," the CARE Act serves those who fall through the cracks of traditional government-sponsored health care networks.

At least one in every two individuals assisted through the CARE Act lives below the Federal poverty level, and about 25 percent are uninsured, and less than 10 percent have any private health insurance, and about 28 percent were enrolled in Medicaid.

The CARE Act is organized into four titles and is essential to providing services to individuals with HIV and AIDS. Title I provides funds to 51 eligible metropolitan areas most heavily impacted by the epidemic; title II money goes to States and aids drugs assistance programs; and titles III and IV to community-based providers. Eighty-five percent of all Ryan White CARE Act dollars are distributed through titles I and II of the act.

According to the Department of Health and Human Services, Latinos represent about 20 percent of all the CARE Act clients in 2002.

In addition to the four structured titles of the CARE Act, the Minority AIDS Initiative, MAI, and the Special Projects of National Significance, SPNS, span all of these titles.

Through the Minority AIDS Initiative, each CARE Act title has a mandate to provide a minimum amount of funding to address the needs of minorities. However, due to the disproportionate amount of racial and ethnic minorities that continue to be infected with HIV/AIDS and the inequities that still exist, this funding is still not sufficient to meet the needs of communities of color.

The epidemic of HIV/AIDS has had a deleterious effect on all communities of color.

As the Chair of the Congressional Hispanic Caucus Health Taskforce, I am committed to working on securing services for those infected and affected by HIV and AIDS.

Madam Speaker, I ask for full funding of the Ryan White CARE Act—$3.1 billion dollars—to address these concerns outlined today.

It is important to address the critical issue of combating the spread of HIV and AIDS in communities of color through the thoughtful and targeted reauthorization of the CARE Act.

Despite flat funding over the past few years, the CARE Act in its current form is still the best tool that has proven successful in the fight against HIV/AIDS.

The CARE Act works—and given a renewed commitment in giving those on the front lines of the battle, whether they be private partnerships, government initiatives or local organizations specializing in outreach, prevention, testing and care, the CARE Act can work even better, as long as we "abremos los ojos."

Also, I request unanimous consent to submit this statement for my colleague of the Congressional Hispanic Caucus, Rep. LUIS GUTIERREZ.

MS. SOLIS'S SPECIAL ORDER ON LATINOS AND HIV/AIDS

Mr. GUTIERREZ. Madam Speaker, I rise today to discuss the devastating effect HIV/AIDS has had on the Latino community and communities of color across this country. Today, I am also pleased to be an original cosponsor of Congresswoman Hilda Solis' Concurrent Resolution to support the observance of National Latino AIDS Awareness Day. This bill was introduced at a pivotal time: the bedrock of our Nation's response to HIV/AIDS, the Ryan White CARE Act, expired last week on September 30, 2005.

Unfortunately, HIV/AIDS has a disproportionate stronghold in the Latino community. The numbers are disturbing. The CDC has reported that 43,171 people were diagnosed with AIDS in 2003. Twenty percent of those reported were Latino, yet Latinos represent only 14 percent of the population. In the past 3 years, the number of new HIV/AIDS diagnoses among Latinos increased more than 14 percent. This disparity is on track to continue to grow even greater because the latest statistics show that AIDS diagnoses among whites has decreased three percent from 2000 to 2003.

These trends are especially evident in our urban areas. According to the City of Chicago Department of Health, the 2003 AIDS rate was 32.9 per 100,000 people in Chicago. In the United States as a whole, the AIDS rate is half that.

Chicago's high rate reflects the prevalence of AIDS in communities of color. In 2003, the AIDS rate for African-Americans in Chicago was three times the AIDS rate of Whites. Latinos also have a higher AIDS rate than whites in Chicago.

This epidemic has left many of our metropolitan areas struggling to care for those affected by HIV/AIDS. Many of the minorities suffering disproportionately from HIV/AIDS do not have the access to the healthcare and other services they need. When Congress passed the Ryan White CARE act in 1990, we put in place programs that addressed these issues and, as a result, we have seen improvement in the way we treat and care for uninsured and underinsured people living with HIV/AIDS.

But more needs to be done. AIDS has placed our country in a state of emergency. Indeed, this notion is expressed in the title of the legislation, the "Comprehensive AIDS Resources Emergency, CARE Act." This emergency requires the attention of the Congress, and I am pleased to join Congresswoman SOLIS today in calling for the reauthorization of the Ryan White CARE Act and cosponsoring her bill to support the observance of National Latino AIDS Awareness Day.

Madam Speaker, we need to recognize the disproportionate affect AIDS has on our communities of color, and I join my fellow Members of the Congressional Hispanic Caucus tonight to call on Congress to work swiftly to reauthorize and strengthen the Ryan White CARE Act and to make sure these programs are fully funded.

Ms. LEE. Madam Speaker, I rise tonight to join the Gentlewoman from California, my colleague Ms. SOLIS, to talk about the Ryan White CARE Act and the devastating impact of HIV/AIDS upon minority communities.

I want to thank my colleague for her leadership in organizing this event as we approach the third anniversary of National Latino AIDS Awareness Day on October 15th. As the leader of the Congressional Hispanic Caucus's Health taskforce, I know she is a forceful advocate for ending the racial and ethnic health disparities that continue to plague both our communities.

Madam Speaker, 15 years ago, a young and courageous boy by the name of Ryan White inspired members of this body and people all over the country to come together out of compassion to destigmatize HIV/AIDs, and to provide medical care and support services to people living with this dreaded disease.

The passage of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act in 1990 provided hope for thousands of Americans afflicted with HIV/AIDS, and signaled the beginning of a sustained Federal response that has now grown to over $2 billion a year.

The Ryan White CARE Act has been reauthorized twice so far, first in 1996, and then in 2000. Each time we have remembered Ryan for his courage and his compassion and we have remembered countless others who have needlessly become infected by this devastating disease and who still needed our help.

Now it is time to do it all over again.

Since the beginning of this pandemic, over 500,000 individuals have died in the United States, many of whom will be forever memorialized through the ongoing AIDS Memorial Quilt project.

The AIDS quilt stands as testament to the strength and vitality of those who were claimed by this dreaded disease, but it also charts the evolution of HIV/AIDS here in the U.S. as well.

The face of AIDS has changed dramatically since the early days of the epidemic, and now people of color are overwhelmingly represented.

Today, there are over 1 million people living with HIV/AIDS in the United States, 42 percent of which are African Americans, 20 percent of which are Hispanic.

Every year another 40,000 individuals get infected with HIV, over 50 percent of whom are African Americans, and 15 percent of which are Hispanic.

The fastest growing categories of new infections nationally are among African American women and the Hispanic community.

My district in Alameda County reflects the national averages, with African Americans representing over 50 percent of all new AIDS cases, and Hispanics 21 percent, and over the last 8 years the numbers for Hispanics have shot up.

Clearly we need to work harder to get the word out about HIV/AIDS, and we need to make sure that our communities have access to the resources they need.

That's why I'm a proud original co-sponsor of Ms. SOLIS's resolution supporting National Latino AIDS Awareness Day. We need to recognize the fact that AIDS affects everybody, and the more than 76,000 Latinos currently living with AIDS are testament to that.

At the same time we must also recognize the work of national and community based organizations, like the Latino Commission on AIDS, that are doing the work. In my district, organizations like La Clinica de La Raza, AIDS Project East Bay, SalvaSIDA, CALPEP, and SMAAC, deserve to be recognized for their efforts to reach out to Hispanic and African American communities alike.

It is their work that drives us here in Congress to demand more funding for communities of color dealing with HIV/AIDS. And that's why we established the Minority AIDS Initiative in 1998 with President Clinton.

As a key complement to the Ryan White CARE Act, the Minority AIDS Initiative plays a critical role in supporting outreach and capacity building in minority communities.

As we work to re-authorize the CARE Act, we must strengthen the Minority AIDS Initiative and ensure that the needs of minorities are being met.

That means we need a strong and robust primary prevention approach that differentiates messages between race, ethnicity, gender, sexual orientation and identity, and age.

We also need to make sure to build in housing and supportive services to provide continuity of care for all individuals infected with HIV—especially in minority communities.

That means providing convenient access to case management, dental care, mental health therapy, psychosocial support, and drug and alcohol treatment while we try and address the needs of people living with HIV/AIDS.

As we move to re-authorize the CARE Act, we must also ensure full funding for the AIDS Drug Assistance Program (ADAP), the Housing Opportunities for People with AIDS program (HOPWA), and the Minority AIDS Initiative.

Each of these programs is critical to addressing the needs of people living with AIDS and to addressing the needs of those who are most vulnerable, and they deserve our support.

I hope that with this effort today we can begin to take some concrete steps to move forward with the re-authorization of the Ryan White CARE Act.

I want to thank my colleague again for organizing this discussion.

GENERAL LEAVE

Ms. SOLIS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

A CRISIS IN THE COURTS OF AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. CARTER. Madam Speaker, I rise this evening to talk about an ongoing crisis that is in this country, a crisis in the courts of America. People are using the third branch of this government as an abusive form of receiving money from the court system, in many instances just because they file a lawsuit. People are using the courts of America to intimidate others out of their constitutional rights because of the expense of litigation. Most importantly, and what I rise today for, they are driving the medical profession into the ground.

Madam Speaker, I have spent 21 years of my life working with fine lawyers in a courtroom. I have seen the courtroom and how things work in the courtroom change substantially in that 21 years on the bench as a trial judge in Texas.

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The courts were designed for people to seek recourse when they were damaged. The courts were designed to grant fairness to all parties involved. The courts were not designed to use the economic expense of litigation to force people to settle lawsuits or to force people to pay money. They were designed for a fair presentation of the evidence and a fair decision to be rendered by the trier of facts and the trier of the law.

Yet, today, in modern society, we see in every area courts being used to try to force someone to do something contrary to their best interests, to pay when, in reality, the only reason they are paying is because, quite frankly, it is cheaper than fighting the litigation, cheaper for insurance claims to be settled, because it is easier to settle an accident than actually stand up for what is right. We see this, and if the spotlight is placed upon this, we see what it is doing to our medical profession.

Madam Speaker, we love to all sit around and reminisce about the old country doctor who would actually make house calls. The doctor that would make a house call with a little black bag today probably ought to be seriously examined for being crazy, because if all he brings is the resources of that bag to make that house call, surely there is a lawyer some place that is going to sue him for something because he said he did not do the right thing. So what is happening to our legal profession?

In many instances, doctors will tell us, unnecessary tests are being required of our patients. The cost of our medical care in this country is skyrocketing not because maybe that doctor thinks he may know what is wrong with that patient, but he also wants to make sure that he has that MRI and that CAT scan on record to confirm what his diagnosis is. Why? Because of the trial lawyers standing outside the door, ready to sue him for the slightest thing because he thinks he can prove that that test was not right.

Madam Speaker, we have women in south Texas that cannot find a baby doctor to deliver their baby and cannot find a pediatrician to care for their baby when it is born. Patients in south Texas cannot find a neurologist or a neurosurgeon when someone has been in a car wreck and has a brain injury and desperately needs someone that can treat them, either a neurologist or a neurosurgeon. There are people that are being hauled all the way from the Rio Grande Valley, Brownsville, and McAllen, all the way to San Antonio to try to find a neurologist that will take care of a serious, serious case.

Madam Speaker, this is a crisis in America. I am just looking at Texas. But this is not just new to Texas; this is all over the country. There are multiple States that are in crisis when it comes to medical liability. Tonight, I am up here and I am joined by many of my colleagues to talk about H.R. 5, the Help Efficient, Assessible, Low-cost, Timely Health Care Act of 2005 entitled HEALTH. This is sponsored by my colleague, the gentleman from Georgia (Mr. GINGREY), a medical doctor and a good friend from the State of Georgia, and I am sure that he will join us here in just a little while. Right now, he is with the Committee on Rules, and that is why he is not the first one to talk, because he is the doctor.

But he will tell us, as I will tell my colleagues and my colleagues will tell us, this crisis in America is causing skyrocketing medical costs, unfair jury verdicts and judgments against the doctors of this country and causing doctors to say, I am not doing this anymore.

Madam Speaker, when we drive out the people who are there to protect our lives, when we drive them away with these frivolous and sometimes onerous, most of the time onerous lawsuits, we are driving away people that are there to save our lives. Nobody asks when they are dragged into the emergency room after a terrible car wreck where the jaws of life have pried them out of the car, they do not ask, where is my lawyer, they are looking for a doctor. Yet, I have talked personally with emergency room surgeons, and they tell me that their profession is getting thinner and thinner and thinner every day. In fact, most of the people that still are willing to go and be emergency room surgeons are the guys who love to live on the edge with that adrenaline rush, because they certainly are not doing it because they feel safe. They deal constantly with the fear of a lawsuit because they did the right thing to save a life.

Doctors deliver babies. That is what we all expect. We want a doctor to be there with our wonderful spouse when they give us the gift of a child. Why do we want that doctor there? We want that doctor there to make sure that child is healthy and to make sure that birth is as successful as possible and make sure mama comes home with the baby. Yet, with the amount of lawsuits that are attacking our OBGYNs in America, more and more of our outstanding doctors are finding something else to do.

Madam Speaker, this is a crisis in America. The gentleman from Georgia (Mr. GINGREY), the sponsor of H.R. 5, I believe offers us the solution to that crisis. I see that he has joined us, and I am going to yield to him to talk to us about this issue.

Mr. GINGREY. Madam Speaker, I thank the gentleman from Texas (Judge CARTER), my good friend, for yielding. This is a hugely important issue in this Lawsuit Abuse Prevention Week when we are focusing on not just medical malpractice suits but a number of other things like frivolous lawsuits, class action abuse. This Republican majority has dealt with these issues time and time again. This House of Representatives actually, in a bipartisan fashion, Madam Speaker, I am pleased to say, has passed this particular bill, H.R. 5, about four times since myself and my colleagues. And we are all in the same class of the 108th Congress; I think we passed it twice. It was passed in the 107th and now once again in the 109th. I think that totals five times, this issue of tort reform.

As a physician Member, Madam Speaker, I am often I guess considered someone who is anti-attorney, who has a bias against attorneys. Nothing could be further from the truth. In fact, in my immediate family, I have two attorneys; my daughter, who is a prosecutor in State court in Cobb County; and my brother, who spent his lifetime as a practicing attorney doing real estate law; and my good friend, the gentleman from Texas (Judge CARTER) who was a good lawyer and an even better judge as a superior court judge in Texas. I have great respect for the legal profession. Rather, Madam Speaker, this is about leveling the playing field and making sure that every voice on each side of the issue is fair and balanced. That is all it is, pure and simple. I think my colleagues would agree with me on that.

I am joined by some of my doctor friends here tonight along with the gentleman from Texas (Judge CARTER), and we have all experienced situations where maybe one of our colleagues in the health care profession is being sued for practicing below the standard of care, and in those situations where we know that they practiced below the standard of care or the hospital, through negligence, has resulted in an injury to a patient, we are right in there pulling for the plaintiffs. There is no question about that. I think it is very important, as we discuss this during this hour, for our colleagues, Madam Speaker, to understand that. We are trying to bring balance to a situation that right now is way out of kilter, totally unbalanced, and it is to the detriment, not so much to the health care providers, but to the patients who need, who desperately need the access, as Judge CARTER was talking about at the outset. And physicians who are involved in high-risk specialties, emergency room doctors, orthopedic surgeons like my colleague, the gentleman from Cobb County, Georgia, (Dr. PRICE) who we will hear from in just a few minutes, and the gentleman from Pennsylvania (Dr. MURPHY) who deals with mental health, which is such a vital issue, so important to the health care of individuals, you are in a situation where if you do not have these doctors available, particularly in emergency situations, people suffer, people get injured and people die. So that is really what it is all about.

I appreciate so much being with my colleagues. At this point, I yield back to the gentleman from Texas (Judge CARTER) and hope to participate later in the hour as we discuss this critically important issue during this time this evening.

Mr. CARTER. Madam Speaker, I yield to the gentleman from Pennsylvania (Dr. MURPHY).

Mr. MURPHY. Madam Speaker, I thank the gentleman for yielding, and I thank the gentleman from Georgia (Dr. GINGREY) as well.

We are talking about medical liability reform tonight, and my background as a psychologist is one that I think it is incredibly important to support these issues, because in my career, I have so often dealt with the problems that have stemmed from difficulty with accessing medical care. Let me tell my colleagues two stories.

One is a story of a place in rural Pennsylvania where a woman went into premature labor. Now, because of the dearth of OBGYNs in her town, they drove in their car about an hour and a half to a nearby hospital, taking considerable risk to get up there. The baby was born premature. It would have been best if she would have had the care in a local hospital, but she did not have that. And children who are born premature oftentimes are at higher risk for several developmental disabilities. It is a sad thing to think that children sometimes cannot get that immediate access to care, because those first few minutes of care for a newborn baby are so critically important when they are premature, high-risk, low birth weight, maybe the mother was eclamptic, pre-eclamptic, and those first few minutes can mean the difference between a child who has some severe problems, a child who has mild problems or a child who has no problems at all. As I would do developmental follow-up with so many of these infants, it is of increasing concern to me that when there is not sufficient medical care there nearby with OBGYNs, or anyone else for that matter, you cannot get the patient the care they need then, and that baby cannot be treated by a lawsuit. That does not make up for what occurred because a physician was not around and the physician is not around because in Pennsylvania, like so many other States, about 20 other States listed at risk for this, has seen such a decrease in physicians.

Another story: A hospital where several cases have occurred where people have gone into that hospital suffering from a stroke, but there were no neurosurgeons on call at that hospital because of the high medical liability costs for these neurosurgeons in that State. So patients had a certain kind of clotting that needed to be broken with a line through the femoral artery or a catheter, as it were, into the carotid, and these patients then had to be life lifted to another hospital. Again, those minutes when someone is having a stroke are critical and can mean the difference between life and death.

In a number of those cases, sadly, those patients died. It was not from lack of good health care that was available; it just was not available at that hospital because the doctors were no longer able to practice in that State or in that region.

Bills like H.R. 5 are extremely important, and we have passed it a couple of times in the House, and we have to continue that. But what happens is that, in so many States, we are far from being able to do that on our own. Pennsylvania, for example, has a constitutional provision there that would query that State even if it started moving forward a number of years to take care of that.

□ 2200

But ultimately our concern has to be for better patient care. And some look upon this and say are we looking at caps on punitive damages or changes of venue and other sorts of legal issues here that somehow are going to protect the physician who is not practicing well. As one trial attorney I heard say, the trouble with medical malpractice is medical malpractice.

Certainly, none of us want to see situations taking place where we are protecting problems that occur. All of us, whatever branch of health care we are in, are dedicated to making sure patients have the best care. But when you cannot get a doctor, you cannot get the care, good, bad or otherwise. And so the issue is how we make sure we have the availability of that health care.

Listen to a couple of these points: one in three medical residents in my home State of Pennsylvania stated in a survey they would leave the State after completing their medical residency because of the lack of affordable malpractice or medical liability insurance. In addition, 71 percent of residency program directors reported a decrease in retention of medical residents in Pennsylvania. As a result, more and more doctors are practicing defensive medicine. And only about 4 percent of our physicians in key areas, such as obstetrics, gynecology, orthopedic surgery, neurosurgery, only about 4 percent of physicians in Pennsylvania are under age 35. As others doctors retire, we are going to continue to have this; and that is why we have a crisis, no longer just brewing, but really some significant shortages.

Let me mention one or two things that we are working on as part of this, because all of us in the health care field and all of us in the House have to be focused also on patient safety. Some of the issues before us are also what Secretary Leavitt and the President are pushing and that is for reform for how we keep track of medical records.

Electronic medical records is a system whereby patients' charts are kept in secure and confidential electronic records and computer systems so physicians can access them. And at the moment they are reviewing these charts, it is no longer a matter of trying to find the pages in the charts which may be scattered in different places, no longer a situation where lab results never quite made it, no longer a situation where the doctor has to call for repeat tests because he cannot find the x-ray or the CT scan or the MRI.

It is accessible to him or her, and thereby not only does it save money because tests do not have to be repeated, but it can call to the attention of the physician significant findings. One study that was published last year found about 14 percent of medical records are missing some data. For example, a physician may have called for lab tests, never got in the chart, perhaps the patient did not follow up and have it done. And a physician said in many of those cases it would change their diagnosis and what they would call for for treatment of those patients.

Does it save money? You bet. A Rand study report published a couple of weeks ago said if we move toward electronic medical records and electronic prescribing, we could save health care in America about $160 billion a year. And with the improved efficiency and with the reduction in absenteeism in the workplace, those numbers could go up to over $300 billion a year.

Now, while we are facing an era of looking at ever-increasing health care costs, where small businesses cannot afford them, or individuals and families are wondering if they are going to be able to cover those health care costs, by doing such things as electric medical records and prescribing, we can actually provide the venue whereby physicians, everybody in the health care field, could keep better track of what is happening.

One of the troubles is with the fear of liability, strange as it is, many times hospitals are concerned if they start gathering more of this data to show them where the problems are, what they should begin to review, how they should change, for example, infection rates, et cetera, they are concerned that someone is going to come in and grab those records and start suing everybody before the hospital can start to make some changes.

We have got to present a situation here where physicians and nurses and hospitals and administrators and patients are all working together towards patient safety. But to that end we not only need the patient safety issues; we also need the physicians practicing.

And I am joined tonight by another one of our colleagues, the gentleman from Georgia (Mr. PRICE), who is also going to be able to speak from his own experience on these issues and how it is critically important. So I would now like to yield as much time as he may consume, if I may, to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Madam Speaker, I appreciate the opportunity to join my colleagues tonight on an issue that is very important. And I found many of your comments so apt and so very pertinent.

I am an orthopedic surgeon, at least I was before I came to Congress; and I have a number of friends in the orthopedic surgery field who practice in Pennsylvania. They are clamoring for young orthopedic surgeons to come to Pennsylvania. My understanding is that there are no orthopedic surgeons under the age of 35 in Pennsylvania. None. And if that is the case, as it is, I think, in that specialty and in others, this is a crisis that we have that will take a generation or more to solve, unless we act now. So I thank the gentleman for the information that he gave.

As I mentioned, I am an orthopedic surgeon, and I am also a third-generation physician. So as the gentleman from Texas (Mr. CARTER) mentioned, the old time country doctor, well, that old time country doctor was my grandfather. Some of my earliest memories are of going with my grandfather on his rounds on the weekend. And rounds for him did not mean going to the hospital and seeing patients. They meant going to patients' homes. And I will never forget the wonder and the faith and really the love that was communicated to him as he visited so many of those patients' homes. My grandfather never thought about malpractice insurance or liability insurance. They never dreamed of it. Never had to.

My father practiced for a number of years and saw so many changes, and I saw him lament those changes over a period of time. And I guess now the question is not as physicians across our Nation, it really is not whether they will be sued, it is when. It is when they will be sued. And when you think about that as a matter of policy in our society now, when will physicians be sued, a physician being sued, and you think about that man or that woman who is doing their doggonedest just to take care of people, and you think about what they have to deal with every single day, when they are thinking about the next time that they will be sued, or if they will be sued or when they will be sued, it changes how they relate to patients. It changes how they relate to their job. It changes how they relate to their commitment to the work that they do.

And so we have a situation that must be addressed. And it is imperative. The citizens of our country know that it has got to be addressed. Here is some polling that was done by Harris earlier this year. It says 78 percent of Americans express concern that the skyrocketing medical liability costs could limit their ability to get the care when they need it. And I think, as my colleagues have said, the question really is not the cost of malpractice or the cost of liability insurance to the doctors. The question is the access to quality care for patients. That is the consequence of all this. It is not that there is more money, although it is important that there is more money going into something that really is not resulting in any better care for anybody.

But the real question is we are limiting the access of quality care for patients across this Nation. You say, well how does that happen? Well, I want to share with you a couple of examples, as we all have. My good friend from Georgia was an OB–GYN doctor for years and years, and delivered, I think, 5,000 or more babies. And right now we have more counties in the State of Georgia and more counties, frankly, in the Nation that have no coverage by an OB doctor, no coverage to deliver babies, greater in more counties now than we had 10 years ago.

So we are going in the wrong direction. And you say well, now why is that? Did they forget how to deliver babies? Well, certainly not. That is not the answer. The answer is that OB doctors, in the field of OB, delivering a baby is defined as a high-risk procedure. Delivering a normal baby is defined, for insurance purposes, as a high-risk procedure. And there are more and more, because of the liability crisis, there are more and more OB doctors who no longer do high-risk procedures. Therefore, they no longer deliver babies, which is something that those men and women trained to do. That was their craft. That was their calling, to deliver and care for women during their pregnancy and to deliver those babies. So those women who live in those counties now where there are no OB doctors to deliver babies do not have the access to care that they need or that they had just a few short years ago.

In the field of radiology, there are some things that we do not even know as patients that we are missing or that we are losing. In the field of radiology, there are a number of instances, the issue of mammograms is important because there are about 40 percent of the radiologists in this Nation who no longer read mammograms, no longer read them.

And so you ask the question, well, did they forget how to read them? No, they did not forget how to read them. They were taught in their training, certainly, how to read mammograms and do as well as anybody could do, given the limits of the test, given the limits the mammogram, which is about, in the best of hands, 90 percent. The best radiologist reads a mammogram correctly 90 percent of the time. That is not because he or she does not know how to read them. That is because that is the limit of the test. That is the limit of technology that we have. And so if a radiologist reads 40 mammograms in a given day, 40 mammograms in a given day, it is likely that he or she will not have the right interpretation on four of them.

Well, I do not know anybody that you can ask to expose themselves to liability on 10 percent of the occasions of the work that they do and expect them to continue to do that work. So the only answer for the radiologists and the only answer for the radiologist and his or her family is to not perform that procedure, not read that or interpret that test. That means that women across this Nation no longer have the kind of access to interpretation of mammograms as they did 10 years ago. The same is true for pathologists and Pap smears. Same kind of numbers.

I want to just give one more example and then yield back because many of my colleagues have talked about it being a matter of life and death, and it truly is. And I want to relate a story that highlights, I think, the imperative for us solving this crisis and this challenge before us because it is a matter of life and death.

People are dying because we have, as a national policy, a court system, a legal system that does not allow individuals appropriate access to quality patient care. And the example goes to the issue that the gentleman from Pennsylvania (Mr. MURPHY) and the gentleman from Texas (Mr. CARTER) talked about, and that is the issue of neurosurgery. And it happens with other specialties, but with neurosurgeons, individuals who take care of problems with the brain, that they are on the front lines for some of those incredible crises in individual's lives, when action is needed immediately. And if action does not occur immediately, then there are severe consequences; and oftentimes the consequence is loss of life.

There was an individual that came to a hospital in the metropolitan Atlanta area, a young man in his young 40s and he had fallen and he had hit his head and he knew that something was not just right and so he drove himself to the hospital. And he arrived at the hospital, and because of the liability crisis, there were no neurosurgeons on call, which means that there are no neurosurgeons that the emergency room physician could call in the event of an emergency or a crisis. They would have to transfer those patients elsewhere.

Well, this patient, this gentleman came to the emergency room, was seen by the emergency room physician, was appropriately diagnosed as having what is called a subdural hematoma, which is a bleed within the brain. It is a blood clot within the brain, and it can put pressure on the brain and it can kill you. The treatment for it is relatively simple. It is relatively simple to relieve that pressure, but it is done by a neurosurgeon. In this hospital there were no neurosurgeons on call, no neurosurgeons available; and so this individual, the patient, had a relatively rapid decrease in his clinical status. He got very, very sick and very ill and his life was threatened, and the emergency room physician recognized that, but his only option was to put him in an ambulance and get him to another hospital. And that patient died on the way to the next hospital. That patient died because of our liability crisis in this Nation, and that death will not show up in any statistic anywhere as being a result of our current tort reform crisis, our system of liability problems right now. Will not show up anywhere.

So access to care is being compromised. Quality of care is being compromised. We have a real crisis. Seventy-eight percent of Americans understand that. And what do they want done? Seventy-three percent of Americans want their elected representatives in Washington to support comprehensive medical liability reform. That is the take-home message, that is the take-home message for our colleagues who have acted responsibly here in the House over and over. It is the take-home message for our friends on the Senate side to make certain that they act on H.R. 5 and act soon, quickly, as rapidly as they can in order to save lives and in order to ensure quality care.

With that, I thank the gentleman from Pennsylvania (Mr. MURPHY) so very much, the gentleman from Texas (Mr. CARTER), the gentleman from Georgia (Mr. GINGREY) for allowing me to participate in this discussion tonight. We ought to stand up here every night and give this message until this work gets done. Thank you so much.

Mr. MURPHY. Madam Speaker, I thank the gentleman for yielding back. And before I yield back to the gentleman from Texas (Mr. CARTER), I just want to mention one other thing too because while we are talking about these protections and hearing the tragic story that the gentleman from Georgia (Mr. PRICE) mentioned, another bill that I put in, H.R. 1313, is one that would also help us with the uninsured and underinsured. One of the issues the President has committed to putting more funding in is community health centers, community health centers where people pay a sliding fee scale supported by the local community which provides more close access for people who are uninsured and underinsured.

□ 2215

We have situations there where physicians who were paid or hired by these clinics are covered by the Federal Liability Act where they may not go in front of a jury trial, but the judge will decide what happened if there was a problem there.

The sad thing about it is if a physician, if a nurse or psychologist or podiatrist or dentist wants to volunteer in those settings, they are not covered. So it happens we have a huge shortage of health care providers when at a time we could be expanding because many providers would like to volunteer their time at community health centers.

A big example is the problems that just occurred down in the gulf coast with the hurricanes. Many people wanted to volunteer at community health centers, but if we do not provide some of these protections to make sure they can provide excellent health care and be there, we will not have enough.

So that is another area I certainly urge my colleagues to help us pass. With that, there are many other issues to cover tonight.

Mr. CARTER. Madam Speaker, at this time we are joined by the gentlewoman from Tennessee (Mrs. BLACKBURN), one of our wonderful colleagues, a real asset to this House, and at this time I yield to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Madam Speaker, I thank the gentleman from Texas for yielding, and I thank him for organizing this hour tonight and for the work he has put into this issue and how wonderful that our colleagues here in this body and that the American people can hear from the gentleman from Georgia (Mr. PRICE) and the gentleman from Pennsylvania (Mr. MURPHY) and the gentleman from Georgia (Mr. GINGREY) and the gentleman from Texas (Mr. CARTER) and hear how Members of this body, Members who have served as a part of our legal and judicial system, Members who are health care providers address this situation and realize the need to address medical liability here in this country.

I think it is worthy, too, that we hear from consumers in this debate, and being a health care consumer is something that is important to me and important to so many of my constituents in Tennessee.

The gentleman from Georgia (Mr. PRICE) had mentioned the Harris poll, and I think the results of this poll are so reflective of what we hear from our constituents. Seventy-eight percent of the individuals polled in the Harris poll talked about medical liability costs and expecting Congress to do something to address that issue, 78 percent. Seventy-three percent want us to make medical malpractice reform a top issue for the U.S. House of Representatives, and they do that because they see this as a freedom issue, a freedom for them to choose who they want to be their doctor, who they want to take care of them, to have access to the health care that they know is there and available, but because of a litigious society and a legal system that many times is out of control, is not available.

I will have to tell my colleagues I had a constituent in a town hall meeting recently stop the town hall meeting when we got to this, stand up and say, I have got something to say. He said I think when it comes to lawyers suing doctors that we ought to have a law. He said, a doctor cannot diagnose you; he cannot give you any medicine unless he has a face-to-face meeting with you and checks you out. I think the same thing ought to apply to these lawyers, that they thought to have a face-to-face meeting and get to know these patients before that lawyer can help that patient sue that doctor.

That is sometimes the frustration that we hear and good common sense that people bring forward. This is what we are hearing from the consumers of this Nation, from our citizens, from our constituents: Address this because it is a freedom issue. It is a freedom issue for physicians who want to practice the skill that they have been trained to do. It is a freedom of access issue for our constituents.

Our constituents know that because of the liability crisis in this great Nation that their hospital choices are limited; that their physician choices are limited; that they are having to drive further distances; that health care is not as available, especially in our rural and underserved areas. I tell my colleagues, if that hospital is 60 miles away, many times it might as well be 600 miles away because it is so difficult to get to.

So I really want to thank the leadership of this House. I want to thank the gentleman from Georgia (Mr. GINGREY) and the gentleman from Texas (Mr. CARTER) and the gentleman from Pennsylvania (Mr. MURPHY) and the gentleman from Georgia (Mr. PRICE) for bringing their expertise to bear in this body and bringing attention to the medical liability crisis and to the need to move forward, complete addressing H.R. 5 and taking a lead in the medical malpractice/medical liability issue.

Mr. CARTER. Madam Speaker, I thank the congresswoman for her comments. The congresswoman is always willing to stand up for the people in her district and talk about the people of her district, and she never fails to tell us a story about the people in her district.

I want to tell my colleagues a couple of stories. I want to tell my colleagues, in 21 years on the bench, I have seen an awful lot of people who really have the attitude that suing people is kind of a profession. I want to tell my colleague true stories, and these are both absolutely true stories, but I am not going to use the people's names because, as far as I know, they are both still alive. Hey, I do not know, they might even be watching.

I have this one friend that I worked with many years ago down in the Texas legislature when I was working for the staff down at the legislature as a young lawyer. When I talk about this, I am a lawyer and practiced law for about 12 years before I went on the bench. So I am not picking on lawyers here.

But anyway, I used to go deer hunting with this fellow, called him Joe, and about 10 years later, I ran into him kind of on the street. I said, hey, Joe, what is going on; what are you doing? He said, oh, I got me a job. I said, what do you do? He said, I am a suer. I said, a what? I thought he works for the sewer, is that what he said? He said no, I am a suer. I said, what in the world is a suer? He said, I get out in my old car out on the highway, slam on my brakes and somebody runs into the back of me; I slap a collar around my neck and I sue him. I thought he was joking. I laughed. I thought that was a funny thing for a fellow to say, until I ran into a guy that I knew who knew him well, and he said, no, well, that is what he does. That is what he does.

That is an attitude about our court system that has got to change, and it has got to change. If necessary, we have to turn this world around. That is why juries go crazy on these verdicts.

I will tell my colleagues another story.

Mr. GINGREY. Madam Speaker, if the gentleman would yield before he starts that next story, the point the gentleman is making, and I think it is a good one, is that in this current climate, it is easier to sue your doctor than to see your doctor. Clearly, there is something wrong with that picture.

Mr. CARTER. Absolutely, absolutely. You have to stand in line a lot longer to see him than to sue him.

This other fellow, friend of mine, was a cigarette smoker, and this was back many years ago. He was sitting there. He is a prolific reader. He said, I have decided how I am going to retire as soon as I get out of college. This was back when I was in college. I said, okay, John, how are you going to retire? He said, well, I read an article that said that the reason people smoke is because they were weaned too soon. He said, so I smoke three packs of cigarettes a day. At that time cigarettes cost about 35 cents a pack. He would get rich today on his plan. He said, so I have added up how many packages of cigarettes I think I am going to smoke in my lifetime, and I happen to know the reason my mother weaned me soon is because her doctor gave her that advice. He said, so I am going to sue my mother and my doctor because I smoke. He said, and I think I can get $1 million out of that deal, by the way, by my calculation.

That was a joke, but it does underlie how people view the court systems and the lawsuits that people perceive that can be heard. Now we are having people wanting to sue hamburger people for obesity. They are wanting to sue schools for the vending machines that are in the schools, and of course, they are suing the doctors for everything under the sun. It is amazing. It is absolutely amazing.

I think what we will do here is let us just open this up to a general discussion. Let us first let the gentleman from Georgia (Mr. GINGREY) talk a little bit about this bill, and then the gentleman from Pennsylvania (Mr. MURPHY) wants to talk about some stuff.

Mr. GINGREY. Madam Speaker, I thank the gentleman for yielding, and H.R. 5, the HEALTH Act of 2005, the same bill I said earlier in the evening that the 107th, the 108th twice, and now the 109th have passed in this body, and by the way, the gentleman from Georgia (Mr. PRICE), the orthopedic surgeon, was talking earlier in his presentation and showed a poster with the pretty alarming statistic that 78 percent of the American public want us to do something about this crisis because they want to be able rather than sue their doctor to see their doctor.

So those Members either in this body or the other body, on both sides of the aisle, I say to my colleagues, if you are poll driven, this is a no-brainer. This is a slam dunk winner of an issue, but even if the statistics were not there, it is the right thing to do. It is the right thing to do.

I would say to our colleagues in the other body, and I know that we are not supposed to stand over here and criticize the other body, and I will not do that, but I am awfully frustrated. I am terribly frustrated that we have addressed this issue, this same bill, every provision identical, for the last three Congresses, and yet, the other body, for some reason, I will let my colleagues figure out why, but for some reason, they are not addressing this issue. I would literally beg them on behalf of my patients, our patients, to address this issue because the statistics are clearly there, but it is the right thing to do.

Mr. MURPHY. Madam Speaker, if the gentleman would yield, I would like to say to our colleagues, ask him to point out a couple of the issues here. In particular, let me raise one that some people say. Does this bill protect physicians who may perhaps be practicing out of their realm of expertise or really doing wrong? Does this allow these physicians to continue practicing?

Mr. GINGREY. Well, yes, and of course, the good judge certainly knows this. I am sure he has seen it in his courtroom many times.

But the issue that is brought up a lot of times is, well, gosh, you are about to take away an injured person's right to a redress of their grievances; you are going to take away their day in court. That is absolutely not true, and I am so glad that the gentleman from Pennsylvania (Mr. MURPHY) brought that to our attention.

We are talking about in the major provision of this bill, which is patterned, modeled after the California bill on tort reform in the late 1970s that stabilized the market and health care delivery system in that State, is a cap on so-called pain and suffering awards or what we call noneconomic, at some figure. In our bill, it is $250,000. Some States have addressed that, and maybe it is $350,000.

In some instances, if there are more than one defendant in a case, and I can tell my colleagues and I know my two colleagues here with me this evening know this, but in almost every case there are multiple defendants. So let us say the cap on noneconomic was $350,000, and you had two or three defendants, then that award in itself, not counting any economic damages, is over $1 million dollar.

Mr. MURPHY. Madam Speaker, if the gentleman would yield, a question on that. Another question is what if the patient perhaps needs rehabilitation costs, other medical care, would the gentleman point out what this bill does if a person has ongoing medical needs as a consequence? My understanding is it does not limit it and the patient could get that ongoing care.

Mr. GINGREY. Madam Speaker, in fact, the gentleman from Texas (Mr. CARTER) may want to address that as to how a calculation is made in a court of law in regard to making a patient whole, the so-called economic awards based on income and loss of income.

Mr. CARTER. Add future medical care. By my understanding, this bill does not limit any amount of medical care that has already been expended nor any projected needs in medical care in the future including, as you say, rehabilitation. Even mental health issues could be addressed. If there is proof of the necessity, this can be carried forward, and it is not limiting it.

It is that undefinable pain and suffering issue that can allow people to break the bank at Monte Carlo with their judgment and get $1 billion in that category.

□ 2230

A billion dollars has been awarded in the past. Many times multimillions of dollars have been awarded for pain and suffering. That is the issue. That is the real issue in a nutshell.

Something needs to be mentioned here. We have had a lot of doctors come in here, and some people watching might be thinking, of course, these doctors are in the business; of course they want to do this. Well, these doctors are not in the business. These doctors have left the practice of medicine to come to Congress. And I think in many instances they came to Congress because they had a voice that needed to be heard on many issues, including this issue here.

I know I have become very close with many of the doctors, the gentleman from Georgia (Mr. GINGREY) being the prime example, and they are here because they care about multiple issues affecting their people back home, and they are here to represent all of the people of their State. They are no longer practicing physicians, so they are not doing this because they are reaching into their pocketbooks, but they are doing this because they know there is an abuse here that needs to be rectified, and this stands for the Senate as well as the House. These doctors do not practice their profession while they are serving in the Congress.

Mr. GINGREY. If the gentleman will yield on that point. Clearly, as the gentleman from Texas points out, there are those of us that you have met here this evening who are health care professionals in our former life but now are Members of Congress. And while we know of individual anecdotal cases, maybe friends of ours who have got a problem in regard to a frivolous lawsuit or something, what is more important now is for us to have a view from 30,000 feet, as the expression would go. Because as my colleague, the gentleman from Texas (Mr. CARTER) points out, we have an obligation and a duty to every patient-citizen, 285 million in this country, and not just the 630,000 or so in our congressional districts or the doctors who we practiced with when we were in that profession.

So my colleague is absolutely right. We have to look at that big picture.

Mr. CARTER. If the gentleman will yield back for a moment. As we talk about lawsuit abuse, right now we are talking about doctors, but you can talk to your small businessman and ask him what he pays for the insurance coverage because of liability factors that influence whatever business he is in. He can be in the manufacturing business, he can be a consultant, he can be an engineer, an architect, or a lawyer. There is not a small businessman or a profession in America that is not facing the possibility of frivolous lawsuits that can cause them major damage in their business.

In fact, lawsuits have become a tool of competition in America today in the business community. There are people and organizations who actually try to drive a person out of business by filing frivolous lawsuits against them, knowing it will cost them $25,000 to $50,000 to defend them. They come back and they come back and they come back again, and, thus, ultimately, the small businessman finally throws up his hands and says, I cannot pay these attorneys fees any more. My insurance people will not cover me any more, and so I am getting out of this business. That is happening. It probably happened in this Nation while I was talking tonight.

Fair redress is what we ought to have in the courts; fair disputes settled between two parties. But using the court as a weapon to direct people, whether it be in business, in politics, or in a profession, is wrong.

Mr. MURPHY. If the gentleman will yield, there are a couple of points that I want to draw upon the judge's knowledge and experience, as well as that of the prime sponsor, the gentleman from Georgia (Mr. GINGREY).

There are two elements that are important to note. One, this bill does not preempt, if States have their own caps on punitive damages, or noneconomic damages. If States have higher or lower limits, out of respect for the Tenth Amendment, States' rights, the Federal law would not preempt that in any way, shape, or form, which is very important.

It also deals with the issue of joint and several liability, as I understand. That is to say that sometimes what happens is someone will go after what is known as the deep pockets. If a person is only a couple percent responsible for something, perhaps the hospital would be sued, even though the hospital had a very, very limited role in something, or a doctor with a very limited role, maybe just another surgeon who was asked to come in and check up on the patient but that may be the person who has the most coverage, so they would sue that individual. This really protects them and makes sure it is based upon their actual responsibility in the case.

Am I right on that?

Mr. GINGREY. The gentleman from Pennsylvania is absolutely right. A perfect example: Dr. Jones asks Dr. Smith to look in on her patient on Sunday morning because she was going to be at church for a couple of hours. Dr. Smith goes by the room, waves to the patient and says, how are you doing? Is everything okay? Dr. Jones wanted me to look in on you. The patient is fine, but in a subsequent time, a day or two, all of a sudden the patient's health deteriorates.

Now, it has nothing to do with this doctor that was covering for 2 hours so his colleague could attend services at her church, yet that doctor gets named along with the primary defendant, who may or may not have had some significant responsibility or liability. But they are judged just as culpable, as the gentleman from Pennsylvania points out, and maybe more culpable, particularly if they happen to have the most insurance or the deepest pockets. That is what he is referring to when he says this joint and several liability.

This bill, as my colleague alleges, eliminates that provision and it changes it to several liability, so that a person who maybe has some minor participation in a case that goes south, where the patient does not do well and is injured, and maybe there is some practice below the standard of care, they are only culpable for a pro rata percentage of that. And that is the way it should be, and not liable based on the amount of malpractice coverage they have. And I really appreciate the gentleman for bringing that up.

The other thing that I think is important to mention, is that a major provision of this bill is something called collateral source disclosure. The gentleman from Texas, just a few minutes ago, was talking about economic awards, and if a person needs some additional surgery or they need additional testing to make them whole because of some injury, then there is compensation for that. As an example, lost income, lost wages because an individual cannot work. But suppose that plaintiff has a disability income policy that covers 90 percent of their income for the rest of their life if they remain disabled. Suppose that person has the best first dollar health insurance policy that money can buy that covers any additional medical expense and rehabilitation expense, such as durable medical equipment, power wheelchairs, or whatever. Then that needs to be disclosed to the jury so that we do not have this situation, Madam Speaker, of what I consider double dipping.

It is a fairness issue. And as we said at the outset, that is all we are talking about. We want to make sure that those that are injured get justly compensated, but we do not want, as my colleague from Texas said, this civil justice system to become a lottery in the minds of individuals. Because that is where we get to the situation where indeed it is easier to sue your doctor than to see your doctor. And I yield back to the gentleman from Texas.

Mr. CARTER. Madam Speaker, I thank the gentleman for yielding and for his comments. What we are talking about tonight is a climate that has developed over a long period of time in our court system. It is a climate which was never designed or anticipated by the founders of our Nation; that our courts would become a weapon to batter someone into submission; that our courts would become a tool of business; that our courts would become a slot machine where individuals could pull the handle and receive big benefits.

I love our court system, and I think our court system has the potential to be fair, impartial, and to resolve grievances for every American citizen. I think the court system works hard to see that it does just that. But there are issues and attitudes of the American people that we can only change by redirecting the thought pattern of "I am going to get rich on this lawsuit," rather than the fairer thought process of "I am going to recover for how I was damaged and how I suffered." That is what we are looking here for.

I think that every American is looking to his or her government to be treated fairly. I think it is our responsibility here as Members of Congress to try to do everything we can to make sure that all who appear in the courts get fair justice.

So I thank the Chair for being willing to listen to us tonight and to hear our discussion about lawsuit abuse and in particular medical malpractice, and I urge my colleagues on both sides of the aisle to stand up and be counted by casting their vote for fairness. I also urge our colleagues in the other body to address this issue and cast their vote for fairness in the American justice system. If we instigate and create fairness, we will have done the will of the framers and the will of the American people.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mrs. SCHMIDT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Madam Speaker, once again it is an honor to come before the House. We would also like to thank the Democratic leader for allowing us to come to the floor.

We usually have a 30-something Working Group, which has now picked up on many new purposes, and tonight, once again, we have the opportunity to come to the floor on behalf of the American people, to inform the Members, and to make the process better. With us tonight we have the gentleman from New Jersey (Mr. PALLONE), who is an outstanding Member of this body, and I am also joined by the gentleman from Ohio (Mr. RYAN), and I know others will be coming.

I just want to say that usually we deal with issues that are facing young people, but today there are a number of issues that are facing Americans in general and I am very, very concerned about not only what is going on here in Washington, D.C. but also what is not going on, and I think it is important to talk about those issues in this democracy that so many Americans have lost their lives for, that so many Americans have lost limbs and their mobility to allow us to come to this floor to represent them and represent everyday Americans.

Madam Speaker, we talked last week about the issue of the independent commission, and I think it is important that we look at this independent commission and look into what happened not only with regard to Hurricane Katrina but Hurricane Rita. I strongly believe that we can do a lot more than what we are doing right now.

I know there is a committee that is looking into this effort, but it is not a bipartisan committee. And once again I want to go on the record commending the Democratic leader for not making appointments to that committee, and I will discuss the reasons why later. I think also tonight we will talk about what is happening here in Washington, D.C., or what is not happening here in Washington, D.C., and I think we will help crystallize this not only for the Members but also for the American people.

Mr. Speaker, I took the opportunity to go on to the White House Web site.

Mr. MEEK. Mr. Speaker, I ask unanimous consent to submit for the RECORD the information I will be referring to regarding the White House Web site.

The SPEAKER pro tempore (Mr. CARTER). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MEEK of Florida. Mr. Speaker, I know the President put forth a task force with his homeland security adviser as the head of it. He mentioned this in an announcement, and I assumed that it would be something where this task force would actually have some findings which would come back to not only the Congress but to the American people. So I checked out the White House Web site, at WhiteHouse.gov, if any of the Members in their offices want to go on to that Web site to find out what is there and what is not there.

This is actually the front page of the Web site. It has a lot of things on here. It talks about what the President is doing, about press briefings, and a number of other things, such as the war on terror. There is a little box down here that says Hurricane Relief Efforts. You click on that and then move over to this particular page here.

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Madam Speaker, it goes on. The President is hugging emergency management personnel in Texas. That is fine. We want to commend those Americans who are doing what they are supposed to be doing. It talks about a number of things, speeches in the news, Federal Government Hurricane Rita preparedness. It goes on further down the page, which is the first page if you are looking at it on the computer, President Bush declares a state of emergency for the States of Louisiana and Texas. It goes on and talks about his major speeches.

Madam Speaker, the point is that the President mentions nothing about this review, what went wrong, where it went wrong, and why it went wrong. We know that hurricanes and natural disasters are acts of God; but we also know in the case of Hurricane Katrina, and I can tell Members there are some who came to the Capitol today saying that in the case of Hurricane Rita, and we will be voting on the energy bill tomorrow, one Member said it is the worst bill we have seen in 7 months, and I can tell Members there are some real issues that are going on in that bill that we will talk about a little later.

Madam Speaker, I think it is important that the American people understand that I believe we are not taking this issue seriously. The 9/11 Commission came out saying that many of their recommendations were not enacted, such as intraoperability to allow emergency workers to talk to one another. We had Coast Guard people who could not talk to the 82nd Airborne. We had local police officers who could not talk to one another because we did not do what we were supposed to do years after 9/11.

I can tell Members, the number of Democratic amendments to come up with intraoperability to make sure that emergency workers can talk to one another was voted down on a party-line basis. I want to make sure that everybody understands what is not going on here in Washington. This is not only national security; it is responding to the Federal taxpayer in the way that they deserve, the State, local and Federal response. But we will never know because this Congress would not allow an independent commission to take place.

Madam Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Madam Speaker, I appreciate the words of the gentleman from Florida (Mr. MEEK). I think we need to be absolutely clear that after all this time when we are talking about the committee that passed out of this House, this is a committee, 11 to 9, Republicans 11, Democrats 9; and what we are arguing from our side of the aisle, why not have an independent commission like for 9/11. That was a commission that worked, that solved problems, and that was bipartisan. Why would we not want that to happen again. We have seen time and time again, over the past 5 years in particular, when there was no check on the Republican power in the House and the Senate, that time and time again we have been getting bad information from the leadership here in the House of Representatives, the Republican leadership. We have been getting bad information. If you want to talk about the war, bad information. Why would we want the Republican majority in Congress to oversee the information and the intelligence and everything else that came from the war. It is the fox guarding the hen house.

And when we talk about the Medicare prescription drug bill, it started out $400 billion. That is all it is going to cost. Then we find out months later it was $700 billion. Why would we want the majority party who originally gave us the bad information to then oversee the investigation into the bad information that they gave us in the first place.

After Hurricane Katrina, after one of the great national and natural disasters in the history of the United States of America, decimated FEMA, terrible response on all levels, there is plenty of blame to go around, Federal, State and local, why would we want the party who is in charge to oversee their own investigation.

Give the American people an honest assessment of how things worked and what the mistakes were, because at the end of the day, this is about fixing the problem because that could have been, that very well could have been a biological attack in New Orleans. And the response was terrible. So why would we want the Republican majority to oversee the Republican mistakes and expect at the end of the day that we are going to get an honest assessment. It just does not make any sense.

Madam Speaker, I want to welcome the gentleman from New Jersey (Mr. PALLONE) to the 30-something Group.

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Florida (Mr. MEEK) and the gentleman from Ohio (Mr. RYAN). I forgot when I came down here that this was the 30-something Group. It is going to have to be the 50-something Group in my case. I know you have been down here talking about issues that are important to young people, and of course the issue you are talking about tonight is important to all of us.

I want to say very bluntly that the reason that the Republicans do not want this independent investigation is because of a coverup. Essentially, they want to whitewash what they are doing. We have a whole culture here of corruption and cronyism in D.C. with the Republican Party. I think it has become quite evident to people outside of the Beltway there is a coverup, and they do not want people to know what is going on here.

The most devastating example of this cronyism comes from the faces of the displaced and those left behind in New Orleans in the days following Hurricane Katrina.

There was an editorial in the New York Times, September 26, that kind of sums it up in terms of why they do not want this independent investigation into Hurricane Katrina, and it is called "Faking the Katrina Inquiry."

It says that the White House and Republican-controlled Congress resisting popular support for an independent nonpartisan commission remain determined to run self-serving, bogus investigations. They mention in the editorial the case of David Safavian, who I noticed in today's Washington Post was indicted, and this guy was the White House's top Federal procurement official. He was already enmeshed in the lucrative gulf coast rebuilding plans when he had to resign abruptly to face arrest on charges of obstructing justice and a deepening investigation into lobbyist corruption in Washington.

What the New York Times essentially says at the end of their editorial is there is no way to whitewash a hurricane. A government dominated by one party should be disqualified from investigating itself. Just as President Bush repeatedly fought the creation of the 9/11 Commission until public pressure forced him to yield, so should the public demand that the administration and Congress get real about Hurricane Katrina.

So the point I am trying to make is it is not just the New York Times. Every major editorial I have seen in every paper around the country has said there should be an independent commission because obviously when you have one-party rule, which is what we have here in Washington, they cannot possibly investigate themselves. There has got to be some Democrats, some representatives from the other side of the aisle so the real face of this cronyism or cultural corruption is unveiled.

If they have nothing to hide, there is no problem with an independent commission. It is because they have something to hide. Every day in the papers there is more and more about government contracts, no-bid contracts, things going to friends of the President and the Vice President. It is this culture of corruption that they are trying to hide. That is why they do not want to do this independent commission.

We have to keep talking about this because it is getting to be more and more obvious every day that there is a coverup, they do not want to show what is going on, the no bids and everything else, that keeps surfacing every day in the media.

Mr. RYAN of Ohio. Madam Speaker, I think it is not only the corruption, and I think all of us here choose that word very carefully. I do not think that is the kind of word you just throw around here, because that is not right. But time after time after time, the White House, the White House, the procurement office, the FBI leaks, what we have here going on in the House, the Senate, we have a whole Martha Stewart scandal going on in the Senate. All of these things add up. At some point you have to use the "C" word because it keeps coming and coming and coming.

But the problem for the American people is that the corruption leads to incompetence and an inability to govern. This side has proven time and time again that they do not know how to govern in the United States of America.

You look at Hurricane Katrina, the economy, education, health care, gas prices, energy, pick a topic. It is incompetence, and they cannot handle the levers of government.

Madam Speaker, I welcome the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Madam Speaker, it is great to see that our ranks are expanding, in more ways than one in the 30-something Group, just a little ribbing to the gentleman from New Jersey (Mr. PALLONE).

We have been talking about this for the last couple of weeks, and it is almost hard to pick a jumping off point when it comes to the culture of corruption and cronyism that goes on here. I am the newest one of us, so I sort of have the freshest look. I was so hopeful when I came here 10 months ago that we would be able to come together in a spirit of bipartisanship and that of all types of investigations, of any investigation, that the investigation of the aftermath of Hurricane Katrina would be one that you would think would be a no-brainer as far as bipartisanship. It has to be similar to the 9/11 independent commission, and it is not just about that we need Democrats and Republicans. It is that we need no partisanship involved in the aftermath of Hurricane Katrina, the investigation of Hurricane Katrina.

The analogy we have been using on the floor is having a committee in the Congress that is lopsided in terms of partisanship and internal and not independent investigating Hurricane Katrina's aftermath would be like saying that the Enron executives or the Tyco executives should be allowed to investigate themselves and determine what happened and report back to the public or the Federal Government as to what happened.

I think that people would be pretty outraged if we allowed the Enron CEO to handle their own investigation.

Back in 1994, I was serving in the Florida House of Representatives with the gentleman from Florida (Mr. MEEK), and I remember when Mr. Gingrich took the floor repeatedly and pointed then to what he called an arrogance of power. I have to tell Members it did not take them very long to come full circle and be kings of the hill of that arrogance. They have literally defined the word.

We have reached a point now where what they pointed to that they said developed over 40 years, it only took them 10. So they have a much shorter learning curve than some of our predecessors. The cronyism and the corruption has got to stop. We could go through a long list of people hired who were totally unqualified for the positions they were appointed to. And then to add insult to injury, also engaged in corrupt activity during their tenure, one of whom, Mr. Safavian, was just arrested, just indicted, and he was in charge of procurement at the White House.

Mr. MEEK of Florida. Madam Speaker, there are a couple of articles that I want to enter into the CONGRESSIONAL RECORD because I think it is important. I think it is important for us to understand that this is just one day here in Washington, and I think it is important for Members to understand that we are not here at 11 p.m. at night talking about the Pallone, Wasserman Schultz, Ryan Report. This is actually happening. This is what is happening in our democracy. The 107th Congress, 108th Congress, and 109th Congress are going to be held responsible for what has happened with regard to the deficit, what has happened as it relates to a war where they embellished the reason for why we went to war.

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We are going to give this to the Clerk and make sure this appears in the CONGRESSIONAL RECORD: "Spy probe widens to cover aides to the White House service." This is as it relates to the outing of CIA agents and sharing information with foreign governments: "CIA Rejects Discipline for 9/11 Failures."

"Goss," who is the CIA Director, "cites fear of hurting the agency." That is also on the front page.

I am just going to go a little further on because this is too much to overlook and if we do not talk about it here in the Congress, then who will? "Ex-White House Aide Indicted" for lying to Federal investigators. This is serious stuff. It goes on. "GOP Divided Over Range of Severity of Spending Cuts."

I want to yield here for a second as we move along. We were on this floor supplemental after supplemental, borrowing to be able to pay for the war in Iraq. We all want to protect our men and women in uniform. I tell my colleagues I am first in line, and I am pretty sure many of us are. I know the gentleman from Ohio (Mr. RYAN) and I serve on the Committee on Armed Services. This is what we do every day: make sure that our troops are protected. But I can tell my colleagues right now, when it came down to giving money for chasing weapons of mass destruction that were not there, an imminent threat to the United States of America that was not there, but now it is an imminent threat due to the fact that it is the seed of terrorism right now. Individuals are going in there. They are going after Americans, and they are trying to fight against our troops that are there that were originally there for weapons of mass destruction, but that is another point. Now it comes down to making sure that we respond to Americans that have paid their taxes, that many of their children are at war right now either in Afghanistan or Iraq, that now the majority, the Republicans on the majority side, and not all of them, but I will say the individuals that are running the show on the other side, the leadership, they now want to say, well, we have to look at cuts and we have to off-balance some issues. Let us look at this. They are looking at cuts as it relates to things like Head Start, Title I, meals for poor children.

So we want to take from the poor to give to the poor in the light of being a fiscal conservative, and then at the same time, we have got billionaires, billionaires. No one is saying anything about them. No one is saying anything about the tax cuts for billionaires, not middle class tax cuts. There is no discussion on that on the majority side, and I think it is important that we highlight the hypocrisy in democracy.

There are about ten stories here, and I know folks can go to Washingtonpost.com. This is just one paper I picked up this morning. As it relates to the CIA chief, it goes on: On A–11, it talks about Porter Goss, and this is very interesting. The President said that we should have an internal investigation. Why do we need a 9/11 Commission? Okay. The internal investigation took place between Senator GRAHAM over on the other side, head of the Select Committee on Intelligence at that time, and Porter Goss, who is now the Director of the CIA, was head of the House Permanent Select Committee on Intelligence. Part of the charge for that was to look at individuals no matter what level and ask the Inspector General, and that is the individual that is outside of the CIA autonomy. People are not supposed to be able to reach him and touch him, not supposed to be able to intimidate him.

The Congress passed a bill saying he should investigate this, come back with findings, and if there is a breakdown in management or something that was overlooked, then those, no matter what level, should be held responsible. The Inspector General did his job. He came back with a report, and today or yesterday, the CIA Director, appointed by the President, said, oh, well, we are not going to do anything about that. We are not going to hold those individuals accountable. George Tenet, who was the Director of the CIA at the time of 9/11, also who won the Medal of Freedom from the President, that he will not be held responsible or anybody under him. So the CIA Director said he will see to it that that report stays secret even though, Mr. Speaker, Americans lost their lives. And that is the part that gets under my skin. I do not represent New York. The gentleman from New Jersey (Mr. PALLONE) represents some of the victims of 9/11.

Mr. PALLONE. Two hundred died.

Mr. MEEK of Florida. Two hundred died. His constituents died. And how dare the CIA Director or the President or the Congress sit by and watch this happen. All of those lives, firefighters, police officers, individuals who just said, I am going to work today, folks that have lost loved ones, we are going to say, oh, well, we passed legislation, but we are not willing to stand by it.

Mr. Speaker, I am saying this to make a point that this leadership and this administration, and there were Republicans, Democrats, Independents, even individuals who said, I am not voting because I do not care about the political process, there are individuals that died here and this is not dealing with the issue of, oh, well, they are a bunch of Democrats that died and

Democrats in the House are concerned about it.

There are a couple more stories here that I know the gentleman is going to talk about, but that is just section A of the Washington Post, and I am not even at the Federal section yet. But I want to make sure to highlight it for the Clerk so they can enter it into the CONGRESSIONAL RECORD. There are couple of other stories that I want to get to, to share with the Members, because I want to make sure that we are all paying attention to what is going on because, when all is said and historians look at the 109th Congress on who was doing what and who stood by and watched it happen, I want to make sure that people know that many of us in this Congress were on the side of saying that we were about doing the right thing, that we wanted to make sure that things happened.

Madam Speaker, I yield to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Madam Speaker, I know that the gentleman could have continued to the Federal page that has a few more articles like this, but I just wanted to highlight one on the Federal page that says, "Choice for Head of Wildlife Agency Provokes Dissent." Some people might say we are now talking about wildlife and fish and we are not talking about people, and I do not want to take away in any way from the comments that the gentleman from Florida made before because he was talking about the 9/11 Commission and the people who died at the World Trade Center. As I said, 200 from my district alone. But it is sort of ironic that this incompetence in terms of the officials that are appointed by the administration extends even to the Fish & Wildlife Agency. And I just want to highlight that. That is on page A25 of today's Washington Post. The gentleman from Florida pointed that out to me because I am the ranking member on the Fisheries and Oceans Subcommittee.

If I could just reference this, this says "This morning, the Senate Environment and Public Works Committee is likely to easily approve the nomination of Dale Hall, a regional director in the U.S. Fish & Wildlife Service, to head the agency, making the full Senate vote a formality." It says, "It's the kind of vote that makes environmentalists cringe. Hall, a 27-year Fish & Wildlife Service veteran, has infuriated wildlife activists, not to mention some of his staff, by not pushing more aggressively to protect threatened and endangered species."

The Members know we just had a vote on that, trying to gut the Endangered Species Act, but that is not even the issue. It says: In May, he told agency biologists they should rely on the genetic science available at the time of a species' listing when deciding whether to recommend new safeguards, even if that science dated back to the 1970s.

And they have some people who worked for him quoted here, saying, "He consistently tries to get the staff to change the science."

This is something that we have all the time with these incompetent people that are appointed to these agencies. They want to change the science. We cannot even rely on the science because they want to change it.

Mr. RYAN of Ohio. If they don't like the science, change the science.

Mr. PALLONE. Madam Speaker, I know that when we heard about Michael Brown, the head of FEMA, and everybody knows how incompetent he was and what he did in the aftermath of the hurricane, basically did nothing, made things even worse, I think people initially thought maybe he is an exception. But what we are finding every day is that this is what this Bush administration does. They are constantly appointing people who are not qualified to their positions.

Mr. RYAN of Ohio. Madam Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Madam Speaker, the gentleman is exactly right. They are not qualified. They are ideologues. And I want to share with my colleagues a couple quotes here. They are not competent to hold a position, but yet they hold an ideology that they want to implement. And I want to just share with my colleagues that a gentleman from Heritage Foundation says that conservatives at the Heritage Foundation and elsewhere have advocated regarding Katrina that any recovery package begin with the understanding that the liberal social welfare programs of the last century failed the poor in every imaginable way. He added that the unique circumstances created by Katrina are an unprecedented opportunity to push for radical change.

They want to implement their ideology, and they want to say that the social programs that the Democrats put in over the last 40 years somehow failed. What? Social Security that lifted 50 percent of the seniors out of poverty. Medicare that provided health care for seniors a failure?

Mr. PALLONE. Madam Speaker, if the gentleman will further yield, just quickly all I am saying really is these are decisions about public health and safety. I mean, that is what we found in the aftermath of Katrina. We are talking about public health and safety, people's lives. I just want to have qualified people making decisions about health and safety issues. That is not asking much. And I understand that the gentleman from California (Mr. WAXMAN), who is on my committee, who is the ranking member on the Committee on Government Reform, has actually introduced legislation to require all political appointees holding Federal public safety positions meet minimum requirements of expertise, leadership and achievement. And I think that is crucial. He is one of our leading Democrats, ranking member on the Committee on Government Reform. It just makes sense that if someone is appointed to a position where they are going to be making decisions about public health and safety, they have to have some expertise for that position. So far, the Republicans have been resisting that and are not willing to go along with the gentleman from California's (Mr. WAXMAN) proposal.

Mr. RYAN of Ohio. Save their political appointments for the ambassadorships with a lot of beachfront property. That is where they put their political people. And we understand that happens. Do not put them in charge of FEMA. Do not put them in a position where if they do not like the science, then change the science.

Mr. PALLONE. The Food and Drug Administration.

Mr. RYAN of Ohio. FDA? They have got to be kidding me.

Ms. WASSERMAN SCHULTZ. Madam Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Madam Speaker, what this boils down to is, it is about the three Cs: We have competence, cronyism and corruption. That is what this Chamber has become about. It is a question about their incompetence. There has clearly been corruption, and we have only to list the myriad of people who are in hot water at the executive branch level and, unfortunately, in this Chamber on the other side of the aisle. As much respect as we might have for our colleagues, we have an even greater respect for this institution, and, unfortunately, there are quite a number of people who forget their need to respect this institution.

And if it were not bad enough that we have a laundry list of people now who have been hired as cronies who were unqualified at the executive level for the position that they took on and then later engaged in corrupt activity, on top of that now just yesterday we hear a report that Special Operations forces were taught by individuals who have been determined to be in this country illegally, illegally, and who are now in the process of being deported. We have Special Operations forces who do not even like to acknowledge that they exist being taught foreign language by people who were found to have been in this country illegally, two from Indonesia and one from an African country.

Let us go further because I wish it stopped there. Just yesterday, we found that there is a spy apparently in the White House. I mean, a spy in the White House. I do not know. I am new. I am a freshman, and 9/11 was 4 years ago. I would think that by 2005, as 4 years has passed, the crackdown and effort that the administration and the Republican leadership here has been engaging in it to shore up our homeland security and make sure people feel safer, and security has been the issue. How in God's name do we have illegal immigrants from areas that one might question the motivation of some of the people and why they are here because certainly those nations that these illegal immigrants are from have had al Qaeda representatives come? We cannot make a blanket statement about it, but no question there have been problems with those countries.

Special Operations forces being taught by illegal immigrants and a spy in the White House, and we have cronyism that is running rampant at the executive branch level and ethical problem after ethical problem and indictments in this very institution. My God, if that does not cry out for a new direction and this country to be taken in a new direction, I do not know what does.

I came here and held up my right hand and swore to uphold the Constitution and the integrity of this institution, and I want to underscore the summary that the gentleman from the State of Illinois (Mr. EMANUEL) said the other day on a news program.

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The way he characterized what this institution has become is that the leadership in this institution has taken this institution from the People's House to the auction House, and there is no other way to describe it. That is the bottom line. And it is really sad.

Mr. MEEK of Florida. Madam Speaker, reclaiming my time, as the gentlewoman shows, it is beyond sad. Sad would be if we could not do anything about it, but we can, and the American people can do something about it. I will tell you right now, all that we are talking about here, and I will tell you, because we like to talk about solutions, we also like to point out the problem.

Time after time again, and the gentleman from New Jersey (Mr. PALLONE) is the Member who has been here the longest, from New Jersey, the fact is that Democrat amendments that have gone down on partisan lines to make sure we take care of the kind of oversight that the American people called for. Well, let us just say the Constitution calls for from this body. We have oversight and investigative powers that we are not exercising.

I think it is important, and I just want to make sure that we put on the record, I have asked the Congressional Research Service to go in and pull the number of Congressional subpoenas that went out in the Clinton administration versus the Bush administration.

I will tell you I personally, my chief and staff and others had to call the House Counsel's information to get this information, to allow the Congressional Research Service to go in, and the Congressional Research Service said, "Well, somebody said that it may be political."

No, it is just a history of the House. We did not call the GOP or the Democratic National Committee on this. If subpoenas went out under the Clinton administration, that is a matter of record. What is political about that?

Now, I will tell you, this is not a witch hunt or any kind of hunt you want to call it. It is the truth, and it is the fact that we cannot rely, and that is the reason why we need an independent commission to make sure that not only the act of God, when we watched television, it was the act of a lack of governance. It was an act of cronyism, of the Corps of Engineers stopping work after 37 years on a levee that they knew would be breached. And look, the American taxpayers now have to pick up $200 billion.

I will yield to the gentleman from Ohio (Mr. RYAN) to talk about his bill, because I think it is important that we get colleagues on the other side to come down and sign on it.

Before we do that, I want to make sure as we move through section A of the Washington Post, I feel that all of this should be enshrined, because I think it is important within the CONGRESSIONAL RECORD, which it will, that before the historians look at it, that the American people will have an opportunity to look at it and know that they have an option to bring about change in their government.

They deserve better. I am telling you right now, they deserve better. I know they do, and they know they do. This is national security. This is Americans we are talking about.

This is what I could not believe, Madam Speaker. "Pentagon Releases Repayments Rules." Now, we had a big discussion here on this floor about body armor and we went to war saying that we are prepared to go to war.

Well, that is what the generals and the four star guys were telling us in the Committee on Armed Services. "We got it covered, Congressman. Don't ask any questions. Either you are with us or with them. Don't ask us any questions." That is from Mr. Ashcroft over in the Senate, I must add.

Thank God for Senator DODD and many others here in this Congress that fought to make sure that our men and women had the body armor that they needed.

You would have some folks come to the floor and make you believe that they are the leaders on watching out for our men and women. It is not a partisan issue, it is an American issue, the fact we were talking about body armor, and the gentleman from Missouri (Mr. SKELTON), the ranking member on the Committee on Armed Services, I would say some folks on the majority side were concerned about the body armor. Men and women were dying because they did not have what they needed.

Guess what they did? They did what they are supposed to do. Moms, dads, uncles, brothers, sisters alike, sons and daughters, bought their loved one body armor, kevlar, to wear in Iraq and Afghanistan. They did so. Then we passed a bill saying they should be reimbursed, rightfully so, unfortunately after the fact, and some folks died.

The Congress called for, once again, the WashingtonPost.com, you go on and check it out yourself, it goes on, "The guidelines, from Undersecretary of Defense, David S.C. Chu, comes nearly a year after Congress passed legislation ordering," this is not asking, "ordering the Department of Defense to come up with the reimbursement policy. The law required that the Pentagon issue the rules by February 25 of this year." Not 2006, but 2005.

Here we are in October, in October, and because there were threats from Senator DODD and others in this Congress that they will do something drastic legislatively because they did not do it, these are families that still have not been reimbursed. These are Americans. These are Americans. These are not folks in a foreign land.

So when folks start getting upset about what we are talking about here on this floor, I can tell you something, I am glad that somebody fought for the opportunity for us to raise these issues, because this is beyond belief. Here in the United States, our own people. These are our people.

Now, I am just going to share this with the gentleman from New Jersey (Mr. PALLONE). This is not something as it relates to people saying, "Oh, you are being partisan." No, we are not being partisan. We are telling the truth. We are making sure Members know exactly what they are doing and not doing.

If you are a Member of the majority side and you want to see the kind of change that these men and women deserve, that these men and women deserve to get reimbursed for their body armor, that are financially challenged right now, that are paying too much for gas, that will pay over $1,000 for heating oil or LP gas, this winter, they need that money. And, guess what? You go on the DOD website, there is no mention of it. There is no mention of the fact where they can go on and find out how they can be reimbursed.

So, we are going to work on that. I tried to find that today. This is on behalf of the entire country.

Mr. PALLONE. Madam Speaker, if the gentleman will yield further, the gentleman did not get into the details because it is almost sickening to read. I just have to read this one thing in the article the gentleman is referencing where it says, "Last week Marine Sergeant Todd Bowers, whose parents bought him a high-tech rifle scope said that the extra piece of equipment saved his life, and that a $100 pair of goggles he bought saved his eyesight when he was shot by a sniper."

"If you need any proof that the Pentagon is once again coming up short, all you need to do is take a look at the list of reimbursable items, Senator DODD said. It does not include the gun scope that saved Todd Bowers' life."

It is shameful. I could cry, to be honest with you. I am not trying to be dramatic. But to think that the parents had to buy the equipment to save their son's life, and now the administration, Pentagon does not want it to be reimbursable, I just cringe when I read about it, when the gentleman brought this to my attention. It is a shameful thing.

Mr. RYAN of Ohio. Madam Speaker, if the gentleman will yield further, if I may add something, the shame of the whole matter is, it is about priorities. We have time to pass tax cuts through this Chamber that give billionaires and millionaires hundreds of thousands of dollars, billions of dollars for the oil industry, to pass a prescription drug bill that does nothing to contain costs, so it is a billions of dollars in giveaways to the pharmaceutical companies, and then the reality is, that money has to come from somewhere. So this kid does not have goggles and some average American has to go out and buy them.

People say, well, what is the government doing? You know what we are doing here? You know what the Republican leadership here is doing? They are giving billions of dollars in tax credits and subsidies to the oil industry. That is what they are doing. They are giving Warren Buffett and Bill Gates a tax cut. That is what they are doing.

Here is where we ask for the opportunity to lead the country. Democrats are asking the American people for an opportunity to lead this country, and say if your priority is for that kid to have the goggles he needs, that is the priority of the Democratic Party; in health care and education, that is the priority of the Democratic Party.

We want a chance to govern, because this outfit has dropped the ball.

Mr. MEEK of Florida. As we look at oversight and accountability, will the gentleman please talk about H.R. 3764?

Mr. RYAN of Ohio. This is the Democratic bill that establishes a congressional commission to examine Federal, State and local response to the devastation by Hurricane Katrina. It is an independent commission.

What we are doing, we want to ask the American people and other Members of Congress to support this and become a citizen cosponsor of this bill, at www.housedemocrats.gov/katrina. This is an opportunity for all Americans to participate in the movement to try to establish an independent commission. Get rid of the partisanship, get rid of the nonsense, let us get some real oversight here.

Mr. MEEK of Florida. Madam Speaker, reclaiming my time, I just want to say that we have a cosponsor form here for H.R. 3764 sitting here on the table. There is my pen. Anyone from the majority side, the Republicans, that want to get down to making sure that this never, ever happens again, that we do not have people dying because they did not have insulin, we do not have emergency responders not able to talk to one another because they do not have interoperability where they can talk to one other to save lives, and where we can save $200 billion hopefully in the future, because we could have saved New Orleans if we were on our job, our j-o-b, maybe, not maybe, this independent commission will point out, this independent commission, which the gentleman from Ohio (Mr. RYAN) pointed out before, it is a group of individuals that are outside of the Congress, like the 9/11 Commission, that will not be here in Congress to carry on about trying to cover up on behalf of the majority side. So we have this here.

Mr. RYAN of Ohio. If the gentleman will yield further, the reason we want to do this is because the record over the past few years has been simple: Everything that happened, everything that was told to us prior to the war, has not been true. No one has been held responsible for that at all. No oversight. We were told that the prescription drug bill was only going to cost $400 billion. We find out after it is $700 billion. No oversight, no one is held responsible for it. And on and on and on. The budget projections, the economy, gas, energy costs, everything, no oversight, no one is being held responsible, and we think that it is in the best interests of the American people to have an independent commission.

Mr. MEEK of Florida. Madam Speaker, I yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Madam Speaker, since the rule for the energy bill tomorrow was just filed, it seems a good place to jump off from, because I really hope that now that tomorrow we are going to be throwing the door, blowing the door wide open to more offshore oil drilling in the United States coastal regions, the gentleman from New Jersey represents the Jersey shore, I represent the eastern coastline, the gentleman represents the eastern coastline. Sorry, the gentleman from Ohio (Mr. RYAN) does not have much of a coastline.

But we have some deep, deep concerns that are going to be dealt with on the floor tomorrow where, for the first time, we are going to have the possibility of drilling much closer to the United States coastline in places that have been subject to a ban and moratoriums.

Given the track record, particularly recently, of competence, cronyism and corruption, I am hopeful that we are not going to see the giveaways that are in this bill tomorrow turn into what we have seen in terms of the three C's in the last several weeks and, quite honestly, in the last several years.

Mr. PALLONE. Madam Speaker, if the gentleman will yield further, I am glad the gentlewoman brought that up. I would say what we are seeing in this energy bill, and this is unfortunate thing, in the same way that Hurricanes Katrina and Rita became an opportunity for corruption and cronyism in the awarding of contracts by the Republicans, we are seeing it is also becoming an excuse to basically waive all environmental regulation, affirmative action, prevailing wage and the list goes on. The waiver of environmental regulations and the effort to basically gut environmental protections is unbelievable.

The gentlewoman mentioned the offshore oil drilling. But one of the other things that affects my State is the Clean Air Act provisions. In other words, in that bill, basically what the President and the Republican leadership have done is taken the opportunity to gut the Clean Air Act.

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They are essentially saying now that if an older plant that does not meet clean air restrictions under the current law wants to expand its capacity, that they can still expand the capacity using the older standards, which would allow a lot more air pollution to pollute the atmosphere.

So whether it is clean water, whether it is clean air, whatever it happens to be, they are using the hurricane rather than it being an opportunity, as we have suggested, to try to rebuild and give people a new opportunity in life to rebuild their lives, it is being used as an excuse to basically run roughshod over all kinds of existing protections, whether they be affirmative action, environmental protection, whatever.

Again, it is cronyism, because if I can take a power plant and I can expand it and pollute the atmosphere and save money that way, it is just another giveaway, if you will, to their friends, their special interests in the utility business.

Ms. WASSERMAN SCHULTZ. Madam Speaker, tomorrow they will be trying to create the mythology for the American people that this is going to do something to reduce gas prices.

Mr. PALLONE. And it will not. There is not anything in it.

Ms. WASSERMAN SCHULTZ. There is not a single item in this bill that will reduce gas prices, not tomorrow, not next Tuesday, not 3 weeks from now will one penny get cut off a gallon of gas as a result of this bill.

What will happen is it will put more money in the pockets of the people who make money off the energy industry; we are going to waive the Clean Air Act provisions; it limits FTC penalties for price gouging; and it is almost completely impossible to increase refining capacity. There is a taxpayer subsidy for oil companies. These are the provisions in this bill. There is a giveaway of Federal lands in this bill. Madam Speaker, it is unbelievable. We just did this 7 weeks ago, and now we are going to give them more. I mean, where does it stop?

We have an alternative. I say to the gentleman from Florida (Mr. MEEK), if the gentleman would like to outline some of the provisions in it.

Mr. MEEK of Florida. Madam Speaker, I want the gentlewoman to do that, but I also want to point out, being on the Committee on Armed Services, some of the other issues that are in this bill. It is very unfortunate. I am not going to be one to talk about the oil companies and special interests and the lobbyists and the K Street project and all of that, because guess what? The American people elected a Congress to protect them from greed, from doing it because we can. And we just passed, the majority did, an energy bill 7 months ago, but they are doing it on the backs of individuals of devastation, communities that are not in place to be able to come to Congress and lobby against this kind of action.

This is what is happening within this bill, I say to my colleagues. We just went through a BRAC process, military base closures. If they close, that means that the government can give this land to oil companies to go in and drill. Local communities have plans for military bases to help their economy, to be able to do the things that they want to do, because it is within their community.

Here is the kicker in this whole thing. There are a number of kickers. You can get kicked to death under this bill. If an oil company was to move in and contaminate or do something to harm the public, if the mayor of that city or county or parish or State were to bring a lawsuit against the oil company, and they were to lose, they would have to pay the oil companies' legal fees. Now, on the other side of the coin, if the local community, parish, county, State was to file a lawsuit against an oil company for not carrying out their environmental duties or whatever the case may be, put their constituents in harm's way, and they were to win, the oil companies, by Federal law, if this passed tomorrow, if the majority has their way, do not have to reimburse the local government for their legal fees.

So here is the U.S. Congress majority that is going to stand on the side of industry to say, we are on your side versus we are on the local mayor, the parish, the county commissioner, or the State government's side, the side of the taxpayers, and that are the individuals who elected us to come to Congress.

Madam Speaker, I warned my friends on the Majority side, I warned them. Because tomorrow we have 5 hours of debate and around 2 or 3 o'clock, we are going to be here on this floor and we are going to see the followers versus the leaders. On this side, we are going to lead because we are going to have an alternative amendment that is not going to have any of that language in there that is going to be able to bring gas prices down, that is going to be able to deal with our issues of conserving energy and things of that nature.

So I think it is important that we realize, and I want to warn the Members, unfortunately, if you keep voting for what they tell you to vote for on the Republican leadership side, you will find yourselves making a career decision, bottom line. Because I think the American people are fed up with this stuff here in Washington, DC. We are trying to do what we can. Someone may say, well, why are you all on the Floor arguing. The gentleman from New Jersey has talked about what Senator DODD has done. The reason why the Department of Defense wrote those rules several months later after the congressional deadline was the fact that a Democrat raised the issue and threatened them, that he will take it to the next level, and that is the reason why they did it. They did not do it because they were supposed to by law or that it was the right thing to do; they did it because they came under pressure.

I am telling my colleagues that we are within our right to put the pressure on, put it on the RECORD, and we will be here every opportunity that these lights are on to talk about what is not happening and what we are trying to do, and the reason why we cannot do it because we are in the minority. If the Republican Conference betters itself and it starts to get leadership that is going to lead on behalf of the American people, then God bless them, but I can tell my colleagues right now for the last 10 years, that has not happened. It has not happened. That is the reason why. It can be a Republican parish, it can be a Republican mayor, it can be a Republican governor, if you bring suit against this industry, which is what they are bringing to the Floor tomorrow on the Majority side, you are going to find yourself paying legal fees if you are not successful. That is to intimidate local communities for not bringing suit against individuals that violate environmental law. That is what that is about.

Ms. WASSERMAN SCHULTZ. Madam Speaker, if my colleagues do not mind me jumping in here, lest people think that we are just on the Floor here pointing fingers and only being critical, we have our own alternative proposal, the democratic alternative to the energy bill tomorrow.

People might think that we as Members of Congress are somehow different than our constituents. I am just a minivan mom. I do not drive a big old SUV; I drive a mini van. I wish I could drive a car that was smaller, but I have 3 little kids who have to be strapped into a car seat. I have 6-year-old twins and a 2-year-old baby girl and I, like most moms, do not have much of an alternative in terms of making sure I have a car that is safe, that is big enough to haul them and all their soccer stuff and Brownie stuff and baseball stuff, just all their stuff. That is what parents across this country deal with every single day.

Last week and the week before and the week before that, I paid $45 to $50 to fill up my tank. Whenever I end up spending $45 to $50 on anything, I swallow hard. When you have to do that once a week, there is a problem. We make an okay income as Members of Congress. Think about the people who are struggling paycheck to paycheck.

Tomorrow on this floor, we are going to offer a real alternative to the energy bill. We are going to offer an alternative that puts some bark into the Federal Trade Commission's bite. We are going to give explicit authority to the FTC to define, for the first time, price gouging and what it is and how to penalize for it and make sure that there are factors that can be determined. We are going to make sure that everybody in the supply chain, including home heating fuels, deals with price gouging measures. We are going to make sure that it is not just one end of the chain, the energy chain, but the whole thing. We are going to establish a strategic refinery reserve. Our substitute would increase our Nation's refinery capacity by establishing a strategic refinery reserve.

Madam Speaker, we are taking real steps in our proposed alternative tomorrow which, of course, is not going to pass because the Republicans much prefer their industry-laden benefits package, which is the best way to describe this bill.

Mr. RYAN of Ohio. Pork.

Ms. WASSERMAN SCHULTZ. Pork. We will substitute any appropriate word. We have to make sure that we provide some real relief to the minivan moms and dads across this country.

Mr. MEEK of Florida. Madam Speaker, we understand the majority has about 10 minutes. We are going to come back another 10 minutes after the Majority side; we will have 10 minutes after that, and I think the gentleman from Ohio (Mr. RYAN) is going to be sponsoring that. We have a couple more minutes and we are going to turn it over to the gentleman from Ohio (Mr. RYAN).

But first, let me just say this real quickly. the articles that we talked about tonight, and this is just one publication. Washingtonpost.com. If you want to figure out how you can be a cosponsor on House bill 3764, that is housedemocrats.gov/katrina, you can go on-line and become a cosponsor of that legislation as a citizen to be able to push the drive for us to make sure that Americans never, ever have to go through the lack of response that they have received. and that is for Federal. State and local.

The SPEAKER pro tempore (Mrs. SCHMIDT). The gentleman's time has expired.

Mr. MEEK of Florida. We will give it out next time.

CIA Rejects Discipline for 9/11 Failures

GOSS CITES FEAR OF HURTING AGENCY

(By Dafna Linzer and Walter Pincus)

The CIA will not seek to hold any current or former agency officials, including ex-director George J. Tenet, responsible for failures leading up to the Sept. 11, 2001 attacks, CIA Director Porter J. Goss said yesterday, despite a recommendation by the agency's inspector general that he convene an "accountability board" to judge their performance.

Goss's decision. coming. four years after hijackers commandeered four jets and killed nearly 3,000 people, appeared to end possibility that a high-level official will be held responsible for what several investigations found to be significant failures throughout the government. The inspectors general of the departments of State, Justice and Defense completed their own investigations without publicized disciplinary actions taken against anyone.

The CIA's report, which severely criticized actions of senior officers, will remain classified, Goss said in his announcement, which was welcomed by some former officials mentioned in the document but assailed by families of victims of the attacks.

Goss said in his statement that the voluminous report by the CIA Inspector General John L. Helgerson, "unveiled no mysteries," and that making it public would only bring harm to the agency when it it trying to rebuild. Goss said that the report in no way suggest "that any one person or group of people could have prevented 9/11.

"Of the officer named in the report," he said, "about half have retired from the Agency. and those who are still with us are amongst the finest we have."

Goss had supported an internal CIA review in December 2002, while he was chairman of the House intelligence committee. The CIA report, which was mostly completed in February, is the last known government inquiry on the counterterrorism failures ahead of the attacks and has been the most secretive.

It also had the potential to pit Goss against his own agency. Convening a review board could have embarrassed his predecessors and renewed questions over, President Bush's decision to award Tenet the Presidential Medal of Freedom.

I think it is utterly reprehensible for Director Goss to be hinting towards not holding anyone accountable, particularly since he was in an oversight capacity as house chairman and is now in a position to atone for his own failures," said Kristin Breitweiser, whose husband, Ron, was killed at the World Trade Center. "He is either avoiding embarrassment or trying to hide something."

More than a dozen intelligence officials, including Tenet; his former director of operations, James L. Pavitt; and J. Cofer Black, former head of the counterterrorism center, are faulted in the CIA report, said officials who have read the classified findings. Tenet vigorously disputed the findings, arguing that he and his officers had done more than anyone else in the intelligence community to warn about al Qaeda.

The report also names some current undercover operatives working in the counterterrorism center. Officials had said exposing them to public criticism would harm their work and the agency during a time of war.

Tenet had no comment yesterday. Pavitt said he was relieved. "He did what was right for the institution and its people, and for their work," Pavitt said of Goss.

Goss's former congressional colleagues, who have urged that the report be declassified, reacted coolly to his decision to forgo accountability reviews. They said Goss and John D. Negroponte, the director of national intelligence, will be summoned to appear before the Senate intelligence committee to answers questions this month.

"I am concerned to learn of the Director's decision to forego this step in the process," Sen. Pat Roberts, (R-Kan.) said in a statement. "However, I spoke with Director Goss and Negroponte earlier today and they both strongly believe that this is the correct course of action. "

The CIA's internal report was done in a response to a recommendation of the House-Senate committee that looked into the attacks. The committee called on the CIA's inspector general to conduct an investigation "to determine whether and to what extent personnel at all levels should be held accountable any omission, commission or failure to meet professional standards" to prevent or disrupt the attacks.

Based on these findings, the CIA director was to take "appropriate disciplinary or other action," with the result to be passed on to the President and the House and Senate intelligence committees.

But Goss declined. He noted that before Sept. 11, when he was chairman of the House intelligence panel, the CIA suffered from cutbacks and reduced budgets. "Stars" were singled out and asked "to take on some tough assignments," he said, "Unfortunately, time and resources were not on their side, despite their best efforts to meet unprecedented challenges.

"Risk is a critical part of the intelligence business. Singling out these individuals would send the wrong message to our junior officers about taking risks—whether it be in operation in the field or being assigned to a hot topic at headquarters," he said.

Citing classified information about intelligence sources and methods, Goss said the report should not be made public.

Rep. Jane Harman (Calif.) the ranking Democrat on the House intelligence panel, said she will work to get some elements declassified and said Goss has a responsibility to "persuade the public that he has dealt fairly with his agency's past mistakes."

Ex-White House Aide Indicted in Abramoff Case

(By Thomas B. Edsall)

David H. Safavian, former chief of White House procurement policy; was indicted yesterday on five counts of lying about his dealings with former Republican lobbyist Jack Abramoff and impeding a Senate investigation of him.

The indictment accuses Safavian, who previously served as former chief of staff for the General Services Administration, of falsely telling GSA officials that Abramoff had no dealings with the agency at a time in 2002, the government alleges, that Abramoff was seeking to obtain use of two GSA properties with Safavian's assistance.

It also accuses Safavian of repeatedly making false statements to investigators about a golf trip he took with Abramoff to Scotland the same year. GSA ethics rules prohibited receiving gifts from anyone seeking an official action by the agency.

Safavian was arrested Sept. 19 on the similar charges, the first criminal allegations levied in the ongoing corruption investigation of Abramoff's activities in Washington. Safavian had resigned as top administrator at the federal procurement office in the White House Office of Management and Budget three days earlier.

The indictment alleges that "from May 16, 2002 until January 2004, Safavian made false statements and obstructed investigations into his relationship with a Washington, D.C., lobbyist," who has been identified as Abramoff. The indictment refers to him only as "Lobbyist A."

Safavian's attorney, Barbara Van Gelder, said the charges are "an attempt to prove guilt by association." She said, "If this case did not involve Mr. Abramoff, the government would never have indicted Mr. Safavian on these charges."

Van Gelder said Safavian "will plead not guilty, and he will request a speedy trial." She added, "We believe that after all the evidence is aired, Mr. Safavian will be acquitted of all charges."

Abramoff has been indicted in Florida on bank fraud charges, and is under investigation in connection with at least $82 million, he and an associate received from Indian tribes that operate gambling casinos, and for fees from other clients.

Federal investigators are known to be looking at trips to Scotland that Abramoff arranged for members of Congress and others, including former House majority leader Tom DeLay (R-Tex.) and House Administration Committee Chairman Robert W. Ney (R-Ohio) and Ralph Reed, former executive director of the Christian Coalition and now a candidate for lieutenant governor in Georgia.

Safavian, Ney and Reed all went on the 2002 trip to Scotland, which cost an estimated $100,000.

If convicted, Safavian, who worked as a lobbyist with Abramoff in the 1990s, faces a maximum sentence of five years in prison and a $250,000 fine on each of the counts.

Pentagon Releases Repayment Rules

TROOPS WHO BOUGHT PROTECTIVE GEAR NOW MAY REQUEST REIMBURSEMENT

Under pressure from Congress, the Pentagon issued overdue regulations yesterday for reimbursing troops in Iraq and Afghanistan for body armor and other gear they bought to protect themselves.

The program, which is effective immediately, would allow reimbursement for combat helmets, ballistic eye protection, hydration systems and tactical vests, including a variety of body armor inserts to protect the throat, groin and collar.

The guidelines, from Undersecretary Of Defense David S.C. Chu, come nearly a year after Congress passed legislation ordering the reimbursement policy. That law required the Pentagon to issue the rule by Feb. 25 of this year.

Under the guidelines, reimbursement for each individual item cannot exceed $1,100, and the items become government property and must be turned over to the Defense Department, unless they are destroyed or no longer usable. The purchase must have been between Sept. 10, 2001, and Aug. 1, 2004, and the soldier must not have been issued equivalent government equipment.

Senators, unhappy with the Pentagon's slow progress, approved an amendment to a defense spending bill yesterday that, would further expand the program. The measure would also take the money decision out of the hands of Defense Secretary Donald H. Rumsfeld and give control to military unit commanders in the field.

Condemning the new program as too little, too late, Sen. Christopher J. Dodd (D-Conn.) said the Pentagon's list is too restrictive and does not include critical safety equipment such as gun scopes, additional Humvee armor and radios.

"The Pentagon's leadership has done everything in its power to stop this measure from being implemented," Dodd said. "Why should they stop now?"

Last week, Marine Sgt. Todd Bowers, whose parents bought him a high-tech rifle scope, said that the extra piece of equipment saved his life, and that a $100 pair of goggles he bought saved his eyesight when he was shot by a sniper.

"If you need any proof that [the Pentagon] is once again coming up short, all you need to do is take a look at the list of reimbursable items," Dodd said. "It does not include the gun scope that saved Todd Bowers's life."

The chairman of the Senate Armed Services Committee, John W. Warner (R-Va.), urged support for Dodd's amendment. But Warner asked that lawmakers work together to set a new end date for the program, possibly in 2006. The amendment passed by a voice vote.

Pentagon officials have opposed the reimbursement idea, calling it "an unmanageable precedent that will saddle the DOD with an open-ended financial burden."

In his memo, Chu said that the secretaries of the military services may request that other equipment be added to the list.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3893, GASOLINE FOR AMERICA'S SECURITY ACT OF 2005

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules (during the special order of Mr. MEEK of Florida) submitted a privileged report (Rept. No. 109–245) on the resolution (H. Res. 481) providing for consideration of the bill (H.R. 3893) to expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes, which was referred to the House Calendar and ordered to be printed.

DEFENSE INTELLIGENCE AGENCY USING FALSE CLAIMS TO SILENCE COLONEL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Pennsylvania (Mr. WELDON) is recognized for half the remaining time until midnight.

Mr. WELDON of Pennsylvania. Madam Speaker, I rise this evening for this short Special Order to express my personal outrage regarding the treatment of some brave military personnel who simply are trying to tell the truth.

Madam Speaker, over the past 3 months, I have outlined for our colleagues evidence that came from military officers that we had knowledge of Mohammed Atta and al Qaeda prior to September 11 and the attack against us in New York City. This information came about from a top secret program known as "Able Danger" which was a program that was developed by Special Forces Command as a planning process to deal with al Qaeda cells.

The military officers involved with this program identified 5 specific cells around the world, one of which was a Brooklyn cell, and this Brooklyn cell, one year before 9/11; in fact, in January and February of 2000, actually identified Mohammed Atta, 3 of the other terrorists that were involved in the 9/11 attack, and identified this in a chart that was produced as a part of their planning process.

Furthermore, Madam Speaker, these military officers have testified, and will testify under oath, that in September of 2000, one year before September 11, they made 3 attempts to transfer information regarding the Brooklyn cell and Mohammed Atta to the FBI. An FBI employee has again agreed to testify under oath that she arranged the 3 meetings and agreed to set up for the FBI the opportunity to receive this data. All 3 meetings were canceled by lawyers within the previous administration, the Clinton administration.

We still do not know who gave the ultimate order or why those meetings were canceled, but we do know that in September of 2000, attempts to transfer information regarding al Qaeda, the Brooklyn cell, and Mohammed Atta were thwarted.

This information was presented to the 9/11 Commission in an effort to provide a clear and concise analysis of what happened prior to 9/11. On 2 separate occasions, a Lieutenant Colonel from the Army, Anthony Shaffer and a commander from the Navy, Scott Philpott, offered to provide information to the 9/11 Commission that they, in fact, were involved with Able Danger and that they identified Mohammed Atta prior to 9/11.

Colonel Shaffer, who was promoted during the past year, during a time in which his security clearance had been temporarily lifted by the Defense Intelligence Agency, has been the subject of gross and outrageous harassment. I have been on the Committee on Armed Services for 19 years, and my job as a member of that committee has been to support our military personnel when they are assigned overseas or when they are at home during their training and other operations. As I mentioned to Secretary Rumsfeld in a hearing last Thursday, a full committee hearing, I have supported every major reform that he has put forth over the past several years regarding our military, the way our military operates, and the way the Pentagon is organized.

Madam Speaker, Secretary Rumsfeld has repeatedly told us that his top priority is the morale and the welfare of our troops. The commander of the Joint Chiefs of Staff, both the recent and now the current Chairman of the Joint Chiefs of Staff, repeatedly tell us their top priority is the protection of our military personnel in uniform. And now, we find out that Lieutenant Colonel Anthony Shaffer, a Bronze Star recipient, 23-year veteran of military intelligence, serving in Afghanistan, embedded with our troops in harm's way, has had gross distortions and absolute outrageous claims made against him publicly by the Defense Intelligence Agency as a way to silence him.

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Lieutenant Colonel Shaffer has been prohibited from talking to Members of Congress. He has been stopped from testifying before the Senate Judiciary Committee in spite of the fact that five senators from both parties were present at a hearing 2 weeks ago. Lieutenant Shaffer was in the room. Lieutenant Colonel Shaffer was in the room, yet he was not permitted to testify. His lawyer, in fact, made statements for him.

But in an attempt to totally discredit Lieutenant Colonel Shaffer, in an attempt to try to diminish his credibility before the American people and the Congress, the Defense Intelligence Agency has resorted to a new set of lows in terms of the credibility of our American military. And no, Madam Speaker, I do not think this action by the Defense Intelligence Agency has been brought forward by uniformed military personnel. It has been brought forward by the bureaucrats, the sort of bureaucrats who linger from one administration to the other and who have the embarrassment of having to understand what Lieutenant Colonel Shaffer and commander Scott Philpott did in warning us, attempting to warn us about the 9/11 attacks.

The Defense Intelligence Agency, 1 day before Lieutenant Colonel Shaffer was to testify before the Senate Judiciary Committee, permanently pulled his security clearance, and the reasons they gave, Madam Speaker, were outrageous. They are scandalous. They said that he had forwarded phone calls on his cell phone while being deployed in Afghanistan for a total cost of approximately $67. They said that he had received mileage and toll fees improperly for attending a military conference at Fort Dix, New Jersey, which anyone in this body would say he was eligible to attend. $341. They said that he, in fact, received an award for which he was not entitled, even though his superior officers nominated him for that award. But in one of the most despicable acts I have ever seen a Federal agency involve itself in in 19 years, they said on the record that Lieutenant Colonel Anthony Shaffer stole pens from the U.S. government.

Now, what they did not say, Madam Speaker, was that Lieutenant Colonel Shaffer, when he was 15 or 16 years old, as the son of an officer assigned to one of our embassies, admitted to stealing some pens which he gave to some disadvantaged people. Now, clearly, when he was 15 or 16, he was not working for the military. He was not a military intelligence officer. He was yet to take his lie detector test for admission into that category, and he admitted all of this. But in this current effort to try to discredit Lieutenant Colonel Anthony Shaffer, the Defense Intelligence Agency went to the outrageous length of publicly acknowledging that Lieutenant Colonel Shaffer had stolen pens and failing to mention how old he was when the theft took place, that he publicly admitted himself before being employed by the military.

Madam Speaker, we have a major problem in America. Sandy Berger, our National Security Advisor, stole documents from the National Archives, stole documents and put them in his clothing and took them out because they would incriminate him and President Clinton about what they knew before 9/11. He stole them. He placed them inside of his coat, in his pants, in his shoes, and he took those documents out of the National Archives because he did not want the 9/11 Commission to see what was in there. When he was caught, and finally brought to justice, his security clearance was lifted for 3 years.

Lieutenant Colonel Anthony Shaffer simply told the truth and because Defense intelligence bureaucrats are unhappy about being embarrassed they have removed his security clearance permanently. Is that what America is about, Madam Speaker? Is it about protecting a national security advisor who steals classified documents from the archives of the United States about what happened before 9/11 and gets a 3-year lift of his clearance, and a uniformed military officer who simply tells the truth has his security clearance permanently lifted?

Madam Speaker, if we do not right this wrong that will send and is sending a signal to every uniformed officer in America, if you tell the truth and if that truth embarrasses a bureaucrat or a political appointee, you are more expendable than the civilian officer, and that cannot stand. We must do better. Anthony Shaffer deserves justice.

TOM DELAY'S HOUSE OF SHAME

The SPEAKER pro tempore (Mrs. SCHMIDT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. RYAN) is recognized for the remaining time until midnight.

Mr. RYAN of Ohio. Madam Speaker, I appreciate the opportunity for us to just grab a few more minutes here and finish up, the 30-something working group that we have here, and we want to kind of end the conversation tonight talking a little bit about a recent periodical that we like to call Newsweek. It is about the power outage. And we have mentioned a couple of words here tonight, competence or lack thereof, and cronyism.

Now, we like, at the 30-something working group, to get third party validators. And here on the cover of Newsweek, GOP, a mounting crisis of competence and cronyism, which I think is exactly what we have been talking about here tonight.

Madam Speaker, I would like to submit for the RECORD an article here, Tom DeLay's House of Shame, by Jonathan Alter.

Before yielding to the gentleman, I would like to just share a little bit a couple of the quotes. I want to share a couple of quotes from this article today or this week. This gentleman is saying, Mr. Alter is saying that historians will regard this as the single most corrupt decade in the long and colorful history of the House of Representatives. That is pretty sad. And that Congress has always had its share of extremists, but the DeLay era is the first time the fringe has ever been in charge. And when we talked about Katrina, we talked about trying to implement this extremist agenda, regardless of what the circumstances are, and using Katrina as an opportunity to implement this agenda. I want to just share one more quote before we open it up here of what then House majority leader Mr. DELAY said after the hurricanes, and I quote, that Katrina and Rita "introduced a valuable forum to promote the triumph of our ideas and solutions for government over the crumbling and outdated policies of the Democratic controlled Congress of past decades." The crumbling or the triumph of our ideas. Triumph of our ideas. I mean, let's just look at where we are right now. Triumph of the Republican ideas? What? Increased poverty? Stagnant wages? Health care going up by 15 to 20 percent a year? Pharmaceutical costs going up by 20 percent a year. What triumph of ideas?

Ms. WASSERMAN SCHULTZ. Do not forget the deficit.

Mr. RYAN of Ohio. A deficit, $500 billion? Now that is not even factoring in the war, a war that we got ram-rodded into, lied into. Is that the great triumph of ideas?

Mr. MEEK of Florida. Mr. RYAN, where are we getting the money from?

Mr. RYAN of Ohio. We are borrowing it from China. We do not even have the money.

Mr. MEEK of Florida. Saudi Arabia, too. Do not leave them out.

Mr. RYAN of Ohio. And how many years the majority said about the Democratic controlled Congress tax and spend, tax and spend, tax and spend. Well, the last 10 years and the last 5 years in particular, borrow and spend. We are borrowing the money from China, Japan, Saudi Arabia, a lot of people who do not have really friendly interests with the United States of America. And the problem is, we have got to pay interest on the money we are borrowing. Reckless fiscal policy, incompetence, corruption, cronyism, time and time and time again.

TOM DELAY'S HOUSE OF SHAME

(By Jonathan Alter)

A decade ago, I paid a call on Tom Delay in his Ornate office in the Capitol. I had heard a rumor about him that I figured could not possibly be true. The rumor was that after the GOP took control of the House that Year, DeLay had begun keeping a little black book with the names of Washington lobbyists who wanted to come see him. If the lobbyists were not Republicans and contributors to his power base, they didn't get into "the people's House." DeLay not only confirmed the story, he showed me the book. His time was limited, DeLay explained with a genial smile. Why should he open his door to people who were not on the team?

Thus began what historians will regard as the single most corrupt decade in the long and colorful history of the House of Representatives. Come on, you say. How about all those years when congressmen accepted cash in the House chamber and then staggered onto the floor drunk? Yes, special interests have bought off members of Congress at least since Daniel Webster took his seat while on the payroll of a bank. And yes, Congress over the years has seen dozens of sex scandals and dozens of members brought low by financial improprieties. But never before has the leadership of the House been hijacked by a small band of extremists bent on building a ruthless shakedown machine, lining the pockets of their richest constituents and rolling back popular protections for ordinary people. These folks borrow like banana republics and spend like Tip O'Neill on speed.

I have no idea if DeLay has technically broken the law. What interests me is how this moderate, evenly divided nation came to be ruled on at least one side of Capitol Hill by a zealot. This is a man who calls the Environmental Protection Agency "the Gestapo of government" and favors repealing the Clean Air Act because "it's never been proven that air toxins are hazardous to people"; who insists repeatedly that judges on the other side of issues "need to be intimidated" and rejects the idea of a separation of church and state; who claims there are not parents trying to raise families on the minimum wage—that "fortunately, such families no not exist" (at least Newt Gingrich was intrigued by the challenges of poverty); who once said: "A woman can't take care of the family. It takes a man to provide structure." I could go on all day. Congress has always had its share of extremists. But the DeLay era is the first time the fringe has ever been in charge.

The only comparison to DeLay & Co. might be the Radical Republicans of the 1860s. But the 19th-century Radical Republican agenda was to integrate and remake the South. The 21st-century Radical Republican agenda is to enact the wish list of the tobacco and gun lobbies, repeal health and safety regulations and spend billions on shameless pork-barrel projects to keep the GOP at the trough. Another analogy is to Republican Speaker Joe Cannon, who ran the House with an iron fist a century ago. But Cannon had to contend with Progressive Republicans who eventually stripped him of his power. DeLay's ruling radical conservative claque remains united, at least for now.

Comparisons with fellow Texan Sam Rayburn fall short, too. Rayburn was respected on both sides of the aisle for his rock-solid integrity. He and most other House speakers carefully balanced their support for corporate interests like the oil depletion allowance with at least some sense of public good. And they had to share much of their power with committee chairmen. Today, seniority is much less important. Chairmen are term-limited (six years) or tossed if they displease DeLay. And this crowd views "the public interest" as strictly for liberal pantywaists.

How have they succeeded? A new book "Off Center: The Republican Revolution and the Erosion of American Democracy," by Jacob S. Hacker and Paul Pierson, explains how the GOP is simply better than the Democratic Party at the basic blocking and tackling of politics, including the exploitation of cultural and religious issues. The authors argue that even if DeLay goes down, the zealotry and corporate shilling will continue as long as the GOP controls the House. Consider DeLay's temporary replacement, Missouri Rep. Roy Blunt. The Washington Post reported last week that Blunt is respected by Republican members in part because he has "strong ties to the Washington lobbying community." That's a qualification for office?

The only reason the House hasn't done even more damage is that the Senate often sands down the most noxious ideas, making the bills merely bad, not disastrous. What next for the House of Shame? If DeLay's acquitted, he'll be back in power. If he's convicted, his protégés will continue his work. Reform efforts by fiscal conservatives determined to curb their borrow-and-spend colleagues are probably doomed. The only way to get rid of the termites eating away the people's House is to stamp them out at the next election.

Mr. RYAN of Ohio. I would be happy to yield to the gentlewoman from Florida (Ms. Wasserman Schultz).

Ms. WASSERMAN SCHULTZ. Madam Speaker, and yet they are still, in the aftermath of Katrina, in the aftermath of Rita, with ballooning deficits and horrific corruption and cronyism, still talking about tax cuts, making the tax cuts permanent. They are still talking about budget reconciliation, which is Washington speak for cuts. They are still talking about not providing what people in this country, in the middle, in the middle, the average hardworking American needs.

You know, the gentleman from Ohio (Mr. Ryan) is absolutely right. It is the fringe that has been governing this institution, and this country for the last 10 years. Most of us are mainstream. Most people consider themselves very middle of the road, moderate, not left, not right, just middle of the road, and they want the course to generally be steering in an almost straight path, not veering in one direction or another, and most definitely, not favoring one group over another. This leadership has clearly favored the privileged, and it is not like, there is no question about that; that is documented fact. The privileged, they are first in line to get theirs. And you know, if we can throw some crumbs to the people who are average everyday Americans, then you know that is fine, too.

But we have got to make sure that we get back to the competence that we need to run this government. We have to rid this government of the cronyism and the corruption, and we have got to restore the fourth C which is the American people's confidence.

Mr. MEEK of Florida. I have had very little to say in this condensed time that we have. I think it is important for us to make sure that folks are not just. Members are not just watching thinking that we are going, just coming out of the sky with this stuff. We gave it at the WashingtonPost.com. We also said, if you wanted to cosponsor on House Resolution 3764, which is a bill that we have put forth to be about the solution, making sure that we can head off a lack of governance, not paying attention to the things that we need to pay attention to.

One thing about Katrina, Madam Speaker, and Rita was the fact that we are not ready to respond to a catastrophic event here in the United States. And I can tell you that our military is ready, but the question is, are our American leaders ready to respond? Do we have what we need to have in place as it relates to the management?

And if you want to cosign on this independent commission, that I must say to the gentleman from Ohio (Mr. Ryan) that we talked about before, 81 percent of the polls show that Americans want to see an independent commission, you can sign on to this bill just as a regular U.S. citizen, HouseDemocrats.gov/Katrina.

With that, I say to the gentleman from Ohio (Mr. Ryan) that we have a lot of work here to do. No one is saying that anyone is guilty or whatever the case may be because we know that there will be a court of law that that will take plays and on behalf of the institution, I hope all works well as it relates to democracy prevailing.

But I will tell you that it is important, and it is embarrassing to be a Member of the 109th Congress with this cloud over this institution. And people are going to look at, they do not care. They look at you as a Member of the House, not as a Democrat or a Republican or the one independent that we have here in this House. They look at us as stewards of this democracy that people have died for us to have the opportunity.

And I yield back to the gentleman from Ohio (Mr. Ryan).

Mr. RYAN of Ohio. Well, I am just going to wrap up here in the final, unless the gentlewoman has any final comments.

Ms. WASSERMAN SCHULTZ. No, I was just going to suggest that you give out the website. And we always encourage people who watch us each week to contact us, give us your thoughts and opinions and please let Members know.

Mr. RYAN of Ohio. It is a little late tonight. If you are still up, 30somethingdems@mail.House.gov. Send us some e-mails. We have been getting some really great ones, and a lot of them lately.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Delahunt (at the request of Ms. Pelosi) for today and October 7.

Mr. Crowley (at the request of Ms. Pelosi) for today.

Mr. Poe (at the request of Mr. Blunt) for today after 2:00 p.m. on account of business in his district.

Mr. Royce (at the request of Mr. Blunt) for today and October 7 on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Pallone) to revise and extend their remarks and include extraneous material:)

Ms. Kaptur, for 5 minutes, today.

Mr. Schiff, for 5 minutes, today.

Ms. Woolsey, for 5 minutes, today.

Mr. DeFazio, for 5 minutes, today.

Mr. Brown of Ohio, for 5 minutes, today.

Mr. Emanuel, for 5 minutes, today.

Mr. George Miller of California, for 5 minutes, today.

Ms. Solis, for 5 minutes, today.

Mr. Grijalva, for 5 minutes, today.

Mr. Holt, for 5 minutes, today.

Mr. Barrow, for 5 minutes, today.

(The following Members (at the request of Mr. Kuhl of New York) to revise and extend their remarks and include extraneous material:)

Mr. Paul, for 5 minutes, today and October 7.

Mr. Osborne, for 5 minutes, today.

Mr. Gingrey, for 5 minutes, October 7.

Mr. McCaul of Texas, for 5 minutes, today.

Mr. McHenry, for 5 minutes, today.

Mr. KUHL of New York, for 5 minutes, today.

Mr. POE, for 5 minutes, October 7.

Mr. BURTON of Indiana, for 5 minutes, today and October 7.

Mr. FORBES, for 5 minutes, October 7.

Mr. JONES of North Carolina, for 5 minutes, October 7.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 392. An act to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces; to the Committee on Financial Services.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1413. An act to redesignate the Crowne Plaza in Kingston, Jamaica as the Colin L. Powell Residential Plaza.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on October 3, 2005, he presented to the President of the United States, for his approval, the following bill.

H.R. 3863. Natural Disaster Student Aid Fairness Act.

ADJOURNMENT

Mr. RYAN of Ohio. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until today, Friday, October 7, 2005, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4398. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Title IV Conservators, Receivers, and Voluntary Liquidations; Receivership Repudiation Authorities (RIN: 3052-AC26) received September 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4399. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investments, Liquidity, and Divestiture (RIN: 3052-AC22) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4400. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Community Reinvestment Act Regulations [Regulation BB; Docket No. R-1225] received July 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4401. A letter from the Assistant to the Board, Division of Consumer and Comm. Affairs, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Truth in Lending [Regulation Z; Docket No. R-1231] received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4402. A letter from the Regulatory Specialist, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Community Reinvestment Act Regulations [Docket No. 05-11] (RIN: 1557-AB98) received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4403. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Mixed-Finance Development for Supportive Housing for the Elderly or Persons With Disabilities and Other Changes to 24 CFR Part 891 [Docket No. FR-4725-F-02] (RIN: 2502-AH83) received September 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4404. A letter from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting the Department's final rule—Revisions to the Public Housing Operating Fund Program [Docket No. FR-4874-F-08] (RIN: 2577-AC51) received September 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4405. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Securities of Nonmember Insured Banks (RIN: 3064-AC88) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4406. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Community Reinvestment Act Regulations (RIN: 3064-AC89) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4407. A letter from the Acting Deputy Director, Office of Federal Housing Enterprise Oversight, transmitting the Office's final rule—Mortgage Fraud Reporting (RIN: 2550-AA31) received July 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4408. A letter from the Assistant Secretary, Division of Corporate Finance, Securities and Exchange Commission, transmitting the Commission's final rule—OWNERSHIP REPORTS AND TRADING BY OFFICERS, DIRECTORS AND PRINCIPAL SECURITY HOLDERS [RELEASE NOS. 33-8600; 34-52202; 35-28013; IC-27025; File No. S7-27-04] (RIN: 3235-AJ27) received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4409. A letter from the Senior Regulatory Officer, Wage and Hour Division, Department of Labor, transmitting the Department's final rule—Industries in American Samoa; Wage Order—October 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4410. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits—received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4411. A letter from the Deputy Executive Director, Pensions Benefit Guaranty Corporation, transmitting the Corporation's final rule—Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits—received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4412. A letter from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting the Department's final rule—Guidelines for Voluntary Greenhouse Gas Reporting (RIN: 1901-AB11) received September 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4413. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Standardization of Small Generator Interconnection Agreements and Procedures [Docket No. RM02-12-000] received July 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4414. A letter from the Secretary of the Commission, Federal Trade Commission, transmitting the Commission's final rule—Labeling and Advertising of Home Insulation: Trade Regulation Rule—received August 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4415. A letter from the Acting Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting the Commission's final rule—List of Approved Spent Fuel Storage Casks: NAC-UMS Revision 4 (RIN: 3150-AH75) received July 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4416. A letter from the Acting Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting the Commission's final rule—Incorporation by Reference of ASME BPV Code Cases (RIN: 3150-AH35) received October 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4417. A letter from the Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting the Commission's final rule—EMERGENCY PREPAREDNESS AND RESPONSE ACTIONS FOR SECURITY-BASED EVENTS [NRC BULLETIN 2005-02] received July 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4418. A letter from the Acting Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting the Commission's final rule—List of Approved Spent Fuel Storage Casks: Standardized NUHOMS-32PT, -24HB, and -24PTH Revision 8 (RIN: 3150-AH77) received September 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-171, "Prescription Drug Excessive Pricing Act of 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4420. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 16-170, "Walter Reed Property Tax Exemption Reconfirmation Act 0f 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4421. A letter from the Chairman, Council of the District of Columbia, transmitting copy of D.C. ACT 16-184, "Income Withholding Transfer and Revision Temporary Amendment Act of 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4422. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-183, "District of Columbia Emancipation Day Alternate Date Temporary Amendment Act of 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4423. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-173, "District of Columbia Bus Shelter Temporary Amendment Act of 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4424. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-172, "Brentwood Retail Center Real Property Tax Exemption Temporary Act of 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4425. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 16-182, "Dog Park Establishment Amendment Act of 2005," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

4426. A letter from the Deputy Archivist of the United States, National Archive and Records Administration, transmitting the Administration's final rule—Records Center Facility Standards (RIN: 3095-AB31) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4427. A letter from the Director, Division of Strategic Human Resources Policy; Office of Personnel Management, transmitting the Office's final rule—Information Technology Exchange Program (RIN: 3206-AJ91) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4428. A letter from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting the Office's final rule—Law Enforcement Officer and Firefighter Retirement (RIN: 3206-AJ39) received July 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4429. A letter from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting the Office's final rule—Retirement Credit for Certain Government Service Performed Abroad (RIN: 3206-AK84) received September 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4430. A letter from the Asst. Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Royalty Payment and Royalty and Production Reporting Requirements Relief for Federal Oil and Gas Lessees Affected by Hurricane Katrina or Hurricane Rita (RIN: 1010-AD28) received October 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4431. A letter from the Acting Assistant Secretary, DHRC, Department of the Interior, transmitting the Department's final rule—Marine Mammals; Native Exemptions (RIN: 1018-AT48) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4432. A letter from the Acting Principal Deputy Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule—Navajo Partitioned Lands Grazing Permits (RIN: 1076-AE46) received October 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4433. A letter from the Director Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Exceptions to Definition of Date of Receipt Based on Natural or Man-made Disruption of Normal Business Practices (RIN: 2900-AL12) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4434. A letter from the Director of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Jurisdictions and Addresses of Regional Counsels (RIN: 2900-AM20) received September 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4435. A letter from the Chief, Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Audits of States, Local Governments, and Non-Profit Organizations: Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations (RIN: 2900-AJ62) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4436. A letter from the Director, Regulations and Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting the Department's final rule—Establishment of the Niagara Escarpment Viticultural Area (2004R-589P) [T.D. TTB-33; Re: Notice No. 33] (RIN: 1513-AA97) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4437. A letter from the SSA Regulations Officer, Office of Disability and Income Security Programs, Social Security Administration, transmitting the Administration's final rule—Technical Revisions to the Supplemental Security Income (SSI) Regulations on Income and Resources (RIN: 0960-AE79) received July 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4438. A letter from the SSA Regulations Officer, Office of Regulations, Social Security Administration, transmitting the Administration's final rule—Revised Medical Criteria for Evaluating Impairments That Affect Multiple Body Systems [Regulation No. 4] (RIN: 0960-AF32) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4439. A letter from the SSA Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Update to Divided State Retirement Systems Coverage Group List and Technical Covergae Corrections Required by the Social Security Protection Act of 2004 [Regulations No. 4] (RIN: 0960-AG18) received July 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4440. A letter from the Chairman, Farm Credit Administration, transmitting the Administration's final rule—Organization: Standards of Conduct and Referral of Known or Suspected Criminal Violations; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Disclosure to Shareholders; Preferred Stock (RIN: 3052-AC21) received September 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Agriculture and Financial Services.

4441. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule—Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2005 [CMS-2210-IFC] (RIN: 0938-AO04) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

4442. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting the Department's final rule—Definition and Registration of Reverse Distributors [Docket No. DEA-108F] (RIN: 1117-AA19) received September 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 3893. A bill to expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes; with an amendment (Rept. 109–244, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 481. Resolution providing for the consideration of the bill (H.R. 3983) to expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes (Rept. 109–245). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committees on Transportation and Infrastructure, Armed Forces, and Resources discharged for further consideration. H.R. 3893 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RAHALL (for himself, Mr. INSLEE, Mr. SHAYS, Mr. GEORGE MILLER of California, Mr. HINCHEY, Mr. KUCINICH, Mr. BLUMENAUER, Mr. GRIJALVA, and Mr. ANDREWS):

H.R. 3968. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Resources.

By Mr. BLUNT (for himself, Mr. CARDOZA, Mr. BONNER, Mr. ROGERS of Alabama, Mr. PICKERING, and Mr. WICKER):

H.R. 3969. A bill to provide for the designation of a Department of Agriculture disaster liaison to assist State and local employees of the Department in coordination with other disaster agencies in responding to federally declared disasters; to the Committee on Agriculture.

By Mr. ISSA:

H.R. 3970. A bill to amend title 28, United States Code, to provide liability protections for certain pandemics and countermeasures; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEAL of Georgia (for himself, Mr. MCCRERY, Mr. JINDAL, Mr. BAKER, and Mr. BOUSTANY):

H.R. 3971. A bill to provide assistance to individuals and States affected by Hurricane Katrina; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HART (for herself and Ms. MILLENDER-MCDONALD):

H.R. 3972. A bill to provide effective training and education programs for displaced homemakers, single parents, and individuals entering nontraditional employment; to the Committee on Education and the Workforce.

By Mr. UDALL of New Mexico (for himself, Mr. GRIJALVA, and Mr. RAHALL):

H.R. 3973. A bill to authorize the Forest Service and the Bureau of Land Management to carry out a series of pilot projects to encourage collaborative approaches to, and to provide research on, the rehabilitation of forest ecosystem health following uncharacteristic disturbances of forested Federal lands, to be conducted in a manner that protects wildlife habitat, water quality, and forest resiliency while also promoting social and economic opportunities in nearby communities, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LUCAS (for himself, Mr. HAYES, Mr. PETERSON of Minnesota, Mr. ETHERIDGE, Mr. HINOJOSA, Mr. HOLDEN, and Mr. JENKINS):

H.R. 3974. A bill to prohibit the closure or relocation of county or local Farm Service Agency offices pending the completion of the next omnibus agriculture law; to the Committee on Agriculture.

By Mr. JINDAL (for himself, Mr. BOEHNER, Mr. MCKEON, Mr. CASTLE, Mr. WILSON of South Carolina, Mr. PORTER, Mr. BOUSTANY, Mr. ALEXANDER, Mr. MCCRERY, and Mr. PICKERING):

H.R. 3975. A bill to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BOUSTANY (for himself, Mr. BOEHNER, Mr. MCKEON, Mr. WILSON of South Carolina, Mr. PORTER, Mr. JINDAL, Mr. ALEXANDER, Mr. BAKER, Mr. MCCRERY, and Mr. PICKERING):

H.R. 3976. A bill to accelerate the reemployment and employment of individuals affected by Hurricanes Katrina and Rita by establishing grants to eligible entities to provide worker recovery accounts to eligible individuals; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 3977. A bill to require owners of property to test and disclose the water quality of qualified wells before selling or leasing the property, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BEAUPREZ:

H.R. 3978. A bill to authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims; to the Committee on Resources.

By Mr. BURTON of Indiana (for himself and Mr. RAMSTAD):

H.R. 3979. A bill to suspend temporarily the provisions of title 5, United States Code, relating to the mandatory separation of members of the Capitol Police by reason of age or years of service; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. WAXMAN, Mrs. CAPPS, Mr. PALLONE, Mr. BOUCHER, and Ms. BALDWIN):

H.R. 3980. A bill to amend title XIX of the Social Security Act to improve the qualified Medicare beneficiary (QMB) and specified low-income Medicare beneficiary (SLMB) programs within the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. DOOLITTLE:

H.R. 3981. A bill to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes; to the Committee on Resources.

By Mr. DOOLITTLE:

H.R. 3982. A bill to establish a pilot program to eliminate certain restrictions on eligible certified development companies; to the Committee on Small Business.

By Mr. ENGLISH of Pennsylvania:

H.R. 3983. A bill to amend the Internal Revenue Code of 1986 to provide incentives to restore and increase oil and natural gas production; to the Committee on Ways and Means.

By Ms. GRANGER:

H.R. 3984. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the purchase of idling reduction systems for diesel-powered on-highway vehicles; to the Committee on Ways and Means.

By Ms. HARMAN (for herself, Mr. SHAYS, Mr. SKELTON, Mr. CASTLE, Mr. CONYERS, Mr. HOYER, Mr. DICKS, and Mrs. TAUSCHER):

H.R. 3985. A bill to provide standards for the treatment of persons under custody or control of the United States Government, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT (for himself and Mr. TERRY):

H.R. 3986. A bill to require the Secretary of Energy to conduct a study on the potential fuel savings from intelligent transportation systems that help businesses and consumers to plan their travel and avoid delays; to the Committee on Energy and Commerce.

By Mr. JINDAL:

H.R. 3987. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for Hurricane Katrina recovery in the Gulf Opportunity Zone; to the Committee on Ways and Means.

By Mr. JINDAL (for himself, Mr. BAKER, Mr. MCCRERY, Mr. ALEXANDER, and Mr. BOUSTANY):

H.R. 3988. A bill to provide for priority in Federal contracting for businesses in areas adversely affected by Hurricane Katrina and Hurricane Rita and treatment of small business concerns adversely affected by Hurricane Katrina and Hurricane Rita as HUBZone small business concerns, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLINE (for himself, Mr. GUTKNECHT, Mr. RAMSTAD, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. KENNEDY of Minnesota, Mr. SABO, and Ms. MCCOLLUM of Minnesota):

H.R. 3989. A bill to designate the facility of the United States Postal Service located at 37598 Goodhue Avenue in Dennison, Minnesota, as the "Albert Harold Quie Post Office"; to the Committee on Government Reform.

By Mr. LANGEVIN:

H.R. 3990. A bill to suspend temporarily the duty on Pigment Yellow 219; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 3991. A bill to suspend temporarily the duty on Pigment Blue 80; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 3992. A bill to extend the temporary suspension of duty on Solvent Blue 104; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 3993. A bill to suspend temporarily the duty on Pigment Yellow 180; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 3994. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 3995. A bill to extend the temporary suspension of duty on 4-amino-2,5-dimethoxy-N-phenylbenzene sulfonamide; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 3996. A bill to suspend temporarily the duty on Pigment Yellow 214; to the Committee on Ways and Means.

By Mr. LATOURETTE (for himself, Ms. HOOLEY, Mr. CASTLE, Ms. PRYCE of Ohio, and Mr. MOORE of Kansas):

H.R. 3997. A bill to amend the Fair Credit Reporting Act to provide for secure financial data, and for other purposes; to the Committee on Financial Services.

By Ms. MCKINNEY:

H.R. 3998. A bill to provide farm debt and program relief to African-American farmers who suffered discrimination in the administration of Department of Agriculture farm credit programs and other agriculture programs, and for other purposes; to the Committee on Agriculture.

By Ms. MILLENDER-McDONALD:

H.R. 3999. A bill to direct the Secretary of Homeland Security to establish the National Emergency Family Locator System; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN of Kansas (for himself and Mr. OSBORNE):

H.R. 4000. A bill to authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program, and for other purposes; to the Committee on Resources.

By Mr. OTTER:

H.R. 4001. A bill to temporarily waive the restriction on highway use in applying the tax exemption for diesel fuel used on a farm for farming purposes; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 4002. A bill to ensure that a private for-profit nursing home affected by a major disaster receives the same reimbursement as a public nursing home affected by a major disaster; to the Committee on Transportation and Infrastructure.

By Mr. PAUL:

H.R. 4003. A bill to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments; to the Committee on International Relations, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 4004. A bill to reduce the price of gasoline by allowing for offshore drilling, eliminating Federal obstacles to constructing refineries and providing incentives for investment in refineries, suspending Federal fuel taxes when gasoline prices reach a benchmark amount, and promoting free trade; to the Committee on Ways and Means, and in addition to the Committees on Resources, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REICHERT (for himself, Mr. MEEK of Florida, Ms. SLAUGHTER, Mr. LATOURETTE, Mr. BRADY of Pennsylvania, Ms. HOOLEY, Mr. HIGGINS, Mr. STUPAK, Mr. SMITH of Washington, and Mr. MCNULTY):

H.R. 4005. A bill to revise and extend the National Police Athletic League Youth Enrichment Act of 2000; to the Committee on the Judiciary.

By Mr. SHAW (for himself and Mr. TANNER):

H.R. 4006. A bill to permit startup partnerships and S corporations to elect taxable years other than required years; to the Committee on Ways and Means.

By Mr. STRICKLAND (for himself, Ms. KILPATRICK of Michigan, Mr. BOUCHER, Mr. MCGOVERN, Mr. MICHAUD, Mrs. CAPPS, Mr. JEFFERSON, Mr. PAYNE, and Mr. EVANS):

H.R. 4007. A bill to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for a period of two years to members of the Armed Forces (including members of the National Guard serving under State authority) who serve in areas affected by Hurricane Katrina and Hurricane Rita, to provide for the Secretary of Veterans Affairs and the Secretary of Defense to enter into an agreement with the National Academy of Sciences to survey and assess the potential health consequences of service by members in those areas, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. BEAUPREZ, Mr. HOLT, Mr. SIMPSON, Mr. CONYERS, Mr. FOSSELLA, Mr. HIGGINS, Mr. BASS, Mr. PRICE of North Carolina, Mr. ROHRABACHER, Mr. GRAVES, Mr. RAMSTAD, Mr. COBLE, and Mrs. MUSGRAVE):

H.R. 4008. A bill to posthumously award a Congressional gold medal on behalf of each person aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash; to the Committee on Financial Services.

By Mr. THOMPSON of Mississippi (for himself, Ms. HARMAN, Mr. LANGEVIN, Ms. ZOE LOFGREN of California, Ms. NORTON, Mr. PASCRELL, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. DEFAZIO, Mr. MEEK of Florida, Mr. DICKS, Mr. ETHERIDGE, and Mrs. LOWEY):

H.R. 4009. A bill to direct the Secretary of Homeland Security to conduct comprehensive examinations of the human resource capabilities and needs, organizational structure, innovation and improvement plans, intelligence and information analysis capabilities and resources, infrastructure capabilities and resources, budget, and other elements of the homeland security program and policies of the United States; to the Committee on Homeland Security, and in addition to the Committees on Intelligence (Permanent Select), and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of New Mexico (for himself, Ms. CARSON, Mr. CLEAVER, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. KANJORSKI, Mr. MCINTYRE, Mr. PALLONE, and Mr. WEXLER):

H.R. 4010. A bill to provide emergency assistance for families receiving assistance under part A of title IV of the Social Security Act and low-income working families; to the Committee on Ways and Means.

By Ms. WATSON (for herself, Mr. MICHAUD, and Mr. BURTON of Indiana):

H.R. 4011. A bill to prohibit after 2008 the introduction into interstate commerce of mercury intended for use in a dental filling, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BOEHLERT (for himself, Mr. GORDON, Mr. KING of New York, Mr. THOMPSON of Mississippi, and Mr. HONDA):

H. Con. Res. 259. Concurrent resolution expressing the sense of Congress with respect to raising awareness and enhancing the state of computer security in the United States, and supporting the goals and ideals of National Cyber Security Awareness Month; to the Committee on Science.

By Mr. HOLT:

H. Con. Res. 260. Concurrent resolution recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions, Nostra Aetate, and the continuing need for mutual interreligious respect and dialogue; to the Committee on International Relations.

By Mr. PAYNE (for himself, Mr. SMITH of New Jersey, Ms. WATSON, Mr. MEEKS of New York, Mr. RANGEL, and Ms. LEE):

H. Con. Res. 261. Concurrent resolution paying tribute to the Africa-America Institute (AAI) for its more than 50 years of dedicated service toward nurturing and unleashing the productive capacities of knowledgeable, capable, and effective African leaders through education; to the Committee on International Relations.

By Ms. SOLIS (for herself, Ms. PELOSI, Mr. MCDERMOTT, Ms. WASSERMAN SCHULTZ, Mr. GRIJALVA, Ms. ROYBAL-ALLARD, Mr. REYES, Mr. ORTIZ, Mr. HONDA, Mr. PALLONE, Mrs. JONES of Ohio, Mrs. MCCARTHY, Mr. WAXMAN, Mr. LANTOS, Mr. GUTIERREZ, Mr. CUELLAR, Mr. MORAN of Virginia, Ms. MILLENDER-MCDONALD, Mr. MCGOVERN, Ms. LINDA T. SÁNCHEZ of California, Mr. SHERMAN, Ms. NORTON, Mr. CONYERS, Mr. BERMAN, Mr. TOWNS, Mr. CROWLEY, Mr. RUSH, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. RANGEL, Mrs. CHRISTENSEN, Mr. MEEK of Florida, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. ZOE LOFGREN of California, Mrs. NAPOLITANO, Ms. LEE, Mr. LEWIS of Georgia, Mr. PAYNE, Ms. VELÁZQUEZ, Ms. LORETTA SANCHEZ of California, Mr. WYNN, Ms. WOOLSEY, Ms. KILPATRICK of Michigan, Ms. WATSON, Mr. BECERRA, Mr. HINCHEY, Mr. KUCINICH, Mr. DAVIS of Illinois, Mr. COSTA, Mr. MENENDEZ, Mr. FORTUÑO, Mrs. BONO, Mr. SCHIFF, Mr. ENGEL, Mr. STARK, Ms. JACKSON-LEE of Texas, Mr. BACA, Mr. KILDEE, Mr. AL GREEN of Texas, Ms. CORRINE BROWN of Florida, Mrs. CAPPS, Ms. BALDWIN, and Mr. PASTOR):

H. Con. Res. 262. Concurrent resolution supporting the observance of National Latino AIDS Awareness Day on October 15th, 2005, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LANTOS (for himself and Mr. HYDE):

H. Res. 479. A resolution recognizing the 50th Anniversary of the Hungarian Revolution that began on October 23, 1956 and reaffirming the friendship between the people and governments of the United States and Hungary; to the Committee on International Relations.

By Mr. DREIER (for himself and Ms. SLAUGHTER):

H. Res. 480. A resolution permitting individuals to be admitted to the Hall of the House in order to obtain footage of the House in session for inclusion in the orientation film to be shown to visitors at the Capitol Visitor Center; to the Committee on Rules.

By Ms. HERSETH:

H. Res. 482. A resolution expressing the sense of the House of Representatives that a commemorative postage stamp should be issued to honor sculptor Korczak Ziolkowski; to the Committee on Government Reform.

By Ms. MILLENDER-MCDONALD:

H. Res. 483. A resolution supporting the goals and ideals of National Teen Dating Violence Awareness and Prevention Week; to the Committee on Government Reform.

By Mr. PORTER (for himself, Mrs. BIGGERT, Mr. OSBORNE, Mr. HINOJOSA, Mrs. MCCARTHY, Mr. GRIJALVA, and Mr. VAN HOLLEN):

H. Res. 484. A resolution supporting efforts to promote greater awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for homeless youth; to the Committee on Education and the Workforce.

By Mr. SOUDER (for himself, Mr. CUMMINGS, Mr. TOM DAVIS of Virginia, Mr. BLUNT, Mr. LARSEN of Washington, Mr. TURNER, Mr. BURTON of Indiana, Ms. GRANGER, Mr. CARDOZA, Mr. WALDEN of Oregon, Mr. CALVERT, Mr. CANNON, Mr. PETERSON of Pennsylvania, Mr. VAN HOLLEN, Mr. BOOZMAN, Mr. LATHAM, and Mr. TERRY):

H. Res. 485. A resolution supporting the goals of Red Ribbon Week; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mrs. MUSGRAVE, Mr. EDWARDS, and Mr. MATHESON.

H.R. 25: Mr. HUNTER.

H.R. 49: Mr. ROTHMAN.

H.R. 97: Mr. SCOTT of Virginia and Mr. MILLER of North Carolina.

H.R. 110: Mr. BISHOP of New York.

H.R. 111: Mr. POMBO.

H.R. 179: Mr. HENSARLING.

H.R. 180: Mr. CANNON.

H.R. 198: Mr. LYNCH.

H.R. 224: Mr. LANTOS, Mr. RUPPERSBERGER, Mr. ETHERIDGE, Mr. JEFFERSON, Mr. ROTHMAN, Mr. EVANS, and Mr. MCGOVERN.

H.R. 225: Mr. BACA.

H.R. 226: Mr. MILLER of North Carolina.

H.R. 269: Mr. STRICKLAND and Mr. MANZULLO.

H.R. 284: Mr. MOORE of Kansas.

H.R. 297: Ms. CARSON.

H.R. 303: Mr. FITZPATRICK of Pennsylvania.

H.R. 311: Mr. LARSEN of Washington.

H.R. 314: Mr. OBEY.

H.R. 331: Mr. CAMP.

H.R. 363: Mr. BOUCHER, Mr. FORD, Mr. RAHALL, Mr. ENGEL, and Mr. MCGOVERN.

H.R. 371: Ms. ROS-LEHTINEN and Mrs. NORTHUP.

H.R. 373: Mr. LANTOS and Ms. SOLIS.

H.R. 475: Ms. LINDA T. SÁNCHEZ of California.

H.R. 478: Mr. COSTA.

H.R. 500: Mr. GINGREY.

H.R. 543: Mr. STARK.

H.R. 551: Mr. BROWN of Ohio and Mr. RAHALL.

H.R. 582: Mr. MENENDEZ, Mr. STRICKLAND, and Mr. HIGGINS.

H.R. 583: Mr. GORDON, Mr. RANGEL, Mr. KIND, and Mr. BROWN of Ohio.

H.R. 699: Mr. GONZALEZ, Mr. WELLER, Ms. SCHWARTZ of Pennsylvania, Mr. SIMMONS, Ms. ESHOO, Mr. GENE GREEN of Texas, and Mr. ISSA.

H.R. 700: Mr. CHANDLER, Mr. RUPPERSBERGER, and Mr. MCGOVERN.

H.R. 745: Mr. GOHMERT.

H.R. 791: Mr. SCHIFF, Mr. MCNULTY, Mr. WU, Mr. MEEK of Florida, and Mr. BOSWELL.

H.R. 807: Mr. GRIJALVA.

H.R. 813: Mr. HASTINGS of Florida and Mr. VAN HOLLEN.

H.R. 817: Ms. CARSON and Mr. BROWN of South Carolina.

H.R. 851: Mr. DICKS, Mr. BAIRD, and Mr. MCDERMOTT.

H.R. 864: Ms. LINDA T. SÁNCHEZ of California, Ms. SOLIS, Mr. FORD, Ms. ROS-LEHTINEN, Mr. GERLACH, Mrs. CUBIN, Ms. CARSON, Mr. SMITH of Washington, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. GIBBONS.

H.R. 867: Mr. ANDREWS.

H.R. 916: Mr. LOBIONDO, Mr. MCCAUL of Texas, Ms. DEGETTE, Mr. PASTOR, Ms. ROS-LEHTINEN, Mr. BOEHLERT, Mr. SPRATT, Mrs. LOWEY, and Mr. DAVIS of Kentucky.

H.R. 920: Mr. BONNER, Mr. MOORE of Kansas, Mr. HENSARLING, Mr. MARCHANT, and Mr. GREEN of Wisconsin.

H.R. 923: Mr. CROWLEY, Mr. PORTER, Mr. SIMMONS, and Mr. EDWARDS.

H.R. 972: Mr. WELLER, Mr. CARDOZA, Mr. LEACH, and Mr. FORTENBERRY.

H.R. 986: Mr. RUPPERSBERGER and Mr. KUHL of New York.

H.R. 994: Ms. LINDA T. SÁNCHEZ of California.

H.R. 1068: Mr. KIRK and Mrs. EMERSON.

H.R. 1071: Mr. GONZALEZ.

H.R. 1079: Mr. BACHUS.

H.R. 1106: Ms. WASSERMAN SCHULTZ.

H.R. 1123: Mr. PETERSON of Minnesota.

H.R. 1175: Mr. FRANK of Massachusetts.

H.R. 1188: Ms. LEE and Ms. SCHAKOWSKY.

H.R. 1202: Ms. BALDWIN.

H.R. 1204: Mr. COSTA.

H.R. 1227: Mr. FRELINGHUYSEN, Mrs. KELLY, Mr. GIBBONS, and Mr. POMBO.

H.R. 1241: Mr. BONNER.

H.R. 1246: Mr. BURGESS.

H.R. 1258: Mr. PRICE of North Carolina.

H.R. 1294: Mr. MCHUGH and Mrs. BIGGERT.

H.R. 1298: Mr. BOUCHER.

H.R. 1310: Mr. GRIJALVA.

H.R. 1322: Ms. LINDA T. SÁNCHEZ of California and Ms. MCCOLLUM of Minnesota.

H.R. 1333: Mr. MCCAUL of Texas, Miss MCMORRIS, and Mr. DAVIS of Kentucky.

H.R. 1356: Mr. OLVER.

H.R. 1366: Mr. EMANUEL and Mr. FRANK of Massachusetts.

H.R. 1376: Mr. BARTLETT of Maryland and Ms. LINDA T. SÁNCHEZ of California.

H.R. 1402: Mr. SABO, Mr. CLYBURN, Mr. BLUMENAUER, Mrs. LOWEY, and Mr. MATHESON.

H.R. 1425: Mr. JACKSON of Illinois.

H.R. 1435: Mr. SERRANO.

H.R. 1498: Ms. DELAURO, Mrs. CHRISTENSEN, Mr. OTTER, Mr. WYNN, Mr. TOWNS, and Mr. EDWARDS.

H.R. 1506: Mr. EVANS, Mr. FILNER, Mr. RUPPERSBERGER, Mr. HOLDEN, and Mr. ROTHMAN.

H.R. 1507: Mr. RYAN of Ohio.

H.R. 1554: Mr. REYES.

H.R. 1598: Mr. HALL.

H.R. 1602: Mr. SNYDER and Mr. HALL.

H.R. 1632: Mr. OBERSTAR, Mr. BRADY of Pennsylvania, Mr. ALEXANDER, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1634: Mr. NADLER.

H.R. 1636: Mr. NEAL of Massachusetts.

H.R. 1668: Mr. SERRANO, Mr. REYES, and Mrs. LOWEY.

H.R. 1687: Mr. MENENDEZ, Mr. FILNER, Mrs. DAVIS of California, Ms. JACKSON-LEE of Texas, Mr. PAYNE, and Mr. ROTHMAN.

H.R. 1721: Mr. LOBIONDO and Mr. ISRAEL.

H.R. 1736: Mr. CUNNINGHAM, Mr. FRANK of Massachusetts, and Mr. MCGOVERN.

H.R. 1749: Mr. LATOURETTE.

H.R. 1772: Mr. PORTER.

H.R. 1774: Mr. FERGUSON and Ms. MOORE of Wisconsin.

H.R. 1849: Mr. WAMP.

H.R. 1898: Mr. POMBO, Mr. ROSS, Mr. HEFLEY, Mr. YOUNG of Florida, Mr. TURNER, Mr. KNOLLENBERG, and Mr. PASTOR.

H.R. 2000: Ms. SCHAKOWSKY and Ms. WASSERMAN SCHULTZ.

H.R. 2045: Mr. BUYER.

H.R. 2061: Mr. BOUCHER.

H.R. 2073: Mr. UDALL of New Mexico.

H.R. 2076: Mr. EDWARDS.

H.R. 2112: Mr. BARTLETT of Maryland, Mr. LEWIS of Kentucky, Mr. CHABOT, Mr. PITTS, Mr. BISHOP of Utah, Mr. HENSARLING, Mr. GARRETT of New Jersey, Mrs. MUSGRAVE, Mr. COLE of Oklahoma, Mr. KLINE, Mr. NEUGEBAUER, Mr. FORTUÑO, Mr. CANTOR, Mr. WELDON of Florida, Mr. GINGREY, Mr. SHADEGG, and Mr. JONES of North Carolina.

H.R. 2209: Mr. GREEN of Wisconsin.

H.R. 2229: Mrs. DRAKE.

H.R. 2231: Mr. CUELLAR and Mr. BONILLA.

H.R. 2238: Mr. RUPPERSBERGER, Mr. SHUSTER, and Mr. BACHUS.

H.R. 2327: Ms. WASSERMAN SCHULTZ and Mr. PALLONE.

H.R. 2333: Mr. TIERNEY.

H.R. 2340: Mr. ALLEN and Mr. SHERMAN.

H.R. 2357: Mr. RUSH.

H.R. 2386: Mr. LAHOOD, Mr. UDALL of New Mexico, Mr. MATHESON, Mr. RAMSTAD, Mr. RUPPERSBERGER, Mr. LYNCH, Mr. BAKER, and Mr. PAYNE.

H.R. 2428: Mr. OLVER, Mr. EVANS, Mr. HONDA, Mr. PAYNE, Mr. KENNEDY of Rhode Island, Mrs. TAUSCHER, Mr. ANDREWS, and Mr. BLUMENAUER.

H.R. 2533: Mr. KUHL of New York, Mr. RUPPERSBERGER, Mrs. MCCARTHY, Mr. GREEN of Wisconsin, Mr. BLUMENAUER, Mr. ROTHMAN, and Mr. GRIJALVA.

H.R. 2567: Mr. BROWN of South Carolina.

H.R. 2636: Mrs. CAPPS and Mr. WAXMAN.

H.R. 2646: Mr. HERGER.

H.R. 2663: Mr. HOLT.

H.R. 2664: Mr. LEWIS of Kentucky.

H.R. 2668: Mr. SHAW.

H.R. 2694: Mr. SANDERS, Mr. RAHALL, and Mr. MCGOVERN.

H.R. 2716: Mr. BOSWELL.

H.R. 2792: Mr. FLAKE.

H.R. 2804: Mr. HENSARLING and Mr. MARCHANT.

H.R. 2823: Mr. PUTNAM.

H.R. 2835: Mr. RUPPERSBERGER, Mr. MCGOVERN, Mr. SHERMAN, Mr. PALLONE, and Mr. ROTHMAN.

H.R. 2876: Mr. GUTIERREZ, Mr. GERLACH, Mr. RUPPERSBERGER, Mr. TERRY, Mr. MCCOTTER, Mrs. MILLER of Michigan, Mr. CAPUANO, and Mr. TAYLOR of North Carolina.

H.R. 2892: Mr. KLINE.

H.R. 2926: Mr. BROWN of Ohio and Mr. TIERNEY.

H.R. 2939: Mr. CARDIN, Mr. CASE, and Mr. WAXMAN.

H.R. 2943: Mr. RUPPERSBERGER.

H.R. 2959: Ms. SCHWARTZ of Pennsylvania.

H.R. 2961: Mr. KANJORSKI.

H.R. 2963: Mr. CROWLEY, Mr. BROWN of Ohio, and Mr. VAN HOLLEN.

H.R. 2989: Mr. HOLT, Mr. BLUMENAUER, Mr. CHANDLER, Mr. FILNER, and Mr. BOUCHER.

H.R. 2990: Mr. GILLMOR.

H.R. 3005: Mr. JONES of North Carolina, Ms. HARMAN, Mr. BECERRA, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 3047: Mr. SIMMONS and Ms. SLAUGHTER.

H.R. 3063: Ms. ESHOO, Mr. MCCOTTER, Mr. LANTOS, Mr. CAPUANO, Mr. REYES, Mr. VISCLOSKY, and Mr. SANDERS.

H.R. 3086: Mr. SHERMAN and Mrs. CAPPS.

H.R. 3111: Mr. BAKER.

H.R. 3127: Ms. LINDA T. SÁNCHEZ of California, Ms. MILLENDER-MCDONALD, and Mrs. JO ANN DAVIS of Virginia.

H.R. 3137: Mr. PUTNAM, Mr. PETERSON of Pennsylvania, Mr. POE, and Mr. BARRETT of South Carolina.

H.R. 3145: Mr. HOLT, Mrs. DAVIS of California, Mr. JOHNSON of Illinois, Mr. MCGOVERN, and Mr. SAXTON.

H.R. 3147: Mr. BROWN of Ohio.

H.R. 3162: Mr. MOORE of Kansas and Mr. GREEN of Wisconsin.

H.R. 3180: Mr. DAVIS of Kentucky.

H.R. 3181: Mr. DAVIS of Kentucky.

H.R. 3186: Mr. FORBES and Ms. HERSETH.

H.R. 3191: Mr. MCGOVERN.

H.R. 3194: Mr. FARR, Mr. SERRANO, Mr. WEXLER, Ms. SOLIS, Mr. LEWIS of Georgia, and Mr. GRIJALVA.

H.R. 3255: Mr. MOORE of Kansas.

H.R. 3263: Mr. GRIJALVA.

H.R. 3301: Mr. GREEN of Wisconsin and Mr. GORDON.

H.R. 3318: Ms. BALDWIN.

H.R. 3323: Mr. GONZALEZ, Mr. RUPPERSBERGER, and Mr. MACK.

H.R. 3352: Mr. MENENDEZ.

H.R. 3361: Mr. DOGGETT and Mrs. DAVIS of California.

H.R. 3373: Mrs. CAPITO, Mr. PITTS, Mr. WEINER, Mr. SPRATT, Mr. MEEKS of New York, Mr. ROSS, Mr. FRANK of Massachusetts, Mr. GOHMERT, Mr. RAHALL, Mr. GRIJALVA, Mr. SKELTON, and Mr. GENE GREEN of Texas.

H.R. 3381: Mr. SHAYS.

H.R. 3385: Mr. BISHOP of Utah and Mr. LANTOS.

H.R. 3417: Mr. ROHRABACHER.

H.R. 3428: Mr. GARRETT of New Jersey and Mr. POE.

H.R. 3449: Mr. PASCRELL and Mr. ACKERMAN.

H.R. 3476: Mr. BARTLETT of Maryland, Mr. ANDREWS, and Mr. BOREN.

H.R. 3496: Mr. BLUMENAUER.

H.R. 3506: Mr. MOORE of Kansas.

H.R. 3511: Mr. PAUL and Mr. TERRY.

H.R. 3546: Mr. HINCHEY.

H.R. 3547: Mr. MCHUGH, Mr. MILLER of North Carolina, and Mr. SANDERS.

H.R. 3549: Mr. WOLF and Mr. SHAYS.

H.R. 3561: Mr. GENE GREEN of Texas and Ms. CARSON.

H.R. 3569: Mr. HINCHEY, Mr. MICHAUD, Mr. CASTLE, Mr. RUPPERSBERGER, and Mr. MCHUGH.

H.R. 3598: Mr. CROWLEY, Mr. MCDERMOTT, Ms. LEE, Mr. GEORGE MILLER of California, Mr. GENE GREEN of Texas, Mr. SCHIFF, Mr. STARK, Mr. NADLER, Mr. FILNER, Mr. LANTOS, Ms. MILLENDER-MCDONALD, Mrs. TAUSCHER, Ms. WATSON, Mr. THOMPSON of California, Mr. SHERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MCCARTHY, Mr. SNYDER, Mr. DAVIS of Illinois, Ms. SCHWARTZ of Pennsylvania, Ms. SLAUGHTER, Mr. STRICKLAND, and Mr. RUSH.

H.R. 3612: Mr. PRICE of North Carolina.

H.R. 3616: Mr. WOLF and Mr. ABERCROMBIE.

H.R. 3617: Mr. CASTLE, Mr. ALLEN, Mr. NEUGEBAUER, and Mr. BOEHLERT.

H.R. 3630: Mr. WELDON of Florida.

H.R. 3639: Mr. MEEHAN and Mr. INSLEE.

H.R. 3644: Mr. GERLACH, Mr. SIMMONS, Mr. MURPHY, Mr. ALLEN, Ms. LINDA T. SÁNCHEZ of California, and Mr. BROWN of Ohio.

H.R. 3666: Mr. SMITH of Washington.

H.R. 3670: Mr. SMITH of Washington.

H.R. 3680: Ms. HART and Mr. MATHESON.

H.R. 3685: Mr. CRAMER.

H.R. 3690: Mr. KIND and Mr. MICHAUD.

H.R. 3698: Mr. GRIJALVA and Ms. WASSERMAN SCHULTZ.

H.R. 3708: Mr. GONZALEZ, Mr. RUPPERSBERGER, Mr. HASTINGS of Florida, and Mrs. NAPOLITANO.

H.R. 3709: Mr. PITTS, Mr. HOSTETTLER, Mr. CULBERSON, Mr. TANCREDO, Mr. WILSON of South Carolina, Mr. KINGSTON, Mr. GOODE, Mr. GUTKNECHT, Mr. WAMP, Mr. FEENEY, Mr. BERMAN, Mr. UDALL of Colorado, and Mr. GRIJALVA.

H.R. 3727: Mr. SMITH of Washington.

H.R. 3737: Mr. BARTLETT of Maryland and Mr. GREEN of Wisconsin.

H.R. 3739: Mr. PUTNAM and Mr. PETERSON of Pennsylvania.

H.R. 3748: Mr. WEXLER, Ms. MCCOLLUM of Minnesota, Mr. HINCHEY, and Mr. PALLONE.

H.R. 3754: Mr. EVANS.

H.R. 3762: Mr. FARR, Mr. SANDERS, Mr. FRANK of Massachusetts, Mr. UDALL of Colorado, and Ms. MOORE of Wisconsin.

H.R. 3782: Mrs. LOWEY.

H.R. 3785: Mrs. DRAKE.

H.R. 3787: Mr. GRIJALVA.

H.R. 3811: Mr. MANZULLO and Mr. AKIN.

H.R. 3828: Mr. PAUL, Mr. ADERHOLT, Mr. JONES of North Carolina, Mr. GINGREY, Mr. WAMP, Mr. DOOLITTLE, and Mr. GOHMERT.

H.R. 3838: Ms. SCHWARTZ of Pennsylvania, Ms. MCCOLLUM of Minnesota, Mr. WYNN, Mr. HASTINGS of Florida, Mr. SANDERS, Mr. FILNER, Ms. MOORE of Wisconsin, and Mr. CARNAHAN.

H.R. 3842: Mr. KINGSTON.

H.R. 3843: Mr. BARRETT of South Carolina.

H.R. 3852: Ms. LORETTA SANCHEZ of California, Mr. RYAN of Ohio, Mr. EVANS, Mr. ALEXANDER, and Mr. ETHERIDGE.

H.R. 3854: Mr. MOORE of Kansas and Ms. SOLIS.

H.R. 3861: Mr. WEXLER, Mr. BERMAN, Mr. LANTOS, Mr. BERRY, Mr. MCGOVERN, Mr. GRIJALVA, Mr. SANDERS, Ms. LEE, Mr. OBERSTAR, Ms. SOLIS, Mrs. CAPPS, Mr. SHERMAN, Ms. MATSUI, and Ms. BALDWIN.

H.R. 3868: Mr. GARRETT of New Jersey and Mr. PAUL.

H.R. 3888: Mr. GONZALEZ, Mr. RUPPERSBERGER, Ms. MOORE of Wisconsin, and Mr. UPTON.

H.R. 3889: Mr. FITZPATRICK of Pennsylvania, Mr. OTTER, Mr. CARNAHAN, and Mr. BISHOP of Utah.

H.R. 3900: Mr. ALEXANDER.

H.R. 3903: Mr. RYUN of Kansas, Mr. PENCE, Ms. FOXX, Mr. HERGER, Mr. SHADEGG, Mrs. MUSGRAVE, Mr. FLAKE, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. BRADY of Texas, Mr. MCHENRY, and Mr. PRICE of Georgia.

H.R. 3904: Mr. RYUN of Kansas, Mr. PENCE, Ms. FOXX, Mr. HERGER, Mr. SHADEGG, Mrs. MUSGRAVE, Mr. FLAKE, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. BRADY of Texas, Mr. MCHENRY, and Mr. PRICE of Georgia.

H.R. 3905: Mrs. DRAKE, Ms. LINDA T. SÁNCHEZ of California, Ms. SCHAKOWSKY, and Mr. MCHUGH.

H.R. 3906: Mr. RYUN of Kansas, Mr. PENCE, Ms. FOXX, Mr. HERGER, Mr. SHADEGG, Mrs. MUSGRAVE, Mr. FLAKE, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. BRADY of Texas, Mr. MCHENRY, and Mr. PRICE of Georgia.

H.R. 3909: Mr. AL GREEN of Texas.

H.R. 3916: Ms. LEE, Ms. SCHAKOWSKY, Mr. SANDERS, and Mr. KUCINICH.

H.R. 3922: Mr. ALEXANDER, Mr. CUMMINGS, and Mr. LARSON of Connecticut.

H.R. 3925: Mr. VAN HOLLEN, Mr. CROWLEY, Ms. MCCOLLUM of Minnesota, Ms. SCHAKOWSKY, Mr. PALLONE, Mr. FILNER, and Mr. BERMAN.

H.R. 3929: Mr. ROYCE.

H.R. 3931: Mr. WAXMAN and Mr. BROWN of South Carolina.

H.R. 3937: Mr. OSBORNE.

H.R. 3938: Mrs. MILLER of Michigan and Mr. ALEXANDER.

H.R. 3944: Mr. SANDERS.

H.R. 3954: Mr. ABERCROMBIE, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, Ms. LEE, and Mr. SANDERS.

H.J. Res. 54: Mr. WAXMAN.

H. Con. Res. 85: Mr. ANDREWS.

H. Con. Res. 173: Mr. RUSH, Mr. FORD, Mr. HINCHEY, Mr. POMEROY, and Mr. DAVIS of Illinois.

H. Con. Res. 184: Mr. REYES, Mr. PRICE of North Carolina, Mr. RYAN of Ohio, Ms. SCHWARTZ of Pennsylvania, Mr. FORD, Mr. BISHOP of New York, Mr. ETHERIDGE, Mr. TOWNS, Mr. MENENDEZ, Mr. ACKERMAN, and Mr. ISRAEL.

H. Con. Res. 197: Mr. NEAL of Massachusetts, Mr. MEEHAN, and Mr. CAPUANO.

H. Con. Res. 215: Mr. SHERMAN.

H. Con. Res. 222: Mr. MCGOVERN, Ms. HERSETH, and Mr. CONYERS.

H. Con. Res. 230: Mr. CANNON, Mr. BARRETT of South Carolina, Mr. SMITH of New Jersey, Mr. PUTNAM, and Mr. GERLACH.

H. Con. Res. 231: Mr. ABERCROMBIE, Ms. SCHAKOWSKY, and Mr. RANGEL.

H. Con. Res. 234: Mr. KUCINICH.

H. Con. Res. 238: Mr. KUCINICH.

H. Con. Res. 248: Ms. SCHWARTZ of Pennsylvania, Mrs. DRAKE, Mr. MCCAUL of Texas, Mr. SMITH of New Jersey, Mr. MENENDEZ, Mr. PAYNE, and Mr. LEVIN.

H. Con. Res. 252: Mr. WEXLER, Mr. TANCREDO, Mr. FORTUÑO, Mr. ISSA, Mr. SOUDER, Mr. FALEOMAVAEGA, Mr. MCCOTTER, Mr. PENCE, Mr. BRADY of Texas, Mr. CHABOT, Mr. MARCHANT, Mr. CUELLAR, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. BUYER, Mr. BLUNT, Mr. WOLF, Mr. LEWIS of Kentucky, Mr. KING of New York, and Mr. LANTOS.

H. Res. 84: Mrs. BLACKBURN.

H. Res. 158: Mr. SANDERS.

H. Res. 192: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OBERSTAR, Mr. LYNCH, Ms. LEE, Mr. SNYDER, Mr. PAYNE, Mr. RYAN of Ohio, Mr. MEEKS of New York, Mr. CARDOZA, Ms. MCCOLLUM of Minnesota, Mr. MARKEY, Mr. UDALL of Colorado, Mr. BERMAN, Mr. ENGEL, Mr. SHAYS, Mr. MICHAUD, Mrs. CHRISTENSEN, and Mr. WEXLER.

H. Res. 259: Mr. RUPPERSBERGER.

H. Res. 261: Mr. BOOZMAN.

H. Res. 276: Ms. HARMAN and Mr. CALVERT.

H. Res. 323: Mr. BEAUPREZ, Mr. CASTLE, and Mr. RUPPERSBERGER.

H. Res. 335: Mr. TIERNEY, Mr. WAXMAN, and Mr. MCGOVERN.

H. Res. 357: Mr. HALL.

H. Res. 368: Mr. LEACH and Mr. BARRETT of South Carolina.

H. Res. 374: Ms. WASSERMAN SCHULTZ.

H. Res. 409: Mr. UDALL of Colorado.

H. Res. 447: Ms. JACKSON-LEE of Texas.

H. Res. 457: Mr. GORDON, Mr. PASTOR, and Mr. MENENDEZ.

H. Res. 458: Ms. SCHWARTZ of Pennsylvania, Mr. FARR, Mr. RANGEL, Ms. LEE, Mr. GUTIERREZ, Mrs. CHRISTENSEN, Ms. SOLIS, Ms. DELAURO, Mr. GONZALEZ, Mr. STARK, and Mrs. NAPOLITANO.

H. Res. 471: Mr. RUPPERSBERGER, Mr. MCCOTTER, and Mr. DAVIS of Illinois.

H. Res. 472: Mr. CROWLEY, Mr. RANGEL, Ms. SLAUGHTER, Ms. MCKINNEY, Ms. KILPATRICK of Michigan, Ms. ESHOO, Mr. VAN HOLLEN, Mr. PAYNE, Mr. ENGEL, and Mr. MENENDEZ.

SENATE—*Thursday, October 6, 2005*

The Senate met at 9:30 a.m. and was called to order by the PRESIDENT pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Spirit of life, breathe Your grace in us. During this period of Rosh Hashanah and Ramadan, remind us about the blessing of having people touch our lives. Thank You for the people who live exemplary lives and show us what productive living should be. Thank You for the people who inspire us, who motivate us to strive for noble things. Thank You for the people who comfort us, who help ease life's hurts. Thank You for the people who strengthen us, who give us courage to tackle the difficult. Thank You for the people who enlighten us through the written word.

Thank You for our Senators, who work to keep us free. Give them the wisdom to keep their hearts pure, their minds clean, their words true, and their deeds kind.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in just a few moments, we will resume negotiations on the Defense appropriations bill. Last night, we worked well into the evening and were able to make relative progress on the bill. The Senate voted overwhelmingly last night to invoke cloture. Therefore, today we will be proceeding with amendments that qualify under rule XXII.

I thank Members for their patience last night during our series of stacked votes. I particularly thank those Members—especially Senators STEVENS and INOUYE—who have worked so aggressively on the bill and who over the course of the day will continue to try to clear amendments on both sides of the aisle. We will have votes over the course of the day on those amendments.

We can and should push forward on this bill today and tonight and try to finish the bill. If necessary, we will be here tomorrow to complete our work for the week. There are a number of other issues that are currently being discussed, debated, and talked about, including the homeland security conference report as well as pensions legislation, which I have mentioned regularly.

I hope we will be able to proceed with the cooperation of all Senators over the course of the day as we seek final passage of the Defense appropriations bill. The time does expire early in the morning tomorrow. Thus, we should work toward completing that bill this afternoon and this evening.

HUNGARIAN PRIME MINISTER

Mr. FRIST. Mr. President, later this afternoon, several of my colleagues and I have the honor of hosting Hungarian Prime Minister Ferenc Gyurcsany in the U.S. Capitol.

The Prime Minister has served for just a little bit over 1 year. His country, as we all know, is a valued friend and ally of the United States. Hungary's transition to a Western-style parliamentary democracy was the first and smoothest of the countries formally under the dominion of the Soviet bloc.

In May of 1990, Hungary held its first free parliamentary election. In the intervening years, Hungary has made tremendous strides in strengthening its democratic foundation and becoming more integrated in the Euro-Atlantic institutions. It became a full NATO ally in March of 1999. Last spring, it earned full membership to the European Union, the EU.

Today, the United States and Hungary maintain a positive and a productive bilateral relationship. Our two countries work closely together and through international organizations such as the EU and NATO. In particular, Hungary has been a steadfast ally for the United States and NATO missions in Iraq, Afghanistan, and in the Balkans. It is a member of the coalition that liberated Iraq. It also contributed troops to Operation Enduring Freedom in Afghanistan and has played an important role in the training and equipping of the Afghan National Army. Recently, Hungary offered to lead one of the provincial reconstruction teams to help stabilize Afghanistan.

Hungary is a brave nation. Hungary is a proud nation. On behalf of the American people, I express my most sincere gratitude and respect for the invaluable contributions it has made to the war effort.

Hungary is also playing another invaluable role in the spread of democracy. As a nation only recently emerged from decades of tyranny, Hungary is sharing its unique lessons with today's emerging democracies. It has established an International Center for Democratic Transition to reach out and nurture the world's newest democracies. The center will act as a resource for countries in transition. There, they can gain insights into the obstacles and opportunities before them. I have no doubt that this new center will help democracy take root, to grow, and to flourish, and will help the world's newly emerging democracies succeed.

During our talks this afternoon, I look forward to discussing these and many other issues of mutual interest with the Prime Minister. The United States and Hungary have worked hard to build a close, cooperative relationship. I am confident that through continued exchanges and dialog, we can deepen and solidify our bond as champions and defenders of freedom.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2863.

The legislative clerk read as follows:

> A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

> Reed/Hagel amendment No. 1943, to transfer certain amounts from the supplemental authorizations of appropriations for Iraq, Afghanistan, and the Global War on Terrorism to amounts for Operation and Maintenance, Army, Operation and Maintenance, Marine Corps, Operation and Maintenance, Defense-wide activities, and Military Personnel in order to provide for increased personnel strengths for the Army and the Marine Corps for fiscal year 2006.
>
> Coburn amendment No. 2005, to curtail waste under the Department of Defense web-based travel system.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I would like to speak as in morning business. If any other Senator comes and wants to speak about an amendment on the underlying bill, I would be pleased to wrap up my remarks.

The PRESIDENT pro tempore. Speaking in my capacity as a Senator from Alaska and manager of the bill, I would agree to the unanimous consent that the Senator may speak but would yield the floor in the event someone wishes to call up an amendment or speak on the bill. Is that agreed?

Ms. LANDRIEU. Yes, I would.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized as in morning business.

Ms. LANDRIEU. Thank you, Mr. President.

Mr. President, I begin by thanking the Senator in the chair for his leadership in trying to help us move this Defense appropriations bill through the Congress. It is, of course, an extremely important bill, and it is a very difficult bill to manage because it is large and complicated and multidimensional and a great need. I thank the Senator from Alaska and the Senator from Hawaii for helping us to manage through this as we try to wrap up this week.

(Ms. MURKOWSKI assumed the Chair.)

HURRICANE KATRINA

Ms. LANDRIEU. Madam President, one of the reasons I come to the floor this morning is to speak about an issue that I brought up on the floor, now many times, and so has the other Senator from Louisiana and Members of our delegation, as well as Members from the Gulf Coast States that have been affected by Katrina, to try to see what we can do to get some aid to our States, directly into the hands of people who can actually put that money to good use, so we do not leave here this weekend without having done something very clearly and very specifically.

Now, this Congress has acted with dispatch over the last 4 weeks to allocate and appropriate money to FEMA, the Federal Emergency Management Agency, that is tasked with the responsibility of managing disasters such as this when they are of such a magnitude it is really impossible for individual cities or individual counties or individual parishes or even regions to handle them.

This storm was just that. It was a category 5 storm, with a surge of tide that had the highest recorded level at 29 feet of water—a tsunami basically of 30 feet, approximately—that slammed into the gulf coast about 32 days ago and devastated the energy coast of this Nation—or a large part of the energy coast.

Assessments are being done by insurance companies, corporations, multinational companies, small companies, law enforcement, cities, parishes, and counties to try to get a handle on the damage, but it is staggering.

This special edition, which I have been reviewing since I picked it up yesterday, is done by National Geographic. It is a special edition on Katrina and Rita. It was contributed to by the Times-Picayune, the Dallas Morning News, the New York Times, and it truly is remarkable work: "Katrina, Why It Became a Man-Made Disaster" and "Where It Could Happen Next." It takes us through a series of not just the way the hurricane formed and how powerful and devastating it was, but how the levees could have been breached or how the levees might have collapsed, because that assessment is still being made about how many houses have been lost, about how many thousands of square miles were flooded in New Orleans, in Saint Bernard, in Saint Tammany Parish, in Plaquemines Parish, how the entire parish of Cameron, that had 10,000 structures 8 days ago, now has one structure standing; a courthouse that was built by the New Deal, the only structure standing in Cameron Parish.

It talks about how the combination of these two killer storms, and the neglect on the part of many—cost cutting that obviously did not pay off—how it has now wrecked this economic powerhouse. It says, actually, the economic power has been brought to its knees. The center of that powerhouse would be the State I represent in the Senate, the State of Louisiana, that is home to the Mississippi River, the greatest delta on the continent, the greatest river on the continent.

On that river are the largest ports in America. The eye of the first storm, Katrina, went right over the Port of New Orleans, the South Louisiana Port, and barely missed the other large port, which is the Port of Baton Rouge, which hosts the energy industry, the petrochemical industry, the refining industry, the agriculture industry, the commercial industry, the maritime industry—the bulk of it in the Nation. It was a direct hit to the heart of the energy coast.

Not only is Louisiana feeling this, with 2 million people along the gulf coast displaced—hundreds of thousands of people have lost their entire home, their entire business; the people of New Orleans, in large measure, and Saint Bernard and Plaquemines have lost their entire parish—but everyone in America is feeling this because of the higher price of goods, the higher price of gasoline, and the higher price of natural gas.

There are 9,000 miles of pipeline connecting oil and gas exploration in the Gulf of Mexico. We have been struggling to get those pipelines back up and running. The trade and commerce of the Port of South Louisiana, combined with the Port of New Orleans, dwarfs the Port of Houston, the Ports of New York and New Jersey, and the Port of Beaumont, TX, which was also hit and has some destruction from Rita—thank goodness, not the same level of destruction, thank goodness that we didn't lose the Port of Beaumont or the Port of Houston.

Our ports, from the Port of Lake Charles, from the western side, to the Port of Iberia, to the Port of Morgan City, to the ports along the Mississippi River, to the Port of Fourchon, which is the only deepwater energy port in the Nation right on the gulf, the damage has been extensive and tremendous. To this day, 30 days after—and we will be for months and perhaps even years—we are struggling to stand up that infrastructure.

The long-term building effort is going to be difficult and complicated. I am sorry to say this because we have been criticized for saying it, but it is going to be expensive. There is no cheap or easy way out of it. How we pay for it, what revenues we assign, whether we raise revenues to do it, use revenues we have, assess new approaches, borrow the money, in some way the Federal Government and State governments and industry have to come up with the billions of dollars it is going to cost to restore the infrastructure and the marshland that protects this infrastructure, that services the economy of the Nation and the world.

Let me try to be as clear as I can on some of these points. There are only a few ways to get grain out of Kansas and the Midwest. You can put it on railroads, put it on trucks, or you can put it on big barges. It is a little slower on the barges, but it is a lot less expensive. You can move the grain that we supply and literally feed ourselves and the world with it, but it has to go through on barges, down some rivers, and the Mississippi River is the River that we primarily use, that the Missouri and the Ohio run into down the Mississippi for trade around the world. If this infrastructure is left vulnerable, as it has been by exposure to the hurricane, if we don't figure out a way to invest better and more wisely, the commerce of this whole Nation will be undermined, unless you want to put all the grain that comes from the Midwest and all the wheat and the corn on trucks and put thousands of more trucks on a highway system that is already overcrowded, where people are already wondering how are we going to survive the next few years on a highway system like this, with trucks stacked up one after another.

We better keep our river channels open. We better invest in our inner waterways. We better start investing in more sophisticated lock and dam systems along the Gulf of Mexico. If we are not going to, then the other alternative is to abandon the coast and move somewhere else. Maybe we should consider that. I think it is a foolish idea because you couldn't accomplish it anyway. I don't know where we would move all the refineries. We can't even get another State anywhere in the country, except maybe Arizona, to build a refinery. Nobody wants to build refineries. Everybody wants to put gas in their car and turn the electricity on, but we can't get anybody to lay a pipeline, build a refinery, put up a petrochemical plant. I don't know how Texas and Louisiana and Mississippi would lift 40 percent of the industry and relocate it somewhere in the United States, but if some people think that is a cost-effective way, maybe we should do that.

Having studied this issue for a pretty long time and represented this State for over 25 years, it is a foolish and foolhardy suggestion. I have a better one. The better one is a little bit of money every year, smartly invested, to protect this infrastructure, to restore our wetlands, to protect one of the greatest cities in the world and the region that surrounds it and the infrastructure that supports the commerce and trade for the entire Nation—if we just do a little bit well every year. Instead, we chose to do other things with our money.

This is a picture of the gulf. This is Mississippi. The title surge hit the gulf coast of Mississippi 30 feet high, cleared everything in its path for a half a mile back. We saw this kind of destruction with Camille. We hoped we would never see it again. But there are vulnerabilities living on the coast. When a hurricane hits you directly, this is what it looks like. Right here we had houses and casinos. We also had a major shipyard that was damaged pretty badly. You can't do a lot of shipbuilding inland. You have to have some waterways and build your ships in a place where they have access to water. Thank goodness we didn't have just one shipyard on the gulf coast. Thank goodness we had two because the hurricane hit one and not the other. Avondale is today up and running and building ships for our military and the private sector.

I don't know if you can see this, but the Presiding Officer knows because she is from Alaska and they do some oil and gas drilling for the Nation, we do most of it along the gulf coast. These are the pipelines that support that industry, as we send fuel and gas and electricity to Chicago, New York, California, the Midwest, and supply the energy necessary to keep this economy functioning. We have laid these pipelines for over 100 years. Maybe we could pick them all up and move them somewhere else, but I don't think that is going to happen. We can't even find the money to get a pipeline from Alaska—or figure out how to get a pipeline from Alaska. How are we going to take up all these pipelines and move them somewhere else? We don't have a choice.

We have to take some of our general fund dollars, more than we have. We need to, as I have said for over 10 years, redirect a portion of the offshore oil and gas revenues that Texas, Louisiana, Mississippi, and Alabama contribute to the tune of $5 billion, actually $6 billion a year last year, $155 billion since the 1950s, redirect some of that money into restoring our coast that protects this infrastructure and, working in partnership with industries, large and small, have more security around the energy infrastructure, whether it is pipelines, petrochemical plants, or refineries, not just for the protection of the industry but for the safety of the people who live and work in this region.

There is a beautiful series produced by Louisiana Public Television that I will submit for the RECORD. It is not in written form but in video form. I am hoping there is some way that I can submit that officially for the record. When Bienville and Niverville came and settled Louisiana and claimed it as a colony, they didn't come to sunbathe on the Mississippi River. They didn't come to put up condos. They came to secure the delta, the mouth of the greatest river in the country, for the strategic expansion and economic future of a nation. They asked people to come to Louisiana in hot, mosquito-ridden territory, not to sunbathe or to vacation. Who would vacation in a swamp with mosquitos? We leave the low-lying areas and leave the mosquitos when we want to vacation and go to the mountains. If you are lucky to be able to afford a tank of gas in your car, you don't stay in Louisiana to vacation. You go to Louisiana to work, even though a lot of people do come to New Orleans to enjoy themselves because it is a wonderful city. But down in the bayou, people fish, they trap, they hunt, they skin alligators, they drill for oil and gas, and they lay pipelines. They build ships, they fabricate so that we can produce jobs for people in America as well as ourselves.

For 300 years, we have been growing crops, growing sugarcane, growing cotton, growing soybeans, shipping goods around the world, drilling for oil and gas, building ships and pipelines, and asking for a little bit of money, just a little bit, to help us invest in an infrastructure that doesn't just save us from death and destruction but supports a nation's future. I have been on this floor so many times giving this speech that I am positive that every Senator could give this speech better than I because they have heard it a thousand times. And they have not just heard it from me. They heard it from Senator Breaux when he was here. They heard it from Russell Long when he was here. They have heard it from DAVID VITTER since he has been here. How much more clear can we be? They heard it from Billy Tauzin when he was chairman of the Energy Committee in the House. They heard it from CHARLIE MELANCON who represents this district now. They have heard it from GENE TAYLOR who has represented the gulf coast of Mississippi since he was a kid.

These are the kinds of people who live along the coast. They don't have a lot. But they do have their pride and their dignity. They have waited for 31 days now, but they have waited for decades actually for the Federal Government to recognize they are not in condos, having lunch at a club, sipping tea on a balcony, watching the waves. These people don't belong to a country club. They couldn't afford the monthly dues. They could barely afford gas in their automobile to get out when storms hit. Why do they live there? No. 1, because they love it; 2, because they work; 3, because the jobs are there; and 4, you can't move the jobs. Where would you put them?

Let me show you another picture of people. This is Charlene Veillon and her son Thearon. This is a sad picture to look at. This is a picture of them after being told that Charlene's daughter—I am assuming his sister—who had been driving from Tennessee to the gulf coast to try to help her family, when no one else would come to help them, this is when they learned that she died.

For a month and a half the people of the gulf coast have been crying for help, asking for help. I know that we didn't do everything right every minute of every day. But I can tell you one thing our delegation has done: It has come down here year after year and laid the case. We are happy to host the oil and gas industry, we are happy to build refineries, we are happy to organize our ports to transport goods all over the world so everybody can benefit. We are even glad we don't have to take a lot of vacations—some of us couldn't afford to go—to those highrises in Florida, anyway. But all we want is a little bit of support of money that we generate to protect us and to protect the Nation from something such as this disaster.

I have to read news articles from some of the supposedly smartest magazines in the world telling me the reason this happened is because the levee board in New Orleans—I am not going to support everything the levee board did, but I have to read in some supposedly elite magazines the reason this happened is because the levee board took a few hundred thousand dollars and built a fountain when they should not have built a fountain, they should have been building a levee.

I don't know about the fountain, but I can promise you this: $100,000 or $200,000, or $300,000 for building a fountain when they should have put a few more sandbags on top of the levee would not have prevented this disaster. What would have prevented this disaster is better priorities in spending, smarter investments, and a better partnership between a Federal Government that has decided it has other things to do, such as building levees in Iraq, building schools in Iraq, and I cannot get 5 cents to build a school along the gulf coast.

Then I have to have magazines tell me the people in the South are not self-reliant; we don't know how to walk on our own two legs. I am going to show a picture of self-reliance. See this family. They may or may not be related. They are of different colors of skin. Some people are related who have different skin color, but I don't know. This is how people all over the gulf coast are living—helping each other out, sharing the two bedrooms they have, sharing the food they have, not complaining. But it is my job to complain. I represent them.

Before I keep talking about Louisiana, because people say the Senator only cares about her State, let me tell you what the last page of this magazine says, the National Geographic. It is the last page. Pick it up and read it.

> The next Katrina? New Orleans was a hurricane tragedy waiting to happen.

It describes why this was inevitable. We knew it during Betsy. We knew it again at 9/11. We have known it for a long time. We didn't do what we needed to do. But according to NOAA—which is a very excellent organization, I must say, out of the Commerce Department for which I have a lot of respect—according to meteorologist Joe Golden, "the five places in the U.S. at greatest risk for calamitous hurricanes are: Tampa Bay, Florida; Mobile, Alabama; Houston, Texas; New York City and Long Island, New York; and Miami, Florida."

Wake up, delegations from these States. Many of these Senators have been helping. Many of these Senators understand the danger.

Why do we have to go through this again? Why do we have to go through it this time? You can't stop hurricanes, but you can protect yourself. You can set up a communications system so families who are trying to help each other will have their cell phones work. You can help your police officers by giving them radios that function. You can figure out how to have more redundancy so if your electricity goes down, somebody can get a message through.

The head of our National Guard from Alabama, during a CNN interview with me on this subject, said the Senator is right; we are sending runners in Alabama, as we did in the War of 1812, and it is 2005 and we do not have a communications system that protects Americans.

I know times are tough in Baghdad. Times are tough on the gulf coast.

This is a picture of a man named Pete. He is holding a 1950s picture of his grandparents' home in Empire, LA. I think Senator COCHRAN from Mississippi has fished off Empire. He knows it well. He fishes a great deal and respects the environment.

When Pete's grandparents moved here in the 1950s, this camp—which was in a vulnerable place even before the marsh eroded. It was vulnerable. I don't know if this was his grandparents' home where they lived or if they were shrimpers, trappers, or campers, or if this is a camp, as we call them, where you go on the weekend to try to relax and get out of the city. Anyway, what you can see beyond this camp is a lot of marsh. They didn't go out in the middle of the water and build this camp and come miles by boat to camp, although some do that, but very few. Most of these camps were attached to land, or they were in the 1950s. But 50 years later, there is no land around them because the saltwater has intruded because we channeled the Mississippi River, and the delta cannot replenish itself.

We laid 9,000 miles of pipeline, took all the oil and gas out of the ground, and did not give anything back to keep the land stable so that Pete could maybe have a place to take his grandchildren. Of course, the place is gone.

On page 57 of the National Geographic, there is a great article that begins "How the Defenses Break Down." It talks about barrier islands. We have barrier islands all around the coast. We are losing them rapidly off the coast of South Carolina, North Carolina, Florida, Georgia, Alabama, and Dolphin Island because we don't take care of our barrier islands, we don't protect our barrier islands, we don't invest in coastal erosion projects. We let them wash away into the ocean. Then we wonder why, when hurricanes come, they destroy a whole region. Every time a storm comes, we throw a little sandbag on the islands and say we did something. We are not doing anything.

We used to have hundreds of miles of marshland between New Orleans and the ocean. Please don't insult the ancestors of my city to think that they would put a major metropolitan area right on the coast. If anybody would get the map of the Mississippi River, they had to go up over 100 miles from the mouth of the river, and they found the highest ground they could find, and they put the city of New Orleans there.

Amazingly, even in Katrina, Jackson Square did not flood. The cathedral is still there, and the statue of Jesus is still standing in front.

They did not put the city on low ground. Three hundred years ago, they went inland away from the coast to build a city to secure the westward expansion of the Nation. Thomas Jefferson had the sense to borrow money from the Treasury, not to spend it on tax cuts, but to invest it in the Louisiana Purchase at 3 cents an acre. Then Andrew Jackson went there in 1803 and fought the British again. Not once; we fought them twice because they knew when we beat them in 1776, they could come back and take New Orleans and take the country away, and we fought them again.

But we have a Federal Government for the last couple of years—I have made some mistakes since I have been here, so I am not the only one; I am not saying I have not made mistakes. But we have a Federal Government whose only answer to any problem we have had, whether it is a recession, depression, or irrational exuberance, a high stock market, a low stock market, a war or no war, is to give tax cuts.

Let me ask something: Could anybody describe to me how this woman could take advantage of any tax cut? What would she do? Do you think she has any money in her IRA she could borrow to help her rebuild her house? Do you think maybe she could call her accountant and see if he could figure out a strategy for her to save a few dollars on the next income tax check she pays? I don't think so.

This woman—I don't know her name, but she looks a lot like my grandmother before she died. There are grandmothers and grandfathers all over the gulf coast sitting in chairs just like one looking at total destruction, and they have to hear from this Congress that we are about ready to pass yet another tranche of tax cuts, but we cannot send somebody to help her pick up the debris.

And please don't tell me you are sending faith-based organizations. And I say that with the greatest respect. You know why? Because the church that used to be here does not exist any longer. I am certain some church could come from New Jersey or come from New York or come from California, but this woman's church does not stand any longer.

In my State—this may be Mississippi, I don't know—but in the State of Louisiana, the Catholic Church, which is the largest church in New Orleans, is basically telling me and our delegation and any leaders who will listen that they may have to lay off thousands of workers at the archdiocese because their churches are destroyed and their schools are destroyed. But yet we have a Government that wants to say: Let the faith-based organizations do it. They are faith-based organizations. They are the Catholic Church. They need help.

We have a bill we have been asking for—and the President has asked for it as well—and we cannot get this Congress to move to give some help to some of the children who were in Catholic schools so they can get through this school year—70,000 of them. We cannot move that bill.

That is why I am on the floor today to talk about a lot of issues. As Senators come, they may want to talk about the Defense bill, but our war is right here at home. Our war is right here in the gulf coast. This debate is about the protection we seek, our security, our way of life. Millions of people from the gulf coast have given their lives for this country in war after war, in crisis after crisis, and now we ask for help and we get $63 billion to FEMA, which cannot seem to function well enough to get anybody help. So I have come to the floor to say: OK, let's catch a breath. FEMA is not working that well. Let's not worry about why now, let's try to fix the problem and take $10 billion of the $43 billion FEMA has that is sitting there, not getting to any of the people I showed, take it, and give it through whatever accountability mechanisms we can come up with, to give people health care they desperately need, to give relief to our schools that are about to stagger and collapse—elementary, secondary, and our universities that are also our major employers, that also have the brain power that is going to help us rebuild this region; they are about ready to close their doors—to give direct aid to our sheriffs, our police, and our firefighters who are desperately trying to keep the doors open on the cities and counties and communities, large and small, throughout the gulf coast. Give us a few of those billion dollars we have given to FEMA, which cannot function, and let us use that money. And if FEMA needs more money down the line, we can always give them some more.

But we cannot do that. All we can do is pass a Defense bill, argue about Defense authorization, take care of the war in Iraq, rebuild Iraq, but we cannot even focus on rebuilding the gulf coast where Americans have paid taxes their whole life and cannot get the Federal Government to act effectively.

I compliment the Senator from Alaska for moving our Defense appropriations bill. It is an extremely important bill for our Nation, and he has been very gracious to allow me this time. I am looking to see if another Senator shows up. I will be happy to end my remarks and take some time later today. We are on the Defense bill, and we have to move this bill and, of course, under the rules we only have 30 more hours of debate and we have to vote on that bill.

The bottom line, I guess, is this: We have been in negotiations with the White House and with the Republican leadership to pass something before we leave, something that is substantive but also in some ways symbolic, that somebody in Washington is hearing what people from the gulf coast are saying, which is, We know FEMA was funded, but we need help now.

FEMA is not well led, even though we have a new leader and he is doing a better job than the former one. It is not well resourced. It is not well organized, and it is not being that well coordinated at home. We can fix that, I am confident, over time. I am certain we have learned some of the mistakes that we have made with FEMA, and we can fix it; FEMA can be fixed, and we will have some time to do that. But right now, we need to get help to the people of Louisiana and the gulf coast.

We have asked for $1.5 billion for our State and local governments so that they can keep their doors open, not lay off their core workforce, either their police, their fire, their permitting offices, the support that a city or county needs to function, so that over the next few months and few years, we can actually rebuild our towns.

Last night, from what I understand, the White House offered $300 million, but $300 million is not enough to help the towns that are about to have to close their doors, including the city of New Orleans, which is struggling to stay open and to track people back to the third or fourth of the city that can function that is out of water.

The mayor announced yesterday that he has to lay off 3,000 people. We do not need to be laying off people. We need to be hiring people. There is enough work to be done. Just imagine 90,000 square miles of destruction. Does anybody doubt that there is not a lot of work that could be done? We do not need to be laying off public employees and laying off people in the private sector. We need to be stabilizing those who are working now and then be smart, strategic, wise, careful, and accountable as we hire help to stand up a region that is not just for the people who live there but for the whole Nation. Does anyone doubt that there is enough work to be done?

Let me show a picture of New Orleans. This is what parts of it looked like only a few weeks ago. It goes on for miles and miles, water standing 6 feet, 8 feet, 10 feet, interstates underwater. Does anybody doubt that there is a lot of work to be done? Why are we laying off people anywhere? I will say why—because sales taxes cannot be collected from empty buildings. Sales taxes cannot be collected from people who no longer live in their house and there is not a WalMart or a mom-and-pop store to shop within miles. How does a city with a $40 million monthly payroll exist for more than a month or two?

If somebody says, Well, they can borrow the money, let me talk about that for a minute because I was a State treasurer. I know a little bit about this issue. The constitution of the State of Louisiana smartly does not allow the State to borrow for operating expenses. Isn't that unique. We can only borrow money to build highways and invest in capital infrastructure. It is a very smart and wise restriction because if there are not restrictions like that, we end up being like the U.S. Government, which borrows to give tax cuts to people who did not even ask for them.

I am sorry we cannot organize a constitutional referendum in the next 30 days. Even if we could organize a constitutional referendum in the next 30 days, there are no polling places for people to vote, and if we tried to find our voters, we could not find them. So I am a little confused about how we would do that.

The State of Mississippi does not have that same restriction. I understand they have borrowed $500 million. So this woman right here, who I am pretty sure is from Mississippi—and I am not criticizing Mississippi. They have their own plans, and maybe they are great. But this woman will have to pay that $500 million back. I do not believe that is a great idea. I do not think she has enough money to put food on her table the next couple of months. If that is what they want to do, I do not know how they are going to pay this $500 million back, but I promise they are either going to cut programs this woman benefits from or she is going to get charged directly for it. That might be a good plan. I would not support something like that.

My State cannot borrow the money, and even if we could, we have a billion-dollar shortfall at the Federal level because the income is not coming in. The oil wells are not producing, so we do not get our severance taxes. The ports are crippled, so we are not getting that revenue. The sales taxes are way down, and the expenses are way up.

I have listened to the Washington Post, the New York Times, and the Wall Street Journal tell me the people of Louisiana are not self-reliant. Why can't we just fix our own problem? First, it is not our problem, it is the Nation's problem. The last time I looked, we were the United States of America. I am not sure we are anymore, but that is what we were the last time I said the Pledge of Allegiance.

Either people want me to keep talking or they do not have anything to say because nobody else is on the floor, so I will talk for a few more minutes and then I am going to sit down and just hold my time. I will talk more about the general subject, but I wish to be clear about why I am standing here and what we have asked for. We have asked for some help, just anything that we can take home before we leave so that people will have some hope that somebody up here is listening to them.

I have asked to pull up the Grassley-Baucus bill, which has been unanimously approved by Republicans and Democrats in the Senate, not a Democratic bill—thank God led by a great Senator, a Republican from Iowa who is the chairman of the Finance Committee. He understands, even though he is not from Louisiana, how much people are suffering, and he wants to help. So he and Senator BAUCUS, leaders that they are, 3 weeks ago, with the help of Senator LINCOLN from Arkansas, put a good bill together. It cost about $13 billion. If there were some things eliminated, we could scale it back to about $6 billion or $7 billion. When I say eliminated, there is some help for all the States. Maybe we just eliminate helping everyone else and help ourselves. We are trying to be generous. If other Senators want to try to help their States, who am I to say they cannot help their States. But if the Senate agrees to just help Louisiana, Mississippi, Alabama, and Texas, fine with me. They put a bill together, we passed it unanimously, and we cannot get any action on that bill. So we have asked for that.

We have asked for some education money to keep our schools open. We are trying not to ask too much because every time we ask for something, we are told we are greedy, we are looters, we are not self-reliant, how dare we ask on behalf of the people who have nothing for a little money out of the treasury, from their own money that they put in the treasury, how dare we ask for it. I am not going to stop asking, and I do not care how many editorials are written about me and my State at this point. Just go ahead and keep writing them.

Mr. DURBIN. Will the Senator from Louisiana yield for a question?

Ms. LANDRIEU. I would be happy to.

Mr. DURBIN. At the outset, I would like to say that I left the floor last night, about 12 hours ago, around 11. Senator LANDRIEU of Louisiana was on the floor last night. As I left, I said that she has shown such a passion and commitment to the poor people of her State of Louisiana who have been through this hurricane. I know she has tried to work within the system, she has tried to work within the Senate, and she has tried to move things along in a peaceful, bipartisan way. I sensed in her appearance last night and her appearance on the floor now that she is reaching a level of frustration and concern that this Senate is going to go home tonight or tomorrow and be gone for 10 days having done nothing to address the important issues she is raising.

What the Senator has brought to our attention is the fact that we have a bipartisan proposal. Senator GRASSLEY, a Republican of Iowa, and Senator BAUCUS, a Democrat of Montana, on the Finance Committee, have come up with a proposal to provide basic health care for the evacuees and survivors of Hurricane Katrina and Hurricane Rita, basic health care. The Senator has come to the Chamber repeatedly—I have seen it—trying to at least bring this to a vote. That is all she is asking for, bring it to a vote.

It is my understanding that at this moment in time, she has no commitment from the Republican leadership in the Senate to even bring this matter for a vote before we go home for 10 days on a break. I ask the Senator from Louisiana if she could in the most general terms tell us what kind of health care she is trying to provide to these people. Some have characterized it as luxurious, over-the-top health care for people who do not really need it. In fact, I heard on the floor last night one of the Senators say: Well, they do not really need this.

Could the Senator from Louisiana spell out for us what she is looking to achieve, what this bipartisan proposal would mean to the poor people who have lost their homes, lost their worldly possessions, seen their families torn apart, and are living in shelters somewhere around that part of our country?

Ms. LANDRIEU. I would be happy to, and I thank the Senator for his leadership because the Grassley-Baucus bill does a couple of important things that are essential for the rebuilding and emergency needs of a population—not just the poor but the middle income and those who had private insurance the day before Katrina hit. The Baucus-Grassley bill allows the States to know that they are going to be reimbursed for the care they are providing to people who have virtually no insurance. For a State such as Louisiana, whose legislature may be meeting in the next few weeks, with a billion-dollar shortfall looming, I say to Senator DURBIN, it is critical that the States of Louisiana and Mississippi and Alabama and Texas have some idea now about what the Federal Government is going to do regarding their insurance. We share it 70/30. The State cannot put up a 30-percent match. This bill waives that match so that our States can start making good budget decisions at a very difficult time, in addition to providing health care for those who are 200 percent or below of poverty—which in our State is only $18,000 or $20,000—to make sure that people have health insurance.

But for middle-income families, working families, and even wealthy families that had health insurance, this bill allows them—even if their employers have gone under or taken bankruptcy or closed their doors and laid them off—to keep their health insurance for a few months, for 6 months or 12 months, depending on their category.

A Senator said on the floor, Senator DURBIN, that people can get health insurance, they can get health care. Yes, in some way; they can go to an emergency room and wait for 3 days. But if they want to go to their doctor's office to whom they have been going for their whole life, and take their child to their pediatrician and they now don't have health insurance, unless we pass this bill, they can't go knock on the door of their pediatrician, for example, unless they give them a credit card or cash because there is no health insurance without the Baucus-Grassley bill. People who don't have a home, don't have a church or don't have a school now do not even have health care because we have to go home on a 10-day break and leave them wondering where they are going to get their medicine. That is what the bill does, I say to Senator DURBIN.

Mr. DURBIN. I would like to ask the Senator from Louisiana, through the Chair, we have been through disasters before in America. We faced 9/11, that terrible day in our history when 3,000 Americans lost their lives. I would like to ask the Senator from Louisiana, if I am not mistaken, didn't we say we were going to come in and help those families who may have been in the same circumstance, where their place of employment just exploded and disappeared? Also, I would ask the Senator from Louisiana, when we had an earthquake in California, in Northridge, didn't we step in and say we are going to provide housing vouchers to people displaced because of earthquakes?

I ask this of the Senator because I don't quite understand this double standard. Why, if the worst natural disaster in modern memory occurred a few weeks ago, are we in the midst of debating the most basic things people need in crisis: health care, housing, cash so they can buy the basic necessities of life? Why are we facing this double standard, when America's heart was broken by the scenes we saw day after day and night after night on the television screen, coming from your hometown, your neighbors and their suffering?

Ms. LANDRIEU. I do not know, I say to Senator DURBIN. That is a puzzlement for us. I do not have a good answer for that. All I can say is there are 2 million people displaced, many towns are destroyed, many communities, both urban and suburban, rural as well as highly dense. Neighborhoods of black and white, Hispanic and Asian, poor and middle-income are wondering the same thing.

Why does Congress keep giving money to FEMA? FEMA is not functioning very well. So when our Governors and our mayors and our sheriffs ask for a little bit of help with health insurance and education and the basics to turn running water on—we have had enough bottled water. Please don't send us any more bottled water. We have plenty.

We need to turn the faucets on so water will come out so a small business that wants to operate can actually function with some water. You cannot have a business operating without water. That is what we need.

We have asked for these emergency things, to be told we do not have the money. I am going to sit down. In this amendment, we are asking for four or five things, for education, for health care, for immediate needs, for help for some hospitals that stayed up. Three hospitals stayed up the whole time in the region. If we do not help them, these hospitals will close, employees will be laid off, and whatever modest health care system we have for the region will basically be dysfunctional.

But what we really want—we want those things, but what we want is some action taken before we leave. We can vote on these individually. We did get a commitment from the administration that they will do more than $300 million. Because if we do not get more than $300 million before we leave here, the city of New Orleans, the Archdiocesan—the Catholic Diocese—or St. Tammany Parish, or some parts of it, or Plaquemines or St. Bernard or any number of other places, I say to Senator DURBIN, will have to lay off workers who then will lose their health insurance, lose whatever means they have of keeping themselves and their families intact, and the situation will be spiraling downward, not spiraling upward.

The Senator has been very gracious. I am going to reserve the remainder of whatever time I have, but that is what we are asking for, and I hope we can get something done before we leave for this week-and-a-half break.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, we now have the preliminary scanning of the amendments that have been passed by the Parliamentarian. We would be pleased to share that information with any Senator who has an amendment. The Senator from Louisiana does have the floor until someone is ready to offer an amendment or speak on the bill. We urge Members to come and start the process. We are prepared to handle amendments. On some amendments we will make a point of order as to germaneness, but we are trying to be as broad as possible in consideration of Members' amendments so we can finish late today, if possible.

Mr. DURBIN. Madam President, I ask unanimous consent to yield to Senator LANDRIEU at a later moment when she comes to the floor, 30 minutes or more of the hour—30 minutes, I will yield to Senator LANDRIEU, postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Chair.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Washington.

TRANSPORTATION, TREASURY, HUD, AND GENERAL GOVERNMENT APPROPRIATIONS

Mrs. MURRAY. Mr. President, I rise today to urge the Senate leadership to call up H.R. 3058, the Transportation, Treasury, HUD, and General Government appropriations bill for fiscal year 2006, once the Department of Defense appropriations bill is done.

We all want to make our country strong again. We all want to make our communities strong again. One way to do that is to invest in our transportation infrastructure, in public housing, and in the other priorities that are part of that important bill.

Every day we go without a Transportation-Treasury bill is a day that we fall short of making the investments we need to make to strengthen this country. We are not talking about our physical infrastructure, we are talking about our own safety. As I will show in a moment, the failure of the Senate to bring up the Transportation-Treasury bill could actually be threatening the safety of every American who flies on a commercial air carrier.

A floor debate on the Transportation-Treasury bill is long overdue. The House of Representatives passed this bill more than 3 months ago. The Senate Appropriations Committee reported this bill almost 2½ months ago. Today we are almost a full week into fiscal year 2006, and still the Senate has been denied an opportunity to consider and debate and pass this important bill. The Senate needs to debate and pass this bill so we can avoid the unruly and unfair process of funding the Government through another Omnibus appropriations bill. The Senate needs to debate and pass this bill so all of the Senators, not just those on the Appropriations Committee, can have an opportunity to consider and, if necessary, amend that bill. The Senate needs to debate and pass this bill so we can urgently address the critical needs of our transportation and public housing sectors, including the pressing need to protect the safety of all of our citizens.

Mr. President, 2002 was the most recent year in which the Transportation appropriations bill was sent to the President as a freestanding measure. I was chair of the subcommittee at that time. Ever since then, the funding for the agencies under the subcommittee's jurisdiction has been enacted as part of a series of unwieldy Omnibus appropriations bills. The process by which these bills were put together did not reflect well on the Senate. It did not reflect well on the Congress as a whole.

Last year's process was the worst of all. Last year, the Transportation, Treasury, and General Government appropriations bill for fiscal year 2005 was never even debated in the Senate. Once the appropriations bill was reported by the Appropriations committee, the bill languished for months before Congress went home for an election. Then, just before Thanksgiving, Congress reconvened and tried, in 3 days, to assemble a final conference report for dozens of major Federal agencies, even though the Senate had never even passed many of the appropriations bills that funded those agencies.

I think Members of all political stripes in both the House and in the Senate recognized how poorly the public and the Congress were served by that process. In January, everyone said we will not do that again. We heard it from the leadership of both the House and the Senate and from the new leadership of the House and the Senate appropriations committees. I am glad they said it back in January. But from where I sit as the ranking member of the Transportation-Treasury Subcommittee, it sure looks to me as though we are now heading toward another Omnibus appropriations bill.

The bottom line is this. The Transportation-Treasury bill has been sitting on this calendar, ready to be called up, for almost 2½ months. If we want to avoid another Omnibus appropriations bill, we need to call up and pass that bill as soon as we are done with this Defense bill.

This process of sending bills approved by the Appropriations Committee directly to conference without appropriate debate on the Senate floor is not just grossly unfair to Democratic Senators, it is grossly unfair to all of the 72 Senators who do not sit on the Appropriations Committee. The appropriations bill that Senator BOND and I are recommending to the Senate was approved unanimously by the Appropriations Committee back in mid-July. It proposes to spend over $137 billion.

These are not just tax dollars that were collected in Missouri or collected in Washington or collected in States represented by members of the Appropriations Committee, these are tax dollars that were collected from all Americans. Since that is true, every Senator should have the opportunity to debate this bill and pass judgment on our recommendations. Every Senator should be given an opportunity to amend that bill.

We need to avoid another Omnibus to ensure a fair process. There are also some very practical programmatic reasons why we must call up and, importantly, pass this Transportation-Treasury bill as soon as possible. Now the Government is functioning under a continuing resolution. Under the requirements of that resolution, programs that are funded in the Transportation-Treasury bill are all operating at either the lower of the funding levels passed by the House of Representatives back in June or at the level the program was funded in fiscal year 2005. Some observers have speculated we could be operating under this continuing resolution until Christmas.

It would take hours for me to list all the programs and national needs that will suffer if they are required to operate for any length of time under the funding restrictions of this continuing resolution. If we do not get agreement soon to debate the Transportation-Treasury bill, I may well take up a lot of the Senate floor time to explain each and every one of them.

But today I want to focus on one topic and that is the topic of aviation safety and what our failure to move this Transportation-Treasury appropriations bill means for millions of Americans who travel by air in this country today. Over the last few years, our national aviation enterprise—our airlines, our airports, and the FAA—have been under an unprecedented amount of financial pressure. We now have no fewer than six airlines in bankruptcy. If jet fuel prices do not start declining soon, that number could grow even higher.

In the interests of cutting costs, airlines on which you and I travel have been cutting back on staff, have been renouncing their pension plans, and have been outsourcing an increasing percentage of their aircraft maintenance.

I know many other Senators, including myself, travel home almost every weekend, and we have all noticed the changes in the service the airlines offer. Staffing is leaner than ever and we have a lot of flight delays. Mechanical problems are on the rise. One important area of cost cutting has been the airlines' continuing efforts to contract out their aircraft maintenance activities to third parties, including, you all should know, overseas vendors known as foreign repair stations.

In the past, airlines maintained their planes with experienced veteran unionized mechanics. Today, they outsource more than 50 percent, more than half of their maintenance work, to independent operators. Airlines such as Northwest send some of their aircraft as far as Singapore and Hong Kong for heavy maintenance.

We have one major carrier, Jet Blue, that sends a large portion of their Airbus fleet to be maintained in El Salvador, Central America. That is where their planes are maintained.

America West Airlines, now merged with U.S. Airways, does the same thing.

Many of us watched in fear a few weeks ago when a Jet Blue A-320 was required to make an emergency landing at the Los Angeles International Airport. As we all watched on television, we saw its front landing gear facing sideways, at 90 degrees. That was not the first time the landing gear didn't engage correctly. In fact, it was not the 5th time, it was not even the 10th time, it was the 14th time that the FAA learned of the front landing gear of an A-320 aircraft not engaging correctly.

According to the FAA, these 14 dangerous and frightening mishaps have occurred as a result of 5 separate and distinct causes.

It is the job of the FAA inspectors to find out why these problems happen and to force the plane's manufacturer to fix that problem. We cannot afford to have an understaffed or an overwhelmed FAA safety office.

Our airlines are going through a period of dramatic and rapid change. That puts an extraordinary amount of stress on the aircraft inspection function of the Federal Aviation Administration.

We have received a disturbing series of reports from the DOT Inspector General, from the Government Accounting Office, and the National Transportation Safety Board citing deficiencies with the FAA's inspection effort.

In 2004, the NTSB found that deficient maintenance by an outside contractor and inadequate oversight by the airline and the FAA contributed to the 2003 crash of a commuter flight to Charlotte, NC. That crash killed 21 people.

The DOT Inspector General first identified serious deficiencies with the FAA's inspection efforts back in 2002. Just this past June, the IG reported that many of those deficiencies have still not been adequately addressed.

The IG found that the FAA focused too much attention on the airline's dwindling in-house maintenance function and not enough attention on the outsourced maintenance activities of their foreign contractors.

The IG found that the FAA inspectors were spending too much time inspecting maintenance facilities during the day, while a majority of the maintenance activities are actually conducted at night.

The IG found the FAA was doing an insufficient job of its surveillance of financially distressed or rapidly growing airlines. And the IG found the FAA was not able to meet its own standards for frequent inspections because it was short staffed.

In just the last few weeks, the FAA staffing shortage has become even more critical. As these airlines enter bankruptcy, the FAA is automatically required to step up its inspections of bankrupt carriers.

Today, the FAA must give heightened scrutiny to the six bankrupt carriers, as well as four other carriers that are in merger proceedings.

Following the liquidation of Eastern Airlines several years ago, a number of dramatic and horrifying revelations came out regarding the maintenance shortcuts that Eastern took in the interest of conserving cash in its waning days. The entire aviation community vowed that there would not ever be a repeat of the Eastern Airlines experience.

I would think with the external recommendations and the record that I have just cited, the FAA would now be rapidly hiring more inspectors to keep up with its growing and challenging workload. Unfortunately, over the course of the last year, the exact opposite has been the case.

Despite the fact that the Congress granted the FAA's inspections office every penny that was sought in the President's budget for fiscal year 2005, the office has been required to downsize by roughly 300 inspectors over the course of just this last year. That is right. As the requirements on our FAA inspectors to maintain safety in our skies has increased dramatically, the FAA has been downsizing its inspection force each and every month.

This unacceptable situation is one that Senator BOND and I pursued as part of our hearings with Secretary Mineta this year—and the House Appropriations Committee did the same. I am proud to say that on a bipartisan and bicameral basis, both the Transportation-Treasury bill passed by the House and the bill that has been reported by the Senate Appropriations Committee seeks to rectify the situation.

The House Appropriations Committee provided this office with an increase of $4 million over the President's budget request and committed those funds to the hiring of additional inspectors.

The Senate provided an increase of $8 million over the President's request, and we directed that funding be used to restore safety inspector staffing reductions that occurred during fiscal year 2005.

Personally, I still question whether we should be doing more in this area since we have now had two more airlines in bankruptcy since we marked up that appropriations bill.

But still, these actions on the part of the House and Senate committees indicate that Congress, on a bipartisan and a bicameral basis, is prepared to address this glaring safety vulnerability, even if the administration is not.

With that said, we can't make any progress in tackling this problem if we do not call up and pass the Transportation-Treasury appropriations bill.

Under the current continuing resolution, the agency can make no progress in restoring the necessary FAA inspectors to a level that could better protect us.

As I said, this was just one of several reasons it is imperative for the Senate leadership to call up the Transportation-Treasury bill.

I again implore the Senate Republican leadership to call up the Transportation-Treasury bill immediately upon the completion of this Defense appropriations bill.

We have to have the opportunity to debate this bill, not just for the fairness of our colleagues and to maintain the integrity of the Senate, but we must debate this bill and pass it so we can ensure the safety of our citizens.

VAWA REAUTHORIZATION

Mr. President, I rise today to speak about the Violence Against Women Act, which the Senate this week passed by unanimous consent.

For the last few months, we have been talking about reauthorizing the Violence Against Women Act, or VAWA, as it is better known.

Back in 1994, through this historic legislation, we created a national strategy for dealing with domestic violence, establishing a community-wide response. Since we took that historical step, VAWA has been a great success in coordinating victims' advocates, social service providers, and law enforcement professionals to meet the immediate challenges of combating domestic violence. We can clearly see that VAWA has been tremendously effective.

But there is still work to be done to protect victims of domestic violence—particularly when it comes to helping victims break the cycle of violence. And that is what I am here to talk about today—breaking the cycle of violence.

Financial insecurity is a major factor in ongoing domestic violence.

Too often, victims who are not economically self sufficient are forced to choose between protecting themselves and their children on one hand, and keeping a roof over their head on the other hand. It is critical that we help guarantee the economic security of victims of domestic or sexual violence who cannot pay the rent without their abusive partner, or who have been forced to leave their job because of abuse. Without our help, economic dependency will continue to force these victims to stay in abusive relationships.

The purpose of the Violence Against Women Act is to reduce domestic violence. The reauthorization legislation addresses several new issues that will help prevent and reduce domestic violence. One such—way as I already mentioned—is a national health care strategy. But the legislation as introduced contained another important tool to helping reduce domestic violence—it contained provisions that would have allowed victims to take up to 10 days of unpaid leave per year to address domestic violence.

Over 40 percent of American workers get no paid time off. They can't use vacation time to address their abuse, and missing work puts them in danger of losing their job.

This provision would have allowed these victims, and many others, to take unpaid leave to get a protective order, see a doctor, or make a safety plan to address their abuse. But sadly, amidst opposition and complaints of jurisdictional issues, these provisions were stripped from the bill during consideration in the Judiciary Committee.

The legislation that was reported out of committee—which the Senate just passed by unanimous consent—does not contain any economic protections for victims.

I did not give up on these protections easily. After the leave provisions were dropped, I asked the managers of this bill to include another economic security provision, unemployment insurance. Specifically, I asked them to provide victims of domestic violence, dating violence, sexual assault, or stalking with unemployment insurance if they have to leave their job or are fired because of abuse.

We know that a job is often the only way for victims to build up resources for themselves to eventually leave a violent relationship, but abuse and stalking can make it impossible for a victim to keep a job.

We know of cases where abusers will deliberately sabotage a victim's ability to work, placing harassing phone calls, cutting off their transportation, showing up at the workplace and threatening employees.

When a victim loses a job because of violence, that victim should have access to unemployment insurance compensation benefits.

Are you aware that a woman is eligible for unemployment benefits if she has to leave her job because her husband had to relocate? But in many States, if a woman has to leave her job because she is fleeing a dangerous situation, she cannot receive the same benefits. That is unacceptable.

Currently, 28 States plus the District of Columbia already provide some type of unemployment insurance assistance for victims of domestic violence. We can offer that same protection to victims in every State, and we have an obligation to do it. But, since this provision is not included in VAWA either, we need to do it here and now.

It is important to recognize that this violence goes far beyond the home, too often following victims into the workplace, where it doesn't just hurt victims—it hurts their employers, too.

In fact, from decreased workplace productivity to increased health insurance cost, the data shows that domestic violence is bad for business. It has real and painful costs on employers. So for those Members who want to weigh this measure against its economic merits, the facts are clear.

Providing the tools that will allow abused women to escape abusive relationships can help offset billions of dollars in costs that domestic violence imposes on businesses.

As many of my colleagues know, I have been working on the issue of economic security for victims for many years. I have spoken with victims and their advocates, and employers. In fact, just this past Tuesday in my State of Washington, I held a roundtable discussion to meet with stakeholders. I heard from an employer—and owner of a small business in Snohomish County—who talked about the importance of flexible schedules and leave policies that allow employees to address their abuse. He said that helping them address their situations helps his bottom line.

I also heard from someone who works at the employment security department, who said that the numbers do not suggest that women are abusing unemployment insurance. And I heard from a survivor, who shared her story and talked about the crucial importance of these economic protections.

These are the voices we must hear. And these are the stories we must learn from and let guide our work here in the Senate.

I am going to keep coming to the Senate as many times as it takes, and I will tell these stories until my colleagues realize this is an issue that needs to be addressed. We need to provide these victims with the economic tools to help escape their dangerous situation.

For a long time, violence against women was considered a private matter. That attitude hurt women. Today, stopping domestic violence is everyone's business. That is in large part due to the Violence Against Women Act which I was very proud to work on and help pass. For the first time, the Violence Against Women Act recognized domestic violence as a violent crime and a national public health crisis.

Economic protections are the next logical step in the progress we have been making in fighting domestic violence. Unfortunately, many of my colleagues have not realized the critical importance of providing these economic protections. I brought this issue up last year when the Senate was considering the Unborn Victims of Violence Act. I tried to amend that bill with my Security and Financial Empowerment, SAFE, Act, which contains all the economic protections I have talked about today. I was told then it wasn't the right time to address preventing violence against women. My amendment was defeated on a party-line vote. I am here again talking about how the Senate is failing to address this issue and failing to help prevent domestic violence by overlooking these economic provisions.

I reiterate to my colleagues that I will continue to come to the Senate and talk about how critical this issue is in helping victims get out of abusive relationships. I will continue to introduce legislation and offer amendments providing economic protections to victims. I will continue to ask whether the Senators in this Chamber are serious about talking about the next crucial step to help victims of abuse. I urge the conferees on the Violence Against Women Act to send the powerful message to victims that they understand how important these economic protections are by including them in the conference report on VAWA.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is the Coburn amendment the pending amendment?

The PRESIDING OFFICER. It is.

Mr. STEVENS. Mr. President, I ask unanimous consent that the vote on the Coburn amendment commence at noon and prior thereto there be a period of 10 minutes equally divided with no second-degree amendments in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, in the interim, if any Senator wishes to discuss an amendment, we are pleased to proceed. We will accommodate any Senator with regard to amendments they wish to discuss. We discussed this matter last night with Senator Coburn, and he agreed we could initiate a vote on his amendment sometime around noon. We would like to proceed on that basis.

I once again urge Senators to present their amendments or work with us with regard to the package we are now discussing on amendments which will be accepted without debate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I wish to announce to the Senate my intention to move to make a point of order against all amendments that have been indicated by the Parliamentarian to be not germane commencing at 2 o'clock. So if any Senator wishes to discuss that category of amendments, we would be pleased to discuss them either prior to this vote or after the vote. We would like to have a decision made, if possible, as to how many more amendments we will deal with today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1943, AS MODIFIED; AND 1997, EN BLOC

Mr. STEVENS. Mr. President, I send to the desk the first managers' package for the day. I will present it now. We offer, for Senator Reed of Rhode Island, amendment No. 1943, a sense of the Senate on increased personnel end strengths, and it has been modified; for Senator Mikulski, amendment No. 1997, for laser marksmanship training. I ask unanimous consent that these amendments be considered en bloc.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are agreed to en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1943, AS MODIFIED

(Purpose: To express the sense of the Senate on the transfer of amounts for increased personnel strengths for the Army and the Marine Corps from Additional War-Related Appropriations to the recurring appropriations for fiscal year 2006)

At the appropriate place, insert the following:

SEC. . SENSE OF SENATE ON TRANSFER OF FUNDS FOR INCREASED PERSONNEL STRENGTHS FOR THE ARMY AND MARINE CORPS.

(a) FINDINGS.—The Senate makes the following findings:

(1) A long-term increase in the personnel end strengths for active duty personnel of the Army and the Marine Corps is necessary in order to carry out the current missions of the Army and the Marine Corps and to relieve current strains on Army and Marine Corps forces.

(2) The cost of the increase in such end strengths is foreseeable and should be included in the annual budget of the President for each fiscal year, as submitted to Congress pursuant to section 1105 of title 31, United States Code, in order to provide a full and honest accounting to the American people of the personnel costs of the Army and the Marine Corps.

(3) The inclusion in the annual budget of the President for each fiscal year of the costs of an increase in such end strengths will permit the Army and Marine Corps to plan for and accommodate the additional troops contemplated by such increased end strengths without reducing other important programs.

(b) SENSE OF SENATE.—It is the sense of the Senate that the additional amounts to be required for increases in the personnel end strengths for active duty personnel of the Army and the Marine Corps for fiscal year 2006 should be transferred from amounts appropriated by title IX for the Military Personnel, Army, Military Personnel, Marine Corps, Operation and Maintenance, Army, and Operation and Maintenance, Marine Corps, and Operation and Maintenance, Defense-Wide, accounts to the amounts appropriated for the applicable accounts in titles I and II.

AMENDMENT NO. 1997

(Purpose: To provide that, of the amount made available under title III for the Air Force for other procurement, up to $3,000,000 may be made available for the Laser Marksmanship Training System)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading "OTHER PROCUREMENT, AIR FORCE", up to $3,000,000 may be made available for the Laser Marksmanship Training System.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2005

Mr. WARNER. Mr. President, Senator Levin and I are currently conducting a hearing of the Armed Services Committee. Both of us believed it was imperative to come to the Chamber and express to the Senate our strong objection to the amendment offered by our distinguished colleague, Senator Coburn. I give this by way of background:

The Committee on Armed Services for some time has been, frankly, encouraging the Department to take steps to try to put in place a system that would revise the older means by which travel was accommodated for members of the Department and others. It is a very extensive number of individuals who are affected. The Department did put in place a program, albeit rather slowly. Nevertheless, it is now in place.

Congress, through the years, has criticized the Department for not providing better business practices, specifically for the inadequate oversight of their travel programs. Criticism centered around a growing number of separate, nonintegrated travel systems which did not provide the information required for DOD or congressional oversight. Therefore, the Defense Travel System was created by the DOD to address these criticisms and the desperate need to make this system work more cost-effectively.

Comparing the Defense Travel System to the legacy systems is inappropriate because the Defense Travel System performs different functions. The legacy systems are travel reservation systems. The DTS, as it is known, reengineers these legacy systems into a travel and financial management system which links 30 defense data and financial processing systems with the consequent lower transaction and processing fees and lower personnel costs. DTS is saving both people and money. A return to the legacy systems will require additional people, which is not funded. As DTS is further implemented, additional savings will be achieved.

Our joint plea is to allow DTS to remain in place and give it a reasonable chance to function and prove its goals.

According to the GAO, the "continued use of the existing legacy travel systems results in underutilization of DTS and affects the savings that DTS was planned to achieve." This includes paying higher processing costs through the legacy systems' manual travel vouchers as opposed to the processing of the travel vouchers electronically through DTS.

The GAO and the Department of Defense have briefed the Armed Services Committee staff that they believe DTS should be given a reasonable opportunity to continue to resolve the Department's travel programs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I thank the Senator from Virginia for his comments.

This amendment does not eliminate DTS. It says that instead of continuing to pay $40 or $50 million a year for the 5.6 million travelers who travel, we will pay a fee based on DTS's operations. The Federal Government doesn't own this program. In fact, anybody who looks at the development of this program will say it is way too expensive to have been accomplished in the way it was accomplished. That is another issue. That is contracting within the DOD, and there are problems with that.

I remind the most distinguished Senator from Virginia, this doesn't eliminate DTS. It allows it to continue to function. But what it says is we are not going to continue to pay money for a program we don't own, and we will start paying it on a per-travel basis.

What are the facts around it? Three hundred and seventy-five thousand out of 5.6 million travel vouchers last year went through the DTS system. That is $1,500 per episode, not including the travel. So what we actually have is a system way more expensive than any system that has been developed in the private sector.

I am not against using the DTS system. I am all for giving it a chance to save us money. We have invested in it. What this amendment says is that we don't eliminate DTS; we just start paying on a per-travel basis and a per-utilization basis. That way, we don't continue to spend $50 million a year for a program we don't own. We should own it for what we pay for it, and there shouldn't be any cost.

I would be happy to modify my amendment to what would meet with the needs of the Senator from Virginia, but I don't believe we should continue to spend, in the contracting sequence this has gone through, the same amount of money. If we allow DTS to continue to be out there and utilize the reporting capability of it but pay it on a per-ticket use rather than a blank check for a contract, the taxpayer will get much more benefit from it. If it performs, the contractor will make more money. If it doesn't perform, we will save a ton of money for the country. That is the purpose of the amendment.

Mr. STEVENS. Will the Senator yield for a moment?

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. COBURN. I am happy to yield.

Mr. STEVENS. We entered a time limit to have this vote occur at 12. In view of the exchange that is going on—and another Senator also wants to talk—I ask unanimous consent that the vote take place at 12:10 and the time between now and then be divided between Senator COBURN and anyone who wishes to speak on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I must say, I am impressed with the thoroughness with which our colleague has researched this issue and the fervor with which he speaks. But I pose this question: The Department of Defense estimates it will cause a 3-year delay and cost some $65 million to change the contract structure. I reiterate my strong opposition to the amendment because I don't think the Department has had the time operating DTS to adequately prove the principles and the goals they wished to achieve.

I recognize other colleagues wish to speak. I thank my colleague for the opportunity to have a colloquy.

Mr. COBURN. Mr. President, 3 more years? We have spent 7 years and $500 million on this system. That is a half a billion dollars. That is $2 for every man, woman, and child in this country for a travel system that you could have bought off the shelf for $150 million in 2 or 3 years. The contracting issue is a different issue. If it is going to take 3 more years at $50 million a year, that means we are going to be at $650 million for this travel system. That is unacceptable. I believe we ought to say perform or don't perform and put it at a per-unit cost. Why is it that only 370,000 out of 5.6 million travel episodes were used on this system at the end of 7 years?

We have a structural problem in contracting through the Defense Department, as well as many other departments in our Government. What started out to be a $60 million project is now going to end up being $650 million. It is the same issue we face with FEMA today in terms of being efficient.

I ask my colleagues to think about how this will still continue if we do it on a per-travel basis. First, it will increase the stimulus to get the job done and completed because there will be more revenue, the more people who use it. Two, it will limit the total amount of money the taxpayers are going to end up having to pay for this system. Three, it will send a message to the contract officers at the Pentagon that creep in terms of contracting is not acceptable. There are some real questions on whether this process violated the contracting laws at the Pentagon. I assure my fellow Senators, through the Federal Financial Oversight Committee, if this continues, we are going to have some hearings to look at the issue of violation of the contracting laws at the Pentagon. We should not have to do that.

Let's limit the exposure of the American people to the cost. I am not upset at the contractor who is doing this. The problem is, it is a big task, but it has cost way too much. Let's provide some stimulus to finish the job and make sure the job is done well rather than continue to throw money at it.

With that, I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. ALLEN. Mr. President, I very much respect the Senator from Oklahoma. He is a man who is a watchdog on the taxpayers' money, and so am I. I know he is very conversant on a variety of issues. It is one of those occasions I must rise in opposition to the Senator's amendment.

Congress, several years ago, authorized the Defense Travel System with the aim of saving taxpayers' dollars, and that makes a great deal of sense to make sure that travel administration by the Department of Defense has greater scrutiny. In fact, as I understand it, they have found by doing it this way—and it is only being field tested; it is not fully implemented—those who are traveling at first-class and tickets being paid for where travel wasn't used. This system is actually helping save the taxpayers money and also identifying when Government workers are flying at a higher cost than they ought to.

I am told that it is now used at a little bit more than half of the Department of Defense 11,000 sites by nearly 700,000 uniformed and civilian personnel. It appears, from what I have looked at, that DTS has not only met but exceeded its original objectives. It is not fully put in place. It is being field tested. As a practical matter, we would like another year or so to see it fully implemented. I am told that it has handled more than a million transactions, and it is well on its way to saving the projected $56 million a year for the American taxpayers.

As to efficiency and savings, any GSA solution will strip away what are planned savings and actually increase operations costs. This is the information I have been trying to gather on this since Senator COBURN offered the amendment. It would actually increase operation costs from $40 to $60 million annually. Senator WARNER used the figure of $65 million. Regardless, there would be an added cost.

One thing the Senator from Oklahoma mentioned is that the Department of Defense does not actually own this software system and that what the Department of Defense, though, has done is it has appropriate license rights to the DTS software system in accordance with Federal acquisition regulations. While there are these allegations from outside parties that criticize the DTS program on the basis that the Government failed to obtain title to the DTS software, what is ignored is that the Federal acquisitions regulations provide that in the vast majority of Federal contracts, the Government does not take title, but instead it is given a license to the software. And the Department of Defense has secured appropriate license rights to all the developed software and third-party software products used by DTS.

The Senator from Oklahoma stated that this contract may violate the very laws that were put on the books to try to maintain competition in contracting. I don't know whether it was an assertion or a conclusion.

I respectfully disagree. The legality of the restructuring of the DTS contract has been challenged in court. From what our research has shown, no court has found that the entire restructured contract was illegal. It simply stated no part of the contract, as currently configured, has been found by any court to be illegal. Maybe it will be in the future, and we will see.

Mr. COBURN. Will the Senator yield for a question?

Mr. ALLEN. Let me finish and then the Senator can respond. I say to my friend from Oklahoma, I do have a great deal of respect for him. He is truly a steward of the taxpayers' money. I pride myself, also, in being a good steward of the taxpayers' dollars. I know there have been hearings on this DTS program. We need to continue to examine this issue and, in fact, a lot of others. To cut funding right now for this program would be a hasty action and, from all the information I have been able to glean, would actually increase the cost to the taxpayers.

The Department of Defense does oppose this amendment. They called my office a short time ago expressing this opposition. They promised to review the GAO report as soon as possible. I do think the more prudent approach is to, of course, commend the Senator from Oklahoma for any kind of scrutiny. No spending should not be under the watchful eye of us as stewards of the taxpayers' dollars. But because of a lack of understanding on the part of the Senators on the floor and this amendment, this should continue to be studied.

I will oppose this amendment and work, such as all of us, to study this issue further. I hope my colleagues will oppose the amendment.

Mr. STEVENS. Will the Senator yield?

Mr. ALLEN. I yield to the Senator from Alaska.

Mr. STEVENS. I underestimated the amount of time needed. Senator LEVIN wishes to speak. I ask unanimous consent that the vote take place at 12:15 p.m. and that the additional time be divided between the Senator from Oklahoma, Mr. COBURN, and the Senator from Michigan, Mr. LEVIN.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. ALLEN. I yield the floor.

Mr. COBURN. Will the Senator yield?

Mr. ALLEN. Yes, I yield to the Senator from Oklahoma.

Mr. COBURN. I don't have any problems in putting a lid on this contract, but let's have a little history. The reason the judge could not find a violation in the Competition in Contracting Act was because the Pentagon did not own the software. By design, they cannot have it if they do not own it.

It was interesting, before the hearing last week, the contractor offered to give the property rights to the Pentagon. In the testimony last week, it was noted that DTS performs less effectively than almost every other civilian e-travel system.

We are 7 years into it. We are going to spend another $150 million. Also, in the history of the contract, this is another no-bid contract that I know Senator LEVIN is very interested in. It is a cost plus—$43.7 million in the first year, that was not in the contract, and we went on and paid it for anyway.

Based on what is happening with the contracting and how we are getting around the Competition in Contracting Act, I believe we need some real sunshine on this.

The fact is, we are going to spend another $150 million. If the Defense Department would guarantee me that we are not going to spend more than another $100 million to get a travel system that we own, not licensed, but we own, since we are going to pay $650 million for something that should have cost $150 million, then I would be happy to withdraw this amendment. But you cannot get an assurance out of the Pentagon what the cost is going to be because there is not any end in sight in the cost.

We don't own it. They have offered to because of that, but once the Pentagon owns the contract and the rights to this, then the Competition in Contracting Act goes into force, and then there is a basis for the violation.

So the reason the judge ruled the way he ruled was because we did not have ownership to the property. So, therefore, there was no basis for the claim. I understand that, but that is the reason that was not given to the Pentagon, that the Competition in Contracting Act could not be enforced.

I am happy to drop this issue if somebody will stand up and say there is a limit to how much we are going to spend. We have already spent four times what the public should have spent on any system. No private business would have spent this amount of money for this system. Nobody would have.

We ought to look at it very hard. Give me the assurance that there is an end to this and that it is more efficient than anything we could have done otherwise, and I will drop my look at it.

I believe the way to stimulate responsibility in this contract is to put it on a per-issue basis now to make it work.

I yield the floor.

Mr. ALLEN. Mr. President, I reclaim my time and then I will yield. I also share with my colleagues that the judge who reviewed this case did not find a violation, for whatever technical reasons Senator COBURN may say, but the adjudication was there is no violation. The judge also said that to start over would be a mistake.

I yield the floor.

Mr. COBURN. Will the Senator yield for one comment?

Mr. LEVIN. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The opposition has 6 minutes. The Senator from Oklahoma has 3 minutes 21 seconds.

Mr. COBURN. I will be happy to claim my time.

Mr. LEVIN. If the Senator is seeking recognition on his time, I have no objection.

Mr. COBURN. I will be happy to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, are we going to have a judge decide on the basis of economics whether we start over? What does that have to do with adjudication? He is making an economic decision for us. That is our job. That is not the judge's job. It doesn't matter whether he says it will be more expensive; that is not his role. That is part of our problem in the judiciary today. That is not his role. That is our role.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I rise in opposition to the amendment of the Senator from Oklahoma. I do so with some reluctance, actually, because I have great admiration for the Senator from Oklahoma and his efforts to curtail waste in the Government. I have joined him on a number of those efforts. As a matter of fact, I very much admire his efforts and the efforts of the subcommittee he chairs to go after waste. I think he is going too far in this particular case, and he is going after an effort to try to integrate the thousands—literally thousands—of financial management systems in the Department of Defense.

We had a chart a few years back with a box for each financial management system in the Department of Defense, perhaps half the size of the curtain behind the Presiding Officer. There were thousands of boxes on that chart. We told the Department of Defense: You have to get your house in order; you have to get some financial management in the Department of Defense so that we can tell whether your expenditures—so that you can tell and then we, as oversight people, can tell—are those expenditures authorized; do your managers know how much you are spending on what; is the payment automatic when these expenditures are made?

For instance, for travel, when a ticket is purchased, is that ticket paid for automatically the way it should be by a computer if it is authorized or is there going to have to be someone, as the status quo provides, cutting a check for the travel? That costs money. It may not appear in the cost of the ticket of the one transaction that may be the "cheapest" transaction, according to some system, but there is a cost to pay for that transaction.

We want the payment to be automatic when the transaction is authorized. We want the ability of managers to know what is being spent, is the travel authorized, can you go back and track the travel automatically?

Now we have thousands of systems out there, with thousands of managers, not integrated into a system, where the kind of management that is so essential in the Pentagon can occur.

That is the problem with the amendment. It goes back to a focus on individual transactions to purchase tickets rather than to make a system to buy the travel part of an integrated management system.

Look, we put a lot of pressure on the Pentagon. We have put a huge amount of pressure on it to come up with some financial management capability. They have been a failure at it. Now they are trying to do it—they have not succeeded, by the way. This system has plenty of bugs in it. As the Senator from Oklahoma properly points out, there are bugs in this system. But we don't kill the effort to try to get integrated financial management so there is some accountability for the funds that are spent by the Pentagon.

We do not want to go back to ground zero. We want to try to make this work. And the problem with this amendment is that it goes too far because it says:

> None of the funds appropriated by this Act may be obligated or expended for further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider—

Except for a fixed-fee transaction payment.

That puts us back to millions of individual transactions which are unaccountable and for which we cannot have proper oversight. That is the problem.

I admire the Senator's goal in trying to come up with a system which is better than the one we are now proceeding to acquire. We are going to work out the bugs, hopefully, in that system. But I disagree to going back to ground zero because we have to get some integrated financial management at the Pentagon. That is the purpose of this DTS system.

It has not yet been achieved. I agree with the Senator from Oklahoma, it has not been achieved, but I don't think we ought to blow up the effort and go back to ground zero.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I thank the Senator from Michigan for his comments. This does not go back to ground zero. This leaves the DTS system intact. What it says is we are going to pay a fee for every transaction you do. We have spent $500 million on this and, as the Senator from Virginia said, we are up to $600,000 out of the 3.6 million transactions.

I can think of no better incentive to have the bugs worked out of it by the contractor than to get more of the 3.6 million transactions. It does not eliminate this. It does not take us back to ground zero. It leaves DTS intact. It says the way we are going to pay for it, from now on, is on a per-transaction basis, rather than a fixed amount or $50 million plus cost that is going to run, which we see now is at least 3 years, at least another $150 million.

We have 3.6 million transactions per year that are going to go through there. It does not do what the Senator claims. It does not eliminate DTS. It does not cause any change in the implementation of the program, other than pay for it on a per-transaction basis. The taxpayers ought to be willing to say: Hey, if it is going to work, it is going to work, and we will pay for it as it works now. We have spent half a billion dollars.

I reserve my time.

Mr. LEVIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There is 1 minute 22 seconds remaining.

Mr. LEVIN. Mr. President, again, I thank my friend from Oklahoma. This is a prohibition on spending any additional money to operate any Web-based, end-to-end management system. That is what is in the language. It says you cannot spend any more money. We can't get the bugs out, which is what we should do if you can't spend any more money to improve this system.

The Senator from Oklahoma goes back to an individual transaction system which does not provide the ability to determine whether travel is authorized, does not permit the people who are responsible to pay for the travel to know whether it is authorized and to pay for it by computer automatically. We have millions of transactions that are going to have to be paid for individually instead of part of the end-to-end system.

So if the Senator had allowed for the correction of this system to work out the bugs, that would be one thing. But it does not. This says you cannot spend any more money on a Web-based system, and that is the mistake of this amendment. That is why it goes too far, although it is well intended.

Mr. COLEMAN. Mr. President, will my colleague from Michigan yield time? I wish to speak on this issue in support of it.

The PRESIDING OFFICER. The Senator has no more time to yield. The Senator from Oklahoma has 1 minute 20 seconds.

Mr. COBURN. Mr. President, I will speak for a short time and then give my colleague from Minnesota a chance to finish, even though he opposes my amendment.

The Pentagon has the ability to set that transaction fee on a per basis. They will be able to still fund it. If there ends up being a million people this next year and they charge $30 per fund, they will get $30 million out of it.

The point is, the Pentagon has the flexibility to do it that way.

I yield the remainder of my time to the Senator from Minnesota.

Mr. COLEMAN. Mr. President, I support the intent of what my colleague from Oklahoma wants to do. He wants to clean up this system. We had a hearing on this issue last week. The Permanent Subcommittee on Investigations had a hearing on this issue, and we have questions out to the DOD, out to the GAO, and we have a commitment from the Under Secretary of Defense to work with us.

I have said if we cannot get the right answers we should pull the plug, but now is not the time to pull the plug. We do oversight for a reason. We are in the process of oversight. Let us get answers to the questions, but clearly then we want to have the right kind of system. So I agree with the intent of what my colleague is trying to accomplish, but this is not the way to do it or the time to do it. Let us finish our investigative work. Let us get the answers, and then we can bring this issue up at another time.

The PRESIDING OFFICER. All time has expired.

The Senator from Alaska.

Mr. STEVENS. On behalf of Senator INOUYE and myself, I move to table the amendment of the Senator from Oklahoma and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Colorado (Mr. ALLARD), and the Senator from Utah (Mr. HATCH).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) was necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 32, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—65

Akaka
Alexander
Allen
Baucus
Bennett
Biden
Bond
Bunning
Burns
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeWine
Domenici
Dorgan
Ensign
Enzi
Feinstein
Frist
Hagel
Harkin
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Shelby
Smith
Specter
Stevens
Talent
Vitter
Voinovich
Warner

NAYS—32

Bayh
Bingaman
Boxer
Brownback
Burr
Byrd
Cantwell
Coburn
Dayton
DeMint
Dodd
Dole
Durbin
Feingold
Graham
Grassley
Gregg
Inhofe
Kerry
Kohl
Kyl
Lincoln
McCain
Nelson (FL)
Obama
Sessions
Snowe
Stabenow
Sununu
Thomas
Thune
Wyden

NOT VOTING—3

Allard
Corzine
Hatch

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1896

Mr. STEVENS. Mr. President. I ask unanimous consent that we now call up the Dayton amendment, No. 1896.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 1896.

Mr. STEVENS. Mr. President. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate, with an offset, an additional $120,000,000 for Operation and Maintenance, Defense-Wide, for certain child and family assistance benefits for members of the Armed Forces)

At the appropriate place, insert the following:

SEC. . (a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby increased by $120,000,000.

(b) AVAILABILITY FOR CHILD AND FAMILY ASSISTANCE BENEFITS.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE", as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 may be available for childcare services for families of members of the Armed Forces.

(2) $20,000,000 may be available for family assistance centers that primarily serve members of the Armed Forces and their families.

(c) OFFSET.—

(1) IN GENERAL.—Subject to paragraph (2), the amount appropriated or otherwise made available by this Act for the Missile Defense Agency is hereby reduced by $120,000,000.

(2) LIMITATION.—The reduction in paragraph (1) shall not be derived from amounts appropriated or otherwise made available by this Act for the Missile Defense Agency and available for missile defense programs and activities of the Army.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time between 2 p.m. and 2:15 be equally divided between the sponsor and the managers of the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. And that there be no second-degree amendments but any motion in relation to this amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1929, 2000, AND 1924, EN BLOC

Mr. STEVENS. Mr. President, I have a managers' package. I send it to the desk. In this package is an amendment for Senator LEVIN, No. 1929, for the medium tactical vehicle modifications; Senator LEVIN, No. 2000, pertaining to Indian tribes; and, Senator KENNEDY, No. 1924, for humvee integrated starters.

I ask unanimous consent that these three amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I ask for consideration of those amendments.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1929

(Purpose: To make available $5,000,000 from Research, Development, Test, and Evaluation, Army, for Medium Tactical Vehicle Modifications)

At the appropriate place, insert the following:

SEC. ___. Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $5,000,000 may be used for Medium Tactical Vehicle Modifications.

AMENDMENT NO. 2000

(Purpose: To provide that the governments of Indian tribes be treated as State and local governments for purposes of the disposition of real property recommended for closure in the report to the President from the Defense Base Closure and Realignment Commission, July 1993)

On page 220, after line 25, insert the following:

SEC. 8116. Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

AMENDMENT NO. 1924

(Purpose: To make available $1,000,000 from Research, Development, Test, and Evaluation, Army, for Integrated Starter/Alternator for Up-Armored High Mobility Multi-Wheeled Vehicles)

At the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to $1,000,000 may be used for Integrated Starter/Alternator for Up-Armored High Mobility Multi-Wheeled Vehicles.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we are going to try to work through this bill. The bill is open to debate. I will be pleased to take up any other amendments Senators might bring before us.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent the time continue to run but that the Senate stand in temporary recess until 2 p.m.

There being no objection, the Senate, at 12:56 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

AMENDMENT NO. 1896

The PRESIDING OFFICER. The time between now and 2:15 is evenly divided on the Dayton amendment.

Who yields time?

Mr. STEVENS. Mr. President, the time is equally divided on this amendment. This amendment would add $100 million to childcare services and $20 million for family assistance centers.

I will speak in response to the Senator's explanation of this amendment when he is finished.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 1896, AS MODIFIED

Mr. DAYTON. Mr. President, I send a modification of my amendment to the desk, and I ask unanimous consent it be so modified.

Mr. STEVENS. We would like to see the modification before it is accepted.

Mr. DAYTON. The staff is working on slight adjustments to the amendment so it meets the concerns of the chairman. I thank the chairman for his willingness to consider the amendment as part of the managers' amendment as modified. It needs to be further modified to conform to the desire of the chairman to have the language read up to the particular amounts which are $40 million for the increased antinarcotics efforts of the National Guard, $50 million for increased funding for childcare, and $10 million for increased funding for family assistance centers.

If it is agreeable to the chairman, I will spend about 5 minutes discussing the amendment at this time, and I will proceed on that basis and recognize the amendment itself is still subject to further discussions.

Mr. STEVENS. We have no objection to the modification.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1896), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . (a) CHILD AND FAMILY ASSISTANCE BENEFITS FOR MEMBERS OF THE ARMED FORCES.—

(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE" is hereby increased by $60,000,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE", as increased by paragraph (1), not less than $60,000,000 shall be made available as follows:

(A) Not less than $50,000,000 shall be made available for childcare services for families of members of the Armed Forces.

(B) Not less than $10,000,000 shall be made available for family assistance centers that primarily serve members of the Armed Forces and their families.

(b) NATIONAL GUARD COUNTERDRUG SUPPORT ACTIVITIES.—

(1) ADDITIONAL AMOUNT FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—The amount appropriated by title VI under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES" is hereby increased by $40,000,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount appropriated by title VI under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES", as increased by paragraph (1), $40,000,000 shall be available for the purpose of National Guard counterdrug support activities.

(3) SUPPLEMENT NOT SUPPLANT.—The amount available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts available under title VI for that purpose.

Mr. DAYTON. I thank Senator STEVENS for his support and assistance in this matter. I thank him and the ranking member and members of the committee and acknowledge in every one of these three areas the Senate Committee on Appropriations has added funding already above the President's recommendation. I recognize, also, that the committee is dealing with the budget constraints that were imposed upon it by the Senate budget, but conditions in the real world do not always conform to those constraints. This funding is essential to address these critical areas, beginning with an additional $40 million for the National Guard counterdrug efforts which would enable State coordinators to increase their border security, to increase reconnaissance, and to expand their effort to interdict the flood of illegal drugs into our country.

These National Guard antidrug efforts are under the control of the Governors and Adjutant Generals so they do not violate Federal passe comitatus laws. Yet they are essential to our national security.

Other than international terrorism, there is no greater threat to the safety, the health, and the well-being of our citizens than the increasing flow of illegal drugs into our country, into our neighborhoods, into our schools, and into our homes. They are destroying lives, they are destroying families, and they are destroying communities.

In my home State of Minnesota I am told by local law enforcement leaders there are direct pipelines of illegal drugs now, especially methamphetamine from Mexico, right into the State of Minnesota.

Border security is not just a Southern State crisis or a Northern State problem. Homeland Security is not just a Federal agency with increased priorities.

As I listen to local law enforcement officials throughout Minnesota, they say we are losing the war against these narcotics terrorists. We are losing because our resources are being overwhelmed by their resources. These are battles that are going on not halfway around the world but right here at home, right within our own country, every day and every night.

These are narcotics terrorists. They are drug-dealing gangs. They are dangerous predators. They are preying on Americans, young and old, rich and poor. They are pouring highly dangerous, very addictive, and corrosively expensive drugs into our country and our citizens' lives, and we are letting then get away with it.

In many cases they get away with it entirely scot-free and leave the country with millions and millions of our dollars. These are very dangerous, destructive, evil people who are winning the war on drugs in this country because we—all of us, collectively, all of us Americans collectively—do not have enough good guys out there on our behalf who are fighting them. My amendment brings more money for the good guys to win this terribly destructive battle.

Second, $50 million would go to increase the childcare services for military families. Again, I commend the committee, Chairman STEVENS, for increasing the President's recommendation in this critical area. My amendment would add another $50 million because the Office of the Secretary of Defense currently estimates that 38,000 children of Active-Duty military families are not able to access military childcare because of the lack of spaces and facilities. This is especially critical because so many of these family members are being deployed for 12 or 18 months, leaving their spouses as single parents, financially strapped, needing to work and therefore needing quality childcare even more than before.

Finally, my amendment adds $10 million for family assistance centers and personnel who are responding to the increased needs of military families—Active-Duty, Reserves, and National Guard, whose families are being seriously and severely impacted by the increased number of deployments for extended periods of time.

The stresses of those long separations, the constant anxieties and uncertainties about the well-being of their loved ones abroad, the financial pressures, the difficulties emotionally of single parenting all add up and have put additional needs for these family assistance centers and their personnel for families while their loved ones are serving and after they have returned. And some wounded and seriously maimed are causing enormous family stress and strains for the next number of years.

I thank, again, the chairman, and I thank the ranking member for his willingness to consider taking this amendment into the managers' package. I commend them for their leadership in these very important areas. I hope this amendment will be seen as constructive to that, and I hope the conference committee will see fit to include these increases because I can assure all the Members that it will be very much needed and very well used.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. What is the situation with regard to when we vote on this amendment?

The PRESIDING OFFICER. The vote is scheduled to occur at 2:15.

Mr. STEVENS. I ask unanimous consent that time be changed to 2:30 with no amendments in the second degree in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator suggesting the additional time be equally divided?

Mr. STEVENS. Now I address the Senator, the sponsor of the amendment. Senator MIKULSKI wants 15 minutes between now and 2:30. Does Senator DAYTON have any objection to that?

Mr. DAYTON. No, I have no objection.

Mr. STEVENS. I will take a few minutes before that time, and Senator MIKULSKI would have from 2:15 until 2:30.

Ms. MIKULSKI. Yes.

Mr. STEVENS. Mr. President, we have provided $25 million to respond in this bill for the National Guard counterdrug program. We already have $20 million for childcare, $20 million for family counseling, $18 million for National Guard and assistance centers, for a total of $58.6 million.

The Senator's amendment adds $60 million for childcare and $20 million for family assistance centers but, as he said, we have already gone in excess of the President's request. We have tried to balance the requirement to fight the war on global terrorism and maintenance for our technological advantage against potential rivals and the care of our servicemembers and their families.

We have worked closely with the Department of Defense to identify these requirements. We believe the Senator's amendment is subject to a point of order.

We raise a point of order under section 302(f) of the Congressional Budget Act that the amendment provides for spending in excess of the 302(b) allocations under the fiscal year 2006 concurrent resolution on the budget.

Having raised that, does the Senator wish to waive that point of order?

Mr. DAYTON. I do.

Mr. STEVENS. The Senator moves to waive the point of order. I ask for the yeas and nays on the motion to waive the point of order that I have submitted.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur at 2:30 on the motion to waive.

Mr. STEVENS. For the information of Members, we hope we will have another amendment ready to be considered at 3 o'clock. Senator HATCH has asked for 30 minutes beginning at 2:30 to speak on a matter that is not pertinent to this bill, but he has that right to speak under his allocation of time.

I ask unanimous consent Senator HATCH have 30 minutes from 2:30 to 3 o'clock. He has had a terrible disaster in his office. One of his close personal friends on his staff has passed away. He wishes to speak about that person for 30 minutes starting at 2:30. We want to put the vote to 3 o'clock. So I move we move the vote to 3 o'clock so Senator HATCH can speak at 2:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I yield the floor to Senator MIKULSKI.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, as I noted under the request made by the chairman of the Senate Defense appropriations, I have time at 2:30. I know it is a minute or two earlier, but I ask for the ability to proceed.

The PRESIDING OFFICER. The Senator may proceed.

GAS PRICES

Ms. MIKULSKI. Mr. President, I know we are considering the Defense appropriations bill, and we congratulate the leadership of the subcommittee of which I am a proud member. Senators STEVENS and INOUYE have brought an excellent appropriations bill to the Senate.

I rise about another security issue which is the high price of gasoline. I rise today to urge President Bush to convene a White House jawboning session of the American oil and gas companies to urge them to be good corporate citizens and lower the price of gasoline, home heating oil, and natural gas.

I think it is swell the President is agreeing that conservation is an important goal. But it is very little and very late. Yes, we do need conservation. But wearing sweaters just will not be enough. The President needs to call on CEOs of the oil and gas companies to be patriots. It is time for the oil and gas company CEOs to be looking at the ways they can help the American people, not only their profits.

These sky-high prices have created a crisis for American families and businesses—from families that must commute to work, to small businesses that deliver flowers, to truckers that deliver food, and watermen in the Chesapeake Bay who are paying $4 a gallon to take their boats out. This is going to have a tremendous inflationary pressure on our economy. We in Maryland are feeling it very severely. Maryland has the third highest gas prices in the country, at more than $3 per gallon. It has been a 30-percent increase in little more than 1 month.

Maryland is not the only State affected. The national price for a gallon of gas is now as high as it has been in 20 years. Some are saying: Well, gas prices are going down. Well, they have been going down a penny or two, but they are still very high.

As people go to the gasoline pump, they feel this great anxiety. People are nervous about getting gas. As for what that means to families, I have seen on our local TV a soccer mom filling up her minivan, and seeing that it cost $90, she just put her head down on the window crying about what her family was going to do?

That is why I have asked the President today to convene a White House "jawbone" session. There is precedent for this. Forty years ago, Jack Kennedy felt that big steel was really pushing up the prices. Some called it price gouging. He called in the CEOs of the steel industry to the White House. He made the case for the American people. He said the steel industry action was unjustified and irresponsible and not in the public interest. President Kennedy publicly pressed them hard. Guess what happened? Roger Blough and the steel industry decreased their prices.

I am asking President Bush to follow President Kennedy's example and call in these oil and gas CEOs. He has called in the oil and gas CEOs before to help write the energy policy. Well, now we need a new energy policy. We need one based on conservation. We need one based on innovation, to come up with new ideas on alternative fuel supplies. We need a new energy policy to look at what we can do to rebuild the gulf. And we understand oil and gas has suffered some damage there. But we also need them to take a look at the prices they are charging and the consequences to our economy. So we feel if they could write a national policy a few years ago, they can come in and write a new national policy.

So I have sent this letter to the President, signed by many Senators. I would hope the President would think about how we can engage the private sector to come to grips with what is happening here. He should also reach out to get their advice on innovation, to get their advice on boosting our supplies, to get their advice on what to do about having more refining capacity and, at the same time, meet some of our environmental constraints.

We understand we are at a crossroads in this country. Now is the time to bring them together, but bring them together as patriots. I believe they will be able to make profits and be patriots at the same time.

Mr. President, I ask unanimous consent that the letter to the President, dated October 6, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 6, 2005.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Sky high gas prices have created a crisis for American families and businesses. As Americans struggle to fill their gas tanks, the oil and gas companies are filling their pockets with historic profits. Bold and decisive Presidential leadership is required. We urge you to convene immediately a summit at the White House of oil and gas company CEOs to call on them to be good corporate citizens by reducing their prices.

The price for a gallon of gas is now the highest it has been in more than twenty years. It jumped 12 cents in just the last week and now averages almost $3 a gallon, with many Americans paying as much as $3.50 for just one gallon of gas. These prices are hurting everyone, from families getting children to school and commuting to work to small businesses like the florist delivering flowers and our larger employers trying to get goods to their stores. Meanwhile, the oil and gas company profits continue to soar, with projected earnings growth for 2005 ranging from 50% to more than 100%.

This all comes at a time when America is facing a crisis caused by Hurricanes Katrina and Rita. In response, we have seen an outpouring of generosity and selflessness throughout the nation. Many families and companies are putting the needs of hurricane victims first and opening their hearts, homes and wallets.

In times of national crisis, corporations have been called upon to act in the national interest. In 1962, as our country faced an economic crisis at home and foreign policy crises abroad from Berlin to Vietnam, the steel industry jacked up prices. President Kennedy called the CEOs of the steel industry to the White House. He forcefully made the case for the American people: he said the steel industry action was "wholly unjustified and an irresponsible defiance of the public interest." President Kennedy publicly pressed them hard—and prices decreased.

We urge you to follow President Kennedy's example. Call in the oil and gas CEOs and tell them to cut their prices. Tell them that profiteering at a time of national need is unacceptable.

We have never before had a President, Vice President or Administration as close to the oil, gas and energy industry as yours is. This was demonstrated when, at the beginning of your administration, you convened a White House energy task force to draft a national energy policy. As we now know, large parts of that policy were drafted by your friends, allies and supporters in the oil, gas and energy industries.

Mr. President, if you can call on the oil, gas and energy industries to write national policy that benefits them, then you can certainly call them to the White House on behalf of the American people at this time of national need. America needs your leadership to prevail upon them to reduce gas prices and other fuel prices now.

Sincerely,

BARBARA A. MIKULSKI.

Ms. MIKULSKI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mr. BIDEN. Mr. President, may I proceed for 7 or 8 minutes as in morning business between now and the time Senator HATCH comes at 2:30?

Mr. STEVENS. We have no objection to that. The Senator is entitled to speak on any matter he wishes, using his own time. But we have time set for Senator HATCH to begin at 2:30.

Mr. BIDEN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Delaware is recognized.

PRESIDENT BUSH'S SPEECH TO THE NATIONAL ENDOWMENT FOR DEMOCRACY

Mr. BIDEN. Mr. President, today, in his speech to the National Endowment for Democracy, President Bush gave a vivid and, I believe, compelling description of the threat to America and to freedom from radical Islamic fundamentalism. He made, in my view, a powerful case for what is at stake for every American.

Simply put, the radical fundamentalists seek to kill our citizens in great numbers, to disrupt our economy, and to reshape the international order. They would take the world backwards, replacing freedom with fear and hope with hatred. If they were to acquire a nuclear weapon, the threat they would pose to America would be literally existential.

The President said it well. The President is right that we cannot and will not retreat. We will defend ourselves and defeat the enemies of freedom and progress. But in order to know where we are going to go from here, we have to understand, in my view, how we got to this point in the fight. Unfortunately, the many fundamental mistakes this administration has made over the past 4 years have dug us into a hole that is making it harder for us to get out.

First, the administration took our eye off the ball in Afghanistan and diverted our attention and resources to Iraq prematurely. As a result, while we made progress in Afghanistan, violence in Afghanistan is now worse than it has been since the war, and the Taliban, al-Qaida, and the warlords are, once again, on the move in Afghanistan.

Meanwhile, we have captured some al-Qaida leaders, but many others have risen to take their place, and the terrorist threat has literally metastasized to many other countries. Around the world, terrorist attacks are on the rise, not decline.

Second, this administration turned unilateral military preemption from the option it has always been into a one-size-fits-all doctrine in the war on terror. We forgot that the power of our example is as important as the example of our power, that our ideas and our ideals are among our greatest assets. We forgot to draw on the totality of America's strength in order to be able to deal with the hearts and minds of 1.2 billion Muslims around the world.

Third, once we decided to focus on Iraq, we went to war too soon. We went without the rest of the world, and we went under false premises.

This administration told us we would be greeted with open arms, that we had enough troops to stabilize the country, that Iraqi oil would pay for the reconstruction. They were wrong on each of these counts and many more.

The result is a terrible irony. Iraq now risks becoming what it was not before the war: a haven for the very radical Islamic fundamentalists who would do us such harm.

But today the President of the United States seemed to recognize some of this self-inflicted damage. That is a good thing, and I applaud him for it. He said: "the terrorists have now set their sights on Iraq"—finally acknowledging that they did not before the war.

He said that in the broader fight against the radical fundamentalists and in Iraq itself, we can't succeed alone, that we need partners—finally acknowledging what many of us on both sides of the aisle have been saying for years.

He implied that while our military might is essential, it is not sufficient—finally acknowledging that we can and must call on the totality of America's strength, including our economic and political might and the power of our example.

He said that the fight for freedom is long term and that democracy can't be imposed by force—finally acknowledging that we can't simply topple tyrants and leave, that we have to work day in and day out to support moderates and modernizers and build the institutions of democracy.

And he said that much more sacrifice will be required—finally acknowledging the difficulty of the challenge and the burden every American must bear.

So the President said some very important things today. But there are also a lot of things he did not say that leaves me, and I suspect many others, feeling frustrated. He told us broadly what we have to do, but he said virtually nothing about how he plans to go about doing it and what the American people can expect.

Consider what he said, and what he did not say, on Iraq.

Yes, we have to train Iraqi forces, as he said. But we still do not know how many of those forces must be capable of operating on their own or with minimal U.S. support before we can begin to reduce our military presence in Iraq. And we do not have any idea when those numbers might be reached.

Yes, we have to support the creation of a strong Iraqi political system that enjoys legitimacy with all the major groups, as the President said. But we still do not know what the plan is to overcome deep Sunni hostility to the constitution and to reconcile the growing sectarian differences that threaten to divide Iraq, not unite it.

Yes, we have to engage the international community to stabilize Iraq, as the President has said. But we still do not know what concrete actions the administration is taking to do just that. We still do not know why it will not organize a contact group of leading nations to show a united international front. We still do not know the plans for getting Iraq's neighbors to act responsibly, as we did in the Balkans and in Afghanistan.

Yes, we have to continue to help the Iraqis rebuild, as the President said. But we still do not know what the administration is going to do to actually deliver more electricity, to clean up the sewage, to get the oil flowing.

My colleagues remember, right after we went in, Mr. Bremer laid out a game plan. He said: By August we will have X number of megawatts and pump Y numbers of barrels of oil; and by December we will have—and there were goals. If you notice, we have not heard a thing, not a single thing about any of that. We have no idea what the administration's timetables or goals are, other than generically to help them rebuild.

What do we need to do to turn the tide on delivering basic services? And when can we expect them to succeed? Because in each of these areas, Iraqis today, as I speak, are worse off than they were before the war.

The President today was eloquent, and he was determined. But eloquence and determination, although necessary, are not sufficient.

The American people need—and our troops deserve—a clear plan for the way forward in Iraq, which has now become the central front in the war against radical Islamic fundamentalism.

As I have said many times before, the American people need this administration to speak openly and forthrightly about its plan for success in Iraq, for no foreign policy can be sustained—as we are noticing by the numbers—without the informed consent of the American people. They must be informed.

The American people also need—and our troops deserve—not the assertion that we finally have a comprehensive strategy in the fight against the fundamentalists but a detailed explanation of what that strategy is and the steps the administration is taking to build it.

It is precisely because all of us recognize what is at stake for our generation and those who follow that we will continue to speak out and insist that our Government act not only with determination but with effectiveness, not only with conviction but with wisdom.

Finally, though I continue to have differences with the President about how he has gone about prosecuting the war on terror—and I have spoken out as forcefully as I know how—let our enemies make no mistake—make no mistake at all—Americans are united in the struggle for freedom. We stand together in our determination with the President to fight the forces of tyranny and terrorism. In this right, America will prevail.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I say to the Senator from Delaware, if he wishes to speak further, we will be happy to extend him more time, if he wishes.

Mr. BIDEN. No, I am fine. I thank the Senator.

AMENDMENT NO. 1896, AS FURTHER MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification to Senator DAYTON's amendment.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, it is so ordered.

The amendment, as further modified, is as follows:

At the appropriate place, insert the following:

(1) AVAILABILITY OF AMOUNT.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE", up to $60,000,000 may be made available as follows:

(A) Up to $50,000,000 may be made available for childcare services for families of members of the Armed Forces.

(B) Up to $10,000,000 may be made available for family assistance centers that primarily serve members of the Armed Forces and their families.

(b) NATIONAL GUARD COUNTERDRUG SUPPORT ACTIVITIES.—

(1) AVAILABILITY OF AMOUNT.—Of the amount appropriated by title VI under the heading "DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES", up to $40,000,000 may be available for the purpose of National Guard counterdrug support activities.

(2) SUPPLEMENT NOT SUPPLANT.—The amount available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts available under title VI for that purpose.

Mr. STEVENS. Mr. President, I ask unanimous consent that the modified amendment be considered and that it be adopted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1896), as further modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote and to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. That cancels the vote for 2:30, correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. The bill is still subject to amendment. No other Senator has asked us to consider an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. DURBIN. Mr. President, the much awaited speech by President Bush this morning about the challenges we face in Iraq and Afghanistan was promised to be a new perspective. It was promised to offer the possibility that at least we would be considering a new approach.

I was disappointed. The President has offered the American people a false choice between resolve and retreat. The real choice should be between a strategy of accountability and the vague generalities which we continue to hear from this administration. We have to move beyond the policies of fear to a plan of forceful commitment to protecting America and our values.

The most telling line in President Bush's speech this morning about the threat of terrorism was this:

There is no alternative.

Once again, the President tells us there is no alternative but to stay the course in Iraq. But he fails to answer the most basic questions that more and more Americans are asking every single day: How do we know that progress is being made? How do we measure success? How much longer will America, with its best and bravest men and women in uniform, be facing this insurgency, killing, and the terrible conditions which we find in Iraq? Most importantly, what is President Bush's plan to ensure that our troop commitment in Iraq does not compromise our safety here at home? The White House promised us new details in this speech. We did not receive them, just old generalities.

All Americans are committed to our troops, make no mistake about that. When we take a look at the appropriations bills that come before this Congress to provide the resources for the troops in Iraq, one could not pick out which Senators voted for or against Iraq in terms of the invasion. All Senators—Democrats and Republicans—regardless of their feeling about the wisdom of this strategy are committed to our troops and committed to the resources they need to come home safely. That is not the question. The question is, What is President Bush's plan to achieve the goals that he states over and over? He failed to answer that question today.

Once again, we are presented with false connections between why we are in Iraq and why we were attacked on September 11. The implication is distorting. It is false. The 9/11 Commission put that allegation to rest. They found no operational relationship between Iraq and what happened in America on September 11, 2001.

But now, 2½ years into Iraq, the war has not made us safer from terrorism. It has altered the strategic environment to our disadvantage. Today we

> exorbitant prices at the pump in the wake of Hurricane Katrina . . . In candid conversations with AAA Mid-Atlantic, a handful of local dealers accused the oil giant of raising their wholesale price to service stations by 24 cents in a 24-hour period.
>
> The disgruntled dealers say the steep price increases put them on the horns of a dilemma . . . By raising their prices, they risk losing their loyal customer base, which has taken them years to build. By raising their voices against Exxon Mobil's practices, they risk losing their contracts.

Question: What is happening here? What is going on? It is really an interesting dilemma. The inclination, I suspect, of most people here in the Congress is to do nothing. Go to "parade rest" is the most comfortable position for politicians. It has always been and perhaps always will be. But we not only see prices at the gas pumps coming from the price of a barrel of oil, now $30 above last year's prices and record profits, we are now heading into a winter season where folks from my home State, the State of North Dakota, folks from the home State of the Presiding Officer, the State of Minnesota, and others will be paying 70 percent more for natural gas.

We had a vote yesterday on the low-income home heating assistance program. We lost that vote. We will come back and have it again. We will eventually have that vote. We don't have a choice. Low-income folks have to heat their homes, and heating a home in winter is not a luxury.

But this is not just about them. What about the other folks, the folks who are in the middle-income ranges who are still trying to figure out how to make ends meet? How do we buy school clothes for our kids and pay for gas for our car and pay our mortgage, buy the groceries each week, and do all the things we need to do for our family, and then pay a 70-percent increase in the cost of heating our homes for winter? What about those people? Does anybody here care, or are we just content to thumb our suspenders and light our cigar under the glare of klieg lights? God bless the free market. Let it all go. What utter, sheer nonsense.

There is no free market in oil. I know people with suits that cost a whole lot more than mine are going to be cranky about this statement. There is no free market. They will say: Of course there is a free spot market. There are people trading right now as you speak, Senator DORGAN. There are people trading back and forth, and of course there is a market.

Totally absurd. There are the OPEC ministers, there are the larger and more powerful through blockbuster mergers integrated oil companies, and then there is rampant speculation in the futures market. They are combined to make a pretty interesting dance, but there is no free market.

There is substantial pain in this country at the price of gasoline, substantial pain that will occur this winter with a 70-percent increase in natural gas prices, a 40-percent increase in home heating fuel prices, and people are going to ask the question, Why is this happening? Who is on my side? Why do we have a circumstance where the biggest in this country, the largest economic enterprises, make record profits and smile all the way to the bank while all the rest of the folks are bearing the pain?

I have often spoken about the Texas Playboys, a band from the 1930s that had the refrain in their song, "Little bees suck the blossom, but the big bee gets the honey. The little guy picks the cotton, and the big guy gets the money." If ever those lyrics meant something, it means something now in this circumstance with respect to the pain and the gain in this energy policy.

So I introduced a piece of legislation. It is very simple. It says that at oil prices above $40 a barrel, if the windfall profits accrued from those prices are not being used to explore for more oil and natural gas and if they are not being used to build refineries and add capacity, then they shall be taxed at 50 percent, and all of the proceeds will be used to provide rebates to American consumers. It is a form of revenue sharing from the oil companies that are experiencing windfall profits to the folks who are pulling up to the gas pumps and the folks who are going to try to pay a heating bill that is exorbitant.

I don't have any idea whether this Senate will act on this legislation. It is more likely the Senate will do what it usually does in areas of controversy: it will stand with those who have the most economic clout. The question of whose side are you on, regrettably, at least in recent years, the Senate has demonstrated that it is not on your side. It is not on the side of the little guy, that is for sure. We can pretend and act as if we have our hands over our eyes for some months and say it just didn't work out that we could do anything, really. So the market system works. If it costs $50 to fill your tank, that is the way the market is. God bless you. See you tomorrow. Good luck, by the way.

Or when you find the 70-percent increase in your home heating fuel and it is 30 below zero and the wind is blowing 40 miles per hour—and yes, it does in some parts of our country—and you are cranking up the furnace to make sure there is enough heat in the house for you, the family, and the kids, so you can go to bed and not freeze, and those who say this is just the free market, good for you, God bless you, keep that furnace high, but you have to make it a priority to pay the heating bill. It is not our fault the heating bill is so high. Congress decided not to do anything.

By the way, now it is December and the Congress is not in session anymore, and it is, you know, good luck to you. God bless you. Go back and forth to the post office and visit a little bit about how high the prices are, but nobody is going to help you much.

I don't believe we are a country that can do without oil. We produce oil in my State. I support the oil industry in many areas. I believe we ought to produce more in this country. I believe we are dangerously addicted to foreign oil. It is unusual, to say the least, that one-fourth of the world's oil is consumed in this country every day. We share this globe with 6.5 billion people, and in this country alone we have a claim on one-fourth of all the oil that is consumed.

It is a peculiar thing that somehow given how this planet is put together, there is this little area halfway around the world covered with sand where most of the oil deposits exist, and the largest deposits are in countries called Saudi Arabia, Iran, and Iraq. That is a curious and strange thing and one that is also dangerous for us.

We have become so dependent on that supply of oil—and now I am not talking about the price and windfall profits of domestic companies; I am talking about the dangerous addiction we have to foreign oil. If we do not as a country decide we will try to find a way to break this addiction—I am not suggesting we will not always dig and drill—but if our energy policy is just digging and drilling, that is a "yesterday forever" policy and it is one that is destined for failure.

We have to become independent in terms of our energy needs, particularly of those troubled countries in the Middle East. I find it fascinating we have such a relationship with the Saudis. The Saudis have the largest reserves of oil in the world. Under their sands exist the world's largest oil reserves. Because of that, even our foreign policy is altered.

I have spoken in the Senate many times about the 28 redacted pages in the 2002 December report about the September 11 terrorist attack in this country. Fifteen of the 19 terrorists were Saudi citizens. The combined Intelligence Committees of the House and the Senate did this first investigation of September 11. They sent it to the White House. The White House published the book, but 28 pages were redacted. What were they? Twenty-eight pages, according to published reports and according to my colleague Senator GRAHAM, in his book, had to do with the Saudis. Why? Because all that we do with the Saudis, all we do with them in foreign policy, even with respect to this issue of terrorist attacks, has to do with our incredible dependence on Saudi oil and on Middle East oil.

This is dangerous for our country. We have to remove ourselves from that, remove that addiction. How do we do that? There is a wide range of things. We passed energy legislation in this Congress. It is not great, but it is not bad. I voted for it. It moves us in the right direction. That is the immediate term. In the short term, we are confronted with this unusual price for a barrel of oil which converts to an unusual price for a gallon of gasoline. Every American driving up to the gas pump today understands the shock value of having to pay these prices. Every American trying to heat their home this winter will understand the same shock value.

They will and should ask the question, Is anybody doing anything about this, or is this an appropriate form of a new market system we do not understand? The answer is, the Congress should do something about it. Again, let me say there are all kinds of reasons and excuses and especially distortions that are moved around on these subjects. Let me give an example of one.

We have people who say, look, the reason we did not have more oil flowing, which would relate to supply and demand, with the supply-demand curve, if you have more supply going in against a fixed demand or an increasing demand, a greater supply means lower price. The reason we do not have that is because of the eggheaded environmentalists, they would claim. They have prevented oil companies from building refineries, so shame on them, that is the problem today. We do not have enough refineries.

We hear that in the Senate and the House and all political debate, over and over. It is a branding technique, the notion if you say it often enough, people will start believing it: 150 refineries have been closed in the past 25 years and no new refineries have been sited in the same period.

The fact is most of the evidence points to the oil companies themselves as making the decisions about closing refineries. They have decided to shut down existing refineries and decrease output as a business matter. They do that following big mergers and also restructuring. The big integrated oil companies control a majority of the Nation's refined oil and gas products. In many cases, they control this process from the point of pulling oil from the ground to pumping it into your gas tank.

The fact is, there is an interesting amount of evidence about this issue of refineries. We had an Energy Committee hearing about this. We had three experts who knew about all this. Why are there not more refineries being built? Because the margins are not higher, is why. That is from the experts. It has nothing do with environmentalists. The margins are not higher. So when oil companies restructure and merge, they close refineries because they want to. The fact is there is a wealth of information about this refinery issue that suggests this is not about environmentalists: it is about the oil companies deciding in their own interests how much refining capacity they want and what kind of margins they want from refining.

My point is very simple. We have a serious problem in this country with an energy crisis. It is not getting better. We have a dislocation, terrible pain, for a lot of working folks, a lot of low-income people, not just to drive their cars but also to heat their homes as we approach this winter. And they will ask the question, and should, is anyone going to care about this? Will somebody do something about it? Will someone be on our side and stand for us?

We will have some people say this is the free market and if you do not like it, tough luck, we do not intend to intervene in a free market.

Then there are others, such as me, who say that is nonsense, this is not a free market, this is not fair competition. A free market economy is about competition. Easy entry, easy exit, competition around price. There is no free market here. We have OPEC, oil companies, and rampant speculation. They have created a distortion of so-called market prices.

The American people deserve a Senate that will stand in at times when oil prices reach $60 and $70 a barrel and we have profits that represent the biggest profits in the history of corporate America. The American people deserve a Senate that will stand up and say, We are on your side and we will do something about it when the market system does not work.

America can do better. The fact is we can do better on energy policy. We can do better on policy I just described. We owe it to people to intervene in circumstances where we must intervene. The Senate should make it a priority to consider this kind of legislation.

We have meandered our way through this year. There has been no discernible pattern, no discernible journey that makes much sense to me. But in this Congress we have wandered around, place to place. We did not pass our appropriations bills, intervened in a whole range of issues, including the Terri Schiavo case. I could go on and on and on. We intervened in all the other issues.

The key things most people are concerned about in their daily lives, that they talk about at the supper table when they sit around and have something to eat together—this is one of those key issues. What is the price of energy? Can we afford it? If not, what do we do?

The proposal I have offered with some of my colleagues for a windfall profits recapture would not injure any major integrated oil company under any set of circumstances because they would not have to pay it. They would choose not to pay it if, in fact, they are using their windfall profit to explore for more oil and build more refineries; and if not, they would choose to repay part of that profit in a form of rebate back to their consumers.

My hope remains in these coming days as the Congress lurches toward the end of this year, that Congress and the Senate, particularly, will find time to do what is the bull's eye, the agenda the American people want, to deal with things that affect them every day in a very significant way.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPEAL LAW

Mr. DORGAN. Last Friday I was in the Senate briefly and indicated we were introducing legislation that repeals the law that was passed in the emergency response to Hurricane Katrina that took the limitation on the credit cards carried by Federal employees from $2,500 to $250,000. That is right, the bill that responded with emergency funding for Katrina also included a provision that increased the limit on Federal credit cards that are carried by some 300,000 Federal workers, increased the top limit from $2,500 per purchase for $250,000 per purchase.

When I discovered that, I thought, that is not right, that cannot be believable: It, in fact, was. I discovered the White House had requested that increase in the limit on Federal credit cards be provided.

In fact, the person who came down to brief the Congress on that was Mr. Safavian, top procurement officer at the Office of Management and Budget, who was arrested 2 weeks later by the FBI and now has been indicted. But all this happened some weeks ago. The credit card limit went from $2,500 to $250,000 on the credit card that is carried by a Federal worker, and there are 390,000 or so around.

I introduced with my colleague Senator WYDEN a bill that would restore it back to the $2,500 limit. My point was, this is nuts. It is goofy to put a $250,000 limit on a credit card. It is unbelievable. I pointed out the Inspector General's reports and also the GAO reports about abuse of credit cards by some Federal employees.

One Federal employee put breast enlargements for his girlfriend on a Federal credit card. Buying liquor, trips, guns, unbelievable expenditures in the abuse found by the GAO, and we will increase the top limit on the credit cards to $250,000?

I introduced that legislation and I am pleased to say on Monday of this week the Office of Management and Budget and the White House announced they support the legislation to take this back to $2,500. So it is actually $2,500 plus an emergency $15,000 post September 11, that happened after September 11, which is what we would take this back to. The White House has said they want to rescind the $250,000 and take it back to $2,500.

That is the legislation I have introduced with my colleague Senator WYDEN. My hope is at the first opportunity, given the support of the White House, that I can offer this as an amendment, perhaps not to this bill, because I think we are limited in amendments and we are probably on auto pilot with respect to the amendments. The very next piece of legislation, it would be my intention to offer that.

As I said, that will have the support of the White House. Without it, of course, the law still exists. It was put in law at the request of the White House to take the top limit from $2,500 to $250,000. I want to take it back. The White House says they want it back. So let's decide here in the Senate to put it on a bill and get it to conference and get this sort of thing done.

Let me also say to OMB and the White House, I appreciate their candor and their willingness to do the right thing. Everyone understood what was requested was a mistake. It should not have been requested. The decision now is to change the law and to make it where it ought to be, a $2,500 limit on the credit cards.

Yes, we have to respond in a significant way to Hurricane Katrina. Sometimes that might encourage somebody or require somebody in certain circumstances to have a larger purchase, but there are plenty of ways to accommodate that without risking the waste, fraud, and abuse that will go with having credit cards with $250,000 limits.

Our legislation is pending. I make the point I appreciate the administration deciding to do a U-turn on this policy. We will offer this legislation in the Senate as soon as we are eligible to offer it on perhaps the next piece of legislation brought to the floor.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from South Dakota be entitled to introduce a bill and have time as though in morning business, with the clock on cloture continuing to run.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. THUNE pertaining to the introduction of S. 1840 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THUNE. Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the hour is now almost 4:30 p.m. We have waited and waited and waited for Senators to bring their amendments. No further amendments have been noticed to either side.

AMENDMENTS NOS. 1981, 2053, 2054, 2055, EN BLOC

Mr. STEVENS. Mr. President, I have a managers' package which I send to the desk for Senator CHAMBLISS, amendment No. 1981, literacy on military installations; an amendment for myself on advisers for the Joint Chiefs of Staff; an amendment for Senator FRIST on certain youth organizations; and an amendment for Senator BYRD regarding Hurricane Katrina relief.

I ask these items be considered en bloc.

The PRESIDING OFFICER. Without objection, the Senate will consider the amendments en bloc.

Mr. STEVENS. Mr. President, I ask that the Senate consider the amendments and adopt them en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, en bloc.

The amendment (No. 1981) was agreed to.

(The amendment is printed in the RECORD of Monday, October 3, 2005, under "Text of Amendments.")

The amendments were agreed to, en bloc, as follows:

AMENDMENT NO. 2053

(Purpose: To increase the rate of basic pay for the enlisted member serving as the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff)

At the appropriate place, insert the following:

SEC. ___. INCREASE IN RATE OF BASIC PAY OF THE ENLISTED MEMBER SERVING AS THE SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) INCREASE.—Footnote 2 to the table on Enlisted Members in section 601(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 37 U.S.C. 1009 note) is amended by striking "or Master Chief Petty Officer of the Coast Guard" and inserting "Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(b) PERSONAL MONEY ALLOWANCE.—

(1) ENTITLEMENT.—Section 414(c) of title 37, United States Code, is amended by striking "or the Master Chief Petty Officer of the Coast Guard" and inserting "the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff"..

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on April 1, 2005.

AMENDMENT NO. 2054

(Purpose: To support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This Act may be cited as the "Support Our Scouts Act of 2005".

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Federal agency" means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term "youth organization"—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—

(i) SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year. This clause shall be subject to the availability of appropriations.

(ii) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—Clause (i) shall not apply to any youth organization that ceases to exist.

(iii) WAIVERS.—The head of a Federal agency may waive the application of clause (i) to any youth organization with respect to each conviction or investigation described under subclause (I) or (II) for a period of not more than 2 fiscal years if—

(I) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(II) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a "tent city" capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.".

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting "or (e)" after "subsection (a)"; and

(2) by adding at the end the following:

"(e) EQUAL ACCESS.—

"(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

"(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.".

AMENDMENT NO. 2055

(Purpose: To make appropriations for certain activities related to Hurricane Katrina relief)

At the appropriate place, insert the following:

TITLE

SEC. 101.

(a) There are appropriated out of the Employment Security Administration Account of the Unemployment Trust Fund, $14,000,000 for authorized administrative expenses.

(b) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Office of the Inspector General of the Department of Health and Human Services $5,000,000 for oversight activities related to Hurricane Katrina.

(c) The amounts appropriated under subsection (a) and (b)

(1) are designated as an emergency requirements pursuant to section 402 of H. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

Mr. CHAMBLISS. Mr President. I rise today in favor of the amendment I am offering to H.R. 2863 that will establish pilot projects regarding pediatric early literacy on military installations.

Reach Out and Read, ROR, is a program that trains doctors and nurses to advise parents about the importance of reading aloud to their children. The program provides books for all children from the age of 6 months to 5 years receiving a check up at participating pediatric centers. From the start, the purpose of ROR was to encourage parents to read to their children and provide them with the tools to do so. This premise is the basis for the ROR model utilized by 2.337 program sites across the United States today.

Currently, the program sites are all located at clinics, hospitals, office practices and other primary care sites serving more than 2 million children distributing more than 3.2 million books annually. While I am pleased that the program has a strong presence in Georgia, with over forty participating sites, I am also aware that none of the participating sites are on any of our thirteen military installations.

It is important that the children growing up on our Nation's military installations are allowed the option to participate in the same federally funded programs that are offered to nonmilitary families and children. Initially, Reach Out and Read began as a collaboration between pediatricians and early childhood educators. By working together, these two groups found that pediatricians and nurse practitioners were in a unique position to promote early literacy because they enjoyed and had regular contact with young children and their parents through well-child check-ups. Reach Out and Read builds on the unique relationships between medical providers and parents, and helps families and communities encourage early literacy skills so that children will enter school better prepared for success in reading.

ROR plans to launch 300 new program sites per year for the next 5 years, which will double the number of children receiving books and guidance. My amendment will establish Reach Out and Read pilot programs on a limited number of military bases across the country. I ask for support of this amendment.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, again I say, we have told our colleagues time and time again we were waiting for amendments. No amendments have been noticed on either side.

I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

Ms. LANDRIEU. I object. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator may debate.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I ask unanimous consent that my 1 hour of time of debate be yielded to Senator LANDRIEU from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I ask to speak for as much time as I may consume. I understand there will be other amendments that may be offered. We are trying to debate and pass the

Defense appropriations bill. I thank the Senator from Alaska and the Senator from Hawaii for their good work in trying to move this bill through because they have done an outstanding job.

I find myself in a very unusual position because, of course, I voted for cloture because I want to pass this bill. We absolutely have to pass a Defense appropriations bill. Unfortunately, we have had 48 soldiers from Louisiana die, many more wounded. Families are still mourning those losses and we have to figure out a way to get the job done over there, and get it done right and get our soldiers home.

We need to move on with this bill. As my colleagues know, at about 4:30 this morning this bill will pass under the cloture rules and we are going to go on. But I have decided to take some time until 4:30 this morning to talk about a war that is going on at home and that is a war we are fighting on the gulf coast to stay alive, to protect our way of life, to keep the American flag flying over Louisiana, Mississippi, and Alabama.

Mr. STEVENS. Mr. President, may I inquire how much time does the Senator have?

The PRESIDING OFFICER. Does the Senator from Louisiana yield for a parliamentary inquiry?

Ms. LANDRIEU. Yes.

Mr. STEVENS. How much time does the Senator from Louisiana have remaining?

The PRESIDING OFFICER. There is 94 minutes.

Ms. LANDRIEU. Mr. President, I probably will not take all 94 minutes at this moment, but I will probably take that and even some more as we move through the evening trying to get some closure on a subject we have now been talking about, unfortunately, it seems, with no end in sight, or no resolution on the horizon to try to get some real money—not photo ops, not promises, not press conferences, not visits, but some real money to some real people in Louisiana who need help, our cities that were devastated, our parishes that have been crippled, our law enforcement that has been set back on its heels. Three hospitals stayed open the entire time in the New Orleans metropolitan area to provide desperately needed emergency health care in a region of almost 1.5 million people. Heroically, they stayed up, and because they did, one of those hospitals cannot claim insurance because the only way they can claim it is if they closed down. They stayed open so they may lose their hospital if we do not try to get some money.

The reason I do not feel the least bit guilty standing here asking for it on this bill is because the underlying Defense bill—if the staff will bring me the final numbers of this bill—has a tremendous amount of money we are spending in Iraq for our defense and for the standing up of Iraq. While I have questions about some of the things we are doing, some of the things we have done, and how we are going to get ourselves back home after stabilizing it, I have to say when I went on the Web site today, it was hard to actually read. The people of Louisiana, Mississippi, and Alabama are going to be quite surprised if they go on this U.S. Army Corps of Engineers Web site and pull up this gulf region division because they might think this is about the gulf region right here in the United States. But it is not. It is about the gulf region in Iraq.

In the underlying bill we are passing, and we need to pass, I am trying to get the administration—the leadership here to at least agree to take $1 billion of the FEMA money we have already allocated, $62 billion, and send to Louisiana to begin some construction projects and some standing up of some critical programs to keep cities, parishes, and law enforcement whole as we begin our rebuilding program from the largest natural disaster that ever occurred. That is all we are trying to do is give $1 billion to the cities and parishes so they can hold heart and soul together, so as we pass additional help, whether it comes from levee construction, or whether it comes from small business, or whether it comes from health care, the entities of the government, the parish presidents, the cities, the sheriffs, the police officers, and the fire departments are there to help us build a region.

I was surprised to see on the Web page that this is the goal we have in Iraq: to establish a government, provide security, enhance basic services to the Government of Iraq. It sounds like something we are trying to do in Louisiana, Mississippi, and Alabama—provide security, enhance basic services, and keep our cities, our police forces, our fire departments operating through the worst and largest natural disaster in the history of the United States.

We are getting ready to send billions of dollars to Iraq, finance billions of tax cuts for other people, finance billions for programs. We have already given $62 billion to FEMA that everyone says does not work, and I can personally testify to that, having been in the State now almost every day since this hurricane. We cannot seem to get an agreement to get $1 billion for the people of the gulf coast to keep their security open, their basic services operating, their electricity running, and their water turned on.

We have been working for weeks diligently on these 815 projects in Iraq for ports of entry, military facilities, police facilities, fire facilities, prisons, and courts. The last time I checked the New Orleans court system, we did not even have a court operating. The last time I checked, the supreme court had moved to Zachary. The supreme court used to be operating in New Orleans until Katrina came. The whole supreme court went to Zachary, LA. They do not even have a court building to operate in.

I am all for this bill. To my knowledge, I have never voted against a Defense appropriations bill and do not intend to tonight, but because Senator VITTER and I have been asking for some money directly, not even new money, not even money out of this bill, for the House of Representatives to send us a commitment, for the President to send us a commitment of $1 billion to our sheriffs, to our police force, to our firefighters for 3 months, to keep them operating, is it any surprise that I cannot sit in my chair and smile while we are sending all of this money to stand up public works in Iraq—354 planned projects in water treatment, sewer projects, buildings for health and education; 1,091 projects, including schools, primary health care centers, hospitals, and public buildings?

This is what my city looks like. Actually, this is not New Orleans. This is probably Waveland or Bay St. Louis, but it could be New Orleans. It could be Slidell.

This is what the gulf coast of the United States looks like today. Most of it is gone. These are the cities Senator VITTER and I and our delegation have been trying to get help to. I do not see any houses here, but maybe someone does. I do not know how we collect ad valorem taxes to pay for police and fire protection. There are no stores people can shop in to generate the sales tax necessary to keep the mayor and city hall functioning. When we pass tax credits, which we might want to do and have already done to entice businesses to come back, where would they go to get a permit? When they file their plans for construction, who would review them? When they have to file their plan to meet the EPA standards that would be required before they could build here, who would be there to take their application?

This photo is what my constituents look like. I wouldn't be surprised if this man was in the Army or the Navy. Maybe he is a Reserve officer. I wouldn't be surprised at all because I have thousands of them who put the uniform on and went to Iraq and came back, and this is what they have come back to. I have an administration that is going to pass this Defense bill to put electricity in Baghdad, build schools in Baghdad, and will not give the Louisiana delegation $1 billion—out of $62 billion that has already been allocated so it wouldn't cost anybody a penny—to help keep the lights on in the cities that were destroyed.

This is what my people look like. I don't know how many times they have to cry. I am sorry she doesn't have a lobbyist to send to Washington. I happen to be her lobbyist.

Here is one for the books. "Here lies Vera. God help us." I think this grave is in New Orleans. I am not certain. But neighbors in the middle of the flood, when no one would come to get them, took this 65-year-old woman who was killed in the flood and built a grave for her and wrote "Here lies Vera. God help us," before they left.

This is a picture of a woman who the news media does not think a lot of—not all of them, but a lot of them don't think she is self-reliant. We don't have self-reliant people in Louisiana because we have the nerve to come up here and ask for money. That is our money that we put in the Treasury. We don't have self-reliant people, one of the newspapers said, in Louisiana.

Our people put money in the Federal Treasury thinking they belonged to the United States of America, so when one county or one parish or one State is hurt, the other 49 might come to their aid. That is what the United States is about.

This woman looks pretty self-reliant to me. She does not have much, but you know what. She has her two children in her arms. And if she had three, I am sure she would have figured out how to bring the other one on her back. She brought them to safety.

This woman may be complaining, but I can tell you I have seen a lot of people who have been through a lot of stuff, and they still come up to me and say: Senator, we appreciate everything everybody is doing for us. I just wish you would hurry up.

Not everybody is complaining. But let me put it down right now: I am complaining. This Senator is complaining about the treatment that our people have received.

I tried to be patient. I tried to say: Fine, FEMA is not working. I understand it. We all made a mistake. We all messed up. We put it where it can't work. We put someone in charge who didn't know what he was doing. We gave them money, they can't spend it, so let me just have $1 billion of the $62 billion that they have. There is $43 billion sitting there they cannot even use. Let me just please get it to my firemen, to my police officers, to the mayors to let them operate for 3 more months.

I have to be told: Senator, I am sorry. We want to go home on a break. You know what. We are not leaving until 4:30 in the morning. We might go home on a break, but it will be 4:30 tonight.

Right after the storm, a lot of people didn't have electricity. After hurricanes you don't have a lot of electricity, so people are used to it. After about a week or 2 weeks, the electricity comes on, but of course a lot of things are ruined in your house. But I still have places with no electricity. How do you get businesses to come back if they don't have electricity? I still have places that don't have running water.

Please stop sending us bottled water. We have enough. It is not the bottles we need, it is the faucets that need to get turned on. But we are going to stand here and pass a bill delivering on power for Iraq.

A total of 2,760 megawatts of power have been added to the grid in Iraq to service more than 5 million Iraqi homes, and I can't get $1 billion to help keep electrical workers on the ground in New Orleans turning on the power in Louisiana, Mississippi, or Alabama.

We never have any money for anything, but here in the Corps of Engineers budget here is $4.3 billion allocated from supplemental appropriations for general system improvements for electricity. The World Bank estimates the total necessity to be $12 billion, so I am sure we are going to come up with the other $8 billion to turn the lights on in Iraq. But the people who produce the electricity in the United States of America to turn on lights everywhere in the country, from Chicago to New York to California, can't get the lights turned on in their own backyard because nobody around here can find $1 billion to give to us.

They say: Senator, how do you know FEMA is not working? I have been home just about every day and have been to most of the shelters, talked to most of my mayors, talked to my sheriffs, talked to everybody at home, trying to be patient, understanding they are working little kinks out. But let me tell you what comes into our office on a daily basis.

Phone calls to my office:

> The attached pages are records of some [underline some] of the calls received in the last few days. Nearly all of them from constituents who have not received any assistance from the Federal Government or Red Cross.
>
> Some of the first calls were for search and rescue, and in the 35 days since Hurricane Katrina made landfall, countless Louisianans are in no better shape than they were on the day the hurricane hit.

I am sure Senator VITTER has a stack at least this thick, if not thicker, as has every member of our congressional delegation, and even some of our neighbors from the neighboring States. They have calls recorded—names, phone numbers.

When people say, Senator, how do you know FEMA is not working, I do have an idea it might not be working very well. So we could take $1 billion from FEMA, send it through an already existing program called the Community Disaster Loan Program that worked in New York, that worked in Puerto Rico, that has worked everywhere in the country when disasters strike, and transfer some of that money there and just give it to our cities, our sheriffs, our law enforcement, and the three hospitals that stood up. Not the 21 other hospitals that are closed, not all the other needs that we have, from levees to environment to housing to education to health care—none of that. We can wait for that until we get back. Just keep us operating while we are on vacation.

We have yet to hear from the White House, from the House of Representatives. I know the Senate would pass such a proposal, but the reason I cannot accept the passage from the Senate is because all that would be is a Senate-passed bill.

I am sure the Senate would pass it unanimously, but it would pass and it would sit and no one in Louisiana or Mississippi would get help because until the House of Representatives acts, until the President says that he will do this, it cannot be done.

I know the President wants to help. He has been down to the State. He recognizes that FEMA is having some problems. He has said he wants to help. But we just cannot keep waiting. So I am going to stay here through the evening. I am going to continue to negotiate. I am going to continue to talk with the Senators handling this bill. I am going to continue to have telephone calls and meetings with anybody who would like to talk about this subject and see what we can do to get this money committed, in real dollars, in any bill in any way for this one community disaster assistance program.

Then we need a commitment when we get back to have a vote on Grassley-Baucus, a bill that gives emergency health care that this Senate has already approved in a bipartisan way, and three amendments to that bill. They would cover some emergency education for elementary and secondary grades and emergency education for our universities that are teetering on the brink of collapse—all of them, public and private, and historically black colleges included. If we can have a vote when we come back—the Senate can vote no, the House can vote no, or you know what—the President can veto the bills. But at least I will think I did everything I could to try to get people help. If the President wants to veto the bills, fine. If the Senate wants to vote them down, fine. If the House wants to vote them down, fine. But at least we can get a commitment to get votes on those bills, get the $1 billion now, and we will come back.

I assure you we will be working on this not for weeks but for months, for perhaps years—until we stand up this region.

I am not one who doesn't believe in nation building. Some people don't think we should be engaged in it. I happen to be inspired by the idea that maybe the United States has some things we could share in a positive way and help countries to achieve what we have achieved, which is remarkable in the history of the world. But I have to tell you, the first nation we need to be building is our own. We have had the largest natural disaster in the history of the country. Katrina, followed by Rita, which was a vicious and very tough storm, and in between those things a disastrous collapsing of a levee system that put the Nation's energy coast underwater—or a large segment of it. It put 10 feet of water in a major American city and virtually has shut it down and shut down the surrounding areas.

I have to walk around the Senate for 31 days pretending. Are people saying to me, What can we do to help? We have laid down many things that can help. Many committees have responded. Yet the only thing that has happened for 31 days is that we have given FEMA money, and they can't seem to get it out. So we need to try something a little different. We need to try something a little different.

I wish FEMA was the way it used to be, and maybe it will be again. But it is not today, and it won't be next week, and it won't be next month. We can't keep waiting for FEMA to organize itself. We are the Congress of the United States. We are Senators. We understand these things. We have been through them before. And to just keep doing the same old thing and expecting different results is crazy. It doesn't make any sense. It is not right.

Let us figure out a way to take $1 billion out of FEMA, transfer it either through this bill or through another vehicle, and send the money to our parishes, to our cities, to our police, to our fire for 3 months of operation, which is already authorized in the law. But the reason it can't be done administratively is because there is a legislative cap of $5 million. The budget for the city of New Orleans alone, salaries only, is $20 million a month. Why would anybody think that a program that only allows you to borrow $5 million would help them? We have to find $1 billion, approximately, to keep these entities up and running, or by the time we get back in 10 days they might have already had to lay off police, fire, and critical personnel. How do you start building up again once you have closed down your city hall, shut down your fire department, shut down your police department, and people have had to go out and search for jobs elsewhere? How do you recruit them to come back? How do you get them back after you have broken their spirits and laid them off is beyond me.

Let me correct myself. No matter what Congress does, having represented this State for a long time, I want to say that you are not going to break our spirit. It has been around a long time. We are a pretty old place. We were here before the country and are worth saving. We will figure it out.

But people in Louisiana are having a hard time figuring out how we can spend weeks on the Defense appropriations bill, which is doing more than supporting our troops, which is building up Iraq, actually, with a gulf coast region. I want to repeat, gulf region division. We don't even have a gulf region division of the Corps of Engineers in the United States of America today. We have a New Orleans district which covers the southern part of Louisiana. We don't even have a gulf coast region. That would be an advancement. But we have one in Iraq. Meanwhile, the gulf coast of this United States, the heart of the energy industry, looks something like this with the water down.

As I said many times, while there is a lot of vacationing that goes on in the gulf coast, particularly along the coast of Mississippi, we have enjoyed that beautiful coastline for years, and we have enjoyed the beautiful sandy beaches in Alabama. Most of the people in the coast of Louisiana and many in Mississippi and Alabama work at the ports. They work at shipbuilding. They are shipbuilders or they are commercial fishermen who put food on the table that everybody in America eats, and around the world. They light up Chicago, and they are proud of it.

Do you know what the National Geographic said about it? I think this is a very reputable publication, and it is written, I am very proud to say, with the help of the Times-Picayune, our newspaper which has been in the city I think as long as the city has been there, evacuated itself. They are writing the paper in Baton Rouge and printing it in Houma. We don't even have a newspaper in the city of New Orleans, not the major newspaper. We have several other good publications, and they are all struggling to stay in business. But with nobody in the city, where would you deliver your paper and to whom would you sell the advertising? There are no businesses in the city that are operating very well. But our newspaper, thank goodness, is still working. They collaborated with the National Geographic and the Dallas Morning News and put together this amazing report on Hurricane Katrina, "Why It Became a Manmade Disaster and Where It Could Happen Next." I highly recommend it for reading here and around the country.

On page 49, it talks about an economic powerhouse brought to its knees. We are not a charity case in Louisiana. We are an economic powerhouse, and we have been so for over 350 years. I reminded my colleagues today, thank God for President's like Thomas Jefferson who understood borrowing money and what you borrow it for. He borrowed money from the Treasury and bought the Louisiana Purchase for 3 cents an acre because he knew that this country could not grow and meet its destiny, that western expansion and getting to the West was impossible without the Mississippi River.

Andrew Jackson went down there after he fought one war and defended it again. Why? Because after he won the first war, the British tried to come and take New Orleans because if they could take New Orleans, we could never be the country we are. Thank God Andrew Jackson knew about it, and thank goodness the storm didn't topple his statue, which is still in Jackson Square.

An economic powerhouse brought to its knees. Eight hundred manned and thousands of unmanned platforms are in the Gulf of Mexico. The largest platform, Mars, is teetering on its side. They cannot produce oil and gas. We are trying to get it stood up again.

If anybody wants to know why the price is going up, it is because this monster hurricane hit the heart of the oil and gas industry. Despite our best efforts to protect these infrastructures, despite begging for decades—decade after decade after decade—to restore our marsh, to protect the investment this country has made, for 200 years we have been turned down time and time again. So now it is time to pay the piper. And I am sorry if it is going to cost $40 billion. I am sorry that is what it is going to cost over the next 10 to 20 years to stand this powerhouse up again. If anybody wants to check the figures, just come to the Hart Building on the 7th floor, and I will go over every single dollar with you.

Do you know what the biggest ports are in America? It is not New York, it is not Seattle, and it is not Houston. It is the Port of South Louisiana, the Port of New Orleans and the Port of Baton Rouge. We dwarf the other ports. We dwarf them. Our port comes up here and asks for some money, and they get told they are a charity case. They have been taking grain out of Kansas for 200 years. We have been draining the whole continental United States for 200 years. We have been shipping everything—goods—all over the world for 200 years. And I have to hear that when our port comes here for help, maybe not even a grant, just a loan to get them through the next 3 or 4 months until they can get back up on their feet, that there is something un-American about them, they need to be more self-reliant.

Over 9,000 miles of pipeline connect the gulf with the Eastern United States. We have laid pipelines. No one in America wants them, but we have been laying them down for a long time. Why? Because we have oil and gas. We believe in energy, energy independence. We don't think we should get everything from Saudi Arabia. We would like America to be more independent, so we produce some oil and gas, and we make no apologies for it. But when you lay these pipelines and do not invest in the marsh in which you lay them down and you let it erode and the saltwater comes in and you levee your rivers for channelization and you don't invest in the technology and science that we know would protect our marsh, catastrophes happen.

Unfortunately, as in every case, the poor have suffered the worst. But they are not the only ones who have suffered. Middle-class families, very successful, money in the bank, house paid for, children through college, looking forward to the next 10 or 15 years, 20 years maybe, and they deserve it; they have worked hard all of their lives, they have paid their taxes, they have kept up with their interests, they go to church every week, and this is what they look like today. They are told to be more self-reliant? I do not know how much more self-reliant people can be.

I will continue to explain why our region is an economic powerhouse, why it needs to be so again, why we need to rebuild it, and why, unfortunately, it is going be more expensive than it should have been because of the things we should have been doing for the last 40 years and haven't, the investments the Federal Government should have made and didn't, even when they knew that this was inevitable. Yet there are some things that we didn't do at our State level. And yes, there are some things we didn't do at our city level.

But again, this river does not serve only the 4.5 million people who live in Louisiana, it serves the 300 million people who live in this Nation and the billions of people who live in this world and depend on trade for prosperity and for commerce and for peace, because the more we trade with each other, the more we know each other, the more we can rely on each other in a mutually respectful way, the greatest chance we have for peace.

These levees do not just protect the people who live in the neighborhoods around them. They protect billions and billions of dollars in investment made by this country over a long period of time. And a levee system failed. We have struggled to keep the levees up. We have spent a lot of money keeping them up. But we needed more help from the Federal Government. We could have been more efficient on our end as well. We could have taxed our people more. But it gets hard on all of those fronts. People want tax relief. They don't really want to face the expense of what we have to do. We are not always disciplined about the way we build.

But again, it is not impossible if we make some decisions now to get some emergency money to our cities, to our sheriffs, to our law enforcement officers, and to our very basic health care in the region. This is not just New Orleans, this is all through south Louisiana and Mississippi and Alabama. This would cover all of them. Under current law, that is no help to them right now—or very little help. We can cover some places in Texas if they need help. I don't know if they need as much help as we do in Louisiana or as we do along the gulf coast in Mississippi which I am more familiar with than I am the coast of Texas, although of course I have been there. I really grew up on the coast of Mississippi, as well as on the coast of Louisiana, so I am more familiar with it. But I can tell you that these cities that look a lot like this throughout the gulf coast are going to have a hard time meeting payroll.

Some cities have money in the bank, but the needs are so great and so overwhelming and FEMA has not been, as I said, very efficient. If we can't get them just a bridge loan, if you will, for 3 months a lot of our cities won't operate.

Now, I understand—and this is a Mississippi coast. You can tell because they have white beaches. We don't have beaches. Our coastline is marshy. I am pretty sure this is Mississippi. In Mississippi, I understand their legislature has borrowed $500 million so their cities could get some money, and that might be a solution for them. The problem with Louisiana is that our Constitution prevents us from borrowing money for operating expenses. And that is, in my view as a former State treasurer and current Appropriations Committee member, not a bad rule, if you will. You don't want to borrow money for operating expenses. If you are going to borrow money and have people have to pay it back, you want to invest it in that which will return to you something in the future. So you borrow money to build ports, to build highways, for capital improvements. So our State cannot borrow money at the legislative level to give out to our cities for operating expenses or to our firefighters and police. The FEMA law today only allows the payment of overtime. So while we can get overtime paid, we can't get straight time paid. We can't get regular time paid. Even if we would, they can't lend them more than $5 million. And as I said, the operating budget in the city of New Orleans is $20 million a month, so $5 million will not do us very much good. If I thought we could organize a constitutional amendment in 30 days and have a vote, I might suggest that. But the polling places have been washed away, and I am not sure how we would find all of our people to vote since there are people in all 50 States, and we have no mechanism right now to do that, to my knowledge.

So we cannot borrow money at the State level to help them. The cities can't go to the capital market. We are restricted by the Constitution. FEMA has $63 billion, with $43 billion sitting there, and Senator VITTER and I and our delegation have asked for $1 billion to keep the lifeline until we get back from our vacation, and we are told we can't afford it, but we are going to stay here and pass a bill to stand up the country of Iraq by building schools, health care facilities, electric grid, sewer and water, water treatment plants.

Well, I can understand, you all can understand why the people of my State would want me to stand here and try to make this case. So we will be standing here, I will be standing here until 4:30 in the morning until we get a resolution on what we are asking for. I am asking for $1 billion of real money anyway, outside of FEMA or take the $1 billion from FEMA. Let us keep our lifeline going until we get back, and when we get back have a vote on Grassley-Baucus, which this Senate has put together in a bipartisan way, with three amendments for emergency funding for our schools and our universities, for health care, and housing.

I reserve the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER Without objection, it is so ordered.

VOTE CORRECTION

Mr. SANTORUM. Mr. President, on rollcall vote 252, I voted "yea." The official record has me "absent." Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. I thank the Chair.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand that the distinguished Senator from Louisiana, Ms. LANDRIEU, wishes to continue her speech. I ask unanimous consent that I may speak briefly for not to exceed 10 minutes and that she then be recognized to continue her speech.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I would object to that. The Senator from Louisiana has not asked for time. The Senator does not have to ask for time. He is entitled to an hour right now at his own request. So we do not have to have any consent. But I do not object to the Senator speaking as long as he wishes. But I do object that only the Senator from Louisiana can be recognized when he is finished. And Senator HATCH, by the way, is here. He had a very sad thing occur in his office, and he wants to speak when the Senator is finished.

Mr. HATCH. If I could.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. I thank the distinguished Senator from Alaska, and I thank the distinguished Senator from Utah.

Mr. President, last night, in a closely divided vote, the Senate rejected an attempt to add much of the Defense authorization bill to the Defense appropriations bill. Each of these bills is vitally important to the men and women of the U.S. Armed Forces but for different reasons. Inasmuch as I am a member of both the Senate Appropriations Committee and the Senate Armed Services Committee, the importance of each of these bills is very clear to me.

The Defense appropriations bill contains the funds that are needed to keep our military running. This bill contains $440 billion that is required to, among other things, pay, train, and equip our troops for the next 12 months. It is often said that our troops are the best trained, the best equipped, and the most capable military force in the world. In large part, this is true because Congress has appropriated the moneys that are needed to create this outstanding fighting force. That, in a nutshell, is the importance of the Defense appropriations bill.

The Defense authorization bill also has an important purpose. That bill is intended to establish in law critical defense policies. The Defense authorization bill contains provisions that relate, among other things, to the setting forth of the number of military personnel that the United States is to maintain; expanding health care options for our troops and their families; and increasing pay and compensation for active-duty, National Guard, and retired servicemembers. The bill also includes many complex technical provisions, such as changes to military acquisitions policy. The authorization bill is important to our troops, but it is a very different bill from the Defense appropriations bill.

Last night, I opposed the effort to fuse these two bills into one. That move, had it been approved, would have resulted in a delay in our troops getting the appropriations that they require. It also would have resulted in less attention to the policy matters in the authorization bill that affect our troops in so many ways.

The Senate owes our troops and their families a conscientious, well-informed debate on such important authorization matters as improving health care benefits for the National Guard, among other things. The American people need to know what their elected representatives in Washington are doing when it comes to defense policy. The American people have given their sons and daughters to fight for their country. Can't the Senate give a few days to them? Can't the Senate give them a few days of debate to inform them about what the Congress proposes to make the law of the land concerning defense policy?

Many believe that the Senate could debate, amend, and approve the Defense authorization bill within a week, plus or minus a few days, if it were brought before the Senate for open debate and amendment. Passing the authorization bill in that way would serve our troops far better than keeping that legislation on the shelf, where it has been for several months now.

The Senate will pass the Defense appropriations bill later today. Surely—surely—Senators can spare the time required to finish action on the Defense authorization bill. Our troops are overseas. They are serving in harm's way and need both of these bills to be debated, passed, and signed into law.

The Senate has spent all too much time conjuring up complex parliamentary procedures instead of facing the real issues confronting our military servicemembers. The Senate should call up the Defense authorization bill and let the sun shine on our deliberations and debate.

We are the servants of the people. We are the servants of the people, not their masters. We owe the people a public accounting of decisions on such important matters, instead of a fast shuffle that avoids difficult issues and difficult votes.

IRAQ

Mr. President, on another matter, next week, the people of Iraq will go to the polls and cast a critical ballot. They will decide whether to endorse the constitution as drafted by their political leaders. It is an important day, and I pray that it goes well.

No matter how well the vote goes, whether or not the constitution is ratified, it appears that the men and women of our Nation's Armed Forces will be in Iraq for a long time to come.

I applaud those men and women. Our soldiers, our sailors, our airmen, our marines, our National Guard, our Réserves—our troops—have displayed unique courage in the face of great trials. My support for them has never—and will never—waiver. They have earned the respect and thanks of this Nation.

But even more than laudatory words, our troops deserve a plan for Iraq from their Commander in Chief. The American people deserve the same. We must have a plan with measurable goals and objectives, a plan that gives some surety to our military as well as to the people of this Nation.

Today, in a speech to the National Endowment for Democracy, the President talked a great deal of why we have forces in Iraq, but the President did little to provide any plan for success.

The American people want to know how we will measure progress. In response, the President said:

> We never back down, never give in and never accept anything less than complete victory.

No specifics, no plans, no way to measure success.

Maybe the President did not offer specifics because the specifics are not very encouraging.

Consider the Iraqi troops. For a new American soldier, basic training takes 9 weeks to complete—9 weeks. The United States has, for more than 2½ years, been training a new Iraqi military. Basic training for all Iraqis, and specialized training after that—2½ years.

In June, the Senate was told by the Department of Defense that 3 of 100 Iraqi battalions were fully trained, equipped, and capable of operating independently—what the Defense Department calls "level one trained." Two and a half years: three battalions—three battalions.

Between June and the end of September, one would assume that we would be growing that number. Yes, one would assume that we would be growing that number. We are training more Iraqi forces, so more Iraqis should be ready to stand up and defend themselves.

Yet, in testimony before the Senate Armed Services Committee on September 29—just a few days ago—GEN John Abizaid, the Commander of the U.S. Central Command, poured cold water—cold water—on hopes for progress. Between June and September, the number of "level one trained" battalions went from three to one. How about that? Instead of moving forward, we are going backward.

Perhaps the reason that the President did not tell the American people how to gauge success is because he does not have success to report. I must admit, I listen to every address—every address—about Iraq with great skepticism. And it is because of the track record of this administration. Don't just take my word for it. The record is replete with examples that cause one to look askance at the White House claims.

One example is from this past May. Vice President CHENEY was asked about progress against the insurgency by CNN. He responded:

> I think they're in the last throes, if you will, of the insurgency.

The Vice President was confident. The Vice President was unwavering. The Vice President was wrong.

Again, in testimony before the Senate Armed Services Committee last Thursday, GEN George Casey, the Commanding General of the Multinational Force in Iraq, explained that the "last throes" was a rosy scenario.

> The average counterinsurgency in the 20th century has lasted nine years. Fighting insurgencies is a long-term proposition, and there's no reason that we should believe the insurgency in Iraq will take any less time to deal with.

Now, those are the words not of ROBERT C. BYRD, but they are the words of General Casey.

Whom should the American people believe? What should the American people believe? It is time for the deceptions and the distortions and the misrepresentations to end. The American people deserve the truth.

Instead of broad platitudes, the American people deserve the facts. Most importantly, the American people deserve a plan. When will the Iraqi people be able to defend themselves? When will the Iraqi military be able to fight the insurgency without the American forces? When will the Iraqi police forces be able to control the streets? What is the timetable for reconstruction? What is the target for constant electrical power in the major cities? For communications? For safe transportation? What is our strategy for preparing the Iraqi people to be able to defend themselves?

We seem to have no strategy—no strategy—with benchmarks for success, no plan for progress. How will we know victory if we cannot even define it? What is the plan for our heroes in Iraq? What is the plan to stabilize that nation? The American people and the Iraqi people deserve to know the answers.

> The people of the United States must know not only how their country became involved, but where we are heading.

That is the end of the quotation. I agree with those words. But they are not mine. Those words belong to a Congressman from the State of Illinois in August 1965. Those words belong to our current Secretary of Defense, Donald Rumsfeld. And they echo as true today as they did in that summer 40 years ago.

I urge the Bush administration to level with the American people. Moreover, I urge the White House to level with itself. Face the facts. Stop the spinning. Get a grip on the situation. Then please, please, oh, please, explain to us all where we are heading in Iraq.

Mr. President, I thank all Senators and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

TRIBUTE TO SHAWN M. BENTLEY

Mr. HATCH. Mr. President, I rise with a heavy heart to announce the untimely passing of one of the Senate's own, our long-time staffer and former colleague, Shawn Bentley.

What can you say about a 41-year-old man who died: That he was brilliant and talented: that he was a loving family man, a wonderful father to Katie and Samantha, and a devoted husband to his wife, Becky: That he loved James Joyce and William Shakespeare and Elton John; and the law; and the Senate: and life.

Shawn worked for the Judiciary Committee for a decade, from 1993 to 2003. Starting as my counsel, in the minority, Shawn worked on a variety of legal issues, from healthcare antitrust, to radiation compensation, to the balanced budget amendment. He rose through the ranks, ending his Senate tenure as the majority's chief intellectual property counsel and deputy chief counsel to the committee, one of the top jobs in the Senate.

Although we were sad to see him leave the Senate, I was so proud of him when he joined Time Warner as vice president of intellectual property and global public policy.

In the Senate, the major bills Shawn helped write are among the most important laws in the intellectual property world: the Satellite Home Viewer Improvement Act; the Digital Millennium Copyright Act, the American Inventors Protection Act, the Patent Fee Integrity and Innovation Protection Act, the Anti-Counterfeiting Consumer Protection Act, and the Trademark Dilution Act, just to name a few.

Shawn was so bright and so accomplished a lawyer, that we did not hesitate to assign him any subject. And it was such a joy to work with him, because all knew he was a model of decency, humility, and spirituality. As the Elders' Quorum President of his church congregation, and man of remarkably strong faith, Shawn lived a life of service to his fellow man and woman. In whatever he did, Shawn handled the matter with both talent and a remarkable good humor.

In all the years that Shawn worked for me, I cannot recall one time when he was not warm and engaging. Even when he was a little frustrated, as all of us are sometimes, Shawn still had a smile on his face. In fact, Shawn had a calmness about him that was almost serene. Yet, he had a very sharp sense of humor that made him a delight to be around.

Shawn was among the brightest and most informed. Yet, he was never arrogant, a rare quality in one so talented, especially on Capitol Hill!

Shawn was more than the chief intellectual property counsel to the Judiciary Committee, he was our in-house professor of arts and humanities. Visiting Shawn's office was not like visiting a typical counsel's office on the Hill. Visiting Shawn was more like visiting your favorite classics professor at his desk with his exquisite fountain pen in hand.

To be fair, Shawn's lair in the Hart Building had the requisite congressional directories, codes and public laws. But he also had a vast book collection of classics, poetry, Shakespeare anthologies, first edition novels, and British history books. And did I mention the miniature busts of philosophers and great thinkers?

Then, there was the collection of CDs ranging from Creed and Metallica to Beethoven to Brahms to Mozart and Bach. While his book collection in the office was impressive, we knew there had to be a much more extensive collection at home.

Pressed about his office supply of nonlegal books, Shawn admitted that it was growing because his wife Becky had imposed a moratorium on bringing any more books to their home, so the overflow ended up in the office. When Shawn found out that a colleague lived near the used book store in Bethesda where he often located some treasures, he enlisted her to pick us some volumes from time to time, thus saving him the trip and the explanation of a voyage to Bethesda. That was probably Shawn's closest thing to a vice: sneaking a volume of poetry into his collection.

Shawn was the only heavy metal enthusiast I know who also loved to read Shakespeare and could discuss both topics with equal enthusiasm and knowledge. Indeed, it was this respect for the importance of creativity in helping shape culture that may have attracted Shawn to IP—intellectual property—law and policy. He helped me with so many important IP issues, many of which I listed before, it is hard to single out Shawn's most important work.

One event does stand out in my mind. In 2000, as chairman of the Judiciary Committee, I scheduled a hearing on peer-to-peer copyright infringement. Shawn arranged to have witnesses from Metallica, Lars Ulrich, the Recording Industry Association of America, and several Internet company executives testify on the same panel. To demonstrate how P-2-P services worked, Shawn suggested I download from the Internet the rock band Creed's then-hit "With Arms Wide Open."

Just then, the bells rang for a vote and committee members started to leave. I'll never forget looking back as I left Hart 216 and seeing the almost surreal scene of Senators mixing with media and staff, talking to Internet pirates and heavy metal band rock stars with rock music playing in the background. It was a scene that only Shawn could have pulled off.

Shawn did all this—he succeeded at all he undertook—without boasting or calling attention to himself. He knew there were more important things in life than a battle of wills and, as a result, he won the respect and trust of people on both sides of the aisle.

There is not one person on the Hill or in business who would call Shawn an adversary or enemy. Those who worked with Shawn learned a lot more from him than the other way around.

Two other fond memories of Shawn from early in his career come to mind. When the Senate was debating the constitutional amendment for a balanced budget, the BBA, I asked Shawn to develop some materials supporting the need for the amendment.

With customary good staffing, Shawn put together a very impressive set of volumes which he drove out to my home the weekend before the debate. I was astounded by the depth, and to be truthful, the volume of the materials. "Shawn," I said, "I'm just overwhelmed by the amount of material you developed. You didn't need to do all that." Shawn thought a moment, paused, and said, "With all due respect, Senator, could you have told me that yesterday?" That was the wit of Shawn Bentley. Quickly recovering, I replied, "Shawn, I don't need all those materials if I have you sitting by my side. That's good enough."

And I meant it. I could always count on Shawn to be well-prepared, succinct, and oh-so-witty. But Shawn was Shawn. So, then we got to the floor with the BBA.

As chairman of the Judiciary Committee, I was managing this constitutional amendment's debate on the floor with Shawn right there beside me. One of the most contentious issues was over how the amendment would affect the Social Security fund.

Senator Fritz Hollings, then the junior Senator from South Carolina, for some 40 years I might add, was recognized by the Chair to speak in opposition. Knowing his remarks were long, I took that opportunity to go to the cloakroom and make a phone call. I asked Shawn and another capable staffer, Larry Block, to please take notes and write down five points to respond to Senator Hollings.

The trouble was that with his deep South Carolinian accent, neither Shawn nor Larry had absolutely any idea what Senator Hollings said. After about five minutes, my two staffers were getting pretty nervous on the floor anticipating my return. Suddenly, Shawn gave a big smile. "I've got it," he said. "All we need to do is write down five points supporting the BBA and why its enactment would not have a negative impact on Social Security."

I soon returned and read the talking points, adding several points of my own. All went well. Only later did I realize what Shawn had intuitively grasped. If we could not understand Senator Hollings, no one else could either!

The moral of this story: As President Andrew Jackson opined many years ago, "Take time to deliberate, but when the time for action arrives, stop thinking and go in."

Shawn was probably one of the most deliberate lawyers ever to have worked on the Judiciary Committee. On Capitol Hill, where the emphasis too often seems to be on getting there first, Shawn's primary concern was always getting it right first. I could count on him to have the right answer to my questions, and if he did not know the answer, he wouldn't guess—he would do the work and get it right and then make his recommendation to me.

I cannot say enough good things about Shawn Bentley. Indeed, his loss is a loss to the Senate family, to his family, and indeed the Nation.

As we head into this season of Autumn, as the leaves change colors and the temperature turns, some verses from Ecclesiastes 3 seem so appropriate:

There is a time for everything,
And a season for every activity under heaven:
A time to be born and a time to die,
A time to plant and a time to uproot,
A time to tear down and a time to build,
A time to weep and a time to laugh,
A time to mourn and a time to dance,
A time to embrace and a time to refrain,
A time to search and a time to give up,
A time to tear and a time to mend,
A time to be silent and a time to speak, and
A time to love and a time to hate.

Let us take comfort in those words, knowing that it was God's will that this be Shawn Bentley's time. But we can still rejoice in his life, and embrace all that was good about Shawn Bentley, the son, husband, father and friend we all loved so dearly. And may his family find comfort in the lasting memory of this great man, Shawn Marion Bentley, who indeed lived his life by the words of "With Arms Wide Open":

"If I had just one wish
Only one demand
I hope he understands
That he can take his life
And hold it by the hand
And he can greet the world
With arms wide open . . ."

Shawn Bentley's untimely passing is this Nation's loss.

On behalf of the Senate, let me say that our hearts go out to the Bentley family—to his loving wife Becky, their beautiful daughters Katie and Samantha, his parents DeAnna and Marion, and his five brothers Jared, Derek, Justin, Christopher and Gavin.

Mr. LEAHY. Mr. President, the Senator from Utah and I are here to talk about something where somebody's schedule has been terribly changed, the schedule of his whole family. I am talking about Shawn Bentley and how all of us who knew him are offering our deepest sympathy for him.

Certain people on the Senate Judiciary Committee are like family, and Shawn had most Senators and staff among his many friends. He was extremely well liked on both sides of the aisle, both for who he was and for what he did.

In his decade as a senior intellectual property counsel to my friend from Utah, Senator HATCH, he touched every significant piece of legislation that we undertook: The Satellite Home Viewer Act, the Digital Millennium Copyright Act, the Federal Trademark Dilution Act. Those were the significant ones. There are a lot of others, important ones, that he was intimately involved with. But he touched us not only with his skill as a lawyer, his devotion as a public servant, his generosity as a colleague, but especially just his innate decency as a human being.

I know that he was a loving and devoted husband, father, and son. Leaving behind a young family makes it even more tragic. I hope his family, his young daughters who did not begin to get enough time to know their father, will know that those of us in the Senate mourn his loss. It is a tragic one.

My wife Marcelle and I will keep him and his loved ones in our prayers.

I thank the distinguished senior Senator from Utah for arranging the time for us to speak.

I yield the floor.

Mr. HATCH. Mr. President, I am grateful to my distinguished colleague from Vermont for the kindness that he has shown here today and the friendship that he has shown to me and to the family of Shawn Bentley. I am very grateful to him.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that whatever time remains to me in the hour allowed under cloture be transferred to the time of the distinguished Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. STEVENS. Mr. President, there are no speakers present. I ask unanimous consent that the Senate stand in recess until 7 p.m., with the time continuing to run against cloture.

There being no objection, the Senate, at 6:16 p.m., recessed until 7 p.m. and reassembled when called to order by the Presiding Officer (Mr. DEMINT).

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SCHUMER are printed in today's RECORD under "Morning Business.")

Mr. SCHUMER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. Mr. President, I ask the Senate focus on a matter of real urgency and real importance for the people I represent in Louisiana and, indeed, for all of the victims of Hurricane Katrina along the gulf coast. We are dealing with so many new and enormously challenging situations because of the devastation of Hurricane Katrina. One of them is the fact that in Louisiana and in certain counties in Mississippi, in the truly devastated areas, we have areas that have been knocked off the map economically. There is truly no viable economic activity going on in those about six parishes in Louisiana and about three counties in Mississippi for the time being.

We will come back. Businesses will come back. Things will get back to normal over time, but it will take some time. So one of the primary challenges we have is absolutely no economic activity for now.

What does that mean? It means absolutely no local tax revenue for now to support local governmental entities, including crucial services such as fire and police and hospitals. This is an enormous and growing challenge in southeast Louisiana as we speak. Literally, we have crucial governmental entities that are trying to provide those very basic services—not a full-blown local government, not their normal budget as it was 3 months ago but those basic services, fire and police and hospitals, in order to form the basis of recovery. Because, indeed, if you do not have those essentials, you have nothing and no one will return; jobs and businesses cannot grow.

To help southeast Louisiana through this very torturous time, I have worked with the entire Louisiana congressional delegation to try to fashion some very focused relief to get funds through a loan program, which I will describe in a minute, to these local governmental entities so they can meet their core ongoing needs, their crucial emergency services, crucial necessary services such as fire and police and hospitals over the next few months until we can stabilize.

I have been working for over a week on this, getting into the details, if you will, with the Senate leadership. Let me compliment the Senate leadership and the majority leader in particular for being so focused on this issue, and working so hard on it, devoting significant staff to it.

I have also worked very hard on this issue with the White House and the administration, including the Office of Management and Budget. We have worked through the numbers and worked through various calculations of what that specific need for local government and essential services may be. I thank them and compliment them for that work.

I have also had significant discussions with the leadership of the House, and certainly House Members of the Louisiana delegation have done the same. We have thought through, worked through, talked through all of these issues.

The product of all of that work is a proposed piece of legislation which I have circulated to all Members of the Senate. Under that proposed piece of legislation, we would offer some immediate help, which we need to do now, before we recess for next week, to allow these local governmental units to survive and provide the basic police, fire, hospital, and related services they need to continue to provide if there will be any platform on which to build a full recovery.

I have circulated this proposed bill. It is a $750 million bill that would work through an established loan program in the Department of Homeland Security. It is called the Community Disaster Loan Program. It has gotten great support through the Senate. In fact, there has been no objection on the majority side.

There is some objection on the minority side, but as yet, at least in terms of my knowledge, that objection has not been clearly identified or described to me or to anyone who can work out the problem and work out the objection.

Because of this enormously pressing need, because these units of local government are literally on the brink and can teeter either way with their mandate to provide essential services—fire protection, police protection, hospital access—I ask all Members of the Senate to give me their indulgence and focus on this proposal, and if they have a question or an objection, simply to see me or other knowledgeable Members about it as soon as possible. I will be here all night, as long as it takes. In fact, I will be presiding, starting in 7 minutes, for 2 hours. I will be happy to have conversations on the side with any Member who wants to pose questions or set forth any objections they may have to the proposal. But I ask the focus and the indulgence of all Members of the Senate to do just that, so we can come together in a bipartisan way and actually get something important and concrete done for the true victims of Hurricane Katrina and begin to move on.

Again, this is a very time-sensitive matter so I urge Members who have questions or objections to do this tonight so we can solve these problems, pass the bill through the Senate, and make sure we pass this enormously vital and crucial legislation before the Congress leaves Washington, DC for the October recess.

Mr. President, I yield the floor.

Ms. LANDRIEU. Will the Senator yield for a question?

Mr. VITTER. I am happy to.

Ms. LANDRIEU. If the Senator will yield for a question and comment, let me thank my colleague from Louisiana for his extraordinary leadership on this issue. He has been in meetings all week, literally for weeks, as I have, and on the phone with everybody you can talk to. Of course, the time he spent in the House in Louisiana has served him well because he knows how much our needs are. But I want to ask him a few questions because he and I are committed to stay tonight until we get some kind of resolution.

Is it the intention of the Senator, the junior Senator from Louisiana, that these loans be in the same line as the current legislation, which gives discretion on the part of the administration to forgive them or not? Or is it the intention of the Senator for us to leave current law and absolutely make it certain, when no one else has been required to do so, that these loans would have to be repaid under all and every circumstance?

Mr. VITTER. Under the proposed legislation I am talking about, there is new language that would tighten up, if you will, the repayment possibilities of these specific loans. It would not change all of the Stafford Act, in terms of this loan program in general. That new language would simply apply to these specific loans.

That language is included in the proposed legislation for a very simple reason, and that reason is that, based on literally dozens of discussions with various folks, including in the House, it is very clear to me, in fact it is crystal clear to me, this will not pass tonight or tomorrow through the process without this language in the legislation.

Having said that, I have also gotten assurances from several people in the administration that they are very understanding of the extraordinary situation these local governments are in, in terms of their financial condition and their ability to pay, and they will be extremely open to working out that situation as it pertains to these liens over the period of the loans.

Personally—and I am only speaking for myself—I feel very comfortable with those assurances. Personally—and again, I am only speaking for myself—I am completely confident that without the language you are alluding to, this legislation will not pass the House either tonight or tomorrow. So that is the sole reason, that focused language which applies only to these loans and does not change the Stafford Act on this issue otherwise, in terms of other situations—that is the only reason that language was included.

Ms. LANDRIEU. I can appreciate that. If you don't mind me pursuing that line of questioning, I can most certainly appreciate what the junior Senator is saying about the reluctance of the House of Representatives and the administration at this point because I have yet to receive any letter or assurance, but it is right now the House of Representatives that basically would be willing to make loans to the devastated cities in the gulf coast, but would insist that those loans be paid back, when not insisting on that for other loans that have been given to Puerto Rico, and to Florida, and to Alaska, and to other places, which were waived.

I understand the House of Representatives, while allowing others to borrow this money and then ask for forgiveness, would not allow Louisiana that same privilege. I understand the position of the Senator is that we be treated the same, as a first-class State, not a second-class State. I know that is your position. But it does concern the senior Senator that we would have to be dictated to by the House of Representatives, that we would have to be treated in some second-class fashion.

I am also appreciating that, while the administration has given you an assurance that they do not intend to treat us as second-class citizens, I would feel better, before we left tonight, if we had something in writing from the administration that they think Louisiana deserves the same treatment. For that reason, Louisiana, Mississippi, Alabama, and Texas—that we would deserve the same treatment as other States.

That is why I am in a situation here where I want to commend you for the compromise we have tried to reach today. It is, indeed, tempting. But we are going to have to go home, if we do not get something from this administration, and say we have agreed to a second-class status, and our people have been hurt and offended and left by a FEMA that is not operating very well. That is my concern.

I know you and I agree about that, but do you want to go ahead and answer?

Mr. VITTER. I will offer two further points of explanation. First, I have been working to address these issues specifically with Members of this body, including Senator JEFFORDS of Vermont, who had this specific concern about any permanent and global change to the Stafford Act. We have worked through that issue very constructively. I thank him for bringing that concern to me so we could work it out. I am asking all Members who have a concern to do just that, to identify themselves, to bring their concern to me.

Second, I am very comfortable with all the assurances I have received from the administration.

If there is any different language that would apply to these loans, perhaps it is partly explained by the fact that the size of these loans is well beyond anything that has ever occurred in this loan program before. So we are truly breaking new ground in terms of the size and the capacity that we are asking to be allowed to have access to because of the enormous need for this on the ground in the six devastated parishes in southeast Louisiana.

My final point is, it is very clear to me we either do this or we do nothing. One thing I am not in favor of is doing nothing. One thing I am not in favor of is giving speeches but going home with absolutely no concrete help for these desperate units of local government which have done heroes' work in terms of providing police and fire protection, health services, and hospital access. They need the help now. They cannot wait until 10 days or 2 weeks from now.

So given this is our situation, I believe this compromise is not only fair and just but absolutely essential that we strike today and tomorrow.

Ms. LANDRIEU. If the Senator will yield, I can most certainly appreciate that perspective. I definitely agree it is extremely important to not just give speeches but to get something that is real for our people. But because we have no written commitment from the administration, and no resolution, and no letter, and no written commitment from the House, no assurance, no resolution, no promise to pass the legislation that you have presented and outlined, I am not sure even if you and I could manage—because there is not very much disagreement between the two of us; but our colleagues have some disagreements—if we could pass this legislation in the Senate that it is actually really going to do anything for people at home other than say the Senate has come together.

It would not be the first time the Senate has come together, as the Senator knows, because this Senate is ready to pass emergency health care legislation, and this Senate is ready to pass emergency education legislation, and this Senate is ready to pass—and already has passed—help for small businesses. So it is not the Senate, as the junior Senator——

Mr. VITTER. Senator, I——

Ms. LANDRIEU. Just 1 minute. Let me finish.

The Senate is not necessarily the problem. We have been amazingly bipartisan. Our committee chairs and ranking members, as the Senator knows, have done yeoman's work. And in the Small Business Committee that you and I serve on, we have already passed that legislation. But the senior Senator remains concerned that we still do not have any written assurance or a resolution or something we could take home to our mayors, et cetera.

Let me say one other point. I have read carefully the proposed language about lending Louisiana and Mississippi and Texas this money, and then making us pay it back when no one else in the country has been forced to do that. I have read that language. I have also read the language about who is eligible.

I ask the junior Senator, are you confident in the language—and I do not have it in front of me, but I can call it up, not that it is filed—that the sheriffs of Louisiana would be included in this proposed compromise? Is the Senator from Louisiana indicating that the sheriffs of our State are absolutely, positively included?

Mr. VITTER. Yes, I am completely confident of that.

Ms. LANDRIEU. OK.

Mr. VITTER. If the Senator will yield?

Ms. LANDRIEU. Go right ahead.

Mr. VITTER. A couple points: I think this is a very useful exchange because I take it from the Senator's comments that the senior Senator is, in fact, one of the folks who has expressed an objection to this moving forward tonight.

Ms. LANDRIEU. I have not yet expressed an objection, but I am considering it on the grounds—I am not yet expressing objection, but I am considering it, respectfully, having complimented the junior Senator for the great work he has done, because I am hesitant to accept terms of aid that are applied only to us and to no one else, and not because the junior Senator objects or other Senators, but because the House of Representatives, which is in control of the Republican leadership, has decided that the only way that they will amend the law is to force us alone, uniquely, to have to agree to pay it back, when no one else in America, in the past or the future, will be required to do so. That is a hard thing for the senior Senator to agree to, but I am considering it, if maybe that is our only option.

But you can understand why I might be a little bit exercised about the House of Representatives saying to people who are desperate—like on the front page of the National Geographic—we know you are suffering, we know you need help, there is no question you have no money to pay your bills, there is no question that we have lent other people money and forgiven their loans, there is no question that this is the worst natural disaster in the history of the country—but the only way we will compromise with you, Senator LANDRIEU and Senator VITTER and Senator FRIST and Senator REID, is if your desperate people promise to pay the loan back. And, by the way, we are only making the law for you.

Mr. VITTER. If I could ask——

Ms. LANDRIEU. Hold on. I will not yield at this moment. If someone——

Mr. STEVENS. I object.

The PRESIDING OFFICER. The Senator from Louisiana controls the time.

Mr. VITTER. Reclaiming my time, I would wonder if the Senator objects to the fact that under this proposal we would also expand in terms of amount and number and capability the ability to get these loans? We are getting more of these loans than anyone in any other situation would have gotten before. I wonder if the Senator would object to that change?

Ms. LANDRIEU. Can I answer that?

Mr. VITTER. No.

Ms. LANDRIEU. Can I answer that?

Mr. VITTER. Again, reclaiming my time, I would simply ask directly if the Senator could either object or not object—let me know—and also help us identify any specific objections that may exist on the minority side.

But in closing, Mr. President, I would just say, again, it is very clear to me, having spent a week working on this, that we either do this today and tomorrow or we do nothing and go home for 10 days and give no relief to these communities and these parishes which so desperately need the help. I vote for doing something. I vote for leading. I vote for helping in a meaningful and concrete way the people of southeast Louisiana and urge all my colleagues to please join me in that effort.

I yield back my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, there are discussions going on concerning the future of this bill and what time we may be able to vote and dispose of the bill. I did try to go to third reading to make sure we would not have amendments coming in here at the last minute that would require Members to come back into the Senate to vote at this time.

I want to state that I do not have any problem with the exchange between the Senators from Louisiana. They do have a very difficult proposition. I am not going to get into that at this time. But I will say this: The arrangement that the junior Senator has made is much better than we got after the great earthquake in Alaska in 1964. I think people ought to realize that while the numbers of people involved in this great disaster from Katrina and the disaster of Rita—we have had massive disasters such as our earthquake and our great flood and the typhoons in Hawaii. This is not something that is new. The number of people may be greater, but the type of disaster is not any greater.

I would hope we would have a chance to finish the conversations that the leadership is having and we can find some way to deal with this situation and let people know what time, and if, we are going to be allowed to vote on this very important bill that should go to conference before we go home.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to dispense with the calling of the roll.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. There is objection.

The legislative clerk continued with the call of the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3971. An act to provide assistance to individuals and States affected by Hurricane Katrina.

At 7:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1413. An act to redesignate the Crowne Plaza in Kingston, Jamaica as the Colin L. Powell Residential Plaza.

The message also announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan, Ms. KAPTUR of Ohio, Mr. BROWN of Ohio, and Mr. HONDA of California.

The message further announced that pursuant to Executive Order No. 12131, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the President's Export Council: Mr. ENGLISH of Pennsylvania, Mr. PICKERING of Mississippi, and Mr. HAYES of North Carolina.

The message also announced that pursuant to 36 U.S.C. 2301, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the United States Holocaust Memorial Council: Mr. LATOURETTE of Ohio, Mr. CANNON of Utah, and Mr. CANTOR of Virginia.

The message further announced that pursuant to 36 U.S.C. 2301, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the United States Holocaust Memorial Council: Mr. LANTOS of California, and Mr. WAXMAN of California.

The message also announced that pursuant to 10 U.S.C. 4355(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Military Academy: Mr. HINCHEY of New York, and Mrs. TAUSCHER of California.

At 7:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3894. An act to provide for waivers under certain housing assistance programs of the Department of Housing and Urban Development to assist victims of Hurricane Katrina and Hurricane Rita in obtaining housing.

At 8:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the House has passed the following enrolled bill, without amendment:

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

At 9:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3895. An act to amend title V of the Housing Act of 1949 to provide rural housing assistance to families affected by Hurricane Katrina.

H.R. 3896. An act to temporarily suspend, for communities affected by Hurricane Katrina, certain requirements under the community development block grant program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4159. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the status of licensing and regulatory activities for July 2005; to the Committee on Environment and Public Works.

EC–4160. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Incorporation by Reference of ASME Code Cases" (RIN3150–AH35) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4161. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: Nashville-Davidson County; Revised Format for Materials Being Incorporated by Reference" (FRL7972–5) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4162. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans: Texas Low-Emission Diesel Fuel Program" (FRL7982–2) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4163. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Massachusetts; Negative Declaration" (FRL7981–5) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4164. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions of Hazardous Air Pollutants from Mobile Sources: Default Baseline Revision" (FRL7981–4) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4165. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration for Nitrogen Oxides" (FRL7981–1) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4166. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Streamlining the General Pretreatment Regulations for Existing and New Sources of Pollution" (FRL7980–4) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4167. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plan; Pennsylvania; Revision to the Motor Vehicle Enhanced I/M Program—Philadelphia Pittsburgh, South Central, and North Regions and Safety Inspection Program Enhancements for Non-I/M Regions" (FRL7980–5) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4168. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans for Kentucky: Inspection and Maintenance Program Removal for Northern Kentucky; New Solvent Metal Cleaning Equipment; Commercial Motor Vehicle and Mobile Equipment Refinishing Operations" (FRL7979–7A) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4169. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; New York State Implementation Plan Revision" (FRL7971–5) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4170. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Bernalillo County, New Mexico; Negative Declaration" (FRL7979–3) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4171. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Oklahoma; Plan for Controlling Emissions from Commercial and Industrial Solid Waste Incineration Units" (FRL7979–7) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4172. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production" (FRL7978–4) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4173. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (Headworks Exemption)" (FRL7980–1) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4174. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Texas; Permits by Rule" (FRL7975–9) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4175. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; Idaho; Correcting Amendment" (FRL7977–5) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4176. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plan Designated Facilities and Pollutants; North Carolina" (FRL7876–5) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4177. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cross-Media Electronic Reporting" (FRL7977–1) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4178. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Montana: Final Authorization of State Hazardous Waste Management" (FRL7977–4) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4179. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Reimbursement to Local Government for Emergency Responses to Hazardous Substances Releases" (FRL7976–2) received on October 4, 2005; to the Committee on Environment and Public Works.

EC–4180. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Mississippi as a result of Hurricane Katrina on August 27, 2005, and continuing, has exceeded $5,000,000; to the Committee on Homeland Security and Governmental Affairs.

EC–4181. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Alabama as a result of Hurricane Katrina on August 28, 2005, and continuing, has exceeded $5,000,000; to the Committee on Homeland Security and Governmental Affairs.

EC–4182. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period ended March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4183. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Louisiana as a result of Hurricane Katrina on August 26, 2005, and continuing, has exceeded $5,000,000; to the Committee on Homeland Security and Governmental Affairs.

EC–4184. A communication from the Acting Principal Deputy Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Navajo Partitioned Lands Grazing Permits" (RIN1076–AE46) received on October 4, 2005; to the Committee on Indian Affairs.

EC–4185. A communication from the Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Public Housing Operating Fund Program" (RIN2577–AC51) received on September 28, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4186. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the 2004 Annual Report of the Securities Investor Protection Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC–4187. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerances for Emergency Exemptions" (FRL7738–8) received on October 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4188. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Receivership Repudiation Authorities" (RIN3052–AC26) received on October 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4189. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mexican Fruit Fly; Quarantined Areas and Treatments for Regulated Articles" (Doc. No. 02–129–5) received on October 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4190. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Stall Reservations at Import Quarantine Facilities" (Doc. No. 02–024–2) received on October 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4191. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "West Indian Fruit Fly; Regulated Articles" (Doc. No. 04–127–2) received on October 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4192. A communication from the Secretary of Energy, transmitting, pursuant to law, the Annual Report to Congress on Federal Government Energy Management and Conservation Programs, Fiscal Year 2003; to the Committee on Energy and Natural Resources.

EC–4193. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation entitled "Dorothy Buell Memorial Visitor Center Lease Act"; to the Committee on Energy and Natural Resources.

EC–4194. A communication from the Acting Assistant Secretary for Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Royalty Payment and Royalty and Production Reporting Requirements Relief for Federal Oil and Gas Lessees Affected by Hurricane Katrina or Hurricane Rita" (RIN1010–AD28) received on October 4, 2005; to the Committee on Energy and Natural Resources.

EC–4195. A communication from the Acting Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the Office's 2005 Annual Report; to the Committee on Energy and Natural Resources.

EC–4196. A communication from the Associate Legal Counsel, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on September 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–4197. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Use of Materials Derived from Cattle in Human Food and Cosmetics" (RIN0910–AF47) received on October 4, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–4198. A communication from the Senior Regulatory Officer, Wage and Hour Division, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Industries in American Samoa" received on October 4, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–4199. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the Department's 2004 Findings on the Worst Forms of Child Labor; to the Committee on Health, Education, Labor, and Pensions.

EC–4200. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Stock Held by Foreign Insurance Companies" (RIN1545–BD27) received on October 5, 2005; to the Committee on Finance.

EC–4201. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice Section 1.367(a)–8 Revisions" (Not. 2005–74) received on October 5, 2005; to the Committee on Finance.

EC–4202. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Research Credit, Qualified Research Expenses" (UIL41.51–01) received on October 5, 2005; to the Committee on Finance.

EC–4203. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2005–2006 Per Diem Rates" (Rev. Proc. 2005–67) received on October 5, 2005; to the Committee on Finance.

EC–4204. A communication from the Director, Regulations and Disclosure Law Division, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Country of Origin of Textile and Apparel Products" (RIN1505–AB60) received on October 4, 2005; to the Committee on Finance.

EC–4205. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Health Care Infrastructure Improvement Program: Selection Criteria of Loan Program for Qualifying Hospitals Engaged in Cancer-Related Health Care" (RIN0938–AO03) received on October 4, 2005; to the Committee on Finance.

EC–4206. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, the report of the Office of the Inspector General for the period ending September 30, 2005; to the Committee on Finance.

EC–4207. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report on the Impact of the Caribbean Basin Economic Recovery Act for calendar years 2003 and 2004; to the Committee on Finance.

EC–4208. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the report on the Andean Trade Preference Act for calendar year 2004; to the Committee on Finance.

EC–4209. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Provision of Information to Cooperative Agreement Holders" (DFARS Case 2004–D025) received on October 4, 2005; to the Committee on Armed Services.

EC–4210. A communication from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Multiyear Contracting" (DFARS Case 2004–D024) received on October 4, 2005; to the Committee on Armed Services.

EC–4211. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, transmitting, pursuant to law, revisions to the Fiscal Year 2006 Annual Materials Plan; to the Committee on Armed Services.

EC–4212. A communication from the Principal Deputy Under Secretary of Defense, Personnel and Readiness, transmitting, pursuant to law, a report regarding federal funding to institutions of higher education; to the Committee on Armed Services.

EC–4213. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the 2005 report on the performance of commercial activities; to the Committee on Armed Services.

EC–4214. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Stephen R. Lorenz, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–4215. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Frank G. Klotz, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–4216. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Gary L. North, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–4217. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Douglas M. Fraser, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–4218. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Ann E. Dunwoody, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-4219. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Lieutenant General Duncan J. McNabb, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-4220. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Lieutenant General William S. Wallace, United States Army, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. INHOFE for the Committee on Environment and Public Works.

*Santanu K. Baruah, of Oregon, to be Assistant Secretary of Commerce for Economic Development.

*H. Dale Hall, of New Mexico, to be Director of the United States Fish and Wildlife Service.

*Edward McGaffigan, Jr., of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2010.

*George M. Gray, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency.

*Lyons Gray, of North Carolina, to be Chief Financial Officer, Environmental Protection Agency.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL (for himself and Mr. DURBIN):

S. 1826. A bill to amend the Internal Revenue Code of 1986 to allow a credit to encourage employers to offer flexible and phased work opportunities to older workers, to expand the credit for dependent care expenses to cover eldercare expenses, to extend COBRA coverage for certain older workers who lose health insurance coverage due to a reduction in work, to improve older workers' access to job training services, and for other purposes; to the Committee on Finance.

By Mr. DEMINT (for himself, Mr. DURBIN, and Mr. CORNYN):

S. 1827. A bill to amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital services and drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. ROBERTS):

S. 1828. A bill to amend the Public Health Service Act to improve and secure an adequate supply of influenza vaccine; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself and Mr. BINGAMAN) (by request):

S. 1829. A bill to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. AKAKA) (by request):

S. 1830. A bill to amend the Compact of Free Association Amendments Act of 2003, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN) (by request):

S. 1831. A bill to convey certain submerged land to the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1832. A bill to authorize the Secretary of the Interior to lease oil and gas resources underlying Fort Reno, Oklahoma, to establish the Fort Reno Management Fund, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAPO:

S. 1833. A bill to amend title XIX of the Social Security Act to provide for health opportunity accounts under the Medicaid Program; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. SARBANES, and Mr. DAYTON):

S. 1834. A bill to authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1835. A bill to authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims; to the Committee on Armed Services.

By Mr. JEFFORDS (for himself, Mrs. BOXER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. CARPER, Mr. LAUTENBERG, Mr. OBAMA, and Mr. BAUCUS):

S. 1836. A bill to provide for reconstruction, replacement, and improvement of infrastructure in the Gulf Coast Region; to the Committee on Environment and Public Works.

By Mr. REED:

S. 1837. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to add Rhode Island to the Mid-Atlantic Fishery Management Council; to the Committee on Commerce, Science, and Transportation.

By Mr. VOINOVICH (for himself and Ms. COLLINS):

S. 1838. A bill to provide for the sale, acquisition, conveyance, and exchange of certain real property in the District of Columbia to facilitate the utilization, development, and redevelopment of such property, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MARTINEZ (for himself and Mr. NELSON of Florida):

S. 1839. A bill to authorize additional judgeships for the middle district and southern district of Florida; to the Committee on the Judiciary.

By Mr. THUNE (for himself and Mr. BINGAMAN):

S. 1840. A bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals; to the Committee on Finance.

By Mr. NELSON of Florida (for himself, Ms. STABENOW, and Mr. HARKIN):

S. 1841. A bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006; to the Committee on Finance.

By Ms. LANDRIEU:

S. 1842. A bill to provide assistance to rebuild communities, schools, and hospitals damaged by Hurricane Katrina or Hurricane Rita, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 1843. A bill to establish a strong Federal officer appointed by the President focused exclusively on the official and effective use of Federal resources in southeast Louisiana for Hurricane Katrina recovery, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VITTER:

S. 1844. A bill to provide for full and open competition for Federal contracts related to Hurricane Katrina and Hurricane Rita reconstruction efforts; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ENSIGN (for himself, Ms. MURKOWSKI, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, Mr. KYL, Mr. SMITH, and Mr. STEVENS):

S. 1845. A bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. 1846. A bill to provide assistance to rebuild communities, schools, and hospitals damaged by Hurricane Katrina or Hurricane Rita, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU:

S. 1847. A bill to provide assistance to rebuild hospitals damaged by Hurricane Katrina or Hurricane Rita, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 1848. A bill to promote remediation of inactive and abandoned mines, and for other purposes; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 1849. A bill for the relief of Gisele Goldberg Schexnider; to the Committee on the Judiciary.

By Mr. SALAZAR:

S. 1850. A bill to amend the Energy Policy Act of 2005 to accelerate the availability of various income tax credits providing incentives for energy incentive products and practices, and for other purposes; to the Committee on Finance.

By Mr. SALAZAR:

S. 1851. A bill to amend section 30123 of title 49, United States Code, to require replacement tires for passenger vehicles to meet the standards required for tires on new vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. SALAZAR:

S. 1852. A bill to amend the Internal Revenue Code of 1986 to reduce the incentive to purchase larger and luxury motor vehicles; to the Committee on Finance.

By Mr. SALAZAR:

S. 1853. A bill to amend the National Energy Conservation Policy Act to require Federal agencies to take certain actions to reduce employee vehicle consumption, and for other purposes;to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 1854. A bill to prohibit price gouging for commodities and services sold during national emergency situations; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSON (for himself, Mr. THUNE, and Mr. LEVIN):

S. Res. 268. A resolution expressing the sense of the Senate that a commemorative postage stamp should be issued to honor sculptor Korczak Ziolkowski; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. BOXER:

S. Res. 269. A resolution expressing the sense of the Senate that a "Welcome Home Vietnam Veterans Day" should be established; to the Committee on Veterans' Affairs.

By Mr. BAYH (for himself, Ms. STABENOW, and Mr. SCHUMER):

S. Res. 270. A resolution expressing the sense of the Senate that the International Monetary Fund should investigate whether China is manipulating the rate of exchange between the Chinese yuan and the United States dollar; to the Committee on Foreign Relations.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. Con. Res. 57. A concurrent resolution recognizing the contributions of African-American basketball teams and players for their achievements, dedication, and contributions to the sport of basketball and the Nation; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 191

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 595

At the request of Mr. SANTORUM, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 722

At the request of Mr. SANTORUM, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 759

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 759, a bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes.

S. 769

At the request of Ms. SNOWE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 908

At the request of Mr. MCCONNELL, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1236

At the request of Mr. CRAPO, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1236, a bill to ensure the availability of spectrum to amateur radio operators.

S. 1294

At the request of Mr. LAUTENBERG, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1294, a bill to amend the Telecommunications Act of 1996 to preserve and protect the ability of local governments to provide broadband capability and services.

S. 1317

At the request of Mr. DODD, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1358

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policymaking.

S. 1388

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1388, a bill to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes.

S. 1418

At the request of Mr. ENZI, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1418, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1440

At the request of Mr. CRAPO, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New York (Mr. SCHUMER) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1507

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1507, a bill to protect children from Internet pornography and support law enforcement and other efforts to combat Internet and pornography-related crimes against children.

S. 1512

At the request of Mr. SARBANES, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 1538

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1538, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1585

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1585, a bill to amend title XIX of the

Social Security Act to reduce the costs of prescription drugs for enrollees of medicaid managed care organizations by extending the discounts offered under fee-for-service medicaid to such organizations.

S. 1587

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1587, a bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain medicaid expenditures.

S. 1716

At the request of Mr. GRASSLEY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

S. 1721

At the request of Mr. VOINOVICH, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1721, a bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes.

S. 1726

At the request of Mr. VITTER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1726, a bill to designate the facility of the United States Postal Service located at 324 Main Street in Grambling, Louisiana, shall be known and designated as the "Coach Eddie Robinson Post Office Building".

S. 1753

At the request of Mr. DEMINT, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1753, a bill to establish a unified national hazard alert system, and for other purposes.

S. 1774

At the request of Mr. CORNYN, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1774, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension.

S. 1787

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1787, a bill to provide bankruptcy relief for victims of natural disasters, and for other purposes.

S. 1798

At the request of Mr. CORZINE, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1798, a bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act.

S. 1804

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1804, a bill to provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, and for other purposes.

S. 1808

At the request of Mr. BINGAMAN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Washington (Mrs. MURRAY), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1808, a bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (OMB) and specified low-income medicare beneficiary (SLMB) programs within the medicaid program.

S.J. RES. 25

At the request of Mr. TALENT, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. RES. 180

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 180, a resolution supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

AMENDMENT NO. 1881

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 1881 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1911

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 1911 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1929

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 1929 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2047

At the request of Mr. NELSON of Florida, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Nebraska (Mr. HAGEL), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 2047 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself and Mr. DURBIN):

S. 1826. A bill to amend the Internal Revenue Code of 1986 to allow a credit to encourage employers to offer flexible and phased work opportunities to older workers, to expand the credit for dependent care expenses to cover eldercare expenses, to extend COBRA coverage for certain older workers who lose health insurance coverage due to a reduction in work, to improve older workers' access to job training services, and for other purposes; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to discuss an issue that will greatly affect our Nation's aging population, workforce, and economy: the need to expand opportunities for older Americans to continue working into their later years if they so choose.

As older Americans live longer and healthier lives, many are planning to work longer. According to a recent survey, 80 percent of baby boomers expect to work past traditional retirement age. Some may recognize the physical and mental benefits of work, while some may need the additional income to remain financially secure. Whatever the reason people decide to stay on the job, it's time to change the way our Nation thinks about retirement. A one-size-fits-all retirement will no longer match the very different plans that seniors and baby boomers have for their later years.

Rethinking retirement is also vital to our Nation's economic future. By 2030, businesses could face a labor force shortage of 35 million workers, and the projected slowdown in labor force growth could translate into lower economic growth and living standards.

However, we can soften the potentially serious impact of these trends if we develop policies that expand opportunities for older Americans to work longer.

Today, we are taking a first step by introducing The Older Worker Opportunity Act. This legislation addresses a variety of issues that affect older workers and employers: workplace flexibility, pensions, health insurance coverage, job training, and caregiving needs. Back in April, as ranking member of the Aging Committee, I chaired a hearing on older workers which identified barriers and disincentives to working longer. This legislation specifically targets those.

First, today's workplace rarely offers flexible and part-time work arrangements for older workers. Most older workers would choose to work past traditional retirement age, but would prefer to gradually transition into retirement instead of fully retiring at a traditional retirement age.

To encourage employers to offer flexible and part-time work arrangements, we propose a tax credit for employers that give their older workers such opportunities while protecting them from the loss of health or pension benefits. Our aim is to encourage more workplace flexibility, which would benefit both older workers and employers through increased productivity and job retention.

Second, the bill provides an extra safety net for older workers who reduce their work but whose employers do not keep them on their health plan. In those cases, of course, the employer would not qualify for the tax credit we are offering. However, we would extend COBRA coverage from 18 to 36 months for their workers from the age of 62 until they are eligible for Medicare.

Third, one major reason why older workers exit the workforce is the need to care for aging family members. Older workers who are also caregivers often face a significant loss of earnings and retirement income, and their employers lose up to $29 billion per year in lost work time and productivity. To help older workers balance the demands of work and caregiving, and to help employers by increasing productivity and reducing turnover costs, we propose expanding the dependent care credit to cover the care of chronically ill family members.

Fourth, as GAO has found, job training programs are often discouraged from enrolling older workers because their effectiveness is measured in part by participants' earnings. Older workers tend to seek part-time work and receive lower earnings when they get new jobs. As a result, older workers do not have access to the training services they need to develop their technological skills and increase their productivity. We propose adjusting older workers' lower earnings when measuring the success of job training programs in order to more accurately reflect the value of job training programs to the older workforce. We also ask states to collect more data on the success of our current job training programs in meeting the unique needs of older workers.

Fifth, it is clear that the barriers this bill addresses are not the only barriers facing older workers. This bill is just the beginning. Therefore, we propose a "Task Force on Older Workers," composed of experts from all relevant federal agencies, to further identify barriers and disincentives in current law, and recommend solutions.

We face an historic challenge, and with it, an historic opportunity. We need a 21st century workplace that is a win-win for both older workers and their employers—and an effective strategy for retaining our competitive advantage against other countries facing the same demographic tidal wave. We need to usher in a new age of work and retirement in which seniors are not limited to a choice between one or the other. We need to empower seniors to make the continued contributions we all know they can to our economy and our communities.

Many older Americans and employers have already begun to pave the way. More older Americans are willing and able to continue making a contribution to the workplace and our economy, and more employers are beginning to recognize the value of older workers. We must incorporate this new mindset into our national culture, and develop policies that reflect this reality. Our seniors deserve it, and our economic future may well depend on it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, and that the attached letters of endorsement also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Older Worker Opportunity Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX INCENTIVES

Sec. 101. Tax credit for older workers in flexible and phased work programs.
Sec. 102. Expansion of dependent care credit to eldercare expenses.

TITLE II—COBRA CONTINUATION COVERAGE

Sec. 201. Extended COBRA continuation coverage for certain older workers.

TITLE III—EMPLOYMENT AND TRAINING

Sec. 301. Definitions.
Sec. 302. Statewide employment and training activities.
Sec. 303. Local employment and training activities.
Sec. 304. Performance measures.
Sec. 305. Reporting.
Sec. 306. Incentive grants.

TITLE IV—FEDERAL TASK FORCE ON OLDER WORKERS

Sec. 401. Federal task force on older workers.

TITLE I—TAX INCENTIVES

SEC. 101. TAX CREDIT FOR OLDER WORKERS IN FLEXIBLE AND PHASED WORK PROGRAMS.

(a) Congress finds that—

(1) most older workers expect to work past traditional retirement age;

(2) most older workers would prefer not to work a traditional full-time schedule;

(3) older workers' preference for flexible and phased work is not matched by opportunities currently offered by employers;

(4) many older workers would choose to work longer if they were offered flexible and phased work opportunities, which would also reduce employer costs by increasing employee retention; and

(5) many older workers would like to gradually transition into retirement instead of taking full retirement immediately.

(b) FLEXIBLE AND PHASED WORK CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45N. FLEXIBLE AND PHASED WORK CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the flexible and phased work credit determined under this section for the taxable year shall be equal to 40 percent of the qualified wages for such year.

"(b) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means an employer which—

"(1) maintains a qualified trust (within the meaning of section 401(a)), and

"(2) provides health insurance coverage (as defined in section 9832(b)(1)(A)) to employees and pays no less than 60 percent of the cost of such health insurance coverage with respect to each full-time employee receiving such coverage.

"(c) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means the wages paid or incurred by an eligible employer during the taxable year to individuals whom at the time such wages are paid or incurred—

"(A) have attained the age of 59½, and

"(B) are participating in a formal flexible work program or a formal phased work program.

"(2) WAGES.—

"(A) IN GENERAL.—The term 'wages' has the meaning given such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(B) OTHER RULES.—Rules similar to the rules of paragraph (2) and (3) of section 51(c) shall apply for purposes of this section.

"(C) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual after December 31, 2010.

"(3) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $6,000 per year.

"(d) FORMAL FLEXIBLE WORK PROGRAM.—For purposes of this section—

"(1) IN GENERAL.—The term 'formal flexible work program' means a program of an eligible employer—

"(A) which consists of core time and flex time,

"(B) under which core time does not exceed—

"(i) 20 hours per week,

"(ii) 3 days per week, or

"(iii) 1,000 hours per year, and

"(C) which meets the requirements of subsection (f).

"(2) CORE TIME.—The term 'core time' means the specific time—

"(A) during which an employee is required to perform services related to employment, and

"(B) which is determined by the employer.

"(3) FLEX TIME.—The term 'flex time' means the time other than core time—

"(A) during which an employee is required to perform services related to employment, and

"(B) which is determined at the election of the employee.

"(e) FORMAL PHASED WORK PROGRAM.—For purposes of this section, the term 'formal phased work program' means—

"(1) a program of an eligible employer—

"(A) under which the employer and an employee enter into an agreement, in good faith, that the employee's work schedule will be no more than 80 percent of the work schedule of a similarly situated full-time employee, and

"(B) which meets the requirements of subsection (f), or

"(2) any phased retirement program of an eligible employer which—

"(A) is authorized by the Secretary, and

"(B) meets the requirements of subsection (f).

"(f) REQUIREMENTS.—A program shall not be considered a formal flexible work program or a formal phased work program under this section unless such program meets the following requirements:

"(1) DURATION OF PROGRAM.—The program shall allow for participation for a period of at least 1 year.

"(2) NO CHANGE IN HEALTH BENEFITS.—With respect to a participant whose work schedule is no less than 20 percent of the work schedule of a similarly situated full-time employee—

"(A) such participant shall be entitled to the same health insurance coverage to which a similarly situated full-time employee would be entitled,

"(B) the employer shall contribute the same percentage of the cost of health insurance coverage for such participant as the employer would contribute for a similarly situated full-time employee, and

"(C) such participant shall be entitled to participate in a retiree health benefits plan of the employer in the same manner as a similarly situated full-time employee, except that service credited under the plan for any plan year shall be equal to the ratio of the participant's work schedule during such year to the work schedule of a similarly situated full-time employee during such year.

"(3) NO REDUCTION IN PENSION BENEFITS.—

"(A) DEFINED BENEFIT PLANS.—

"(i) A participant shall be entitled to participate in a defined benefit plan (within the meaning of section 414(j)) of the employer in the same manner as a similarly situated full-time employee.

"(ii) Service credited to a participant under the plan for any plan year shall be equal to the ratio of the participant's work schedule during such year to the work schedule of a similarly situated full-time employee during such year.

"(iii) If the plan uses final average earnings to determine benefits, final average earnings of the participant shall be no less than such earnings were before the participant entered the program.

"(B) DEFINED CONTRIBUTION PLANS.—A participant shall be entitled to participate in a defined contribution plan (within the meaning of section 414(i)) of the employer in the same manner as a similarly situated full-time employee, and the employer shall match the participant's contributions at the same rate that the employer would match the contributions of a similarly situated full-time employee.

"(C) NO FORFEITURE OF PENSION BENEFITS.—The pension benefits of a participant shall not be forfeited under the rules of section 411(a)(3)(B) or section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 with respect to a participant who has attained normal retirement age as of the end of the plan year.

"(4) NONDISCRIMINATION RULE.—Eligibility to participate in the program shall not discriminate in favor of highly compensated employees (within the meaning of section 414(q)).

"(g) CERTAIN INDIVIDUALS INELIGIBLE.—For purposes of this section, rules similar to the rules of paragraphs (1) and (2) of section 51(i) and section 52 shall apply.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section, including simplified rules to satisfy the requirements of subsection (f)(3)(C) taking into account the requirements of section 411 and section 203 of the Employee Retirement Income Security Act of 1974.".

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", plus", and by adding at the end the following new paragraph:

"(27) the flexible and phased work credit determined under section 45N(a).".

(d) NO DOUBLE BENEFIT.—Subsection (a) of section 280C of the Internal Revenue Code of 1986 is amended by inserting "45N(a)," after "45A(a),".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45N. Flexible and phased work credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2005.

SEC. 102. EXPANSION, OF DEPENDENT CARE CREDIT TO ELDERCARE EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 (relating to qualifying individual) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) an individual who—

"(i) has attained retirement age (as defined in section 216(l)(1) of the Social Security Act) before the end of the taxable year of the taxpayer,

"(ii) is the spouse of the taxpayer or has a relationship to the taxpayer described in subparagraph (B), (C), (D), (F), or (G) of section 152(d)(2), and

"(iii) is a chronically ill individual (within the meaning of section 7702B(c)(2)).".

(b) EXPENSES FOR CARE OUTSIDE OF HOUSEHOLD.—

(1) IN GENERAL.—Subparagraph (B) of section 21(b)(2) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) a qualifying individual described in paragraph (1)(D), or".

(2) CONFORMING AMENDMENT.—Clause (iii) of section 21(b)(2)(B), as redesignated by paragraph (1), is amended by striking "paragraph (1)(A)" and inserting "subparagraph (A) or (D) of paragraph (1)".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 21 of the Internal Revenue Code of 1986 is amended by striking "**AND DEPENDENT CARE SERVICES**" and inserting "**, DEPENDENT CARE, AND ELDERCARE SERVICES**".

(2) The item relating to section 21 in the table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended striking "and dependent care services" and inserting ", dependent care, and eldercare services".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

TITLE II—COBRA CONTINUATION COVERAGE

SEC. 201. EXTENDED COBRA CONTINUATION COVERAGE FOR CERTAIN OLDER WORKERS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162) is amended—

(1) in paragraph (2)(A), by adding at the end the following:

"(vi) SPECIAL RULE FOR CERTAIN OLDER WORKERS.—

"(I) IN GENERAL.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in section 603(2) relating to a reduction of hours of an employee described in subclause (II), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

"(II) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age."; and

(2) in paragraph (3), by adding at the end the following: "In the case of an individual described in paragraph (2)(A)(vi), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '120 percent' for any month after the 18th month of continuation coverage provided for under such paragraph (2)(A)(vi).".

(b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—Section 2202 of the Public Health Service Act (42 U.S.C. 300bb-2) is amended—

(1) in paragraph (2)(A), by inserting after clause (iv) the following:

"(v) SPECIAL RULE FOR CERTAIN OLDER WORKERS.—

"(I) IN GENERAL.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in section 2203(2) relating to a reduction of hours of an employee described in subclause (II), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

"(II) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age."; and

(2) in paragraph (3), by adding at the end the following: "In the case of an individual described in paragraph (2)(A)(v), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '120 percent' for any month after the 18th month of continuation coverage provided for under such paragraph (2)(A)(v).".

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 4980B(f) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (2)(B)(i), by inserting after subclause (V) the following:

"(VI) SPECIAL RULE FOR CERTAIN OLDER WORKERS.—

"(aa) IN GENERAL.—Notwithstanding any other provision of this clause, in the case of a qualifying event described in paragraph (3)(B) relating to a reduction of hours of an employee described in item (bb), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

"(bb) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age."; and

(2) in paragraph (2)(C) by adding at the end the following: "In the case of an individual described in subparagraph (B)(i)(VI), any reference in clause (i) of this subparagraph to '102 percent' is deemed a reference to '120 percent' for any month after the 18th month of continuation coverage provided for under such subparagraph (B)(i)(VI).".

TITLE III—EMPLOYMENT AND TRAINING

SEC. 301. DEFINITIONS.

Section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (17) through (53) as paragraphs (18) through (54), respectively; and

(2) by inserting after paragraph (16) the following:

"(17) HARD-TO-SERVE POPULATIONS.—The term 'hard-to-serve populations' means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.".

SEC. 302. STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.

Section 134(a)(3)(A) of such Act (29 U.S.C. 2864 (a)(3)(A)) is amended—

(1) in clause (vi), by striking "and" at the end;

(2) by redesignating clause (vii) as clause (viii); and

(3) by inserting after clause (vi) the following:

"(vii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners; and".

SEC. 303. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.

(a) INTENSIVE SERVICES.—Section 134(d)(3) of such Act (29 U.S.C. 2864(d)(3)) is amended by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—

"(i) ELIGIBILITY.—Except as provided in clause (iii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

"(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

"(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

"(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or

"(II) who are employed, but who, after an interview, evaluation, or assessment, are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

"(ii) CONSIDERATION.—For purposes of determining whether an adult or dislocated worker meets the requirements of clause (i)(I)(aa), a one-stop operator or one-stop partner shall consider whether the adult or dislocated worker is a member of a hard-to-serve population.

"(iii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.".

(b) TRAINING SERVICES.—Section 134(d)(4) of such Act (29 U.S.C. 2864(d)(4)) is amended by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—

"(i) ELIGIBILITY.—Except as provided in clause (iii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide training services to adults and dislocated workers, respectively—

"(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

"(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

"(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

"(cc) have the skills and qualifications to successfully participate in the selected program of training services;

"(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

"(III) who meet the requirements of subparagraph (B); and

"(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

"(ii) CONSIDERATION.—For purposes of determining whether an adult or dislocated worker meets the requirements of clause (i)(I)(aa), a one-stop operator or one-stop partner shall consider whether the adult or dislocated worker is a member of a hard-to-serve population.

"(iii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.".

(c) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(e)(1)(A) of such Act (29 U.S.C. 2864(e)(1)(A)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations.".

SEC. 304. PERFORMANCE MEASURES.

(a) STATE PERFORMANCE MEASURES.—Section 136(b)(3)(A)(iv)(II) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(3)(A)(iv)(II)) is amended—

(1) by striking "taking into account" and inserting "and shall ensure that the levels involved are adjusted, using objective statistical methods, based on";

(2) by inserting "(such as differences in unemployment rates and job losses or gains in particular industries)" after "economic conditions"; and

(3) by inserting "(such as indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, older individual status, homelessness, ex-offender status, and welfare dependency)" after "program".

(b) LOCAL PERFORMANCE MEASURES.—Section 136(c)(3) (29 U.S.C. 2871(c)(3))—

(1) by striking "shall take into account" and inserting "shall ensure that the levels involved are adjusted, using objective statistical methods, based on";

(2) by inserting "(characteristics such as unemployment rates and job losses or gains in particular industries)" after "economic"; and

(3) by inserting "(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from

high-wage and benefit employment, low levels of literacy or English proficiency, disability status, older individual status, homelessness, ex-offender status, and welfare dependency)" after "demographic".

(c) WAGE RECORDS AND DOCUMENTED DATA.—Section 136(f)(2) of such Act (29 U.S.C. 2871(f)(2)) is amended—

(1) by striking "(2)" and all that follows through "In" and inserting the following:

"(2) WAGE RECORDS AND DOCUMENTED DATA.—

"(A) WAGE RECORDS.—In"; and

(2) by adding at the end the following:

"(B) DOCUMENTED DATA.—In measuring the progress of the State with respect to older individuals on State and local performance measures relating to earnings, a State may use documented data other than quarterly wage records to determine the work schedule of the older individuals, and may impute full-time earnings to part-time workers who are older individuals.".

SEC. 305. REPORTING.

Section 136(d)(2) of such Act (29 U.S.C. 2871(d)(2)) is amended—

(1) in subparagraph (E), by striking "(excluding participants who received only self-service and informational activities)"; and

(2) in subparagraph (F)—

(A) by striking "(F)" and inserting "(F)(i)";

(B) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(ii) the number of participants in each of the groups described in clause (i) who have received services authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(3), training services described in section 134(d)(4), and followup services, respectively;".

SEC. 306. INCENTIVE GRANTS.

(a) USE OF FUNDS FOR STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(B)) is amended—

(1) in clause (v), by striking "and" at the end;

(2) in clause (vi), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(vii) providing incentive grants to local areas, in accordance with section 136(j).".

(b) INCENTIVE GRANTS FOR LOCAL AREAS.—Section 136 of such Act is amended by adding at the end the following:

"(j) INCENTIVE GRANTS FOR LOCAL AREAS.—

"(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

"(2) BASIS.—The Governor shall award the grants on the basis that the local areas—

"(A) have exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

"(B) have—

"(i) met the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

"(ii) demonstrated exemplary performance in the State in serving hard-to-serve populations.

"(3) USE OF FUNDS.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor.".

(c) INCENTIVE GRANTS FOR STATES.—Section 503 of the Workforce Investment Act of 1998 (20 U.S.C. 9273) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) TIMELINE.—

"(A) PRIOR TO JULY 1, 2006.—Prior to July 1, 2006, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.

"(B) BEGINNING JULY 1, 2006.—Beginning on July 1, 2006, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

"(2) BASIS.—The Secretary shall award the grants on the basis that States—

"(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); or

"(B) have—

"(i) met the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); and

"(ii) demonstrated exemplary performance in serving hard-to-serve populations.

"(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations."; and

(2) in subsection (b)(2), by striking subparagraph (C) and inserting the following:

"(C) the State meets the requirements of subparagraph (A) or (B) of subsection (a)(2).".

TITLE IV—FEDERAL TASK FORCE ON OLDER WORKERS

SEC. 401. FEDERAL TASK FORCE ON OLDER WORKERS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall establish a Federal Task Force on Older Workers (referred to in this Act as the "Task Force").

(b) MEMBERSHIP.—The Task Force established pursuant to subsection (a) shall be composed of representatives from all relevant Federal agencies that have regulatory jurisdiction over, or a clear policy interest in, issues relating to older workers, including the Internal Revenue Service, the Social Security Administration, the Equal Employment Opportunity Commission, and the Administration on Aging of the Department of Health and Human Services.

(c) ACTIVITIES.—

(1) AFTER ONE YEAR.—Not later than 1 year after the date of establishment of the Task Force, the Task Force shall—

(A) identify statutory and regulatory provisions in current law that tend to limit opportunities for older workers, and develop legislative and regulatory proposals to address such limitations;

(B) identify best practices in the private sector for hiring and retaining older workers, and serve as a clearinghouse of such information; and

(C) assess the effectiveness and cost of programs that Federal agencies have implemented to hire and retain older workers (including the Senior Environmental Employment (SEE) Program of the Environmental Protection Agency), and recommend cost-effective programs for all Federal agencies to hire and retain older workers.

(2) AFTER THREE YEARS.—Not later than 3 years after the date of establishment of the Task Force, the Task Force shall—

(A) assess the effectiveness of the provisions of this Act; and

(B) organize a Conference on the Aging Workforce, which shall include the participation of senior, business, labor, and other interested organizations.

(3) REPORT.—The Task Force shall submit a report to Congress on the activities of the Task Force pursuant to paragraph (1). Such report shall be made available to the public.

(d) CONSULTATION.—In carrying out activities pursuant to this section, the Task Force shall consult with senior, business, labor, and other interested organizations.

(e) APPLICABILITY OF FACA; TERMINATION OF TASK FORCE.—

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force established pursuant to this Act.

(2) TERMINATION.—The Task Force shall terminate 30 days after the date the Task Force completes all of its duties under this Act.

INTERFAITH,
Milwaukee, WI, September 29, 2005.

Hon. HERB KOHL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: It is a privilege to support Senator Kohl's proposed "Older Worker Opportunity Act of 2005." As an agency that has been providing employment services to older workers for over 25 years, Interfaith Older Adult Programs has first hand knowledge of the value of retaining older workers in the workplace. As stated in the Act, our country is facing a great labor shortage. Terry Ludeman, Chief Economist for the State of Wisconsin, has estimated that in our State by 2017 there will not be enough 18-year-olds to replace workers turning 65.

The proposed tax credit would provide incentive to encourage employers to offer more flexibility in the workplace and encourage support for older individuals who want to stay in the workforce longer. It will also allow work/life balance that is a very important value to individuals as they age.

Extended COBRA coverage would also be a great encouragement to mature workers wanting to cut back but not leave the workforce. Providing the extended COBRA might be just the incentive a 62-year-old needs to continue working part time. The extended COBRA could help employers and older workers transition gradually to full retirement at a later age.

A tax credit for eldercare would be a wonderful benefit to seniors that are balancing the responsibilities of work and taking care of a non-dependent individual with significant health issues. Employers will benefit from having employees that are more productive because they are worrying less about family responsibilities of direct caregiving.

Interfaith strongly supports the creation of a separate set of performance measures for the older worker under the Workforce Investment Act. Statistically, mature workers stay with an employer longer than their younger co-workers, take fewer sick days, and are less likely to have an on the job injury. This results in increased productivity and decreased cost to employers. Retention outcomes should actually be enhanced because of the older workers' work ethic, the pride they take in their work and their loyalty to their employer.

We are faced with the unique opportunity to expand the use of the Senior Community Service Employment Program (SCSEP) through a strong attachment to the Older Worker Opportunity Act.

A Federal Task Force on Older Workers could be very helpful, especially one that would include private sector employers, governmental agencies, older worker service providers and older workers themselves.

Sincerely,

CAROL ESCHNER,
Executive Director.
PATRICIA DELMENHORST,
Employment Services Director.

GOODWILL INDUSTRIES
OF SOUTHEASTERN WISCONSIN, INC.,
Milwaukee, WI, September 29, 2005.
Hon. HERB KOHL,
U.S. Senate
Washington, DC.

DEAR SENATOR KOHL: Goodwill Industries of Southeastern Wisconsin, Inc. (Goodwill) is pleased to support your Older Workers Act of 2005.

As you may know, Goodwill has a long history of supporting and promoting older workers. Our designation as an "Elder Friendly Workplace" with the Wisconsin Department of Workforce Development, demonstrates our commitment to this remarkable group of workers.

Goodwill, as a leader in the area of workforce development and training, recognizes that the nation's workforce is about to experience a major change. As the "boomers" move closer to retirement, employers across the nation will need to find creative ways to keep these individuals engaged. Your proposed legislation offers many viable solutions that would encourage both employers and older workers to continue their relationship well past the customary retirement age.

Thank you for recognizing and supporting the tremendous value of the older worker. Goodwill is pleased to support you in this effort.

Sincerely,

JOHN L. MILLER,
President and C.E.O.

AGEADVANTAGE, INC.,
Madison, WI, October 1, 2005.
Hon. HERB KOHL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: AgeAdvantAge, Inc. would like to extend our full support of your proposed legislation; The Older Worker Opportunity Act of 2005.

AgeAdvantAge is an Area Agency on Aging overseeing the provision of services funded by the Older Americans Act (OAA) throughout southern and western Wisconsin. We welcome any effort to improve the lives of older people, be it through expansion of aging services, or the opportunity for those we serve to achieve economic self-sufficiency through employment.

We recognize with a rapidly aging population, efforts must be made to keep America's older workers on the job. The potential loss of workers, as Baby Boomers begin to retire, has frightening implications for business, government and the economy:

Keeping older workers employed is crucial to keeping America strong and competitive in the global market. Demographics show the older worker is the workforce of the future, and we believe the experience, work ethic and dedication to quality of the older worker, will have a positive impact on business.

Government also needs older workers to remain employed and contributing to the tax base, rather than become consumers of public benefits and services. As an example, an older worker who remains employed may also delay drawing Social Security benefits, while at the same time continuing to contribute to the fund through payroll withholdings.

We also know that older people who remain active, both physically and mentally, live longer and healthier lives. Healthier individuals are in less need of publicly funded health care services. Older people who are employed are also less likely to need assistance from other social service programs such as meal programs, food pantries, subsidized housing, food stamps, and energy assistance.

These programs are already faced with rising demand and shrinking budgets, and extending employment for older Americans can help delay, or at least reduce, the need for these services.

With the many benefits of keeping the older worker employed in mind, we would like to address each of the five key points of your proposal:

EMPLOYER TAX CREDITS

The Baby Boom generation will have a significant impact on both the workforce and the workplace as they continue to age. Employers will need to accommodate the unique needs of this cohort, with a key issue being flexibility.

When an older worker leaves their job, they take with them years of knowledge and experience. This sudden loss of expertise negatively impacts an organization's productivity, and therefore their bottom line. To prevent this, older workers need to be offered incentives to remain in their jobs.

Employers need to consider such concepts as flex time, job sharing, compressed work weeks, telecommuting, part-time employment with pro-rated benefits, and phased retirement. Many of these new work modes can be implemented at little or no cost to the employer. All of them will benefit the employer through a skilled, experienced, and stable workforce.

Using tax credits as an incentive to employers may bring about change, if the credit is attractive, and comes with minimal paperwork.

As further incentive to creating an "older worker friendly" workplace, the tax credit should be based on the number of flexible options an employer offers, and employers who hire older workers should receive additional tax credits.

EXTENSION OF COBRA COVERAGE

As you have noted, current COBRA law allows for only 18 months of continued coverage if group policy coverage is lost as the result of a reduction in hours. Under many other circumstances, coverage can be extended to 36 months.

Older workers who are no longer able to work full-time, typically due to health reasons, often opt for early retirement at age 62. This results in a loss of insurance benefits, and an increased reliance on publicly funded health care systems.

Extending COBRA coverage until age 65 may accommodate an older worker's need for both reduced hours and insurance, thereby delaying their need for Social Security and publicly funded heath care.

ELDERCARE TAX CREDIT

Today, employees of any age are often times faced with choosing between working and the needs of someone dependent upon them for care. This is increasingly true for the older worker.

Many older workers find they are not able to remain productive at work because the demands of caretaking have become so great. Often times they will leave their job to devote their time to the care of another. At times, their loss of productivity could result in their termination. In either instance, their employer has lost the benefit of their knowledge and experience, and they have lost the many benefits of being engaged in gainful and meaningful employment.

However, studies show older workers who receive assistance with their caretaking responsibilities, can maintain their productivity, and therefore remain employed. A tax credit to help offset the cost for adult day care, in-home care or respite, will help the older worker balance their life and work needs.

Further, employers will increasingly be asked to provide assistance for employees tending to the needs of another. This legislation should consider extending the eldercare tax credit to employers who offer adult day care subsidies or services.

ACCESS TO THE WORKFORCE INVESTMENT ACT (WIA)

As a provider of employment services to older adults, we can attest to the fact that older job seekers are routinely excluded from participation in programs funded by the WIA. WIA service providers often view the older job seeker as a potential threat to program performance, as they may only be seeking part-time employment.

Though more than 60% of our current customers are between the ages of 55 and 64, and seeking full-time employment with benefits, a separate set of performance measures for older job seekers, may alleviate WIA provider's fears, and result in improved access to WIA services.

Performance measures in the WIA, particularly those regarding full-time employment and earnings increase, need to be modified for an older job seeker. Placement into employment, whether full- or part-time, should be considered a positive outcome, and the earnings increase measure should be removed altogether.

This legislation should also consider an often overlooked employment and training program serving older job seekers, the Senior Community Service Employment Program (SCSEP). The SCSEP is funded under Title V of the Older Americans Act of 1965 (OAA). Administered jointly by the Administration on Aging (AoA) and the Department of Labor (DOL), this unique program provides a lower-income, older adult with the opportunity to learn new skills, and build the experience necessary to transition into employment.

The SCSEP is unique from all other employment and training programs in many respects. It serves only those aged 55 or older. It provides paid training, intensive case management, and supportive services to all eligible individuals. And, training activities result in services that benefit the general welfare of the community.

The SCSEP is also unique in that it takes a "whole person" approach in providing assistance. As a SCSEP operator, we understand that an older person often times has needs other than, or in addition to, employment. Being part of the aging network, we are able to link our customers with the programs and services they need to address nonemployment issues.

Over the past decade, the SCSEP has experienced a shift in the balance between aging services and employment services. The AoA has admittedly distanced itself from administration of the program, effectively yielding its authority to the DOL. As a result, less value is placed on the community service aspects of the program, the connection to the aging network and aging services is almost nonexistent, and the program has actually become less accessible to older job seekers.

With the upcoming reauthorization of the Older Americans Act, perhaps now is an opportune time to revisit the intended purpose of the SCSEP and explore ways to strengthen its services and expand its use. Because it is unique from other programs funded under the OAA, and equally unique from the WIA, perhaps the SCSEP is better placed among the unique concepts described in the Older Worker Opportunity Act of 2005.

TASK FORCE ON OLDER WORKERS

Finally, the creation of a task force to address the on-going needs of the aging workforce will be vital in assisting business and government in implementing the changes necessary to keep older workers working.

A task force comprised not only of governmental units, but also of business, service providers, and older workers themselves, will prove a great asset as we face the challenges and opportunities presented by an aging workforce, and the need to keep them employed.

Senator Kohl, thank you for the opportunity to comment on, and support The Older Worker Opportunity Act of 2005. We also thank you for your support of the older worker as is evidenced in this progressive and forward-thinking proposal.

If we can be of any further assistance, please do not hesitate to call.

Sincerely,

ROBERT KELLERMAN,
Executive Director.
MICHAEL KRAUSS,
Older Worker Program Coordinator.

COMMITTEE FOR ECONOMIC DEVELOPMENT,
Washington, DC, September 28, 2005.

Hon. HERB KOHL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: on behalf of the Committee for Economic Development (CED), I commend you for your leadership in addressing issues related to the aging of the American workforce with your bill, the Older Worker Opportunity Act.

CED stated several years ago that expanding opportunities for older workers would be crucial to continued prosperity. Our 1999 policy statement, "New Opportunities for Older Workers," argued that demographic change would reduce the growth of our labor force well below current rates, absent significant changes in behavior and policy. We noted that many workers retire totally and abruptly because they have no viable option to continue working, perhaps at reduced hours that would be more suitable and would provide a phased beginning to retirement. We urged that the business sector and the federal government change perceptions and attitudes, and where necessary laws and rules, to make it easier and more attractive for older workers to achieve a gradual rather than an immediate retirement.

We are gratified to see that your bill would address many of the problems that we identified in our 1999 statement. We believe that your recommended changes in law would allow workers to phase into retirement without the financial penalties, in retirement income and health coverage, that now can force people into unwilling retirement. With such an improved incentive to work, our economy might suffer less of a loss of laborforce growth, and might make the transition to the retirement of the baby-boom generation more easily.

We appreciate your efforts on this important issue, and stand ready to help in building public understanding of the vital and growing role of older workers.

Sincerely,

CHARLES E.M. KOLB,
President.

By Mr. DEMINT (for himself, Mr. DURBIN, and Mr. CORNYN):

S. 1827. A bill to amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital services and drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to offer a bill that would require hospitals to disclose their charges for the most common procedures and drugs.

This bill recognizes that consumers seeking routine hospital services need to know what they are paying so they can make educated decisions about their own health care. This legislation aims to give Americans that information in a user friendly format.

Specifically, the bill would require hospitals to regularly report to the Secretary of U.S. Department of Health and Human Services the amount they charge for the 25 most commonly performed inpatient procedures, the 25 most common outpatient procedures, and the 50 most frequently administered medications. The Department would then post this information on the Internet for easy access.

Under the current system, patients often have no idea what they will be charged until they receive a bill. This is a problem because hospital charges vary significantly based on facility and procedure. Some hospitals charge one-hundred and twenty dollars for a chest x-ray while others charge more than fifteen hundred. Uninsured patients and those who pay with cash are often surprised with unexpected hospital charges because there is no way for them to know what they will be charged up front.

No other industry expects consumers to commit to buying before they know the true cost. Patients should have access to price information before they commit to a procedure.

This bipartisan bill is good for the uninsured and for consumer driven healthcare. Individuals cannot be expected to get comfortable making their own health care decisions unless they know how much they will be expected to pay for different services.

I am grateful to Senators RICHARD DURBIN and JOHN CORNYN for joining me as original cosponsors of this bipartisan legislation. I am also pleased that Representatives BOB INGLIS and DAN LIPINSKI have introduced companion legislation in the House. They recognize that information is power, and this bill is an important step in empowering Americans with the tools to be smart consumers. I urge my Senate colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Price Reporting and Disclosure Act of 2005".

SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following new section:

"DATA REPORTING BY HOSPITALS AND PUBLIC POSTING

"SEC. 249. (a) SEMIANNUAL REPORTING REQUIREMENT.—Not later than 80 days after the end of each semiannual period beginning January 1 or July 1 (beginning more than one year after the date of the enactment of this section), a hospital shall report to the Secretary the following data:

"(1) The frequency with which the hospital performed each service selected under subparagraph (A) or (B) of subsection (c)(1) in an inpatient or outpatient setting, respectively, during such period.

"(2) The frequency with which the hospital administered a drug selected under subparagraph (C) of such subsection in an inpatient setting during such period.

"(3) If the service was so performed or the drug was so administered during such period, the average charge and the medium charge by the hospital for such service or drug during such period.

"(b) PUBLIC AVAILABILITY OF DATA.—

"(1) PUBLIC POSTING OF DATA.—The Secretary shall promptly post, on the official public Internet site of the Department of Health and Human Services, the data reported under subsection (a). Such data shall be set forth in a manner that promotes charge comparison among hospitals.

"(2) NOTICE OF AVAILABILITY.—A hospital shall prominently post at each admission site of the hospital a notice of the availability of the data reported under subsection (a) on the official public Internet site under paragraph (1).

"(c) SELECTION OF SERVICES AND DRUGS.—For purposes of this section:

"(1) INITIAL SELECTION.—Based on national data, the Secretary shall select the following:

"(A) The 25 most frequently performed services in a hospital inpatient setting.

"(B) The 25 most frequently performed services in a hospital outpatient setting.

"(C) The 50 most frequently administered drugs in a hospital inpatient setting.

"(2) UPDATING SELECTION.—The Secretary shall periodically update the services and drugs selected under paragraph (1).

"(d) CIVIL MONEY PENALTY.—The Secretary may impose a civil money penalty of not more than $10,000 for each knowing violation of subsection (a) or (b)(2) by a hospital. The provisions of subsection (i)(2) of section 351A shall apply with respect to civil money penalties under this subsection in the same manner as such provisions apply to civil money penalties under subsection (i)(1) of such section.

"(e) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations and issue such guidelines as may be required to carry out this section.

"(2) CLASSIFICATION OF SERVICES.—The regulations and guidelines under paragraph (1) shall include rules on the classification of different services and the assignment of items and procedures to those services (including inpatient diagnostic related groups (DRGs), outpatient procedures, and tests) and classification of drugs. For purposes of the preceding sentence, classification of drugs may include unit, strength, and dosage information.

"(3) COMPUTATION OF AVERAGE AND MEDIAN CHARGES.—

"(A) IN GENERAL.—The regulations and guidelines under paragraph (1) shall include a methodology for computing an average charge and a median charge for a service or drug, in accordance with subparagraph (B).

"(B) METHODOLOGY.—The methodology prescribed by the Secretary under subparagraph (A) shall ensure that the average charge and the median charge for a service or drug reflect the amount charged before any adjustment based on a rate negotiated with a third party.

"(4) FORM OF REPORT AND NOTICE.—The regulations and guidelines under paragraph (1) shall specify the electronic form and manner by which a hospital shall report data under subsection (a) and the form for posting of notices under subsection (b)(2).

"(f) RULES OF CONSTRUCTION.—

"(1) NON-PREEMPTION OF STATE LAWS.—Nothing in this section shall be construed as preempting or otherwise affecting any provision of State law relating to the disclosure of charges or other information for a hospital.

"(2) CHARGES.—Nothing in this section shall be construed to regulate or set hospital charges.

"(g) DEFINITIONS.—For purposes of this section:

"(1) HOSPITAL.—The term 'hospital' has the meaning given such term by the Secretary.

"(2) DRUG.—The term 'drug' includes a biological and a non-prescription drug, such as an ointment.".

By Mrs. CLINTON (for herself and Mr. ROBERTS):

S. 1828. A bill to amend the Public Health Service Act to improve and secure an adequate supply of influenza vaccine; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today, I am pleased to introduce the Influenza Vaccine Security Act with Senator Roberts.

In recent months, our public health professionals have been sounding the alarm about the increasing incidence of avian influenza. Since December 2004, 70 cases of avian influenza have been confirmed in Indonesia, Vietnam, Thailand and Cambodia—and 27 of these cases have been fatal. In countries across Asia and Europe, farmers have been culling their poultry stocks because of fears of infection.

Various agencies—from the Department of State to the Department of Health and Human Services—have begun to mobilize in preparation for when—not if, but when—avian influenza hits our shores.

What is particularly worrisome to me, when thinking about our Nation's ability to face the threat posed by pandemic or avian influenza, is the fact that we aren't even prepared to deal with the seasonal influenza epidemic that we face every year.

Last fall, we witnessed senior citizens lining up for hours to obtain flu vaccine, unscrupulous distributors attempting to sell scarce vaccine to the highest bidder, and millions of Americans delaying or deferring necessary flu shots.

This wasn't the first time that our vaccine production and distribution system has failed. Since 2000, our Nation has experienced three shortages of influenza vaccine.

Fortunately, we had a relatively mild influenza season this past year, but we cannot count on such luck to save us every time we have a flu vaccine shortage.

Approximately 36,000 Americans die of the flu each year, and these deaths are largely preventable—we could stop them if we increased immunizations, if we had a secure vaccine market, and if we made sure that everyone understood the importance of vaccines.

For several years now, I've been asking the Secretary of Health and Human Services to undertake reforms to fix our flu vaccine supply problems, and the legislation I'm introducing with Senator ROBERTS today provides a mechanism through which we can develop a stable supply and distribution system for our seasonal flu vaccine.

There is a great deal of risk involved with developing an annual flu vaccine. Because the dominant strain changes from year to year, manufacturers must develop doses on an annual basis, without being able to store or resell any excess vaccine the following year. There's also no steady demand for a flu vaccine, largely because shortages have confused so many of us as to when we should or shouldn't get vaccinated.

This legislation will help create a stable flu vaccine market for manufacturers by increasing coordination between the public and private sectors, so that we can set targets and procedures for dealing with both shortages and surpluses before they hit.

Stabilizing the vaccine market will also require increasing demand for vaccination. This bill increases the funding for the CDC's educational initiatives, and sets up grants through which State and local health departments, in collaboration with health care institutions, insurance companies, and patient groups, can increase vaccination rates among all Americans, but, in particular, priority populations.

Another major problem with our national influenza supply mechanisms is that we rely on production methods that haven't kept pace with our other biomedical advances. In order to make a vaccine, strains of influenza virus are cultivated in chicken eggs, a non-sterile environment. Many of the contamination problems we have seen with vaccine result when problems arise in this cultivation process.

Although we've got to rely on this technology for the time being, we need to increase research into safer, faster, and more reliable methods of vaccine production. This legislation would provide the National Institutes of Health with increased funding for research into alternative forms of vaccine development.

Of course, vaccine does us no good if it can't get to the people who need it, and in last season's epidemic, we had problems matching existing stocks of vaccine to the high priority populations, like senior citizens, who were in need of vaccine. It took weeks before we could determine how much vaccine was actually in communities, and where it was needed. We wasted lots of time and resources—valuable public health resources—in trying to track this vaccine.

This bill sets up a tracking system through which the CDC and State and local health departments can share the information they need to ensure that high priority populations in all parts of the country will have access to vaccine.

Improving our system for vaccine manufacture and distribution will not only help us in the event of a pandemic, but will help us every winter when senior citizens, children, and chronically ill individuals need to get a flu shot to protect them from the virus.

I hope that the legislation Senator ROBERTS and I are introducing today will call attention to the immediate needs of our priority populations, and I look forward to working with our colleagues in the Senate on both seasonal and pandemic prevention initiatives.

Mr. ROBERTS. Mr. President, I am pleased to be introducing the Influenza Vaccine Security Act with Senator CLINTON today because I believe this legislation is critical to strengthening our public health preparedness here in the U.S. The experiences of the flu vaccine shortage last year made us all aware that our system needs improvement. This legislation takes a comprehensive approach to addressing the root causes of seasonal flu vaccine shortages by creating stability in the U.S. vaccine market.

Our legislation requires the Department of Health and Human Services to set annual production targets for the flu vaccine, to stockpile up to 10 percent of the vaccine each year in the event of a shortage, and to create a vaccine buyback program to provide market guarantees for our vaccine manufacturers. This legislation also provides a much-needed framework for public health officials to track vaccines and provides increased education and outreach about getting an annual flu vaccine.

I now want to turn to some of the provisions in this legislation that deal with an issue I believe deserves our utmost attention: pandemic influenza. I think we can agree that we all learned a good lesson from Hurricane Katrina: government at all levels must be prepared to deal with a large-scale public health emergency. Unfortunately, our government is not currently not prepared to deal with pandemic influenza. Our legislation seeks to address this by strengthening the underlying public health infrastructure to heighten our ability to respond to both seasonal and pandemic flu.

As Chairman of the Senate Intelligence Committee and a member of both the Senate Agriculture Committee and Senate Health, Education, Labor and Pensions (HELP), I take the threat of an influenza pandemic very seriously. I view it as not only a public health concern, but a national security concern. The timing for a large-scale worldwide influenza outbreak is ripe. Many experts believe the next flu pandemic will come in the form of avian flu.

Unlike the seasonal flu, humans have no natural immunity to avian flu. A routine flu shot for more common influenza viruses won't protect against the deadly avian flu. The Department of Health and Human Services is working with vaccine manufacturers to develop a vaccine, but it is unclear when and how many doses will be ready.

Other than a vaccine, the only defense against a new flu strain such as avian flu is an antiviral medication such as Tamiflu. Currently, the United States currently only has enough pills to treat less than one percent, or about 2.3 million people.

This is why experts believe the effects of avian flu in the U.S. and around the world could be devastating. Some have predicted the loss of life could reach as high as 160–200 million. A pandemic might infect a third of the U.S. population and cost more than $100 billion alone in medical treatments. A pandemic of this sort could also have catastrophic economic or social effects.

It is for these reasons I am pleased our legislation addresses some of the underlying public health infrastructure concerns that can help us effectively respond to pandemic flu. Our vaccine industry here in the U.S. is extremely fragile and our manufacturers need the necessary tools to effectively produce and deliver vaccines in the event of either seasonal or pandemic flu. First and foremost, our legislation ensures vaccine manufacturers and health care providers are not held liable in the event of a public health emergency involving pandemic influenza. Without this necessary liability protection, the ability to develop or deliver a vaccine during an outbreak could be significantly hampered.

Our legislation also encourages improved technologies for influenza vaccine development by providing additional funding for NIH research into alternative methods of vaccine development, such as cell-based cultures and a permanent flu vaccine. Currently, flu vaccine production is a strenuous process and takes several months, leaving us extremely vulnerable in the event of a large-scale outbreak and a subsequent need for a mass production of vaccines.

Our legislation encourages more companies to enter the U.S. market with domestic-based production facilities and to improve the ability of the current manufacturers to remain in the market. Manufacturers currently do not have the capacity to simultaneously produce enough flu vaccine for seasonal flu and an avian flu vaccine in the event of an outbreak. We must assist our manufacturers in increasing production capacity.

Aside from vaccines, our legislation also requires the government to purchase and store additional antiviral medications, such as Tamiflu, to protect against an influenza epidemic.

Finally, our legislation provides a framework to identify public health professionals that can provide services in the event of a public health emergency through the use of a medical personnel registry linked at the Federal, State and local levels.

I am pleased to introduce the Influenza Vaccine Security Act with Senator CLINTON today. We need to fix our seasonal flu vaccine production and distribution problems not only to prevent future shortages, but also to strengthen our public health infrastructure in case of pandemic.

As Senator CLINTON knows, the HELP Committee will soon be considering legislation to develop countermeasures to protect the U.S. from deliberate and natural public health threats. This legislation, known as Bioshield II, will present a great opportunity to build on the first steps we take in this legislation to protect against pandemic flu. I look forward to working with Senator CLINTON and my other colleagues on the committee to deliver a comprehensive package to ensure we are prepared and can respond to all types of public health threats.

By Mr. DOMENICI (for himself and Mr. BINGAMAN) (by request):

S. 1829. A bill to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. AKAKA) (by request):

S. 1830. A bill to amend the Compact of Free Association Amendments Act of 2003, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN) (by request):

S. 1831. A bill to convey certain submerged land to the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, today I join my colleague, the Ranking member of the Committee on Energy and Natural Resources, Senator BINGAMAN, in introducing three bills, by request, to make necessary changes to law regarding the U.S.-affiliated islands.

Briefly, the bills include: First, legislation requested by the Attorney General of the Commonwealth of the Northern Mariana Islands (CNMI). This bill accomplishes two objectives—to provide the Commonwealth with the same ownership and jurisdiction over offshore submerged lands as has been provided to other United States territories and to provide a less formal mechanism for the Governor of the CNMI to raise issues with the Federal Government than the procedures under section 902 of the Covenant that established the Commonwealth in political union with the United States.

The legislation also provides a general authorization for the Commonwealth to raise issues arising under provisions of the Covenant with the Secretary and for the Secretary to resolve those issues with assistance from other agencies as appropriate. This would provide a less formal approach than the more elaborate procedures for issue resolution set forth under section 902 of the Covenant which require, among other items, the formal appointment of negotiators. Section 902 is unique to the Commonwealth and legislative approval of a less formal approach may serve to improve Federal-commonwealth relations and the ability of both sides to reach agreements. As with the submerged lands issue, further legislation may be required, but such legislation will likely be easier to achieve if both sides are not either tied up in the processes of 902 or at opposite sides in court.

The second bill, requested by the House Delegate from the United States Virgin Islands, Representative Donna M. Christensen, came as a result of Federal court rulings which invalidated many of the Real Property tax provisions of the Virgin Islands Code. The bill would repeal sections 1401-1401e of Title 48, of the United States Code to provide the Government of the United States Virgin Islands the ability to fully regulate real property tax matters in the territory.

Finally, the last bill would make several changes to the Compact of Free Association Amendments Act (CFAAA) of 2003 P.L. 108-188, which was enacted in December, 2003. Because of the 2003 deadline on the term of the original Compact assistance, several issues were left unresolved. One of these unresolved issues was whether the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM) would continue to receive disaster assistance from FEMA. Since the passage of P.L. 108–188, the Administration has transmitted language to Congress that would provide authority for the RMI and FSM to obtain disaster assistance. In addition to this new authority, the bill makes several technical changes to P.L. 108–188

I look forward to working with my colleagues, the Administration, and officials from the RMI, FSM, and the U.S. Virgin Islands to move these bills through the process.

I ask unanimous consent that the text of the bills, be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF CERTAIN LAWS PERTAINING TO THE VIRGIN ISLANDS.

(a) Repeal.—Sections 1 through 6 of the Act of May 26, 1936 (48 U.S.C. 1401 et seq.), are repealed.

(b) Effective Date.—The amendment made by this section takes effect on July 22, 1954.

S. 1830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Compacts of Free Association Amendments Act of 2005".

SEC. 2. APPROVAL OF AGREEMENTS.

Section 101 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921) is amended—

(1) in the first sentence of subsection (a), by inserting before the period at the end the following: ", including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Federated States of Micronesia, as amended under the Agreement to Amend Article X that was signed by those 2 Governments on June 30, 2004, which shall serve as the authority to implement the provisions thereof"; and

(2) in the first sentence of subsection (b), by inserting before the period at the end the following: ", including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands, as amended under the Agreement to Amend Article X that was signed by those 2 Governments on June 18, 2004, which shall serve as the authority to implement the provisions thereof".

SEC. 3. CONFORMING AMENDMENT.

Section 105(f)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)) is amended by striking subparagraph (A) and inserting the following:

"(A) Emergency and Disaster Assistance.—

"(i) In General.—Subject to clause (ii), section 221(a)(6) of the U.S.-FSM Compact and section 221(a)(5) of the U.S.-RMI Compact shall each be construed and applied in accordance with the 2 Agreements to Amend Article X of the Federal Programs and Service Agreements signed on June 30, 2004, and on June 18, 2004, respectively.

"(ii) Definition of Will Provide Funding.—In the second sentence of paragraph 12 of each of the Agreements described in clause (i), the term 'will provide funding' means will provide funding through a transfer of funds using Standard Form 1151 or a similar document or through an interagency, reimbursable agreement.".

SEC. 4. CLARIFICATIONS REGARDING PALAU.

Section 105(f)(1)(B) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)) is amended—

(1) in clause (ii)(II), by striking "and its territories" and inserting ", its territories, and the Republic of Palau";

(2) in clause (iii), by striking ", or the Republic of the Marshall Islands" and inserting ", the Republic of the Marshall Islands, or the Republic of Palau"; and

(3) in clause (ix)—

(A) by striking "Republic" both places it appears and inserting "government, institutions, and people"; and

(B) by striking "was" and inserting "were".

SEC. 5. AVAILABILITY OF LEGAL SERVICES.

Section 105(f)(1)(C) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(C)) is amended by inserting before the period at the end the following: ", which shall also continue to be available to the citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands who reside in the United States (including territories and possessions)".

SEC. 6. TECHNICAL AMENDMENTS.

(a) Title I.—

(1) Section 177 Agreement.—Section 103(c)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(c)(1)) is amended by striking "section 177" and inserting "Section 177".

(2) Interpretation and United States Policy.—Section 104 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921c) is amended—

(A) in subsection (b)(1), by inserting "the" before "U.S.-RMI Compact,";

(B) in subsection (e)—

(i) in the matter preceding subparagraph (A) of paragraph (8) , by striking "to include" and inserting "and include";

(ii) in paragraph (9)(A), by inserting a comma after "may"; and

(iii) in paragraph (10), by striking "related to service" and inserting "related to such services"; and

(C) in the first sentence of subsection (j), by inserting "the" before "Interior".

(3) Supplemental Provisions.—Section 105(b)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(b)(1)) is amended by striking "Trust Fund" and inserting "Trust Funds".

(b) Title II.—

(1) U.S.-FSM Compact.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia (as provided in section 201(a) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2757)) is amended—

(A) in section 174—

(i) in subsection (a), by striking "courts" and inserting "court"; and

(ii) in subsection (b)(2), by striking "the" before "November";

(B) in section 177(a), by striking ", or Palau" and inserting "(or Palau)";

(C) in section 179(b), strike "amended Compact" and inserting "Compact, as amended,";

(D) in section 211—

(i) in the fifth sentence of subsection (a), by striking "Trust Fund Agreement," and inserting "Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund ('Trust Fund Agreement),";

(ii) in subsection (b)—

(I) in the first sentence, by striking "Government of the" before "Federated"; and

(II) in the second sentence, by striking "Sections 321 and 323 of the Compact" and inserting "Sections 211(b), 321, and 323, The Compact, as amended,"; and

(iii) in the last sentence of subsection (d), by inserting before the period at the end the following: "and the Federal Programs and Services Agreement referred to in section 231";

(E) in the first sentence of section 215(b), by striking "subsection(a)" and inserting "subsection (a)";

(F) in section 221—

(i) in subsection (a)(6), by inserting "(Federal Emergency Management Agency)" after "Homeland Security"; and

(ii) in the first sentence of subsection (c), by striking "agreements" and inserting "agreement";

(G) in the second sentence of section 222, by inserting "in" after "referred to";

(H) in the second sentence of the first undesignated paragraph of section 232, by striking "sections 102 (c)" and all that follows through "January 14, 1986)" and inserting "section 102(b) of Public Law 108-188, 117 Stat. 2726, December 17, 2003";

(I) in the second sentence of section 252, by inserting ", as amended," after "Compact";

(J) in the first sentence of the first undesignated paragraph of section 341, by striking "Section 141" and inserting "section 141";

(K) in section 342—

(i) in subsection (a), by striking "14 U.S.C. 195" and inserting "section 195 of title 14, United States Code"; and

(ii) in subsection (b)—

(I) by striking "46 U.S.C. 1295(b)(6)" and inserting "section 1303(b)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(b)(6))"; and

(II) by striking "46 U.S.C. 1295b(b)(6)(C)" and inserting "section 1303(b)(6)(C) of that Act";

(L) in the third sentence of section 354(a), by striking "section 442 and 452" and inserting "sections 442 and 452";

(M) in section 461(h), by striking "Telecommunications" and inserting "Telecommunication";

(N) in section 462(b)(4), by striking "of Free Association" the second place it appears; and

(O) in section 463(b), by striking "Articles IV" and inserting "Article IV".

(2) U.S.-RMI COMPACT.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands (as provided in section 201(b) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2795)) is amended—

(A) in section 174(a), by striking "court" and inserting "courts";

(B) in section 177(a), by striking the comma before "(or Palau)";

(C) in section 179(b), by striking "amended Compact," and inserting "Compact, as amended,";

(D) in section 211—

(i) in the first sentence of subsection (b), by striking "Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Miliary Use and Operating Rights" and inserting "Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended (Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights)"; and

(ii) in the last sentence of subsection (e), by inserting before the period at the end the following: "and the Federal Programs and Services Agreement referred to in section 231";

(E) in section 221(a)—

(i) in the matter preceding paragraph (1), by striking "Section 231" and inserting "section 231"; and

(ii) in paragraph (5), by inserting "(Federal Emergency Management Agency)" after "Homeland Security";

(F) in the second sentence of section 232, by striking "sections 103(m)" and all that follows through "(January 14, 1986)" and inserting "section 103(k) of Public Law 108-188, 117 Stat. 2734, December 17, 2003";

(G) in the first sentence of section 341, by striking "Section 141" and inserting "section 141";

(H) in section 342—

(i) in subsection (a), by striking "14 U.S.C. 195" and inserting "section 195 of title 14, United States Code"; and

(ii) in subsection (b)—

(I) by striking "46 U.S.C. 1295(b)(6)" and inserting "section 1303(b)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(b)(6))"; and

(II) by striking "46 U.S.C. 1295b(b)(6)(C)" and inserting "section 1303(b)(6)(C) of that Act";

(I) in the third sentence of section 354(a), by striking "section 442 and 452" and inserting "sections 442 and 452";

(J) in the first sentence of section 443, by inserting ", as amended," after "the Compact";

(K) in the matter preceding paragraph (1) of section 461(h)—

(i) by striking "1978" and inserting "1998"; and

(ii) by striking "Telecommunications" and inserting "Telecommunication"; and

(L) in section 463(b), by striking "Article" and inserting "Articles".

S. 1831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CERTAIN SUBMERGED LAND TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

The first section of Public Law 93-435 (48 U.S.C. 1705) is amended—

(1) in the second sentence of subsection (b), by inserting "Commonwealth of the Northern Mariana Islands," after "Guam,"; and

(2) by adding at the end the following:

"(e)(1) Subject to valid existing rights, all right, title, and interest of the United States in land permanently or periodically covered by tidal water up to but not above the line of mean high tide and seaward to a line 3 geographical miles distant from the coastline of the territory of the Commonwealth of the Northern Mariana Islands (as modified before, on, or after the date of enactment of this subsection by accretion, erosion, or reliction, or in artificially made, filled in, or reclaimed land that was formerly permanently or periodically covered by tidal water) are conveyed to the Government of the Commonwealth of the Northern Mariana Islands to be administered in trust for the benefit of the people of the Commonwealth.

"(2) The conveyance shall be subject to clauses (ii), (iv), (v), (vii), (viii), and (ix) of subsection (b) and subsection (c), except that each reference to the 'date of enactment of this Act' in those clauses shall (for the purposes of this subsection) be considered to be a reference to the date of enactment of this subsection.".

SEC. 2. AUTHORITY OF SECRETARY TO RESOLVE CERTAIN CLAIMS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—On the request of the Governor of the Commonwealth of the Northern Mariana Islands, the Secretary of the Interior may settle any claim of the Commonwealth arising pursuant to any provision of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by the first section of Public Law 94-241 (48 U.S.C. 1801 note).

(b) ASSISTANCE.—

(1) REQUEST.—The Secretary may request assistance from the head of any other Federal agency in order to expeditiously resolve any claim described in subsection (a).

(2) PROVISION.—On request, the head of the Federal agency shall provide the assistance.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out subsection (a).

(2) OTHER FUNDS.—The Secretary may also use to carry out subsection (a) any other sums that are appropriated for the purpose of a provision of the Covenant that is subject to a claim by the Commonwealth.

Mr. BINGAMAN. Mr. President, today I join my colleague and the chairman of the Committee on Energy and Natural Resources, Senator DOMENICI, in introducing three bills, by request, to make necessary changes to law regarding the U.S.-affiliated islands. As chairman and ranking minority member of this committee, Senator DOMENICI and I have a special responsibility for matters relating to our fellow U.S. citizens who live in the territories of the United States. While the people of the territories are U.S. citizen or nationals, they lack full voting representation in the U.S. Congress. Their problems and concerns are just as deserving of attention as are those of U.S. citizens who live in the 50 States, and it is the committee on Energy and Natural Resources which has the responsibility for considering island issues that are brought to our attention, and for making recommendations, as appropriate, to the full Senate.

The committee is also responsible for authorization and oversight of U.S. financial assistance to the freely associated states of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands—three sovereign nations that were formerly administered by the U.S. as districts of the United Nations Trust Territory of the Pacific Islands. While not under U.S. sovereignty, these nations enjoy a unique relationship with the U.S. which developed following the Pacific battles of World War II and which continues to be based on our mutual interest in security, democracy, and economic development.

The first bill being introduced, the Compacts of Free Association Amendments Act of 2005, would make several changes to the Compact of Free Association Amendments Act, CFAAA, of 2003, (Public Law 108–188) which was enacted in December 2003. That law continued the close relationships that were established in 1986 between the U.S. and the Federated States of Micronesia, FSM, and between the U.S. and the Republic of the Marshall Islands, RMI by revising and extending U.S. financial and program assistance until 2023. Final consensus was not reached in 2003, however, on continuation of U.S. disaster assistance programs and services to the FSM and RMI. Instead, section 105(f)(1)(A) of the CFAAA directed the Secretary of State, in consultation with FEMA, to negotiate disaster assistance agreements with the FSM and RMI, report to Congress on the outcome of the negotiations, and make recommendations to Congress on any necessary changes to law.

On August 19, 2004, the State Department transmitted new agreements regarding disaster assistance to Congress along with the legislative language needed to bring them into effect. Generally, these agreements provide that FEMA and USAID will jointly consult on disaster damage assessments and on disaster declaration recommendations; FEMA will provide all disaster recovery funding consistent with past policy and practice and transfer those funds to USAID which will then administer all disaster response and recovery activities. In addition to approving these new disaster assistance agreements, this bill would make several other conforming, clarifying, and technical amendments to the CFAAA of 2003. The second bill being introduced today would convey submerged lands, out to 3 miles, to the Commonwealth of the Northern Mariana Islands, CNMI, and hopefully resolve a long standing dispute between the U.S. and the CNMI over the extent of the CNMI's territorial limit.

The CNMI became a U.S. territory in 1976 pursuant to the covenant between the U.S. and CNMI, as approved by Public Law 94-241. However, interpretation of the covenant regarding the CNMI's territorial limit came into dispute, and then became the subject of discussions under the formal government-to-government consultation procedures of the covenant. The U.S. executive branch took the position that the CNMI had the same territorial limit as the other territories—that is 3 miles—while the CNMI claimed a 200-mile exclusive economic zone. After discussions deadlocked, the CNMI pursued their claim in Federal court. Earlier this year, the Federal Appeals court upheld, in Northern Mariana Islands v. United States, 399 F. 3d 1057, the district court decision that the CNMI not only did not have 200-mile jurisdiction but did not have a 3-mile limit either. Establishing Federal ownership up to the mean high-water mark has compromised local authority to manage activities in the near-shore areas, such as shoreline permitting activities that are normally handled by State and local authorities. The District Court is allowing the local government to continue to exercise near-shore jurisdiction temporarily.

On June 6, 2005, the attorney general of the CNMI wrote to Chairman DOMENICI and myself requesting that legislation be enacted to establish a 3-mile territorial limit for the CNMI—the same distance granted the other territories. This bill would grant the CNMI's request without prejudice to their right to further appeal their claim, and would allow the local government to continue management of near-shore areas.

A second provision in this bill, also requested by the attorney general of the CNMI, would support an alternative process for the resolution of disputes between the U.S. and the CNMI. As mentioned above, there is an existing, but very formal, consultation process established under the covenant which requires the President and the Governor to designate official representatives to hold formal meetings. These procedures have generally been ineffective because their formality makes compromise difficult, particularly for those representing the CNMI. This proposed provision would offer a less formal alternative by indicating that Congress expects the Secretary of the Interior to take initial responsibility for seeking to resolve disputes. It would encourage the Secretary, in consultation with the other agencies involved, to settle any claim arising under the covenant, and it authorizes appropriations for any settlement. It would also allow the Secretary to use other funds that may have been appropriated under the covenant for the settlement of a dispute, if agreed to by the CNMI. For example, article VII of the covenant provides annual direct spending for capital construction projects. Disputes that may arise and be addressed under this new less-formal process include those relating to leases of land for defense purposes, construction of infrastructure, eligibility for Federal programs, or payments due the CNMI.

The third bill being introduced today is requested by the delegate from the United States Virgin Islands, USVI, Donna Christensen, on behalf of herself and the Governor of the USVI. This bill would repeal sections of the United States Code that were enacted in 1936 to determine how real property taxes would be assessed in the USVI. These sections were thought to have been effectively repealed in 1954 with enactment of the Virgin Islands Organic Act—a law that substantially expanded the scope of local self-government. Last year, however, the Third Circuit Court of Appeals ruled that the 1936 law remains in effect. The court ruling has, therefore, effectively overturned 50 years of local tax law. The simple solution to this situation, which this bill proposes, is to repeal the 1936 provisions as soon as possible. This approach is consistent with the intent of the 1954 law, and it is consistent with our general Federal territorial policy of delegating local real property tax policy to the local government.

Consideration of these bills is important to meeting our Nation's responsibilities to the governments and residents of the islands. I look forward to working with Chairman DOMENICI, the representatives of the island governments, the administration, and the other members of the committee in considering these bills and reporting our recommendations to the Senate.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1832. A bill to authorize the Secretary of the Interior to lease oil and gas resources underlying Fort Reno, Oklahoma, to establish the Fort Reno Management Fund, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. INHOFE. Mr. President, today I proudly rise to introduce the "Fort Reno Mineral Leasing Act".

Fort Reno was established as a frontier cavalry post in 1874, and it played a key role in the settlement of the west. It is a historic site of National significance and it is listed on the National Register of Historic places. Over 9,000 visitors view the fort each year.

In 1948 the U.S. Army turned its lands and buildings, at Fort Reno, over to the U.S. Department of Agriculture. Today, the original site remains intact as a complete frontier post. Dozens of buildings constructed by the military, as early as the 1880's, still stand around the Historic District.

The Agricultural Research Service administers the fort site which includes the Grazinglands Research Facility, the Fort Reno Historic District, and the Fort Reno Science Park.

Many of the historic buildings are in desperate need of restoration. A small agency like the Agricultural Research Service is not financially able to keep up with the continued costs of maintenance of so much aged infrastructure. Independent studies show that over $18 million is now needed to restore the most important of the many old officers' quarters and other key buildings.

I have been an active supporter of Fort Reno and its facilities. For instance, several years ago I helped secure a Save America's Treasures Grant of $300,000 to assist a local historical organization with the costs of stabilization of exteriors on those deteriorating buildings that are most in need of renovation. In fiscal year 2004, I arranged for an appropriation of $2.1 million for construction of two greenhouses for use in research on forage grasses that is conducted by the Agricultural Research Service at the Fort Reno site.

The legislation I am introducing today will provide a revenue-neutral, non-appropriated source of funding which will be adequate to restore the historical buildings of Fort Reno, so that they will be here for future generations.

In addition, this bill authorizes the development of the oil and gas that lies beneath Fort Reno's 6,737 acres and places those funds in a special account in the U.S. Treasury that will be utilized for restoration and maintenance of those facilities. These funds will also be used to assist with handling visitors to the fort, historic interpretation and related activities. The remaining funds will be used to pay down the national debt.

The Fort Reno Mineral Leasing Act is fully supported by State legislators, local municipalities, the Chamber of Commerce, farm groups, the USDA, and the ARS Administrator at Fort Reno.

I look forward to seeing this Oklahoma-specific legislation enacted and am proud to have Senator COBURN as my original cosponsor.

I ask unanimous consent that letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF EL RENO,
El Reno, OK, September 29, 2005.

Hon. JAMES INHOFE,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR: As you know, the citizens of the City of El Reno and others from across

Oklahoma have long maintained a strong interest in restoring the military buildings and other historic features at Fort Reno. Fort Reno serves as a focal point for many of this community's cultural and historical events, and it is visited by thousands of tourists each year.

As vital as Fort Reno is to our community and the State of Oklahoma, it has much more potential as a national historic site. That potential cannot be realized until the historic buildings are restored. Cost to restore this site will be considerable. Not restoring this site will cause Americans to lose a significant piece of our nation's history. When you consider the importance of saving this site for generations to come, the cost is insignificant by comparison.

The citizens of El Reno are thankful that you have graciously agreed to consider drafting legislation that would provide financial support for restoration and maintenance of Fort Reno's aged buildings. You are to be commended for acknowledging it is our responsibility to preserve our past for future generations. I sincerely appreciate your respect for our past and vision for our future.

Sincerely,

DEBBIE HARRISON,
Vice Mayor, City of El Reno.

CITY OF EL RENO,
OFFICE OF THE CITY MANAGER,
El Reno, OK, September 29, 2005.

Hon. JIM INHOFE,
Russell Building,
Washington, DC.

DEAR SENATOR: The purpose of this letter is to express my appreciation for your efforts on behalf of the citizens of the City of El Reno, particularly as relates to restoration of historic buildings at Fort Reno. We are grateful that you assisted with the Save America's Treasures grant that recently allowed work to begin on restoration of one of the Fort's officers quarters, built before 1890. Fort Reno is one of our city's most important resources, and we have long looked forward to seeing it restored to its former glory.

We understand that you intend to introduce legislation that could allow more progress to be made toward complete restoration and future maintenance of the Fort's buildings and other historical assets. I urge you to do so. The benefits will be considerable, not only for the people of this city, but for the state of Oklahoma and the Nation.

Sincerely,

DOUGLAS D. HENLEY,
City Manager.

OKLAHOMA STATE SENATE,
Oklahoma City, OK, September 29, 2005.

Hon. JAMES INHOFE,
Russell Building,
Washington, DC.

DEAR SENATOR INHOFE. On behalf of my constituents and all citizens of Oklahoma, I wish to thank you for assisting with efforts to obtain funding for restoration of historic buildings at Fort Reno. When they learn of it, many people in my district will be grateful for your support. I and others in the Legislature have worked hard to assist those who operate the Fort Reno Visitors Center, but the level of funding required to rescue and maintain these old structures and other historical resources at the Fort is beyond our abilities.

Restoration and continued maintenance of the Fort's buildings are of critical importance to all Oklahomans. Fort Reno is a primary historic site in our area, and it attracts over 9,000 visitors annually. It has great potential for tourism and economic development, and that potential cannot be realized until it is properly restored. I admire and appreciate your willingness to introduce legislation that will insure that Fort Reno's historic buildings are preserved and maintained for future generations of Oklahomans.

Please let me know if I can assist with this important effort in any way.

Sincerely,

MIKE JOHNSON,
Oklahoma State Senate, District 22.

EL RENO CHAMBER OF COMMERCE
AND DEVELOPMENT CORP.,
El Reno, OK, September 29, 2005.

Hon. JAMES INHOFE,
Russell Building,
Washington, DC.

DEAR SENATOR: On behalf of the members and Board of Directors of the El Reno Chamber of Commerce, I wish to express our gratitude to you for assisting the citizens of this city and the State of Oklahoma to restore one of our most cherished historical assets, the buildings of Fort Reno. New sources of funding to restore and maintain the Fort's buildings are of critical importance to us. Fort Reno is the principle historic site in our area and it attracts almost 10,000 visitors to our city annually; however, it is badly in need of repair and maintenance.

As you know, the costs required to complete a restoration project of this magnitude far exceeds the capabilities of any state, local organization or entity. We appreciate your willingness to assist us with legislation that will insure that Fort Reno's historic buildings are preserved and maintained, and made available for the benefit of both Oklahomans and our out-of-state visitors.

Please let us know if there is anything we can do to help with this effort by calling (405) 262–1188.

Sincerely,

KAREN NIX,
Executive Director.

OKLAHOMA FARM BUREAU,
Oklahoma City, OK, October 4, 2005.

Hon. JIM INHOFE,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR INHOFE: We appreciate your ongoing support for the Ft. Reno Agricultural Research Service Station. As you know, at one time the physical ARS facility had suffered from neglect and the reorganization of ARS. Now the physical facility is much improved, and the research staff are doing great work. It is truly an operation in which many of us take great pride.

I appreciate that you have an interest in helping the citizens of Oklahoma to preserve the historical buildings of Fort Reno. Funding is badly needed to restore and maintain these buildings, many of which were built as early as the 1880s. I understand you are willing to introduce legislation that will ensure that these historic buildings are not lost, but are preserved and maintained and made available for viewing and use by future generations of Oklahomans.

I understand the historic area of the Fort has a lot of local support from the community, and that you support a revenue-neutral approach to financing the restoration of Fort Reno without increasing our tax burden. Our much missed state board member, Henry Jo VonTungeln, was an active proponent of using a revenue-neutral approach to funding the restoration of the Fort.

Your willingness to carry legislation to implement this approach is greatly appreciated. The success of the legislation will mean a great deal to Oklahomans and Americans, as well as the thousands of people who visit Fort Reno each year.

Thank you for your consideration in this matter.

Sincerely,

STEVE KOUPLEN,
President.

OKLAHOMA FARMERS UNION,
Oklahoma City, OK, September 30, 2005.

Hon. JAMES INHOFE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INHOFE: On behalf of Oklahoma Farmers Union and the 100,000 family farmers, ranchers and rural citizens our organization represents, we appreciate your dedication to Oklahoma and your current efforts to preserve, restore and maintain Fort Reno here in the heart of our great state. This historical location and buildings, built in the 1800s, remains an attraction to thousands of Oklahomans and out-of-state tourists each year.

Thank you for your interest, and more importantly, your efforts to ensure much needed funding for this project. The legislation you are currently working on in regards to Fort Reno will ensure these buildings and this historic site will not be lost, but instead will be available for generations to come. We sincerely appreciate the revenue-neutral approach to financing the restoration of Fort Reno, without increasing our tax burden.

Again, thank you for your active role in preservation of Fort Reno and all your efforts on behalf of our great state.

Sincerely,

RAY L. WULF,
President & CEO.

By Mr. JEFFORDS (for himself, Mr. SARBANES and Mr. DAYTON):

S. 1834. A bill to authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JEFFORDS. Mr. President, over the past several weeks, in the wake of two hurricanes, we have felt the heartbreak of Americans forced from their homes with no return in sight. Safe and affordable housing is not something we should take for granted.

Today I am introducing the Affordable Housing Preservation Act of 2005. I am proud to be joined by my colleagues, Senators PAUL SARBANES and MARK DAYTON. This bill provides federal matching funds for the acquisition and rehabilitation of existing federally-assisted or -insured affordable housing properties that are in danger of being lost from the affordable housing inventory.

There is a great need for affordable housing. All across the country, housing is becoming less attainable for more and more families. In my own State of Vermont, renting—let alone owning—a home is becoming difficult if not impossible for many families. The minimum wage in Vermont is seven dollars. However, a family must earn almost $28,000 in yearly income to afford a two-bedroom apartment, which requires a wage of over $13 per hour. For example, in Vermont, a two-bedroom apartment costs about $698 per month, and a minimum wage earner can afford no more than $364 for rent. This trend is not unique to Vermont. Nationwide, the wage needed to afford a two-bedroom apartment is over $15 an hour. Approximately one-quarter of the U.S. earns less than $10 per hour. There are some communities where affordable housing was never a concern before, but are now facing a shortage growing ever more severe. I ask unanimous consent to have a chart compiled by the National Low Income Housing Coalition (NLIHC), "State Ranks Based on Two Bedroom Housing Wage", inserted in the RECORD. As my colleagues read this chart, I encourage them to refer to the NLIHC report issued last year, "Out of Reach", for a more comprehensive overview of housing prices and diminishing affordability. I found this report particularly alarming and eye-opening.

There are several strategies to consider in combating the affordable housing crisis. A comprehensive plan of economic and community development and revitalization—from public and private sector sources—is one strategy that has proved successful. Some of the increasing need for affordable housing is met with the construction of new units. But in many communities, a stock of affordable housing already exists, and there is a desire among local leaders to preserve it. My bill helps States, localities, and other entities do just that.

The bill I am introducing today, the Affordable Housing Preservation Act of 2005, represents an effort to complement the good work being done throughout the country on Section 8 initiatives, and it strives to preserve existing affordable housing. Specifically, this legislation would conserve federally-subsidized housing units by providing matching grants to states and localities, who then may work with other housing entities, seeking to preserve privately owned, affordable housing.

The Secretary of Housing and Urban Development, HUD, would make determinations for the grants based on a number of factors, including the number of affordable housing units at risk of being lost and the local market conditions in which displaced residents would have to find comparable new housing options. States and localities could use the funds to acquire or rehabilitate housing, which may be done by working with established not-for-profit organizations that specialize in providing affordable housing. They could use the funds, in part, for administrative and operating expenses. Properties with mortgages insured by HUD, Section 8 project-based assisted housing, and properties that are being purchased by residents would all be eligible for the matching grant funds. I believe that flexibility with the funding would make this program more efficient and cost effective, and, most importantly, more helpful to the recipients themselves.

What's more important to a family than a place to call home? Affordable, quality, and safe housing is the foundation, literally and figuratively, that communities are built upon. As the Senate crafts a comprehensive federal response to the housing crisis, including emergency housing assistance for those affected by the hurricanes Katrina and Rita, I am eager to work with my colleagues to integrate the principles of housing preservation into affordable housing, economic and community development and revitalization initiatives.

STATE RANKS BASED ON TWO BEDROOM HOUSING WAGE

[Higher Rank = Less Affordable]

Rank	State	Housing wage for two bedroom FRM
52	District of Columbia	$22.83
51	California	21.24
50	Massachusetts	20.93
49	New Jersey	20.35
48	Maryland	18.25
47	New York	18.18
46	Connecticut	17.90
45	Hawaii	17.60
44	Alaska	17.07
43	Nevada	16.92
42	New Hampshire	16.79
41	Colorado	16.64
40	Rhode Island	16.29
39	Virginia	16.05
38	Illinois	15.44
37	Florida	15.37
36	Minnesota	15.07
35	Arizona	14.93
34	Washington	14.32
33	Delaware	14.16
32	Georgia	14.12
31	Texas	13.84
30	Pennsylvania	13.82
29	Michigan	13.58
28	Vermont	13.42
27	Utah	13.36
26	Oregon	12.89
25	Maine	12.82
24	Wisconsin	12.22
23	Ohio	12.08
22	North Carolina	11.98
21	Missouri	11.85
20	Indiana	11.77
19	New Mexico	11.58
18	Kansas	11.22
17	Idaho	11.20
16	Nebraska	11.08
15	South Carolina	11.04
14	Tennessee	11.04
13	Louisiana	10.95
12	Iowa	10.74
11	Montana	10.50
10	Oklahoma	10.40
9	Kentucky	10.23
8	South Dakota	10.18
7	Wyoming	10.06
6	Alabama	9.84
5	Mississippi	9.79
4	Arkansas	9.63
3	North Dakota	9.48
2	West Virginia	9.31
1	Puerto Rico	7.22

By Mr. JEFFORDS (for himself, Mrs. BOXER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. CARPER, Mr. LAUTENBERG, Mr. OBAMA, and Mr. BAUCUS):

S. 1836. A bill to provide for reconstruction, replacement, and improvement of infrastructure in the Gulf Coast Region; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the Gulf Coast Infrastructure Redevelopment and Recovery Act of 2005 on behalf of the minority side of the EPW Committee. We have introduced three bi-partisan bills to date in our committee's jurisdiction. One of them even passed the Senate last week. Those bills, which I would characterize as tweaks to existing authorities, were good first steps and are included in the package we introduce today.

But, we feel that the breadth and the magnitude of the damage after Hurricane Katrina demands a more significant response. As I look at the pictures of the damage in the areas hit hardest by Hurricane Katrina, I think of the visitors from Terrebonne Parish that visited me in my office to seek support for flood control projects in Louisiana. At the time, I was struck by the vulnerability of this community to the effects of nature. Today, we are seeing those effects firsthand. I have thought often in the past month of the strong spirit shown by those who visited my office, and I know, that while it is almost unimaginable today, in a few years, there will be thriving communities in Louisiana, Mississippi, and Alabama once again.

The bill I am introducing today is not intended to address every need of every person in the Katrina-affected area. It is a bill that seeks to take action for those agencies within the jurisdiction of the EPW Committee to ensure that they have the authority and the direction they need. I am a big believer in a single coordinated Federal disaster response process through the Stafford Act. Our bill complements the single, coordinated approach, yet recognizes the unique conditions in this case.

FEMA has shown itself to be ineffective, in my opinion, largely due to the bureaucracy of the Department of Homeland Security and FEMA's lack of independence. At the time of the creation of DHS, I said: I cannot understand why, after years of frustration and failure, we would jeopardize the Federal government's effective response to natural disasters by dissolving FEMA into this monolithic Homeland Security Department. I fear that FEMA will no longer be able to adequately respond to hurricanes, fires, floods, and earthquakes, begging the question, who will? (November 20, 2002)

Today, unfortunately, we know the answer—no one.

The Federal aid provided for Katrina must be coordinated in a wise, targeted manner. To perform this task, our bill creates a Federal infrastructure Task Force to make spending decisions and establish Federal investment standards.

There have been large storms before—in 1965 Hurricane Betsy hit almost this same area. There will be large storms again. This bill recognizes that and establishes National Preparedness Grants and several readiness studies to update emergency response plans, resolve inadequacies, and identify infrastructure vulnerabilities.

To speed economic recovery, the bill provides 200M to both the Economic Development Administration and the Delta Regional Authority.

Part of the long-term recovery of the region will be the clean-up of the environmental damage. Our bill provides direction to EPA to ensure that adequate sampling is performed, that the public knows the results, that drinking water and wastewater services are restored, and that cleanups are prioritized.

The Army Corps of Engineers has a lot of explaining to do after the levee failure in New Orleans. The Corps also has a lot of clean up to do and a lot of rebuilding to do. The flood control system in place today was built in the wake of the damage caused by Hurricane Betsy in 1965. I believe it is critical that we fully evaluate the entire Corps process to determine what changes should be made. This bill takes only a first step to be sure that we don't simply rebuild what was already in New Orleans without thinking. The bill requires the Corps to assess all projects in the area and repair or modify them with one comprehensive approach.

We establish a National Levee Safety Program in this bill, similar to the Dam Safety Program to be sure our nation's levees can be counted on.

Finally, our bill allows communities that provide incentives for the use of public transportation or ridesharing after a disaster to seek Federal reimbursement.

What doesn't our bill do? Our bill does not waive environmental statutes. Since the Stafford Act was passed in 1974, there have been thousands of declared disasters. Never before have we faced a proposal to haphazardly waive environmental statutes across the Nation in the name of economic recovery in one devastated area. In the last few weeks several proposals have been introduced to give the President or EPA broad waiver authority in the wake of Hurricane Katrina. These proposals put human health and the environment at risk throughout the Nation by allowing permanent waivers to environmental or other laws, anywhere in the Nation, to be granted with few or no criteria, and no public involvement.

The consequences of such an action could be significant. For example, new refineries or power generating facilities could be built while exempt from the Clean Air Act, causing long-term air quality impacts. Congressional offshore drilling bans could be waived to alleviate a fuel shortage. Safe Drinking Water Act regulations could be changed to waive limits on pollutant levels in an effort to speed reoccupancy of hurricane-affected areas, putting public health at risk. Protections for minorities or low-income people such as OSHA safety regulations or the minimum wage could be waived.

I want to help the people of Louisiana, Mississippi, and Alabama. The people of my home State of Vermont are appalled at the state of affairs there and want to help. But, I cannot accept a proposal this broad which will put human health and the environment throughout the Nation at the mercy of one President or appointed official with no time limits, no consideration of human health or the environment, no public participation, and no guidance. Such as effort will only hurt the people of an already devastated region in the long run, not help them.

We must not just act to help the victims of Katrina. We must act in a thoughtful, meaningful, positive way.

The Gulf Coast Infrastructure Redevelopment and Recovery Act of 2005 meets that test. I urge my colleagues to co-sponsor this legislation.

By Mr. REED:

S. 1837. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to add Rhode Island to the Mid-Atlantic Fishery Management Council; to the Committee on Commerce, Science, and Transportation.

Mr. REED. Mr. President, today I introduce the Rhode Island Fishermen's Fairness Act of 2005. This legislation would address a serious flaw in our Nation's regional fisheries management system by adding Rhode Island to the Mid-Atlantic Fishery Management Council (MAFMC), which currently consists of representatives from New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina.

The MAFMC manages the following 13 species, all of which are landed in Rhode Island: Illex squid, loligo squid, Atlantic mackerel, black sea bass, bluefish, butterfish, monkfish, scup, spiny dogfish, summer flounder, surfclam, ocean quahog, and tilefish.

In 2003, the most recent year for which final data are available, Rhode Island fishermen brought in 30 percent of MAFMC landings by weight—more than any of the MAFMC member States except New Jersey, which is responsible for about 60 percent of total MAFMC landings.

If Rhode Island fishermen are responsible for a large percentage of overall MAFMC landings, these species make up an even larger proportion of landings within Rhode Island every year. Between 1995 and 2003, MAFMC species represented between 32 percent and 56 percent of all finfish landed in Rhode Island annually, for an average of 44 percent of total landings by weight. In eight of the years between 1990 and 2003, squid, Illex and loligo, was the number one marine species landed in Rhode Island, with a value of between $11.6 million and $20.1 million annually.

Yet Rhode Island has no voice in the management of these species.

Following council tradition and Federal fisheries law, the Rhode Island Fishermen's Fairness Act would create two seats on the MAFMC for Rhode Island: one seat nominated by the Governor of Rhode Island and appointed by the Secretary of Commerce, and a second seat filled by Rhode Island's principal State official with marine fishery management responsibility. The MAFMC would increase in size from 21 voting members to 23.

There is a precedent for this proposed legislation. In 1996, North Carolina's representatives in Congress succeeded in adding that state to the MAFMC through an amendment to the Sustainable Fisheries Act. Like Rhode Island, a significant proportion of North Carolina's landed fish species were managed by the MAFMC, yet the State had no vote on the council. Today, Rhode Island's share of total landings for species managed by the MAFMC is more than six times greater than that of North Carolina.

I look forward to working with my colleagues to restore a measure of equity to the fisheries management process by passing the Rhode Island Fishermen's Fairness Act. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rhode Island Fishermen's Fairness Act".

SEC. 2. ADDITION OF RHODE ISLAND TO THE MID-ATLANTIC FISHERY MANAGEMENT COUNCIL.

Section 302(a)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(B)) is amended—

(1) by inserting "Rhode Island," after "States of";

(2) by inserting "Rhode Island," after "except North Carolina,";

(3) by striking "21" and inserting "23"; and

(4) by striking "13" and inserting "14".

By Mr. VOINOVICH (for himself and Ms. COLLINS):

S. 1838. A bill to provide for the sale, acquisition, conveyance, and exchange of certain real property in the District of Columbia to facilitate the utilization, development, and redevelopment of such property, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. VOINOVICH. Mr. President, today I rise to introduce the "Federal and District of Columbia Government Real Property Act of 2005," a bill to authorize the exchange of certain land parcels between the Federal Government and the District of Columbia. This proposal was submitted to Congress by the administration with support of the District.

As Chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, I understand the special relationship shared with the Federal Government and the District. Because of this relationship, Congress shares in the responsibility of ensuring that the Nation's capital remains a socially, economically, and culturally vibrant city.

Under this legislation, the Federal properties to be transferred to the District of Columbia will be put to better use. This will free up tax dollars being used to maintain the underutilized land to be spent on more important needs facing our Nation. The vast majority of the conveyance is contained in three large properties at or near the Anacostia River: Popular Point, Reservation 13, and several acres of National Park Service land near Robert F. Kennedy Stadium. The bill also would transfer buildings and property located on the west campus of St. Elizabeth's Hospital and several smaller properties from the District of Columbia to the Federal Government.

Conveying these properties will allow the Federal Government to better manage its properties. Additionally, the District gains the ability to spur economic development in Southeast Washington, better address the needs of its citizens, and increase the local tax base. I urge all of my colleagues to support this legislation and I am confident that it can be enacted this year.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal and District of Columbia Government Real Property Act of 2005".

TITLE I—REAL PROPERTY CONVEYANCES BETWEEN THE GENERAL SERVICES ADMINISTRATION AND THE DISTRICT OF COLUMBIA

SEC. 101. EXCHANGE OF TITLE OVER RESERVATION 13 AND CERTAIN OTHER PROPERTIES.

(a) Conveyance of Properties.—

(1) In general.—On the date on which the District of Columbia conveys to the Administrator of General Services all right, title, and interest of the District of Columbia in the property described in subsection (c), the Administrator shall convey to the District of Columbia all right, title, and interest of the United States in—

(A) U.S. Reservation 13, subject to the conditions described in subsection (b); and

(B) Old Naval Hospital.

(2) Properties defined.—In this section—

(A) the term "U.S. Reservation 13" means that parcel of land in the District of Columbia consisting of the approximately 66 acres which is bounded on the north by Independence Avenue Southeast, on the west by 19th Street Southeast, on the south by G Street Southeast, and on the east by United States Reservation 343, and being the same land described in the Federal transfer letter of October 25, 2002, from the United States to the District of Columbia, and subject to existing matters of record; and

(B) the term "Old Naval Hospital" means the property in the District of Columbia consisting of Square 948 in its entirety, together with all the improvements thereon.

(b) Conditions for Conveyance of Reservation 13.—As a condition for the conveyance of U.S. Reservation 13 to the District of Columbia under this section, the District of Columbia shall agree—

(1) to set aside a portion of the property for the extension of Massachusetts Avenue Southeast and the placement of a potential commemorative work to be established pursuant to chapter 89 of title 40, United States Code, at the terminus of Massachusetts Avenue Southeast (as so extended) at the Anacostia River;

(2) to convey all right, title, and interest of the District of Columbia in the portion set aside under paragraph (1) to the Secretary of the Interior (acting through the Director of the National Park Service) at such time as the Secretary may require, if a commemorative work is established in the manner described in paragraph (1); and

(3) to permit the Court Services and Offender Supervision Agency for the District of Columbia to continue to occupy a portion of the property consistent with the requirements of the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 931).

(c) District of Columbia Property to Be Conveyed to the Administrator.—The property described in this subsection is the real property consisting of Building Nos. 16, 37, 38, 118, and 118–A and related improvements, together with the real property underlying those buildings and improvements, on the West Campus of Saint Elizabeths Hospital, as described in the quitclaim deed of September 30, 1987, by and between the United States and the District of Columbia and recorded in the Office of the Recorder of Deeds of the District of Columbia on October 7, 1987.

(d) Limitation on Environmental Liability.—Notwithstanding any other provision of law—

(1) the District of Columbia shall not be responsible for any environmental liability, response action, remediation, corrective action, damages, costs, or expenses associated with the property for which title is conveyed to the Administrator of General Services under this section; and

(2) all environmental liability, responsibility, remediation, damages, costs, and expenses as required by applicable Federal, State and local law, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (known as Clean Water Act) (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Rivers and Harbors Act (33 U.S.C. 540 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), and the Oil Pollution Act (33 U.S.C. 2701 et seq.) for such property shall be borne by the United States, which shall conduct all environmental activity with respect to such properties, and bear any and all costs and expenses of any such activity.

SEC. 102. TERMINATION OF CLAIMS.

(a) In General.—Notwithstanding any other provision of law, the United States is not required to perform, or to reimburse the District of Columbia for the cost of performing, any of the following services:

(1) Repairs or renovations pursuant to section 4(f) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225b(f); sec. 44–903(f), D.C. Official Code).

(2) Preservation, maintenance, or repairs pursuant to a use permit executed on September 30, 1987, under which the United States (acting through the Secretary of Health and Human Services) granted permission to the District of Columbia to use and occupy portions of the Saint Elizabeths Hospital property known as the "West Campus".

(3) Mental health diagnostic and treatment services for referrals as described in section 9(b) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225g(b); sec. 44–908(b), D.C. Official Code), but only with respect to services provided on or before the date of the enactment of this Act.

(b) Effect on Pending Claims.—Any claim of the District of Columbia against the United States for the failure to perform, or to reimburse the District of Columbia for the cost of performing, any service described in subsection (a) which is pending as of the date of the enactment of this Act shall be extinguished and terminated.

TITLE II—STREAMLINING MANAGEMENT OF PROPERTIES LOCATED IN THE DISTRICT OF COLUMBIA

SEC. 201. TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN PROPERTIES.

(a) Transfer of Administrative Jurisdiction From District of Columbia to United States.—

(1) In general.—Administrative jurisdiction over each of the following properties (owned by the United States and as depicted on the Map) is hereby transferred, subject to the terms in this subsection, from the District of Columbia to the Secretary of the Interior for administration by the Director:

(A) An unimproved portion of Audubon Terrace Northwest, located east of Linnean Avenue Northwest, that is within U.S. Reservation 402 (National Park Service property).

(B) An unimproved portion of Barnaby Street Northwest, north of Aberfoyle Place Northwest, that abuts U.S. Reservation 545 (National Park Service property).

(C) A portion of Canal Street Southwest, and a portion of V Street Southwest, each of which abuts U.S. Reservation 467 (National Park Service property).

(D) Unimproved streets and alleys at Fort Circle Park located within the boundaries of U.S. Reservation 497 (National Park Service property).

(E) An unimproved portion of Western Avenue Northwest, north of Oregon Avenue Northwest, that abuts U.S. Reservation 339 (National Park Service property).

(F) An unimproved portion of 17th Street Northwest, south of Shepherd Street Northwest, that abuts U.S. Reservation 339 (National Park Service property).

(G) An unimproved portion of 30th Street Northwest, north of Broad Branch Road

Northwest, that is within the boundaries of U.S. Reservation 515 (National Park Service property).

(H) Subject to paragraph (2), lands over I-395 at Washington Avenue Southwest.

(I) A portion of U.S. Reservation 357 at Whitehaven Parkway Northwest, previously transferred to the District of Columbia in conjunction with the former proposal for a residence for the Mayor of the District of Columbia.

(2) Use of certain property for memorial.—In the case of the property for which administrative jurisdiction is transferred under paragraph (1)(H), the property shall be used as the site for the establishment of a memorial to honor disabled veterans of the United States Armed Forces authorized to be established by the Disabled Veterans' LIFE Memorial Foundation by Public Law 106-348 (114 Stat. 1358; 40 U.S.C. 8903 note), except that the District of Columbia shall retain administrative jurisdiction over the subsurface area beneath the site for the tunnel, walls, footings, and related facilities.

(b) Transfer of Administrative Jurisdiction From United States to District of Columbia.—Administrative jurisdiction over the following property owned by the United States and depicted on the Map is hereby transferred from the Secretary to the District of Columbia for administration by the District of Columbia:

(1) A portion of U.S. Reservation 451.

(2) A portion of U.S. Reservation 404.

(3) U.S. Reservations 44, 45, 46, 47, 48, and 49.

(4) U.S. Reservation 251.

(5) U.S. Reservation 8.

(6) U.S. Reservations 277A and 277C.

(7) Portions of U.S. Reservation 470.

(c) Effective Date.—The transfers of administrative jurisdiction under this section shall take effect on the date of the enactment of this Act.

SEC. 202. EXCHANGE OF TITLE OVER CERTAIN PROPERTIES.

(a) Conveyance of Title.—

(1) In general.—On the date on which the District of Columbia conveys to the Secretary all right, title, and interest of the District of Columbia in each of the properties described in subsection (b) for use as described in such subsection, the Secretary shall convey to the District of Columbia all right, title, and interest of the United States in each of the properties described in subsection (c).

(2) Administration by national park service.—The properties conveyed by the District of Columbia to the Secretary under this section shall be administered by the Director upon conveyance.

(b) Properties to Be Conveyed to the Secretary; Use.—The properties described in this subsection and their uses are as follows (as depicted on the Map):

(1) Lovers Lane Northwest, abutting U.S. Reservation 324, for the closure of a one-block long roadway adjacent to Montrose Park.

(2) Needwood, Niagara, and Pitt Streets Northwest, within the Chesapeake and Ohio Canal National Historical Park, for the closing of the rights-of-way now occupied by the Chesapeake and Ohio Canal.

(c) Properties to Be Conveyed to the District of Columbia.—The properties described in this subsection are as follows (as depicted on the Map):

(1) U.S. Reservation 17A.

(2) U.S. Reservation 484.

(3) U.S. Reservations 243, 244, 245, and 247.

(4) U.S. Reservations 128, 129, 130, 298, and 299.

(5) Portions of U.S. Reservations 343D and 343E.

(6) U.S. Reservations 721, 722, and 723.

SEC. 203. CONVEYANCE OF UNITED STATES RESERVATION 174.

(a) Conveyance; Use.—If the District of Columbia enacts a final plan for the development of the former Convention Center Site which meets the requirements of subsection (b)—

(1) the Secretary shall convey all right, title, and interest of the United States in U.S. Reservation 174 (as depicted on the Map) to the District of Columbia upon the enactment of such plan; and

(2) the District shall use the property so conveyed in accordance with such plan.

(b) Requirements for Development Plan.—The plan for the development of the former Convention Center Site meets the requirements of this subsection if—

(1) the plan is developed through a public process;

(2) during the process for the development of the plan, the District of Columbia considers at least one version of the plan under which the entire portion of U.S. Reservation 174 which is set aside as open space as of the date of the enactment of this Act shall continue to be set aside as open space (including a version under which facilities are built under the surface of such portion); and

(3) not less than 1¼ acres of the former Convention Center Site are set aside for open space under the plan.

(c) Former Convention Center Site Defined.—In this section, the "former Convention Center Site" means the parcel of land in the District of Columbia which is bounded on the east by 9th Street Northwest, on the north by New York Avenue Northwest, on the west by 11th Street Northwest, and on the south by H Street Northwest.

SEC. 204. CONVEYANCE OF PORTION OF RFK STADIUM SITE FOR EDUCATIONAL PURPOSES.

Section 7 of the District of Columbia Stadium Act of 1957 (sec. 3-326, D.C. Official Code) is amended by adding at the end the following new subsection:

"(e)(1) Upon receipt of a written description from the District of Columbia of a parcel of land consisting of not more than 15 contiguous acres (hereafter in this subsection referred to as 'the described parcel'), with the longest side of the described parcel abutting one of the roads bounding the property, within the area designated 'D' on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District' and bound by Oklahoma Avenue Northeast, Benning Road Northeast, the Metro line, and Constitution Avenue Northeast, and a long-term lease executed by the District of Columbia that is contingent upon the Secretary's conveyance of the described parcel and for the purpose consistent with this paragraph, the Secretary shall convey all right, title, and interest in the described parcel to the District of Columbia for the purpose of siting, developing, and operating an educational institution for the public welfare, with first preference given to a pre-collegiate public boarding school.

"(2) Upon conveyance under paragraph (1), the portion of the stadium lease that affects the described parcel and all the conditions associated therewith shall terminate, the described parcel shall be removed from the 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', and the long-term lease described in paragraph (1) shall take effect immediately.".

TITLE III—POPLAR POINT

SEC. 301. CONVEYANCE OF POPLAR POINT TO DISTRICT OF COLUMBIA.

(a) Conveyance.—Upon certification by the Secretary of the Interior (acting through the Director) that the District of Columbia has adopted a land-use plan for Poplar Point which meets the requirements of section 302, the Director shall convey to the District of Columbia all right, title, and interest of the United States in Poplar Point, in accordance with this title.

(b) Withholding of Existing Facilities and Properties of National Park Service From Initial Conveyance.—The Director shall withhold from the conveyance made under subsection (a) the facilities and related property (including necessary easements and utilities related thereto) which are occupied or otherwise used by the National Park Service in Poplar Point prior to the adoption of the land-use plan referred to in subsection (a), as identified in such land-use plan in accordance with section 302(c).

SEC. 302. REQUIREMENTS FOR POPLAR POINT LAND-USE PLAN.

(a) In General.—The land-use plan for Poplar Point meets the requirements of this section if the plan includes each of the following elements:

(1) The plan provides for the reservation of a portion of Poplar Point for park purposes, in accordance with subsection (b).

(2) The plan provides for the identification of existing facilities and related properties of the National Park Service, and the relocation of the National Park Service to replacement facilities and related properties, in accordance with subsection (c).

(3) Under the plan, at least two sites within the areas designated for park purposes are set aside for the placement of potential commemorative works to be established pursuant to chapter 89 of title 40, United States Code, and the plan includes a commitment by the District of Columbia to convey back those sites to the National Park Service at the appropriate time, as determined by the Secretary.

(4) To the greatest extent practicable, the plan is consistent with the Anacostia Waterfront Framework Plan referred to in section 103 of the Anacostia Waterfront Corporation Act of 2004 (sec. 2-1223.03, D.C. Official Code).

(b) Reservation of Areas for Park Purposes.—The plan shall identify a portion of Poplar Point consisting of not fewer than 70 acres (including wetlands) which shall be reserved for park purposes and shall require such portion to be reserved for such purposes in perpetuity, and shall provide that any person (including an individual or a public entity) shall have standing to enforce the requirement.

(c) Identification of Existing and Replacement Facilities and Properties for National Park Service.—

(1) Identification of existing facilities.—The plan shall identify the facilities and related property (including necessary easements and utilities related thereto) which are occupied or otherwise used by the National Park Service in Poplar Point prior to the adoption of the plan.

(2) Relocation to replacement facilities.—

(A) In general.—To the extent that the District of Columbia and the Director determine jointly that it is no longer appropriate for the National Park Service to occupy or otherwise use any of the facilities and related property identified under paragraph (1), the plan shall—

(i) identify other suitable facilities and related property (including necessary easements and utilities related thereto) in the District of Columbia to which the National Park Service may be relocated;

(ii) provide that the District of Columbia shall take such actions as may be required to carry out the relocation, including preparing the new facilities and properties and providing for the transfer of such fixtures and equipment as the Director may require; and

(iii) set forth a timetable for the relocation of the National Park Service to the new facilities.

(B) RESTRICTION ON USE OF PROPERTY RESERVED FOR PARK PURPOSES.—The plan may not identify any facility or property for purposes of this paragraph which is located on any portion of Poplar Point which is reserved for park purposes in accordance with subsection (b).

(3) CONSULTATION REQUIRED.—In developing each of the elements of the plan which are required under this subsection, the District of Columbia shall consult with the Director.

SEC. 303. CONVEYANCE OF REPLACEMENT FACILITIES AND PROPERTIES FOR NATIONAL PARK SERVICE.

(a) CONVEYANCE OF FACILITIES AND RELATED PROPERTIES.—Upon certification by the Director that the facilities and related property to which the National Park Service is to be relocated under the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied or used by the National Park Service—

(1) the District of Columbia shall convey to the Director all right, title, and interest in the facilities and related property (including necessary easements and utilities related thereto) to which the National Park Service is to be relocated (without regard to whether such facilities are located in Poplar Point); and

(2) the Director shall convey to the District of Columbia all, right, title, and interest in the facilities and related property which were withheld from the conveyance of Poplar Point under section 301(b) and from which the National Park Service is to be relocated.

(b) RESTRICTION ON CONSTRUCTION PROJECTS PENDING CERTIFICATION OF FACILITIES.—

(1) IN GENERAL.—The District of Columbia may not initiate any construction project with respect to Poplar Point until the Director makes the certification referred to in subsection (a).

(2) EXCEPTION FOR PROJECTS REQUIRED TO PREPARE FACILITIES FOR OCCUPATION BY NATIONAL PARK SERVICE.—Paragraph (1) shall not apply with respect to any construction project required to ensure that the facilities and related property to which the National Park Service is to be relocated under the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied by the National Park Service.

SEC. 304. POPLAR POINT DEFINED.

In this title, "Poplar Point" means the parcel of land in the District of Columbia which is owned by the United States and which is under the administrative jurisdiction of the District of Columbia or the Director on the day before the date of enactment of this Act, and which is bounded on the north by the Anacostia River, on the northeast by and inclusive of the southeast approaches to the 11th Street bridges, on the southeast by and inclusive of Route 295, and on the northwest by and inclusive of the Frederick Douglass Memorial Bridge approaches to Suitland Parkway, as depicted on the Map.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "Director" means the Director of the National Park Service.

(3) The term "Map" means the map entitled "Transfer and Conveyance of Properties in the District of Columbia", numbered 869/80460, and dated July 2005, which shall be kept on file in the appropriate office of the National Park Service.

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 402. LIMITATION ON ENVIRONMENTAL LIABILITY.

Notwithstanding any other provision of law—

(1) the United States shall not be responsible for any environmental liability, response action, remediation, corrective action, damages, costs, or expenses associated with any property for which title is conveyed to the District of Columbia under this Act or any amendment made by this Act; and

(2) all environmental liability, responsibility, remediation, damages, costs, and expenses as required by applicable Federal, state and local law, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (known as Clean Water Act) (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Rivers and Harbors Act (33 U.S.C. 540 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), and the Oil Pollution Act (33 U.S.C. 2701 et seq.) for any such property shall be borne by the District of Columbia, which shall conduct all environmental activity with respect to such properties, and bear any and all costs and expenses of any such activity.

SEC. 403. LIMITATION ON COSTS.

The United States shall not be responsible for paying any costs and expenses incurred by the District of Columbia or any other parties at any time in connection with effecting the provisions of this Act or any amendment made by this Act, including costs and expenses associated with surveys, zoning, land-use processes, transfer taxes, recording taxes, recording fees, as well as the costs associated with the relocation of the National Park Service to replacement facilities required under the land-use plan for Poplar Point described in section 302(c)(2).

SEC. 404. DEADLINE FOR PROVISION OF DEEDS AND RELATED DOCUMENTS.

With respect to each property conveyed under this Act or any amendment made by this Act, the Mayor of the District of Columbia, the Administrator, or the Secretary (as the case may be) shall execute and deliver a quitclaim deed or prepare and record a transfer plat, as appropriate, not later than 6 months after the property is conveyed.

By Mr. THUNE (for himself and Mr. BINGAMAN):

S. 1840. A bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals; to the Committee on Finance.

Mr. THUNE. Mr. President, the rising cost of prescription drugs has squeezed not only the budgets of American consumers but also the budgets of America's health care providers. The rural hospitals in my State of South Dakota serve as a lifeline to thousands of constituents living in medically underserved areas. They cannot afford to have the cost of their inpatient and outpatient drugs rising faster than the rate of inflation.

In 1992, Congress created the 340B program to lower the cost of drugs purchased by a limited number of entities serving a high number of low-income and uninsured individuals, such as federally qualified health care centers and nonprofit hospitals providing care to a disproportionate share of Medicaid patients.

Under the 340B program, pharmaceutical manufacturers are required to provide eligible 340B entities discounts on outpatient drugs as part of the manufacturers' Medicaid participation agreement. The rising cost of prescription drugs has created the need to modify the 340B program and extend these discounts to the inpatient side of disproportionate share hospitals, as well as to critical access hospitals.

Today, I and my colleague from New Mexico, Mr. BINGAMAN, are providing relief on the cost of drugs purchased by America's health care providers by introducing the Safety Net Inpatient Drug Affordability Act.

Our bill extends the 340B discounted drug prices to inpatient drug purchases of disproportionate share hospitals and allows critical access hospitals to participate in the 340B program. This not only saves hospitals money on the cost of drugs, it relieves them from the burden of carrying two different inventories for inpatient and outpatient drugs.

Our legislation also generates savings for the Medicaid program by requiring hospitals that participate in the 340B program to rebate Medicaid a percentage of their 340B savings on inpatient drugs administered to Medicaid patients. Specifically, the Safety Net Inpatient Drug Affordability Act would require disproportionate share and critical access hospitals to determine the acquisition cost of drugs used on Medicaid patients and apply the minimum Medicaid rebate percentages applicable to outpatient-dispensed brand name and generic drugs.

Extending the 340B program to critical access hospitals also helps reduce expenditures in the Medicare Program. Critical access hospitals are a vital part of the rural health care delivery system. They provide emergency outpatient and limited inpatient care to individuals in remote rural areas. Out of the 61 hospitals in my State of South Dakota, 37 qualify as critical access hospitals.

Outpatient care in critical access hospitals is reimbursed by Medicare at 101 percent of reasonable costs. Allowing critical access hospitals to participate in the 340B program will lower the cost of drugs in the outpatient setting and ultimately lower the cost of care provided by these hospitals. Decreasing the cost of care in critical access hospitals lowers the amount the Medicare Program expends on reimbursement.

The Safety Net Inpatient Drug Affordability Act is commonsense legislation that reduces the cost of drugs for health care providers serving society's most vulnerable citizens. Lowering the cost of care in these settings means lowering the cost of health care for all American taxpayers. I look forward to working with my colleagues on both sides of the aisle in getting this bipartisan legislation passed and signed into law.

By Mr. NELSON of Florida (for himself, Ms. STABENOW, and Mr. HARKIN):

S. 1841. A bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleagues and cosponsors Senators STABENOW and HARKIN as we introduce the Medicare Informed Choice Act of 2005. This bill provides additional essential protections for Medicare beneficiaries during the first year of implementation of the new Medicare prescription drug benefit.

Medicare beneficiaries are understandably concerned and confused about the new benefit. They face a number of private plan options and sorting through these plans will be complicated. Medicare beneficiaries will have to make many difficult decisions about what is the best course of action for them.

Choosing the right plan will be a challenge for all beneficiaries, but it will be most difficult for those who are frail and living with problems like dementia. The task will be virtually impossible for Hurricane Katrina victims who do not have permanent addresses and, therefore, won't even be able to obtain Part D materials. Yet, beneficiaries who do not act by the May 15, 2006 deadline and who enroll at a later date will face a substantial financial penalty.

In response, we are introducing this legislation which will provide added protections for beneficiaries during the first year of the new program. By delaying late enrollment penalties and giving every beneficiary a chance to change plans once during the first year, we can make sure that our constituents are not forced to make hasty decisions they may later regret.

The Medicare Informed Choice Act of 2005 contains three important protections:

1. Delays late enrollment penalties: The bill expands the existing six-month open enrollment period to the entire year of 2006. This will give people added time to do the research and make the best decisions for themselves.

2. Protections, against bad choices: The bill gives every Medicare beneficiary the opportunity to make a one-time change in plan enrollment at any point in 2006. Given the importance of the decision they make, it is appropriate to give beneficiaries a one-time chance to correct an initial mistake made during the first year of implementation.

3. Protections for employer-provided retiree benefits: This provision would protect employees from being dropped by their former employer's plan during the first year of implementation, so that beneficiaries have time to correct enrollment mistakes.

The Medicare Informed Choice Act is a small, time-limited step that would help ease the pressure of the first year of this new drug program. It is also critical for all those beneficiaries who face hurdles in obtaining Medicare Part D materials or are unaware that they will be penalized by failure to act. We urge all of our colleagues to join us in this effort to help protect Medicare beneficiaries during the benefit's implementation period.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Medicare Informed Choice Act of 2005".

SEC. 2. EXTENDED PERIOD OF OPEN ENROLLMENT DURING ALL OF 2006 WITHOUT LATE ENROLLMENT PENALTY.

Section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in clause (iii), by striking "May 15, 2006" and inserting "December 31, 2006"; and

(2) by adding at the end the following new sentence:

"An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).".

SEC. 3. ONE-TIME CHANGE OF PLAN ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING ALL OF 2006.

(a) APPLICATION TO MA–PD PLANS.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(B)—

(A) in the heading, by striking "FOR FIRST 6 MONTHS";

(B) in clause (i)—

(i) by striking "the first 6 months of 2006" and inserting "2006"; and

(ii) by striking "the first 6 months during 2006" and inserting "2006";

(C) in clause (ii), by inserting "(other than during 2006)" after "paragraph (3)"; and

(D) in clause (iii), by striking "2006" and inserting "2007"; and

(2) in paragraph (4), by striking "2006" and inserting "2007" each place it appears.

(b) CONFORMING AMENDMENT TO PART D.—Section 1860D–1(b)(1)(B)(iii) of such Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking "subparagraphs (B) and (C) of paragraph (2)" and inserting "paragraph (2)(C)".

SEC. 4. PROTECTION FROM LOSS OF EMPLOYMENT-BASED RETIREE HEALTH COVERAGE UPON ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING 2006.

Section 1860D–22(a)(2) (42 U.S.C. 1395w–132(a)(2)) is amended by adding at the end the following new subparagraph:

"(D) PROTECTION FROM LOSS OF EMPLOYMENT-BASED COVERAGE.—The sponsor of the plan may not involuntarily discontinue coverage of an individual under a group health plan before January 1, 2007, based upon the individual's decision to enroll in a prescription drug plan or an MA–PD plan under this part.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mr. ENSIGN (for himself, Ms. MURKOWSKI, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, Mr. KYL, Mr. SMITH, and Mr. STEVENS):

S. 1845. A bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Circuit Court of Appeals Restructuring and Modernization Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) FORMER NINTH CIRCUIT.—The term "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act.

(2) NEW NINTH CIRCUIT.—The term "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 3(2)(A).

(3) TWELFTH CIRCUIT.—The term "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 3(2)(B).

SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking "thirteen" and inserting "fourteen"; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .... California, Guam, Hawaii, Northern Mariana Islands.";

and

(B) by inserting after the item relating to the eleventh circuit the following:

"Twelfth .... Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.".

SEC. 4. JUDGESHIPS.

(a) NEW JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 5 additional circuit judges for the new ninth circuit court of appeals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the former ninth circuit court of appeals, whose official duty stations shall be in California.

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 5. NUMBER OF CIRCUIT JUDGES.

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .... 20";

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth .... 14".

SEC. 6. PLACES OF CIRCUIT COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth .... Honolulu, Pasadena, San Francisco.";

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth .... Las Vegas, Missoula, Phoenix, Portland, Seattle.".

SEC. 7. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

The offices of the Circuit Executive of the Twelfth Circuit and the Clerk of the Court of the Twelfth Circuit shall be located in Phoenix, Arizona.

SEC. 8. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this Act—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) is in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 9. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 10. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 8, or

(2) who elects to be assigned under section 9,

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 11. APPLICATION TO CASES.

The following apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pending on or after the effective date of this Act, the petition shall be considered by the court of appeals to which it would have been submitted had this Act been in full force and effect at the time that the appeal or other proceeding was filed with the court of appeals.

SEC. 12. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.

Section 291 of title 28, United States Code, is amended by adding at the end the following:

"(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit.

"(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit.".

SEC. 13. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.

Section 292 of title 28, United States Code, is amended by adding at the end the following:

"(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

"(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

"(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

"(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

"(h) Any designations or assignments under subsection (f) or (g) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.".

SEC. 14. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act and the amendments made by this Act. Such court shall cease to exist for administrative purposes 2 years after the date of enactment of this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, including funds for additional court facilities.

SEC. 16. EFFECTIVE DATE.

Except as provided in section 4(c), this Act and the amendments made by this Act shall take effect 12 months after the date of enactment of this Act.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 1848. A bill to promote remediation of inactive and abandoned mines, and for other purposes; to the Committee on Environment and Public Works.

Mr. SALAZAR. Mr. President, I rise to make a statement regarding an important bill I am introducing today. It is a bill that is meant to provide a straightforward and commonsense fix to a nettlesome problem that plagues communities throughout the west: pollution from abandoned mines.

The bill simply says that we should make life easier for Good Samaritans. Surprisingly, that is not currently the case.

The Western United States is pockmarked with old mines and mining residues, and many of these sites continuously pollute the water, the land, and the air. Our rivers and streams suffer particularly from this type of pollution.

In many cases, no one alive is legally responsible for cleaning these sites. In other cases, those who are legally responsible lack the money or other resources necessary to clean them up, and the pollution continues.

Fortunately, some people and some companies are willing to clean up mine sites in whole or in part, even though they are not legally responsible. These are Good Samaritans.

They act for many reasons. Some are people who live nearby and suffer directly from the pollution. Others are companies that want to perform a service to the community and to address less fortunate aspects of the history of the mining industry. Still others act for other reasons.

Unfortunately, though, our environmental laws create great risks of broad, long term, and very expensive liabilities for anyone who acts at a mine site, even if they act only as Good Samaritans. This problem understandably dissuades Good Samaritans from cleaning mine sites.

My bill is designed to fix this problem. It is written to encourage meritorious projects to proceed provided they have the full approval of the governments involved and full participation by the public—all to benefit the environment.

This bill intentionally is simple and intentionally straightforward. No Good Samaritan project will proceed unless it creates a true, overall environmental benefit. No project will gain approval unless the U.S. Environmental Protection Agency, the state involved, and local authorities affected agree that it is a good thing. The public will be fully involved in the process from the very beginning.

And, finally, the permit system and the standards in the bill are intentionally uncomplicated, so that permits for simple projects can be issued using simple proceedings.

My idea is to make clear that the work of Good Samaritans is very welcome. Some cleanup of the environment in these circumstances is far better than none at all.

The bill encourages Good Samaritans to clean pollution by freeing them from the large environmental liabilities that ordinarily burden anyone who acts to fix the pollution.

The bill applies to the cleanup of non-coal inactive and abandoned mines anywhere in the United States.

Its approach—which wraps all environmental requirements for a Good Samaritan project into a single permit that must be agreed to first by the Federal Government, the affected State, and local communities—is straightforward.

Its inclusion of the states and local communities as well as the affected publics—including by assuring that State and local authorities have a say in the provision of any permit—are based on the best traditions of the west.

And its impact is clear—only projects that benefit the environment will be permitted, and the work done pursuant to that permit will be afforded clear legal protection.

I am proud of this bill. It is the result of a series of meetings I held around my state earlier this year. And it is endorsed by the National Mining Association, the Colorado Mining Association, and the Great State of Colorado.

It is the right thing to do, and I look forward to working with my colleagues to ensure its enactment.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cleanup of Inactive and Abandoned Mines Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government and State governments encouraged hard rock mining in the United States through a wide variety of laws, policies, and actions;

(2) the mining activities that took place disturbed public and private land, and those disturbances led to considerable environmental pollution;

(3) many areas in which hard rock mining took place in the United States are now inactive and abandoned mine sites;

(4) many inactive and abandoned mine sites pollute the environment today and will continue to do so indefinitely unless remediated;

(5) adits and other tunnels will continue to drain pollutants to surface and ground water through gravity flow;

(6) surface runoff will continue to pick up pollutants as the runoff moves over disturbed ground and transports pollutants to surface waters; and

(7) tailings and other materials left exposed to the elements will continue to blow in the wind and pollute the atmosphere and soils;

(8) many of the individuals and corporate owners and operators of those mines, who caused this pollution, are no longer alive or in existence;

(9) some of the remaining owners and operators who remain do not have resources that are adequate to conduct remediation properly under applicable environmental laws, for all practical purposes leaving no one responsible for the cleanup of pollution from those sites;

(10) inactive and abandoned mine sites are located in areas of known economic mineralization;

(11) modern mining activities often take place on or in the vicinity of the area in which historic hard rock mining activities took place;

(12) from time to time, individuals and companies are willing to remediate historic mine sites for the public good as Good Samaritans, despite the fact that these individuals and companies are not legally required to remediate the mine sites;

(13) Good Samaritan remediation activities may—

(A) vary in size and complexity;

(B) reflect the myriad ways that mine residue may be cleaned up; and

(C) include, among other activities—

(i) the relocation or management of tailings or other waste piles;

(ii) passive or active water treatment;

(iii) runoff or run-on controls; and

(iv) the use or reprocessing of, or removal of materials from, mine residue;

(14) the potential environmental liabilities that may attach to those Good Samaritans as a result of the remediation can dissuade those Good Samaritans from acting for the public good;

(15) it is in the interest of the United States, the States, and local communities to remediate historic mine sites, in appropriate circumstances and to the maximum extent practicable, so that the environmental impacts of the sites are lessened into the future; and

(16) if appropriate protections are provided for Good Samaritans, Good Samaritans will have a greater incentive to remediate those sites for the public good.

(b) PURPOSES.—The purposes of this Act are—

(1) to encourage partial or complete remediation of inactive and abandoned mining sites for the public good by persons who are not otherwise legally responsible for the remediation;

(2) to provide appropriate protections for Good Samaritans under applicable environmental laws;

(3) to ensure that remediation performed by Good Samaritans creates actual and significant environmental benefits;

(4) to ensure that remediation by Good Samaritans is carried out—

(A) with the approval and agreement, and in the discretion, of affected Federal, State, and local authorities and with review by the public; and

(B) in a manner that is beneficial to the environment and all affected communities; and

(5) to create an efficient permit process under which the cost and complexity of obtaining a permit are commensurate with the scope of remediation work to be completed and the environmental benefits from the work;

(6) to avoid permitting for ongoing, for-profit businesses that specialize in multiple Good Samaritan projects that are designed to be permitted outside otherwise applicable Federal, State, and local environmental laws; and

(7) to ensure that the protections for Good Samaritans provided in this Act are interpreted in accordance with the purposes of this Act and to enhance the public good.

SEC. 3. REMEDIATION OF INACTIVE OR ABANDONED MINES BY GOOD SAMARITANS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COOPERATING AGENCY.—The term "cooperating agency" means any Federal, State, or local agency or other person (other than the Administrator) that—

(A) is authorized under Federal or State law, or local ordinance, to participate in issuing a permit under this section; and

(B) elects to participate in the process of issuing the permit.

(3) ENVIRONMENTAL LAW.—The term "environmental law" includes—

(A) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(C) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(D) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(E) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(F) the Clean Air Act (42 U.S.C. 7401 et seq.);

(G) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.);

(H) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(I) applicable environmental laws of a State; and

(J) applicable environmental ordinances of a political subdivision of a State.

(4) GOOD SAMARITAN.—The term "Good Samaritan" means a person that—

(A) is unrelated, by operation or ownership (except solely through succession to title), to the historic mine residue to be remediated under this section;

(B) had no role in the creation of the historic mine residue;

(C) had no significant role in the environmental pollution caused by the historic mine residue; and

(D) is not liable under any Federal, State, or local law for the remediation of the historic mine residue.

(5) HISTORIC MINE RESIDUE.—

(A) IN GENERAL.—The term "historic mine residue" means mine residue or conditions at an inactive or abandoned mine site that pollute the environment.

(B) INCLUSIONS.—The term "historic mine residue" may include, among other materials—

(i) ores;

(ii) minerals;

(iii) equipment (or materials in equipment);

(iv) wastes from extractions, beneficiation, or other processing; and

(v) acidic or otherwise polluted flows in surface or ground water.

(6) INACTIVE OR ABANDONED MINE SITE; MINE SITE.—The terms "inactive or abandoned mine site" and "mine site" mean the site of a mine and associated facilities that—

(A) were used for the production of a mineral other than coal;

(B) have historic mine residue; and

(C) are abandoned or inactive as of the date on which an application is submitted for a permit under this section.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) PERSON.—The term "person" includes—

(A) an individual;

(B) a firm;

(C) a corporation;

(D) an association;

(E) a partnership;

(F) a consortium;

(G) a joint venture;

(H) a commercial entity;

(I) a nonprofit organization;

(J) the Federal Government;

(K) a State;

(L) a political subdivision of a State;

(M) an interstate entity; and

(N) a commission.

(9) STATE.—The term "State" means—

(A) a State; and

(B) an Indian tribe.

(b) PERMITS.—The Administrator may issue a permit to a Good Samaritan to carry out a project to remediate all or part of an inactive or abandoned mine site in accordance with this section.

(c) ELIGIBILITY FOR PERMITS.—

(1) IN GENERAL.—To be eligible for a permit to carry out a project to remediate an inactive or abandoned mine site in a State under this section—

(A) the mine site shall be located in the United States;

(B) the principal purpose of the project shall be the reduction of pollution caused by historic mine residue;

(C) the mine site may not be a mine site included on the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)) except in a case in which the Administrator determines, on a case-by-case basis, that—

(i) the remediation project proposed to be carried out at the mine site is minor as compared to all remediation activity needed at the listed mine site;

(ii) the conduct of the proposed remediation project at the listed mine site will not interfere with any other remediation at the mine site that is reasonably likely to occur; and

(iii) except for the remediation project proposed by the Good Samaritan at the mine site under this Act, there is not likely to be remediation of the historic mine residue that is the subject of the project at the listed mine site in the reasonably foreseeable future;

(D) the permit shall authorize only those activities that are directly required for the remediation of historic mine residue at the mine site;

(E) the person obtaining the permit shall be a Good Samaritan; and

(F) a State remediation program described in subsection (d) shall be in effect for remediation of the mine site.

(2) OTHER ACTIVITIES.—Any activity other than the activities described in paragraph (1)(D) conducted by the permittee or any other person at the mine site (including, without limitation, any mining or processing in addition to that required for the remediation of historic mine residue for the public good)—

(A) shall not be authorized under a permit issued under this section; and

(B) may be authorized under other applicable laws, including environmental laws.

(d) STATE REMEDIATION PROGRAM.—

(1) IN GENERAL.—Before a permit may be issued to carry out a project in a State under this section, the State shall have in effect a State remediation program that meets the requirements of this subsection.

(2) REQUIREMENTS.—To meet the requirements of this subsection, under the State remediation program, the State shall—

(A) agree to participate, as a signatory, in each project for a which a permit for remediation in the State is issued under this section;

(B) agree that a permittee shall comply with the terms and conditions of the permit in lieu of compliance with applicable environmental laws specifically described in the permit in accordance with subsection (h)(1)(B);

(C) authorize State agencies and political subdivisions of the State to participate in the permit process under this section, as appropriate, and assist in providing the resources to enable that participation; and

(D) designate a lead State agency that is responsible to carry out permitting responsibilities of the State under this section.

(e) APPLICATION FOR PERMITS.—To obtain a permit to carry out a project to remediate an inactive or abandoned mine site under this section, an applicant shall submit to the Administrator an application, signed by the applicant, that provides—

(1) a description of the mine site (including the boundaries of the mine site);

(2) an identification of—

(A) any current owner or operator of the mine site; and

(B) any person with a legal right to exclude other persons from the mine site or affect activities on the mine site, with a description of those legal rights;

(3) evidence satisfactory to the Administrator that the applicant has or will acquire all legal rights necessary to enter the mine site and to perform the remediation described in the application;

(4) a description, based on the conduct of an inquiry that is reasonable under the circumstances, of—

(A) all persons that may be legally responsible for the remediation of the mine site; and

(B) any relationship between those persons and the applicant;

(5) a certification that the applicant knows of no other person that (as of the date of submission of the application)—

(A) is potentially legally responsible for the remediation of the mine site; and

(B) has sufficient resources to complete the remediation;

(6) a detailed description of the historic mine residue to be remediated;

(7) a description of the baseline conditions (as of the date of submission of the application) of the environment affected by the historic mine residue to be remediated;

(8) a description of—

(A) the nature and scope of the proposed remediation; and

(B) detailed engineering plans for the project;

(9) a description of the manner in which the remediation will assist the mine site in meeting, to the maximum extent reasonable and practicable under the circumstances, water quality standards;

(10) a schedule for the work to be carried out under the project;

(11) a budget for the work to be carried out under the project;

(12) a description of financial assurances, if any, to be provided by the permittee to ensure that the permitted work, including any operation and maintenance, will be completed;

(13) a description of a monitoring program following remediation (if any) that will be implemented to evaluate the effects of the remediation on the environment;

(14) a detailed plan for the required operation and maintenance of any remediation; and

(15) a list of all environmental laws for which the applicant seeks the protection described in paragraphs (1) and (2) of subsection (g).

(f) PERMIT ISSUANCE.—

(1) IN GENERAL.—The Administrator may issue a permit under this section to carry out a project for the remediation of an inactive or abandoned mine site in a State only if—

(A) the Administrator determines that—

(i) the project will improve the environment on or in the area of the mine site to a significant degree, as determined by the Administrator;

(ii) the project will not degrade any aspect of the environment in any area to a significant degree;

(iii) the project will meet applicable water quality standards, to the maximum extent reasonable and practicable under the circumstances;

(iv) the permittee has the financial and other resources to complete, and will complete, the permitted work; and

(v) the project meets the requirements of this section;

(B) the State concurs with the issuance of, and signs, the permit;

(C) if the permit provides protection for the permittee under an environmental law of a political subdivision of a State in accordance with paragraphs (1) and (2) of subsection (g), the political subdivision concurs with the issuance of, and signs, the permit; and

(D) if the proposed project is to be carried out on Federal land, each State (or political subdivision) within which the Federal land is located meets the requirements of subparagraphs (B) and (C).

(2) DISCRETIONARY ACTIONS.—The issuance of a permit by the Administrator, and the concurrence of the affected State and political subdivisions of a State to participate in the permit process, shall be discretionary actions and shall be taken in the public interest.

(3) FUNCTIONAL EQUIVALENCY.—No action of the Administrator or any other person pursuant to this section shall constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(4) DEADLINE.—

(A) IN GENERAL.—The Administrator shall issue or deny a permit for the remediation of a mine site not later than—

(i) the date that is 180 days after the date of receipt by the Administrator of an application for the permit that, as determined by the Administrator, is complete; or

(ii) such later date as may be determined by the Administrator with the agreement of the applicant.

(B) CONSTRUCTIVE DENIAL.—If the Administrator fails to issue or deny the permit in accordance with subparagraph (A), the application shall be considered to be denied by the Administrator.

(5) REVIEW FOR CERTAIN PROJECTS.—A project that, as determined by the Administrator, would be less complex, or pose less risk, than other projects under review by the Administrator for a permit under this section, may be reviewed, at the discretion of the Administrator, under a more simple and rapid review process under this subsection.

(g) EFFECT OF PERMITS.—

(1) IN GENERAL.—A permit issued under this section to carry out a project for the remediation of an inactive or abandoned mine site—

(A) authorizes the permittee to carry out the activities described in the permit;

(B) authorizes enforcement under this section; and

(C) provides to the permittee, in carrying out the activities authorized under the permit, protection from actions taken, obligations, and liabilities arising under the environmental laws specified in the permit.

(2) CROSS-COMPLIANCE.—A permittee shall comply with the terms and conditions of a permit issued under this section in lieu of compliance with the environmental laws specified in the permit with respect to the work authorized under the permit.

(h) CONTENT OF PERMITS.—

(1) IN GENERAL.—A permit issued under this section shall contain—

(A) a detailed description of the engineering and other work that is authorized under the permit;

(B) a specific list of environmental laws, or selected provisions of environmental laws, with respect to which compliance with the permit will operate in lieu of compliance with the laws;

(C) a provision that states that the permittee is responsible for securing, for all activities authorized under the permit, all authorizations, licenses, and permits that are required under applicable law, other than the environmental laws described in subsection (g)(2); and

(D) any other terms and conditions that are determined to be appropriate by the Administrator.

(2) INVESTIGATIVE SAMPLING.—

(A) IN GENERAL.—A permit may identify an appropriate program of investigative sampling to be completed prior to remediation, as determined by the Administrator upon application.

(B) OPTION TO DECLINE REMEDIATION.—In the event that investigative sampling is authorized, the permit may allow the permittee to decline to undertake remediation based upon sampling results.

(C) PERMIT MODIFICATION.—Based upon sampling results, a permittee may apply for a permit modification using the permit procedures in this Act.

(3) TIMING.—Work authorized under a permit shall—

(A) commence not later than the date that is 18 months after the date of issuance of the permit; and

(B) continue until completed, with temporary suspensions permitted during adverse weather or other conditions specified in the permit.

(4) SIGNATURE BY PERMITTEE.—The signature of the permittee on the permit shall be considered to be an acknowledgment by the permittee that the permittee accepts the terms and conditions of the permit.

(5) TRANSFER OF PERMITS.—A permit may be transferred to another person only if—

(A) the Administrator determines that the transferee will satisfy all of the requirements of the permit;

(B) the transferee signs the permit; and

(C) the Administrator includes in the transferred permit any additional conditions necessary to meet the goals of this section.

(6) TERMINATION OF PERMIT.—The authority to carry out work under a permit issued under this section shall terminate if the work does not commence by the date that is 18 months after the date of issuance of the permit.

(i) ROLE OF ADMINISTRATOR.—In carrying out this section, the Administrator shall—

(1) consult with prospective applicants;

(2) accept permit applications under this section;

(3) convene, coordinate, and lead the application review process;

(4) maintain all records relating to the permit and the permit process;

(5) provide an opportunity for cooperating agencies and the public to participate in the permit process;

(6) issue the permit under this section, if appropriate; and

(7) enforce and otherwise carry out this section.

(j) COOPERATING AGENCIES.—If the Administrator learns that an application for the remediation of a mine site under this section will be submitted to the Administrator, the Administrator shall (as soon as practicable) provide a notice of the application to—

(1) the lead State agency designated under subsection (d)(2)(D);

(2) each local government located within a radius of 20 miles of the mine site; and

(3) each Federal and State agency that may have an interest in the application.

(k) PUBLIC PARTICIPATION.—

(1) POTENTIAL SUBMISSION OF APPLICATIONS.—If the Administrator learns that an application for the remediation of a mine site under this section will be submitted to the Administrator, the Administrator shall (as soon as practicable) provide to the public a notice that describes—

(A) the location of the mine site;

(B) the scope and nature of the proposed remediation; and

(C) the name of the Good Samaritan that will be carrying out the proposed remediation.

(2) RECEIPT OF APPLICATION.—If the Administrator receives an application for the remediation of a mine site under this section, the Administrator shall (as soon as practicable) provide to the public a notice that provides the information described in paragraph (1).

(3) HEARING.—

(A) IN GENERAL.—Not later than 45 days after the date of receipt of a complete application for the remediation of a mine site under this section, the Administrator shall hold a hearing in the vicinity of the mine site to be remediated.

(B) COMMENTS.—At the hearing, the Administrator shall provide the applicant, the public, and cooperating agencies with the opportunity to comment on the application.

(4) NOTICE OF PENDING ISSUANCE.—Not less than 14 days before the date of issuance of a permit for the remediation of a mine site under this section, the Administrator shall provide to the public and each cooperating agency notice of the pending issuance of the permit.

(5) PUBLIC RECORDS.—All records relating to the permit and the permit process shall be considered to be public records, except to the extent the records are subject to a legal privilege.

(l) MONITORING.—

(1) IN GENERAL.—The permittee shall take such actions as the Administrator determines are necessary to ensure appropriate baseline and post-remediation monitoring of the environment under paragraphs (7) and (13) of subsection (e).

(2) ADMINISTRATION.—When selecting the type and frequency of the monitoring requirements to be included in a permit, if any, the Administrator shall—

(A) balance the need for monitored information against the cost of the monitoring, based on the circumstances relating to the remediation; and

(B) take into account the scope of the project.

(3) MULTIPARTY MONITORING.—The Administrator may approve in a permit the conduct of monitoring by multiple parties if, as determined by the Administrator, the multiparty monitoring will effectively accomplish the goals of this section.

(m) ENFORCEMENT.—

(1) CIVIL PENALTY.—Any person who violates a permit issued under this section shall be subject to a civil penalty of up to $10,000 for each day of the violation.

(2) INJUNCTIONS.—

(A) IN GENERAL.—A court may issue an injunction—

(i) mandating that a person comply with a permit or take action to abate a permit violation; or

(ii) prohibiting a person from violating a permit.

(B) MINIMUM REQUIREMENT.—In the event of a permit violation, and absent extraordinary circumstances, the court shall, at a minimum, require—

(i) the permittee to repair the damage to any part of the environment that is caused by an action of the permittee in violation of the permit; and

(ii) the environment to be restored to the condition of the environment prior to the action of the permittee in violation of the permit.

(3) AGENCIES.—Any government agency that signs a permit issued under this section may enforce the permit through appropriate administrative or judicial proceedings.

(n) JUDICIAL REVIEW.—A court may set aside or modify an action of the Administrator in issuing a permit under this section, or an action of a State or political subdivision of a State in signing a permit, only on clear and convincing evidence of an abuse of discretion.

(o) SAVINGS PROVISIONS.—

(1) EMERGENCY AUTHORITY.—Nothing in this section affects the authority of a Federal, State, or local agency to carry out any emergency authority, including an emergency authority provided under any environmental law listed in a permit.

(2) LIABILITY.—Except to the extent that a permit provides protection under an environmental law specified in a permit in accordance with subsection (g)(1)(C), nothing in this section or a permit issued under this section limits the liability of any person (including a permittee) under any other provision of law.

(p) REGULATIONS.—

(1) IN GENERAL.—The Administrator may promulgate such regulations as are necessary to carry out this section.

(2) EFFECTIVENESS.—This section shall be effective regardless of whether regulations are promulgated by the Administrator under paragraph (1).

By Mr. SALAZAR:

S. 1850. A bill to amend the Energy Policy Act of 2005 to accelerate the availability of various income tax credits providing incentives for energy incentives, and for other purposes, to the Committee on Finance.

By Mr. SALAZAR

S. 1851. A bill to amend section 30123 of title 49, United States Code, to require replacement tires for passenger vehicles to meet the standards required for tires on new vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. SALAZAR

S. 1852. A bill to amend the Internal Revenue Code of 1986 to reduce the incentive to purchase larger and luxury vehicles; to the Committee on Finance.

By Mr. SALAZAR

S. 1853. A bill to amend the National Energy Conservation Policy Act to require Federal agencies to take certain actions to reduce employee vehicle consumption, and for other purposes, to the Committee on Energy and Natural Resources.

By Mr. SALAZAR

S. 1854. A bill to prohibit price gouging for commodities and services sold during national emergency situations; to the Committee on the Judiciary.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rapid Efficiency Credit Act of 2005".

SEC. 2. ACCELERATION OF CERTAIN ENERGY INCOME TAX CREDITS.

Sections 1333(c), 1335(c), 1336(e), 1337(d), 1341(c), and 1342(c) of the Energy Policy Act of 2005 are each amended by striking "December 31, 2005" and inserting "the date of the enactment of the Rapid Efficiency Credit Act of 2005".

SEC. 3. CREDIT FOR ENERGY STAR COMPLIANT COMPACT FLUORESCENT LIGHT BULBS.

(a) ALLOWANCE OF CREDIT.—Subsection (a) of section 25D(a) of the Internal Revenue Code of 1986 (relating to residential energy efficient property) is amended—

(1) by striking "and" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting ", and", and

(3) by adding at the end the following new paragraph:

"(4) 30 percent of the qualified compact fluorescent light expenditures made by the taxpayer during such year.".

(b) MAXIMUM CREDIT.—Subsection (b)(1) of section 25D of such Code is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) $50 with respect to any qualified compact fluorescent light expenditure.".

(c) DEFINITION.—Section 25D(d) of such Code is amended by adding at the end the following new paragraph:

"(4) QUALIFIED COMPACT FLUORESCENT LIGHT EXPENDITURE.—The term 'qualified compact fluorescent light expenditure' means an expenditure for Energy Star compliant compact fluorescent light bulbs for use in a dwelling unit located in the United States and used as a residence by the taxpayer.".

(d) LABOR COSTS NOT INCLUDED.—Section 25D(e)(1) of such Code is amended by inserting "(other than paragraph (4) thereof)" after "subsection (d)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

S. 1851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FUEL ECONOMY STANDARDS.

(a) IN GENERAL.—Section 30123 of title 49, United States Code, is amended by adding at the end the following:

"(d) FUEL ECONOMY.—(1) Replacement tires for passenger motor vehicles (as defined in section 32101 of this title) shall meet the standards required for tires on new vehicles under part 571 of title 49, Code of Federal Regulations, including standards affecting fuel economy.

"(2) Nothing in this section shall apply to—

"(A) a tire, or a group of tires with the same SKU number, plant, and year, for which the volume of tires produced or imported annually is fewer than 15,000;

"(B) a deep tread, winter-type, snow tire, space saver tire, or temporary use spare tire;

"(C) a tire with a normal rim measuring not more than 12 inches in diameter;

"(D) a motorcycle tire; or

"(E) a tire manufactured specifically for use in an off-road motorized recreational vehicle.".

(b) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule regarding policies and procedures for testing and labeling tires for fuel economy that—

(1) secures the maximum technically feasible and cost-effective fuel savings;

(2) does not adversely affect tire safety;

(3) does not adversely affect average tire life; and

(4) establishes minimum fuel economy standards for tires.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the expiration of the date that is 180 days after the date of enactment of this Act.

S. 1852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reducing the Incentives to Guzzle Gas Act".

SEC. 2. INCLUSION OF HEAVY VEHICLES IN LIMITATION ON DEPRECIATION OF CERTAIN LUXURY AUTOMOBILES.

(a) IN GENERAL.—Section 280F(d)(5)(A) of the Internal Revenue Code of 1986 (defining passenger automobile) is amended—

(1) by striking clause (ii) and inserting the following new clause:

"(ii)(I) which is rated at 6,000 pounds unloaded gross vehicle weight or less, or

"(II) which is rated at more than 6,000 pounds but not more than 14,000 pounds gross vehicle weight.",

(2) by striking "clause (ii)" in the second sentence and inserting "clause (ii)(I)".

(b) EXCEPTION FOR VEHICLES USED IN FARMING BUSINESS.—Section 280F(d)(5)(B) of such Code (relating to exception for certain vehicles) is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) any vehicle used in a farming business (as defined in section 263A(e)(4), and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3. UPDATED DEPRECIATION DEDUCTION LIMITS.

(a) IN GENERAL.—Subparagraph (A) of section 280F(a)(1) of the Internal Revenue Code of 1986 (relating to limitation on amount of depreciation for luxury automobiles) is amended to read as follows:

"(A) LIMITATION.—The amount of the depreciation deduction for any taxable year shall not exceed for any passenger automobile—

"(i) for the 1st taxable year in the recovery period—

"(I) described in subsection (d)(5)(A)(ii)(I), $4,000,

"(II) described in the second sentence of subsection (d)(5)(A), $5,000, and

"(III) described in subsection (d)(5)(A)(ii)(II), $6,000,

"(ii) for the 2nd taxable year in the recovery period—

"(I) described in subsection (d)(5)(A)(ii)(I), $6,400,

"(II) described in the second sentence of subsection (d)(5)(A), $8,000, and

"(III) described in subsection (d)(5)(A)(ii)(II), $9,600,

"(iii) for the 3rd taxable year in the recovery period—

"(I) described in subsection (d)(5)(A)(ii)(I), $3,850,

"(II) described in the second sentence of subsection (d)(5)(A), $4,800, and

"(III) described in subsection (d)(5)(A)(ii)(II), $5,775, and

"(iv) for each succeeding taxable year in the recovery period—

"(I) described in subsection (d)(5)(A)(ii)(I), $2,325, "(II) described in the second sentence of subsection (d)(5)(A), $2,900, and

"(III) described in subsection (d)(5)(A)(ii)(II), $3,475.".

(b) Years After Recovery Period.—Section 280F(a)(1)(B)(ii) of such Code is amended to read as follows:

"(ii) Limitation.—The amount treated as an expense under clause (i) for any taxable year shall not exceed for any passenger automobile—

"(I) described in subsection (d)(5)(A)(ii)(I), $2,325,

"(II) described in the second sentence of subsection (d)(5)(A), $2,900, and

"(III) described in subsection (d)(5)(A)(ii)(II), $3,475.".

(c) Inflation Adjustment.—Section 280F(d)(7) of such Code (relating to automobile price inflation adjustment) is amended—

(1) by striking "after 1988" in subparagraph (A) and inserting "after 2006", and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Automobile price inflation adjustment.—For purposes of this paragraph—

"(i) In general.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

"(I) the average wage index for the preceding calendar year, exceeds

"(II) the average wage index for 2005.

"(ii) Average wage index.—The term 'average wage index' means the average wage index published by the Social Security Administration.".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 4. EXPENSING LIMITATION FOR FARM VEHICLES.

(a) In General.—Paragraph (6) of section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended to read as follows:

"(6) Limitation on cost taken into account for farm vehicles.—The cost of any vehicle described in section 280F(d)(5)(B)(iii) for any taxable year which may be taken into account under this section shall not exceed $30,000.".

(b) Effective Date.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

S. 1853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reduce Government Fuel Consumption Act of 2005".

SEC. 2. REDUCTION OF EMPLOYEE VEHICLE FUEL CONSUMPTION BY FEDERAL AGENCIES.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) (as amended by section 103 of the Energy Policy Act of 2005 (Public Law 109-58)) is amended by adding at the end the following:

"(f) Reduction of Employee Vehicle Fuel Consumption by Federal Agencies.—

"(1) In general.—Each agency shall take such actions as are necessary to reduce the level of fuel consumed by vehicles of employees of the agency (other than fuel used for military purposes), in connection with the employment of the employees, by (to the maximum extent practicable) at least 10 percent during the 1-year period beginning on the date of enactment of this subsection.

"(2) Methods.—An agency may use such methods as the agency determines are appropriate to achieve the target established by paragraph (1), including—

"(A) telework;

"(B) carpooling;

"(C) bicycling and walking to work;

"(D) fuel-efficient trip planning;

"(E) public transportation use; and

"(F) limiting travel days for vehicle travel outside the office.

"(3) Measurement.—An agency may use such measures as the agency determines are appropriate to determine whether the agency has achieved the target established by paragraph (1), including—

"(A) a reduction in travel vehicle travel miles reimbursed by the agency; and

"(B) certification of the methods described in paragraph (2).".

S. 1854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Treat Emergency Victims Fairly Act of 2005".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Price gouging in emergencies, including natural disasters and other emergencies, is reprehensible commercial activity.

(2) Emergencies place great strains on commercial and consumer relationships in the areas affected.

(3) Emergencies can strain commercial and consumer relationships in areas beyond those directly damaged or affected by the emergency.

(4) It is an unfortunate truth that some will try to take advantage of others in emergency situations by price gouging for consumer and other commercial goods or services.

(5) Price gouging can take place prior to, during, and following natural disasters and other emergencies.

(6) Price gouging in commercial and consumer settings affects interstate commerce.

(7) Price gouging—

(A) distorts markets without regard to State lines;

(B) disturbs and interferes with the flow of commodities and services across State lines; and

(C) creates or exacerbates shortages and interruptions of supplies of materials across State lines.

(8) It is in the interest of the United States to prohibit and deter price gouging.

SEC. 3. DEFINITIONS.

In this Act:

(1) Emergency.—The term "emergency" means a natural disaster or other circumstance or event that is formally declared to be an emergency by Federal or State authorities. An emergency may be associated with a designated area.

(2) Goods or services.—The term "goods or services" means goods or services of any type, including food, transportation, housing, and energy supplies.

(3) Person.—The term "person" means a natural person, corporation, governmental body, or other entity.

(4) Price gouging.—

(A) In general.—The term "price gouging" means charging an unreasonable and unconscionable price for a good or service immediately prior to, during, or following an emergency.

(B) Presumption.—

(i) Affirmative.—A price for a good or service is presumed to be unreasonable and unconscionable—

(I) in the designated area of an emergency if it reflects a price increase at least 10 percent greater than the average price for the good or service charged by the seller in the designated area during the 30 days prior to the formal declaration of the emergency; and

(II) outside the designated area of an emergency if the price is affected by the emergency and if the price reflects a price increase at least 10 percent greater than the average price for the good or service charged by the seller in the area of the sale during the 30 days prior to the formal declaration of an emergency.

For purposes of subclause (II), a price is presumed to be affected by the emergency if, within 30 days following the declaration of the emergency, the price is at least 25 percent greater than the average price for the good or service charged by the seller in the area of the sale during the 30 days prior to the formal declaration of the emergency.

(ii) Negative.—A price for a good or service is not unreasonable and unconscionable if it reflects only the cost of the good or service to the seller prior to the emergency, the average profit margin of the seller during the 30 days prior to the formal declaration of an emergency, and the increased costs actually incurred by the seller to sell the good or service during or following the emergency.

SEC. 4. CAUSE OF ACTION.

(a) In General.—It shall be unlawful for any seller of goods or services to engage in price gouging.

(b) Litigation.—A cause of action under this section may be brought—

(1) in Federal or State court; and

(2) by the Federal Government, through the Attorney General, or a State Government acting through its attorney general.

(c) Venue and Procedure.—

(1) Federal court.—An action in Federal court under this section may be brought in any court whose jurisdiction includes—

(A) the geographic area in which price gouging is alleged to have occurred; or

(B) the State which is a plaintiff in the action.

(2) State court.—An action in State court under this section shall conform to State rules of procedure.

(d) Expedited Federal Consideration.—An action under this section in Federal court shall receive expedited review.

(e) Investigations.—

(1) In general.—During the course of an investigation under this section by the Attorney General of the United States or a State attorney general, whether prior to filing an action or during such an action, the investigating attorney general may—

(A) order any person to file a statement, report in writing, or answer questions in writing, under oath or otherwise, concerning facts or circumstances reasonably related to alleged price gouging;

(B) order any person to provide data or information the attorney general reasonably deems to be necessary to an investigation; and

(C) issue subpoenas to require the attendance of witnesses or the production of relevant documents, administer oaths, and conduct hearings in aid of the investigation.

(2) Enforcement.—A subpoena issued under this subsection may be enforced in Federal or State court.

(3) Penalty.—Failure to comply with an order or subpoena under this subsection is subject to a civil penalty of up to $10,000.

(f) Limitation.—An action under this section shall be brought not later than 3 years of the date of the sale of the goods or services at issue.

SEC. 5. DAMAGES AND PENALTIES.

(a) IN GENERAL.—A prevailing plaintiff shall be entitled to—

(1) plaintiff's damages incurred as a result of the price gouging, including without limitation a refund of all prices paid by the plaintiff in excess of conscionable and reasonable prices;

(2) injunctive relief prohibiting the defendant from price gouging or mandating action; and

(3) attorneys fees and costs incurred by the plaintiff.

(b) RESTITUTION.—The Attorney General of the United States and a State attorney general, in an action brought on behalf of the citizens of the United States or a State, respectively, may recover restitution or disgorgement of excess profits on behalf of those citizens.

(c) CIVIL PENALTIES.—

(1) IN GENERAL.—A person who violates section 4(a) shall be subject to civil penalties of up to $10,000 per incident.

(2) DISPOSITION OF PENALTIES.—Civil penalties collected through an action by the United States Attorney General shall be deposited in the United States Treasury. Civil penalties collected through an action by an attorney general of a State shall be deposited in the State's treasury. The court may apportion the deposit of civil penalties as appropriate in the circumstances.

SEC. 6. ATTORNEY GENERAL AUTHORITIES.

The Attorney General of the United States shall—

(1) provide assistance to and cooperate with the States in State investigations of price gouging and in State litigation brought under this Act;

(2) create and disseminate guidelines designed to assist the public to recognize and report price gouging and establish a system to gather and disseminate information about instances of reported price gouging; and

(3) provide grants to offices of the State attorneys general of not greater than $50,000 in order to support the pursuit of price gouging investigations and other activities.

SEC. 7. SAVINGS PROVISION.

This Act shall not preempt or otherwise affect any State or local law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 268—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR SCULPTOR KORCZAK ZIOLKOWSKI

Mr. JOHNSON (for himelf, Mr. THUNE, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 268

Whereas Korczak Ziolkowski was born in Boston, Massachusetts on September 6, 1908, the 31st anniversary of the death of Lakota leader Crazy Horse;

Whereas, although never trained in art or sculpture, Korczak Ziolkowski began a successful studio career in New England as a commissioned sculptor at age 24;

Whereas Korczak Ziolkowski's marble sculpture of composer and Polish leader Ignace Jan Paderewski won first prize at the 1939 New York World's Fair and prompted Lakota Indian Chiefs to invite Ziolkowski to carve a memorial for Native Americans;

Whereas in his invitation letter to Korczak Ziolkowski, Chief Henry Standing Bear wrote: "My fellow chiefs and I would like the white man to know that the red man has great heroes, also.";

Whereas in 1939, Korczak Ziolkowski assisted Gutzon Borglum for a brief time in carving Mount Rushmore;

Whereas in 1941, Korczak Ziolkowski met with Chief Henry Standing Bear who taught Korczak more about the life of the brave Lakota leader Crazy Horse;

Whereas at the age of 34, Korczak Ziolkowski temporarily put his sculpturing career aside when he volunteered for service in World War II, later landing on Omaha Beach;

Whereas after the war, Korczak Ziolkowski turned down other sculpting opportunities in order to accept the invitation of Chief Henry Standing Bear and dedicate the rest of his life to carving the Crazy Horse Memorial in the Black Hills of South Dakota;

Whereas on June 3, 1948, when work was begun on the Crazy Horse Memorial, Korczak Ziolkowski vowed that the memorial would be a nonprofit educational and cultural project, financed solely through private, nongovernmental sources, to honor the Native Americans of North America;

Whereas the Crazy Horse Memorial is a mountain carving-in-progress, and once completed it will be the largest sculpture in the world;

Whereas since his death on October 20, 1982, Korczak's wife Ruth, the Ziolkowski family, and the Crazy Horse Memorial Foundation have continued to work on the Memorial and to continue the dream of Korczak Ziolkowski and Chief Henry Standing Bear; and

Whereas on June 3, 1998, the Memorial entered its second half century of progress and heralded a new era of work on the mountain with the completion and dedication of the face of Crazy Horse: Now, therefore, be it

Resolved, That—

(1) the Senate recognizes—

(A) the admirable efforts of the late Korczak Ziolkowski in designing and creating the Crazy Horse Memorial;

(B) that the Crazy Horse Memorial represents all North American Indian tribes, and the noble goal of reconciliation between peoples; and

(C) that the creation of the Crazy Horse Memorial, from its inception, has been accomplished through private sources and without any Federal funding; and

(2) it is the sense of the Senate that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued in honor of sculptor Korczak Ziolkowski and the Crazy Horse Memorial, commemorating his 100th birthday.

SENATE RESOLUTION 269—EXPRESSING THE SENSE OF THE SENATE THAT A "WELCOME HOME VIETNAM VETERANS DAY" SHOULD BE ESTABLISHED

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 269

Whereas the Vietnam War took place in Vietnam from 1961 to 1975 in which North Vietnam and the Viet Cong were in conflict with the United States and South Vietnam;

Whereas the United States became involved in Vietnam because policy makers in the United States believed that if South Vietnam fell to a communist government then communism would spread throughout the rest of Southeast Asia;

Whereas members of the United States Armed Forces began serving in an advisory role to the people of South Vietnam in 1961;

Whereas, as a result of the Gulf of Tonkin incidents on August 2, 1964 and August 4, 1964, Congress overwhelmingly passed the Joint Resolution entitled "Joint Resolution to promote the maintenance of international peace and security in southeast Asia", approved August 10, 1964 (Public Law 88-408; 78 Stat. 384), which effectively granted war-making powers to President Johnson until such time as "peace and security" had returned to Vietnam;

Whereas, in 1965, ground combat units of the United States Armed Forces arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 troops of the United States Armed Forces in Vietnam, and by 1969 the number of troops reached a peak of approximately 543,000;

Whereas, on January 27, 1973, the Paris Peace Accords were signed, which required the release of all United States prisoners-of-war held in North Vietnam and the withdrawal of all members of the United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the United States Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing-in-action in Vietnam;

Whereas, as of 2005, more than 1,800 members of the United States Armed Forces remain unaccounted for in Vietnam and Southeast Asia and the Department of Defense continues efforts to recover these members;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught, upon their return home, in the middle of public debate about the involvement of the United States in the Vietnam War;

Whereas the Department of Veterans Affairs estimates that 250,000 veterans are homeless every night and that 47 percent of all homeless veterans served during the Vietnam era;

Whereas veterans of the Vietnam War continue to be at risk for post-traumatic stress disorder and health problems related to Agent Orange exposure;

Whereas veterans of the Vietnam War, and all veterans, are entitled to the best care and treatment the Government of the United States can provide;

Whereas the establishment of a "Welcome Home Vietnam Veterans Day" would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Whereas March 30, 2006 would be an appropriate day to establish as "Welcome Home Vietnam Veterans Day": Now, therefore, be it

Resolved, That it is the sense of the Senate that a "Welcome Home Vietnam Veterans Day" should be established to honor those members of the United States Armed Forces who served in Vietnam.

Mrs. BOXER. Mr. President, I am pleased to submit a resolution today expressing the sense of the Senate that a "Welcome Home Vietnam Veterans Day" should be established. I join Representative LINDA SÁNCHEZ in this effort and applaud her for previously submitting this resolution in the House of Representatives. Establishing this day would be an appropriate way to honor members of the United States Armed Forces who bravely and faithfully served during the Vietnam War.

During the course of the Vietnam War, over 58,000 U.S. troops lost their lives. In addition, more than 300,000 were wounded. To date, more than 1,800 members of the United States Armed Forces remain unaccounted for in Vietnam and Southeast Asia.

Those who did return home from Vietnam did not have the traditional welcome home ceremonies. And they continue to face many problems, including health problems related to Agent Orange exposure, prolonged risk for post-traumatic stress disorder, and homelessness. Of the 250,000 veterans who are homeless every night, the Department of Veterans Affairs estimates that 47 percent of them served during the Vietnam era.

Veterans of the Vietnam War, and all veterans, are entitled to the best care and treatment the U.S. Government can provide. It is important that we honor and respect their service. It is especially important to do so now, at a time when we have so many new veterans returning home from the wars in Iraq and Afghanistan.

By honoring those who have served before, we show these new veterans how committed we, as a country, are to them and how much we value the sacrifices they make on our behalf. Establishing a "Welcome Home Vietnam Veterans Day" is one way we can accomplish this. I urge my colleagues to support this resolution.

SENATE RESOLUTION 270—EXPRESSING THE SENSE OF THE SENATE THAT THE INTERNATIONAL MONETARY FUND SHOULD INVESTIGATE WHETHER CHINA IS MANIPULATING THE RATE OF EXCHANGE BETWEEN THE CHINESE YUAN AND THE UNITED STATES DOLLAR

Mr. BAYH (for himself, Ms. STABENOW, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas the global current account deficit of the United States has already reached almost $800,000,000,000 and is growing rapidly;

Whereas the global current account surplus of the People's Republic of China is likely to reach $150,000,000,000 and is also growing very rapidly;

Whereas China has intervened massively in the exchange markets to artificially block appreciation of China's currency;

Whereas China has been increasing its competitiveness by riding the dollar down against other currencies, therefore achieving a trade-weighted depreciation of about 10 percent over the past 3 years;

Whereas it is the responsibility of the International Monetary Fund to take the lead in promoting correction of such huge, costly, and potentially destabilizing imbalances in the world economy;

Whereas the International Monetary Fund's Articles of Agreement enjoin member countries to "avoid manipulating exchange rates or the international monetary system in order to prevent effective balance-of-payments adjustments or to gain unfair competitive advantage over other member countries";

Whereas the International Monetary Fund has identified "protracted, large-scale interventions in one direction in the exchange markets" as indicating a need for International Monetary Fund discussion with the offending country; and

Whereas the People's Republic of China has engaged in such manipulation and intervention: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the United States Executive Director to the International Monetary Fund to bring a general complaint under the International Monetary Fund's Articles of Agreement against the People's Republic of China for not complying with Article IV of the Articles of Agreement and manipulating the rate of exchange of its currency against other currencies to gain an unfair trade advantage and to prevent effective balance of payment adjustments.

SENATE CONCURRENT RESOLUTION 57—RECOGNIZING THE CONTRIBUTIONS OF AFRICAN-AMERICAN BASKETBALL TEAMS AND PLAYERS FOR THEIR ACHIEVEMENTS, DEDICATION, AND CONTRIBUTIONS TO THE SPORT OF BASKETBALL AND THE NATION

Ms. STABENOW (for herself and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 57

Whereas, even though African-Americans were excluded from playing in organized White-only leagues, the desire of African-Americans to play basketball could not be repressed;

Whereas, unlike baseball, which had Negro leagues, basketball had no organized Black leagues, thus forcing Blacks to take to the road out of necessity;

Whereas among the most well-known black barnstorming teams that found their beginnings in the 1920s were the New York Renaissance (or Rens), the Harlem Globetrotters, the New York Enforcers, the Harlem Clowns, the Harlem Road Kings, the Harlem Stars, the Harlem Ambassadors, and the Philadelphia Tribunes;

Whereas, despite the racism they faced, Negro basketball teams overcame great obstacles to play the game before Black players were allowed to play in the National Basketball Association in the early 1950s;

Whereas the New York Rens became one of the first great basketball dynasties in the history of the game, compiling a 2,588-539 record in its 27-year existence, winning 88 straight games in the 1932-33 season, and winning the 1939 World Professional Championship;

Whereas the Harlem Globetrotters proved that they were capable of beating professional teams like the World Champion Minneapolis Lakers led by basketball great George Mikan in 1948;

Whereas the barnstorming African-American basketball teams included exceptionally talented players and shaped modern-day basketball by introducing a new style of play predicated on speed, short crisp passing techniques, and vigorous defensive play;

Whereas among the pioneers who played on Black barnstorming teams included players such as Tarzan Cooper, Pop Gates, John Isaacs, Willie Smith, Sweetwater Clifton, Ermer Robinson, Bob Douglas, Pappy Ricks, Runt Pullins, Goose Tatum, Marques Haynes, Bobby Hall, Babe Pressley, Bernie Price, Ted Strong, Inman Jackson, Duke Cumberland, Fat Jenkins, Eddie Younger, Lou Badger, Zachary Clayton, Jim Usry, Sonny Boswell, and Puggy Bell;

Whereas the struggles of these players and others paved the way for current African-American professional players, who are playing in the National Basketball Association today;

Whereas the style of Black basketball was more conducive to a wide open, fast-paced, spectator sport;

Whereas, by achieving success on the basketball court, African-American basketball players helped break down the color barrier and integrate African-Americans into all aspects of society in the United States;

Whereas, during the era of sexism and gender barriers, barnstorming African-American basketball was not limited to men's teams, but included women's teams as well, such as the Chicago Romas and the Philadelphia Tribunes;

Whereas only in recent years has the history of African-Americans in team sports begun receiving the recognition it deserves;

Whereas basketball is a uniquely modern and uniquely American sport;

Whereas the Black Legends of Professional Basketball Foundation, established by former Harlem Globetrotter Dr. John Kline of Detroit, Michigan, honors and highlights the significant contributions of these pioneers and their impact on professional basketball today; and

Whereas the hard work and efforts of the foundation have been instrumental in bringing African-American inductees into the Naismith Memorial Basketball Hall of Fame in Springfield, Massachusetts: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That

(1) Congress recognizes the teams and players of the barnstorming African-American basketball teams for their achievement, dedication, sacrifices, and contribution to basketball and to the Nation prior to the integration of the White professional leagues;

(2) current National Basketball Association players should pay a debt of gratitude to these great pioneers of the game of basketball and recognize them at every possible opportunity; and

(3) a copy of this resolution be transmitted to the Black Legends of Professional Basketball Foundation, which has recognized and commemorated the achievements of African-American basketball teams, the National

Basketball Association, and the Naismith Basketball Hall of Fame.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2053. Mr. STEVENS proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 2054. Mr. STEVENS (for Mr. FRIST) proposed an amendment to the bill H.R. 2863, supra.

SA 2055. Mr. STEVENS (for Mr. BYRD) proposed an amendment to the bill H.R. 2863, supra.

TEXT OF AMENDMENTS

SA 2053. Mr. STEVENS proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. INCREASE IN RATE OF BASIC PAY OF THE ENLISTED MEMBER SERVING AS THE SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) INCREASE.—Footnote 2 to the table on Enlisted Members in section 601(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 37 U.S.C. 1009 note) is amended by striking "or Master Chief Petty Officer of the Coast Guard" and inserting "Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(b) PERSONAL MONEY ALLOWANCE.—

(1) ENTITLEMENT.—Section 414(c) of title 37, United States Code, is amended by striking "or the Master Chief Petty Officer of the Coast Guard" and inserting "the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on April 1, 2005.

SA 2054. Mr. STEVENS (for Mr. FRIST) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SUPPORT FOR YOUTH ORGANIZATIONS.

(a) SHORT TITLE.—This Act may be cited as the "Support Our Scouts Act of 2005".

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Federal agency" means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term "youth organization"—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—

(i) SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year. This clause shall be subject to the availability of appropriations.

(ii) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—Clause (i) shall not apply to any youth organization that ceases to exist.

(iii) WAIVERS.—The head of a Federal agency may waive the application of clause (i) to any youth organization with respect to each conviction or investigation described under subclause (I) or (II) for a period of not more than 2 fiscal years if—

(I) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(II) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a "tent city" capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

"(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

"(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.".

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting "or (e)" after "subsection (a)"; and

(2) by adding at the end the following:

"(e) EQUAL ACCESS.—

"(1) DEFINITION.—In this subsection, the term 'youth organization' means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

"(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.".

SA 2055. MR. STEVENS (for Mr. BYRD) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE

SEC. 101. (a) There are appropriated out of the Employment Security Administration Account of the Unemployment Trust Fund, $14,000,000 for authorized administrative expenses.

(b) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Office of the Inspector General of the Department of Health and Human Services $5,000,000 for oversight activities related to Hurricane Katrina.

(c) The amounts appropriated under subsection (a) and (b)—

(1) are designated as emergency requirements pursuant to section 402 of H. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, October 25, 2005 at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1829, to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands; S. 1830, to amend the Compact of Free Association Amendments Act of 2003, and for other purposes; and S. 1831, to convey certain submerged land to the Commonwealth of the Northern Mariana Islands, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Josh Johnson (202) 224–5861 or Steve Waskiewicz at (202) 228–6195.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, October 26, 2005, at 2 p.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the implementation of the Federal Lands Recreation Enhancement Act, P.L. 108–447 by the Forest Service and the Department of the Interior.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878 or Kristina Rolph at 202–224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. STEVENS. Mr. President, I ask Unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a business meeting during the session of the Senate on Thursday, October 6, 2005 at 9:30 a.m. in SR–328A, Russell Senate Office Building. The purpose of this meeting will be to review spending levels to meet reconciliation expenditures as imposed by H. Con. Res. 95, establishing the Congressional Budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, and to agree on recommendations with it will make to the Committee on the Budget thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. STEVENS Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on October 6, 2005, at 9:30 a.m. in open session to receive testimony on United States Military Strategy and Operations in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. STEVENS Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on October 6, 2005, at 10 a.m. in open session to consider the following nominations: Honorable Michael W. Wynne, to be Secretary of the Air Force and Dr. Donald C. Winter, to be Secretary of the Navy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 6, 2005, at 10 a.m. to conduct a hearing on "A Review of the CFIUS Process for Implementing the Exon-Florio Amendment."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, October 6 at 3 p.m. The purpose of this hearing is to receive testimony on S. 1025, to amend the act entitled "An Act to Provide for the Construction of the Cheney Division, Wichita Federal Reclamation Project, KS, and for Other Purposes" to authorize the EQUUS Beds Division of the Wichita Project; S. 1498, to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; S. 1529, to provide for the conveyance of certain Federal land in the City of Yuma, AZ; S. 1578, to preauthorize the Upper Colorado and San Juan River Basin Endangered Fish Recovery Implementation Programs; and S. 1760, to authorize early repayment of obligations to the Bureau of Reclamation within the Rogue River Valley Irrigation District or within the Medford Irrigation District, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, October 6 at 10 a.m.

The purpose of this hearing is to receive an update on Hurricanes Katrina and Rita's effects on energy infrastructure and the status of recovery efforts in the gulf coast region.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENTAL PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on October 6th, 2005 at 9:30 a.m. for a business meeting to consider the following nominations: Santanu K. Baruah, of Oregon, to be Assistant Secretary of Commerce for Economic Development; George M. Gray, of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency; Lyons Gray, of North Carolina, to be Chief Financial Officer, Environmental Protection Agency; H. Dale Hall, of New Mexico, to be Director of the United States Fish and Wildlife Service; and Edward McGaffigan, Jr., of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on October 6, 2005 at 9:35 a.m. to conduct a hearing to receive testimony on the actions of EPA, the Army Corps of Engineers and the Federal Highway Administration as they relate to Hurricane Katrina.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, October 6, 2005, at 10 a.m., to hear testimony on "The Future of the Gulf Coast: Using Tax Policy to Help Rebuild Businesses and Communities and Support Families After Disasters."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, October 6, 2005, at 2:30 p.m., to hear testimony on "U.S.-Bahrain Free Trade Agreement."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 6, 2005, at 11 a.m., to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 6, 2005, at 2:30 p.m., to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, October 6, 2005, at 9 a.m., for a hearing titled; "Hurricane Katrina: How Is FEMA Performing Its Mission at This Stage of Recovery?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, October 6, 2005, at 10 a.m., for a hearing titled; "FEMA Status Report on Recovery Efforts in the Gulf States"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, October 6, 2005, at 9:30 a.m. in Senate Dirksen Office Building Room 226.

Agenda

I. Nominations: Timothy Flanigan to be Deputy Attorney General; and Susan Neilson to be U.S. Circuit Judge for the Sixth Circuit.

II. Bills: S. 1088 Streamlined Procedures Act of 2005. Kyl, Cornyn, Grassley, Hatch; S. 1789 Personal Data Privacy and Security Act of 2005. Specter, Leahy, Feinstein, Feingold; S. 751 Notification of Risk to Personal Data Act. Feinstein, Kyl; S. 1326 Notification of Risk to Personal Data Act. Sessions; S. 1086 A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses. Hatch, Biden, Schumer; S. 956 Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005. Grassley, Kyl, Cornyn; S. 1699 Stop Counterfeiting in Manufactured Goods Act. Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold; S. 1095 Protecting American Goods and Services Act of 2005. Cornyn, Leahy; H.R. 683 Trademark Dilution Revision Act of 2005. Smith-TX; S. 443 Antitrust Criminal Investigative Improvements Act of 2005. DeWine, Kohl, Leahy; S. 1787 Relief to Victims of Hurricane Katrina and Other Natural Disasters Act of 2005. Vitter, Grassley, Cornyn, DeWine; and S. 1647 Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005. Feingold, Leahy, Durbin, Kennedy, Feinstein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Executive Nominations" on Thursday, October 6, 2005, at 2:30 p.m., in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Members of Congress.

Panel II: Wan Kim to be an Assistant Attorney General, Civil Rights Division; Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel; Sue Ellen Wooldridge to be an Assistant Attorney General, Environment and Natural Resources Division; and Thomas O. Barnett to be an Assistant Attorney General, Antitrust Division.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 6, 2005, at 2:30 p.m., to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, October 6, 2005, at 2:30 p.m., for a hearing regarding "How Does the Federal Government Lease Needed Space?"

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Thursday, October 6, at 2:30 p.m., for a hearing entitled, "From Factory to Foxhole: Improving DoD Logistics."

THE PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SCHUMER. Mr. President, first, I would like to request unanimous consent to grant floor privileges for the remainder of this Congress for Tovah Calderon, a detailee from the Department of Justice, who is currently serving on my Judiciary Committee staff.

Mr. STEVENS. Mr. President, reserving the right to object—for the rest of this Congress? Did the Senator say for the remainder of this Congress?

Mr. SCHUMER. I believe she is going to be here for the next year and a half. I could ask for the next year.

Mr. STEVENS. Mr. President, I am obligated to object, and I suggest the Senator get clearance on that.

Mr. SCHUMER. Let me amend my request, with the permission of my friend from Alaska, to grant floor privileges for the remainder of this session of Congress for Tovah Calderon, a detailee from the Department of Justice.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, may I again inquire of the Senator? Is this person on your staff?

Mr. SCHUMER. Yes. She is a detailee from the Department of Justice. We have detailees on the Judiciary Committee.

Mr. STEVENS. This is floor privileges. It is not necessarily continuous access. Does she have to go through the normal process of obtaining access the way any other staff would?

Mr. SCHUMER. Yes. She would have to go through the normal process.

Mr. STEVENS. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, OCTOBER 7, 2005

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until 8:15 a.m. on Friday, October 7. I further ask consent that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 2863, the Defense appropriations bill. I further ask consent that following the leader's remarks, Senator LANDRIEU be recognized to speak until 9:15. I further ask consent that immediately following her remarks, and with no intervening action or debate, all time under cloture then be considered expired, the bill be read a third time, and the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Before we recess, I will yield to the Senator from Louisiana for 5 minutes before we close.

Ms. LANDRIEU. I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair.

DISASTER ASSISTANCE

Ms. LANDRIEU. Mr. President, it has been a very long day. I am hoping, as this day continues into the evening hours, as we continue to work on the underlying bill, which is the Defense appropriations bill, to have an amendment dealing with Hurricane Katrina in a way this Congress might respond to this urgent need. I thank the Senator from Alaska for his patience through this day because the issue that is before us really is not an amendment on the Defense bill. It is a separate issue but needs to be handled before we leave, in my opinion.

That is why I have stayed here throughout the day and have been here, of course, throughout the week, in many meetings and phone calls, and now in time on the floor throughout the day, to try to find a way to get some immediate help to our cities and parishes and counties along the gulf coast. It looks like there is a possibility that still might be the case.

But because of the lateness of the hour, really for the staff that has been here so long, I am going to agree to continue to work through the night, allow the staff to take a recess, and spend some time on this, as I have throughout the last few hours, working with my colleagues, particularly Senator LEVIN from Michigan, who has put in a tremendous amount of time, other Senators, Senator CARPER from Delaware, Senator CLINTON, Senator DURBIN, Senator REID. And Senator FRIST has been here for a while. Of course, Senator VITTER was here earlier trying to get through this process, with the specific focus of mine being to try to get our State in the same situation that other States have been put in when they needed help.

We are not quite there yet, but we may yet get there by the time we close the debate in just a few hours. But, really, the staff has done more than they should be asked, to stay this late.

We have tried four or five different compromises in the last 8 hours, and we are not quite there yet. But we may be there in the morning when the Senate comes out of recess.

I am going to continue to work through the evening to see if we can find some sort of solution so that our four States—Louisiana, Mississippi, Alabama, and Texas—can be treated in the same way with the same respect as other States have in disasters in the past.

I thank the Senator for his patience throughout the evening.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from Louisiana.

PROGRAM

Mr. STEVENS. Mr. President, we will reconvene at 8:15 tomorrow morning. Following additional remarks by Senator LANDRIEU in the morning, we will vote on passage of the Defense appropriations bill. That vote will occur concerning at 9:15. Following that vote, we will proceed to the Homeland Security appropriations conference report. It is my understanding that we will be able to consider that conference report under a 30-minute time agreement and that a vote would not be necessary. We have not locked in that agreement. We will turn to that conference report in the morning after voting on the DOD appropriations bill.

RECESS UNTIL 8:15 A.M.

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 1:39 a.m., recessed until Friday, October 7, 2005, at 8:15 a.m.

NOMINATIONS

Executive nominations received by the Senate October 6, 2005:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

TERRENCE L. BRACY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2010. (REAPPOINTMENT)

DEPARTMENT OF COMMERCE

DAVID STEELE BOHIGIAN, OF MISSOURI, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE WILLIAM HENRY LASH, III, RESIGNED.

DEPARTMENT OF THE TREASURY

ANTONIO FRATTO, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE ROBERT STANLEY NICHOLS.

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN C. SCHWAB, OF MARYLAND, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE PETER F. ALLGEIER.

DEPARTMENT OF STATE

JEFFREY THOMAS BERGNER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (LEGISLATIVE AFFAIRS), VICE PAUL VINCENT KELLY RESIGNED.

NICHOLAS F. TAUBMAN, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

SUSAN RASINSKI MCCAW, OF WASHINGTON, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AUSTRIA.

LEGAL SERVICES CORPORATION

SARAH M. SINGLETON, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2008, VICE ERNESTINE P. WATLINGTON, TERM EXPIRED.

UNITED STATES INSTITUTE OF PEACE

RON SILVER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2009, VICE STEPHEN D. KRASNER, TERM EXPIRED.

JUDY VAN REST, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2009, VICE DANIEL PIPES.

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICERS IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

THEA IACOMINO, 2763
LOUVENIA A. MCMILLAN, 0532

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL EUGENE R. CHOJNACKI, 3930
BRIGADIER GENERAL KENNETH R. CLARK, 5408
BRIGADIER GENERAL DAVID F. WHERLEY, JR., 8592
BRIGADIER GENERAL HARRY M. WYATT III, 1527

To be brigadier general

COLONEL WILLIAM R. BURKS, 0223
COLONEL IWAN B. CLONTZ, 5807
COLONEL STEVEN R. DOOHEN, 8213
COLONEL DONALD E. FICK, 9178
COLONEL DAVID J. HATLEY, 7777
COLONEL KENNETH M. JEFFERSON, 8919
COLONEL ROBERT H. JOHNSTON, 6655
COLONEL DANIEL B. O'HOLLAREN, 9443
COLONEL RANDOLPH M. SCOTT, 9448
COLONEL MARK F. SEARS, 0235
COLONEL HAYWOOD R. STARLING, JR., 5897
COLONEL BROCK JOHN T. STROM, 8019
COLONEL ERNEST G. TALBERT, 1569
COLONEL EDWARD J. THOMAS, JR., 8089
COLONEL LAWRENCE S. THOMAS III, 2749
COLONEL RICHARD J. UTECHT, 5908
COLONEL GUY M. WALSH, 5972
COLONEL ELLIOTT W. WORCESTER, JR., 8627
COLONEL ROBERT J. YAPLE, 1164

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. THOMAS D. ROBINSON, 1193

To be brigadier general

COL. CHARLES D. ESTES, 8500
COL. ELLEN P. GREENE, 4102
COL. LUIS R. VISOT, 5465

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. PATRICK M. WALSH, 1107

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN S. BAXTER, 5200

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO

THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JOSE R. RAEL, 4865

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

SUZANNE R. AVERY, 1986
JAMES FIKES, 9789

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DONNA J. DOLAN, 8888
MICHAEL G. LABELLE, 6087
STEVEN D. PEAK, 7071
DEBORAH F. SIMPSON, 8377

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PAUL F. ABBEY, 2464
JAMES P. BARNES, 2766
JAMES N. BAUM, 6887
SCOTT E. BOMBERG, 6799
ERIC W. BOWLES, 2241
DUANE F. CARTWRIGHT, 2033
STACY B. ELLISON, 1479
ELLYN M. ENGLISH, 3607
ALBERT F. GRUBER, 8828
FREDERICK D. HOGAN, 2491
LYNDON S. HURT, 3120
DAVID G. JULIAN, 6697
MANUEL L. LABORDE, 0121
JOSEPH D. LYVERS, 2581
DEBORAH J. MICHAEL, 9882
JOE D. ONEAL, 9783
GARY W. REEVES, 6425
DANIEL E. SAVITSKE, 8098
TERRY R. SCHMUNK, 9489
JACK N. SEIDENBERG, 5663
WARREN A. WILLIAMS, 4915

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PAUL S. ASTPHAN, 5813
LUCY A. P. BLAND, 8179
GAYE E. BROADWAY, 6049
NORMAN A. CUMMINS, 9832
MADELINE B. DUNNIHOO, 2108
MARY R. ENDERLE, 2643
THEODOCIA C. FARRALES, 5431
GENEVIEVE M. FULLER, 6580
CHARLENE M. GODEC, 5025
MARY C. GOMEZ, 3448
JOAN M. GOUGE, 1580
JUDITH R. HASELTINE, 2407
KATHLEEN A. HAYES, 1850
DONNA N. HERSHEY, 9818
RICHARD D. HUMES, 5695
EMMETTE G. JONES, JR., 5052
SHIRLEY A. KUBIAK, 7043
GWENDOLYN J. LEMAIRE, 3581
MARY E. LINK, 7776
SHARON K. LUCARELLI, 3962
LAURA J. LUDWIG, 2024
MICHAEL R. MANANSALA, 7965
JOAN A. MARKS, 9243
DEBRA F. MCNAMARA, 3261
FRANKLIN J. MCSHANE, 4749
JANET F. MCTURNAL, 2732
SHARON M. NAVRATIL, 0877
SHIRLEY E. NEVILLE, 6587
PATRICIA A. L. PRATT, 1900
MARTIN R. RIDGE, 8783
BEVERLY L. SMITHTILLERY, 6188
WENDY L. TAYLOR, 8003
JAMES D. WAECHTER, 2609
SYBIL M. WEIRMCNEELY, 0869
BRINDA F. WILLIAMSMORGAN, 4694

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LYNN S. ALSUP, 2707
MARTHA A. BIASTOCH, 9886
DENNIS T. BROWN, 6740
ROBERT W. BROWN II, 3225
ROBERT M. CODY, 7217
JAMES C. COLEMAN, 3070
CATHERINE L. COOK, 7434
BRUCE J. CORNELISON, 2915
WALTER J. DAVIS, 0098
WILLIAM H. DEGRAY, 9941
CECILIA I. FLORES, 5705
IRENE L. FRAZIER, 7435
FELICIA FRENCH, 6476
SCOTT A. GRONEWOLD, 9779
JOHN H. GROTE, JR., 1026
DAVID HOWE, 0787
DEBORAH K. KNICKERBOCKER, 4922
JOHN R. MAGRANE, JR., 7350
JAMES P. MAHONEY, 0792
JOSEPH A. MAIELLO, 9247
WENDELL R. MANN, 2188
DENNIS R. MILLER, 8260
SCOTT A. MILLER, 7094
BRADLEY K. MITCHELL, 9756
WENDY P. POLHEMUS, 0522
WILLIAM A. PULIG, 0611
DENNIS P. RATASHAK, 7011
ERIC RODRIGUEZ, 5826
JONNIE S. RUPP, 9619
GINA D. SEILER, 2735
WILLIAM H. SNOW, 8447
DWIGHT A. THOMPSON, 2788
ALTHEA G. WATSON, 2040
JEFFREY L. WEAVER, 0522
JAY M. WEBB, 3594
DENNIS J. WHITE, 7772
STEVEN A. WIENEKE, 6459
BARRY M. WIKES, 9525
CAROL L. ZIERES, 2853

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JAMES W. AGNEW, 3109
STEVEN C. ALLGOOD, 9404
DAVID P. ANGELETTE, 8837
MARK ANSTADT, 6619
DAMON T. ARNOLD, 5288
JOHN V. BARTON, 0068
JAMES BAYLEY, 8231
DANIEL J. BOCHICCHIO, 4231
REYNAL L. CALDWELL, 1597
GINA R. CARTER, 1010
PAUL M. CHETHAM, 6394
JAMES K. COOPER II, 8783
VICTOR H. DAVIS, 8014
JAMES R. DOWNEY, 3454
PAUL A. DURON, 1412
BRIAN J. EASTRIDGE, 3757
KEVAGHN P. FAIR, 3402
CHARLES J. FISHER, JR., 6693
DAVID R. FOHAN, 6930
ALVIS R. FORBES, 1836
TODD R. FREDRICKS, 8319
ROBERT E. GORTON, JR., 6896
JAMES R. GREGOIRE, 4404
JOSEFINA T. GUERRERO, 9511
WILLIAM G. GUTHEIM, 0705
ROBERT W. HANDY, 7344
JEFFREY T. HAUGH, 0283
SUSAN W. HOLE, 1685
HAROLD W. HUGHES, 9780
JOE W. HUNT, 6309
VITO D. IMBASCIANI, 6779
MARK J. IVEY, 2130
PURNIMA P. JOSHI, 9620
CLARENCE T. JOUSTRA, 4533
MICHAEL E. KELLY, 4299
ROBERT W. KELLY, 9091
JAMES K. KERR III, 0370
KHIN M. KYI, 5725
JANET I. LAWRENCE, 6019
KENNETH K. K. LEE, 2749
OWEN LEE, 5885
GORDON D. LEINGANG, 5583
LESTER L. LEWIS, JR., 1654
CHERYL A. LITTLE, 4135
DEBORAH A. MCCLAIN, 0719
RUSSELL J. OTTO, 8186
MITCHELL H. PAULIN, 1816
JOHN C. PITTARD, 1743
JAMES W. Y. QUAN, 9972
DARRYL R. QUIRAM, 1205
GREGORY C. RISK, 7682
MICHAEL H. ROSENBERG, 6266
ERIC F. SABETY, 9462
LINDA C. SHACKELFORD, 4714
BARRIE V. SMITH, 0907
BRENT A. SMITH, 9173
JULIUS L. TEAGUE, 6315
JACOB TENDLER, 6565
GREGORY K. TERPSTRA, 7572
MARK A. VANANTWERP, 0639
JOSEF J. VANEK, 1816
LUIS L. VILLARRUEL, 9939
BRUCE V. VOSS, 1323
PERRY T. WALTERS, 0998
DARREL W. WYATT, 9761
DAVID A. YEROPOLI, 7546

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DARREN W. MILTON, 0204

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10,U.S.C., SECTION 531:

To be major

CHRISTOPHER J. AABY, 5901
DAVID A. ADAMS, 9438
MATTHEW F. AMIDON, 0581
SCOTT R. ANDERSON, 9395
BRANDEN G. BAILEY, 3636
GUY G. BERRY, 7716
MICHAEL J. BLACK, 8787
JEFFREY M. BONNER, 9544
ADAM L. BUSH, 0444
JOHN F. BUXTON, 2690
KELLY D. CAILLOUET, 9175
DANIEL P. CARLSON, 4339
JANO R. CARLSON, 8997
GLEN B. CAULEY, 7212
VINCENT J. CIUCCOLI, 7928
VAN M. DAVIDSON, 6250
JEFFREY L. DAVIS, 6138
DOUGLAS S. DEWOLFE, 5981
SCOTT E. DORNISCH, 6990
BRIAN W. EVANS, 9934
GUY J. FARMER, 6635
BRIAN W. FOSTER, 8411
DANIEL J. GILKEY, 4132
GARY W. GRAHAM, 3650
JASON S. GUELLO, 2093
GREGORY R. HAUCK, 6939
DAVID B. HAYNES, 5484
SAMUEL N. HOTZ, 4704
GERALD W. KEARNEY, JR., 0059
BRIAN M. KENNEDY, 0050
PETER W. KOENEMAN, 6968
JOHN M. KOURY, 5945
DAVID L. KOWALSKI, 8127
JASON C. LATCHAW, 9319
KEVIN M. LILLY, 6242
SCOTT J. LUCKIE, 6294
WILLIAM P. MACNAUGHTON, 4950
BENJAMIN W. MALMANGER, 7019
JAMES E. MANEL, 5088
LAWRENCE G. MASSEY, JR., 4912
ERIC J. MATTSON, 6450
DAVID B. MCCANN, 6576
MICHAEL T. MCCOMAS, 1205
CARL L. MCLEOD, 1089
JASON D. MERKER, 9218
MARK A. MERRILL, 8206
JOHN E. MING, 1229
KYLE J. MOORE, 0084
STEFAN J. MUELLER, 1714
JEFFREY T. MURPHY, 8035
SCOTT A. NICHOLSEN, 3748
MARK T. PALIOTTA, 7170
THOMAS F. PAQUIN, 4965
MATTHEW D. PARKER, 2087
CHRISTIAN E. PARSON, 5137
GRANT M. PENNINGTON, 3134
BRIAN N. PINCKARD, 7351
STEPHEN PRITCHARD, 8535
CHRISTOPHER K. RAIBLE, 6805
JADE N. RICHARD, 3245
DANIEL D. ROSE, 0013
MORGAN N. SAVAGE, 3119
TODD R. SCHIRO, 5207
JEFFREY B. SCOTT, 2791
CORY G. SIMMONS, 8592
SCOTT A. SITTERLE, 4703
BRIAN C. SMITH, JR., 1757
KARL J. STOETZER, 9563
GEOFFREY T. TETTERTON, 0077
ADAM J. TKACH, 3255
ROBERT J. VANDERWOUDE, 8415
DAVID W. VANHOOF, 6129
LAWRENCE A. WASHINGTON, 6977
BRENT A. WEATHERS, 3541
JOHN N. WILKIN, 2122
KEVIN W. WINTER, 8080
RICHARD B. YOUNG II, 3712

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WILLIAM D. FUSON, 5650

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

DANIEL ALBRECHT, 0284
DANIEL C. ALDER, 2746
RAYMOND V. ANDERSON, 8281
DONALD R. BENNETT, 8805
GAYLA J. BERGREN, 1970
KENNETH G. BRADSHAW, 2178
STEVE J. BRASINGTON, 3415
THOMAS E. BRODERICK, 4546
SANDRA T. BUCKLES, 3918
TERESA M. BUESCHER, 8363
THOMAS A. CARLSON, 4712
DONALD J. CENTNER, 9684
WILLIAM B. COGAR, 3398
BERTRAM M. CRAWFORD, 7798
WILLIAM F. CUDDY, JR., 3869
MICHAEL J. CURRAN, 8321
DAVID L. DAUGHERTY, 2647
MARLENE DEMAIO, 5420
ROBERT T. ELDER, 3992
DENIS M. FAHERTY, 3718
BARBARA FORD, 6186
JOSEPH M. FOSTER, 1691
DANIEL E. FREDERICK, 4224

CRAIG E. GALLOWAY, 1049
RICHARD R. GATES, 2604
TAMMY S. GERSTENFELD, 4405
KENT S. GORE, 5648
KEVIN L. GREASON, 7450
GUERARD P. GRICE, 7846
DAVID B. GRIMLAND, 7872
EDWIN S. HENRY, 1596
ANITA H. HICKEY, 9134
MARK P. HONIG, 0636
WHITNEY H. HOWARD, 3040
PETER A. HUSTA, 7572
KATHERINE L. IMMERMAN, 1356
WAYNE S. INMAN, 2041
RONALD L. JEFFREY, 2348
IGOR A. JERCINOVICH, 0243
PAUL C. KELLEHER, 3427
DOUGLAS P. KEMPF, 7524
NOELINE KHAW, 7254
DAVID G. KLOAK, 6395
BRENDA A. LARKIN, 3199
STEPHEN J. LINEHAN, 1666
KEVIN S. LYLES, 5585
MARIAN L. MACDONALD, 9446
RANDALL C. MAPES, 2323
LLOYD W. MARLAND, 7101
GARY A. MAYNARD, 3002
JOSEPH C. MCGOWAN, 4600
STEPHEN R. MERRILL, 5942
JOHN L. MORRIS, 4962
GARY L. MUNN, 2049
GARY NOBLE, 4525
LAWRENCE E. OLSEN, 4781
KAY M. OSBORNE, 2718
GREGORY R. OSTROWSKI, 9894
RUSSELL G. PENDERGRASS, 4670
PABLO D. PIZARRO, 1979
KEVIN R. PORTER, 5963
RANDALL N. PRATT, JR., 6739
ROBERT W. QUIGG, 4024
MARK E. RALSTON, 8530
FRANK P. REYNOLDS, 0990
THOMAS L. RICHIE, 0197
DAVID N. RICKEY, 4054
RICHARD E. ROBEY, 9922
STEPHEN B. ROCK, 7757
MICHAEL F. ROCKLIN, 8698
WILLIAM A. ROIG, 4695
GEORGE C. SAKAKINI, 9202
KENNETH M. SAMPLE, 3848
THOMAS F. SHACKELFORD, 1014
PETER D. SHERROD, 7610
WYATT S. SMITH, 4397
CARLTON E. SODERHOLM, 7934
FREDRICK N. SOUTHERN, 7104
ALLAN M. STANCZAK, 0931
JOHN N. STENSLAND, 0128
JOHN B. STOCKEL, 5933
DENNIS E. SUMMERS, 1270
WILLIAM J. SWARTWORTH, 5969
ROBERT J. TATE, 1668
JAMES TERBUSH, 6505
OWEN G. THORP III, 7559
GEORGE G. ULRICH, 8116
DANIEL V. UNGER IV, 1255
JAMES D. VALENTE, 4899
JANE F. VIEIRA, 8157
MICHAEL S. WENZEL, 7971
JERRY W. WHITE, 9504
JOHN T. WIDERGREN, 1799
FRANCIS R. WINKEL, 9073
RICHARD C. YAGESH, 5626
PETER L. ZAMFIRESCU, 0412

To be commander

DANIEL J. ACKERSON, 5313
MICHAEL T. ACROMITE, 4237
CHARLES F. ADAMS, JR., 3836
RODNEY M. ADAMS, 3564
STANLEY D. ADAMS, 5483
SALVADOR AGUILERA, 2897
MICHAEL T. AKIN, 0014
BRIAN A. ALEXANDER, 8051
JAMES K. AMSBERRY, 8594
CLAUDE D. ANDERSON, 8803
JOEL M. APIDES, 3545
BILLY M. APPLETON, 9239
STEPHEN C. ARCHER, 8227
GARY R. AYERS, 0484
TOBIAS J. BACANER, 5671
KATHRYN A. BALLANTYNE, 6315
BEN J. BALOUGH, 2753
KEVIN P. BARRETT, 3690
DAGMARA E. BASTIKS, 1297
KEITH F. BATTS, 9713
KEVIN J. BEDFORD, 9938
JEFFREY A. BENDER, 6645
THOMAS E. BERGLAND, 6618
LYNN M. BERGREN, 8737
JOHN L. BERLOT, 1877
CHRISTOPHER A. BIDWELL, 4692
SANDRA L. BIERLING, 4661
DAWN A. BLACKMON, 3346
CAROL L. BLACKWOOD, 4652
JEFFREY A. BLAIR, 8187
JO A. J. BLANDO, 9099
GREGORY S. BLASCHKE, 7946
HEATHER I. BLOMELEY, 6401
DANA G. BORGESON, 7685
ARNOLD O. BROWN, 4367
CARLOS V. BROWN, 0551
ROBERT H. BUCKLEY, 2727
ROBERT E. BURKE, 0204
MICHAEL L. BURLESON, 5249
JERRY N. BURTON, JR., 3950
JACQUELYN L. CALBERT, 6988
ROBERT A. CALLISON, 5870
PAUL T. CAMARDELLA, 8062
NESTOR H. CAMERINO, JR., 6639
DUANE C. CANEVA, 5860
DOUGLAS N. CARBINE, 1889
JANIS R. CARLTON, 1538
MATTHEW A. CARR, 0501
MICHAEL E. CLARK, 6600
JOHN P. CLAYTON, 7227
LAWRENCE G. COLEMAN, 5676
STEWART W. COMER, 3519
JEFFREY A. CONWELL, 6209
JOHN L. CORREA, 0841
LAWRENCE E. CRIMMINS, 7641
MIGUEL A. CUBANO, 182
JAMES T. CURRY, 2294
RHODEL F. DACANAY, 9590
MARK A. DAELEY, 6606
PATRICK J. DAIGLE, 6797
MICHAEL H. DANENBERG, 6164
CHIN V. DANG, 9131
DARYL K. DANIELS, 6865
THOMAS P. DAVIS, 2666
SUBRATO J. DEB, 1694
KEVIN DELAHANTY, 8771
DAVID M. DELONGA, 9691
LIBERIO E. DEMEDEIROS, 6161
GERALD D. DENTON, 0735
JOHN E. DEORDIO, 7141
JEROME V. DILLON, 2094
MARK A. DOBBERTIEN, 3455
ROBERT J. DONOVAN, 8365
CHRISTINE E. DORR, 4771
ALAN B. DOUGLASS, 2351
THOMAS C. DOWDEN, 5210
JAMES R. DUNNE, 1943
EDDY L. ECHOLS, 6223
KENNETH L. EISENBERG, 4948
SCOTT M. EMISON, 5995
TODD L. EVANS, 1351
TED M. FANNING, 0878
ROBERT W. FARR, 2197
LESLIE H. FENTON, 2376
MICHAEL A. FERGUSON, 4220
ANDREW L. FINDLEY, JR., 2336
DONALD P. FIX, 3513
JOSEPH W. FLANAGAN, 1913
JAMES P. FLINT, 9855
JOSEPH C. FORTSON, 8999
BRYAN A. FOX, 3864
FRAZIER W. FRANTZ, 9603
DANIEL A. FREILICH, 4676
JOHN M. FREYMANN, 3515
EMORY A. FRY, 4189
ROBERT N. GALE, 4440
BRENDON L. GELFORD, 4942
MILTON D. GIANULIS, 3425
BRYCE M. GIBB, 5901
LISA A. GLEASON, 8435
THOMAS J. GOALEY, JR., 9836
ELISE T. GORDON, 1930
WILLIAM R. GRAF, 2068
GORDON F. GREEN, 9942
KENNETH P. GREEN, 3904
RICHARD GREEN, 5164
CHARLES L. GROVES, 1712
JOSEPH GUERRERO, 9607
KEITH B. GUSTAFSON, 5694
JAY A. GUTZLER, 8541
BRADEN R. HALE, 4494
MARK B. HALVORDSON, 8769
MARK E. HAMMETT, 0483
TONY S. HAN, 4303
JACK E. HANZLIK, JR., 3399
STEVEN R. HARDMAN, 1916
KURT P. HARDY, 9231
KRISTINA E. HART, 3420
JOHN F. HAWLEY, 0118
JEFF D. HEADRICK, 4962
JENIFER L. HENDERSON, 0733
RUBY S. HENDERSON, 3583
MARY A. HENDRICKSON, 0338
MATTHEW L. HERZBERG, 8609
GRANT R. HIGHLAND, 5527
JON J. HILL, 1165
PAUL P. HOBBES, 3725
ANTHONY R. HOOVLER, 7683
JON L. HOPKINS, 3817
MICHAEL T. HOPKINS, 4519
JOHN D. HUGHES, 3326
THANH T. HUYNH, 2012
LISA INOUYE, 7373
WARREN S. INOUYE, 6702
ROBERT A. IZENBERG, 2479
BETH R. JAKLIC, 1429
CHRISTOPHER P. JONES, 5689
JAY T. JONES, 2247
BENJAMIN W. JORDAN, 7482
BRUCE W. KAHL, 7251
PAUL H. KALTSAS, 1241
FREDERICK C. KASS, 3635
SARA M. KASS, 3712
GREGG A. KASTING, 0531
RONALD KAWCZYNSKI, 3387
DAVID J. KEBLISH, 1258
FREDERIC J. KELLEY III, 5428
JOHN S. KELLOGG, 3592
KENNETH J. KELLY, 4040
JOHN A. KENNEDY, JR., 0509
MAUREEN T. KENNEDY, 7568
NEIL M. KING, 0801
CHARLES P. KLIEWER, 8315
WILLIAM J. KLORIG, 7524
TREYCE S. KNEE, 6692
TIMOTHY KOBERNIK, 2418
TIMOTHY J. KOESTER, 5961
JEFFREY N. KORSNES, 7937
JACQUELINE KOVACS, 6149
ERIC J. KUNCIR, 6730
PAMELA S. KUNZE, 5359
CHARLES S. KUZMA, 9907
DANIEL M. LAFFERTY, 7253
WILLIAM M. LANDE, 0103
JOHN B. LANDIS, 8808
FREDERICK J. LANDRO, 2892
MICHAEL J. LANE, 8568
PATRICK R. LARABY, 6114
ROBERT P. LARYS, 8091
GARY W. LATSON, 6462
LOUIS V. LAVOPA, 3349
PATRICK L. LAWSON, 8981
CALVIN S. LEDFORD, 6023
NORMAN LEE, 8486
JEFFREY T. LENERT, 2769
STEPHEN J. LEPP, 1403
RANDALL J. T. LESCAULT, 8159
ALAN LIM, 5110
ALAN A. LIM, 9089
RONALD L. LINFESTY, 1767
FRANCESCA K. LITOW, 0156
MARGARET A. LLUY, 6756
JEFFREY L. LORD, 8929
JAMES A. LOWDER, 7813
ROBERT E. LUCAS, 4433
JEFFREY R. LUKISH, 0788
MARK B. LYLES, 0094
EDWARD J. LYNCH, 2663
KAREN M. LYNCH, 6608
SCOTT A. MAGNES, 5697
RICHARD T. MAHON, 3897
JESUS V. MALLARI, 9829
PETER A. MARCO, 3455
JOHN J. MARSHALL, 2676
THOMAS J. MARSHALL, JR., 0504
ROBERT W. MARTIN, 0943
STEPHEN C. MARTIN, 1227
CHRISTOPHER J. MCARTHUR, 0745
ROBERT P. MCCLANAHAN, JR., 9373
JOHN M. MCCURLEY, 5206
MICHAEL T. MCHALE, 0777
JAMIN T. MCMAHON, 8356
MICHAEL F. MCNAMARA, JR., 8582
ROBERT D. MCPHAIL, 7142
JOSEPH G. MCQUADE, 1827
RONALD J. MCVICAR, 3129
ROBERT D. MENZIES, 7770
ROBERT E. METTS, 6479
DAVID H. MEYR, 6488
BRIAN D. MILLER, 3386
ROBERT N. MILLER, JR., 1325
LARRY D. MILNER, 5933
JOSEPH M. MOEGLIN, 7779
STEVEN W. MOLL, 8273
RICHARD M. MONDRAGON, 0861
ROSS MOQUIN, 8190
EDUARDO MORALES, 8999
PAUL N. NAGY, 4254
NALAN NARINE, 5924
SCOTT L. NASSON, 2400
ALADAR NESSER, 7424
JOEL D. NEWMAN, 8563
LACHLAN D. NOYES, 2604
OTTO W. OHM II, 2250
KEVIN C. OMALLEY, 3598
LOUIS D. OROSZ, 2148
JOHN E. PAGANELLI, JR., 4872
ERIC L. PAGENKOPF, 7859
EDWIN Y. PARK, 5534
MILAN N. PASTUOVIC, 0397
BHARAT S. PATEL, 6550
RICHARD J. PAVER, 8793
PATRICIA V. PEPPER, 2914
PHILIP W. PERDUE, 2017
LORING I. PERRY, 5486
ROBERT F. PERRY, 8597
ALAN F. PHILIPPI, 9939
LEONARD J. PLAITANO, 2090
DAVID S. PLURAD, 0333
THOMAS P. POFF, 6052
STEPHEN J. POPPE, 6972
JEFFREY D. QUINLAN, 6847
ANDREW I. RADOVAN, 3371
JOHN G. RAHEB, 8767
CHRISTOPHER D. REEVESJONES, 4887
SCOTT R. REICHARD, 0277
ROBERT D. REUER, 2784
LESLIE C. RIALES, 9813
JOSETTE L. RICE, 2950
JONATHAN W. RICHARDSON, 6807
JAMES V. RITCHIE, 1603
PETER F. ROBERTS, 0043
JOSE L. RODRIGUEZ, 5306
JAMES G. RODROCK, 9332
ANSELMO N. ROLDAN, 7152
MICHAEL T. RONCONE, 4020
JOEL A. ROOS, 3159
JOSEPH D. RUGGIERO, 8362
ROBERT T. RULAND, 8788
MARY K. RUSHER, 9956
KEVIN L. RUSSELL, 0193

LAWRENCE J. RUSSO, 4648
DONALD R. SALLEE, 7247
JOHN W. SANDERS III, 9432
ELIZABETH K. SATTER, 6928
KYLE P. SCHROEDER, 3350
PAULA J. SEXTON, 0349
JOHN B. SHAPIRA, 5750
ERIC S. SHERCK, 9282
MARTY W. SHIELDS, 7791
DANIEL P. SHMORHUN, 3123
TIMOTHY R. SHOPE, 1309
ANDREA L. SHORTEREVANS, 6230
AMANDA G. SIERRA, 2965
ANDREW E. SIMAYS, 6527
BRIAN L. SIMPSON, 0728
MICHAEL J. SINGLETON, 2437
ROBERT N. SKINNER, 9272
JOSEPH B. SLAKEY, 5509
ERIC P. SMITH, 4223
JOEL A. SMITHWICK, 4740
HARLEY W. SMOOT, 7657
BRIAN D. SMULLEN, 8114
MARK E. SNIDER, 2958
MARTIN P. SORENSEN, 8935
JAMES SORIANO, 0632
TIMOTHY C. SORRELLS, 1817
JAMES T. STASIAK, 4499
ZSOLT T. STOCKINGER, 7520
JERRY K. STOKES, 2816
MICHAEL J. STRUNC, 4062
KEITH A. STUESSI, 6706
WILLIAM SUKOVICH, 1651
TODD E. SUMNER, 8159
KEVIN F. SUMPTION, 7608
MARK V. SUTHERLAND, 8125
JOSEPH R. TADDEO, 0074
CINDY L. TAMMINGA, 6979
ROSEMARIE C. TAN, 8549
DAVID A. TANEN, 2575
DAVID A. TARANTINO, JR., 2129
CONRAD A. TARGONSKI, 7602
JOHN T. TAYLOR, 4756
MICHAEL A. THOMPSON, 1354
JOHN S. THURBER, 1413
WILLIAM E. TODD, 6897
MARK C. TOLTON, 2036
SANDRA S. TOMITA, 9492
THERON C. TOOLE, 6675
WALTER S. TOPP, 9977
MICHAEL R. TORRICELLI, 4427
JOHN C. TORRIS, 0213
EDWARD J. TRACEY, 8372
KEITH M. ULNICK, 2921
GUIDO F. VALDES, 0350
GUSTAVO M. VENTURA, 4080
MARTHA P. VILLALOBOS, 6996
JOHN E. WANEBO, 7746
BERNARD P. WANG, 5060
JOHN F. WARD, 9643
VICTOR K. WEBER, 1750
STEVEN M. WECHSLER, 0978
WILLIAM H. WEIDENHAMMER, 4308
MICHAEL S. WEINER, 1600
PETER J. WEIS, 7199
DAVID K. WEISS, 2405
WALTER R. WEISS, 7699
LOYD A. WEST, 1577
CHRISTOPHER WESTROPP, 0491
ROBIN M. WILKENING, 7634
MARKUS A. WOEHLER, 8158
DAVID M. WOJDA, 5060
JOHNNY WON, 3196

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JAMES D. THOMPSON, 1605

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENTS TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

JAMES F. BRINKMAN, 3080
JOE D. HAINES, JR., 4816
LISA PEARSE, 7702
JERRY M. REBREY, 0024
ERNEST J. WHITTLE, 1215
WILLIAM L. YARDE, 5054

THE JUDICIARY

ERIC NICHOLAS VITALIANO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE ARTHUR D. SPATT, RETIRED.

EXTENSIONS OF REMARKS

A PROCLAMATION RECOGNIZING WILLIAM "BILL" BALSER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NEY. Mr. Speaker:

Whereas, William "Bill" Balser was elected to the high office of Department Commander of Ohio on Sunday, July 10, 2005; and

Whereas, William "Bill" Balser is a 30 year member of the American Legion Post 85, where he has held many offices including Post Commander and Finance Officer; and

Whereas, William "Bill" Balser has exemplified the meaning of successful civic duty through his unselfish role to serve the greater good of the Ohio Valley; and

Whereas, William "Bill" Balser recently celebrated his 50th wedding anniversary with his wife Trudy and is the loving father of 3 children and 3 grandchildren.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing William "Bill" Balser for his longtime dedication to the residents and children of Ohio's 18th district.

* * *

CONGRATULATING COOKE COUNTY 4–H DAIRY JUDGING TEAM

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the outstanding performance of the Cooke County 4–H dairy judging team. The team consists of Ben Wyrick, Josh Zimmerer, Cletus Fuhrmann and Amber Fuhrmann.

4–H is a community of more than seven million young people across America learning leadership, citizenship and life skills. The four "H"s represent the "Head" which stands for clearer thinking and decision-making; "Heart" which stands for greater loyalty, strong personal values, positive self concept, concern for others; "Hands" which stands for larger service, workforce preparedness, useful skills, science and technology literacy; and "Health" which stands for better living, healthy lifestyles.

After winning the Texas State 4–H dairy judging contest, the team is headed to Wisconsin for the national contest. The challenge before the team is to distinguish between various breeds of dairy cows, with each contestant judging four classes of four cows. After placing the cows, contestants then present their reasoning before a judge.

I am very proud to recognize these 4–H members today, and I wish them great luck. Their persistence and commitment should serve as an inspiration to us all.

* * *

CELEBRATING THE 50TH ANNIVERSARY OF THE GREATER MIAMI CHAPTER OF THE LINKS, INC.

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to congratulate the Greater Miami Chapter of the Links, Inc. on their 50th year of outstanding commitment to community service. The ceremonies recognizing this important milestone will be held on Sunday, October 16, 2005 at Florida Memorial University.

The Greater Miami Chapter was chartered on Saturday, November 5, 1955 when founding members Maude Maude K. Reid, Mayme E. Williams, and Susie W. Francis brought together 15 other charter members for an installation ceremony at the Carver Hotel in Liberty City.

During its 50th anniversary celebrations, the chapter will honor seven honorees: charter member Susie W. Francis, Frances J. Chambers, Gwendolyn H. Welters, Dorothy H. Fields, Ph.D., Castell V. Bryant, Ed.D., Regina J. Frazier, and Senator Frederica S. Wilson.

The Greater Miami Chapter lists among its many accomplishments programs that bolster the arts, promote awareness of international issues and multicultural events, and assist young people in reaching their full potential.

Nationally, The Links' organization has grown to 275 chapters and approximately 11,000 members who reside in 42 states, the District of Columbia, the Bahamas, Germany and South Africa.

Mr. Speaker, 50 years after their founding, the members of the Greater Miami Chapters of The Links, Inc. are a powerful force for change in the South Florida Community. I thank them for all of their efforts, and wish them another successful 50 years of making a positive impact in the lives of others.

* * *

TRIBUTE TO JEFF CHRISTENSEN

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to pay tribute to Mr. Jeff Christensen, a National Park Service Ranger who tragically lost his life July 29, 2005, while on a backcountry patrol in the Mummy Range area of the majestic Rocky Mountain National Park in Northern Colorado.

Throughout his four seasons of service as a ranger with the National Park Service, Jeff was undoubtedly at home in the midst of some our country's most scenic and significant park land. I am very grateful for the dedication and enthusiasm Jeff displayed while serving our Nation in this capacity. He will be profoundly missed by all those whose lives he touched.

Jeff once remarked to a friend, "You know, if I ever die while at work in the mountains, do not cry for me because you will know that I died doing what I love." I pray that Jeff's family and friends will take solace in Jeff's passion for the job he so deeply loved.

I extend my sincere gratitude for the hundreds of concerned citizens who joined in an exhaustive 8 day search for Jeff. The heroic efforts exhibited by members of the National Park Service and countless volunteers have not gone unnoticed.

To Jeff's parents, Dale and Chris Christensen, and his many friends and family members, I express the heart-felt sympathies of a community that shares in their loss. May my colleagues join in celebrating the life and service of Mr. Jeff Christensen.

* * *

HONORING THE 50TH WEDDING ANNIVERSARY OF ED AND HARRIET NIEMIEC

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Ed and Harriet Niemiec on their 50th Wedding Anniversary.

Ed and Harriet both grew up in the Back of the Yards neighborhood in Chicago. They knew each other as kids, even though they attended different schools. Eventually Ed and Harriet became engaged and then married on November 6, 1955. They had their only child, Ed, Jr. in August of 1956.

Following in his parent's footsteps, Ed, Jr. and his wife Maria have been married for twenty-seven years. They have two children, Mark and Christina.

Besides an active involvement with their family, Ed and Harriet have many hobbies. Ed spends a lot of time taking care of his yard and tending to his flowers. According to his son, one would be hard pressed to find a blade of grass out of place or a visible weed. Harriet is a consummate volunteer and organizer. Her philanthropies started while she was working at Dry Storage where running the football pools spilled over into organizing senior trips, church functions and working at Christ Hospital as a "Pink Lady."

Ed and Harriet are fine examples as parents and are wonderful role models as grandparents. I would like to extend my best wishes to Ed and Harriet as they and their family celebrates their 50th anniversary.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN RECOGNITION OF JOHN GOLDSTEIN, OUTGOING PRESIDENT OF THE MILWAUKEE COUNTY LABOR COUNCIL

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to pay tribute to my constituent, Mr. John Goldstein, in thanks for his distinguished record of leadership of Milwaukee's labor movement. John served as president of the Milwaukee County Labor Council for 8 years, capping off a career of local, national and international labor activism that included stints as secretary/treasurer of the Labor Council and president of the Amalgamated Transit Union. He left the Labor Council in September, 2005, to become the new executive director of Partnership for Working Families.

John's leadership and commitment to advancing workers' causes are well known. In his tenure as president of the Labor Council, he spearheaded several major campaigns, among them brokering a resolution with Milwaukee County that improved the climate for workers attempting to organize new unions. He also worked with Milwaukee's Common Council to pass legislation that ensures uniforms needed for city workers are not sweatshop-produced. More recently, John developed a coalition to advocate for the implementation of economic development policies that would benefit a wide array of workers and neighborhoods.

Throughout these efforts, and many others, John's leadership has been marked by a commitment to building broad coalitions to ensure that labor movement victories brought gains for the wider community. He is widely acknowledged as a pioneer in developing labor-community partnerships designed to address problems created by economic and racial disparities throughout the Milwaukee area. His colleagues included faith leaders, a variety of local union activists, and community organizations.

In his role as Labor Council president and through his career, John has prioritized labor organizing, mobilizing for economic justice, and building a strong member-to-member political organization for the benefit of the working people of Milwaukee County. I know he will continue to demonstrate exemplary leadership in his new position as national program director for the Partnership for Working Families. I am thrilled to know that he will be based in Milwaukee, and that while providing technical assistance and leadership to labor-community coalitions across the country, he will continue to enrich our community.

3RD ANNUAL LATINO AIDS AWARENESS DAY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. ORTIZ. Mr. Speaker, today, I rise in strong support of designating October 15, 2005 the 3rd Annual Latino AIDS Awareness Day.

HIV and AIDS have wrecked havoc on millions of lives across the globe for over two decades, ending lives before their time. Today in America, over a million Americans, or about 1 in 300, have HIV or AIDS—a statistic that this Congress must acknowledge. For every American living with HIV or AIDS, a family is traumatized.

Even more staggering is the distribution of those victims. While Hispanics are roughly 14 percent of the population of the United States, they account for 20 percent of America's HIV/AIDS population. To date, nearly 100,000 Hispanics have died with AIDS. Since Hispanics are the fastest growing minority group in the United States, our challenge is even greater.

Minority groups have been hardest hit by the disease, adding another burden on families struggling to make ends meet. Another troubling fact is that as many as 1 in 2 people with HIV/AIDS don't even know they have the disease.

And the fastest growing group of people contracting HIV is young people, putting a tenuous hold on their young lives and future. The more attention we place on HIV/AIDS, the closer we get to eradicating this vicious disease. We have to talk about it, the causes and the prevention.

I encourage all of my colleagues to support Latino AIDS Awareness Day and work to educate Hispanics and other constituents about HIV and AIDS. Education and facts are the best way to wipe out ignorance about HIV/AIDS in the Hispanic populations, and every other demographic in our Nation.

CONGRATULATING UNITED FUND ON 50TH ANNIVERSARY

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the United Fund on the 50th anniversary of its founding.

This fall, the organization celebrates the 50th year of its foundation in 1955. The United Fund has helped many people in the community over the years, and is continuing to do so by hosting an auction themed "Support the Troops". The event is a project by Lincoln High School senior Erin Hunter. The event commences the organization's 2005 campaign.

Over the years United Fund has subsidized transportation cost for community members to get to work. Last year the organization also donated money to Hurricane Ivan flood victims in September.

The fundraising goal for 2005 is $50,000, which gives the organization the ability to make a positive impact. Richard Basile Sr., director of the organization, leads the effort to give 98 percent of the money that is donated to the United Fund back to the community. Basile is also dedicated to the goal of the United Fund, which is to make a positive impact locally.

I ask my colleagues in the United States House of Representatives to join me in honoring the United Fund and its 50 years of service. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute a principled institution like the United Fund.

A PROCLAMATION RECOGNIZING DONA SMITH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NEY. Mr. Speaker:

Whereas, Dona Smith has provided outstanding service and contributions while serving at the Ross County Community Improvement Corporation from 1990 to 2005; and

Whereas, Dona Smith served her community by helping existing businesses expand and bringing in additional business; and

Whereas, Dona Smith has worked selflessly and with dignity as an integral part of the economic development of her community through 15 years of public service; and

Whereas, Dona Smith has been a devoted and loving caregiver to her husband, children, and grandchildren.

Therefore, I join with Dona Smith's family, friends, the residents of Ross County, and the entire 18th Congressional District of Ohio in commending Dona Smith for her exceptional work and years of service, and wish her the very best in her future endeavors.

IN MEMORY OF BARRY BOESCH

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BURGESS. Mr. Speaker, I rise today to remember Barry Evans Boesch, the 51-year-old executive editor of the Denton Record-Chronicle, and longtime reporter and editor of the Dallas Morning News.

Barry was born December 5, 1953. He was a graduate of Thomas Jefferson High School in Dallas and the University of Texas in Austin. In 1976, Barry began his newspaper career at the Corpus Christi Caller-Times. Most of his nearly 30–year career was spent with the Dallas Morning News.

In March, Barry was diagnosed with a brain tumor but he continued to work until the summer, when radiation and chemotherapy treatments began taking their toll. He passed away 2005 at Baylor University Medical Center with his wife by his side.

Barry will be remembered for his three passions in life—his wife, Pattie; his daughter, Bailey; and the newspaper business. He will also be remembered for his sense of humor and his love of verbal combat.

Today, I would like to recognize and celebrate Barry Boesch's life. I was honored to have known him over the years. His leadership and charisma will certainly be missed by our hometown paper. Please keep his wife and daughter in your thoughts and prayers.

HONORING THE LATE AUDREY J. KING, MIAMI GARDENS COUNCILWOMAN

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. MEEK of Florida. Mr. Speaker, it is my sad duty to bring to the attention of my colleagues the passing of Miami Gardens City Councilwoman Audrey J. King, an accomplished professional and tireless community activist, who died Friday, September 30, 2005.

A longtime community leader and an integral part of the incorporation movement for the City of Miami Gardens, Councilwoman King was elected as the first representative of City Council Seat 3 in July 2003 and served in that capacity until her passing. Prior to the incorporation of the City, Councilwoman King was twice elected to the Miami-Dade County Community Council 3, where she served as chairwoman and vice-chairwoman from 1996 to 2002. She also served as vice-chair of the North Dade Community Development Task Force, volunteered in numerous charity activities and was honored throughout her career for her dedication to the people of our community.

She was a life member of the Miami-Dade Branch of the NAACP, serving for several years as the Political Action Chair. Councilwoman King was also a devoted member of Delta Sigma Theta Sorority; the First Baptist Church of Bunche Park; and a founding member of UP–PAC, Unrepresented Peoples Positive Action Council.

She leaves behind a legacy of achievement and inspiration, for she was an example of what genuine caring and unrelenting commitment can accomplish. Councilwoman King gave tirelessly of herself for the benefit of those around her and will be sorely missed. Funeral services are scheduled for Saturday, October 8th at First Baptist Church of Bunche Park.

HONORING TWO NAVY VETERANS FROM COLORADO

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor two veterans I know personally from my hometown of Fort Morgan, Colorado. Bob "Pete" Hobbs and Dominick Cardoza. I admire these two gentlemen for their service in the Navy, and their devotion to their families and community.

For 2 years, from 1954 to 1956, Pete and Dominick served together in the U.S. Navy aboard the USS *Badoeng Strait*, CVE 116. Both were assigned to the Second Division. Pete was on the deck and Dominick was in the Captain's Gig. It was during this time their friendship was forged, spending time at sea and taking part in a variety of military exercises.

They were also assigned to a gun crew that carried the responsibility of frequent firing exercises on a 40 mm gun. Because of these drills Dominick and Pete both suffer from tinnitus.

The most noteworthy of drills took place in 1956 while the *Badoeng Strait* operated around the Marshall Islands in the South Pacific during Operation Redwing. During these operations, Pete and Dominick were part of the crew that remained on the ship's deck during "Test Series of Atomic Weapons Devices." In the distance, H-bombs were exploded and this ship and the crew were subjected to the long range effects of the blasts, on numerous occasions.

The sailors were simply told not to look at the blast and to turn their backs. They were exposed to ionizing radiation. Afterwards the crew was checked for radiation and required to take a salt water bath. They were required to remove their clothes before entering the lower decks of the boat, and their garments were destroyed because of the radiation. The ship itself was scrubbed with Tide detergent.

They were told that the worst possible effect of the radiation was sterilization, nothing else!

In 1957, the *Badoeng Strait* was put out of commission in Bremerton, Washington. During the decommissioning process, Dominick and Pete were assigned to the lower deck for maintenance. They used air hammers to chip the paint from the decks and bulkheads. They were given no ear protection and, as a result, they both suffer from hearing loss. They were also exposed to asbestos, which covered much of the ship.

Afterwards, Dominick Cardoza was assigned to the USS *Lexington*, CVA 16, an aircraft carrier. Pete Hobbs was assigned to the USS *Vega*, AF 59, a supply ship.

I am touched by the story of Pete's and Dominick's service and sacrifice. As a direct result of the elements they were exposed to, both men are suffering from serious health complications. Pete has thyroid cancer and Dominick has other personal health problems.

Despite their enormous personal challenges, I find these men to be very uplifting and encouraging. They remain good friends today and live in Fort Morgan, Colorado. In addition, their wives Chris Hobbs and Sue Cardoza deserve respect and admiration for supporting their husbands.

Mr. Speaker, I rise today to honor these two veterans who served our country with such distinctions. They are heroes that walk among us. I ask my colleagues in Congress to recognize their work and their sacrifices on behalf of our Nation, as well as the joy for life they have to this day.

May God bless all of our precious veterans and may he continue to bless this great Nation.

HONORING RICHARD E. GUERIN, PRINCIPAL OF SAINT BEDE THE VENERABLE

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Richard Guerin, Principal of Saint Bede the Venerable and recipient of the 2005 National Distinguished Principal Award.

The National Distinguished Principals Program was established in 1984 as an annual event to honor exemplary elementary school principals who set the pace, character, and quality of the education children receive during their early school years. One principal is chosen from each of the 50 States and the District of Columbia, and this year Richard Guerin has been selected as a National Distinguished Principal.

St. Bede the Venerable is a Catholic School that serves the parish community and is both an expression of and a witness to the faith of its people. The school's main responsibility is in the area of Catholic education—preschool through eighth grade.

Believing that a child's development best occurs within the framework of a positive and structured environment, St. Bede School offers innovative educational programs of high quality. The aim of these programs is to challenge each student while teaching basic skills, within a Christian atmosphere where mutual respect, order, and values are a high priority. The core of our curriculum is religious education, both content and practice. Christian attitudes and values are the foundation of this developmental process.

Richard Guerin has been serving and teaching in the Archdiocese of Chicago for 34 years, 28 of those spent as principal of St. Bede. Before coming to St. Bede, he taught at Worth Junior High and Christ the King School. However, he fell in love with the job and the people at St. Bede where he has touched countless lives and been influenced by many lives in the community.

It is my honor to recognize Mr. Richard Guerin who serves as an example of one of the best in PreK–8 school leadership and helps to foster a greater understanding of the principal's key role in meeting the challenging responsibility of educating children.

IN TRIBUTE TO THE GREATER MILWAUKEE CHAPTER OF THE UNITED NATIONS ASSOCIATION FOR THEIR EFFORTS TO COMBAT GLOBAL POVERTY

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to applaud an alliance of dedicated residents of the Fourth Congressional District for their passionate pursuit of peace and justice. On October 8, members of the Greater Milwaukee Chapter of the United Nations Association, together with an array of partner organizations, will host a Call to Action and Celebration of the Global Campaign to Make Poverty History.

This effort is extremely timely. Poverty has a devastating effect on the lives of those in developing countries, and creates structural problems for the global economy that ultimately harm our own economic well-being. The U.N.'s Millennium Development Goals call for progress in eight key sectors, including education, healthcare, environmental sustainability and gender equity. Taken together, these goals comprise a comprehensive strategy for reducing poverty and hunger.

In reality, addressing global poverty requires us to confront the impact of debt on developing countries' ability to invest in the infrastructure and social services needed to improve the quality of their citizens' lives. The weight of the international debt that many developing countries carry poses an enormous obstacle to real progress toward eradicating poverty. Debt payments to international creditors inhibit many countries' efforts to recover from natural disasters, or establish healthcare, education and clean water programs. Impoverished countries in Africa pay on average $14 per person in debt service payments to international financial institutions, but spend only $5 per person on healthcare.

In recognition of this fact, I cosponsored the JUBILEE Act, which directs the Secretary of the Treasury to immediately begin working with the World Bank, the International Monetary Fund, and the G8 to cancel the debts owed by the world's 50 most impoverished nations.

I want to thank my constituents for their participation in this effort. I am proud of my community's commitment to pursue justice, dignity, and economic self-sufficiency for all of the world's citizens. I urge my colleagues to join me in championing this global initiative that will help secure a better, more prosperous and peaceful world for generations to come.

HONORING COACH PHIL DANAHER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. ORTIZ. Mr. Speaker, I rise to recognize an outstanding citizen, teacher and coach from Corpus Christi, Texas: Phil Danaher. Coach Danaher reached an historical milestone on September 9, 2005, by achieving his 300th high school football victory and becoming a member of an elite group of coaches who have amassed such a record.

Coach Danaher is currently serving as the athletic director and head football coach at Calallen Independent School District and is in his 35th year of coaching. He is the winningest active coach in football and is surpassed by only three other coaches in number of victories.

Coach Danaher played high school football for Harlingen High School in Harlingen, Texas, where he was two-time All-District, and two-time All-Valley as quarterback. He continued his love for the game by playing college football at Angelo State University.

Mr. Danaher has proudly served as head coach for Calallen High School for the past 22 years, after beginning his career at San Antonio Edison as an assistant head coach. He later served as head coach for Dilley and Hamshire-Fannett high schools from 1974 to 1983 before arriving at Calallen in 1984.

His remarkable coaching talent was evident from the start, leading Dilley to the district championship and capturing three more district championships over the next 9 years at Hamshire-Fannett. Prior to Mr. Danaher's arrival, Calallen High School had not been to the playoffs in 29 years. After just one season, Coach Danaher turned the program around and led the school to the playoffs for 20 consecutive seasons.

However, for Coach Danaher, it is not all about the number of victories he accumulates. Mr. Danaher believes the real honor in coaching lies in the fact that the athletic program has made a difference in the lives of countless players who have come and gone over the years.

On the night of his 300th career victory, Coach Danaher graciously thanked the fans and his team for their significant contributions. When history remembers Coach Danaher, his win-loss record will be noted—but his most enduring legacy will be his record for teaching young people how to make the most of their talents and their lives.

Mr. Speaker, I ask that my colleagues join me in honoring Coach Phil Danaher for his outstanding achievements and dedication to our south Texas community.

CONGRATULATING JUDIE DONALDSON

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate Judie Donaldson for all of the work she has done for her community.

Ms. Donaldson spent many years working in the academia world before entering the nonprofit sector full time. Moving from California, she found herself in Pittsburgh serving as the executive director of Grantmakers of Western Pennsylvania, an organization that provides education, networking and other resources to philanthropic organizations.

Her work for this organization earned her the 2005 Athena Award. The award is presented by the Greater Pittsburgh Chamber of Commerce and the Allegheny Conference on Community Development. Ms. Donaldson was one of six finalists for the award.

I ask my colleagues in the United States House of Representatives to join me in honoring Ms. Donaldson for her work and dedication to the community. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such a principled people in western Pennsylvania.

A PROCLAMATION HONORING NANCY AND MITCH TOTO ON THEIR 45TH WEDDING ANNIVERSARY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NEY. Mr. Speaker:

Whereas, Nancy and Mitch Toto were united in marriage October 1, 1960, and are celebrating 45 years of marriage; and

Whereas, Nancy and Mitch Toto were united in marriage at St. Casimirs in Adena, Ohio; and

Whereas, Nancy and Mitch Toto are the loving parents of two children and five grandchildren.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Nancy and Mitch Toto as they celebrate their 45th Wedding Anniversary.

HONORING NORTHWEST HIGH SCHOOL

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize Northwest High School, located in Justin, Texas, which has recently been selected as an Intel and Scholastic School of Distinction.

The Intel and Scholastic School of Distinction award recognizes schools that demonstrate excellence in implementing innovative programs to promote positive educational results. A total of 60 finalist schools across the nation were selected from 10 distinguished categories. Northwest High School has been selected for the Excellence in Leadership category that commends the influential effort of their dynamic leaders.

I extend my sincere congratulations to Northwest High School and to its principal, Jim Chadwell, for receiving this distinguished award given by the Intel Innovation in Education initiative and Scholastic Inc. Education is one of the most important gifts we can give our children, and Northwest High School has admirably contributed to the future of excellence in education.

RECOGNIZING THE CONTRIBUTIONS OF THE CHURCH OF THE OPEN DOOR OF LIBERTY CITY ON ITS 47TH ANNIVERSARY

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. MEEK of Florida. I rise to recognize the Church of the Open Door in Liberty City, Miami on its 47th Anniversary, which was celebrated on Sunday, September 18, 2005.

To celebrate its 47th year, the Church hosted civil rights activist and preacher, Rev. Dr. Joseph E. Lowery, a colleague of the late Dr. Martin Luther King, Jr. Rev. Lowery's powerful sermon was heard by many of the Church's founding members who are still active in the congregation.

Open Door is home to many prominent activists in the Liberty City community. Many members participated in the March on Washington and other key events in the civil rights movement, and they continue to be strong voices in the fight for justice and equality.

The Church of the Open Door was built in 1958 at 6001 NW 8th Avenue, and was founded by the family of Marie Faulkner Brown. To celebrate this anniversary the church unveiled portraits of its founding members and pastors, and hosted four days of guest choirs, fellowship, and worship services for its annual revival week.

Mr. Speaker, I want to congratulate Open Door's pastor, Rev. Joaquin Willis, and his congregants on this happy occasion.

PANCREATIC CANCER AWARENESS MONTH

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. PLATTS. Mr. Speaker, I rise to strongly support House Resolution 276. This resolution will help increase awareness about a horrible disease: Pancreatic cancer.

Few Americans may understand that pancreatic cancer is a horrific killer. This year alone, over 32,180 people will be diagnosed with this disease. Because there are no early detection tools for this cancer, 99% of those diagnosed will lose their lives.

Many Americans are not aware that pancreatic cancer has the highest mortality rate of all cancers; most patients only survive 3 to 6 months after diagnosis. This is why it is a moral imperative for Congress to work to increase awareness of this deadly cancer.

Currently, the Pancreatic Cancer Action Network (known as "Pan CAN") is the only national advocacy organization available for pancreatic cancer patients and their families and friends. I became aware of Pan CAN through a constituent of mine, Bob Hammen, who lost his wife to this terrible disease. Pan CAN provides patient support and professional education about this disease, while coordinating advocacy programs to focus national attention on finding a cure for pancreatic cancer.

Pan CAN regards each November as Pancreatic Cancer Awareness Month. With the passage of H. Res. 276, Congress will be supporting Pan CAN's efforts to raise awareness about pancreatic cancer so that scientific advancements can lead to early detection programs and effective treatments.

Mr. Speaker, because all of our fellow citizens have family, friends and neighbors who are regrettably vulnerable to this dreaded disease, I urge support from my distinguished colleagues for this resolution here today.

DEDICATION TO A COMMUNITY

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. SANDERS. Mr. Speaker, it is a pleasure, a great pleasure, for me to inform you, my colleagues in Congress, and through you the entire nation, about the kind of public service and dedication found in Vermont and, I suspect, in other villages, towns and cities throughout America.

Aileen O'Neil has been the town clerk of Woodford, Vermont for 36 years. For well over three decades she has met the needs of the people in her town of 421 citizens, keeping the town going and its records up to date. Her long and dedicated service was recently recognized by the Vermont Municipal Clerks and Treasurers Association, for they named her Vermont's Town Clerk of the Year.

During all of those 36 years Aileen O'Neil has done what needs to be done, with care, with courtesy, and with a concern for the public life we share with one another. What she told a newspaper reporter recently is a model for all of us, for I think each of us would like to be able to say, while still at work after so many years, "I love my job. I've loved my job all these years. It's a purpose in life for me."

We are lucky to have her, both as a town clerk in Woodford and as an example for all of us.

IN HONOR OF SID BALICK

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Sid Balick for his outstanding contributions to the Boys and Girls Clubs of Delaware. With over 40 years of service under his belt, Sid is the longest serving board member in the history of the organization.

While growing up in Delaware, Sid was a member of the Jackson Street Boys Club. This experience fostered an understanding of the values and lessons instilled by the Boys and Girls Clubs, prompting Sid's longstanding commitment to these important community service organizations.

Tonight, friends, family, and colleagues will honor Sid at a function paying tribute to his contributions to the city of Wilmington as an attorney, civic leader and volunteer. During his distinguished career, he has also served in the Delaware State House of Representatives and as President of the American Civil Liberties Union of Delaware.

Always a generous supporter, Sid has asked that the proceeds from his event be donated to the Boys and Girls Clubs' Capital Campaign. These contributions will serve to enhance education and fitness programs at the various Boys and Girls Clubs throughout the State of Delaware.

In closing Mr. Speaker, I would like to once again congratulate and thank Sid for his tremendous contributions to the State of Delaware. Generations of children owe him a debt of gratitude, and I am pleased to be able to vocalize their appreciation. An exemplary citizen and proud American, we all owe Sid a sincere thank you.

REPORT BY THE CENTER ON NATIONAL POLICY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. MILLER of California. Mr. Speaker, I commend to my colleagues a report by the reputable Center on National Policy focusing on early childhood education. There is much in this report that is of value to Congress as we move to eliminate the achievement gap in this. The full report can be found at http://www.cnponline.org/Education.htm I am enclosing the executive summary for your review below.

> With mounting evidence that high-quality early child care and education can significantly affect life chances, especially for low-income children, a CNP report calls for development of a comprehensive national policy to ensure broad access to effective programs. Authors Jennifer Kolker, David Osborne and Eric Schnurer review data on program availability, adequacy and cost. They assess state efforts, current federal funding and coordination issues. They urge Congress and the President to act so that outcomes improve for all American children.

SOUTH DAKOTA STATE UNIVERSITY: 2005 SECRETARY OF DEFENSE EMPLOYER SUPPORT FREEDOM AWARD RECIPIENT

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. HERSETH. Mr. Speaker, I am pleased to report that South Dakota State University (SDSU) has been awarded the 2005 Secretary of Defense Employer Support Freedom Award.

The Secretary of Defense Employer Support Freedom Award was instituted in 1996 by Secretary of Defense William Perry and the National Committee for Employer Support of the Guard and Reserve. The award was created to publicly recognize American employers who provide exceptional support to their employees who serve the Nation in the National Guard and Reserve.

Mr. Speaker, let me express my admiration for SDSU and the South Dakota National Guard and Reserve. South Dakota has one of the highest rates of mobilization in the Nation. This high rate of service is a reflection of the hard work and pride South Dakota National Guard and Reserve members maintain. I am grateful for SDSU's tremendous support of the National Guard and Reserve. The university represents South Dakota principles with remarkable distinction.

SDSU provides differential pay for its employees for the entire length of their activation and student academic progression support. In addition, it grants employees 40 hours of paid personal leave for preparation of a deployment. SDSU's support for its National Guard and Reserve employees and students is admirable and serves as an example for other institutions of higher learning to emulate.

I join with all South Dakotans in expressing my gratitude to SDSU. We are all proud and thankful for their demonstrated commitment to their employees and students who serve the Nation in the National Guard and Reserve.

A PROCLAMATION THANKING MATT SMITH FOR HIS SERVICE TO OUR COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NEY. Mr. Speaker:

Whereas, Matt Smith served in Iraq and is the recipient of numerous awards including the Meritorious Service Award, the Purple Heart, the Global War on Terrorism Medal, and the National Defense Service Medal; and

Whereas, Matt Smith is to be commended for the honor and bravery that he displayed while serving our Nation in this time of war; and

Whereas, Matt Smith has demonstrated a commitment to meet challenges with enthusiasm, confidence, and outstanding service;

Therefore, I join with the family, friends, and residents of the entire 18th Congressional District of Ohio in thanking Matt Smith for his service to our country and wishing him the best of luck in all his future endeavors. Your service has made us proud.

17TH ANNUAL DENTON COUNTY FIREFIGHTERS MEMORIAL SERVICE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BURGESS. Mr. Speaker, I rise today to honor the fallen men and women firefighters who selflessly dedicated their lives to our communities.

Each October, a grateful Nation honors its fallen fire heroes during the National Fire Prevention Week. Fire Prevention Week is a great opportunity to educate all citizens about the dangers of fire and the steps they can take to protect themselves. Each year, more than 4,200 Americans lose their lives to fire. That's more deaths by fire each year than all other natural disasters combined. National Fire Prevention Week has been observed since 1922 the week of October 9th. This marks the date of the Great Chicago Fire in 1871. In that tragic conflagration, more than 250 people were killed. 100,000 were left homeless, 17,400 structures were destroyed, and more than 2000 acres burned.

I want to thank Denton's First United Methodist Church for hosting a special service in honor of those who gave their lives for those of us residing in Denton County. The service and the processional to the Denton County Firefighters Memorial Park that concluded the memorial service truly honors these heroic men and women. This year marks the 17th Annual Memorial Service in Denton County.

I extend my condolences and appreciation to the families and the communities of these fallen firefighters. This memorial service acts as a tribute to the brave men and women of America's fire service.

TRIBUTE TO THE VILLAGE OF NELSONVILLE, NEW YORK

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mrs. KELLY. Mr. Speaker, I rise today to honor the village of Nelsonville, New York, which this month celebrates its sesquicentennial. I extend my sincere congratulations to town officials, residents and supporters on this occasion, which symbolizes an accumulation of 150 years of hard work and diligence by a community.

On an early autumn day in October 1855, the village of Nelsonville was born and with it a quaint community founded on good will and hard work. Some say the essence of the village can be seen in the elaborate picture painted by the landscape of historical buildings on the village's timeless Main Street. This can be seen in the current Village Hall which, prior to 1955, housed the local the Fish and Fur Club for over half a century.

Nelsonville commemorates their 150th Anniversary this month with a parade which surely will prove memorable as local leaders, organizations and community members come together to remember an impressive history that has provided the building blocks for an promising future.

Undoubtedly, the success of Nelsonville could not have been realized without the support and kinship of the surrounding town of Philipstown and Putnam County. For years to come, Nelsonville will remain a great place to live following the lessons of the past and by continuing participation in camaraderie with surrounding communities.

There have been over 30 mayors since the village's inception. From Mayor Purdy in 1855 to Mayor Mitch Dul in 2005, the village has seen many challenges, but has always stayed on steady course. The village retains a timeless quality easily identifiable by those taking a walk down its streets. On behalf of the people of the 19th Congressional District of New York, I wish Nelsonville continued success and another 150 exceptional and prosperous years.

THE FEDERAL MINERAL DEVELOPMENT AND LAND PROTECTION EQUITY ACT OF 2005

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. RAHALL. Mr. Speaker, on March 1, 1872, President Ulysses S. Grant signed into law a bill creating the world's first national park: Yellowstone. Known from its inception as "nature's wonderland", Yellowstone has embodied a simple and straightforward concept of a place unexploited and unspoiled by economic or other development.

In 1872, the vast wilderness of the west was viewed by most Americans as something to be tamed, to be explored, settled, mined, logged, ranched, and farmed. Most people at that time did not value the west for its wilderness, but rather for the material and economic treasures that it could yield. It is therefore remarkable that during such an age, Congress set aside an area roughly the size of my home State, West Virginia, as the world's first national park—an area that would be closed to farming, timbering, mining and open to all Americans for present and future recreation use.

Several months after the 54th Congress created Yellowstone, they sent the General Mining Law to President Grant for signature. Following on the heels of the California Gold Rush, the Mining Law of 1872 was enacted in order to promote orderly mineral exploration and development of the West and to provide certainty and legal protections to those Americans willing to take on the task. It is first and foremost a land law; it does not contain environmental or public health and safety provisions.

The Mining Law of 1872 has, like Yellowstone, remained largely intact and unchanged over the past 133 years. While most people would agree that the continued preservation of Yellowstone is a good thing, most would disagree that maintaining and preserving the Mining Law of 1872 is a good thing. To keep a law on the books that has no environmental protection provisions, prevents the Federal Government from stopping ill-advised proposed mines on Federal lands, and has left the headwaters of 40 percent of western waterways polluted by mining, is irresponsible and just plain ridiculous.

Even more absurd, the 1872 Mining Law also allows extraction of valuable minerals from the public domain without payment of royalties to taxpayers and at the same time allows mining companies to purchase mineral rich public lands for no more than $5 an acre irrespective of lands true value. In recognition of the fiscal irresponsibility of this situation, Congress has since 1994, annually placed moratoria on mineral claim patents in appropriations bills, most recently in the fiscal year 2005 Consolidated Appropriations Act, allowing only patents applied for prior to 1994 to be processed. However, it is far past the time for this moratorium to become permanent rather than being subject to annual renewal.

To be sure, Congress has attempted to comprehensively reform the Mining Law at various times over its history—each time to be thwarted by powerful mining interests. Former Congressman Mo Udall came close in the 1970s. During the 102nd Congress in 1991, I introduced mining reform legislation and we came close to enacting legislation in 1994 that would have updated this archaic law. Unfortunately, at the last moment, after both the House and the Senate had passed separate bills, the conference failed to reach a compromise and the rest, as they say, is history. Since then, I have re-introduced reform legislation in each succeeding Congress.

Today, Representatives Jay Inslee, Christopher Shays, and I, joined by our colleagues, Maurice Hinchey, Dennis Kucinich, Earl Blumenauer, George Miller, and Raul Grijalva are introducing legislation similar to what we introduced in earlier Congresses. However, this bill differs from past efforts in one significant way. The Federal Mineral Development and Land Protection Equity Act of

2005 has as its centerpiece, the recognition that there are special places, often sacred sites, that should be off-limits to hardrock mining. This simple but important provision is necessary because under the 1872 Mining Law, the Federal Government can not stop a valid mining claim from being developed on public lands, regardless of what other values are present.

For example, the proposed site for a 1,600-acre, open-pit gold mine in Indian Pass, California, is the sacred place where Quechan Indian tribes "dream trails" were woven. The Bush administration revoked a Clinton-era ruling that said mining operations would cause undue impairment to these ancestral lands, an extremely sacred place to the Quechan Indian tribe. Now the tribe is left fighting for its religious and cultural history. Although the State of California has taken action to help protect this site, the Federal Government remains poised to permit the gold mine.

Sadly, the threat to Indian Pass is not unique. American Indians, the first Americans, were the first stewards of this land. They respected the earth, water and air. They understood you take only what you need and leave the rest. They demonstrated that you do not desecrate that which is sacred. Most Americans understand a reverence for the great Sistine Chapel, or the United States Capitol. However, there are times when we have difficulty applying the same reverence we give to our sacred man-made places to a mountain, valley, stream or rock formation held sacred to Native Americans.

The Federal Mineral Development and Land Protection Equity Act of 2005 has as its centerpiece, the recognition that there are special places, often sacred sites, that should be off-limits to hardrock mining. Our mining law reform legislation also recognizes that there are other special places in the U.S. with spectacular natural and cultural resources and values that should be protected from the unavoidable, and often irreversible, damage caused by hardrock mining.

Our legislation would bring hardrock mining law into the 21st century. It would protect precious water resources from toxic mine waste with much needed environmental standards, and prevent mining industry rip-offs by requiring the industry to pay a production-related royalty on the extraction of publicly owned minerals. It would also prevent mining operations from endangering federally designated wilderness areas and other special places by requiring land managers to weigh mine proposals against other potential land uses when making permitting decisions.

The lack of a royalty in the 1872 Mining Law and the absence of deterrents or penalties for irresponsible mining have caused enormous taxpayer giveaways and liabilities. Under the Mining Law the Federal Government has given away over $245 billion in mineral rich public lands. In return, the mining industry has left taxpayers with a cleanup bill, for their business and mining practices, estimated to be in the range of $32 to $72 billion for hundreds of thousands of abandoned mines that pollute the western landscape.

It is time, well past time, that the Congress replace this archaic law with one that reflects contemporary economic, environmental and cultural values. Insuring a fair return to the public in exchange for the disposition of public resources, and properly managing our public lands are neither Republican nor Democratic issues. They are simply ones that make sense if we are to be good stewards of America's lands and meet our responsibilities to the American people.

Mr. Speaker, during the years I have labored to reform the Mining Law of 1872 those who defend its privileges—and it is indeed a privilege to be deemed the highest and best use of our public domain lands—have often alleged that my mining reform legislation fails to take into account the contribution of hardrock mining to area economies. They claim that reform would have dire consequences on the industry, that if we did not provide the industry with unfettered access to public lands and public minerals, the industry could no longer survive.

Let me just say that there is no member in the House of Representatives whose Congressional District is more dependent upon mining for employment and its economic benefits than this gentleman from West Virginia. And when we are talking about the effects of mining, I would suggest that there is little difference between coal mining and gold mining. The effects, whether measured in terms of employment, or in terms of the environment or cultural values, are the same.

With that noted, I have engaged in the effort to reform the Mining Law of 1872 these past many years not just for the apparent reasons—the sins of giving away the public's valuable minerals mined for free, selling off Federal lands available almost for free and providing no comprehensive Federal mining and reclamation standards. But, I continue to wage this effort because I am pro-mining, because I no longer believe that we can expect a viable hardrock mining industry to exist on public domain lands if we do not make corrections to the law. I do so because there are provisions of the existing law which impede efficient and serious mineral exploration and development. And I do so because of the unsettled political climate governing this activity, with reform if not coming in a comprehensive fashion, certainly continuing to come in a piecemeal manner.

I believe that with enough courage, and fortitude, we can continue to address the problems facing mining, and dovetail our need for energy and minerals with the necessity of protecting our environment.

For at stake in this debate over the Mining Law of 1872 is the health, welfare and environmental integrity of our people and our Federal lands. At stake is the public interest of all Americans. And at stake is the ability of the hardrock mining industry to continue to operate on public domain lands in the future, to produce those minerals that are necessary to maintain our standard of living.

TRIBUTE TO ST. JEROME CHURCH IN THE BRONX

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Saint Jerome Church in the Bronx. On October 2, 2005 they will hold rededication ceremonies in honor of the newly renovated Church.

St. Jerome Church was founded on September 24, 1869, and primarily served the large group of Irish immigrants arriving in America during the latter half of the 19th century. In 1898, the cornerstone was laid for the building that St. Jerome Church would call home for the next hundred years. So magnificent was the edifice that to this day it is called "The Cathedral of the Bronx." The stained glass windows and beautifully painted ceilings make Saint Jerome Church truly one of the most visually stunning churches in the city.

Throughout its history, St. Jerome Church has stood fast in good times and bad as a symbol of faith. Through two World Wars, the Korean War and Vietnam, the church has watched as many of its sons and daughters bravely served their country. Those who made the ultimate sacrifice have their names inscribed on the walls of the church as a reminder of the high cost of war.

In the fifties, as Puerto Ricans and others from the Caribbean made the Bronx their home, St. Jerome Church was there to welcome them with open arms. The priests made it a priority to learn Spanish as new spirit was breathed into the surrounding neighborhood. Even today, St. Jerome Church continues its legacy of welcoming newcomers to the Bronx as Mexican immigrants have revitalized the area.

Mr. Speaker, scripture tells us in Deuteronomy 15:7: "If there is a poor man among you, one of your brothers, in any of the towns of the land which the LORD your God is giving you, you shall not harden your heart, nor close your hand to your poor brother; but you shall freely open your hand to him, and generously lend him sufficient for his need in whatever he lacks." St. Jerome Church has always striven to realize these instructions. Under the spiritual leadership of my friend, Father John Grange, over the last 26 years St. Jerome Church has grown into a powerful healing force in the Bronx, taking in Bronxites of all nationalities and providing them with food for the soul.

As the representative from the South Bronx, the poorest Congressional District in the nation, I am grateful to have a church in my community that works so hard, day in and day out, to provide for those who are in need. In an effort to provide better lives for themselves and their families, many immigrants make the Bronx their first home in the States. During those trying first few years, it is institutions like St. Jerome Church which help them manage their struggle by providing constant spiritual guidance. St. Jerome Church has in the past and continues to freely open their hand to the people of the Bronx. For 136 years of outstanding service to the people of the Bronx, I ask my colleagues to join me in paying tribute to St. Jerome Church as it is re-dedicated on October 2, 2005.

HONORING BEATRICE JOYCE ELLINGTON

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to acknowledge and honor Beatrice Joyce Ellington who recently passed away on August 1, 2005.

I have known her since 1980. She was a remarkable person. In fact, if more people just acted as she did, our world would be a better place.

Joyce became the first African American woman to head the San Jose Public Library Commission in 1980. In 1974, Joyce successfully argued before the San Jose Unified School District Board and the City Council that vacant land, a valuable commodity in San Jose where a single-family home can easily cost over a half-million dollars, should be used for a library, instead of being sold. Joyce was recognized for her tenacity in pushing for the library in 2002 when the City Council was persuaded by her neighbors and the community at large to overlook the City's rule not to name a public building after a person still alive. At that time, the Empire Library was renamed to the Joyce Ellington branch library.

In addition to her accomplishments with the library, Mrs. Ellington was a founder in 1965 of the Northside Neighborhood Association, the oldest of its kind in the City of San Jose. Perhaps the greatest tribute to Joyce was her ability to gather community members of all races, creeds and religions to work together toward a common purpose in the community. The Northside community, where Joyce lived and did her service, is also one of the most diverse communities in California with neighbors, friends and families with roots in Africa, Japan, the Philippines, Mexico and elsewhere.

When I attended the service for Joyce, stories abounded of not only her community service, but also of her welcoming heart and home.

Joyce was the sort of person who, when she saw a problem simply took responsibility to be part of the solution. That's why she led the effort to establish a lighting district so that the northside neighborhood could have street lights. That's why she looked after her neighbors. It's why she cared about literacy. It wasn't enough that her own children were readers and getting a good education. She understood that it was also important for all the children in her community to love reading and books. She is most certainly a dearly missed community leader, friend and teacher. She not only taught us lessons of service, but also opened the doors for us to teach ourselves at the library so aptly named after her.

A PROCLAMATION CONGRATULATING MS. CHRISTINA TRIPLETT ON WINNING THE RISING UP & MOVING ON AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NEY. Mr. Speaker:

Whereas, Ms. Christina Triplett has overcome adversity and hardship from a young age to become an outstanding young woman; and

Whereas, Ms. Christina Triplett was able to keep her siblings together as a family in a trying environment; and

Whereas, Ms. Christina Triplett has committed herself to helping others in similar situations cope with the ordeal and to being a positive influence to all those around her.

Therefore, I join with family, friends and associates, as well as the entire 18th Congressional District of Ohio in celebrating your receipt of the Rising Up & Moving On Award. You are an inspiration to us all.

JULIAN BOND AFFIRMS THAT GAY RIGHTS ARE CIVIL RIGHTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, for more than 45 years, Julian Bond has provided leadership in the fight against prejudice and its terrible effects in the United States. From his early days as a student leader, to his current position as Board Chair of the NAACP, with distinguished elected service in between, Julian Bond has been in the forefront of the fight for justice in America. Given his extraordinary leadership in the struggle against discrimination based on race, and given the efforts of some to argue that the fight against homophobia is somehow entirely different from the fight against racism, Julian Bond's eloquent, forceful defense of the right of gay, lesbian, bisexual and transgendered people to be treated fairly is noteworthy.

On Saturday, October 1, Mr. Bond addressed another important civil rights organization, the Human Rights Campaign, at the HRC's Washington Dinner. His speech, not surprisingly for a champion of human rights, is a strong defense of the right of people to be free from prejudice based on their sexual orientation, and an explicit affirmation that the fight against racism and the fight against homophobia have a common basis.

As he said in that speech, "denial of rights to anyone is wrong, and . . . struggles for rights are indivisible."

Mr. Speaker, because of the eloquence of his repudiation of the effort to divide those who fight against racism from those who fight against homophobia, and because of his extraordinary stature in the fight to make sure that the rights spelled out in our Constitution are in fact fully enjoy by everyone, Julian Bond's words at the Human Rights Campaign Dinner deserve the attention of every Member of this body, and I ask that those remarks be printed here.

I am more than honored to receive this award, and want to express my thanks to all responsible for it. I want to promise you that I intend to live my life as if I actually deserve it.

I believe it represents a common acknowledgement that denial of rights to anyone is wrong, and that struggles for rights are indivisible.

I feel tonight a little like the great abolitionist Frederick Douglass must have felt in April, 1888. Douglass, by then an old man, was addressing a women's convention in Seneca Falls, New York. They praised him for his devotion to the cause of women's suffrage. Forty years earlier, at the world's first Women's Rights Convention, when Susan B. Anthony made a motion that American women had the right to vote, it was Douglass who seconded the motion.

In 1888, Douglass reflected back on that moment and told his audience, When I ran away from slavery, it was for myself; when I advocated emancipation, it was for my people; but when I stood up for the rights of women, self was out of the question, and I found a little nobility in the act.

You have all made me feel noble tonight.

I am proud to represent an organization that has fought for justice for all for nearly 100 years, and while we've won many victories, we know—you know—there are other battles yet to be waged and won.

At the NAACP, we were proud to have opposed the federal marriage amendment and its wrong-headed versions in several states. President Bush backed amendments banning same-sex marriage, calling marriage "the most fundamental institution of civilization."

Isn't that precisely why one should support, not oppose, gay marriage?

The NAACP recently passed a resolution to strengthen families, including yours. We promised to "pursue all legal and constitutional means to support non-discriminatory policies and practices against persons based on race, gender, sexual orientation, nationality or cultural background."

We know there was a time, not so long ago, when black people in this country couldn't marry the person of their choice either. The California Supreme Court was the first, in 1948, to strike down laws prohibiting interracial marriage.

Now the California legislature has become the first to legalize gay marriage.

As California goes, so goes the Nation. It's just a matter of time.

Almost twenty years after California legalized interracial marriage, the United States Supreme Court heard the aptly named case Loving v. Virginia.

A married couple—Richard Loving, a white man, and Mildred Jeter, a black woman—won a ruling from the Court that Virginia's miscegenation laws were unconstitutional. That case enabled me to get married in Virginia. That case recognized marriage as one of the inviolable personal rights pursuant to happiness.

That's why when I am asked, "Are Gay Rights Civil Rights?" my answer is always, "Of course they are."

"Civil rights" are positive legal prerogatives—the right to equal treatment before the law. These are rights shared by all—there is no one in the United States who does not—or should not—share in these rights.

Gay and lesbian rights are not "special rights" in any way. It isn't "special" to be free from discrimination—it is an ordinary, universal entitlement of citizenship. The right not to be discriminated against is a common-place claim we all expect to enjoy under our laws and our founding document, the Constitution. That many had to struggle to gain these rights makes them precious—it does not make them special, and it does not reserve them only for me or restrict them from others.

When others gain these rights, my rights are not reduced in any way. The fight for "civil rights" is a win/win game; the more civil rights are won by others, the stronger the army defending my rights becomes. My rights are not diluted when my neighbor enjoys protection from the law—he or she becomes my ally in defending the rights we all share.

For some, comparisons between the African-American civil rights movement and the movement for gay and lesbian rights seem to diminish the long black historical struggle with all its suffering, sacrifices and endless toil. However, people of color ought to be flattered that our movement has provided so much inspiration for others, that it has been so widely imitated, and that our tactics, methods, heroines and heroes, even our songs, have been appropriated by or served as models for others.

No parallel between movements for rights is exact. African-Americans are the only Americans who were enslaved for more than two centuries, and people of color carry the badge of who we are on our faces. But we are far from the only people suffering discrimination—sadly, so do many others. They deserve the law's protections and civil rights, too.

Sexual disposition parallels race—I was born black and had no choice. I couldn't change and wouldn't change if I could. Like race, our sexuality isn't a preference—it is immutable, unchangeable, and the Constitution protects us all against prejudices and discrimination based on immutable differences.

Those whose bigotry is Bible-based selectively ignore Biblical injunctions in Exodus to execute people who work on the Sabbath and in Leviticus to crack down on those who get haircuts or who wear clothes with more than one kind of thread.

Recently, they've even ignored the sanctity of marriage—just ask Michael Schiavo.

Many gays and lesbians worked side by side with me in the '60s civil rights movement. Am I to now tell them "thanks" for risking life and limb helping me win my rights—but they are excluded because of a condition of their birth? That they cannot share now in the victories they helped to win? That having accepted and embraced them as partners in a common struggle, I can now turn my back on them and deny them the rights they helped me win, that I enjoy because of them?

Not a chance.

In 1965, those of us who worked in the civil rights movement were buoyed by a radio address given by Lyndon Johnson.

His words speak to us today. He said then:

It is difficult to fight for freedom. But I also know how difficult it can be to bend long years of habit and custom to grant it. There is no room for injustice anywhere in the American mansion. But there is always room for understanding those who see the old ways crumbling. And to them today I say simply this: It must come. It is right that it should come. And when it has, you will find that a burden has been lifted from your shoulders too. It is not just a question of guilt, although there is that. It is that men cannot live with a lie and not be stained by it.

One lesson of the civil rights movement of yesterday—and the on-going civil rights movement of today—is that sometimes the simplest of ordinary acts—taking a seat on a bus or a lunch counter, registering to vote, applying for a marriage license—can have extraordinary ramifications. It can change our world, change the way we act and think.

Thank you again for this honor.

The old ways are crumbling.

It must come.

Let us leave here determined to fight on until it does.

HONORING RICK GEHA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. STARK. Mr. Speaker, I rise to pay tribute to Rick Geha who is being honored by The Ohlone College Foundation in Fremont, California, as 2005 Citizen of the Year.

Since 1987, the Ohlone College Foundation has awarded a Citizen of the Year Award at its Annual Benefit Luncheon to honor individuals or organizations that have made an exceptional contribution and commitment to the advancement of the community.

Rick Geha is being honored for his "Commitment to Excellence." As a businessman, he is a leader among Bay Area realtors and a mentor in the real estate business.

As a community activist, he is a strong advocate for children and education. He has served on the Ohlone College Foundation Board since 1993 and has held the position of Board Chair for the past eight years. He has served two terms on the Kidango Board of Directors. Kidango, formerly Tri-cities Children's Center, provides a variety of child development programs in 46 locations in three Bay Area Counties. The Fremont Education Foundation honored Rich Geha as the Community Honoree for its 2005 Excellence in Education award.

Rick Geha gives tirelessly to the community through his philanthropy, community service, business expertise, and dedication to making a positive difference. On October 21, family and friends as well as the grateful recipients of Rich Geha's kind service and financial support to non-profit organizations, will gather to acknowledge his years of community service. I join them in appreciation for his commitment to excellence.

HONORING HEALTHSOURCE SAGINAW, INC.

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. KILDEE. Mr. Speaker, I rise before you today to honor the administration and staff of HealthSource Saginaw, Inc. For 75 years, this facility has provided superior medical care to patients throughout the Saginaw area, and on October 21, they shall break ground on a new, larger facility.

Originally known as Saginaw County Hospital, HealthSource Saginaw was established by county officials in 1930 as a tuberculosis sanitarium. In 1991, it became a Municipal Health Facility Organization and qualified for non-profit status with the Internal Revenue Service. Throughout the years, it has maintained a vision to offer the finest care available, care that meets and exceeds the latest in healthcare, communications, and information technology. At the same time, HealthSource Saginaw has continued to provide the quality level of compassion for which it is known for throughout the State of Michigan.

With 319 inpatient beds, HSS is comprised of three divisions: Behavioral Medicine Services, an Extended Care Center, and a Medical Rehabilitation Center. They offer specialty services such as inpatient and outpatient Chemical Dependency and Mental Health care and treatment, restorative care, physical, occupational, and speech therapy, and the region's only inpatient adolescent mental health program. They receive accreditation from the Commission on Accreditation of Rehabilitation Facilities and the Joint Commission on Accreditation of Healthcare Organizations, who have given them the most optimal level of distinction for their hospital level services.

In addition to its non-profit status, HSS receives significant funding from Medicare, Medicaid, and of course through the support of Saginaw County residents, who have authorized a millage to help with costs. Over 99 percent of their total budget, including funds received by the millage, is earmarked for direct patient care, with the remaining one percent slated for equipment.

Mr. Speaker, it is indeed an honor and a pleasure for me to have this opportunity to recognize this outstanding group of medical professionals. Many families have benefited from their care and services. The staff considers it their duty and privilege to protect and defend human dignity and the quality of life for their patients. I am grateful for HealthSource Saginaw's commitment to go beyond the ordinary when providing healthcare services, and I ask my colleagues in the 109th Congress to please join me in congratulating and wishing them well on their expansion.

STATEMENT IN REMEMBRANCE OF KENNETH SMITH

HON. JIM SAXTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. SAXTON. Mr. Speaker, it is with great sorrow I announce the passing of Kenneth Smith of Manahawkin, New Jersey, after a long battle with cancer. Ken dedicated his life toward enhancing the sandy beaches, not only of New Jersey, but of the entire nation.

Ken Smith was a tireless and dedicated advocate for protecting and enhancing our beaches. He knew how much they mean to our state and national economies, and he fought tenaciously to assure the federal government gave beach preservation the priority it deserves. For over a quarter of a century, Ken was America's "Coastal Advocate."

Ken spent eight years as a Vice President and as a Director of the American Shore and Beach Preservation (ASBPA); and is a co-founder of the Alliance for a Living Ocean, formed in response to the terrible summer when garbage and other pollution was washing up on the Jersey shore in 1987. The Alliance for a Living Ocean won the Governor's Award for Volunteerism in 1999. Ken, known as ASBPA's "Tenacious Bulldog at the Beach," won the organization's prestigious Morrough P. O'Brien Award in 1999, followed by its Lifetime Achievement Award in 2004.

The millions of tourists who come to visit and enjoy our beaches each year from across the nation and from around the world, as well as all those whose communities are protected from the ravages of storms by these same dunes and healthy beaches, owe Ken a debt of gratitude for all that he accomplished. Ken was the leading force in bringing an awareness to so many people about the importance of working together to preserve not only our beaches and oceans, but the environment and our natural resources as a whole. His dedication to not only protecting the beaches but educating people on the importance of preservation was unparalleled.

I extend my sympathies to his wife, Pat, and to his entire family and hope that these words of appreciation will comfort them in their time of sorrow.

IN RECOGNITION OF MS. LINDA LEONARD

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mrs. McCARTHY. Mr. Speaker, I rise today in recognition of Ms. Linda Leonard, a dedicated member and Executive Director of Long Island Crisis Center, LICC. On October 10, 2005, Ms. Leonard will celebrate 30 years of service to the citizens of Nassau County and Long Island.

Long Island Crisis Center was created in the 1970s by students of Adelphi University to promote counseling for students by students via telephone or face-to-face appointments. Since then, the Center has expanded to help countless Long Islanders with a wide array of programs.

Ms. Leonard has been in charge of the Center since 1979. She has brought support to numerous groups on Long Island and has brought the LICC from its very humble beginnings to an established multi-service agency. The people of Long Island are in debt to the work of this committed woman.

There have been many groundbreaking programs established by Ms. Leonard in her 30 years of service. For example, in the late 1970s runaway and homeless youth had no where to turn to for support. Ms. Leonard changed that in conjunction with the Nassau County Youth Board. She established the Runaway and Homeless Youth Hotline along with housing for these young people. She further led the way in the creation of Nassau Haven, a shelter for these same youth. While this shelter was not opened until 1980, the LICC continued to help these young members of the Long Island community.

Ms. Leonard is also responsible in creating support lines for people from stigmatized populations of Long Island. She had led the fight to create peer counseling and assistance programs for gay and lesbian youth. She pursued this fight through the 1980s, a time where this policy was viewed as highly unpopular. In 1993, LICC formed Pride for Youth with a grant from the Paul Rapoport Foundation. Pride for Youth's mission is to enhance the health and wellness of these youth through education, supportive services, and youth development.

It is the strong leadership of this woman that has allowed the LICC to be an effective organization in helping those members of the Long Island community most needing help. Mr. Speaker and colleagues, please join me in congratulating Linda in her 30 years of service. Best wishes, Linda, and I can only hope you continue serving Long Island in the exceptional way you have for 30 years.

A PROCLAMATION THANKING CAMERON R. AGIN FOR HIS LIFELONG DEDICATION TO HIS COMMUNITY AND HIS COUNTRY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NEY. Mr. Speaker:

Whereas Cameron R. Agin honorably served his country during a time of conflict in World War II; and

Whereas, Cameron R. Agin continued his life of service with the Zanesville Police Department, earning the rank of Captain; and

Whereas, Cameron R. Agin led a life devoted to civic responsibility and true patriotism in the Jaycees, Charity Newsies, American Legion, Boy Scouts, Grotto, Shrine and the VFW.

Therefore, I join with family, friends and the entire 18th Congressional district of Ohio in thanking Mr. Cameron R. Agin for his inspiring service both in war and at peace.

RECOGNIZING KATZEN INTERNATIONAL ON ITS 50TH ANNIVERSARY

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. CHABOT. Mr. Speaker, I rise today to recognize the impressive achievements of a company in Ohio's First Congressional District that is celebrating its 50th anniversary. KATZEN International is a leading name in the ethanol industry and has been involved in the design and development of 70 ethanol plants around the world. I think my colleagues would agree that 50 years is a remarkable amount of time to be in any business, and this is no exception.

KATZEN International, Inc. was formed in 1955 by Dr. Raphael Katzen. The company includes a group of highly experienced chemical and mechanical engineers, biologists, and designers who have applied their expertise to provide innovative and advanced design concepts encompassing the agriculture, chemical, sugar, paper, and other industries.

Dr. Katzen pioneered a number of technologies used to produce fuel grade ethanol and as early as 1945 he designed, built, and operated a 17 million gallon per year ethanol plant in Springfield, Oregon using wood as a feedstock. Dr. Katzen and his colleagues have worked to improve the quality of life in rural America by developing some of the most efficient and successful ethanol plants in the country. As the ethanol industry has matured and larger plants have become the norm, KATZEN has retained its agriculture base and continues to work with ethanol plants of all sizes.

On behalf of the people of Ohio's First Congressional District, I would like to congratulate Raphael Katzen and KATZEN International on 50 years of technology, development, environmental stewardship, and support for rural America.

TRIBUTE TO WALT HIERSTEINER

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. MOORE of Kansas. Mr. Speaker, I want to take a moment to bring to the attention of the House of Representatives a profile and interview of one of my leading constituents in Kansas' Third Congressional District, Walter Hiersteiner of Prairie Village, Kansas. Walt recently was the subject of an article in "The Best Times: a newspaper for Johnson County's 60-and-older citizens", which I am including with this statement.

Walt Hiersteiner has a long history of service to his family, friends and community. Since 1946, he has been involved with the management and administration of the Tension Envelope Corporation of Kansas City, Missouri, where he has been responsible for numerous innovations in that field, including 25 United States patents. Just as important, if not more so, has been his dedication to the Kansas City community, including: service on the Shawnee Mission Board of Education; establishment of the Committee for Excellence, which supported several school bond issues; service on the Kansas State Board of Regents, to which he was appointed by Governor Robert Docking; chairing the Legislative Committee for the Johnson County Community College Foundation; and fundraising and direct financial support for numerous worthy community causes, including the Children's Center at Johnson County Community College and the Truman Medical Center.

I am pleased to have this opportunity to place this profile from the Best Times in the RECORD, but I am more pleased to have this opportunity to publicly recognize Walt Hiersteiner as a vitally important community leader and activist in the Third Congressional

District, and as my personal friend for many years.

[From The Best Times, Sept. 2005]

WALT HIERSTEINER: COMMUNITY INVOLVEMENT OVER A LIFETIME

(By Lynn Anderson)

A native of Des Moines, Iowa, Walter Hiersteiner graduated from the University of Iowa in Iowa City (a member of the Phi Beta Kappa society in 1939) and then Harvard Law School in 1942, where he was an editor of the Harvard Law Review. While a student at the University of Iowa, he met Jean Newburger, whom he married in 1944. After World War II, the couple moved to Kansas City.

Following his graduation from Harvard Law School, he practiced briefly with the Kansas City law firm of Ryland, Stinson, Mag & Thomson. In 1942 he was called in as a commissioned Naval officer, serving until 1946, principally as a naval gunnery officer stationed in Cincinnati, Ohio, and then Long Island, New York.

Following his discharge in 1946, he practiced briefly with the law firm of Margolin & Reinhardt in Kansas City. Then, in 1946, he joined the Tension Envelope Corp., which at that time had four manufacturing facilities. Years later, when Bert Berkowitz and Walter Berkowitz died within three weeks of one another, Bert Berkley, the son of Bert Berkowitz, became president, and Walter became executive vice president, sharing principal management responsibilities with Bert Berkley.

Bert Berkley's son, Bill, has taken over the sole management of the Tension Envelope Corp., which has manufacturing plants in Malaysia, China, and Taiwan, and eight domestic manufacturing plants, with 30 sales and service offices in major markets. The company manufactures more than 12 billion envelopes a year.

Walt champions multiple civic causes with energy and conviction, particularly in the areas of public education and health care. He was named Johnson Countian of the Year in 2003. Eighty-six years old, he lives in Prairie Village with his wife, Jean. They have four children, all of whom graduated from the Shawnee Mission district public schools, and nine grandchildren. His oldest son, Richard, is a lawyer with the firm of Palmer and Dodge in Boston, Mass.; Mary is a teacher in special education and also a partner in a tutoring business; Joseph practices law in Kansas City with the firm of Seigfried, Bingham; and Dorothy is an art therapist in Boulder, Colo., who exhibits her watercolor paintings.

Lynn Anderson was treated to a warm, stimulating conversation with Hiersteiner in his third-floor office at 819 E. 19th St. in Kansas City, Mo.

Q: Let's begin with a little about your background. You grew up in Iowa, went to the University of Iowa and Harvard Law School, served in the Navy, and finally settled in Kansas City. You've now been in Kansas City for almost 60 years. Why have you wanted to continue making Kansas City your home?

A: Jean and I are both strong Midwesterners and we prefer the Midwest unquestionably. I had many opportunities to practice law in the East, but we chose to stay in the Midwest, primarily because we thought it afforded the very best environment in which to raise children.

We enjoy everything about living in Kansas City, not the least being its people, the educational facilities of Johnson County for our youngsters, and the wonderful company for which I have worked nearly 60 years. We really have had no desire or inkling to go elsewhere!

Q: You have been with the Tension Envelope Corp. since 1947. You started in sales, later became sales manager and subsequently executive vice president, and now are vice chairman of the board. In what ways has the life of a businessman and lawyer suited you?

A: A law school education really amounts to learning how to think, and I was able to use thinking skills in the business world. Initially I was involved in labor relations, but I became actively interested in the envelope business. That interest was acquired quite naturally because I was always interested in riddles, which led to my being fascinated by the complicated envelope equipment, leading to my developing 25 envelope designs that have been patented.

The company employs a cadre of sales representatives. Often they sought me out, expressing a particular interest of a sales prospect, and together we developed a special envelope to fit the customer's needs. Our company's reputation has been founded not only on regular envelopes of all descriptions but on specialty envelopes.

You asked how I would come up with a new design. It's a process of constant and penetrating thought—pensive thoughtfulness—about how to get a better result. I would think about solutions for envelope puzzles at all hours!

Q: Hanging on your office wall are 25 framed patents of envelope designs you created, including an airline ticket envelope and specialty packaging envelopes for Hallmark, among a large number of other customers. Were you always inventive?

A: Twenty-four of the patents are envelopes, but one is of particular interest. In summer vacations at Cape Cod, our kids would have dry cereal for breakfast—but without closing the boxes satisfactorily, the cereals became moist. I developed a special closure on a box of cereal, and indicated I was going to apply for a patent, to which my youngsters felt "not surprised!" I communicated with the Kellogg Company and General Foods after securing a patent, but the Kellogg Company was inspired to go in a different direction by my concept, and that particular patent never materialized into the acceptance I had hoped.

Our company is still imbued With the philosophy of coming up with something different and better for customers with specialty needs. Today, in most instances, others in our company handle these specialty problems. But if a designer has an interesting challenge and comes to me seeking advice, I'm happy to provide it!

Q: Tension Envelope has a foundation providing grants for worthy nonprofit activities. Do you believe that businesses have a responsibility to contribute profits in ways that benefit the community?

A: Absolutely! Tension Envelope was founded in 1888 by the father of Bert Berkowitz and Walter Berkowitz, and Bert and Walter were always involved in community activities, principally public education and hospitals. Our company continues to push for community involvement because it is so rewarding!

Tension contributes to the community by being a family-focused company. Over the years, we have had two or three generations of the same family working in our company—in part, I think, because our management maintains a genuine interest in its employees. We have a fine retirement program, so many of our former employees are now enjoying the retirement they richly deserve.

And I very definitely believe that community involvement is a responsibility for all corporations. We all take advantage of the good fortune of living in the United States, and specifically in Johnson County, so we should share that good fortune.

Q: Five mornings a week, you are still at your desk at Tension. Do you have opportunities to interact with younger employees and managers? And why don't you simply go home and find recreational and retirement activities?

A: Simply explained, I'm having too much fun to quit. I'm able to have the better of both worlds: semi-retirement and continuing involvement. I am an observer and a consultant, and I try to stay out of the way of the people, many or most of whom I have trained! I engage in some mentoring. I'm finding, though, that it's not so easy to be graceful when you see that those whom you've trained are sometimes doing a better job than you did!

Q: In 1979, you and Jean established an Outstanding Service Award at the University of Kansas School of Law for the graduating student whose service to his or her fellow students was considered by the faculty as demonstrating foremost promise for the legal profession and society. You seem to be encouraging young men and women to think about social service.

A: It's significant to us that many of the Outstanding Service Award winners say they became involved in social service to "pay back" the community. I recognize what they mean by that, but Jean and I don't think of it exactly that way. We just deeply enjoy the pleasure we get from working with the splendid people with whom we collaborate, along with the satisfaction of seeing what we can accomplish together.

Q: You are a member of the New Reform Temple. What makes this synagogue and its people special to you?

A: We all need to have pride in our own faith, whatever it may be, and opportunities to express our faith with others. In fact, Jean helped in the establishment of the New Reform Temple, which now has a new rabbi, Jacques Cukierkorn, very active in the city's Interfaith Alliance and off to a great start.

Q: People of a range of economic levels often want to contribute to their community. What are your thoughts on how we can all do that?

A: Many of the people with whom we associate have a passion for being helpful. There's no "admission fee" for volunteering! Early volunteering of one's energy and support can be equal in importance to larger dollars that could be contributed.

It's a good idea to apply the energy and support even without funds early on, and grow into perhaps more contribution of both energy and support with funds later on.

Q: In 1957, you and Jean moved your four children from Kansas City to Fairway. Did your move to Johnson County have anything to do with the school systems?

A: It had everything to do with the schools! In Kansas City in those days, even in the secondary grades, the schools had sororities and fraternities, which in our judgment interfered with general relationships and activities and subordinated, in many instances, the concentration on academics. I sought out the superintendent of schools to persuade him that their existence was undesirable and at odds with what should be gleaned from public education—but nothing appeared on the horizon, so we moved to Kansas, where the fraternities and sororities then and now have been prohibited by state law except in higher education.

Many of our friends have sent their children to private schools, which we never considered. Our personal view was that our children would receive better preparation for public life—for the mixture of people they would encounter and for how they would need to communicate—through a public school education. I think public schools tend to be more competitive, inspiring youngsters to do well. Public school is a strong preparation for life after school.

Q: In 1968, you were elected to the Board of Education for the Shawnee Mission School District. You became board vice president, then president in 1972. What drew you to that form of public service, and what were some of the most contentious issues and most rewarding moments?

A: One day long ago, I read in the paper that the Shawnee Mission Board of Education had refused to accept government funds to supplement its special education programs, in the fear that those monies might be dominated by their funding source. That didn't appeal to me and I decided that, rather than just complaining, I'd run for the school board. The more I got involved after a successful campaign, the more justified I felt in that investment of time.

Of course, I found some things that I felt were not pleasing, including the fact that girls were denied any athletic competition and confined to participating on drill teams or as cheerleaders. We were able to change that, with the help of the other members of the board, to the point that the principal of Shawnee Mission North once introduced me to his students as "the father of girls' athletics" in the district! That's something of which I still remain very proud.

Another thing I found displeasing was the concentration by the school district and its administrators in the length of students' hair and the length of skirts, about which they had rules that they monitored rather carefully. During that period of time my older son, who was in law school, came home sporting a mustache. I didn't happen to prefer it, and I thought I was being diplomatic about expressing my objections. However, six months later, when I saw him at law school, he had removed his mustache. When I inquired as to the reason, his explanation really awakened me. He said he simply got tired of it and that if it hadn't been for me, he would have been tired of it three months earlier! When I reported that to the school board and campaigned for a total concentration on comportment in academics, and not on these extraneous things, the board finally agreed to do away with any dress codes. The administrators, to their dismay at the outset, found that students' appearance did not deteriorate as they had anticipated.

One of the things I remember with satisfaction is that I had an intern working with me for awhile when I was on the school board, doing leg work and research, helping me considerably and helping in his own development. I have recommended that a few times since.

Q: In the 1980s, concerned about funding for the school district, you helped organize the Committee for Excellence. You worked with Larry Winn III and Fred Logan. (Since that time, Winn has been elected to the school board and Logan has become a co-sponsor of the Committee for Excellence.) Initially you were very much involved in gaining the support of a levy election and then two bond issues, the last of which was for $140 million in the Shawnee Mission district.

A: Through the work of the Committee for Excellence, which had hundreds of supporting activists or more, we were able to get three school bond elections passed with 60 to 70 percent of the vote in favor. Recognizing that about 30 percent of those voters did not have children in the schools, I think that is conclusive proof of the commitment to quality education that permeates Johnson County.

The Committee for Excellence has also been active recently in funding for public schools, which has decreased ever since 1992, when the legislators took funding responsibilities away from the districts and returned those responsibilities to Topeka. We shared concern with all Kansas districts about the inadequacy of the funding, and lobbied extensively to represent the youngsters. We feared that many legislators were more interested in getting reelected than in meeting this educational priority. The committee remains very active now, because it is clear that the foundation plan for supporting public schools in the state of Kansas requires major reform.

Q: Tell us briefly about your experience as a member and president of the Kansas Board of Regents.

A: I was appointed in the mid-1970s to the Board of Regents by outgoing Gov. Robert Docking, at the request of the incoming governor, Robert Bennett. This was a practice that indicates the cooperation and civility existing in those days that has largely disappeared in state and national politics.

My experience on the Board of Regents was wonderful and one of the most enjoyable activities in which I have participated in the public arena, largely because of the other members of the board, with whom I had the pleasure to associate in the governance of public-supported colleges and universities in Kansas.

I would not like to have this statement misunderstood, but I have considered Bob Bennett—quite apart from any appreciation for his appointing me to the Board of Regents—to have been the best governor Kansas has had in my experience, and maybe ever. I couldn't be more sincere in saying that, because in my opinion, Gov. Bennett made decisions in the interest of the whole state quite apart from partisan motivation. I learned a good deal from him in that regard.

Q: You chaired the Legislative Committee for the Johnson County Community College Foundation. What was that committee's mission?

A: There was concern about losing local control over community college funding at the time of the reorganization of the Kansas Board of Regents. There is now a predominant feeling at that college that the situation is stable. However, the committee is ready and willing to reactivate if needed.

Q: In December 2003, the Children's Center at Johnson County Community College was renamed the Hiersteiner Child Development Center in honor of you and Jean. Your financial gift allowed the college to enlarge and renovate its center, making it possible for more students pursuing the curriculum in early-childhood education to move from the waiting list into the program. Has child development had a special place in your heart?

A: We have four children, and when we first moved to Kansas City, my wife, with some others, organized a coop nursery in association with the then University of Kansas City. Science has recently revealed that the brain commences to develop even prior to birth, and that was assurance to my wife and me that children needed the benefit of trained professionals, not just those offering custodial care.

Jean has always had a passion about teaching child development specialists. At the center's dedication, she told the audience that she had always thought the name "Hiersteiner" was a bit long and difficult every time she had to fill out forms or write a check—but her pride in seeing the name on the building was changing her view about the awkwardness of our name!

Q: You co-chaired Truman Medical Center's first major fund-raising effort, which was a $20 million capital campaign. For many years you have been on Truman's Charitable Foundation board, while Jean has been active in the medical center auxiliary and gift shop, which she co-managed for about 15 years. Additionally, you and Jean have endowed scholarships for nurses. What fuels your passion for health care activism?

A: Everyone recognizes the requirement of adequate health care, but unfortunately, there are any number of individuals without health insurance and without the means of paying for care.

The Menorah Hospital experience that I had for more than 40 years was rewarding, but my involvement at Truman Medical Center for about 20 years is in my judgment absolutely imperative because the mission of Truman is to take care of clients irrespective of their ability to pay. Truman is a wonderful community institution under the expert presidency of John Bluford, meeting a need for those who cannot afford to pay. But it also has an excellent faculty that is good enough to be desired by any number of paying patients. Its equipment is first rate and its faculty is outstanding.

Interestingly enough, I became involved at Truman while still a member of the board at Menorah, because I received a mailing from Truman that had too much postage on the envelope. I called to explain to them that they could save money by being up to date on postal regulations. About 15 minutes after that call, Jim Mongan, who was at that time the president of Truman Medical Center, was in my office inviting me for a tour of the facility, after which he was able to secure my appointment to the board. That has been a very satisfying experience over the years. Without the assistance of this outstanding institution, most of the private hospitals, if not all of them, would have red ink on their bottom line. No one in the community should be satisfied witnessing people in our community not having any access to health care at all.

Q: You are on the advisory board of the Mainstream Coalition. What parts of that group's mission are most important to you?

A: I believe our goal is education for the community about domestic, national, and foreign issues for which the public needs as much information as possible. The coalition is quite diverse and nonpartisan, with Republican, Democrat, and Independent members.

Q: Countless community leaders have praised the fact that your stand on issues or candidates is never based on ideology or party affiliation, but rather on what you believe is best for the people of Kansas City. What are the keys to maintaining an independent frame of reference?

A: Well, I persist in my personal points of view, and I believe that people involved in their communities do a better job of it if they act in as nonpartisan a way as they can. Organized politics has never been appealing to me, so I try to make my mark outside the realm of parties.

Q: How do you keep your optimism going?

A: Quite often, I don't! But the main tools I use are hope and paying attention to what is going on in my community and what I con do about it.

CONGRATULATIONS TO THE PEOPLE OF TAIWAN ON NATIONAL DAY

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. TANCREDO. Mr. Speaker, I rise today to extend to the people of Taiwan my heartiest congratulations as we approach October 10 or National Day—the founding day of the Republic of China.

Since the ROC government was founded on the Chinese mainland nearly 100 years ago, the people and government of the republic have made great economic and political strides. Over the last several decades, Taiwan has been transformed from a one-party state, into a thriving global economic powerhouse, a generous and responsible member of the international community, and perhaps the most vibrant multi-party democracy in the Western Pacific.

This year has been an especially eventful year in Taiwan's democratic evolution as voters on the island made historic revisions to the ROC constitution through a referendum process—a process that could never have been conducted on the Chinese mainland. President Chen and the Taiwanese people deserve our respect and admiration for moving forward with this historic election despite pressure from communist China in the face of the recently passed so-called "anti-secession law."

Again, I congratulate the people of Taiwan on this National Day, and I hope that this important national holiday will inspire the people of Taiwan and their elected leaders of all parties to work together to preserve the future of Taiwan.

CONGRATULATIONS TO MR. CLAUDE M. ROHWER

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. DOOLITTLE. Mr. Speaker, today I wish to express warm thanks and congratulations to Mr. Claude M. Rohwer, upon his retirement as Associate Dean of the University of the Pacific's McGeorge School of Law. After nearly four and a half decades of service as a professor, he now concludes a stellar career in academia.

A native of Dixon, California, Claude grew up raising pigs on his family's Sacramento Valley farm. He received his undergraduate education at the acclaimed University of California at Berkeley, following which he earned his Juris Doctorate degree from Berkeley's Boalt Hall School of Law in 1958. That same year, he began service to his country in the U.S. Air Force's Judge Advocate General's Corps.

From 1960 to 1961, Claude was a Deputy Attorney General for the State of California. Following this experience, he launched a career in private practice with the firm of Downey, Brand, Seymour and Rohwer in Sacramento. After a few years as an associate in what was then the largest practice in the city, he became a partner from 1965 to 1967.

Mr. Speaker, having taught at the McGeorge School of Law since 1961, Claude decided to leave private practice in 1967 to take a full-time position on the faculty as one of four charter professors. Generations of law students are grateful that he did, for he helped the school develop from a small, unknown entity into a proud institution.

Claude has specialized in international law during his career. From 1982 to 1986, he was the Associate Dean for Graduate and International Programs. And since 2003 he has filled duties as the Associate Dean for International Affairs. He has lectured and consulted all over the world. He has taught commercial and contract law courses in cities including Vienna, Salzburg, Edinburgh, Shanghai, and London. Most recently, he has consulted the Vietnamese Ministry of Justice and the Ministry of Trade to help rewrite that nation's civil code and commercial law respectively.

In addition to being an accomplished teacher, Claude has published many legal works. While much of his writing portfolio has an international emphasis, I benefited from his text "Contracts in a Nutshell" when I was his student at McGeorge.

Claude is a member in good standing of the California Bar Association, American Bar Association, and International Bar Association. Among his professional honors, Professor Rohwer belongs to the Order of the Coif, was named an Amicus Lex Scholar in 1982, and was the University of the Pacific Professor of the Year in 1981.

In retirement, Claude plans to write a history of McGeorge. In addition to spending time with his wife, children and grandchildren, he also intends to continue singing bass with the West Valley Chorale and pursuing the love of hunting he inherited from his own father.

Mr. Speaker, I take great pleasure in commending Professor Claude Rohwer for his outstanding service to our country as a member of the Armed Forces, an able attorney, and a career educator. After all that has been said about him, he is simply a good and decent man, and I am personally thankful for his guidance and instruction he has provided to me and countless other students of the law. May he enjoy this next phase of life with the satisfaction of knowing he has had a tremendous influence on the profession he loves.

HONORING RETIRING ERIE COUNTY LEGISLATOR RAYMOND .K. DUSZA

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to recognize a great labor leader, public official and dear friend and colleague who at the end of this year will retire from active public service as a member of the Erie County Legislature—the man commonly known as "Mr. Cheektowaga," Legislator Raymond K. Dusza.

During the 1990s, I worked closely with Ray, and saw firsthand his gentle yet persistent leadership style. Ray's leadership on so many issues important to taxpayers and consumers won kudos from countless local residents and praise from local taxpayers' groups.

Ray's call to public service came early in life. He enlisted in the United States Army and defended this country as a Paratrooper in the unit known as "America's Guard of Honor," Ray's beloved 82nd Airborne Division. When Ray came home after his military service, he started at the Westinghouse Electric corporation, where his reputation as a "man of the people" became apparent. Ray rose through the ranks and was chosen to represent 4,000 of his labor brothers and sisters as leader of the International Union of Electrical Workers, Local 1581.

In 1988, the 8th District seat in the Erie County Legislature became vacant. After many years of active service in the community and in the Democratic Party, Ray contested and won election that November, representing the residents of the Town of Cheektowaga and the Village of Depew. Over the past 17 years, Republicans and Democrats alike have bowed to the high regard with which this man has been held—Ray has never been seriously challenged for re-election.

Local consumers soon learned that they had no greater defender of their rights than Ray Dusza. Ray led the fight for a new Item Pricing/Scanner Accuracy law for Erie County, to ensure that prices consumers were charged for goods were properly reflecting prices on store shelves. Through Ray's work, scanners in supermarkets, home centers and other retail stores that were estimated to be accurate only 50 percent to 70 percent of the time must now offer consumers 98 percent accuracy. In addition, Ray will always be remembered as the "Coupon King" for his successful fight against the Proctor & Gamble Corporation's attempt to deny local shoppers free access to manufacturer's coupons. Ray fought hard for consumers, residents and taxpayers as Vice Chairman of the Legislature's Public Safety Committee, and as Chairman of two legislative standing committees, the Government Affairs Committee and the Energy and Environment Committee.

Ray Dusza added one more very important element to his service in County Hall: a robust sense of humor. Ray's philosophy was to "be serious about what you do, but don't take yourself too seriously," and he was indeed good to his word. Ray always added a refreshing sense of humor to the deliberations within County Hall, consistently entering committee meetings with the declaration that "the paratroopers have landed," and sarcastically questioning what time the perennially tardy "nine o'clock caucus" would begin.

Ray's dedication to his community was not limited to his role in the Legislature. The following are just a few of the organizations Ray has dedicated his time and energy toward: the Fraternal Order of Eagles, Knights of Columbus—Father Justin Council, Polish Falcons Club, American Legion Gierlach Post, Depew/Cheektowaga Taxpayers' Association, AMVETS Buddy Knaus Post, Catholic War Veterans Post 1313, the Ushers Society at St. Philip the Apostle Church, and St. Josephat's Parish Holy Name Society. In addition, Ray is the leader of the eponymously-named "Ray Dusza Booster Club," a grouping of political supporters that Ray sentimentally refers to as his "commandos."

Mr. Speaker, I am a lifelong resident of another great Western New York community—South Buffalo, NY, and the highest compliment that folks can pay to someone from South Buffalo is that they remember where they come from, and remember the people who sent them to serve in public office. Few public officials remember from whom and from whence they came the way Ray Dusza does. I am delighted that you have allowed me to take a few moments to honor Ray's service to our community here today, and I am honored even more to call Ray Dusza my friend. To Ray, his wife Terry, to their children, grandchildren and to the entire Dusza Family, I want to offer my sincere thanks, and my wishes of good luck and Godspeed for many years to come.

A TRIBUTE TO GEORGE DONALD BASYE

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. MATSUI. Mr. Speaker, today I rise to honor George Donald Basye, a man who through hard work and dedication has become one of the most respected and accomplished water and flood attorneys in California. As his friends, family and colleagues gather to pay tribute to Mr. Basye's remarkable 50-year career with the Central Valley law firm of Downey Brand, I ask all of my colleagues to join me in saluting this great American success story.

George was born on June 21, 1926 in Porterville, California. After graduating from high school in 1944, George served in the U.S. Navy. As an enlisted sailor, George held the rank of Seaman Second Class Musician Striker and performed in Navy dance bands.

Upon honorable discharge from the Navy in August of 1946, George enrolled in the College of the Pacific and graduated in February of 1948 with a B.A. in Economics. After graduation, George sought to expand his horizons and enrolled in a one-year graduate program at the University of Stockholm in Sweden.

Upon returning to the United States in 1949, George took an aptitude test which suggested that he was best suited for a career as a social science teacher, not a lawyer. As a result, he enrolled in the UCLA Graduate School of Education in the Spring of 1950 to take up a career in teaching. However, it soon became clear to George that law was undoubtedly his true calling. It was in August of the following year that George applied and was admitted to the new Boalt Hall School of Law at Berkeley.

Although George was about to pursue a legal education, he could never truly abandon his love of music. Thus, in a short stint before law school, he fulfilled one of his lifelong ambitions by playing the upright bass in a traveling jazz trio known as the Krazy Kats.

His decision to enroll in Boalt Hall would prove to be a pivotal point in not only his career in law, but in his personal life as well. It was during his time at Boalt Hall that George began dating Mary Alice Johnson, a student at Mills College. They were married in December of 1952. Today, more than 50 years later, George and Alice are the happy parents of four children, Anne, Jennifer, John, and Paul, and four grandchildren.

George graduated from Boalt Hall 7th in his class with an LLB degree. Upon graduation, George enrolled for a graduate degree in law and spent a year studying at the Uppsala University in Sweden. After returning to the United States in 1955, George began his new job at Downey, Brand, Seymour, and Rohwer starting on September 20, 1955.

While working, George wrote his Master's thesis and obtained his LLM degree from Boalt Hall in 1956.

When George began his career at Downey Brand in 1955, he was one of 8 lawyers in what would later become a 120-lawyer firm. For the first few years, George spent much of his time doing probate work, but then began to focus his efforts on water law and flood control matters for clients such as Reclamation Districts 537, 1000, 900 and 999, the California Central Valley Flood Control Association, and many mutual water companies. For the next 45 years, George's knowledge and experience in water and flood control law became expansive, and George shaped much of the law in these areas through his position as General Counsel for the California Central Valley Flood Control Association.

George also focused significant efforts on making Sacramento and California a better place by acting in leadership positions for the California State Library Foundation, the California Historical Foundation, the California Historical Society, the Sacramento Metropolitan YMCA, the Sacramento Symphony Association, the Crocker Art Museum Association, the Sacramento YMCA Foundation, the California Capitol Historic Preservation Society, the Sacramento Trust for Historic Preservation, the Pfund Family Foundation, and the Sacramento Pioneer Association.

Throughout an almost 50-year career, George Basye has been acknowledged as one of the modern fathers of water and flood law in California. His years of commitment, hard work, and dedication to the Central Valley and the law firm of Downey Brand have undeniably contributed to the firm's amazing growth and positioning as one of the top law practices in the region.

Mr. Speaker, as George's friends, family and colleagues gather to celebrate his admirable career, I am honored to pay tribute to one of Sacramento's most selfless and dedicated citizens. I ask all my colleagues to join with me in wishing George Donald Basye continued success in all his future endeavors.

HONORING DR. TIPKINS HOOD, SR.

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary life and achievements of Dr. Tipkins Hood, Sr. of Oakland, California. Dr. Hood was a compassionate physician, devoted husband and father, a leading member of our community and a wonderful friend. He passed away on September 22, 2005 in Oakland, California.

Dr. Hood was born on December 15, 1936 in Camden, Texas, where he was the third of nine children in a loving and close-knit family. A precocious child, he had an unsurpassed zeal for learning, and throughout his primary and secondary education he excelled in reading, the sciences and mathematics. Graduating early from high school, he enrolled at Texas Southern University at age 15, earning a Bachelor of Science in Pharmacy and later graduating from Meharry Medical College in Nashville, Tennessee.

In 1964, Dr. Hood married Ms. Ruth Starnes in St. Louis, Missouri. Sadly, Ruth passed away in 1978, but their union produced a son, Tipkins Hood, Jr. A dedicated family man and hard-working student, Dr. Hood completed his internship at Homer G. Philips Hospital in St. Louis, his general residency at Washington University, and his specialty orthopedic surgery training in St. Louis at the University of Missouri and the nearby Veteran's Administration Hospital.

As a young doctor, Dr. Hood voluntarily served from 1960 until 1970 in the United States Navy-Marine Corps, during which time he was awarded the Bronze Star with Combat V as well as a Meritorious Service Award for serving above and beyond the call of duty. At the end of his military service he was also awarded the Vietnamese Medal of Honor.

After completing his education and military service in 1970, Dr. Hood began his medical practice in Oakland, California. After getting his board certification in Orthopedic Surgery in 1974, he practiced for more than 35 years in Oakland, contributing immeasurably to the health and well being of our entire community. For close to 4 decades, he maintained an extensive inpatient and outpatient practice, and treated a wide range of patients including children, adults, the elderly and low-income individuals. Over the years, his medical expertise benefited groups such as the Oakland Police & Fire Retirement Association, the Oakland Raiders and the Social Security Administration, as well as an untold number of individuals and families who otherwise may not have had access to that kind of medical treatment.

Though Dr. Hood's medical achievements were extraordinary, his accomplishments and leadership extended far beyond the realm of medicine. Throughout his life he was involved in a variety of business, community and academic endeavors, and supported a number of important civic and political causes. He was a tremendous asset to the late Mayor Lionel Wilson of Oakland as well as to Congressman Ron Dellums, and was one of my longtime and consistent supporters. For this, I am deeply grateful.

Additionally, in what he considered to be one of his most important roles, Dr. Hood was a dedicated and lifelong member of the Board of Trustees at his medical alma mater, Meharry Medical College. A deeply spiritual person, Dr. Hood was also a longtime member of Downs Memorial United Methodist Church in Oakland, California.

In 1981, Dr. Hood married Ms. Carol H. Williams, and together they raised two children, Tipkins Hood, Jr. and Carol Henny Hood, Jr. Their life together was enriched by their devotion to each other, and they delighted in the arrival of a grandson, Tipkins Milton Hood. Dr. Hood enjoyed sharing his love of travel, fishing and cooking with his family and friends, and took every opportunity to spend time with them. His dedication to his family was unsurpassed, and throughout his life his loved ones brought him great joy.

As a close personal friend since the early 1970s, I benefited from Tip's advice, keen intellect and remarkable wisdom. He was a "wise man," yet he had a lot of heart. For example, this summer he took the time to provide his medical insights to one of my family members who had also been his patient many years ago. Not only did he give his best thinking regarding treatment options, but he also gave reassurances to call and visit every day during recuperation. Tip comforted those who needed comfort and always went beyond the call of duty.

The last time I saw Tip was in my Washington, DC office very recently. He cared about the aging and sick prison populations and wanted to provide treatment facilities for the Federal and state penal institutions. Tip concluded this very intense meeting by pleading with the Federal prison officials to understand that providing this treatment was the humane way to treat these individuals. His compassion profoundly impacted everyone in the meeting, just as it had always impacted everyone who knew him.

Throughout his life, Dr. Hood "did it his way." He was a man for all seasons whose wit, charm and brilliance will be forever remembered. He will be greatly missed, but his legacy and his spirit will inspire us all, especially young African American men, to soar to heights unseen, and to do so in his memory.

Today Dr. Hood's family and friends come together to celebrate his life and work, and the immeasurable personal and professional impact he has had on all of us. On behalf of the 9th U.S. Congressional District of California, I salute and thank Dr. Tipkins Hood, Sr. for his invaluable contributions to the people of Oakland, the 9th Congressional District, the State of California and our entire country.

IN MEMORY OF ESTHER WEISSMAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. KUCINICH. Mr. Speaker, Esther Weissman understood with all her heart that the cause of injured workers is one of society's great moral callings.

Social consciousness infused her daily work as a lawyer. She knew she was fighting not only for just compensation for her clients, she was trying to save their lives from being sacrificed upon the altars of modern industrial society.

They came to Esther on crutches, wearing arm slings, with eye patches and bandages of every sort from their encounters with the hazards of the workplace. They came to her office as pilgrims, migrants to a sacred place, seeking a miracle that would save their lives. Again and again Esther gave them hope, through honest and aggressive representation.

In addition to her advocacy in the courts, Esther actively participated in the electoral system. She rallied other attorneys, labor leaders, and voters to protect the rights of workers and advance social justice at the ballot box. Her legacy includes preserving Ohio's legal protections for injured workers in the popular defeat of the anti-worker ballot initiative known as Issue 2, in 1997.

Esther's was the cause of human dignity. Hers was the cause of economic justice. Hers was the cause of worker rights. Hers was the cause of the safe workplace. Hers was the cause of just compensation for injured workers. Hers was the cause of advocating for those too hurt, those too poor, those too weak to advocate for themselves.

Esther Weissman was the Joan of Arc of injured workers.

Again and again, holding up the banner of worker rights, she fearlessly fought on behalf of her beloved workers, with every fiber of her being, with all of her resources, with her last ounce of courage, to her last breath.

CELEBRATE TAIWAN'S NATIONAL DAY ON OCTOBER 10

HON. PATRICK T. McHENRY

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. MCHENRY. Mr. Speaker, the Republic of China (Taiwan) will celebrate its National Day October 10, 2005. I wish to congratulate the President and the People of Taiwan on this festive occasion.

Taiwan is a small island with few natural resources, yet it has prospered because of the opportunity provided by freedom and democracy. With one of the world's largest foreign exchange reserves, its 23 million people enjoy one of the highest standards of living in the world. Politically, Taiwan is a full democracy, with free elections and a free press. Taiwan fully embraces the values of economic liberalization, democracy, rule of law, and respect for human rights.

Taiwan President Chen Shui-bian recently stopped in Miami, Florida en route to Central America. Through a teleconference, President Chen was honored by the Congressional Human Rights Caucus in recognition of Chen's life-long campaign to promote and safeguard human rights not only in Taiwan but also in other parts of the world. In his teleconference, President Chen told Congressional members that Taiwan's democratic development is irreversible, that China could and should learn from Taiwan's history of democratization and that he would like to have direct talks with China's President without any prior conditions. I hope President Hu will take up President Chen's offer and move toward permanent peace in the Taiwan Strait based on personal freedom and individual liberty.

Mr. Speaker, President Chen is a man of peace. For the good of his country and his people, he has been pleading with Chinese leaders to resume talks over cross-strait disputes. In the meantime, President Chen has been asking the international community, to set up a mechanism to ensure that there would not be unnecessary military conflicts over the Taiwan Strait. I believe that the United States should, at the very least, continue to impress upon the Chinese that we will uphold our commitment and defend Taiwan if it is attacked without provocation.

On Taiwan's National Day, I join my colleagues in congratulating the Taiwanese people. We deeply appreciate our common bonds and friendship with them and look forward to strengthening our relationship in the future.

TRIBUTE TO TAIWAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. PAYNE. Mr. Speaker, I invite my colleagues to join me in extending my congratulations to the people of Taiwan on the occasion of 94 years of progress.

In recent years, Taiwan has become a model society. It has excellent schools, outstanding medical care, a strong economy, and many of its people enjoy one of the highest standards of living. Taiwan's social welfare programs have been laudable efforts to raise the standard of living for all. Moreover, Taiwan's constitution guarantees its citizens basic civil liberties, including freedom of peaceful assembly and association, freedom of speech and press, and freedom of religion. Taiwan's full commitment to democracy and human rights is commendable.

We are very appreciative of Taiwan's commitment to fight global terrorism, particularly by cooperating with our law enforcement agencies in sharing intelligence and doing everything possible to protect American interests in Taiwan. We are also aware of Taiwan's contributions to the Twin Towers Fund, the Pentagon Memorial Fund and to the victims of Hurricane Katrina.

We wish the 23 million people of Taiwan continued progress and prosperity.

HONORING CAVION JAMIK HOLLOWAY

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NUNES. Mr. Speaker, I rise today with a heavy heart to pay tribute to a courageous person—a giant among men—that touched many lives in the short seven years he was with us.

Cavion Jamik Holloway slipped the surly bonds of this earth on the wings of angels to the heavens above on September 28th 2005 in Omaha, Nebraska. This is a boy who never gave up and had the courage of a lion, the ferocity of a bear, and the tenderness of a dove to fight the scourge of leukemia until it overcame his body—not his soul.

Cavion is survived by a loving mother, Danielle Holloway, a devout father, Billy Holloway and four compassionate grandparents, Americo and Mary Flaiban of Bohemia, New York and Billy and Anne Holloway of Warner Robins, Georgia.

For over a year, Cavion went toe-to-toe with a disease that ravages the body and demoralizes the soul. Despite this overwhelming challenge, Cavion stood tall with a smile on his face and faith in his heart that he would win this battle and return to a life free of doctors, needles and hospital rooms. With the total dedication of his parents, Cavion knew that courage, conviction, and faith would be his partners on the journey to a life free of this disease. Unfortunately, his body succumbed to the challenges his brain refused to accept. Simply put—Cavion never quit!

Now in the heavens above, Cavion is charged with the duty of serving our Heavenly Father by looking over the family that survived him. To quote one of the many well wishers who left notes for Cavion and his parents, "Cavion will sing to you in the wind; he will call to you from your dreams; he will walk beside you and whisper in your ears—he will always be there with you."

During this fight, Cavion had help from many compassionate folks around this country. I would like to take this opportunity to express a special thanks to the medical professionals that never gave up and were constantly a source of encouragement and compassion for Cavion and his parents. I would like to specifically thank the staff of the University of New Mexico's Pediatric Oncology Department, especially Dr. Jeff Hanrahan, aka "The Commissioner of the Albuquerque Chapter of Hoccerball" and their counterparts at the University of Nebraska's Medical Center, specifically Dr. Bruce Gordon, aka "Doc Hollywood".

Finally, I would be remiss if I did not mention the fact that each one of us has an opportunity to help champions like Cavion have a fighting chance at life. I would like to encourage every eligible person to enroll themselves in the the National Marrow Donor Program. This program helps people who need a lifesaving marrow or blood cell transplant. The program connects patients, doctors, donors and researchers to resources they need to help folks live longer, healthier lives.

As the days move on, all who knew Cavion will work to lift their hearts and souls to carry on with life. In doing this, we will continue to cherish his memory; we will point to his selfless example; we will aspire to his bravery; and we will carry on in a world that is better for knowing him. May God bless his soul and the family he is charged to protect.

CONGRATULATING DR. JOHN HALL FOR WINNING THE 2005 NOBEL PRIZE FOR PHYSICS

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to note the tremendous accomplishment of one of my constituents. The Royal Swedish Academy of Science awarded the Nobel Prize for Physics to Dr. John Hall of Boulder, Colorado. Dr. Hall and Dr. Theodor Haensch of Munich, Germany won the Nobel Prize for the development of a laser-based precision spectroscopy.

Dr. Hall is a JILA fellow at the University of Colorado and a senior scientist with the National Institute of Standards and Technology's (NIST) Quantum Physics Division. Dr. Hall has received a series of awards in his distinguished career, including the Department of Commerce Gold Medal on three separate occasions in 1969, 1974, and 2002. He also became a member of the National Academy of Sciences in 1984.

In 1999, Dr. Haensch made a discovery that lasers with short pulses could be used to measure optical frequencies in cesium clocks. Through this the optical frequency comb technique that is based on the evenly distributed frequencies that appear like the teeth of a comb was developed. While the distance between frequencies can be defined through this technique, it did not determine the absolute value of the frequency. In 2000, Dr. Hall developed a simple formula to determine frequency displacement, thus stabilizing the frequency. Haensch and Hall worked together to develop an instrument that currently has wide commercial use.

This instrument can measure frequencies with an accuracy of fifteen digits. Their work has wide ranging application that can improve communication and animation technology, and potentially benefit navigation for spacecraft. Their work also can enable the study of stability of constants of nature over time, improve Global Positioning System, and develop more accurate clocks.

It is clear that their discoveries have opened doors into many sectors of research and industries. The potential for new knowledge is vast and wide ranging. NIST, JILA, and the University of Colorado can now boast three Nobel Laureates, which is testament to the groundbreaking and vital research being performed at these institutions. I am honored that these facilities are located within the Second Congressional District, and particularly honored that Dr. Hall has chosen to perform this research in Colorado. He is an asset to our scientific community, and is an inspiration for many young people who may want to pursue their interests in science.

I, again, congratulate Dr. Hall on his remarkable achievement and the honor that has been bestowed upon him.

RECOGNIZING JUDITH LAPP OF INVERNESS, FLORIDA

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize Judith Lapp of Inverness, Florida. Mrs. Lapp was recently honored as "The Most Admired Mother in All of Citrus County" by the Citrus Altrusa Club, as well as the Citrus County Chronicle.

Born and raised in Buffalo, New York, Mrs. Lapp married her husband Roger in 1956. After Roger was drafted into the U.S. Army, the Lapps moved to Fort Benning, Georgia for his military service. In 1963, Mrs. Lapp and her husband moved to Clearwater, Florida to start a family. Sadly, only four months after their first son Eric was born, he had an extremely serious seizure that changed the Lapps' lives forever.

The seizure, which was caused by an encephalitis outbreak, left Eric with epilepsy, cerebral palsy, and mental retardation. When Judith first began to deal with the challenges of a disabled son, she found that there were few programs in the region that dealt with disabled and handicapped children. Spurred to action, Judith served on the board of both the Christian Care Foundation for the Mentally Retarded and the Isaiah Foundation. Her work on these charitable organizations improved respite care for the handicapped throughout Florida.

One of the most successful fundraisers Judith organized was for the Upper Pinellas County Florida Association for Retarded Citizens. Called "Favorite Recipes from Famous People," Judith was able to obtain recipies from the likes of Jackie Kennedy, Patricia Nixon, and Mamie Eisenhower.

While Eric is now grown and well cared for, Judith has shouldered burdens of her own. She has successfully battled cancer twice, all while being an incredibly supportive figure for her entire family.

Mr. Speaker, Judith Lapp is a courageous, giving woman. She is a role model for the entire Citrus County community, and deserves recognition for her service to the handicapped and disabled community, her son Eric, and to her family.

NATIONAL FORESTS REHABILITATION AND RECOVERY ACT OF 2005

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. UDALL of New Mexico. Mr. Speaker, today I am introducing legislation to authorize the Forest Service and Bureau of Land Management to carry out five collaboratively created pilot projects dealing with post-disturbance rehabilitation.

For those communities that remain at risk from wildland fire or other disturbances, it is important to consider, in advance, scenarios for rehabilitation should a wildland fire, insect infestation, hurricane, or other disturbance event occur. The National Forests Rehabilitation and Recovery Act does just that—this legislation promotes pro-active planning and collaboration to accelerate the approval of rehabilitation projects following uncharacteristic disturbance events.

The National Forests Rehabilitation and Recovery Act will create five pilot projects for post-disturbance rehabilitation. Federal forest land communities can apply to participate in the pilot program by meeting a number of different criteria, with specific consideration given to communities that have a proven track record of working in a collaborative manner to resolve natural resource issues.

This bill includes independent, third-party monitoring of the forest areas following rehabilitation operations to track the short-term and long-term impacts of logging, replanting, stream restoration, road removal, or other rehabilitation activities. The legislation further creates a National Oversight Committee of scientists to provide scientific and socioeconomic monitoring and evaluation of the pilot program. The National Oversight Committee will submit reports to Congress on the short and long-term results of the pilot project. The results of this report will allow Congress to make the most informed decisions on post-disturbance rehabilitation in the future.

Community collaboration has shown great promise in resolving controversial issues before Federal agencies. While I reserved concerns with the Healthy Forests Restoration Act of 2003, Public law 108–148, one good that came out of the legislation is that it recognized the promise in collaboration by encouraging the development of community wildfire protection plans. These plans have allowed communities across the country to work in a collaborative manner to resolve natural resource issues concerning wildfire protection.

There is no doubt that an ounce of prevention is worth a pound of cure. When Congress passed the Healthy Forests Restoration Act of 2003, Congress clearly recognized the priority of preventing wildfires through active thinning of Federal lands in the wildland-urban interface. It is just common sense that we need to invest more on the front end in the name of fire prevention to avert major spending postfire.

While I believe that there were inadequacies with the Healthy Forests Restoration Act, I do believe that we are being penny wise and pound foolish by cheating our budget for forest thinning. To date, forest thinning has not been funded nearly to the level of what was Congressionally authorized. This needs to improve for the sake of protecting our communities and public lands.

Mr. Speaker, the National Forests Rehabilitation and Recovery Act represents a balanced and collaborative approach to post-disturbance rehabilitation. I am pleased to introduce my legislation today with my colleagues Mr. NICK RAHALL and Mr. RAÚL GRIJALVA. I urge my other colleagues to support this bill so that we can promote a collaborative approach to restoring forest ecosystem health and diversity following unusually intense disturbances.

PERSONAL EXPLANATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BLUMENAUER. Mr. Speaker, had I been present for the following vote on Tuesday, September 27 and Wednesday, September 28, 2005, I would have voted as follows:

Rollcall vote 501: I would have voted "aye" on the Department of Justice Authorization Act, H.R. 3402. Despite passage of the Manager's amendment, this bill does ensure that programs which help prevent violence and assist survivors are continued. I also support provisions in this bill that help local communities with additional resources to provide better support and security to victims of domestic violence.

Rollcall vote 500: I would have voted "aye" on the Democratic Motion to Recommit, offered by Representative STUPAK, which would have given the Justice Department authority to prosecute oil companies engaged in price gouging.

Rollcall vote 499: I would have voted "nay" on the Managers Amendment offered by Representative SENSENBRENNER. The amendment significantly weakens the bill's emphasis on domestic violence grant funding for communities of color. Racial and ethnic minorities already face complex issues in reporting and accessing assistance for domestic violence; we cannot shortchange this population.

Rollcall vote 498: I would have voted "nay" on the Rule for consideration of H.R. 3402, because it did not allow for consideration of many important Democratic and bipartisan amendments.

Rollcall vote 497: I would have voted "aye" on the Motion to Instruct Conferees on H.R. 2360, offered by Representative SABO, which would have prevented the reorganization of the Department of Homeland Security from further weakening federal emergency preparedness capability.

Rollcall vote 496: I would have voted "aye" on H. Con. Res. 209, supporting the goals and ideals of Domestic Violence Awareness Month and expressing the sense of Congress that Congress should raise awareness of domestic violence in the United States and its devastating effects on families.

Rollcall vote 495: I would have voted "aye" on H.R. 438, a bill to name a postal facility in Berkeley, California, after Maudelle Shirek. Ms. Shirek has provided a significant service to this country fighting against injustice, poverty, and housing discrimination.

Rollcall vote 494: I would have voted "aye" on H.J. Res. 66, supporting the goals and ideals of "Lights On Afterschool," a national celebration of after-school programs.

IN HONOR OF GARY ANUND KNUTSON

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. FARR. Mr. Speaker, I rise today to honor and thank Gary Anund Knutson, a dedicated public servant. Mr. Knutson, County Auditor-Controller of Santa Cruz, will retire after 35 years of public service, 19 of which were spent as the County Auditor-Controller. Mr. Knutson will be retiring on December 30, 2005, bringing an end to nearly four decades of outstanding service.

Mr. Knutson, who has spent a great deal of time maintaining a great working environment in his office, has decided to pursue other ambitions. His retirement will be enjoyed spending time on other personal activities. Mr. Knutson has done an exceptional job and his service is truly appreciated.

Mr. Speaker, when he retires, Gary Anund Knutson will be leaving behind 35 years of excellence and professionalism. I applaud Mr. Knutson for his work and contributions. He has left a lasting impact on his community, and we would like to wish him well in his upcoming retirement.

ON THE OCCASION OF TAIWAN'S NATIONAL DAY OF CELEBRATION

HON. G. K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BUTTERFIELD. Mr. Speaker, the Republic of China (Taiwan) will be celebrating its National Day this October 10, and I wish to express my congratulations to Taiwan President Chen Shuibian and the people of Taiwan.

Over the years, Taiwan and the United States have enjoyed strong trading relations. Trade between our two countries have been growing steadily. As a member of the House Agriculture Committee, I notice that Taiwan is one of our best buyers of agricultural products and services. Last month, Taiwan sent an agricultural goodwill mission to the United States and it pledged to purchase more than three billions dollars worth of U.S. corn, wheat, soybeans and hide in the next two years. I will encourage farmers in my home state of North Carolina to take advantage of Taiwan's "Buy American" program.

Also, as a member of the Armed Services Committee, I am hopeful that there will be permanent peace and stability in the Taiwan Strait in the very near future.

Mr. Speaker, I take this opportunity to praise the good work of Taiwan Representative David Tawei Lee. He is a fine diplomat who has kept us informed and well briefed on all of the latest developments in Taiwan.

Happy Birthday to Taiwan.

RECOGNITION OF DR. KERRY CLEGG

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. McKEON. Mr. Speaker, I rise to recognize Dr. Kerry Clegg, a school board member for the Sulphur Springs Union Elementary School District in my district, for his service as the 2004–2005 President of the California School Boards Association.

As a sixteen year member of the Sulphur Springs Union Elementary School District board of trustees, Dr. Clegg served three terms as president. In addition, Dr. Clegg served as president and secretary-treasurer for the Santa Clarita Valley School Trustees Association.

His contributions to the California School Boards Association have distinguished him as instrumental in answering the needs of California schools. In addition to his role as president this past year, Dr. Clegg served as a representative in CSBA's Delegate Assembly and as an active member of CSBA's Board of Directors for four years. Among Dr. Clegg's further contributions to the CSBA are his roles on CSBA's Budget Committee, Nominating Committee, Policy Platform Committee, Federal Issues Council, K-Higher Education Remediation Task Force, and as a site validator for CSBA's Golden Bell Awards. In 2004, Dr. Clegg also chaired CSBA's Legislative Committee, and this year, he is chairing the Joint Task Force on Science, the Education Legal Alliance Steering Committee, and the Superintendents Council. His contributions are currently reaching a national level as he serves as a delegate to the National School Boards Association.

Dr. Kerry Clegg graduated from the University of California, Los Angeles with a doctorate in Biology. Outside of his California School Boards Association duties, Dr. Clegg is a biological research manager for Sepulveda Research Corporation, and is also the CEO of a local Federal Credit Union. He and his wife, Rosanna, have five children.

Mr. Speaker, I ask my colleagues to join me in thanking Dr. Kerry Clegg for his service to the Sulphur Springs Union Elementary School District and for his service as president of the California School Boards Association.

CONGRATULATIONS TO THE UNITED STATES CAPITOL PAGE SCHOOL CLASS OF 1981 ON THEIR REUNION

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. CAPUANO. Mr. Speaker, it is great pride that I rise to congratulate the United States Capitol Page School Class of 1981 on their upcoming 25th anniversary. The Class of 1981 served the Congress honorably both in this chamber and in the other body.

Over the past 25 years these young men and women have started families and become leaders in our society.

As they gather in our Nation's Capital for their reunion this weekend, I offer my congratulations on behalf this body and ask all of my colleagues to welcome them back to the hallowed halls of Congress.

HONORING NATIONAL SCHOOL LUNCH WEEK

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BOEHNER. Mr. Speaker, it is with great pleasure that I recognize National School Lunch Week. This year, the event is being held during the week of October 10–14, 2005. In honor of this event, I would like to take a moment to share with you a few facts relating to the National School Lunch Program:

President Harry Truman established the National School Lunch Program in 1946 in response to the large number of World War II recruits that were rejected due to malnutrition.

Today, the school lunch program serves more than 28 million students each day.

Just over half of those students who participate in the school lunch program receive their lunch free or at a reduced cost.

Over 92 percent of all students nationwide have access to school lunch and about 58 percent of those students participate on a given day.

The school lunch program operates in 99 percent of all public schools and 85 percent of private schools. That's a total of 99,538 public and non-profit private schools.

The National School Lunch Program is the largest of the federal child nutrition programs both in terms of spending and children served.

In fiscal year 2005, $6.8 billion was appropriated for the school lunch program.

For some children, a school lunch is the only healthy meal they eat all day. School lunches can contribute positively to children's health, and can improve academic performance by increasing children's learning capacity and lengthening their attention spans. The National School Lunch Program plays an important role in protecting the health and well-being of many of the nation's school-age children.

I commend the nation's dedicated educators, food service professionals, and most of all, parents who work to ensure the ongoing success of the National School Lunch Program, and to ensure that children have access to nutritious and balanced meals at school.

A TRIBUTE TO TIBOR (TED) RUBIN—RECIPIENT OF THE CONGRESSIONAL MEDAL OF HONOR

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in paying tribute to Tibor (Ted) Rubin, who received the Medal of Honor from President George W. Bush at a ceremony in the White House just a few days ago for his heroic and extraordinarily selfless acts during the Korean War. His story is inspirational and his deeds are stirring and should be known by all Americans.

Mr. Rubin was born between the First and Second World Wars in Paszto, Hungary, a small Jewish village of only 120 people in 1929. At age 13, he was shipped to the Mauthausen concentration camp in Austria, where he spent 14 months. When he was liberated by American troops, he was starving and on the brink of death. Although Tibor survived, both his parents and two of his sisters perished in the Holocaust.

Mr. Speaker, Tibor Rubin immigrated to New York in 1948 where he worked first as a shoemaker and later as a butcher. When he attempted to enter the U.S. Army butcher's school in 1949, he was denied admission after failing the English test, but in 1950 he passed. By July of that year, he was assigned to the infantry and stationed on the front lines in Korea. Mr. Rubin volunteered for missions that no one else would undertake. On one occasion, he secured the retreat route for his company by single-handedly defending a hill for 24 hours against waves of North Korean soldiers.

In October 1950 a massive Chinese attack was mounted across the border into North Korea. The offensive surprised Americans troops, including Tibor Rubin's unit. After most of his regiment had been wiped out and he was severely wounded, he was captured and spent the next 30 months in a prisoner of war camp. The Chinese offered him food and a chance to go back to Hungary throughout his ordeal, but he refused to leave his American brothers. Mr. Rubin would sneak out of the his prison every night and steal food from Chinese and North Korean supply depots and feed the rest of his fellow POWs with the food he found. His fellow prisoners felt that he single-handedly kept 35 men alive.

He became an American citizen after returning from Korea in 1953. Tibor was found to be 100 percent disabled by his war-time injuries by the Veterans Administration. He tried to return to his profession as a butcher, but his injuries prevented that. Today, Mr. Rubin lives in Garden Grove, California, with his wife of 42 years, Yvonne, a Dutch Holocaust survivor, and they have two children—a son, Frank, an Air Force veteran, and a daughter, Rosalyn.

Mr. Speaker, for his outstanding military service, Tibor Rubin was recommended four times for the Congressional Medal of Honor by his commanding officers and comrades, twice for the Distinguished Service Cross and twice for the Silver Star—but he did not receive any of these honors, though he did receive two Purple Hearts. Tibor's immediate superiors recommended him for the Medal of Honor, but before the paperwork could be processed these officers were killed, and a sergeant who might have sent the papers up refused to do so because Tibor was Jewish. "Not on my watch," he reportedly said.

Because of his remarkable bravery and courage in Korea, private bills were introduced in the Congress on a number of occasions to give him the honor he deserved. Finally, just a few days ago, the long-delayed but richly-deserved Medal of Honor was presented to Tibor Ruben by the President.

Mr. Speaker, I invite my colleagues to join me in paying tribute to the heroism of Ted Ruben, and extending to him our gratitude for his service to our country—service that was well above and beyond the call of duty.

WHAT EMANCIPATION MEANS TO JAMAICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. RANGEL. Mr. Speaker, I rise today in recognition of the 167th anniversary of Jamaican Emancipation, established on August 1, 1838.

On August 1, 1838, when the enslaved Jamaicans found out that they were freed, tears flowed incessantly, while shouts of freedom rang from every direction. The sentiment of the day was jubilance; however, there was an underlying reverence for the freedom of hundreds of thousands enslaved men, women, and children. They had been freed from the oppressive social and economic system to which they had been subjected to for generations.

Similar to the Quakers in the United States, the Quakers of Jamaica were very instrumental in aiding the fight for the abolition of slavery. Many of them started campaigns against the slave system, one of which was led by the "Society for Effecting the Abolition of the Slave Trade". This community of abolitionists believed that slavery was against the will of God and a denial of civilization. Freedom and only freedom was and is the true natural state of man. The booming rise in the sugar industry quickly fostered economic excuses in favor of slavery, which quashed the Quaker's efforts within the 17th century.

However, entrance into the 18th century, and the initial decline of the sugar industry ushered in much opportunity that encouraged a resurgence of the abolitionist movement within Jamaica. In 1807, abolitionists gained their first victory through the "Total and Immediate Abolition of the Slave Trade" in the British Parliament, ending Jamaican involvement in the Trans Atlantic Slave Trade, cutting off their human cargo from Africa and the influx of more potential slaves. Meanwhile, enslaved Jamaicans were taking their freedom into their own hands through the many slave revolts staged across the island. The most famous revolt took place a few days after Christmas in 1831. Reverend Samuel Sharpe, who was a leader of a secret society of slaves, and is today recognized as a national hero of Jamaica, planned that the slaves should simply stop work, present their demand for freedom, and then hold fast in resistance until the demand was met, which was one of the first acts of organized civil disobedience, prior to our modern day examples. However, the slaves still armed themselves, in case they needed to defend themselves, as of course they did. The strike turned into a running series of fights, which accumulated and spread, to over two hundred plantations. Slaves did not take the initiative in attacking their white masters, but they did systematically destroy plantation houses and equipment. Within a short time, they had control over settlements and communications in virtually all the western end of the island. This 10 day rebellion mobilized some 60,000 slaves, numbers that quickly got the attention of Parliament.

With the possibility of a general uprising looming, the idea of abolishing slavery was once again proposed to Parliament. In 1833, it decided that slavery was no longer an effective economic system. The Emancipation Act of 1834 declared that all enslaved peoples under the age of six and those born after the enactment of the bill were legally free. Those who were older were forced to become apprenticed to their former masters up until August 1, 1838, after which they would be free. Indeed, in 1838 all those who were once enslaved were made free.

Emancipation Day is celebrated across the island within churches and town squares where there are a variety of all night vigils that take place. Then at midnight, there is a nation wide celebration of drumming, pealing of bells, and much more which carry on into the dawn of the "First of August". All this is done to simulate or re-create the atmosphere that existed during that morning when slavery was abolished. The celebration of Emancipation Day is of the utmost importance to the historical integrity of Jamaica. It not only pays homage to those millions of Africans that were subjected to one of the worst crimes against humanity, it provides a historical foundation for the country to evolve from. As Rev. Dr. Burchell K. Taylor, Pastor of Bethel Baptist Church, states "an event as significant as the Emancipation of our people from slavery and all it signifies in terms of human cruelty, suffering, sacrifice, folly, courage, deception, greed, triumph of the human spirit and faith and hope, cannot be allowed to slip from our collective memory. There are lessons to be learned that are of lasting value. Remembering Emancipation can itself be an ongoing liberating experience."

I submit to you an editorial written by the Honorable P.J. Patterson, Prime Minister of Jamaica, found in the August 9th edition of the CaribNews newspaper, addressing the people of Jamaica and the significant lessons that this celebration brings with its 167th year.

There are many lessons that we, the U.S., can learn from Jamaica and its national and cultural acceptance of their past. We truly cannot know where we as a country are headed unless we first recognize, reconcile and then celebrate our history, all of our history. Emancipation is a celebration that should not be reserved for those who are descendants of slaves and abolitionists. As the Prime Minister suggests, "the abolition of slavery meant more than the emancipation of slaves. It also meant the emancipation of those who held them in bondage, at least from the burden of callousness and greed-factors that devalue human life and desecrate any society intended to nurture that life." We too must engage in similar reconciliatory celebrations and find strength in our past.

WHAT EMANCIPATION MEANS TO JAMAICA AND ITS PEOPLE

(By P.J. Patterson)

One hundred and sixty seven years ago, our forebears gathered in churches all over this island (of Jamaica) to give thanks for the release of some 400,000 former slaves into full freedom. On that day, a clear message was sent to the world that, as children of a Common Creator, no one could rightly, justly or morally be the property of another.

The assertive character of Jamaican has never allowed us to sit idly by and allow that part of our history to be either forgotten or ignored. It is our solemn duty to secure the gains won by the invincibility of the human spirit against such great odds with passionate and loving care.

We are about to celebrate yet again that freedom which set hundreds of thousands of our ancestors free and to give the society they were to inherit, as free men and free women, the capacity to become civil, tolerant and enduringly humane.

The great Haitian leader, Touissant l'Ouverture in his memorable reply to the President of France, the colonial ruler asserted (and I quote) "It is not a circumstantial liberty conceded to us that we wish, but the unequivocal adoption of the principle that no man whether he is born red, black or white can become the property of his fellow man".

It is that spirit of determination to effect human equity and equality for which we here in Jamaica have struggled, regardless of race, colour, political affiliation or creed.

The celebration of August First, then, remains an important observance for all who inhabit this land of ours. Today's challenges may appear formidable. But the fact that our forebears could overcome the greatest hardship of all—that of being enslaved—is cause enough, both for hope and for the strengthening of our resolve, to overcome every obstacle.

We dare not betray the trust placed in us who have come after the generation of 1838. We must never give up the fight to become the self-directed, liberated human beings we were created to be.

The abolition of slavery meant more than the emancipation of the slaves. It also meant the emancipation of those who held them in bondage, at least from the burden of callousness and greed—factors that devalue human life and desecrate any society intended to nurture that life.

So, let us again say thanks for that Emancipation which allowed thousands of others, whose descendants now call Jamaica "home", to enter a free society. They were still being exploited on contract during the period of indentured labour, but at least there were prescribed rules of engagement covering conditions of work.

They bequeathed this precious legacy to our workers and their trade unions, to our professionals and their staff associations, to our citizens and their right to choose their leaders who hold power in trust on their behalf. It was this legacy which was to help guide us into Independence, another milestone that we will observe in a few days. This legacy set us on the road to civil society, democratic governance and peaceful coexistence.

Our Emancipation Day observance is therefore a fitting tribute to that legacy of determination and inner strength which our freedom-loving ancestors have given to posterity.

May I wish blessed and pleasant Emancipation Day to everyone!

(P.J. Patterson is Jamaica's Prime Minister. The Emancipation Day Message was read to hundreds of worshippers at a Thanksgiving Service on Sunday afternoon at Hanson Place Central Methodist Church in Brooklyn by Dr. Basil Bryan, Jamaica's Consul-General in New York).

INTRODUCTION OF THE AFFORDABLE GAS PRICE ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the Affordable Gas Price Act. This legislation reduces gas prices by reforming government policies that artificially inflate the price of gas. As I need not remind my colleagues, the American people have been hard hit in recent months by skyrocketing gas prices. In some parts of the country, gas prices have risen to as much as $4 per gallon.

This increase in the price of gas threatens our already fragile economy and diminishes the quality of life for all Americans. One industry that is particularly hard hit is the trucking industry. The effects of high gas prices on the trucking industry will be reflected in increased costs for numerous consumer goods, thus further harming American consumers.

Unfortunately, many proposals to address the problem of higher energy prices involve increasing government interference in the market through policies such as price controls. These big government solutions will, at best, prove ineffective and, at worst, bring back the fuel shortages and gas lines of the seventies.

Instead of expanding government, Congress should repeal Federal laws and policies that raise the price of gas, either directly through taxes or indirectly through regulations that discourage the development of new fuel sources. This is why my legislation repeals the Federal moratorium on offshore drilling and allows oil exploration in the ANWR reserve in Alaska. My bill also ensures that the National Environmental Policy Act's environmental impact statement requirement will no longer be used as a tool to force refiners to waste valuable time and capital on nuisance litigation. The Affordable Gas Price Act also provides tax incentives to encourage investment in new refineries.

Federal fuel taxes are a major part of gasoline's cost. The Affordable Gas Price Act suspends the Federal gasoline tax any time the average gas prices exceeds $3 per gallon. During the suspension, the Federal Government will have a legal responsibility to ensure the Federal highway trust fund remains funded. My bill also raises the amount of mileage reimbursement not subject to taxes, and, during times of high oil prices, provides the same mileage reimbursement benefit to charity and medical organizations as provided to businesses.

Misguided and outdated trade policies are also artificially raising the price of gas. For instance, even though Russia and Kazakhstan allow their citizens the right and opportunity to emigrate, they are still subject to Jackson-Vanik sanctions, even though Jackson-Vanik was a reaction to the Soviet Union's highly restrictive emigration policy. Eliminating Jackson-Vanik's threat of trade-restricting sanctions would increase the United States access to oil supplies from non-Arab countries. Thus, my bill terminates the application of title IV of the Trade Act of 1974 to Russia and Kazakhstan, allowing Americans to enjoy the benefits of free trade with these oil-producing nations.

Finally, the Affordable Gas Price Act creates a Federal study on how the abandonment of the gold standard and the adoption of freely floating currencies are affecting the price of oil. It is no coincidence that oil prices first became an issue shortly after President Nixon unilaterally severed the dollar's last connection to gold. The system of fiat money makes consumers vulnerable to inflation and to constant fluctuations in the prices of essential goods such as oil.

In conclusion, Mr. Speaker, I urge my colleagues to support the Affordable Gas Price Act and end government policies that increase the cost of gasoline.

IN HONOR AND RECOGNITION OF KEVORK "GEORGE" ARSLANIAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mr. Kevork "George" Arslanian, loving family man, father, grandfather, great-grandfather and dear friend to many, as his friends and loved ones gather in honor and celebration of his 100th birthday.

Mr. Arslanian's life reflects a brilliant spectrum of survival, courage, tenacity, triumph, devotion to family and service to others. As a young child, Mr. Arslanian and his two brothers became orphans. During WWI, 40 members of the Arslanian family, including their father and mother, were killed in the horrific Armenian massacre by the Turkish military. The Armenian genocide resulted in the deaths of 1.5 million Armenians. A Turkish neighbor hid the three boys in her home, saving their lives. Soon after, they were sent to a Red Cross orphanage in Syria, where they barely survived among 60,000 other orphans.

Throughout their years of struggle, Mr. Arslanian and his brothers remained focused on the promise of a new life in America. They left the Syrian orphanage and journeyed to Cuba, from where they had heard that entry into the U.S. would be easier. They soon discovered this was not the truth. The children spent 5 years in Cuba, surviving with nothing more than their own determination, courage and the promise of reaching the shores of America. In 1927, the boys, who had by now become young men, made the escape out of Cuba as stowaways on a ship that delivered them to a life of freedom, hope and possibility in America.

The Arslanian brothers settled with relatives in Cleveland. Mr. Arslanian attended Miller Barber College in Cleveland, where he initially honed the art of his trade without pay. He then earned twenty dollars a week for 25 cent hair cuts. He soon became a licensed barber—the 11th in the State of Ohio, and in 1932, opened up his own shop in Garfield Heights. Six days a week for seventy-five years, Mr. Arslanian worked in the shop with his brother, and continued giving hair cuts until just a couple of years ago. Together, Mr. Arslanian and his beloved, late wife, Virginia, raised three sons. George and Virginia Arslanian were married for 67 years. Mr. Arslanian, one hundred years young, continues to be the foundation, center and light of his family—a family that includes his three sons, seven grandchildren and twenty great-grandchildren.

His life-long devotion to his family and to his shop extends throughout the community, and is evidenced within his strong faith and his dedication to preserving the history, faith and culture of Armenia. Mr. Arslanian continues to be deeply involved with the Armenian Orthodox Church, and led the effort to establish St. Gregory of Narek Armenian Church. His unwavering support for immigrant families and for the preservation of Armenian culture is reflected in his long-time involvement with the Armenian General Benevolent Union and the Tekeyan Cultural Society.

Mr. Speaker and Colleagues, please join me in honor and recognition of Mr. Kevork "George" Arslanian, whose brave heart, warm smile and fascinating life continues to educate and inspire those who know and love him well, especially his family and friends. Mr. Arslanian's life, outlined by hard work, integrity and family, personifies the phrase 'American citizen.'

The remarkable story of the young Arslanian brothers, their courageous journey and creation of new lives in America, is the story of the American immigrant, retold in a thousand languages, connecting all of humanity by the will to survive and the promise of freedom and peace. The incredible journey of citizens such as Kevork "George" Arslanian is the strength and foundation of our country. In honor of Mr. Arslanian's 100th birthday, we offer him an abundance of peace, health and happiness, and offer our gratitude to him for enriching our community and our nation. His great love for his family, community and for his beloved Armenia, transcends time and distance, serving as a bridge of goodwill, forever connecting America to Armenia.

TRIBUTE TO CATHOLIC CHARITIES

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to acknowledge and commend Catholic Charities, an organization that is celebrating 50 years of service to the Santa Clara Valley community.

Catholic Charities strives to empower the working poor to move beyond basic subsistence to a state of meaningful, quality living by encouraging economic, familial and emotional stability. It does this by developing cultural programs, supplying educational resources about ailments affecting older adults, and providing all of its services in various languages.

While born out of Catholic gospel values, Catholic Charities serves people of all beliefs, cultures, ethnicities and ages. The organization's mission is to create a more just and compassionate community in which people of all cultures and beliefs can fully participate and thrive. They serve a diverse population from various ethnic backgrounds including Vietnamese, Chinese, Filipino, Mexican, Sudanese and Bosnian people. The agency works under the premise that the most effective way to affect a person is to connect with them from their personal, cultural perspective.

Catholic Charities integrates services address the multiple factors that impact one's ability to be self sufficient and stable. Because these issues have an intergenerational impact, agency programs are geared across age groups to reach entire families. Their services include older adult programs, immigrant and refugee assistance, and housing programs. The agency also offers employment, youth, financial education and behavioral health services in addition to operating neighborhood centers.

I have worked with Catholic Charities for over twenty years, and I can tell you from first-hand experience that I am proud of the leadership, volunteers and network of supporters whose dedication have built Catholic Charities into an integral part of the fabric of our local community.

INDUCTION OF THOMAS JAMES KATONA INTO THE UPPER PENINSULA LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to a leader who truly left his mark on the labor movement in the Upper Peninsula of Michigan as well as throughout the United States. Thomas James Katona has increased union effectiveness by partnering the historic strengths of labor unions with the innovation of technology. Mr. Katona's induction into the Upper Peninsula Labor Hall of Fame is warranted and deserved.

As a dedicated Staff Representative for the Office and Professional Employees International Union (O.P.E.I.U.), Local Union 512 of the AFL–CIO and a proud member of the Industrial Workers of the World (IWW), Mr. Katona was a committed organizer of working people in the public and private sectors. He has devoted himself to their cause of fair and just representation in the work place.

Mr. Katona has been on the forefront of worker education by designing and delivering labor education classes for employees and staff. Always advocating for his membership, Mr. Katona was constantly arguing before the National Labor Relations Board, the Michigan Employment Relations Commission and Administrative Law Judges. He served his larger community as a volunteer mediator for the Delta County Resolution Services, UPCAP and was an active member and participant in the Association Conflict Resolution.

Mr. Katona has been described by his union brothers and sisters as a great leader showing persistence and assertiveness as an advocate and problem solver for his union and fellow workers. Mr. Katona was a trusted labor and community leader.

However, while Mr. Katona will always be remembered by his colleagues and friends for many accomplishments, he has left his mark through his tireless commitment to the development and propagation of "cyber unionism" as a means of strengthening and improving communications within the labor movement. As a published author on the subject, Mr. Katona blazed the trail for technological improvements including helping trade unionists design, post and maintain Web pages, Web sites and e-mail magazines.

Mr. Speaker, I ask the U.S. House of Representatives to join me in thanking Mr. Thomas James Katona and his family for his dedication and service to the labor movement and to the Office and Professional Employees International Union, Local Union 512, AFL–CIO. Mr. Katona has more than earned his place in Michigan's Upper Peninsula Labor Hall of Fame for his commitment to his community and the labor movement.

IN RECOGNITION OF HAROLD AND JUANITA BLAIR'S 57TH WEDDING ANNIVERSARY

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to congratulate and honor Harold and Juanita Blair who celebrated their 57th wedding anniversary on September 15th. Harold and Juanita have been lifelong companions, having literally grown up next door to each other in North Braddock, Pennsylvania.

Their life together began when Harold asked Juanita out for a date on a dare during their high school years. Harold, who was 17 at the time, was a star on the high school basketball team, while Juanita, at 15, was focused on her school studies. As a result, Juanita didn't really take interest in him until after he had asked her out.

Because of America's culture of segregation during the 1940s, Harold was denied a basketball scholarship to any college, so he enlisted in the army, while Juanita attended college in Maryland.

After Harold was discharged from the Army, they married on September 15, 1948. However, because of their ages, they initially kept their marriage a secret from their families until they moved to Detroit, Michigan where they have lived since 1949.

They have three beautiful children: Harold Jr., Joseph and Lori, my daughter-in-law, and five beautiful grandchildren. Juanita still wears the original wedding ring that Harold gave her in 1948. And although over the years Harold has given Juanita newer and more expensive rings as a show of his love and affection, Juanita continues to wear the original ring that sealed their lifelong journey together.

In celebration of their more than half a century of devotion and love, I ask my colleagues in the House of Representatives to join me in honoring Harold and Juanita Blair as they celebrate their 57th wedding anniversary.

IN HONOR OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES LEADERSHIP INSTITUTE

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. COSTA. Mr. Speaker, I rise today to congratulate the National Conference of State Legislatures Leadership Institute for 10 years of dedication and excellence in the formation of effective public policy makers. Over 300 State Legislators have participated in the Leadership Institute through its first 10 years.

The National Conference of State Legislatures is a bi-partisan organization that serves the legislators and staffs of the United States and its commonwealths and territories. NCSL provides research, technical assistance, and a forum in which policy makers can exchange ideas.

The primary goals of NCSL are to improve the quality and effectiveness of state legislatures, to promote policy innovation and communication among state legislatures, and to ensure state legislatures a strong, cohesive voice in the federal system.

The ideals of strong and effective leadership are the cornerstones upon which the NCSL Leadership Institute was founded. Leadership is an essential ingredient of any legislature. Moving beyond conflict and partisanship to meet the real needs of people is the fundamental test of legislative leadership.

The NCSL Leadership Institute seminars foster lively discussions and provocative case studies, where promising leaders can explore their common values and the future of the legislature in a bi-partisan setting.

Numerous State Legislators have attended the Leadership Institute in its 10 years of operation. The future of our government depends on the quality and creativity of the men and women who lead it and is imperative that we endorse programs that instill leadership qualities. On behalf of past, present and future Legislators, I extend my continued support and appreciation of the NCSL Leadership Institute.

HONORING THE MULTI-TALENTED SUGAR RAY ROBINSON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. RANGEL. Mr. Speaker, I rise to recognize and honor the esteemed boxer Sugar Ray Robinson for his positive impact on the athletic world as one of the greatest boxers of all time, and to honor his service as a role model with an extraordinary positive influence on his community. Sugar Ray Robinson was a prime example of an American role model, a man from an era where blacks were seen and treated as second class citizens and he focused on his talent in order to achieve greatness, the story of a true hero. At a time when African American youth did not have African American icons to idolize; Sugar Ray more than filled this void, by being an enormous boxing influence to a variety of African American children, some of whom became Muhammad Ali, and Sugar Ray Leonard whom even took Robinson's nickname. He gave these kids something to believe in and something to be proud of.

The phrase "pound for pound the best" was coined in honor of Sugar Ray's boxing success, and has been used to reference successful boxers ever since. Walker "Sugar Ray" Smith was born in Detroit, Michigan in 1921. He began boxing as an amateur in New York City, where he quickly advanced to the professional circuit in 1940. New York has always been a tough city and to make it there as Sugar Ray Robinson did, you have to be among the best of the best. From 1946 to 1951 he became the world welterweight champion and the world middleweight title holder. Sugar Ray's athletic ability clearly outmatched his opponents, fight after fight. A fierce competitor, Sugar Ray's final record was an utterly amazing 174 wins, 109 of them being knockouts, and only 19 losses and 6 draws; this being a remarkable testament to Sugar Ray's amazing athletic accomplishments within the boxing circuit.

Sugar Ray Robinson was a Renaissance man; he did not restrict himself to solely boxing and athletics. He used his fame as keys to experiment in the musical world and also acting. Nevertheless his fame is attributed to his remarkable achievements in his boxing. He was one of the first athletic stars to cross over into different mediums of public spotlight. Sugar was known for his huge entourages and public displays of success, truly a man who enjoyed the life he lived. He showed generations of young African Americans that raw physical talent was not enough. Skill, ability and education were also important.

In 1989 Sugar Ray Robinson died a month before his birthday, leaving behind a plethora of fans, along with countless influences and friends. Sugar Ray Robinson represented hope and optimism for the African American community during an era of blatant and systematic racial oppression. He aided in racial relations in athletics while giving African Americans a sense of pride as an example of African American perseverance and strength over the negative barriers. Sugar Ray broke these barriers, charging forward for his people to be seen, to be respected and to be loved. It was a fight to show that African American people were not inferior and should be granted equal opportunity.

The African American hero, the American idol, Sugar Ray Robinson showed the American people a black man that was a powerful warrior, and clearly the best of his time in and out of the ring. I have reintroduced legislation in the 109th Congress to recognize the stellar career of Sugar Ray Robinson. It is an honor which Sugar Ray Robinson very well deserves and I truly hope my colleagues will join me in this effort.

INTRODUCTION OF THE NURSING HOME EMERGENCY ASSISTANCE ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the Nursing Home Emergency Assistance Act. This act makes private, for-profit nursing homes eligible for the same federal aid as is currently available to public nursing homes. Under current federal law, only public nursing homes may receive federal disaster assistance. However, hurricanes, tornadoes, and earthquakes do not distinguish between private and public, or for-profit and not-for-profit, nursing homes.

As I have recently seen in my district, all nursing homes face unique challenges coping with natural disasters and their aftermaths. It is not fair to the taxpayers who work in, reside in, or have entrusted the care of their loved ones to, a private nursing home that private nursing homes are denied the same federal aid available to their public counterparts. Mr. Speaker, the Nursing Home Emergency Assistance Act ensures all residents of nursing homes can benefit from federal disaster aid. I encourage my colleagues to support this legislation.

IN RECOGNITION OF THE STOCKYARD REDEVELOPMENT ORGANIZATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. KUCINICH. Mr. Speaker, I rise today to recognize the Stockyard Redevelopment Organization (SRO), which has done much to oversee the redevelopment of Cleveland's Stockyard neighborhood in Ohio's 10th Congressional District. Once the center of Cleveland's stockyard industry, this neighborhood, like many such neighborhoods in Cleveland and around the country in the decades following World War II, became blighted as companies fled to the suburbs, sunbelt, or overseas while residents followed the new freeways out of town.

In March 2000, when SRO's newly appointed director Alex Brazynetz visited my office for the first time, he brought big dreams, significant problems, and a small request. His dream was the revitalization of this long-neglected inner city neighborhood. The problem was that the privately owned and crumbling West 67th Place was not eligible for highway funding or local road maintenance, while the owner was unable to provide the maintenance. The request was for a creative way to get this street fixed to retain the last remaining businesses and to attract new business to this blighted neighborhood. The key to overcoming the obstacle and realizing the dream was a federal Economic Development Administration (EDA) grant to fix West 6th Place.

In conjunction with the SRO, the Westside Industrial Retention and Expansion Network (WIRE-Net) and the EDA, the City of Cleveland agreed to purchase West 67th Place for a nominal fee, making the street eligible for a federal grant. The $1.2 million grant was the key to completing a $1.8 million infrastructure investment. This investment then leveraged $24.7 million in additional and proposed investment in the immediate area, along with realizing 362 additional jobs.

Building on the success of the West 67th Place project, the SRO is currently undertaking a Land Use Study of the West 65th Street, Denison Avenue & Ridge Road corridors in collaboration with WIRE-Net and with support from Councilmen Matthew Zone (Ward 17) and Kevin Kelley (Ward 16) and the nearby City of Brooklyn, Ohio.

Mr. Speaker and distinguished colleagues, the success in Cleveland's Stockyard neighborhood proves that small federal investments in our nation's cities can be stretched and leveraged to go a long way to help rebuild our cities. More of these opportunities must be made available. We must continue to rebuild the commercial, industrial, and residential bases of our nation's cities like Cleveland and neighborhoods like the Stockyard, with the help of federal investments like what we've seen successfully done in conjunction with the federal Economic Development Administration, the City of Cleveland, and the Stockyard Redevelopment Organization.

THE 75TH ANNIVERSARY OF THE JUSTICE STUDIES DEPARTMENT AT SAN JOSÉ STATE UNIVERSITY

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today to recognize the 75th Anniversary of the Justice Studies Department at San José State University.

The Justice Studies Department at San José State was the first degree-granting program in criminal justice in the United States. It was founded in 1930 by August Vollmer, then Chief of Police in Berkeley, California, and T.W. MacQuarrie, the President of San José State College. In 1935, nation's oldest professional law enforcement fraternity, Chi Pi Sigma, was founded at San José State.

The department prepares students for positions of responsibility and leadership in federal, state and local law enforcement, in government investigative branches, in institutional and community correctional offices, the court system, social services, public health, and in the educational field. Alumni of the program have gone on to become leaders and innovators in our community, and have made a positive impact on countless lives.

As a Member of Congress, I fully understand the importance and impact that this program plays in securing the safety of our community and ensuring that our laws are carried out fairly and responsibly. I am proud to stand here today to recognize the Justice Studies Department at San José State University and I urge them to continue the important work of educating the next generation of justice professionals.

INDUCTION OF ARNOLD KORPI INTO THE UPPER PENINSULA LABOR HALL OF FAME

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to an educator who has played a key role in organizing teachers in Michigan's Upper Peninsula for seventeen years. It is for this lifelong dedication to his noble profession of teaching and contributions to the labor movement that Arnold Korpi so richly deserves to be inducted into the Upper Peninsula Labor Hall of Fame.

After spending nearly two decades, from 1946 to 1964, as a business education teacher in Rockland and Wakefield, Michigan and as a professor at Gogebic Community College, Mr. Korpi became an early labor leader for the teachers of Michigan's Upper Peninsula.

Mr. Korpi was tireless in his commitment as a leader in the labor cause. Mr. Korpi held a number of prestigious positions throughout the Michigan Education Association (MEA) and civic organizations, including his service on the Board of Directors of the Michigan Education Special Services Association (MESSA), as President of Michigan Education Association Region 18, as President of the Upper Peninsula Business Teachers' Association, as President of the Gogebic County District of the Michigan Education Association, as President of the Wisconsin Alumni Association and as a board member and President of the Northern Michigan University "N" Club.

Mr. Korpi further served the MEA as President and Treasurer of the Michigan Education Association Professional Staff Association serving all Uni-Serv Directors in Michigan; as President of the National Staff Organization; and as the Uni-Serv Director for the Michigan Education Association/National Education Association from 1964 until 1981.

In addition to holding many high ranking positions within the MEA, Mr. Korpi was also the founder, leader, organizer and Treasurer of the Upper Peninsula Education Association, which continues to be a valuable organization for teachers bargaining labor contracts across the Upper Peninsula.

Arnold Korpi is known for far more than his brilliant organizing and advocacy skills. Described as an early leader and a moving force for the Michigan Teacher Tenure Act, Mr. Korpi helped lay the groundwork for the professional teachers' bargaining and job security issues. He was part of the historic Teacher Tenure legislation which enabled classroom educators to teach and act without fear of reprisal, thus fostering and encouraging the academic freedoms for all Michigan teachers.

Mr. Speaker, I ask the U.S. House of Representatives to join me in thanking Mr. Arnold Korpi and his family for his dedication to the education labor movement in Michigan. Arnold Korpi has more than earned his place in Michigan's Upper Peninsula Labor Hall of Fame for his commitment to his community and his teaching profession.

IN CELEBRATION OF VERA McDONALD'S 90TH BIRTHDAY

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to congratulat my mother-in-law, Mrs. Vera McDonald of Los Angeles, California, who celebrated her 90th birthday on July 18th of this year.

Vera Jackson McDonald was born in Memphis, Tennessee on July 18, 1915, to Walter and Lola Jackson. As a young girl and the oldest of 6 children, Vera spent her formative years assisting her parents in caring for her younger siblings and running the household while her parents worked.

In 1942 at the age of 22, Vera married Artie Lee Miller. Although they did not have any children of their own, they raised a large family after they took custody of their neighbor's six children following the parents' tragic and premature death.

On September 16, 1977, we welcomed Vera into our family when she married James McDonald, my father in law, following the passing of her first husband, Mr. Miller. At 90 years old, Vera remains a source of inspiration and happiness for our entire family. Vera would be the first to tell you that, despite her remarkable age, she remains active and independent. She doesn't suffer from arthritis or the aches and pains of age, and does not need to wear her glasses when reading. She is also a woman of strong Christian faith.

In recognition of a lifetime of generosity and love, I ask my colleagues in the House of Representatives to join me in honoring Vera McDonald as she celebrates her 90th birthday.

IN HONOR OF JIM BOREN, NATIONAL MEDIA CITATION AWARD WINNER

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. COSTA. Mr. Speaker, I rise today to honor Jim Boren for receiving national recognition as an outstanding journalist by the Journalism Education Association which recently awarded Mr. Boren with the National Media Citation Award.

Jim Boren is an established journalist who has won numerous awards and recognition from national organizations and community groups. Jim Boren was one of California State University, Fresno's finest graduates and had many opportunities to leave the Valley in pursuit of prestige. Being the dedicated Fresnan that he is, however, Jim chose to stay in his community and share his talent with his hometown.

Beginning his career in 1972, Jim joined the Fresno Bee. He worked his way up from a general assignment reporter to becoming the Fresno Bee's main political writer. He spent 15 years in that position keeping the San Joaquin Valley informed about local and national events by covering local elections, gubernatorial races and presidential campaigns. In 1995 Jim Boren became Editor of the editorial page in the Fresno Bee.

Jim Boren has a well-deserved reputation as a skilled and reliable investigative reporter. His journalistic abilities, compassion, and belief in justice are credited in the release of innocent prisoners charged for crimes they did not commit.

Mr. Boren has been the recipient of numerous awards for his talent as a journalist. He has received notoriety from various organizations, including an investigative reporting award from the Society of Professional Journalists, the Jim Tucker Award from California State University, Fresno, and the national honor of receiving the Friend of Scholastic Journalism Award from the Journalism Education Association.

For his contributions and loyalty to the community, it is with great pleasure that I extend the gratitude and appreciation of the residents of the San Joaquin Valley to Jim Boren.

A REDESIGN OF THE $1 COIN TO COMMEMORATE THE LIFE AND LEGACY OF MARTIN LUTHER KING, JR.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. RANGEL. Mr. Speaker, I rise today to invite Congress to join me in cosponsoring H.R. 1432 to require the Secretary of the Treasury to redesign the $1 coin to commemorate the life and legacy of Dr. Martin Luther King, Jr.

On December 5, 1955, after civil rights activist Rosa Parks refused to observe the segregation policy on buses, the residents of Montgomery, Alabama launched a bus boycott. The success of the boycott which desegregated the city bus system propelled Dr. King into national prominence. He organized and led strategic marches, protests and demonstrations for blacks' right to vote, desegregation, fair hiring practices and other basic civil rights. He led these marches under the philosophy of non-violence and civil disobedience, which gained national and international media attention. Through his influence, the world began to see first hand the inhumanity of segregation.

It wasn't until his 1963 "I have a dream" speech during the March on Washington, did America begin to see Dr. King as a prophetic visionary. The eloquence and optimism of his speech and vision truly inspired the collective conscience of the American public. As his message began to spread, the Nation began to change. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 became manifestations of the dreams and hopes of equality and justice for all that Dr. King so effectively represented.

Although Dr. King, once Time Magazine's "Man of the Year 1963" and the youngest recipient of the Nobel Peace Prize was quickly and violently taken from us, his dream still lives on. He had insight into a reality that was not yet this world's reality. Peace on Earth and goodwill towards all was not yet this world's reality. But he believed that it could be; that it ought to be. His philosophy of nonviolent direct action, and his strategies for national and non-destructive social change, galvanized the conscience of this Nation and reordered its priorities. His wisdom, his words, his actions, his commitment, and his dream for a new way of life of equality and justice for all have been intertwined with the American experience.

There is no man more deserving to have their image engraved on the face of the $1 coin than, Dr. Martin Luther King, Jr. Not only would this be a national recognition of his many contributions to American history, but it would be a constant reminder that we have not yet fulfilled the dream, Peace on Earth and good will to all men, and equality and justice for all.

INTRODUCTION OF A BILL TO MAKE AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000 RELATED TO INTERNATIONAL SPACE STATION PAYMENTS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce a bill to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments. It is critical that we pass this legislation to preserve NASA's ability to perform such core functions as transporting astronauts to the International Space Station. Indeed, the International Space Station program may be threatened if the United States is prevented from purchasing from Russia the space hardware and services required to meet U.S. obligations.

Currently, the Iran Nonproliferation Act of 2000 forbids any such purchase because Russia is said to be assisting Iran in pursuit of its atomic energy program. Mr. Speaker, this situation demonstrates very clearly the negative unintended consequences of our counterproductive policy of restricting trade and placing trade sanctions on other countries. It would be ironic if in our zeal to punish Russia for engaging in trade with Iran we in fact end up punishing scores of Americans who work in the space industry in the United States.

I very much hope that my colleagues will join me in this effort to prevent these indirect sanctions from unfairly harming the American space program.

IN HONOR OF THE ANNUAL PULASKI DAY CEREMONIAL OBSERVANCE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Polonia Foundation of Ohio and the Ohio Polish Legion of American Veterans, U.S.A., as they unite the community in remembrance and celebration of Gen. Kazimierz Pulaski, for his legacy of courage and selfless dedication to the people of Poland and the people of the United States of America.

Born on March 4, 1747 in Warzka, Poland, General Pulaski achieved great military success in Poland with his focused leadership and brilliant strategies in fighting the Russian domination of Poland. By 1777, General Pulaski had become one of the most renowned cavalrymen in Europe, and while in Paris that year, he was actively recruited by Benjamin Franklin to assist in the American quest for liberation.

Sympathetic to the American cause, General Pulaski sailed to America and was made head of the newly formed American cavalry during the Revolutionary War. General Pulaski's deep level of commitment to the American cause was framed by energy and style. He reportedly wore a plumed hat, flashing saber, and an elaborate uniform, and spent his own money to feed and equip his troops. General Pulaski was involved in many significant battles during the Revolution. His ultimate stand took place in Savannah, GA in October 1779, where he led a valiant charge against British artillery. General Pulaski was shot and died a few days later.

Mr. Speaker and colleagues, please join me in honor and remembrance of Gen. Kazimierz Pulaski, who made the ultimate sacrifice in his valiant fight to secure the ideals of the American Revolution. An American hero, General Pulaski's life and legacy serves as a significant reminder of the vital contributions and great achievements by Polish immigrants within our Cleveland community, and throughout America.

H. RES. 466—ALZHEIMER'S SEMI-POSTAL STAMP

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. PELOSI. Mr. Speaker, I rise today in support of a bipartisan resolution urging the United States Postal Service to act on a pending petition for an Alzheimer's Semi-Postal Stamp. I am proud to have partnered with my colleagues, Representatives ED MARKEY, CHRIS SMITH, and JOHN BOOZMAN in introducing this legislation that encourages a long-overdue opportunity for the public to make an investment in the research that could find a cure to Alzheimer's disease.

Nancy Reagan described the slow decline of her husband, President Reagan, to Alzheimer's disease as "the long goodbye." Far too many Americans are enduring that same long goodbye today. More than 4 million Americans have Alzheimer's disease, a number that is expected to triple within the next 50 years. Nineteen million Americans are caring for someone with Alzheimer's. That is why I have fought so hard to increase federal funding for Alzheimer's disease research.

Scientists around the world, including some of our best minds at the National Institutes of Health, believe we are on the verge of breakthroughs in Alzheimer's detection, diagnosis, and prevention. With an annual cost of more than $100 billion to care for people with Alzheimer's, and an immeasurable amount of heartache, America must invest in hastening the day when Alzheimer's disease is no longer—we cannot afford not to.

That is why we are encouraging the Postal Service to act now on an Alzheimer's stamp. Semi-postal stamps are authorized by Congress as a tool for the Postal Service to raise funds and awareness of worthy causes. Tens of thousands of Americans, from across the country, have signed a petition of support for this stamp, yet its issue is still pending with the Postal Service after four years. There is no more worthy cause today than a fight against Alzheimer's disease, and time is of the essence. By allowing the public to directly contribute to research funds through a postal stamp, we could be one step closer to a treatment, or even a cure.

I hope that my colleagues will join me to encourage the Postal Service to allow Americans to invest in the fight against Alzheimer's disease through a semi-postal stamp.

A TRIBUTE TO JAMAICAN CUISINE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. RANGEL. Mr. Speaker, in celebration of Jamaica's 43rd anniversary of independence I rise today to insert in the RECORD an article from the July 20th New York Times highlighting Jamaican cuisine and its impact on New York City.

The influx of Jamaican cuisine in New York and other cities throughout the U.S. is a testament to the richness which immigration has brought to the city of New York and our Nation. The diversity of cuisine now available to us is but one example of the benefits we New Yorkers and Americans derive from the cultures and customs brought to the U.S. from all over the world.

The vibrant cuisine of Jamaica is a reflection of its culture and is as diverse as its people, drawing inspiration from a medley of sources. Jamaican cooking can be best described as a culinary melting pot that combines a hint of Spanish, a dash of English and a heaping teaspoon of Indian and Chinese with a cup or two of African ingredients to serve up some of the Caribbean's most creative cuisine.

As a native New Yorker I have been a Jamaican food enthusiast since my youth. It is a cuisine full of flavor and vibrancy.

Jamaicans have been immigrating to the United States for centuries and have undeniably left their mark on cities throughout our Nation. Their contributions can be seen at the center of our neighborhoods and industries, in every sector from music to cuisine.

The Jamaican American community is a prime example of a community which has and is contributing greatly to New York City and their adopted nation. Special praise is due for what the entrepreneurs of this community are contributing to the cuisine of the city and their efforts are appropriately recognized in this article.

Island Flavors in a Yellow Envelope

(By Julia Moskin and Kim Severson)

Long before the BlackBerry and the PlayStation Portable, New Yorkers loved their hand-helds. The folded pizza slice, the hot dog and the crusty knish have a built-in mobility that lets hungry New Yorkers eat on the street, and enough density to carry them through to the next meal.

New immigrants have added to the on-the-go family, introducing Colombian arepas, Mexican tacos and Uzbek samsas. But the hand-held with the best shot at making the list of classic New York noshes is the Jamaican beef patty, a rectangle of flaky yellow crust filled with ground beef shot through with onion, thyme and the inimitable heat and perfume of Scotch bonnet chili peppers.

The patties are familiar to New Yorkers who order bland commercial versions sold at numerous pizzerias. But they cannot compare to the fresh, handcrafted patties found at a handful of Jamaican bakeries here. The flakiest crusts are still made with a hefty percentage of beef suet, and the most memorable fillings are unabashedly hot.

"That little country pepper takes you right back to Jamaica," said Ronald Patterson, a customer at Buff Patty in Fort Greene, Brooklyn, using a Jamaican term for the Scotch bonnet chili pepper, which has a fruity, almost floral taste that balances its considerable heat.

Since the 1970's, Jamaicans have been among the largest immigrant groups in New York City, with many arrivals settling in Brooklyn. There are large Jamaican communities in the Wakefield section of the Bronx and (coincidentally) in Jamaica, Queens. But the city's best Jamaican food is concentrated in Brooklyn, along Flatbush, Nostrand and Utica Avenues.

"We use Black Angus beef and fat from the caps of the prime rib," said Desmond Patterson, an owner of Jamaican Pride Bakery in Prospect-Lefferts Gardens, Brooklyn. There, Mr. Patterson and his crew turn out 2,000 patties from scratch every morning and bake them throughout the day.

Jamaican Pride's ground beef filling combines plenty of black pepper and Scotch bonnet, and a whiff of fresh thyme and allspice (Jamaicans call it pimento), two signature seasonings in Jamaican cooking. It is slightly soupy, not unlike a sloppy Joe. Patties at most New York shops tend to be drier, with the meat pastelike, in the traditional style.

Patties, it turns out, are an immensely personal matter. Preferences for meat texture, crust style and spicing levels are often determined by how and where one was raised.

Jamaican cooking combines local ingredients with an overlay of Spanish, British, Indian and Chinese influences. The patty could be a descendant of the empanada or of the meat pasty, the traditional lunch of miners in Cornwall in southwest England, who needed portable lunches that they could take deep into the mines.

Other islands with British influence make patties. In Trinidad a distinct curry flavor reflects that island's many Indian cooks (try the patties at Al Cholo Bakery in the Bronx); the bakers at Shaborn Juice Bar, a Guyanese bakery in Flatbush, make round patties no bigger than the palm of a hand. The filling is flavored with a little basil, and the crust is rich and crumbly.

The Jamaican patty is served wrapped in coco bread, which is like an oversize, slightly sweet hamburger bun. It is called coco bread not because it contains coconut (it doesn't), but because you split it open like a coconut. Although the combination first appears dauntingly starchy, the soft sweetness of the bread nicely offsets the spicy filling and the crisp crust.

"You eat it with the coco bread to soak up the spice and the juice," said Shana Bennett Reid, who works at Angel Flake Patties in Flatbush.

In different times and places, the distinctive yellow-orange color of the classic patty crust has come from palm oil, annatto seeds, yellow food coloring and turmeric. Some upscale patties bear a natural pale-brown crust, rather than the traditional yellow. In developing a recipe for home cooks, we found that using turmeric and a bit of West Indian curry powder added a pleasant pungency and the classic yellow color. We also found that although vegetable shortening makes a perfectly good crust, beef suet makes a spectacular one.

Not all patties are spicy. Vegetable patties in a whole-wheat crust may seem like an American health food invention, but they are authentically Jamaican. Many Jamaicans are at least part-time vegetarians because of the dietary laws of Rastafarianism.

Jerk chicken patties, a relatively new creation gaining popularity here and in Jamaica, can be hot or not, but they are always heavily perfumed with allspice and thyme, the classic jerk spices. At Jamican Pride, one popular patty is filled with ackee, a soft, slippery-sweet fruit that resembles scrambled eggs when baked inside a crisp crust.

Besides coco bread, the squeal of brakes seems to be a constant accompaniment to patties; many of the best patty shops are near bus and subway stops. At any time of day, customers rush in holding two dollar bills, the usual tariff for a patty in coco bread.

"In Jamaica people eat patties first thing in the morning and last thing at night," said Patrick Anthony, whose father owns the One Stop Patty Shop on Amsterdam Avenue in Harlem. "Every neighborhood has its own patty shop, and every patty shop has its own recipe."

Kingston, the capital of Jamaica, is the hotbed of the country's patty wars, with chains of Tastee Patties and Juici Patties battling for dominance.

"I have heard of people making a living buying Tastee Patties by the case in Kingston airport and flying them to Miami, just going back and forth," Ronald Patterson said. His favorite patty shop, Buff Patty, carries Royal Caribbean patties, a local commercial product that stood out in our tastings. They are sold nationally under the Caribbean Food Delights label in Costco stores and in other large grocery chains.

Caribbean Food Delights, Tower Isle and Golden Krust, which sells its patties to hundreds of franchisees, are the big players in the market. The companies, which turn out hundreds of thousands of patties a day, are determined to make patties as popular as hamburgers and pizza.

Vincent and Jeanette HoSang, who founded Royal Caribbean, import Scotch bonnets and thyme from Jamaica so their patties will taste the way they do on the island. "But everyone buys them," said their daughter, Sabrina, the bakery's director of operations. "Not only Jamaicans, but Caucasians and especially Hispanics—a patty is a lot like an empanada."

Or a lot like a calzone, a samosa or even a knish. But no matter what your roots, the patty travels well. Especially through the streets of New York.

WELCOME TO HIS HOLINESS ARAM I

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. ROYBAL-ALLARD. Mr. Speaker, it gives me great pleasure to join the many Armenian Americans whom I represent in welcoming His Holiness Aram I, Catholicos of the Great House of Cilicia, to California's 34th Congressional District on October 14, 2005. The pontiff is visiting California at the invitation of His Eminence, Archbishop Moushegh Mardirossian of the Western Prelacy of the Armenian Apostolic Church of America.

His Holiness is one of the most prominent Christian leaders in the Middle East and a spiritual leader for hundreds of thousands of Armenians around the world. The pontiff presently serves as the moderator for the World Council of Churches. The World Council of Churches represents over 400 million Christians throughout the globe, and is comprised of more than 340 churches from different cultures and countries. Currently serving his second term, His Holiness is the first Orthodox and the youngest person to be elevated to moderator. As the moderator of the World Council of Churches, the pontiff has led the way to build bridges between people of faith.

On this special day, His Holiness will meet at Los Angeles City Hall with a number of local, State and Federal public officials who represent the nearly 400,000 Armenian Americans who live in and around southern California. His Holiness will also present the main address at a symposium to be held at the University of Southern California that will focus on how Christians respond to violence.

I am confident that when he delivers his address on October 14 entitled, "Christianity in the Middle East—Challenges Facing Inter-religious Dialogue" at the Los Angeles World Affairs Council, Armenian Americans and Los Angeles residents will hear a valuable message.

Mr. Speaker, I am proud that His Holiness has included a visit to California's 34th Congressional District during his upcoming visit to California, The main theme of his pontifical visit, "Towards the Light of Knowledge" is a welcome reminder of the powerful role a good education can have in promoting a better and more peaceful world. I know that my colleagues join me in recognizing His Holiness Aram I, a man who has been a strong voice for mutual understanding among religions, cultures and civilizations; a true spiritual leader committed to peace, justice, and human rights.

NATIONAL LATINO AIDS AWARENESS DAY AND THE REAUTHORIZATION OF THE RYAN WHITE CARE ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. TOWNS. Mr. Speaker, today I rise to support the National Latino HIV/AIDS Awareness, October 15, 2005. The National Latino HIV/AIDS Awareness Day is a time of national reflection for all Americans affected by HIV/AIDS.

Residents of Brooklyn, NY disproportionately represent newly reported HIV/AIDS cases in the U.S. According to national figures, New York City Latinos account for 7 percent of the U.S. Latino population, but more than 25 percent of the Latino AIDS cases nationwide. Simply put, the City of New York has more Latinos diagnosed with AIDS than Miami and Los Angeles combined.

For nearly 25 years, tremendous strides have been made in developing comprehensive approaches to education, prevention, diagnosis and treatment for those infected by this destructive disease. Yet, far too many people are becoming infected by HIV/AIDS and are without access to quality care.

As we move toward the reauthorization of the Ryan White Care Act, let the National Latino HIV/AIDS Awareness Day provide a time to remember the significant role this key legislation has made in the decline of HIV/AIDS cases throughout this country. Future Ryan White funding levels must be adequate to respond effectively to those who desperately need the medical care, prescription drugs, and key support services these funds provide.

I urge my colleagues of both sides of the aisle to act together to reauthorize and adequately fund the Ryan White CARE Act in a timely manner as we commemorate the goals and ideals of the National Latino HIV/AIDS Awareness Day.

IN HONOR OF SACRAMENTO'S PRESTIGIOUS FIRE DEPARTMENTS

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. MATSUI. Mr. Speaker, I rise in tribute to the men and women of Sacramento Fire Department's Swiftwater Rescue Team and the Sacramento Urban Search and Rescue Team for their tireless and heroic actions in response to Hurricane Katrina. Between the Sacramento Fire Department and the Sacramento Metropolitan Fire District, sixty-one senior level managers, firefighters and rescuers went to the devastated areas in New Orleans and across the Gulf Coast to help those most in need. I ask all my colleagues to join me in honoring and thanking some of our nation's finest first responders.

At the behest of FEMA, senior leaders from both departments were called on to manage the rescue efforts that grew to include hundreds of personnel from across the country. Sacramento Metropolitan Fire District Chief Rick Martinez led an Incident Support Team in Gulfport, Mississippi with Assistant Chief Mike Johnson, Dave Stoddard, Dave Odgers and Hank Linscott. Coordinating rescue efforts in New Orleans from this Incident Support Team was Assistant Chief Ed Vasques, Ford Davies and Larry Hopkins from the Sacramento Fire Department, along with Ron Pierce and Hernando Carson from the Sacramento Metropolitan Fire District.

Sacramento's Swiftwater Rescue Team quickly responded to the tragedy of Hurricane Katrina by immediately flying to New Orleans to assist in the rescue efforts. Trained on the often unpredictable currents of the Sacramento and American Rivers, they quickly adapted to the situation in New Orleans. This team led by Sacramento Fire Department Assistant Chief Jay Bowdler and Battalion Chief Kristi Seargeant included Chris Costamagna, Craig Wiedenhoeft, Michael Bartley, Charley Sprague, Jeff Cooke, Niko King, Brian Morr, Chris Swarbrick, Martin Cordeiro, Sage Peart, Dave Baldwin and Greg Powell.

Once on site, the team worked long days in the flooded city to rescue hundreds of people stuck on rooftops, trapped in their attics and stranded in the streets. Working in challenging and unfriendly conditions—at risk to their own health and safety—these dedicated individuals brought hope and medical care to those most in need.

Members of Sacramento's well praised and highly trained Urban Search and Rescue Team also spent over two weeks working in many severely damaged communities along the Gulf Coast—searching for survivors trapped in their homes and in other buildings where they had sought shelter from the storm. Many on this team had previously responded to crises in Oklahoma City and at the World Trade Center following the terrorist attacks of September 11, 2001. Leading this team was Dave Whitt, a Battalion Commander with the Sacramento Fire Department.

Serving on the Urban Search and Rescue Team from the Sacramento Metropolitan Fire District were Dave Brown, Jeff Metzinger, Kyle Johnson, Mark Wells, Mike McGuirk, Ron Von Allworden, Randy Gross, Mike Daw, Mike Hazlett, Jim Johnson, Chris Anaya, Bob Gorman, Randy Wootton, Tyler Wagaman, Mike Wiggington, Bob Santee and Phil Allen.

Also on this team from the Sacramento Fire Department were Erik Saari, Rick Lee, Teresa Ortenberger, Lisa Stumpf, Doug Ross, Ernie Partridge, Randy Browning, Rodney Tateishi, Micki Anacleto, Scott Williams, Ken Murray, Joe Jackson and Ed Crum. They were joined by Dr. Dennis Gardner, Blake Rothfuss and Mike Kaszpurenko who served as medical and structural support staff. Teresa Ortenberger handled the cadaver dog.

Additionally, Darren Taylor, Scott McKenney and Larry Savage of the Sacramento Metropolitan Fire District headed-up an Incident Logistic Management Team at the Stennis Space Center in Mississippi.

Each of these men and women left their families and loved ones in Sacramento; placing their lives on the line to come to the aid of their fellow citizens from the devastation of Hurricane Katrina. And when Hurricane Rita hit land mere weeks later, many again answered the call for assistance. For their efforts, we owe them our thanks. I am truly honored to represent these renowned individuals and the fire departments they work for in Congress. Once again, I thank the women and men of the Sacramento Fire Department's Swiftwater Rescue Team and the Sacramento Metropolitan Fire District's Urban Search and Rescue Team for their unwavering dedication and service to our country during this tragedy.

THE LIFE AND LEGACY OF JOSEPH H. RAINEY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. RANGEL. Mr. Speaker, I rise today to pay homage to one of the most significant men in my life and in the Congressional history, John H. Rainey, the first African American to serve in the United States House of Representatives and the second Black U.S. Congressman: Without his courage, strength and will to represent the issues and concerns of the once voiceless community of freed slaves, I would not be what and who I am today.

Joseph H. Rainey was born on June 21, 1832 in Georgetown, South Carolina. His parents were both slaves, but his father, Edward, had a successful business as a barber, enabling him to purchase his family's freedom shortly after Joseph Rainey's birth. As an adult, Rainey followed his father by becoming a barber. In 1861, with the outbreak of the American Civil War, Rainey was drafted by the Confederate government to,work on fortifications in Charleston, South Carolina, as well as to work as a laborer on blockade-runner ships. In 1862, he and his wife were able to escape to the West Indies. They settled in St. Georges, Bermuda, where Rainey continued to work as a barber for the duration of the war.

In 1866, following the war's end, Rainey returned to South Carolina. He quickly involved himself in politics, joining the executive committee of the state Republican Party. In 1868, he was a delegate to the convention which wrote the state's new constitution. In 1870, Rainey was elected to the State Senate of South Carolina. Later that year, he was elected to fill a vacancy in the Forty-first Congress of the United States as a Republican. This vacancy had been created when the previous incumbent, B. Franklin Whittemore, was censured by the House for corruption and subsequently re-elected, after which the House refused to seat him. Rainey was seated December 12, 1870 and was re-elected to Congress four times; he served until March 3, 1879, which made him the longest-serving black Congressmen prior to William L. Dawson in the 1950s.

During his term in Congress, Rainey focused on supporting legislation to protect the civil rights of Southern blacks. This pursuit eventually proved unsuccessful, with the end of Reconstruction effectively meaning that the black electorate lost all political power. In 1876, Rainey won re-election against Democratic candidate John Smythe Richardson;

Richardson however challenged the result as invalid on the grounds of intimidation by federal soldiers and black militias. Two years later, as the opponents of Reconstruction solidified their control over South Carolina politics; Rainey was defeated in a second contest with Richardson.

After leaving Congress, Joseph Rainey was appointed internal-revenue agent of South Carolina. He held this position for two years, after which he began a career in private commerce. Rainey retired in 1886 and died the following year in Georgetown, the city in which he was born.

Joseph H. Rainey set a standard which all U.S. Representatives should seek to emulate. His strength and courage was unparalleled, and his will and commitment to his people, his state and his country were admirable. Thank you, Mr. Rainey for paving the way for African Americans like me in Congress, and for reminding us that we too must continue the fight for true liberty and justice for all.

The Honorable Chaka Fattah, Member of Congress and the Honorable Robert W. Ney, Chairman, the House Fine Arts Board, cordially invite you to the Official Unveiling of the Portrait of the Honorable Joseph H. Rainey, the first African-American to serve in the United States House of Representatives, the Rayburn Foyer, Rayburn House Office Building, Washington, D.C., Wednesday, September 21, 2005, 2:00 p.m.

TRIBUTE TO KKLA–FM CHRISTIAN TALK RADIO

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. ROHRABACHER. Mr. Speaker, I rise today to acknowledge and celebrate the 20th Anniversary of KKLA–FM Christian Talk Radio in Los Angeles, California.

KKLA–FM began broadcasting out of a small studio in North Hollywood on October 15, 1985. The launch of an afternoon drive call-in talk show, "Live From L.A.," in 1986 moved the station into position as the voice of the Southern California Christian community on local and national issues. KKLA–FM was the first station in Los Angeles—and the second in the country—to stream programming live on the Internet, beginning in late 1995.

In the late 1990s, KKLA–FM's success led parent company Salem Communications Corporation to acquire and develop other stations around it in a cluster, including News/Talk 870 KRLA–AM, 95.9 KFSH–FM (The Fish), News/Talk 590 KTIE–AM and 1190 KXMX–AM. Salem Los Angeles, as the cluster is known today, encompasses nearly the entire 5th floor of its Glendale headquarters with 11 studios and production suites, and satellite offices in Orange County and the Inland Empire.

For 20 years, KKLA–FM has provided a place for Southern Californians to tune in and listen to the Christian perspective on national events. Their success is also due to the generosity of their listeners who voluntarily contribute to pay for programming rather than expecting it from the taxpayer. I congratulate them on 2 decades of excellence and look forward to another 20 years of quality Christian talk radio.

CELEBRATING THE 80TH ANNIVERSARY OF ST. ANN CATHOLIC SCHOOL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. SHAW. Mr. Speaker, I rise today to recognize St. Ann Catholic School on the occasion of its 80th Anniversary.

Located in the heart of downtown West Palm Beach, Florida, St. Ann is the oldest continually active Roman Catholic Church and school in South Florida. Built in 1925, St. Ann is an integral part of a historic campus with four buildings. In 2004, the City of West Palm Beach designated the campus buildings as local historic district. St. Ann has been nominated for listing in the National Register of Historic Places.

Under the leadership of Principal Karen DeMar and Father Seamus Murtagh, St. Ann School provides a wonderful education choice for parents in Palm Beach County. The philosophical basis for the curriculum is the belief that each child is unique and free to develop spiritually, intellectually, physically and socially to the full extent of his or her potential.

St. Ann Catholic School has a diverse population of approximately 300 students, pre-K through eighth grade. Many parents selected the school not only for its curriculum but to be close to their children while they work in the governmental and professional offices in the surrounding neighborhood.

Mr. Speaker, I am pleased to congratulate the families, friends, faculty and staff as they celebrate the 80th Anniversary of St. Ann Catholic School.

TRIBUTE TO THE PUERTO RICAN PANORAMA AND DIEGO CASTELLANOS

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise today to congratulate the Puerto Rican Panorama and Diego Castellanos.

Puerto Rican Panorama is a weekly television show on 6 ABC, the leading television station in Philadelphia. Although the show is broadcast in English, it deals exclusively with Hispanic issues and Latin culture. Panorama has been on the air uninterrupted since September 1970, making it the world's longest-running TV show of its type thus landing its host, Diego Castellanos, in the Philadelphia Broadcast Pioneers Hall of Fame.

Dr. Castellanos is a native of Puerto Rico who has resided in the Greater Philadelphia area most of his life. He was trained as a journalist at Marquette University in Milwaukee, holds a master's degree from Montclair State University, and earned a doctor's degree in education from Fairleigh Dickinson University. He also graduated from the New Jersey Military Academy and served as a commissioned officer in the New Jersey National Guard. He is a licensed pilot, a published author, has taught at several colleges and universities and has the skilled talent of playing the guitar.

His show, Puerto Rican Panorama, has served not only to inform the Hispanic community of issues that affect their lives, but just as important, to provide an opportunity for the mainstream audience to learn about Latinos and their culture.

Through Dr. Castellanos' hard work and dedication to his career he has been able to share a wonderful culture with many others. In recognition of his years of service to the Latino community I ask that you and my other distinguished colleagues rise to congratulate him.

HONORING THE SPINA BIFIDA ASSOCIATION OF AMERICA AND COMMEMORATING OCTOBER AS NATIONAL SPINA BIFIDA AWARENESS MONTH

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. BURTON of Indiana. Mr. Speaker, I rise today to pay tribute to the Spina Bifida Association of America (SBAA)—an organization that has helped those living with and affected by this debilitating disease for over 30 years—and recognize the observance of October as National Spina Bifida Awareness Month, and to pay tribute to the more than 250,000 Americans in the Spina Bifida Association of America Community.

Currently, it is estimated that approximately 70,000 people in the United States are living with Spina Bifida, the most common permanently disabling birth defect. For those of my colleagues who may be unfamiliar with this disease, Spina Bifida is the broad term used to describe a series of neural tube defects that occurs in the first month of pregnancy when the spinal column doesn't completely close. In fact, there are three different distinct forms of Spina Bifida, often referred to as Occulta, Meningocele and Myelomeningocele.

The Occulta form of Spina Bifida is often referred to as hidden Spina Bifida, as the spinal cord and the nerves are usually normal and there is no opening on the back. Instead, in this usually harmless form of Spina Bifida, there is a small defect or gap in a few of the small bones (vertebrae) that make up the spine. There may be no motor or sensory impairments evident at birth, but subtle, progressive neurologic deterioration often becomes evident in late childhood or early adulthood.

The Meningocele form of Spina Bifida is when the protective coating covering the spinal cord (meninges) push outward through an open part of the spine like a sac. Cerebrospinal fluid fills the sac, but there is usually no nerve damage. Individuals may suffer minor disabilities at the onset, but new problems can develop later in life. Finally, the Myelomeningocele form of Spina Bifida—the most serious type of Spina Bifida, which causes nerve damage and more severe disabilities—occurs when the meninges and the spinal nerves both come through an open part of the spine.

While medical science has not yet discovered the exact cause of Spina Bifida—it is a birth defect that can strike anyone—we do know that a woman taking 400 mcg of folic acid whether as part of a multivitamin/drug formula or alone, prior to and in the early weeks of pregnancy, reduces her risk of having a baby with Spina Bifida or another neural tube defect by as much as 70 percent. That is why since February 1996 and at the direction of Food and Drug Administration, all U.S. food manufacturers started adding folic acid to most enriched breads, flours, corn meals, pastas, rice and other grain products to reduce the risk of birth defects in newborns. Following the fortification of cereal grains, the incidences of these types of birth defects decreased by about 20 percent.

However, surveys and research suggest that only about 30 percent of American women consume the daily recommended amount of folic acid. As a result, today in America there are still some 60 million women at risk of having a baby born with Spina Bifida, and everyday, an average of 8 babies are affected by Spina Bifida or a similar birth defect of the brain and spine. Annually, approximately 3,000 pregnancies are affected by these birth defects.

These devastating birth defects cannot be cured, so they must be prevented, and the evidence of folic acid's benefits as a preventative is extremely compelling. The solution is education and awareness. Since 1973, the Spina Bifida Association of America—the nation's only organization solely dedicated to advocating on behalf of the Spina Bifida community—has been leading the charge. Through their almost 60 chapters in more than 125 communities, the SBAA has helped bring thousands of expectant parents together with parents of children who suffer from the disease. This type of one-on-one interaction helps concerned parents get answers to their questions, but most importantly it lends support and gives people essential information and hope. Thanks to SBAA's efforts, millions of people have received vital information about Spina Bifida and how it affects those who live with it; countless women have learned about the importance of taking folic acid prior to pregnancy to reduce the risk of Spina Bifida and other neural tube defects; and, countless individuals afflicted with Spina Bifida have gotten the help they need to live life to its fullest and achieve their full potential.

A very special lady who works with me in my office, Ms. Donna Jones, in fact happens to have Spina Bifida. Since the day she came on board, she has done a great job and helped me understand first-hand the challenge of living with this disease. Ever since I've known her, Donna has always believed that change can come if even one individual believes in themselves and strives to make a difference no matter how hard the challenge. And she has never let the challenge of living with her disease slow her down or stop her from pursuing her dream of making a difference and advocating for persons with disabilities. I was happy to be able to give her the opportunity to come to Washington and try to make her dream a reality; and I have no doubt that because of her tireless efforts to raise awareness of Spina Bifida on Capitol Hill, the incidence of Spina Bifida will decrease and fewer children will have to endure the road she has had to travel.

Even with all the challenges she faces, I have never seen Donna without a smile on her face. She definitely has an infectious love of life, and when the world looks at her it doesn't see a person unobtrusively going through the motions of everyday life, it sees an outspoken, dynamic and active person willing to get involved in the issues that she cares about, particularly those that affect disabled individuals in our country.

I believe that Donna is perhaps the best advocate the Spina Bifida community could have on Capitol Hill because each and every day, she serves as living proof that someone with Spina Bifida need never take a back seat to anyone. I wish more young people in America had the same fire and commitment as Donna. In fact, it is largely thanks to Donna that I became aware of and joined the Congressional Spina Bifida Caucus. I hope that many of my colleagues listening today will also join the Caucus and work to spread awareness and education about this disease. Working together we can do so much to improve the quality of life to those living with Spina Bifida.

Just this past Wednesday, October 5, 2005, the SBAA's held its 17th Annual Gala here in Washington to benefit the Association and its many chapters around the nation. The event was a tremendous success and the funds raised will help the SBAA and its chapters around the country continue the good work they do in preventing more occurrences of this devastating disease, and reducing the suffering of those 70,000 Americans living with Spina Bifida. I firmly believe that we owe SBAA a great debt for what they have accomplished.

In my home State of Indiana, SBAA, the Spina Bifida Association (SBA) of Central Indiana and the SBA of Northern Indiana have formed a collaborative partnership to make a difference in the lives of Hoosier families living with Spina Bifida by helping them meet the challenges and enjoy the rewards of raising their children. In addition, in response to the devastation of the Gulf region of this country by Hurricanes Katrina and Rita, Indiana's Spina Bifida chapters answered the call by participating in the Spina Bifida Hurricane Emergency Life Support Program (SBHELSP). Established by the SBAA, the SBHELSP, assisted in getting vitally needed supplies to victims of the hurricanes and to put displaced families affected by Spina Bifida in touch with others who understand their special needs and can help them. I cannot say enough good things about the hard work, dedication and compassion of the volunteers and staff at all the Indiana chapters of SBAA; I can only thank them on behalf of all Hoosiers for all they have done and all that they will continue to do.

SBAA and its local chapters are making a difference one life at a time. With National Spina Bifida Awareness Month upon us again, I would say to my colleagues in closing that the time for us to start making a difference is now.

A SPECIAL TRIBUTE TO STARR COMMONWEALTH ON THE OCCASION OF ITS EXPANDED MONTCALM SCHOOL FOR GIRLS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. GILLMOR. Mr. Speaker, it is my privilege to pay tribute to a special organization in Ohio's Fifth Congressional District. This October, the Montcalm School for Girls at Starr Commonwealth's Van Wert campus celebrates its first anniversary celebration.

Mr. Speaker, Starr Commonwealth has been nationally recognized for serving thousands of children, families and professionals throughout America. For nearly a century, the dedicated staff of Starr Commonwealth has committed themselves to diffusing violence, healing racism and developing positive environments in the children which they serve. With five locations in Michigan and Ohio, Starr Commonwealth operates dozens of programs for troubled youth and their families. By instilling the core values of integrity, excellence, compassion and faith, Starr Commonwealth has been effective at redirecting misdirected children across our nation.

In 1951, Floyd Starr expanded Starr Commonwealth to a campus outside of Van Wert in Ohio's Fifth Congressional District. Staff members at the Van Wert campus help boys with social, emotional and behavioral problems as they attempt to turn their lives around. In addition, the school is celebrating its one-year anniversary of operating the Montcalm School for Girls. The Montcalm School provides residential treatment for young women who have experienced abuse, depression, behavioral or academic problems.

The services provided by Starr Commonwealth and the Montcalm School are good for our children and good for our society. Students who attend the Montcalm School have fallen off the path in life and need our assistance to become productive members of society once again. These students have engaged in activities which warrant our attention but they also possess a passion to be rehabilitated. By attending the Montcalm School, students are provided with a therapeutic environment to allow them to grow as individuals and avoid a life of delinquency. The school boasts a 95 percent success rate and has given back to our society those who had before been forgotten.

Mr. Speaker, it is not everyday that we can recognize programs which provide such an important service to our community as Starr Commonwealth. In Van Wert, citizens of the Fifth District have committed to protecting and rehabilitating our children through the Montcalm School. Mr. Speaker, I ask my colleagues to join me in paying special tribute to Starr Commonwealth for its commitment to a better America. As all who benefit from Starr

Commonwealth gather to celebrate the one-year anniversary of the Montcalm School, I am confident that the services provided in Van Wert will continue to better our society into the future.

TRIBUTE TO THE LATE HOWARD BEAVER

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. GRIJALVA. Mr. Speaker, it is with regret and deep sadness that I rise to honor Howard Beaver, a resident of Tucson, AZ, who passed away on October 3, 2005. For over 27 years he sold or rented thousands of musical instruments to Tucson children. I myself bought my first harmonica at his store. He was a pillar of Tucson society, an impassioned musician, beloved husband, father, and grandfather.

Howard Beaver was born in Beaver, AR, and raised in Odessa, TX. He moved to Tucson in 1949 for his freshman year at the University of Arizona, where he received his bachelor's degree in music. He later went on to earn a master's degree from Northern Arizona University.

Howard opened Beaver's Band Box in 1964, a music store where he rented and sold instruments as well as provided music lessons. In 1991 he sold the store to his son, Dan, who then proceeded to open a second Beaver's Band Box.

He was a very dynamic member of the Tucson music community; in 1966 he founded Beaver's Tucson Concert Band, was influential in the beginning of the UA alumni band and was active in many community bands.

Howard's life was filled with music and family, two things that were very important to him. His love of music began early in life, with his first Trombone in seventh or eighth grade, though he would later know how to play them all. The other love of his life was family. He is survived by his wife Liz, five children (Dan, Heidi, Carl, Krista, and Erica) and 15 grandchildren.

TRIBUTE TO HISPANICS ACHIEVING AND CELEBRATING EXCELLENCE

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. McGOVERN. Mr. Speaker, I rise today to recognize the achievements of Ms. Lucia Alfaro, Ms. Cristina Cartagena, Ms. Amanda Gonzalez, Ms. Genesis Melendez, Ms. Daniela Ortiz Bahamonde, Mr. Esteban Pacheco, Ms. Sylvia Roman, Mr. Enrique Sanchez, Ms. Elizabeth Zamora, Mr. David Hernandez, Ms. Mayra Jara, Mr. Josue Malaver, Ms. Sujeilly Rohena, Ms. Linette Serrano, Mr. Nolberto Alvarenga, Mr. Angel Amarat, Mr. Eric Familia, Mr. Karl Gonzalez, Ms. Makisha Rodriguez, Mr. Cruz Rosado, Mr. Benito Vega, Ms. Katherine Cortes, Ms. Carol Esparza, Mr. Narcisco Fernandez, Mr. Miguel Fuentes, Ms. Jessica Perez, Mr. Eric Sanchez, and Ms. Christina Gonzalez. These fine young people from the city of Worcester have recently been recognized at the annual HACE Youth Awards and Recognition Dinner.

The Hispanics Achieving and Celebrating Excellence Committee, HACE, was created in 1985 by the faculty and staff at Quinsigamond Community College. The goal of HACE is to raise community awareness of the richness of Hispanic culture. The organization recognizes the achievements of young people, provides positive role models, and encourages youths to focus on education. Honorees are nominated by school principals, teachers, coaches, community leaders and agencies. Along with the honor, each student receives a scholarship.

Each year, HACE holds an annual dinner to recognize youth leaders. The honorees from this year's annual dinner, include 28 students from Worcester high schools. These select few have distinguished themselves in five categories: the arts, athletics, academics, community service and/or leadership. This year's honorees will receive a gift in the amount of $200, as an incentive and encouragement to continue along the path of excellence.

Over a span of 20 years, HACE is proud to have given monetary awards totaling over $57,000 in recognition of the achievements each honoree has accomplished.

The committee members who dedicate themselves to coordinating HACE include Ms. Maria Addison, Ms. Olga Lopez-Hill, Mr. John Rodriguez, Mr. Dan de la Torre, Ms. Susan Laprade, Ms. Brenda Safford, Ms. Kirshner Donis, Ms. Viviana Troche, Honorable Harriette Chandler, Ms. Maria Florez, Mr. Javier Salort, Mr. Albert Vasquez, and Ms. Dolly Vazquez.

I am sure all my colleagues and fellow constituents will join me in applauding the accomplishments of these young leaders, and praise HACE for the great service they perform in the city of Worcester.

TRIBUTE TO SERGEANT ANDREW JOSEPH DERRICK

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. WILSON of South Carolina. Mr. Speaker, Sgt. Andrew Joseph Derrick of Columbia, South Carolina died in Baghdad, Iraq on September 25, 2005. I am greatly saddened by his death and humbled by his sacrifice. As citizens throughout our community continue to cope with this tragic loss, my thoughts and prayers will remain with Sgt. Derrick's family, his friends and his fellow service members.

The following obituary was published in The State newspaper on Saturday, October 1, 2005.

> Joseph was a loving son, brother and fiance. Known for his positive attitude and playfulness, he was able to uplift the spirits of everyone he encountered. He was a superlative soldier and a man of honor and integrity. As a man of strong Christian faith, he was selfless, giving, kind, tenderhearted and never afraid to share the hope he had in Christ. He now rests in eternal peace with his Savior.
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> Sgt. Derrick died Sunday, September 25, 2005, while stationed in Baghdad, Iraq. Born in Columbia, he was a son of Suzanne McCormick Shealy and Andrew Carroll "Butch" Derrick. He was a 1998 graduate of Marion Military Institute and attended Francis Marion University. While a student at Marion Military Institute, Joseph played and lettered in Varsity football, baseball and basketball. He was named the Class of 1998's "Best All Round Athlete" and was named to the State of Alabama's All Star Baseball Team in 1998.
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> During his military career, Joseph graduated from the Primary Leadership Development Course and was awarded the Bronze Star, the Purple Heart, the Army Achievement Medal (with one Oak Leaf Cluster), the National Defense Service Ribbon, the Iraqi Campaign Medal, the Global War on Terror Medal, the Korean Defense Service medal, the Army Service Ribbon, the Combat Action Badge, the Marksmanship Badge, the Good Conduct Medal, and the Army Commendation Medal.
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> Surviving are his mother, Suzanne "Suzy" McCormick Shealy of Columbia; stepfather, Carey William Shealy of Columbia; brother, William James Shealy of Columbia; sister, Elizabeth Anne Shealy of Columbia; father, Butch Derrick of Columbia and his wife, Deborah R. Derrick; half sister, Chelsea Campbell Derrick and Austin Reid Royal; paternal grandmother, Barbara Jean Shealy of Columbia; maternal aunt and uncle, Mr. and Mrs. L. Stephen Quatannens (Jo Anne) of Campobello, S.C.; Shealy paternal aunt and uncle, Mr. and Mrs. Whitfield Milling Howard (Rebecca) of Surfside Beach, S.C.; paternal uncle, Robert William Derrick of Columbia; paternal aunt, Barbara Rainey of Greensboro, Ga.; first cousins, Mrs. Jamey Scheuch (Andrea), Mrs. Bob Elder (Catherine) and Mr. Kenneth Whitfield Howard; and numerous second cousins. He is also survived by his fiancee, Miss Shaunna Marie Miller of Phoenix, Ariz.
>
> He was predeceased by his uncle, Kenneth James Shealy; grandparents, Samuel James McCormick, Jr., Marjorie N. McCormick, Marvin Jacob Shealy, Katherine Yates Derrick and Robert Heyward Derrick.

THE OPENING OF THE DE YOUNG MUSEUM

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. PELOSI. Mr. Speaker, it gives me great pleasure to announce the reopening and dedication of the de Young Museum in San Francisco on October 15, 2005. I join with the Mayor and the people of San Francisco in celebrating the new de Young in our vibrant arts community.

Founded in 1895, the de Young Museum has been an integral part of San Francisco's Golden Gate Park for over 100 years. We have the de Young family to thank for establishing this vital center for the arts. M.H. de Young was the driving force behind establishing a permanent home for exhibits featured in the California Midwinter International Exposition of 1894. He set about establishing a diverse and fascinating permanent collection accessible to all San Franciscans that he hoped one day would become "the pride of the Golden State."

After sustaining extensive damage in the 1989 Loma Prieta earthquake, the de Young building was closed in 2000 to make way for a new and seismically stable home for the city's treasured art collections. Designed to complement its natural surroundings, the new de Young will allow museum guests and park visitors alike to travel effortlessly from the park's pathways to the museum's entryways and the sculpture and children's gardens surrounding the museum. The new de Young offers twice the exhibition space of the old building, doubles its arts education space and programming in the new Hamon Education Tower and allows access to a third of the museum free of charge.

In addition to showcasing the permanent collection, the new building will mean that the de Young is once again the Bay Area's premier venue for special exhibitions. The de Young will inaugurate its new special exhibition galleries with an ambitious exhibition showcasing objects from Egypt's Golden Age, Hatshepsut: From Queen to Pharaoh.

Over one hundred objects from this period will be on view, including treasures from these conquered territories, ornate royal possessions, and monumental sculptures and reliefs.

Its groundbreaking design will provide a spectacular art habitat for the extensive and diverse collections of the de Young, which will encompass American painting and decorative arts, and arts of the Americas, the Pacific Island, and Africa. The new de Young will present visitors with an exceptional view of the distinctions and connections among the art of different cultures and eras of creativity.

I would also like to recognize the work of Dede Wilsey, President of the Fine Arts Museums of San Francisco's Board of Trustees. Mrs. Wilsey has served as Chairman of the de Young's capital campaign since 1995 and President of the Board of Trustees since 1998. As Chairman of the capital campaign, she has successfully led the museum in securing over $190 million in funding from nearly 7,000 private donors, making the new de Young the largest privately funded cultural gift ever amassed for the City of San Francisco. Mrs. Wilsey mobilized a broad spectrum of support from trustees, museum members, community leaders and elected officials to support and contribute to the new de Young.

Harry S. Parker III, Director for the Fine Arts Museums of San Francisco, has spearheaded the design and collections to be housed in the new de Young. His critical eye, his unwavering commitment, and his distinct understanding of art have brought the de Young to its stature in the world.

The de Young and its sister museum, the Legion of Honor, make up the Fine Arts Museums of San Francisco—the largest public arts institution in the City of San Francisco and one of the largest and most celebrated arts museums in the United States. The Museums remain committed to presenting stellar art collections for San Franciscans and visitors to San Francisco. Today we have a world-class museum, and a national treasure, in our community to share with the world.

THE INTERROGATION PROCEDURES ACT OF 2005

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. HARMAN. Mr. Speaker, last night the Senate passed an amendment to the Defense Appropriations Act that would establish clear guidelines for interrogating prisoners we capture in war zones or counter-terrorism operations.

The amendment was co-sponsored by Sens. MCCAIN, LINDSAY GRAHAM, WARNER, HAGEL, GORDON SMITH, and COLLINS and passed overwhelmingly by a vote of 90–9. Today we are introducing a bill which is identical to the Senate-passed amendment.

Our legislation would clarify that no person may be subject to torture or cruel, inhuman, and degrading treatment—regardless of whether they are Americans, and regardless of whether they are held outside the U.S. (i.e., in Guantanamo Bay).

The legislation would also mandate that all DOD personnel employ only those interrogation techniques that are authorized by the Army Field Manual.

Interrogations are vital to obtaining intelligence in the fight against terrorism. But cruel, inhuman, and degrading treatment violates U.S. treaty obligations and undermines our moral authority. It has also been shown to be ineffective at eliciting actionable intelligence.

Our troops and intelligence personnel have been forced to operate in a "fog of law"—a patchwork of post 9/11 legal memos and policies that appeared to have condoned cruel, inhuman, and degrading treatment. Our legislation would clarify the rules governing interrogations so that there can be no doubt what conduct is authorized.

Our legislation has been endorsed by a group of 29 retired military officers, including 3 "four stars"—General Joseph Hoar, General John Shalikashvili, and General Donn Starry. It has also been endorsed by a broad cross-section of civil liberties groups.

There are some complimentary proposals which may be introduced at a later date. But in the meantime, this excellent proposal has momentum and bipartisan support, and we urge the House to support it.

INTRODUCTION OF THE FUEL SAVINGS, SMARTER TRAVEL, EFFICIENT ROADWAYS (FASTER) ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. HOLT. Mr. Speaker, I rise today to introduce legislation that calls on the Secretary of Energy to examine the potential of intelligent transportation systems to conserve fuel and help consumers plan their travel and avoid delays.

Imagine driving to work and having real-time information tell you the best route to save 10 minutes off your commute. Or imagine accessing information on your cell phone that tells you not only when the bus is scheduled to arrive, but also where the bus actually is at any given moment.

In recent years Intelligent Transportation Systems have made significant advancements towards making these ideas a reality. This innovative technology is beginning to alter the transportation sector and has the potential to reduce congestion, increase safety, improve the efficiency of transit and commercial vehicles, and reduce the environmental impact of our growing transportation needs.

However, the potential fuel savings from intelligent transportation systems and the various ways these systems could help consumers plan their travel and avoid delays is not fully known. That is why I have introduced legislation calling on the Secretaries of Energy and Transportation to report on the potential benefits associated with using intelligent transportation systems. My legislation will provide current and future users of these systems with detailed information regarding potential fuel savings, system costs, universal applicability and evaluation of case studies, best practices, and emerging technologies from the private and public sector.

I believe that we need to further examine this exciting new technology and its possible applications. I urge my colleagues to support this legislation.

HONORING THE BIRTHDAY OF CATHERINE GIVENS RIFENBERG

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to honor the birthday of Catherine Givens Rifenberg, born Catherine Hanorah Givens on October 16, 1905 in Holland Center, Ontario, Canada.

Born to Hanorah Kenefick Givens and James Givens, Katherine was the youngest of her six brothers and two sisters: Robert "Jack," James "Ted," Philip, Leo, Albert, Harvey, Mary and Margaret. Catherine and her family faced several tragedies, including the early death of their mother and the total destruction by fire to their family home. As a result, Catherine was raised by her mother's relatives, the Kenefick family, and remained in Canada through her early teenage years.

As a young adult, Catherine migrated to the United States, settling in Detroit, Michigan with her brother, Albert, and his wife, Ruby, before moving to Niagara Falls, Ontario, Canada to join her sister Mary. Catherine finally moved to Buffalo, New York in the mid 1920's where she continues to live her long, healthy and happy life.

Catherine Givens married Francis Rifenberg in 1930 and the two of them spent the greater part of their adult lives together in the Elmwood Avenue area of Buffalo, an area that Catherine truly loves for its excitement, diversity and warmth of the people. She has resided in the Stuyvesant Apartments for the last twenty years, where she continues to cook her own meals and be amazingly self-sufficient.

Catherine worked as a waitress for over forty-five years in Buffalo. Her genuine love of people and warm and welcoming ways made her a favorite at area restaurants; including, the renowned, historic "Kathryn Lawrence's Tea Room," "Laube's Old Spain" and "The Place Restaurant."

Catherine has kept close contact with her beloved Givens family offspring living in the United States and Canada. Her large family of nieces and nephews and extended family of three generations fondly refer to her as Aunt Kitty. Kitty has enjoyed a friendship of over sixty years with her dear friend Mary Marchese and she will happily tell the world that Dr. Jeremiah O'Sullivan has the answer to all her health care needs.

Catherine Givens Rifenberg, residing in the City of Buffalo, will be celebrating her 100th Birthday on the 16th day of October in the year 2005. I join today with her family and friends from near and far in celebrating this very special occasion.

INTRODUCING A RESOLUTION ON NATIONAL LATINO AIDS AWARENESS DAY

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Ms. SOLIS. Mr. Speaker, I rise today to introduce a resolution supporting the goals and ideals of the 3rd National Latino Aids Awareness Day on October 15, 2005. This is a national day of awareness and prevention against HIV/AIDS in the Latino community.

The epidemic of HIV/AIDS continues to have a deleterious effect on minority communities nationwide. The Latino community has been disproportionately affected by AIDS. According to the latest data and statistics from the Centers for Disease Control and Prevention, Latinos represent 14 percent of the population of the United States but account for 20 percent (over 164,000) of AIDS cases nationally. AIDS-related illnesses represent the fourth leading cause of death among Latinos ages 25 to 44. By the end of 2002, nearly 88,000 Latinos had died with AIDS.

Latino communities face challenges in their fight against HIV/AIDS, including cultural stigma associated with HIV/AIDS, language barriers, lack of access to adequate healthcare, and high poverty levels. I want to highlight these concerns and also bring together our nation and community towards the commitment of creating new alliances, adopting culturally specific and appropriate interventions, and advocating for new funding and resources targeted to those communities most adversely affected by this horrible epidemic.

National Latino AIDS Awareness Day salutes the more than 76,000 Latino AIDS survivors in the United States and the efforts of victims, volunteers, and professionals who combat AIDS each day. It also recognizes and applauds national and community organizations for their work in promoting awareness about AIDS, providing information, and offering treatment to those who suffer from the disease. National Latino AIDS Awareness Day is a renewed commitment to ending the spread of HIV/AIDS and ensuring quality of life to those with HIV/AIDS in the Latino community. This day of observance is an important opportunity to bring the community together to focus on the current state of HIV/AIDS in Latino communities across the nation.

I encourage Latinos and all Americans to learn more about HIV/AIDS prevention, testing and treatment. I ask that we remember those who have lost their lives to AIDS, show compassion toward and support for those currently living with the disease, and pray for all families and communities whose lives have been touched in some way. This nation can no longer afford to close its eyes and avoid the impact of HIV/AIDS. Let us commit to eliminating HIV/AIDS, not only in the Latino community, but also from all communities throughout the country and the world. I urge my colleagues to join me in supporting National Latino AIDS Awareness Day.

RECOGNIZING THE CONTRIBUTIONS OF GERALD K. SUMIDA

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. ABERCROMBIE. Mr. Speaker, I rise today to recognize Gerald K. Sumida as he retires after serving nearly 23 years as Program Director of the Hawaii Senior Companion Program (SCP).

Gerald's career with the Hawaii state government began in July 1975, where he worked in the then Corrections Division and the Adult Services Unit of the then Department of Social Services and Housing. On March 16, 1983, he began his tenure with SCP and has dedicated his time and compassion in helping improve the lives of our beloved kupuna or elders. Under the direction of Gerald, the SCP and the Respite Companion Service Program (RCSP) have gained the recognition and respectability in the aging community.

Through Gerald's guidance the Senior Companion Program has expanded its senior companion services to include Oahu, Hawaii, Maui, Molokai, Lanai, and Kauai. Gerald's tireless efforts have provided Hawaii the opportunity to be continually blessed with two federally funded programs providing much needed services to the frail elderly population. Through Gerald's foresight, the SCP and RCSP have continued to improve the quality of life for thousands of frail elderly individuals, and the RCSP has provided hundreds of its participants the opportunity for unsubsidized employment as "older workers" in today's workforce.

Gerald's gentle and compassionate nature has given many elderly low-income individuals, with limited resources and command of the English language, hope and encouragement to become productive seniors in the community. He will truly be missed at the Hawaii Senior Companion Program, but I believe that he will remain an active member of the community. Mahalo nui loa for all of your hard work, Gerald! Aloha and Imua!

HONORING HULET HORNBECK

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to pay tribute to Mr. Hulet Hornbeck, a long-time friend and strong advocate for the East Bay Regional Park District in California, on the occasion of his 86th birthday and the dedication of the Hornbeck Trail at Carquinez Strait Regional Shoreline.

The East Bay Regional Park District is bestowing the honor of naming a segment of the California Hiking and Riding Trail at Carquinez Strait Regional Shoreline in recognition of Hulet's many and significant contributions to the East Bay Regional Park District as well as to the environmental and trails movement throughout the United States.

Hulet Hornbeck, a Contra Costa County resident, has been a leader in the grassroots citizen's movement, which resulted in the annexation of most of Contra Costa County to the East Bay Regional Park District in 1964. He served the East Bay Regional Park District as Chief of Land Acquisition from 1965 through 1985 leading land acquisition efforts during one of the Park District's greatest expansion period. During this time the Park District grew from 8 parks totaling 13,000 acres to 46 parks encompassing 62,000 acres at his retirement in 1985.

During his tenure with the Park District and continuing over the next 20 years, Hulet was a leading force in the initiation of the East Bay Regional Park District's regional trail system as well as being an active volunteer advocate for the acquisition and development of trails locally, nationally and internationally. He has been a life-long conservationist, outdoorsman, and environmentalist who has provided leadership for such organizations as the California Conservation Council, the American Hiking Society, the National Trails Council, the Martinez Land Trust, the Trails and Greenways Foundation, American Trails, Heritage Trails Fund, Amigos de Anza, the California Recreational Trails Committee, the East Bay Area Trails Council, the American Trails Association, Solano County Farmlands and Open Space Foundation, and the San Francisco Bay Chapter of the Sierra Club.

I am pleased to have this opportunity to recognize Hulet Hornbeck for his vision and leadership in providing trails and regional parks throughout Contra Costa County and congratulate him on the occasion of his 86th birthday and the naming of the Hornbeck Trail at Carquinez Strait Regional Shoreline.

TRIBUTE TO THE LATE MIKLÓS VÁSÁRHELYI, HUNGARIAN PATRIOT AND MAN OF PRINCIPLE

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. LANTOS. Mr. Speaker, I invite my colleagues in the Congress of the United States to join me today in paying tribute to the late Miklós Vásárhelyi, a Hungarian of great courage and integrity who played a critically important role before and during the 1956 Hungarian Revolution, and again in the 1970s and 1980s, in the struggle to transform Hungary from a one-party communist state into a multiparty democracy.

On October 14, Mr. Speaker, members of Miklós Vásárhelyi's family, friends, and admirers will gather in the city that was called Fiume, Hungary, when he was born there on October 9, 1917, and which today is Rijeka, Croatia. They will place a plaque honoring him on the wall of the very house where Mr. Vásárhelyi was born.

Mr. Speaker, I would like to recognize his significant contributions to the cause of freedom and democracy. After university studies in Rome and Debrecen (Hungary), he became involved in anti-Fascist political activities. As a result, he spent two years in a forced labor battalion during World War II, and he joined the anti-Nazi resistance.

From 1953 to 1955, Mr. Vásárhelyi served as press secretary to Hungary's reform-minded Prime Minister, Imre Nagy. In that capacity, he successfully fought for more freedom of the press from central control. During the 1956 Hungarian Revolution, he again assumed a key role in the Imre Nagy government that was established after the uprising broke out. He was one of three high-ranking officials who convinced Prime Minister Nagy to open a dialogue with the freedom fighters.

When the Soviet Union crushed the 1956 Revolution, Mr. Vásárhelyi was one of the senior government officials who with Nagy accepted an offer of asylum at the Yugoslav embassy. They left the embassy under a guarantee of safety by the Hungarian government, but he and the others were immediately seized by Soviet troops and taken to Romania. In a secret trial he was given a five-year prison term, and he remained in prison until an amnesty in 1960.

In the 1970s and 1980s, Miklós Vásárhelyi continued the struggle against repression. Combining courage and personal charm, and maintaining a unique sense of optimism about the future, he was a leader of the democratic opposition that brought immense changes in 1989.

In the late 1980s, Mr. Vásárhelyi was the founder of the Hungarian Open Society Foundation. He was one of the leaders who laid the groundwork for a vibrant civic society in his country.

He not only worked through the Open Society Foundation in Hungary, but he became one of the leading figures in the democratic opposition that began to emerge in the late 1980s. In 1990, a grateful nation elected him to serve in Hungary's free parliament as a reprsesentative of the Association of Free Democrats.

I am pleased to add that Mr. Vásárhelyi was not only a genuine democrat but also a true friend of the United States and of Hungarian-American cooperation.

Mr. Speaker, I welcome the commemorative event that is taking place on October 14 at the house in Rijeka/Fiume where Miklós Vásárhelyi was born. I invite my colleagues to join me in commending his family, friends, and colleagues to celebrate the memory of this quiet, persistent, and effective man who kept faith with his ideals under the most difficult of circumstances.

A RESOLUTION THAT COMMEMORATES THE 40TH ANNIVERSARY OF NOSTRA AETATE

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. HOLT. Mr. Speaker, earlier this week the Jewish community in the United States and around the world celebrated Rosh Hashanah and the start of the Jewish New Year. With the new year comes a new sense of hope and optimism that anti-Semitism and religious hatred will finally be overcome. October also is the start of the Ramadan and month of fasting for Muslims around the globe.

These events remind us that we need to be accepting and tolerant of all people and their religions. We need also to celebrate our religious diversity. It is essential that we encourage cooperation and dialogue between members of all religions. Interreligious respect is vitally important in the fight against religious bigotry.

Today, I introduced a resolution that commemorates the 40th anniversary of Nostra Aetate, a hallmark declaration by the Catholic Church on religious tolerance and interfaith relations. My resolution also calls for the United States to continue to condemn and combat anti-Semitism and all forms of religious hatred and racial bigotry worldwide.

On October 28, 1965, after an overwhelming vote of 2221 to 88 by the bishops of the Catholic Church, Pope Paul VI issued Nostra Aetate, officially known as the Declaration on the Relationship of the Church to Non-Christian Religions. Nostra Aetate, for the first time in 2,000 years, was an authoritative declaration on Catholic-Jewish relations and also on Catholic-interfaith relations.

Nostra Aetate, "In Our Time" in English, opened the doors for interfaith dialogue and respect between Catholics and Non-Christian religions. It originally began as a declaration on solely Catholic-Jewish relations but was expanded to include Islam, Hinduism, Buddhism, and other traditional religions. The declaration that resulted revolutionized attitudes within the Christian world towards Jews and members of the world's other religions. It was Pope John XXIII who initiated the Second Vatican Council, the event which gave birth to the "Nostra Aetate" declaration, a document that highlighted the Jewish roots of Christianity, in an attempt to repair centuries of hostilities between the two religions.

The 40th anniversary of Nostra Aetate is a time for all people to become reacquainted with its historic importance and to work for even greater religious tolerance and dialogue. In Nostra Aetate the Catholic Church for the first time condemned anti-Semitism and other forms of religious bigotry. The declaration says that "no foundation therefore remains for any theory or practice that leads to discrimination between man and man or people and people, so far as their human dignity and the rights flowing from it are concerned." It also deplored "all hatreds, persecutions, displays of anti-Semitism directed against Jews at any time or from any source."

Over the past 40 years, there have been visible triumphs of the spirit and ideals of Nostra Aetate. Pope John Paul II took the message of Nostra Aetate to heart when he visited a synagogue in Rome in 1986, the first such visit by a Catholic Pope, and again when he visited Israel in 2000. But we need to ensure we carry this message of religious tolerance in our own hearts and in our own daily lives. We cannot sit idly by while anti-Semitic comments are made or other forms of religious bigotry and hate are spewed forth. We must continue to oppose these forms of hatred and support continued interreligious dialogue.

That is why I have introduced this resolution today. My resolution:

Commemorates the 40th anniversary of Nostra Aetate;

Celebrates the historic relationship between Jews, Catholics and other religions worldwide that has resulted;

Expresses the need for continued interreligious dialogue and cooperation between all people of all faiths; and

Condemns anti-Semitism and encourages the United States to be a leader in ending religious intolerance and discrimination worldwide.

Forty years after Nostra Aetate's adoption we have a wonderful opportunity to celebrate the progress that has occurred in religious cooperation and tolerance and remind ourselves of the work that remains to be done. We can, and we must, continue to strive to be a more tolerant people. Our common humanity deserves and demands nothing less.

THE EROSION OF AMERICAN DENTAL HEALTH STANDARDS

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 2005

Mr. NORWOOD. Mr. Speaker, when this House passed CAFTA, I objected to provisions that overturn the state licensing standards of doctors and dentists.

I was told that my fears—and those of the American Dental Association—were unfounded.

This, in spite of the fact CAFTA contains clauses that allow foreign dentists to challenge U.S. licensing standards in international tribunals.

Then according to the September 16 San Antonio Express, we had the CDC "working feverishly" to allow Mexican dentists to practice in Texas without a Texas Dental license, as part of Hurricane relief efforts. That is so easy to do under NAFTA.

Everyone realizes disaster relief is a unique situation. We must also realize that a precedent is now set—the U.S. Government stating that Mexican health care providers be allowed to circumvent our state licensing standards.

We can fully expect this precedent to be cited in future cases by those CAFTA tribunals.

Now we also have U.S. citizens without dental licenses, without even dental degrees, being allowed to circumvent the state licensing process in Alaska.

The Federal government has decided to overrule the Alaska Board of Dental Examiners, and to instead create a new federal license—a Dental Health Aide license.

According to the September 10 Anchorage Daily News, the Alaska Attorney General has ruled that these new federal regulations preempt state health licensing laws.

This allows dental health aides to practice in Native Health Clinics with licenses granted by the federal Community Health Aide Certification Board instead of the State of Alaska.

We again recognize a unique situation of remote Native villages.

However, as a licensed Dental Surgeon, I can testify to my colleagues that many of the procedures performed by dentists are surgical procedures, which should be performed only by someone who has graduated from an accredited dental school and is licensed to do so by their state.

There is a real need for dental health aides in remote locations for disease prevention and detection services, and coordinating necessary surgical care with a licensed dentist when needed.

The ADA and the Alaska Board of Dental Examiners have supported an expanded role for dental health aides in this limited and properly coordinated capacity.

But once again the Federal government has chosen to disagree and set a new precedent that undermines our historic dental licensing standards.

Mr. Speaker, dental health care quality is now on a very slippery slope as a result of these federal actions.

We need look no further than our southern border to see where this downhill slide will lead if we continue.

In the Mexican border towns, dental care costs less than half of what we pay here in the United States.

But according to travel industry warnings, 60% of those performing dental services are not properly licensed or trained, even by Mexican standards.

Accessing quality care under these eroded licensing conditions is simply a matter of luck of the draw.

In spite of the need to improve the overall American health care system, there is one thing we can all be proud of—we have the highest quality health care in the world.

And here is an awesome fact to consider as to the origins of these unparalleled quality standards.

The Federal government didn't have one darn thing to do with them.

They came entirely from the minds and hearts of physicians and dentists, who wanted to improve the quality of health care delivery and their professions.

They did so in the most appropriate way—through the states.

The licenses to practice medicine and dentistry throughout our Nation's history have been granted virtually exclusively by the States, not the Federal government.

Now the Federal government, which has convoluted and corrupted public health policy in countless instances, wants to slither into licensing—then share the spoils in trade agreements and international tribunals.

No one can doubt that there will be continuing harmonization of standards across many industries with our international trading partners.

But this body needs to resolve that at least in health care, the United States will lead that process, rather than follow.

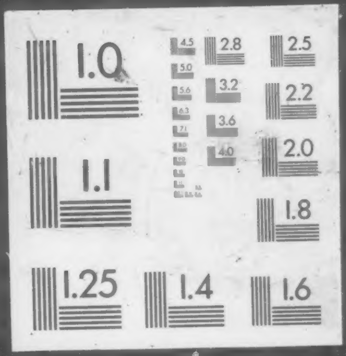
We should export our standards—the highest, the toughest, the noblest in the world—rather than import incompetence, charlatanism, infection, and death.

Mr. Speaker, we don't need unqualified dental health aides cutting into people in Alaska.

We don't need to accept Mexican and Guatemalan dental licenses in Texas or Georgia, licenses highly likely to have been issued from the nearest false document mill spawned by illegal immigration.

Ironically, this body doesn't really need to do anything, other than keep the bureaucrats of the Federal government and the New World Order out of the way of our 50 sovereign States.

And it's past time we started doing just that.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